CONSTITUTIONAL REFORM AND RECONCILIATION: LESSONS FROM KOSOVO, NORTH MACEDONIA, AND BOSNIA AND HERZEGOVINA

Besnik Beqaj
Faculty of Law, University of Prishtina, Kosovo

Iliriana Islami
Faculty of Law, University of Prishtina, Kosovo

Corresponding Email: Iliriana.islami@uni-pr.edu

Abstract

This paper examines the role of constitutional reform in promoting reconciliation in post-conflict societies, focusing on Kosovo, North Macedonia, and Bosnia and Herzegovina. These countries, shaped by the violent breakup of Yugoslavia, serve as critical case studies on how constitutional frameworks can either foster peace or perpetuate division. In Kosovo, the 2008 constitution aimed to establish sovereignty while protecting minority rights, particularly for the Serb population. North Macedonia's Ohrid Framework Agreement introduced power-sharing mechanisms that prevented civil war and improved relations between Macedonians and Albanians. Bosnia and Herzegovina, under the Dayton Agreement, illustrates how a complex constitutional arrangement can maintain peace but also entrench ethnic divisions, complicating reconciliation efforts. The paper argues that while constitutional reforms are crucial for conflict resolution, their effectiveness depends on how well they are tailored to the unique needs of divided societies. By analyzing these three cases, the paper identifies key lessons on the potential and limitations of constitutional design in fostering lasting reconciliation.

Keywords: *Constitutional Reform, Reconciliation, Post-Conflict Societies, Kosovo, North Macedonia, Bosnia and Herzegovina.*

INTRODUCTION

The violent breakup of Yugoslavia in the 1990s triggered a series of brutal conflicts marked by intense inter-ethnic violence, mass displacement, and widespread atrocities, especially in Kosovo, Bosnia and Herzegovina, and North Macedonia. These conflicts left enduring scars across the Balkans, fracturing societies that had once coexisted within a unified federal state.[1]

While the conflicts in Bosnia, Kosovo, and Macedonia all emerged from the broader dissolution of Yugoslavia, they differ significantly in both nature and intensity. In Bosnia and Herzegovina and Kosovo, the conflicts were primarily territorial, driven by secessionist ambitions and polarized views on statehood among distinct ethnic groups. By contrast, the conflict in Macedonia was centred on governance; ethnic Albanians fought not for independence but for fair political representation, an end to discrimination, and

---

[1] Ramet, Sabrina P. The Three Yugoslavias: *State-Building and Legitimation*, 1918–2005. Indiana University Press, 2006, pp. 347-359.

greater autonomy in critical areas[2]. Unlike in Bosnia and Herzegovina and Kosovo, the ethnic Albanian minority in Macedonia did not challenge the legitimacy of the Macedonian state. This difference in objectives also influenced the intensity of the conflicts: while Bosnia and Herzegovina and Kosovo endured prolonged violence, mass casualties, and extensive displacement, the conflict in Macedonia was more limited in both scope and duration. Despite these differences, all three cases ultimately pursued similar approaches to constitution building, with each adopting elements of constitutionalism tailored to their unique needs. Bosnia and Herzegovina, for example, incorporated all key principles of constitutionalism through various institutional mechanisms.

Meanwhile, Kosovo and Macedonia also incorporated all constitutional principles, but instead of a formal federal structure, they implemented segmental autonomy through significant decentralization within a unitary state framework. In addition to the cessation of hostilities, towards establishing a stable peace there were required peace-building efforts towards establishing a stable peace and facilitating reconciliation between post-conflict divided societies, a division mostly based on ethnic background. At the very centre of this process has been the question of how to structure governance in a way that both addresses the legacies of violence and promotes coexistence among former adversaries[3].

In addition to the cessation of hostilities, towards establishing a stable peace there were required peace-building efforts towards establishing a stable peace and facilitating reconciliation between post-conflict divided societies, a division mostly based on ethnic background. At the very centre of this process has been the question of how to structure governance in a way that both addresses the legacies of violence and promotes coexistence among former adversaries.

To deal with this situation, constitutional reform has been considered as one of the main measures on assessing the post-conflict political landscape in these societies. Constitutional frameworks can play an important role in both strengthening peace or enforcing division. In the case of the Western Balkans, constitutional reforms have aimed to balance the demands of sovereignty, minority rights, and power-sharing to prevent the resurgence of violence and contribute in building more inclusive and peaceful societies.[4] However, influenced by specific political, historical and ethnic dynamics of each country, the waiting outcomes of these reforms vary widely across the region.

This paper analyses the role of constitutional reform in promoting reconciliation in three post-conflict societies: Kosovo, North Macedonia, and Bosnia and Herzegovina. These countries represent distinct case studies in how constitutional frameworks can contribute to peacebuilding efforts, with each facing unique challenges and opportunities. Kosovo's 2008 constitution, adopted following its declaration of independence from Serbia, aimed to establish a sovereign state while ensuring protections for its Serb minority.[5] In North Macedonia, the Ohrid Framework Agreement of 2001 prevented a civil war by introducing power-sharing mechanisms between ethnic Macedonians and Albanians and creating a political system which is more inclusive and representative of both ethnic groups.[6] Bosnia and Herzegovina, on the other hand, presents a more complex case, with the Dayton Agreement of 1995 creating a highly fragmented

---

[2] Pulton, Hugh. "Changing Nations of National Identity in Macedonia: The Albanian Question*." Rethinking Central Asia and the Caucasus: Transcending Boundaries*, edited by E.Herzig and G.Stoddard, Curzon Press, 2001, pp.150-157

[3] Knaus, Gerald, and Felix Martin. "Travails of the European Raj: Lessons from Bosnia and Herzegovina for European Rule in Kosovo". *European Stability Initiative*, 2003, pp.15-19.

[4] McCulloch, Allison, and Joanne McEvoy. "The international mediation of power-sharing settlements". *Cooperation and Conflict* 53, no. 4 (2018): 467-485.

