

## Enhancing Minority Rights in Kosovo and the Balkans: Legal Avenues to Inclusion

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**Abstract:** The establishment of lasting peace as a requirement for overall societal development is one of the major challenges facing emerging multi-ethnic societies. On the other hand, a lack of fundamental rights and liberties can spark unrest within the state, with the potential for conflict escalation and the involvement of other countries. The Balkan region is a classic example of ethnic conflict that has resulted in crimes and deep enmities between people who once lived peacefully together. The paper compares Kosovo to other Balkan countries in terms of the importance of empowering minority rights and freedoms, as well as using the proactive approach of governmental institutions to include minority community members in the decision-making process. The research has found that the minority groups are not well informed on legal guarantees of their rights and liberties, therefore the impression of legal gaps in safeguarding the latter is very significant. Long-term peace can be maintained by ensuring minorities' rights through the constitution and legal framework and then ensuring those rights are known to the minorities and upheld as well. The article applies a legal-doctrinal, analytical, comparative, qualitative, and quantitative method to determine the legal framework of minority community rights in Kosovo and how they interact with state institutions.

**Keywords:** Balkan; Constitution; Equal Opportunities; Human Rights; Inclusion; Minority Rights

### 1. Introduction

Providing institutions at all levels the tools they need to address the underlying causes of instability and fostering diverse, tolerant societies devoid of ethnic, religious, or even cultural conflicts are key to establishing lasting peace. The necessity of respect for one another, tolerance for other people's beliefs, and a persistent willingness to make concessions to settle differences must be promoted if societies affected by the conflict are to be included.

In societies where polarization and division continue to be a daily reality, strong support for mechanisms that enable the development of relationships and trust is also essential to achieving lasting peace. Therefore, by fostering the overall societal transition from a context of conflict to one of peace, institutions, and civil society must help to build a lasting peace. Furthermore, rather than imposing "universal solutions," such processes should be tailored to the context.

Using mostly ad hoc strategies that have been tried and tested in other places, particularly in Africa, Balkan countries have attempted to lessen the effects of conflict and division in society with the assistance of the international community. Since these practices were not created in accordance with the ethnic and cultural distinctiveness of the Balkan countries, they did not, however, result in significant positive changes. Among other things, these practices only produced temporary solutions that were "imposed" as ideal solutions but had no real lasting impact. They did not produce mechanisms that operate based on a legal framework accepted within society. Sub-municipal structures in Kosovo are one of the means for clearly expressing citizen rights and needs, which have shown to be quite successful historically. Though their traditional character and proven efficacy in past practices, these systems have been surpassed, underprivileged, and assigned advisory roles in Kosovo.

Most Balkan nations have guaranteed minority rights using an egalitarian strategy as well as some local practices or outside-the-region lessons. This has had some impact on how freedoms and rights have been upheld. In contrast, a normative approach was taken in the case of Kosovo, resulting in the establishment of numerous institutional mechanisms at all levels. Even though they were formally created, some of these mechanisms do not stand out for their usefulness and contribution.

In comparison with international documents on the rights of national minorities, the approach of some scholars who have examined the subject of minority community rights has thus far mostly taken a normative viewpoint.<sup>1</sup> Other researchers have looked at how well consultative systems defend minority rights and found that their limited skills and usage for daily political goals have not shown any appreciable efficacy.<sup>2</sup> Emphasizing constitutional and legal clauses without pointing out the shortcomings in current systems, some other studies have concentrated on the participation of ethnic groups and minorities in Kosovo's political and institutional life during the post-war and post-independence years.<sup>3</sup>

This paper examines in-depth the constitutional and statutory safeguards for minorities' rights in Kosovo, as well as how well they are implemented and how well they meet the wants and needs of minorities. In addition, the current discourse on the breadth and depth of the rights of the various communities residing in Kosovo is also examined because it may be used to undermine the peace by sowing discontent among the community that makes up the majority. The research highlights the lack of awareness among members of ethnic minority populations in Kosovo and the absence of adequate institutional approaches to effectively inform them about their rights.

