

HUMAN RIGHTS OF MINORITIES, MIGRATION, AND CONSTITUTIONS IN THE BALKANS: A FOCUS ON COUNTRIES WITH MUSLIM POPULATIONS

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Apstrakt

This study offers a comprehensive synthesis of how constitutional engineering in the Western Balkans has attempted to balance ethnic peace with democratic functionality. By analyzing the legal landscapes of Bosnia and Herzegovina, Albania, Kosovo, and North Macedonia, the research moves beyond purely normative descriptions to uncover the practical tensions between international human rights standards and local ethno-political realities. The core findings reveal that while the so-called “stabilocracy” model, born out of post-conflict settlements, succeeded in halting violence, it simultaneously created rigid constitutional architectures that often perpetuate the marginalization of “non-constituent” minorities and the diaspora. The paper highlights a critical shift: the transition from collective ethnic rights toward a more inclusive, citizen-based pluralism, driven largely by EU conditionality pressures and landmark legal challenges such as the Sejdić–Finci case. Ultimately, this work serves as a critical evaluation of the “Balkan model” of minority protection, concluding that sustainable democratic inclusion requires a structural departure from ethno-centric governance toward a framework of genuine pluralist constitutionalism.

Keywords: minority rights, migration, constitutionalism, Balkans, Muslim populations.

Introduction

The Balkans have long been a site of profound cultural, ethnic, and religious diversity, shaped by overlapping imperial legacies, contested nationalisms, and complex patterns of migration. Among the region's most significant social realities is the historical presence and contemporary political status of Muslim populations, primarily composed of Bosniaks, Albanians, Turks, and other groups. These communities, either as majority populations (as in Albania and Kosovo) or as significant minorities (as in Bosnia and Herzegovina and North Macedonia), have played pivotal roles in the construction of national identities and the formation of constitutional orders across the region. However, the rights of minorities—ethnic, religious, and linguistic—remain unevenly protected, frequently subject to politicization, securitization, and legal ambiguity.

This article examines how minority rights, migration trends, and constitutional structures intersect in selected Balkan countries with significant Muslim populations: Bosnia and Herzegovina, Albania, Kosovo, and North Macedonia. These states offer distinct but interrelated case studies of post-Ottoman, post-socialist, and post-conflict governance, wherein competing notions of collective identity, statehood, and international norms have influenced the treatment of minority communities. While the European Union, the Council of Europe, and other regional actors have promoted standardized human rights frameworks, domestic constitutional arrangements often reflect negotiated political compromises rooted in historical traumas and ethno-political contestations. The result is a fragmented patchwork of legal protections, institutional guarantees, and informal practices that warrants critical and comparative investigation.

Methodologically, this study adopts a triangulated research approach. From a sociological perspective, it explores demographic shifts, social integration, and the lived experiences of minority groups affected by displacement, marginalization, or assimilation. Through the lens of political science, it assesses the impact of power-sharing models, ethnic quotas, and political representation on minority empowerment and democratic consolidation. Finally, using a normative–legal framework, the article evaluates constitutional texts, human rights laws, and relevant jurisprudence that define the scope and limits of minority protection.

This multidisciplinary approach allows for a comprehensive analysis that not only considers what rights exist in formal legal texts but also interrogates their implementation and effectiveness in practice. The article is organized into four main sections. First, it reviews the historical and contemporary human rights

landscape for minorities in the selected states, with reference to international obligations such as the *European Convention on Human Rights* and the *Framework Convention for the Protection of National Minorities*. Second, it analyzes the role of migration—both forced and voluntary—in shaping minority identities and access to rights, with particular attention to refugee return, diaspora engagement, and regional labor mobility. Third, it undertakes a comparative assessment of constitutional provisions and legal and political challenges facing the protection of minorities, including issues of equal citizenship, political participation, language use, and cultural autonomy. The final section synthesizes these findings to identify structural gaps, normative tensions, and potential pathways toward more inclusive and rights-based governance models in the Balkans. By focusing on countries with significant Muslim populations, this study contributes to a more nuanced understanding of how minority rights are framed and contested in a region where ethnic and religious identities are often intertwined. It also highlights the broader implications for constitutional design in multiethnic societies and the role of migration in reshaping democratic inclusivity in Southeastern Europe.