[5] Republic of Kosovo, *Constitution of the Republic of Kosovo*, June 15, 2008, accessed August 24, 2024, https://mapl.rks-gov.net/wp-content/uploads/2017/10/1.CONSTITUTION_OF_THE_REPUBLIC_OF_KOSOVO.pdf

[6] Republic of North Macedonia, Ohrid Framework Agreement, August 13, 2001, accessed August 24, 2024, https://www.osce.org/files/f/documents/2/8/100622.pdf

constitutional structure that has maintained peace but also rooted ethnic divisions, complicating efforts at reconciliation.[7]

Through the analysis of these three cases, this paper aims to identify key lessons on the potential and limitations of constitutional design in fostering reconciliation in deeply divided societies. It argues that while constitutional reforms are essential for conflict resolution, their success depends on how well they are tailored to the specific social and political needs of post-conflict communities. The paper also highlights the critical role of international actors, such as the European Union and the United Nations, in supporting and enforcing constitutional arrangements that promote peace and stability. The international community initially focused on stopping hostilities, eliminating nationalist rhetoric, and establishing standards to address the needs of minorities. Reconciliation, however, is the ultimate goal, achieved through multiple steps, including providing reparations, holding perpetrators accountable, uncovering the truth, and reforming state institutions. Ultimately, the lessons learned from these Balkan states can inform constitutional reform processes in other post-conflict regions around the world. The comparative analysis of Kosovo, North Macedonia, and Bosnia and Herzegovina will provide insights into both the successes and limitations of constitutional reform as a tool for reconciliation between different ethnic groups consisting these countries.

RESULTS & DISCUSSION

Kosovo: The 2008 Constitution and Minority Rights

Kosovo's path to independence has been shaped by decades of ethnic tensions, violence, and international intervention. Following the breakup of Yugoslavia, Kosovo, a province within Serbia with an Albanian-majority population, became a focal point of conflict between Serbian Forces and ethnic Albanians. During the late 1990s, the situation in Kosovo escalated into open conflict, culminating in NATO's military intervention in 1999 to stop widespread violence and human rights abuses against Albanians by Serbian forces.[8] After years of UN administration, Kosovo unilaterally declared independence from Serbia in 2008, a move that was fiercely contested by Serbia and supported by much of the Western international community, although it remains unrecognized by several countries, including Russia and China.

The establishment of a new constitutional framework became essential to Kosovo's effort to solidify its status as an independent state and to establish democratic governance structures capable of managing the country's complex ethnic dynamics. The 2008 Constitution of Kosovo, which came into effect following the declaration of independence, was crafted with significant input from the international community, particularly the United Nations and the European Union. Its central aim was to ensure Kosovo's sovereignty while safeguarding the rights of minority communities, especially the Serb population.

State sovereignty and the protection of minority rights are two of the key characteristics for which the 2008 Constitution of Kosovo stands out, and these two objectives are affirmed in a number of its key provisions. The Constitution affirms the status of Kosovo as an independent and sovereign state, with complete territorial integrity. It also proclaims Kosovo as a democratic republic emphasizing the principles of the rule of law, equality and human rights.

On the other hand, taking into account the diverse population of Kosovo, the constitution places great emphasis on the protection of the rights of minority communities, especially the Serbian minority, which

---

[7] Republic of Bosnia and Herzegovina, Republic of Croatia, and Federal Republic of Yugoslavia, *General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement)*, December 14, 1995, accessed August 24, 2024, https://www.osce.org/bih/126173

[8] See generally: Papasotiriou, Harry. "The Kosovo war: Kosovar insurrection, Serbian retribution and NATO intervention." Journal of strategic studies 25, no. 1 (2002): 39-62.

represents about 5% of the population. Some constitutional provisions aim to ensure their participation in public life through concrete measures foreseen by the constitution, respectively the constitution guarantees 20 out of 120 parliamentary seats for minority communities, with 10 specially reserved for the Serbian minority.[9] Moreover, one of the most critical elements of the constitution is the principle of decentralization, which gives considerable autonomy to municipalities where the majority of the population comes from minority communities, and especially to municipalities with a majority Serbian population.[10] These municipalities are allowed to manage local government, health care, education and cultural affairs independently of the central government, ensuring that minority communities retain a degree of self-governance. As for cultural and religious rights, there are special provisions to protect the Serbian Orthodox Church and its religious heritage, recognizing it as an integral part of Kosovo's cultural identity. In addition, the constitution provides for the official use of the Serbian language and guarantees the right of the Serbian community to preserve their linguistic and cultural practices.

While the 2008 Constitution marked a significant step toward establishing Kosovo as a sovereign state and protecting minority rights, its implementation has faced considerable challenges, particularly in relation to the Serb community and the broader Kosovo-Serbia relationship. The most significant challenge to the constitutional framework has been the continuous refusal of Serbia to recognize Kosovo's independence. This non-recognition has not only strained diplomatic relations but has also complicated efforts to integrate Serb-majority areas in northern Kosovo into the state's political and legal systems. In these regions, many Serbs continue to rely on parallel structures funded and supported by the Serbian government, which operate outside the framework of Kosovo's constitutional order. This situation has led to ongoing tensions and periodic flare-ups of violence, particularly over issues related to sovereignty and governance in Serb-majority areas.

On the other hand, despite the constitutional guarantees, integrating the Serb minority into Kosovo's political and social life has proven difficult. Many Serbs remain distrustful of Kosovo's institutions, perceiving them as dominated by the Albanian majority. Additionally, the decentralization process, while providing autonomy, has not always functioned smoothly, with disputes over the level of authority granted to local governments and the role of the central government in managing these municipalities.

The international community, particularly the European Union, has played a crucial role in mediating disputes between Kosovo and Serbia, most notably through the Brussels Agreement of 2013.[11] This agreement aimed to normalize relations between the two countries and promote greater integration of Serb-majority areas into Kosovo's legal and political framework. However, the implementation of the Brussels Agreement has been slow, with continued disagreements between Kosovo and Serbia over its provisions.