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<sup>1</sup> Myrtezani, Besim, and Ferdi Kamberi. 2022. "Democracy and the rights of non-majority communities at the local level in Kosovo". *Journal of Liberty and International Affairs* 8 (3):47-62. <https://doi.org/10.47305/JLIA2283047m>

<sup>2</sup> Visoka, Gezim and Beha, Adem. 2011. "Minority Consultative Bodies in Kosovo: A Quest for Effective Emancipation or Elusive Participation". *Journal on Ethnopolitics and Minority Issues in Europe*. Vol 10, No 1, 2011, 1-30. [https://www.researchgate.net/publication/268343282\\_Minority\\_Consultative\\_Bodies\\_in\\_Kosovo\\_A\\_Quest\\_for\\_Effective\\_Emancipation\\_or\\_Elusive\\_Participation](https://www.researchgate.net/publication/268343282_Minority_Consultative_Bodies_in_Kosovo_A_Quest_for_Effective_Emancipation_or_Elusive_Participation)

<sup>3</sup> Beha, Adem. 2011. "Minority Rights: An Opportunity for Adjustment of Ethnic Relations in Kosovo". *Journal on Ethnopolitics and Minority Issues in Europe*. Vol 13, No 4, 2014, 85-110. [https://www.ecmi.de/fileadmin/redakteure/publications/JEMIE\\_Datens%C3%A4tze/Jemie\\_datens%C3%A4tze\\_2014/Beha.pdf](https://www.ecmi.de/fileadmin/redakteure/publications/JEMIE_Datens%C3%A4tze/Jemie_datens%C3%A4tze_2014/Beha.pdf)

In response to the findings above, the paper makes valuable proposals about the use of affirmative measures in favor of minority communities, and the application of an integrated approach to their involvement in decision-making by comparing the legal standards applied in Kosovo with those in other Balkan countries. The suggested solutions support protecting minority communities' rights by fully involving them in decision-making processes, but they reject any effort to apply differential treatment to one group over another, which could jeopardize the already precarious peace in the area.

## 2. Method

This paper was designed using a combination of approaches. In particular, the paper draws on both empirical data and a "desktop-based approach" as its foundation. Consequently, the legal foundation that incorporates the rights of minority communities was examined using the legal-dogmatic method. Additionally, using qualitative techniques, the top authorities in the area under consideration as well as representatives of underrepresented groups were interviewed by utilizing semi-structured interviews. These participants were likely selected for their direct relevance to the research topic, ensuring their input is representative of key stakeholder viewpoints. On the other hand, data have been gathered from Kosovo's various ethnic communities using the quantitative approach in order to better comprehend the scope of the issue at hand. The stratification of the research sample helped to lower the margin of error. The inclusion of diverse ethnic communities from Kosovo ensured a broad and inclusive dataset.

Stratifying the research sample reduced sampling bias and ensures that all relevant subgroups are represented, thereby improving the reliability of the findings. The research samples were selected from three cities characterized by mixed interethnic populations, including Kosovo Serbs. Out of a total of eight cities with mixed populations, the sample size and the selected cities are sufficiently representative, providing an objective overview of the situation concerning the rights of minority community citizens. It was also possible to understand the standard of the rights of minority communities applied in the context of Kosovo compared to that of other Balkan nations by using the comparative method. In general, the paper relies less on descriptive methods and more on primary sources.

## 3. Minority Communities Impact on Peacebuilding in Multicultural Society

Peacekeeping is effective when all parties to a conflict want peace. In most situations, it is undesirable for conflicting parties to genuinely want peace. Additionally, to absolve themselves of responsibility for civilian casualties, they blatantly submit to the demands and pressure of the international peacekeeping community, but on the other hand, they actively obstruct the peace process.<sup>4</sup>

The warring parties and society are more polarized after the bloody conflict than they were before. Because it makes it more difficult for important institutions to maintain the

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<sup>4</sup> Anthony Oberschall, *Conflict and Peace Building in Divided Societies, Responses to Ethnic Violence* (Routledge, 2007), 81.

peace and because it encourages violence, internal armed conflict is bad for society and the economy. It is challenging to reach peace after a conflict because the leadership and communities go through significant changes during the conflict. Moderates are driven out of the game by rigid leadership structures, which mobilize, polarize, and engage community members in the mindset of conflict. There will be a lot of international work to maintain peace if former adversaries continue to reside in the same nation and attempt to further their war objectives through other means. The relationships between the rivals typically deteriorate into hostility, with each believing himself to be the victim of the other's aggression.<sup>5</sup>

Peacebuilding operations have changed and become much smarter in what they try to do and how they do it since 1945, when the first modern attempts to build peace were made, and up to the present day. Throughout this entire process, however, there has never been a serious question about how well human rights work as tools for peacebuilding.<sup>6</sup> Peacebuilding operations have changed and become much smarter in what they try to do and how they do it since 1945, when the first modern attempts to build peace were made, and up to the present day. Throughout this entire process, however, there has never been a serious question about how well human rights work as tools for peacebuilding.