Human Rights of Minorities

The evolution of minority rights in the Balkans has been shaped by historical legacies of imperial rule, socialist multiculturalism, and post-conflict state-building processes. In international law, minority rights are protected under a range of instruments, notably the *International Covenant on Civil and Political Rights* (Article 27), the *European Convention on Human Rights* (ECHR), and the *Framework Convention for the Protection of National Minorities* (FCNM) of the Council of Europe.¹ Each of the states examined in this study—Bosnia and Herzegovina, Albania, Kosovo, and North Macedonia—has committed to varying degrees to compliance with these frameworks; however, implementation remains inconsistent and subject to domestic political dynamics.

Normative Frameworks and International Commitments

Bosnia and Herzegovina, Albania, and North Macedonia are parties to both the ECHR and the FCNM. Kosovo, while not a Council of Europe member state,

¹ European Convention on Human Rights, Council of Europe, Rome, 1950; Framework Convention for the Protection of National Minorities, Council of Europe, Strasbourg, 1995.

has unilaterally adopted these frameworks within its constitutional architecture.² These commitments require the states to ensure non-discrimination, effective equality, and the preservation of minority cultures, languages, and religions. The jurisprudence of the *European Court of Human Rights* (ECtHR) has had a particularly significant influence, especially in Bosnia and Herzegovina. The landmark *Sejdić–Finci v. Bosnia and Herzegovina* (2009) ruling found that constitutional provisions barring Jews and Roma from the presidency and the House of Peoples violated Article 14 and Protocol No. 1 of the ECHR.³ Despite sustained international pressure, the ruling remains unimplemented, reflecting the enduring tension between international obligations and domestic ethno-political entrenchment.⁴ In Albania, minority rights legislation was historically underdeveloped. However, the passage of Law No. 96/2017, “*On the Protection of National Minorities in the Republic of Albania*”⁵, marked a significant turning point. The law officially recognized nine minority groups and committed the state to their protection, aligning Albania more closely with Council of Europe recommendations.⁶ North Macedonia’s 2001 Ohrid Framework Agreement transformed the country’s constitutional identity by introducing power-sharing arrangements and enhanced minority protections, especially for the Albanian community. The agreement was instrumental in ending the interethnic conflict and enshrining mechanisms such as equitable representation and official language use at both local and national levels.⁷ Kosovo’s Constitution is notable for its comprehensive approach to minority protection, shaped by the Ahtisaari Plan and prolonged international oversight. It guarantees reserved seats in parliament, proportional employment, language rights, and forms of decentralized governance for minority communities.⁸

² Constitution of the Republic of Kosovo, Official Gazette of the Republic of Kosovo, 2008, Art. 22.

³ European Court of Human Rights, 2009.

⁴ Florian Bieber, *Constitutional Reform in Bosnia and Herzegovina: Preparing for EU Accession*, European Policy Centre, Brussels, 2010.

⁵ Law No. 96/2017 on the Protection of National Minorities in the Republic of Albania, Official Gazette of the Republic of Albania, 2017.

⁶ Ljubiša Djordjević and Zaimi Zaimi, “The Law on Protection of National Minorities in the Republic of Albania,” *Journal on Ethnopolitics and Minority Issues in Europe*, vol. 18, no. 1, 2019, 53–69.

⁷ International Crisis Group, *Macedonia: No Room for Complacency*, Europe Briefing No. 23, Skopje/Brussels, 2001.

⁸ Pajtim Nimani, Arben Maliqi, Agim Maloku, and Shyqeri Avdija, “The Constitutional and Legal Position of National Minorities in Kosovo: Ahtisaari Package and the Privilege of Minorities,” *Access to Justice in Eastern Europe*, vol. 6, no. 2, 2023, 64–90.