Constitutional Reform and Reconciliation Kosovo's constitutional framework, while ambitious in its goals of promoting reconciliation and minority rights, remains fragile due to the unresolved nature of its conflict with Serbia and the complex dynamics within its Serb minority. Moving forward, the success of Kosovo's constitutional system in fostering reconciliation will depend on several key factors:

Continued efforts to normalize relations with Serbia are essential for ensuring the stability of Kosovo's constitutional order. A lasting agreement between the two countries, potentially involving mutual

---

[9] Republic of Kosovo, *Constitution of the Republic of Kosovo*, June 15, 2008, art. 148, accessed August 24, 2024, https://mapl.rks-gov.net/wp-content/uploads/2017/10/1.CONSTITUTION_OF_THE_REPUBLIC_OF_KOSOVO.pdf

[10] Republic of Kosovo, *Constitution of the Republic of Kosovo*, June 15, 2008, chapter 3, accessed August 24, 2024, https://mapl.rks-gov.net/wp-content/uploads/2017/10/1.CONSTITUTION_OF_THE_REPUBLIC_OF_KOSOVO.pdf

[11] Gashi, Shpetim, and Igor Novakovic. "Brussels agreements between Kosovo and Serbia." *A Quantitative Implementation Assessment Friedrich Ebert Foundation* (2020).

recognition, would significantly ease tensions and facilitate greater integration of Serb-majority areas.[12] While Kosovo's constitution provides robust guarantees for minority rights, ensuring their full implementation is crucial. This includes improving the functioning of decentralized governance and enhancing the participation of Serb communities in national political life.

The international community's continued engagement, particularly through the EU's mediation efforts and support for Kosovo's EU accession process, remains vital for maintaining peace and promoting constitutional reforms that can support long-term reconciliation. The US in Kosovo has been a significant backing partner providing assistance and ensuring that Kosovo's reforms not only address internal governance but also advance its path towards European integration emphasizing shared democratic values and regional stability.[13]

North Macedonia: Power-Sharing and the Ohrid Framework Agreement

North Macedonia, once part of Yugoslavia, declared independence in 1991 during the dissolution of the federation. Although it avoided the violence of the 1990s that engulfed the region, the country faced ethnic tensions, especially between the Macedonian majority and the Albanian minority, which makes up about 25-30% of the population. Albanians expressed dissatisfaction with political marginalization, lack of language rights and weak representation in state institutions, especially in the police and army.

Tensions escalated into a brief but bitter conflict in 2001, when the National Liberation Army (NLA) clashed with government forces, demanding more rights for Albanians. The conflict threatened to plunge North Macedonia into civil war, similar to ethnic conflicts in the former Yugoslavia. However, thanks to international mediation and the willingness to negotiate on both sides, the Ohrid Framework Agreement has been reached.

The 2001 OFA became the cornerstone of North Macedonia's post-conflict constitutional reforms. The agreement, brokered with the assistance of the European Union, the United States, and NATO, provided a roadmap for peace by addressing the root causes of ethnic tensions, particularly the political and cultural rights of the Albanian minority. Its key provisions were integrated into the country's constitutional framework, marking a major shift towards inclusive governance.

The OFA introduced several critical power-sharing mechanisms to ensure that the Albanian minority would have greater representation and influence in the country's political system. One of the agreement's most significant provisions was the guarantee of proportional representation for Albanians and other minorities in government institutions, including the police, military, and judiciary.[14] This was intended to address the historical underrepresentation of Albanians in state structures and ensure that ethnic communities had a voice in decision-making processes. On the other hand, the constitution was amended to include a mechanism known as the "Badinter Principle," which requires a double majority vote in parliament for laws affecting ethnic communities.[15] This ensures that any legislation impacting minority

---

[12] Humanitarian Law Center Kosovo, *Towards a National Transitional Strategy for Kosovo*, Prishtina 2022, accessed September 3, 2024, https://hlc-kosovo.org/storage/app/media/Strategjia%202022/TOWARDS%20A%20NATIONAL%20TRANSITIONAL%20JUSTICE%20STRATEGY%20FOR%20KOSOVO.pdf

[13] Malazogu, Leon, Florian Bieber, and Drilon Gashi. "The Future of Interaction between Prishtina and Belgrade." *Project on Ethnic Relations-Kosovo and Democracy for Development series Confidence Building Measures in Kosovo* 3 (2012).

[14] Republic of North Macedonia, *Constitution of the Republic of North Macedonia*, November 17, 1991, art.8, September 7, 2024, https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx

[15] Alpidis, Konstantinos. "Inter-ethnic conflict resolution. The case of North Macedonia." PhD diss., University of Glasgow, 2020, 56-58.

rights must have the support not only of the overall majority of parliamentarians but also of representatives from minority communities, particularly the Albanian minority. This mechanism protects minority interests and prevents ethnic majorities from passing discriminatory laws. Furthermore, like in Kosovo case a central pillar of the OFA was the decentralization of government, granting greater autonomy to local municipalities.[16] This was particularly important for Albanian-majority areas, where local authorities gained control over issues such as education, healthcare, and public services. The goal of decentralization was to empower local communities to manage their own affairs and reduce ethnic tensions by giving minority groups a greater sense of self-governance. In relation to this, new municipal boundaries were drawn to reflect the ethnic composition of local populations, enabling Albanian-majority municipalities to exercise authority over education in the Albanian language, cultural matters, and local administration. This devolution of power helped foster a sense of inclusion and address the Albanian community's longstanding grievances.