Paying attention to human rights, whether by punishing those who violate them or being open about it, remained one of the most important aspects of establishing peace. Human rights have recently received increased emphasis as a key tenet of liberal peacebuilding, which has been implemented around the world since the mid-1990s. This peacebuilding strategy is based on the idea that all that is required to transform violent societies is the establishment of liberal institutions such as a democratic and free market, the rule of law, and, most importantly, the protection of human rights. As a result, examples from these societies demonstrate that human rights are used to build peace almost everywhere and in large quantities. For example, Bosnia and Herzegovina (BiH) is a signatory to 16 international human rights treaties because of its post-war constitution.<sup>7</sup> On the other hand, the Kosovo Constitution includes 8 international conventions for the protection of human rights, and in its third chapter, it includes additional rights for minority communities as positive steps toward coexistence and long-term peace.<sup>8</sup>

The rights of ethnic Albanians were defined as minority rights with the adoption of the Macedonian Constitution in 1991, even though ethnic Albanians account for more than 20% of the population. Despite the Albanians' demands for the status of state-forming citizens and equal political and legal subjects, this did not occur. Unsatisfied with their political and constitutional situation, Albanians fought with the Macedonian government to change the Constitution in 2001 to improve their rights in this state.<sup>9</sup>

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<sup>5</sup> Oberschall, Routledge, 185-186.

<sup>6</sup> Robert Cryer et al, *An Introduction to International Criminal Law and Procedure*, 2nd edition (Cambridge, Cambridge University Press, 2012), 109.

<sup>7</sup> Nasia Hadjigeorgiou, *Protecting Human Rights and Building Peace in Post-violence Societies* (Oxford, HART PUBLISHING, 2020), 4-5.

<sup>8</sup> See: Constitution of the Republic of Kosovo, Assembly of Republic of Kosovo, article 22 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702> [Accessed January 21, 2024].

<sup>9</sup> Mersim Maksuti, *Constitutional Law* (Pristina, AAB-RIINVEST, 2012), 116.

As a result, Article 48 of the Constitution of the Republic of North Macedonia repealed Amendment VIII and stated that members of communities have the right to freely express, cultivate and develop their identity and characteristics, as well as use community symbols.<sup>10</sup> In this way, the state ensures that all ethnic communities' ethnic, cultural, linguistic, and religious identities are protected. Members of the communities have the right to join scientific and cultural organizations that help them grow and develop their identity, such as schools that teach in their native language.<sup>11</sup>

It is obvious that not understanding how human rights can aid in peacebuilding efforts may lead to the incorrect conclusion that adding any human rights policy to the peacebuilding agenda will yield the same positive results. Furthermore, this can prevent decision-makers from determining whether relying on human rights is preferable to, or should be supplemented by, other peacebuilding strategies. Furthermore, failing to pay close attention to the conditions that make human rights effective peacebuilding tools may lead to the mistaken belief that their protection will always result in a positive outcome, regardless of the context in which it is implemented. As a result, uniform strategies may be implemented with little understanding of how the unique characteristics of each post-violence society should be considered. While these dangers are not unavoidable, they are more likely to occur if the nuanced relationship between human rights and peace is not kept in the forefront of decision-makers' minds.<sup>12</sup>

Building sustainable peace entails, above all, strengthening local capacities and institutions at all levels to address the root causes of insecurity, as well as promoting open, diverse, and tolerant societies that are resilient to violent crises and conflicts. To achieve these objectives, states should seek advice and practical assistance for societal, political, and legislative reforms, including the functionality, transparency, and accountability of democratic institutions in accordance with good governance and the rule of law. Efforts to address violations of human rights and fundamental freedoms, intolerance and discrimination and the absence of strong democratic institutions and the rule of law must be included in post-conflict rehabilitation and peacebuilding.<sup>13</sup>

Activities must be centered on meeting the needs of the people who live in each context for peace to last. To engage conflict-affected societies, it is critical to raise awareness of the importance of mutual respect, tolerance for opposing viewpoints, willingness to compromise, and commitment to nonviolent conflict resolution. Building a lasting peace also entails supporting mechanisms that encourage people to trust one another and form relationships, particularly in divided and polarized societies. Making peace last and assisting with transitions are two ways to assist people in getting along and dealing with the past. These processes, like any other peacebuilding activity, must be supported in a