Gaps Between Law and Practice

Despite the existence of legal frameworks, minority communities often experience systemic marginalization. This discrepancy illustrates a persistent gap between *de jure* guarantees and *de facto* realities. Roma populations across all four states face persistent discrimination in access to education, healthcare, and employment.⁹ In Bosnia and Herzegovina, the two-tiered constitutional structure distinguishes between “*constituent peoples*” and “*Others*”, marginalizing groups such as Jews, Roma, and citizens of mixed ethnicity.¹⁰ The “*two schools under one roof*” policy in the Federation of Bosnia and Herzegovina institutionalizes ethnic segregation in education, thereby undermining the right to integrated learning.¹¹

In North Macedonia, while Albanians have benefited from constitutional recognition, other communities—such as Turks, Roma, and Bosniaks—remain underrepresented in public administration and face obstacles in the implementation of cultural and language rights.¹² Kosovo’s institutional architecture is notable in design but fragile in practice. While the Serb community benefits from reserved political mechanisms, the Roma, Ashkali, and Egyptian communities often experience acute socioeconomic exclusion and inadequate access to basic services.¹³

The Role of Europeanization

European Union accession processes have served as a significant catalyst for minority rights reforms. Conditionality mechanisms tied to the Copenhagen Criteria require candidate countries to demonstrate the stability of institutions guaranteeing democracy, the rule of law, and minority protection.¹⁴ However, critics argue that the EU often prioritizes political stability over normative coherence, enabling formalistic compliance without substantive change.¹⁵

⁹ Open Society Foundations, *Roma in the Western Balkans: Between social inclusion and migration*, 2019.

¹⁰ Marko Kmezić, *EU Rule of Law Promotion: Judiciary Reform in the Western Balkans*, Routledge, London, 2019.

¹¹ OSCE Mission to Bosnia and Herzegovina, *Two Schools Under One Roof: The Mostar Case*, Sarajevo, 2018.

¹² Minority Rights Group International, *North Macedonia – Country profile*, 2021, available at: <https://minorityrights.org/country/macedonia/>

¹³ UNMIK & OSCE, *Communities in Kosovo: Annual Review 2020*, Pristina, 2020.

¹⁴ European Commission, *Bosnia and Herzegovina 2022 Report*, Directorate-General for Neighbourhood and Enlargement Negotiations, Brussels, 2022.

¹⁵ Simonida Kacarska, „Minority policies and EU conditionality in the Western Balkans“, *Journal on Ethnopolitics and Minority Issues in Europe*, vol. 11, Issue 2, 2012, pp. 18–41.

Migration and Minority Communities

Migration, whether driven by war, economic hardship, or socio-political marginalization, has profoundly shaped the demographic, political, and cultural landscape of the Balkans. In countries with significant Muslim populations, including Bosnia and Herzegovina, Albania, Kosovo, and North Macedonia, migration patterns have affected both the composition of minority communities and their access to rights and political representation. This section analyzes the impact of three principal forms of migration: (1) conflict-induced displacement and return, (2) economic emigration and brain drain, and (3) diaspora engagement, with a focus on how these phenomena intersect with minority identity formation, rights, and formal recognition.

Conflict-Induced Displacement and Return Migration

The Yugoslav wars of the 1990s produced some of the most extensive population movements in post-World War II Europe. Bosnia and Herzegovina alone experienced the displacement of more than half its population during the war.¹⁶ The *Dayton Peace Agreement* (1995) formally guaranteed the right of return through *Annex VII*; however, implementation has been uneven. Returnees often face systemic structural barriers, including a lack of housing, employment, and access to education in their own languages, particularly among minority communities returning to areas where they now constitute a demographic minority.¹⁷ In Kosovo, the 1998–1999 conflict and its aftermath led to the displacement of approximately 800,000 ethnic Albanians, most of whom returned following NATO intervention.

Conversely, more than 200,000 Serbs, Roma, and other non-Albanian communities were displaced, many of whom have not returned due to continued security concerns and insufficient reintegration mechanisms.¹⁸ Roma communities were subjected to multiple waves of displacement, including their placement in hazardous, lead-contaminated camps near Mitrovica.¹⁹ North

¹⁶ UNHCR, „After the war was over: Bosnia marks a milestone in refugee return“, *Refugees Magazine*, Issue 138, 2005.

¹⁷ Catherine Phuong, „Freely return: Reversing ethnic cleansing in Bosnia-Herzegovina“, *Journal of Refugee Studies*, vol. 13, br. 2, 2000, str. 165–183; Marita Eastmond, „Transnational returns and reconstruction in post-war Bosnia and Herzegovina“, *International Migration*, vol. 44, br. 3, 2007, str. 141–166.