Another key provision of the OFA was the recognition of the Albanian language as an official language at the local and national levels, where Albanians constitute at least 20% of the population.[17] This meant that Albanian could be used in official communication, alongside Macedonian, in local government and public institutions in areas with significant Albanian populations. The provision of language rights addressed one of the core demands of the Albanian minority and symbolized their greater inclusion in the state. The OFA also aimed to preserve and promote the cultural identity of ethnic minorities. In practice, this meant that ethnic communities were granted the right to establish their own educational institutions, particularly regarding the use of language in schools. Albanians gained the ability to educate their children in Albanian, thereby preserving their cultural and linguistic heritage within a framework that respected the territorial integrity of the Macedonian state.[18]

The implementation of the OFA as had a profound impact on North Macedonia, helping to prevent further violence and establishing a framework for peaceful coexistence between Macedonians and Albanians. However, while the OFA has been successful in many respects, challenges remain in fully achieving the goals of integration and reconciliation.

Firstly, the OFA is widely credited with preventing civil war in North Macedonia. By addressing key Albanian grievances, the agreement defused tensions and established a constitutional system that incorporates ethnic diversity into the fabric of governance. The integration of Albanians into state institutions, the expansion of language rights, and the decentralization of power have all contributed to a more inclusive political environment.

In the years following the OFA, the country has made significant strides in political stability, transitioning from a fragile post-conflict state to a candidate for European Union and NATO membership. These achievements reflect the success of the agreement in creating a governance model that accommodates the country's ethnic diversity.

Secondly, one of the key external incentives for the successful implementation of the OFA has been North Macedonia's aspiration to join the European Union and NATO. Both organizations have made the implementation of the OFA a key condition for membership, and the country has made significant progress in this regard. In 2020, North Macedonia officially joined NATO, marking a major milestone in its international integration. The prospect of EU membership continues to serve as a powerful motivator for ongoing reforms, including further efforts to promote ethnic reconciliation and improve governance. The

---

[16] Ibid, 53-56.

[17] Republic of North Macedonia, *Constitution of the Republic of North Macedonia*, November 17, 1991, art.7, September 7, 2024, https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx

[18] Republic of North Macedonia, *Constitution of the Republic of North Macedonia*, November 17, 1991, art.48, September 7, 2024, https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx

EU's support has been critical in maintaining the political will to implement the OFA and to address remaining challenges.[19]

Despite the successes of the OFA, challenges persist. One of the most significant is the ongoing debate about national identity. While the OFA created a more inclusive political system, some ethnic Macedonians have expressed concerns that the power-sharing mechanisms and decentralization have weakened the state's unity. There are fears that greater autonomy for Albanian-majority areas could lead to demands for further separation in the future. Additionally, while Albanians are now more integrated into the political system, there remain divisions between ethnic Macedonians and Albanians in everyday life. Social and cultural integration has been slower, and the two communities often remain segregated in terms of education and employment.

Furthermore, political instability and corruption have at times hindered the full realization of the OFA's goals. Successive governments have struggled to maintain the balance between addressing ethnic grievances and ensuring the effective functioning of the state. This has sometimes resulted in political gridlock and protests, reflecting the ongoing need for reform and dialogue. While the OFA has been instrumental in stabilizing North Macedonia, the process of reconciliation between its ethnic communities is ongoing. Moving forward, several key areas will be critical to ensuring long-term peace and unity.

Beyond the political power-sharing mechanisms, efforts must be made to promote social integration between Macedonians and Albanians, particularly in education and employment. Bridging the divide between these communities will be essential to fostering a shared national identity. In addition to this, addressing corruption and ensuring the effective functioning of state institutions will be vital to consolidating the gains made by the OFA. The rule of law must be upheld to ensure that the rights of all citizens are protected and that political leaders remain accountable. On the other hand, the continued support of the European Union will be crucial in maintaining momentum for reform. North Macedonia's path toward EU membership offers an important external incentive for further constitutional reforms and efforts to promote reconciliation.

Bosnia and Herzegovina: The Dayton Agreement and Its Complex Constitutional Framework

Bosnia and Herzegovina (BiH) stands as one of the most complex and challenging cases of post-conflict constitutional reform in the Balkans and beyond. Following the violent breakup of Yugoslavia, Bosnia and Herzegovina plunged into a brutal war between 1992 and 1995, driven by ethnic tensions between Bosniaks (Bosnian Muslims), Croats, and Serbs. The conflict resulted in significant loss of life, mass displacement, and widespread atrocities, including ethnic cleansing and genocide. The war ended with the signing of the Dayton Peace Agreement (DPA) in December 1995, which brought an end to the fighting but left Bosnia and Herzegovina with a highly fragmented constitutional framework.

The DPA was negotiated in Dayton, Ohio, with the involvement of the international community, including the United States and the European Union. The agreement sought to balance the competing interests of Bosnia and Herzegovina's three main ethnic groups by creating a highly decentralized state structure, ensuring the participation of each group in governance while maintaining the territorial integrity of Bosnia and Herzegovina. The resulting constitution, which is annexed to the DPA, remains in force today and has been both praised for maintaining peace and criticized for entrenching ethnic divisions.

The Dayton Constitution created a complex system of governance designed to maintain peace by accommodating the conflicting interests of Bosnia and Herzegovina's three constituent peoples—Bosniaks,

---

[19] European Union, *EU and North Macedonia*, Brussels 2023, accessed September 3, 2024, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/EU-MK%20FS.pdf

Croats, and Serbs—while ensuring that no single ethnic group could dominate the others. This was achieved through a combination of power-sharing arrangements and territorial division.[20]

One of the most distinctive features of Bosnia and Herzegovina's constitutional system is its tripartite presidency. The presidency is composed of three members, each representing one of the country's constituent peoples: a Bosniak, a Croat, and a Serb. Each member is directly elected from their respective ethnic group and serves a four-year term, rotating the position of chairman every eight months.[21] This structure is intended to ensure that all three ethnic groups are represented in the highest office and that no single group can monopolize executive power.