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<sup>10</sup> Constitution of the Republic of North Macedonia, Article 48 (2001). Available online at: [https://vlada.mk/sites/default/files/dokumenti/zakoni/the\\_constitution\\_of\\_the\\_republic\\_of\\_north\\_macedonia\\_containing\\_the\\_valid\\_constitutional\\_provisions\\_in\\_force\\_as\\_amended\\_by\\_constitutional\\_amendments\\_i-xxxvi.pdf](https://vlada.mk/sites/default/files/dokumenti/zakoni/the_constitution_of_the_republic_of_north_macedonia_containing_the_valid_constitutional_provisions_in_force_as_amended_by_constitutional_amendments_i-xxxvi.pdf)

<sup>11</sup> Jeton Shasivari, *Constitutional Law* (Skopje, Furkan ISM, 2020), 228.

<sup>12</sup> Hadjigeorgiou, HART PUBLISHING, 6.

<sup>13</sup> Organization for Security and Co-operation in Europe, *Building Sustainable Peace and Democracy: OSCE Experiences in South-Eastern Europe* (OSCE, 2018), 14.

situation-aware manner. This means that they must be tailored to the situation on the ground and used in conjunction with any existing or planned peace processes.<sup>14</sup>

However, with a few exceptions, the normative approach has been the primary means of protecting minority groups' basic rights in Balkan states. Whereas many of these states have not established effective mechanisms for the fulfillment of these rights, resulting in a status quo that could lead to eventual conflicts, which could have a domino effect due to the distribution of ethnic communities across national borders.

#### 4. Kosovo's Demographic Structure

For a long time, under unfavourable socio-historical and political conditions, as well as economic and cultural underdevelopment, a very specific demographic complex with all the contours of pre-industrial society developed in Kosovo. Only 38 of the 1445 settlements are urban, while half of the population still lives in the countryside. Kosovo remains Europe's last demographic transition, with all the consequences that entail (high fertility rate, new population structure, low level of the active population, high infant mortality rate, and so on). Despite intensive emigration processes and other unfavourable circumstances in certain socio-historical periods, one of the main features of Kosovo's population development has been an increase in its number because of a high birth rate and a decrease in mortality.

**Table 1.** Ethnic structure of Kosovo populations according to the official census 1948-2011.

<i>Ethnic Group</i>	1948	1953	1961	1971	1981	1991	2011
<i>Albanian</i>	69.6 %	65.9 %	69.5 %	74.2 %	78.6 %	82 %	93 %
<i>Serbian</i>	24.6 %	24 %	23.8 %	18.9 %	13.6 %	9.9 %	1.5 %
<i>Bosnian</i>	1.5 %	0.9 %	0.9 %	2.6 %	3.8 %	3.5 %	1.6 %
<i>Roma</i>	1.5 %	1.8 %	0.8 %	1.5 %	2.1 %	2.5 %	0.5 %
<i>Croat</i>	0.8 %	0.9 %	0.8 %	0.7 %	0.6 %	0.5 %	///
<i>Gorani</i>	///	///	///	///	///	///	0.6 %
<i>Turk</i>	0.5 %	4.8 %	2.9 %	1.0 %	0.7 %	0.9 %	1.1 %
<i>Ashkali</i>	///	///	///	///	///	///	0.9 %
<i>Egyptian</i>	///	///	///	///	///	///	0.6 %
<i>Other</i>	1.5 %	1.7 %	1.3 %	1.1 %	0.6 %	0.7 %	0.2 %

Source: Kosovo Academy of Science, Kosova - Monographic View & Kosovo Agency of Statistics.

Kosovo was estimated to have 240,000 inhabitants in 1880, but according to Turkish statistics from 1908 to 1909, the population was 506,862 people. According to some estimates, 475,000 people lived in Kosovo in 1910, and 460,607 people lived there in 1916, according to Austrian military authorities. Kosovo's population grew by 600%

<sup>14</sup> Organization for Security and Co-operation in Europe (OSCE), 18.

between 1880 and 1980. There were approximately 2 million people in 1991.<sup>15</sup> While the population of Kosovo is expected to be 1,773,971 residents in 2021.<sup>16</sup> Kosovo's population structure has been changing all the time. According to official records from 1991, 82% of the people in Kosovo were Albanians, and 18% belonged to ethnic minority communities. Over 90% of the population is Albanian today, with minority communities accounting for 7-8%.<sup>17</sup>