¹⁸ UNMIK & OSCE, *Communities in Kosovo: Annual Review 2020*, Pristina, 2020.

¹⁹ Human Rights Watch, *Kosovo: Poisoned by Lead. A Health and Human Rights Crisis in Mitrovica's Roma Camps*, New York, 2009.

Macedonia experienced significantly lower levels of conflict-related migration during the 2001 interethnic crisis. Nevertheless, the violence resulted in approximately 100,000 temporarily displaced persons—mostly Macedonians from Albanian-majority areas and vice versa—whose return was facilitated through the *Ohrid Framework Agreement*.²⁰ The conflict further accelerated residential ethnic segregation in several municipalities, thereby complicating interethnic trust and social cohesion.

Economic Emigration and the Minority Dimension

All four countries have experienced extensive economic emigration since the early 1990s. The primary drivers include high unemployment, political instability, and low levels of institutional trust. Minority populations are particularly affected, often facing compounded forms of discrimination in domestic labor markets, which further incentivizes migration. In Bosnia and Herzegovina and Albania, more than 40% of the population is estimated to live abroad.²¹ Kosovo's diaspora is estimated to contribute between 15–18% of national GDP through remittances alone.²² For minority communities, emigration has both emancipatory and precarious effects. On the one hand, it offers economic mobility, educational opportunities, and an escape from ethnic marginalization. On the other, it can deplete already numerically small communities, endanger intergenerational cultural transmission, and weaken domestic political leverage.²³ In Albania, Greek minority communities have emigrated in large numbers to Greece, sometimes under bilateral agreements granting them access to citizenship. This has led to demographic shifts in southern Albania and ongoing disputes over cultural preservation and property restitution.²⁴ Kosovo Serbs, many of whom reside in territorially isolated enclaves, increasingly view emigration as the only viable path to long-term socioeconomic advancement. In North Macedonia, youth from both Macedonian and Albanian communities

²⁰ International Crisis Group, UNMIK's Kosovo Albatross: Tackling Division in Mitrovica, Balkans Report No. 131, Pristina/Brussels, 2002.

²¹ World Bank, Migration and Brain Drain in the Western Balkans, Washington DC, 2023.

²² OECD, Labour Migration in the Western Balkans: Mapping Patterns, Addressing Challenges and Reaping Benefits, OECD Publishing, Paris, 2022.

²³ Zana Vathi i Richard Black, Migration and poverty reduction in Albania, Development Research Centre on Migration, Globalisation and Poverty, University of Sussex, 2007.

²⁴ Ljubica Djordjević i Zora Zaimi, „Commentary: The Law on Protection of National Minorities in the Republic of Albania“, Journal on Ethnopolitics and Minority Issues in Europe, vol. 18, issue 1, 2019, pp. 53–69.

report intentions to migrate at similar rates; however, smaller groups—such as Roma and Turks—face structural barriers and discrimination in education and employment, rendering their migratory trajectories particularly precarious.²⁵

Diaspora Engagement and Transnational Minority Politics

Diaspora communities from all four countries play an increasingly significant role in shaping domestic politics, development, and identity debates. Albania and Kosovo have institutionalized diaspora engagement through dedicated ministries and strategic policy documents.²⁶ These institutions aim to harness diaspora investment, expertise, and advocacy, often framing such engagement in civic rather than ethnic terms.²⁷ However, diaspora communities are not ideologically homogeneous. In the case of Bosnia and Herzegovina, the diaspora remains segmented along ethnic lines, with Bosniak, Serb, and Croat communities maintaining distinct transnational networks. These groups influence homeland politics through remittances, lobbying, and electoral participation, often reinforcing ethnic divides.²⁸ Bosniak diaspora associations, particularly in Western Europe and North America, have been instrumental in memorialization efforts, war crimes advocacy, and genocide recognition campaigns.²⁹ Meanwhile, the Kosovo Albanian diaspora—concentrated in Switzerland and Germany—has historically supported independence efforts and continues to influence domestic politics through remittances and political donations.