The DPA established Bosnia and Herzegovina as a single sovereign state composed of two highly autonomous entities. The Federation of Bosnia and Herzegovina (FBiH): This entity is primarily composed of Bosniaks and Croats and is further divided into 10 cantons, each with significant powers over local governance. The canton system reflects the deep divisions within the Federation, with some cantons being predominantly Bosniak and others Croat. Republika Srpska (RS): This entity is predominantly Serb and operates as a separate political unit with its own government, parliament, and president. Republika Srpska exercises significant autonomy, particularly in matters of education, policing, and taxation. In addition to the two main entities, the DPA created the Brčko District, a self-governing administrative unit under the direct sovereignty of Bosnia and Herzegovina. Brčko is a strategically important region with a mixed ethnic population, and its status was hotly contested during the war. The creation of the Brčko District was intended to prevent further conflict over the area and ensure multi-ethnic governance.

At the national level, Bosnia and Herzegovina's constitution establishes a highly complex system of power-sharing. The national parliament is bicameral, with the House of Peoples composed of representatives from the three constituent peoples, and the House of Representatives, where members are elected by proportional representation. In both houses, ethnic quotas ensure that no single group can dominate the legislative process. Additionally, the constitution includes a "vital national interest" veto mechanism, allowing representatives from any of the three ethnic groups to block legislation they perceive as harmful to their interests.[22]

Compared to the cases of Kosovo and North Macedonia, a unique feature of Bosnia and Herzegovina's constitutional system is the continued involvement of the international community in the country's governance. The Office of the High Representative (OHR), established under the DPA, has the authority to oversee the implementation of the peace agreement and has wide-ranging powers, including the ability to impose laws and remove elected officials.[23] This international oversight has been instrumental in maintaining stability but has also been criticized for limiting Bosnia and Herzegovina's sovereignty and democratic development.[24]

While the Dayton Agreement successfully ended the war and established a framework for peace, its constitutional provisions have also entrenched ethnic divisions and created significant obstacles to political

---

[20] Kruzslicz, P. (2022) 'The Separation of Powers' in Csink, L., Trócsányi, L. (eds.) Comparative Constitutionalism in Central Europe: Analysis on Certain Central and Eastern European Coun- tries. Miskolc–Budapest: Central European Academic Publishing. pp. 239–253. https://doi. org/10.54171/2022.lcslt.ccice_13

[21] Bosnia and Herzegovina, *Constitution of Bosnia and Herzegovina*, December 14, 1995, art. 5, accessed September 9, 2024, https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/001%20-%20Constitutions/BH/BH%20CONSTITUTION%20.pdf

[22] Morrison, Fred L. "The Constitution of Bosnia-Herzegovina." *Const. Comment.* 13 (1996): 149-150

[23] Office of High Representative, accessed September 14, 2024, https://www.ohr.int/about-ohr/general-information/

[24] Avdić-Küsmüş, Adisa. "Bosnia and Herzegovina: The Quest for Sovereignty." *Revista de Ştiinţe Politice. Revue des Sciences Politiques* 55 (2017): 72-75; See also: Dümmel, Karsten. "Positives and negatives: Dayton Peace Agreement 20 years on." *Kas International Reports* (2015): 49-50.

reform and reconciliation.[25] The Dayton Constitution institutionalizes ethnicity as the primary basis for political representation and governance. The rigid division of political power along ethnic lines has perpetuated a system in which political parties and leaders are primarily accountable to their ethnic constituencies rather than the population as a whole.[26] This has led to a form of ethnic clientelism, where political leaders prioritize ethnic group interests over national unity, making it difficult to build a cohesive Bosnian identity.

Moreover, the tripartite presidency and ethnic quotas have reinforced the perception that Bosnia and Herzegovina is divided into three separate ethnic "nations," rather than a unified state. This has complicated efforts to foster reconciliation between the different ethnic communities and has contributed to political deadlock, as consensus between the three ethnic groups is often difficult to achieve. Furthermore, the complex governance structure established by the DPA has resulted in frequent political paralysis. The need for consensus between Bosniaks, Croats, and Serbs at both the national and entity levels has often led to gridlock, particularly on issues related to constitutional reform, economic development, and EU integration. Republika Srpska, in particular, has frequently obstructed national-level reforms, arguing that they infringe on its autonomy.

Political dysfunction has been further exacerbated by the fragmented nature of the Federation of Bosnia and Herzegovina, where the division into 10 cantons has led to bureaucratic inefficiencies and duplication of services.[27] The decentralization of power within the Federation, intended to accommodate the interests of both Bosniaks and Croats, has instead created a fragmented and often ineffective governance system.

Despite more than two decades of peace, Bosnia and Herzegovina remains deeply divided along ethnic lines. Segregation in education, known as "two schools under one roof," where Bosniak and Croat students attend separate classes in the same building, is a particularly stark example of the challenges to social integration.[28] Similarly, the return of refugees and internally displaced persons to their pre-war homes has been slow, and many communities remain ethnically homogeneous. Efforts to promote a unified national identity have been undermined by the continued dominance of ethnic-based political parties, which often stoke nationalist sentiments to maintain their support bases. As a result, reconciliation between Bosnia and Herzegovina's ethnic groups has been limited, and distrust remains high.

While the Dayton Agreement successfully ended the conflict in Bosnia and Herzegovina, the country's constitutional framework has struggled to adapt to the demands of long-term peacebuilding and integration. Moving forward, several key reforms and initiatives will be necessary to promote reconciliation and build a more cohesive state. Many observers agree that Bosnia and Herzegovina's constitution, as established by the Dayton Agreement, is in need of significant reform.[29] One of the most pressing issues is the exclusionary nature of the current political system, which discriminates against citizens who do not identify as one of the three constituent people. In 2009, the European Court of Human Rights ruled in the Sejdić-Finci case that Bosnia and Herzegovina's constitution violated the European Convention on Human Rights by preventing members of minority groups (such as Jews and Roma) from running for the presidency

[25] Ibid.

[26] Bildt, Carl. *DAYTON REVISITED: BOSNIA'S PEACE DEAL 20 YEARS ON.* European Council on Foreign Relations, 2022, 1-3.

[27] Bojicic-Dzelilovic, Vesna. "Decentralisation and regionalisation in Bosnia-Herzegovina: issues and challenges." (2011), 30-32.