The main goals of Serbian institutions and government in the last 130 years, until Kosovo's liberation, were to defeat Albanian numerical and reproductive superiority and restore ethnic balance. Following Serbia's invasion of Kosovo in 1912, the Albanian population moved violently and massively toward neighbouring countries and Turkey due to a change in population structure. According to historical records, approximately 300,000 Albanians left Kosovo between 1912 and the start of World War II. The displaced property was given to Serbian families who were brought to Kosovo for the purpose of colonization and eventually changing the ethnic structure. Numerous state plans have been developed for this purpose (Cubrillovic I, Cubrillovic II, Moleviq, Mihajlovic, etc.).<sup>18</sup>

As the Serbs were moving to Kosovo, the Muslim population, including Kosovo Albanians, was fleeing to other countries. Namely, Yugoslavia aimed to decrease the number of hostile Muslims and Albanians. Whereas Turkey wanted to colonize areas emptied by the exodus of thousands of Greeks and other Christian populations. The Treaty of Lausanne of 1923, signed between Greece and Turkey, resulted in the exchange of 1,300,000 Turks and Greeks. A few years later, in 1938, a convention called for the emigration of 200,000 people from Yugoslavia to Turkey.<sup>19</sup>

Today, the ethnic makeup of Kosovo has shifted, with the vast majority, over 90%, being Albanians, while 65,000 of Serbs have left the country since the end of the war (1999). This occurred because a portion of the Serbian population was involved in military and paramilitary operations against the Albanian population. Furthermore, approximately 130,000 Serbians remain in Kosovo.<sup>20</sup>

#### 4.1. Return of minority communities to Kosovo

Despite the fierce conflict in Kosovo (1998-1999), Kosovar and international institutions have developed a legal framework to facilitate the return of displaced persons and refugees. Priority has been given to members of minority communities.<sup>21</sup> The right to return to their place of residence, as well as freedom of movement, access to education, health care, and security, is enshrined in the Kosovo Constitution. The ease of return and

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<sup>15</sup> Kosovo Academy of Science, *Kosova - Monographic View*, (Prishtina, ASHAK 2011), 131-132.

<sup>16</sup> Kosovo Agency of Statistics. "Population Assessment for 2021: Series 5 of Social Statistics". ASK (2022), <https://ask.rks-gov.net/sq/agjencia-e-statistikave-te-kosoves/add-news/vleresimi-i-popullise-2021>

<sup>17</sup> Kosovo Academy of Science, "Kosova - Monographic View", 140.

<sup>18</sup> Kosovo Academy of Science, "Kosova - Monographic View", 144-146.

<sup>19</sup> Tim Judah, *Kosovo-What Everyone Needs to Know*, (New York: Oxford University Press 2008), 45-46.

<sup>20</sup> European Stability Initiative, *The Lausanne Principle- Multiethnicity, Territory and the Future of Kosovo's Serbs*, (Berlin-Brussels-Sarajevo: ESI 2004), 2. [http://www.esiweb.org/pdf/esi\\_document\\_id\\_53.pdf](http://www.esiweb.org/pdf/esi_document_id_53.pdf)

<sup>21</sup> Mehmeti, Xhavit. "Minority communities return to Kosovo." Interviewed on May 5, 2024 in Vushtrri, Kosovo.



the right to possess the property are given special consideration.<sup>22</sup> Furthermore, international instruments dealing with this issue, such as the ECHR, have direct applicability in the context of Kosovo.<sup>23</sup> In addition, the International Covenant on Civil and Political Rights (ICCPR), which has direct applicability in Kosovo, guarantees every citizen's right to participate in public life and decision-making, as well as access to public services.<sup>24</sup> The ability of the displaced and refugees to access public services, use their language and traditions, participate in decision-making, and so on is directly related to their return. All of this is strongly guaranteed by special laws for minority communities, which have had a positive impact on the creation of an appropriate environment for return and reintegration.<sup>25</sup> As a result, according to the official in charge of return and reintegration in the Municipality of Vushtrri, the process of returning minority communities has progressed with minor hiccups, especially in the last ten years.<sup>26</sup>

The Ministry of Communities and Return, as well as international organizations committed to addressing the issue of displacement and increasing the number of returnees, have carried out a variety of activities and projects. As a result, many volunteers have returned to Kosovo. According to a Ministry of Communities and Return report, the number of returnees has increased since Kosovo's independence.<sup>27</sup> However, the process of returning the displaced is still ongoing, with the process being directly dependent on the economic stability of the returnees and less dependent on security circumstances, as was the case in the first decade following the Kosovo war.