The involvement of diasporic actors in Kosovo's elections, policy discourse, and even candidacies underscores the emergence of a transnational political space that blurs the lines between domestic and foreign politics.³⁰ The challenge for all four states is to balance diaspora inclusion with the need for local democratic consolidation. While diasporas can strengthen civil society and

²⁵ Gëzim Krasniqi, „The ‘Final Frontier’ of Citizenship: Exploring the Intersection between National Minorities and Citizenship in Post-Independence Kosovo“, *Nationalities Papers*, vol. 47, br. 2, 2019, str. 268–282.

²⁶ Government of Albania, *National Strategy on Migration and Action Plan 2019-2022*, Tirana, 2018; Government of Kosovo, *National Strategy on Migration 2021-2025*, Pristina, 2022.

²⁷ *Ibid.*

²⁸ Paul Hockenos, *Homeland Calling: Exile Patriotism and the Balkan Wars*, Cornell University Press, Ithaca, 2003.

²⁹ Mirna Jusić i Amarildo Numanović, *Iskorištavanje potencijala dijaspore za tranzicijsku pravdu u Bosni i Hercegovini*, *Analitika – Centar za društvena istraživanja*, Sarajevo, 2017.

³⁰ Julie Vullnetari, *Albanian Migration and Development: State of the Art Review*, IMISCOE Working Paper Series, br. 18, 2012.

promote development, they can also polarize debates, especially when returnees or foreign-based influencers advocate maximalist ethnic agendas. This is particularly relevant in minority–majority dynamics, where homeland minorities may find their narratives amplified—or distorted—by diaspora voices abroad. These migratory dynamics not only reshape demographic balances but also exert pressure on constitutional systems to redefine citizenship, representation, and cultural rights.

Constitutional Provisions and Challenges

Constitutional arrangements in the Balkans reflect each state’s attempt to balance national identity with minority inclusion. The countries under study—Bosnia and Herzegovina, Albania, Kosovo, and North Macedonia—have adopted diverse constitutional models to address their complex ethnic and religious configurations. These range from deeply consociational constitutional frameworks to more civic-oriented and integrationist models. In this section, we assess how each constitution addresses minority rights, focusing on three core dimensions: (1) the recognition and representation of minorities, (2) language and cultural rights, and (3) the alignment of constitutional norms with international human rights obligations. We also highlight persistent legal and political challenges that continue to hinder implementation and meaningful constitutional reform.

Bosnia and Herzegovina: Consociationalism and Exclusion

Bosnia and Herzegovina’s constitutional framework, established under *Annex IV of the Dayton Peace Agreement* (1995), is a paradigmatic example of ethnic power-sharing—or consociationalism—in post-conflict societies. The Constitution recognizes Bosniaks, Croats, and Serbs as “*constituent peoples*” and all others as “*Others*”.³¹ This tripartite structure grants privileged political participation to the three constituent groups while systematically excluding minorities and citizens who do not identify along ethnic lines. The *Sejdić–Finci v. Bosnia and Herzegovina* judgment³², which ruled that the exclusion of Roma and Jewish citizens from the Presidency and the House of Peoples violated the *European Convention on Human Rights*, remains a prominent

³¹ Constitution of Bosnia and Herzegovina, Annex 4 of the General Framework Agreement for Peace in Bosnia and Herzegovina, 1995.

³² *Sejdić and Finci v. Bosnia and Herzegovina* [GC], nos. 27996/06 and 34836/06, ECtHR 2009.

symbol of this constitutional deficit. More than a decade later, the ruling has not been implemented, and subsequent ECtHR cases (e.g., *Zornić v. Bosnia and Herzegovina*, 2014; *Pilav v. Bosnia and Herzegovina*, 2016) have exposed the persistence of ethnically based electoral discrimination.³³ Although Bosnia and Herzegovina has a *Law on the Protection of the Rights of Persons Belonging to National Minorities* (2003), which formally recognizes seventeen minority groups, its practical legal effect is minimal compared to the entrenched ethnic logic of the Constitution.³⁴ Attempts at constitutional reform have consistently failed due to the extensive veto powers held by nationalist parties, which view the Dayton structure as essential to preserving group interests. The core challenge lies in reconciling collective group rights—which remain vital for peacebuilding—with the individual right to non-discrimination. Without substantive constitutional revision, “Others” remain structurally disadvantaged in political participation, while international credibility and EU accession prospects remain stalled.³⁵