[28] OpenDemocracy, Two schools under one roof: a lesson in ethnic unmixing from Bosnia's segregated school system, March 2017, accessed: September 15, 2024, https://www.opendemocracy.net/en/can-europe-make-it/two-schools-under-one-roof-lesson-in-ethnic-unmixing-from-bosnia-/

[29] International Crises Group, Unfinished Tasks, Ensuring Bosnia's Future, 2007, 9-11, accessed: September 18, 2024, https://www.jstor.org/stable/pdf/resrep38396.6.pdf?refreqid=fastly-default%3A31d5a979688b9345d97aef59430fe450&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1

or the House of Peoples.[30] This was the first case in which the ECtHR found a provision of a state's constitution to be discriminatory and mandated its amendment. Additionally, it examines an international treaty, the Dayton Peace Agreement (DPA).[31] However, more than a decade later, Bosnia and Herzegovina has yet to implement the required reforms, reflecting the deep political divisions that make constitutional change so difficult.

On the other hand, promoting a civic, rather than ethnic, identity is crucial for Bosnia and Herzegovina's long-term stability. This will require reforms that encourage political parties and institutions to move beyond ethnic interests and represent the entire population. Education reform, particularly the elimination of segregated schools[32], will also be essential in fostering a sense of shared citizenship among younger generations.[33]

Lastly, the role of the international community remains vital in Bosnia and Herzegovina's post-Dayton development. The EU and other international actors must continue to support constitutional reforms, economic development, and efforts to promote reconciliation. Bosnia and Herzegovina's path toward EU membership offers a critical incentive for reform, but progress will depend on the willingness of Bosnia and Herzegovina's political elites to compromise and implement necessary changes.

Comparative Analysis: Common Themes and Divergences

The post-conflict constitutional reforms in Kosovo, North Macedonia, and Bosnia and Herzegovina, while shaped by distinct historical and political contexts, share common challenges and goals: promoting peace, ensuring minority rights, and fostering long-term reconciliation. However, the approaches and outcomes of these reforms have varied significantly. This chapter provides a comparative analysis of these three cases, examining the role of constitutional design in achieving reconciliation and highlighting key similarities and differences.

One of the most prominent features of constitutional reform in each of these countries is the establishment of mechanisms to ensure power-sharing and protect the interests of ethnic minorities. However, the degree of institutional complexity and the balance between ethnic autonomy and national unity differ across the three cases.

In Kosovo, the 2008 constitution places a strong emphasis on safeguarding the rights of the Serb minority, particularly through guaranteed representation in the Assembly and reserved ministerial positions for Serb and other minority communities. The decentralization of power to Serb-majority municipalities, including the initiative of establishment of the Association of Serb Municipalities, reflects Kosovo's efforts to ensure local self-governance for minorities within a unitary state framework. However, the failure to fully implement the Association of Serb Municipalities remains a source of tension between Kosovo and Serbia, complicating efforts towards a stable peace and reconciliation among divided society.

In North Macedonia, the OFA introduced power-sharing mechanisms that ensured proportional representation of ethnic Albanians in state institutions, the use of double majority voting (Badinter Principle) to protect minority rights, and significant decentralization of power to Albanian-majority

---

[30] Keil, Soeren. "Equality and Inequality in Bosnia and Herzegovina." *Eva Maria Belser ve diğerleri (der.), The Principle of Equality in Diverse States: Reconciling Autonomy with Equal Rights and Opportunities, Brill, Leiden* (2021): 347-350. see the ruling: *Sejdić and Finci v. Bosnia and Herzegovina*, European Court of Human Rights, Application nos. 27996/06 and 34836/06, judgment of December 22, 2009.

[31] European Parliament, Bosnia and Herzegovina: The 'Sejdić-Finci' case, 2015, accessed: December 7, 2024, https://www.europarl.europa.eu/RegData/etudes/ATAG/2015/559501/EPRS_ATA(2015)559501_EN.pdf

[32] New York Times, In Devided Bosnia, Segregated Schools Persist, December 2018, accessed: September 9, 2024, https://www.nytimes.com/2018/12/01/world/europe/bosnia-schools-segregated-ethnic.html

[33] OSCE Mission in Bosnia and Hercegovina, Two Schools under One Roof, November 2018, Accessed: September 4, 2024, https://www.osce.org/files/f/documents/3/8/404990.pdf

municipalities. Unlike Kosovo, North Macedonia's power-sharing mechanisms have been more successfully implemented, preventing further conflict and gradually integrating the Albanian minority into the political system.

In Bosnia and Hercegovina, the Dayton Agreement created one of the most complex power-sharing arrangements in the world, with a tripartite presidency and a bicameral parliament divided along ethnic lines. The political structure of Bosnia and Herzegovina is highly decentralized, with two autonomous entities (the Federation of Bosnia and Herzegovina and Republika Srpska) and a special self-governing Brčko District. While this arrangement has ensured peace by preventing any single ethnic group from dominating the state, it has also entrenched ethnic divisions and led to frequent political deadlock, limiting the country's ability to progress toward reconciliation and EU integration.

While Kosovo and North Macedonia have employed power-sharing mechanisms that aim to integrate ethnic minorities into a more cohesive state structure, Bosnia and Herzegovina's constitution has deepened ethnic divides by institutionalizing ethnicity as the basis of governance. The relative success of North Macedonia's power-sharing model, particularly in comparison to Bosnia and Herzegovina, highlights the importance of finding a balance between ethnic autonomy and national unity. Kosovo's model, still incomplete, also reflects the challenges of managing ethnic relations in a deeply divided society, particularly when neighbouring countries play a significant role in the conflict dynamic.

Decentralization has also been a central element of constitutional reforms in all three countries, but the extent and effectiveness of decentralization vary. Decentralization in Kosovo primarily aims to address the concerns of the Serb minority by granting significant autonomy to Serb-majority municipalities. This includes control over local policing, healthcare, and education. However, the political sensitivity surrounding the creation of the Association of Serb Municipalities has stalled the full realization of these decentralization efforts. While decentralization has helped reduce tensions in some areas, such as in Mitrovica, it has not fully reconciled the Serb population with the central government.

The decentralization process in North Macedonia, implemented under the OFA, has been more comprehensive and successful in diffusing ethnic tensions. The granting of local autonomy to Albanian-majority municipalities, particularly in education and language rights, has empowered the Albanian community and improved ethnic relations. The model has been relatively stable, largely because of the support of both the international community and the country's commitment to EU and NATO integration.

Bosnia and Herzegovina's decentralization is the most extensive of the three cases, with the country divided into two entities that operate with considerable autonomy. While this arrangement ended the war, it has also contributed to political paralysis, particularly due to the competing interests of Republika Srpska and the Federation of Bosnia and Herzegovina. The division of powers has allowed Republika Srpska to assert its own identity and policies, often at the expense of national unity and reconciliation.

Decentralization in North Macedonia has been relatively successful in promoting reconciliation and power-sharing between ethnic groups, especially in contrast to Bosnia and Herzegovina, where decentralization has entrenched divisions. Kosovo's model of decentralization is still a work in progress, facing significant resistance from the Serbian government and the Serb minority in Kosovo. The cases of Bosnia and Herzegovina and Kosovo highlight the risks of decentralization if it fosters de facto separation rather than encouraging integration and cooperation.

The role of the international community has been critical in shaping the constitutional reforms and reconciliation processes in all three countries, but the nature and scope of international involvement differ. In Kosovo, the international community, particularly the United States and the European Union, played a key role in supporting Kosovo's declaration of independence and the drafting of its 2008 constitution. NATO's presence in Kosovo, through KFOR, continues to provide security, while the EU-led dialogue between Kosovo and Serbia seeks to normalize relations. Kosovo's path to reconciliation is heavily influenced by these external actors, although progress has been slow due to Serbia's refusal to recognize

Kosovo's independence and the recent ongoing political disputes over the Association of Serb Municipalities.

In North Macedonia, international actors, especially the EU, NATO, and the United States, were instrumental in brokering the OFA. North Macedonia's desire for EU and NATO membership provided a powerful incentive for the successful implementation of the OFA. The country's 2020 accession to NATO and its ongoing EU membership process demonstrate the positive role that international engagement can play in promoting peace and reconciliation, even in deeply divided societies.

In Bosnia and Herzegovina, the international community, through the Office of the High Representative (OHR), has maintained a direct role in Bosnia and Herzegovina's governance since the Dayton Agreement. The OHR holds significant powers, including the ability to impose laws and remove officials, although its influence has waned in recent years. While international involvement was crucial in ending the war, the heavy reliance on external actors has hindered Bosnia and Herzegovina's ability to develop a functioning and independent political system. EU accession remains a distant goal, partly due to the country's internal divisions and political paralysis.

International involvement has been crucial in all three cases, but the outcomes vary significantly. In Kosovo and Bosnia and Herzegovina, international oversight has been necessary to maintain peace, but it has also limited the development of domestic political capacities. North Macedonia's experience stands out as an example of how external incentives, such as EU and NATO membership, can encourage effective constitutional reform and reconciliation. However, in Bosnia and Herzegovina, where the international presence is more entrenched, it has become both a stabilizing force and an obstacle to full self-governance and reconciliation.

The ultimate goal of constitutional reform in post-conflict societies is to promote long-term reconciliation and sustainable peace. The progress toward reconciliation in Kosovo, North Macedonia, and Bosnia and Herzegovina has been uneven, reflecting the distinct challenges each country faces. While Kosovo's constitutional reforms have made significant strides in protecting minority rights and decentralizing power, reconciliation with the Serb minority remains elusive. The ongoing political and diplomatic disputes with Serbia, particularly over the status of northern Kosovo, continue to impede reconciliation. The success of future efforts will depend on the resolution of the Kosovo-Serbia dialogue and the full implementation of minority rights within Kosovo.

North Macedonia's experience with reconciliation has been more successful, largely due to the effective implementation of the OFA and the country's progress toward EU and NATO integration. While ethnic divisions remain, particularly in education and employment, the country has avoided large-scale ethnic violence since 2001 and has made progress in integrating its Albanian minority into the political system.

Bosnia and Herzegovina faces the greatest challenges in achieving reconciliation, primarily due to its deeply entrenched ethnic divisions and dysfunctional political system. The country's complex constitutional arrangement, while maintaining peace, has done little to foster a sense of shared national identity. Political gridlock and ethnic nationalism continue to hamper efforts toward reconciliation, and progress toward EU integration remains slow.

North Macedonia stands out as a relatively successful case of post-conflict reconciliation, where constitutional reform has been accompanied by international incentives and domestic commitment to integration. Kosovo's path to reconciliation is complicated by external factors, particularly its relationship with Serbia, while Bosnia and Herzegovina's internal divisions pose the most significant obstacle to achieving long-term peace and reconciliation. The experiences of all three countries underscore the importance of adaptable governance structures, inclusive dialogue, and sustained international support in post-conflict settings.

CONCLUSION

The constitutional frameworks established in Kosovo, North Macedonia, and Bosnia and Herzegovina reveal both the transformative potential and inherent limitations of jurisdictional power-sharing mechanisms in post-conflict governance. Kosovo's 2008 Constitution, North Macedonia's OFA, and Bosnia and Herzegovina's Dayton Peace Agreement have provided critical foundations for peace and governance by embedding ethnic protections and promoting regional stability. However, these instruments have also solidified ethnic categorization, impeding cohesive state function and fostering jurisdictional fragmentation. Moving forward, sustainable stability will require substantive constitutional reform, reinforced minority rights frameworks, and the cultivation of a civic identity that transcends ethno-political divides. Judicial and political accountability must be upheld to prevent ethnic exclusivity from obstructing governance. International stakeholders, particularly the European Union, bear a pivotal jurisdictional role in supporting these nations' democratic evolution, adherence to rule of law, and integration into Euro-Atlantic structures. These frameworks illustrate the balance between institutional autonomy and supra-national oversight needed to ensure durable peace, social integration, and constitutional resilience in the Balkans.