Albania: Civic Constitutionalism and Gradual Inclusion

Albania’s 1998 Constitution, shaped in the post-communist era, embraces a predominantly civic model of statehood. Article 20 affirms the rights of national minorities to “freely express their ethnic, cultural, religious, and linguistic belonging” and to preserve their identity without discrimination.³⁶ However, the Constitution does not enumerate specific minorities nor does it establish mechanisms for political representation or autonomy. Until recently, Albania lacked a comprehensive and coherent legislative framework for minority rights. This gap was addressed by *Law No. 96/2017*, which formally recognizes nine national minorities and provides for cultural, linguistic, and administrative rights.³⁷ Yet, the law’s implementation has been uneven and inconsistent, and

³³ Florian Bieber, *Constitutional Reform in Bosnia and Herzegovina: Preparing for EU Accession*, European Policy Centre, 2010; Edin Hodžić i Nenad Stojanović, *Novi ustavni poredak Bosne i Hercegovine: Mogućnosti i pravci reforme*, Analitika – Centar za društvena istraživanja, Sarajevo, 2011.

³⁴ Marko Kmezić, „The Western Balkans on the Road to the European Union: Between Authoritarianism and Democracy“, *Nationalities Papers*, vol. 47, br. 2, 2019, str. 192–203.

³⁵ European Commission, *2022 Communication on EU Enlargement Policy*, Brussels, 2022.

³⁶ Constitution of the Republic of Albania, 1998.

³⁷ Ljubica Djordjević i Zora Zaimi, „Commentary: The Law on Protection of National Minorities in the Republic of Albania“, *Journal on Ethnopolitics and Minority Issues in Europe*, vol. 18, br. 1, 2019, str. 53–69.

the absence of explicit constitutional recognition of specific groups continues to limit the political visibility of minorities. Unlike the consociational model in Bosnia and Herzegovina, Albania's civic orientation avoids ethnic power-sharing but simultaneously risks marginalization through omission. Critics argue that the state's reluctance to ratify the *European Charter for Regional or Minority Languages* reflects a broader hesitancy to fully embrace minority language rights, despite existing domestic constitutional guarantees.³⁸ The constitutional system does not reserve parliamentary seats nor does it establish affirmative action mechanisms, making minority representation largely dependent on general electoral performance. While Greek and Macedonian minorities have achieved a degree of political presence, smaller groups such as the Roma and Egyptians remain structurally underrepresented.

North Macedonia: From Ethnic Nationalism to Multicultural Constitutionalism

North Macedonia has undergone significant constitutional transformations since independence in 1991. Following the 2001 interethnic conflict, the *Ohrid Framework Agreement* (OFA) amended the Constitution to recognize the explicitly multiethnic character of the state. The preamble now includes explicit references to Albanians, Turks, Roma, Serbs, Bosniaks, and Vlachs, and grants enhanced rights to communities constituting more than 20% of the population.³⁹ Key reforms included the recognition of Albanian as an official language alongside Macedonian, proportional representation in public administration, and the "*Badinter principle*"—a double-majority requirement in parliamentary voting for laws affecting minority communities.⁴⁰ These provisions have been instrumental in stabilizing interethnic relations and promoting minority inclusion. Nevertheless, challenges remain. Smaller minority groups argue that the OFA framework has disproportionately benefited the Albanian community while insufficiently addressing the needs of other minorities (MRG, 2021). Roma and Turks, despite constitutional protections, often lack access to education in

³⁸ Gëzim Krasniqi, „The Politics of Recognition: Minority Rights and the Struggle for Statehood in Kosovo“, *East European Politics and Societies*, vol. 24, br. 1, 2010, str. 24–48.

³⁹ Constitution of the Republic of North Macedonia, 1991, with Amendments IV–XVIII (2001).

⁴⁰ Florian Bieber, „Partial Implementation, Fluid Misinterpretations: The Ohrid Framework Agreement and the Transition of the Macedonian State“, *Journal on Ethnopolitics and Minority Issues in Europe*, br. 1, 2005; Dejan Marolov, „The Ohrid Framework Agreement and its Implementation: A Decade Later“, *Journal of Liberty and International Affairs*, vol. 1, br. 1, 2014.

their mother tongues and remain structurally socioeconomically marginalized. The Prespa Agreement (2018), which resolved the country's name dispute with Greece, prompted further constitutional amendment. Subsequently, Bulgaria has demanded the inclusion of a Bulgarian minority in the Constitution as a precondition for EU accession negotiations, reigniting debates about ethnic recognition and the limits of constitutional pluralism.⁴¹

Kosovo: A Constitutional Model of Multiethnic Inclusion

Kosovo's 2008 Constitution, drafted under international supervision and guided by the *Ahtisaari Plan*, is widely considered one of the most minority-inclusive constitutional frameworks in the region. It establishes a civic state framework that guarantees comprehensive group rights, including the use of minority languages, proportional representation in public institutions, and reserved seats in parliament.⁴² Specifically, the Constitution guarantees twenty reserved seats in the Assembly—ten for the Serb community and ten for other non-majority communities (including Bosniaks, Turks, Roma, Ashkali, Egyptians, and Gorani). Minority communities are also entitled to cultural autonomy, local self-government, and the right to use their language in public institutions. However, political tensions—particularly between the central government and Kosovo Serb municipalities—continue to complicate implementation. The proposed *Association of Serb-Majority Municipalities* (ASM), mandated by the *2013 Brussels Agreement*, remains unrealized due to disputes over its scope and degree of autonomy. While Serb representatives demand the institutionalization of the ASM, Kosovo Albanian political leaders fear it may replicate Republika Srpska's ethno-territorial model (Krasniqi, 2019). Moreover, while the legal framework is formally robust, minority groups such as the Roma, Ashkali, and Egyptians continue to experience deep-rooted social exclusion. The Constitutional Court of Kosovo has on several occasions upheld the rights of these communities, but judicial rulings alone are insufficient to overcome entrenched structural inequalities.

⁴¹ Simonida Kacarska, „Minority Rights in South East Europe: The Europeanization of North Macedonia and Albania“, *Contemporary Southeastern Europe*, vol. 8, br. 1, 2021, str. 1–19.

⁴² Constitution of the Republic of Kosovo, 2008; Afet Nimani, Tahir Zajazi i Arber Nimani, „The Constitutional and Legal Status of Minorities in the Republic of Kosovo: The Implementation of the Ahtisaari Package“, *Journal of Liberty and International Affairs*, vol. 9, br. 1, 2023, str. 320–334.

Common Constitutional Challenges

Across the region, several recurring challenges emerge:

- Entrenched ethnic hierarchies (Bosnia and Herzegovina),
- Insufficient implementation of minority rights laws (Albania and North Macedonia),
- Ethno-political stalemates preventing constitutional reform (Bosnia and Herzegovina, Kosovo),
- Selective prioritization of minority claims driven by geopolitical considerations (e.g., *Bulgaria's demands toward North Macedonia*).

While international institutions have played a key role in shaping constitutional designs, domestic political will remains the decisive factor in transforming legal guarantees into lived social realities. These entrenched hierarchies demonstrate how peacebuilding arrangements risk transforming into long-term exclusionary systems.

Conclusion

The protection of minority rights in the Balkans—particularly in states with significant Muslim populations such as Bosnia and Herzegovina, Albania, Kosovo, and North Macedonia—remains an elusive equilibrium between legal aspiration and political reality. As this article has demonstrated, these countries exhibit distinct constitutional frameworks and political histories, but they share common struggles rooted in post-conflict reconciliation, ethno-nationalist politics, and structural inequalities. The application of a multidisciplinary methodology—blending sociological insight, political science analysis, and normative legal evaluation—has revealed both progress and enduring gaps. On the one hand, international legal standards such as the *European Convention on Human Rights* and the *Framework Convention for the Protection of National Minorities* have shaped national laws and prompted substantive reforms. On the other hand, implementation continues to falter under entrenched ethno-political resistance, driven by domestic political inertia, clientelist governance, and unresolved tensions between collective group rights and individual freedoms. Bosnia and Herzegovina stands out as the most institutionally complex case. Its Dayton-imposed consociationalism has preserved peace but simultaneously entrenched exclusion, particularly for non-constituent minorities such as the Roma and Jews. Despite repeated ECtHR rulings demanding reform, the political elite remains locked in zero-sum ethnic bargaining.