BIBLIOGRAPHY

Alpidis, Konstantinos. "Inter-ethnic conflict resolution. The case of North Macedonia." PhD diss., University of Glasgow, 2020, 56-58.

Avdić-Küsmüş, Adisa. "Bosnia and Herzegovina: The Quest for Sovereignty." *Revista de Ştiinţe Politice. Revue des Sciences Politiques* 55 (2017): 72-75

Bildt, Carl. *DAYTON REVISITED: BOSNIA'S PEACE DEAL 20 YEARS ON*. European Council on Foreign Relations, 2022, 1-3.

Bojicic-Dzelilovic, Vesna. "Decentralisation and regionalisation in Bosnia-Herzegovina: issues and challenges." (2011), 30-32.

Bosnia and Herzegovina, *Constitution of Bosnia and Herzegovina*, December 14, 1995, art. 5, accessed September 9, 2024, https://www.ohr.int/ohr-dept/legal/laws-of-bih/pdf/001%20-%20Constitutions/BH/BH%20CONSTITUTION%20.pdf

Dümmel, Karsten. "Positives and negatives: Dayton Peace Agreement 20 years on." *Kas International Reports* (2015): 49-50.

European Parliament, Bosnia and Herzegovina: The 'Sejdić-Finci' case, 2015, accessed: December 7, 2024, https://www.europarl.europa.eu/RegData/etudes/ATAG/2015/559501/EPRS_ATA(2015)559501_EN.pdf

European Union, *EU and North Macedonia*, Brussels 2023, accessed September 3, 2024, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/EU-MK%20FS.pdf

Gashi, Shpetim, and Igor Novakovic. "Brussels agreements between Kosovo and Serbia." *A Quantitative Implementation Assessment Friedrich Ebert Foundation* (2020).

Humanitarian Law Center Kosovo, *Towards a National Transitional Strategy for Kosovo*, Prishtina 2022, accessed September 3, 2024, https://hlc-kosovo.org/storage/app/media/Strategjia%202022/TOWARDS%20A%20NATIONAL%20TRANSITIONAL%20JUSTICE%20STRATEGY%20FOR%20KOSOVO.pdf

International Crises Group, Unfinished Tasks, Ensuring Bosnia's Future, 2007, 9-11, accessed: September 18, 2024, https://www.jstor.org/stable/pdf/resrep38396.6.pdf?refreqid=fastly-default%3A31d5a979688b9345d97aef59430fe450&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&initiator=search-results&acceptTC=1

Keil, Soeren. "Equality and Inequality in Bosnia and Herzegovina." *Eva Maria Belser ve diğerleri (der.), The Principle of Equality in Diverse States: Reconciling Autonomy with Equal Rights and Opportunities, Brill, Leiden* (2021): 347-350.

Kruzslicz, P. (2022) 'The Separation of Powers' in Csink, L., Trócsányi, L. (eds.) Comparative Constitutionalism in Central Europe: Analysis on Certain Central and Eastern European Countries. Miskolc–Budapest: Central European Academic Publishing. pp. 239–253. https://doi.org/10.54171/2022.lcslt.ccice_13

Malazogu, Leon, Florian Bieber, and Drilon Gashi. "The Future of Interaction between Prishtina and Belgrade." *Project on Ethnic Relations-Kosovo and Democracy for Development series Confidence Building Measures in Kosovo* 3 (2012).

McCulloch, Allison, and Joanne McEvoy. "The international mediation of power-sharing settlements." *Cooperation and Conflict* 53, no. 4 (2018): 467-485.

Morrison, Fred L. "The Constitution of Bosnia-Herzegovina." *Const. Comment.* 13 (1996): 149-150

New York Times, In Devided Bosnia, Segregated Schools Persist, December 2018, accessed: September 9, 2024, https://www.nytimes.com/2018/12/01/world/europe/bosnia-schools-segregated-ethnic.html

Office of High Representative, accessed September 14, 2024, https://www.ohr.int/about-ohr/general-information/

OpenDemocracy, Two schools under one roof: a lesson in ethnic unmixing from Bosnia's segregated school system, March 2017, accessed: September 15, 2024, https://www.opendemocracy.net/en/can-europe-make-it/two-schools-under-one-roof-lesson-in-ethnic-unmixing-from-bosnia-/

OSCE Mission in Bosnia and Hercegovina, Two Schools under One Roof, November 2018, Accessed: September 4, 2024, https://www.osce.org/files/f/documents/3/8/404990.pdf

Papasotiriou, Harry. "The Kosovo war: Kosovar insurrection, Serbian retribution and NATO intervention." Journal of strategic studies 25, no. 1 (2002): 39-62.

Republic of Bosnia and Herzegovina, Republic of Croatia, and Federal Republic of Yugoslavia, *General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement)*, December 14, 1995, accessed August 24, 2024, https://www.osce.org/bih/126173

Republic of Kosovo, *Constitution of the Republic of Kosovo*, June 15, 2008, accessed August 24, 2024, https://mapl.rks-gov.net/wp-content/uploads/2017/10/1.CONSTITUTION_OF_THE_REPUBLIC_OF_KOSOVO.pdf

Republic of North Macedonia, Agreement, August 13, 2001, accessed August 24, 2024, https://www.osce.org/files/f/documents/2/8/100622.pdf

Republic of North Macedonia, *Constitution of the Republic of North Macedonia*, November 17, 1991, art.8, September 7, 2024, https://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia-ns_article-constitution-of-the-republic-of-north-macedonia.nspx

Sejdić and Finci v. Bosnia and Herzegovina, European Court of Human Rights, Application nos. 27996/06 and 34836/06, judgment of December 22, 2009