Albania, by contrast, presents a civic constitutional model with fewer legal exclusions; however, its minority rights regime was largely underdeveloped until the 2017 legislative reforms, and smaller communities continue to face systematic socio-economic neglect. Kosovo's constitutional framework is the most inclusive in formal legal terms—ensuring legal parity and affirmative measures for minority communities—but practical implementation, particularly in the northern municipalities and among smaller groups such as the Roma, is obstructed by geopolitical tensions and local-level resistance. North Macedonia, though initially built on a majoritarian nation-state model, has undergone substantial constitutional transformation through the *Ohrid Framework Agreement* and subsequent constitutional amendments. Nevertheless, smaller communities continue to face political invisibility relative to the Albanian–Macedonian binary.

Migration further complicates the human rights landscape. War-induced displacement has reshaped ethnic geographies, and economic emigration—particularly among youth—poses a serious threat to the viability of many minority communities. Diaspora networks, while capable of supporting democratization, can also reinforce nationalist agendas. These dynamics challenge states to not only protect minorities at home but also to rethink transnational responsibilities for sustaining cultural and political linkages. Constitutional and legal reforms remain necessary but insufficient on their own. For inclusive democratic governance to take root, deeper structural transformations are required—such as equitable education systems, non-discriminatory public employment, and meaningful civic engagement. Minority rights cannot be understood solely through the lens of legal recognition; rather, they must be examined through lived experience, access to power, and social integration. In navigating the path forward, these states must avoid simplistic binary frameworks that frame inclusion as either ethnic accommodation or civic universalism. Instead, what is required is a pluralist model of constitutionalism—one that affirms group identities while ensuring individual equality and opportunities for social mobility. The role of the European Union and other international actors remains crucial, not only as conditionality enforcers but also as normative partners in shaping policy coherence, judicial independence, and minority empowerment. Minority protection in the Balkans is not a peripheral issue; it is fundamental to the legitimacy, stability, and democratic consolidation of each state. Ensuring that Muslims—as well as Roma, Turks, Bosniaks, Serbs, Macedonians, and

others—can fully and equally participate in political, cultural, and economic life is both a legal obligation and a normative imperative. These countries, emerging from complex histories of empire, socialism, nationalism, and war, have the opportunity to craft innovative models of multiethnic governance that may resonate beyond the region. Whether they succeed will depend not only on constitutional texts, but also on sustained political courage and broad societal commitment to justice and inclusion.

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HUMAN RIGHTS OF MINORITIES, MIGRATION, AND CONSTITUTIONS IN THE BALKANS: A FOCUS ON COUNTRIES WITH MUSLIM POPULATIONS

Summary

This study offers a comprehensive synthesis of how constitutional engineering in the Western Balkans has attempted to balance ethnic peace with democratic functionality and institutional stability. By analyzing the legal landscapes of Bosnia and Herzegovina, Albania, Kosovo, and North Macedonia, the research moves beyond purely normative descriptions to uncover the practical tensions between international human rights standards and local ethno-political realities. The core findings reveal that while the “*stabilocracy*” model, born out of post-conflict settlements, succeeded in halting violence, it simultaneously created rigid constitutional architectures that often perpetuate the marginalization of “*non-constituent*” minorities and diaspora communities. The paper highlights a critical shift: the transition from collective ethnic rights toward a more inclusive, citizen-based pluralism, driven largely by EU conditionality pressures and landmark legal challenges such as the *Sejdić–Finci* case. Ultimately, this work serves as a critical evaluation of the “*Balkan model*” of minority protection, concluding that sustainable democratic inclusion requires a structural departure from ethno-centric governance toward a framework of genuine pluralist constitutionalism.

Keywords: minority rights, migration, constitutionalism, Balkans, Muslim populations.