## 5. Minorities' Legal Status

Minority communities' rights in Kosovo are protected by provisions of international conventions that have direct applicability in Kosovo<sup>28</sup>, as well as by domestic legislation, in which case a plethora of legal mechanisms have been established to advance minority communities' rights. As a result, mechanisms at the central and municipal levels have been established to address the needs and priorities of minority communities. The following mechanisms have been established at the central level to protect and advance the rights of minority communities: a consultative council for communities; guaranteed representation in the Kosovo Parliament; representation in the Kosovo Government; and representation in the judicial system. The following mechanisms have been established at the municipal level: the position of deputy mayor of the municipality for minorities;

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<sup>22</sup> Constitution of the Republic of Kosovo, Article 156 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>23</sup> Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 1 & 2 (1950). Available online at:

[https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

<sup>24</sup> International Covenant on Civil and Political Rights (ICCPR), Article 25 & 27 (1966). Available online at: <https://www.ohchr.org/sites/default/files/ccpr.pdf>

<sup>25</sup> Law No. 03/I-047 on the Protection and Promotion of the Rights of Communities and their Members in Kosovo, Articles 1, 2, 4, 8, 9, 11 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2531&langid=2>

<sup>26</sup> Merovci, Ekrem. "Minority communities return to Kosovo." Interviewed on May 5, 2024 in Vushtrri, Kosovo.

<sup>27</sup> Government of Republic of Kosovo (2013), *Strategy for Communities and Return 2014 – 2018*, (Pristina: 2013), 4. Available online at: <https://www.refworld.org/docid/5b4306654.html>

<sup>28</sup> Constitution of the Republic of Kosovo, Article 22 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>



expanded powers of municipalities inhabited by Serbian citizens; the use of minority languages; committees for communities; offices for communities; and so on.

According to the constitution, the Republic of Kosovo is defined as a state of citizens living in Kosovo, i.e., as a multi-ethnic society composed of Albanians and other communities. The Kosovo Parliament has guaranteed 100 seats out of 120 for the majority Albanian community and 20 seats out of 120 for members of the minority communities. If the number of seats won in the elections is less than 10, 10 seats are guaranteed for the Serbian minority community (political parties, civic initiatives, etc.). While the remaining 10 seats are guaranteed to the Roma, Ashkali, and Egyptian minority communities (4 seats), Bosnian (3 seats), Turkish (2 seats), and Gorani community (1 seat).<sup>29</sup> With the exception of the Slovenian Constitution, which reserves one seat in parliament for the Hungarian minority and one seat for the Italian minority, the Kosovo Constitution's reserved mandates are not present in other states formed as a result of the breakup of Yugoslavia.<sup>30</sup>

In addition to representation through reserved or guaranteed seats, the presidency of the parliament, comprised of the speaker and five members, is another level of community representation in Kosovo.<sup>31</sup> The assembly's president and three other members are chosen from the largest parliamentary groups, while one member is chosen from the Serbian community and another from other communities.

The Kosovo Constitution requires that at least one deputy chairman of the parliamentary commissions come from a different community than the chairman.<sup>32</sup> As a result, communities are represented in all parliamentary committees of the Kosovo Assembly. The permanent Committee for the Rights and Interests of Communities and Return is also one of the parliamentary committees. This committee is made up of roughly one-third of members from the majority community, one-third from the Serbian community, and one-third from other communities. The importance of this committee lies in the process of making laws, which is the assembly's primary function. This commission must review all laws to ensure that they are compatible with community rights.<sup>33</sup>

The Kosovo Constitution also establishes special procedures for the adoption of laws of critical importance to protect the rights of minority communities. The special procedure requires 2/3 of the votes of most MPs in the Kosovo Assembly, as well as 2/3 of the votes of MPs representing minority communities, for the approval, amendment, or repeal of laws of vital interest. This procedure is defined so that minority community Assembly members are not outvoted on certain types of laws.<sup>34</sup> Local election laws, local heritage protection laws, religious freedom laws, education laws, and laws on the use of symbols,

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<sup>29</sup> Constitution of the Republic of Kosovo, Article 64 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>30</sup> Hazër Susuri, *Constitutional Law in Kosovo* (Prishtina, University FAMA, 2015), 288.

<sup>31</sup> Arsim Bajrami, *Constitutional System of Republic of Kosovo* (Pristina, AAB College, 2018), 233.

<sup>32</sup> Constitution of the Republic of Kosovo, Article 77 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>33</sup> Arsim Bajrami, *Constitutional System of Republic of Kosovo* (Pristina, AAB College, 2018), 233.

<sup>34</sup> Hazër Susuri, *Constitutional Law in Kosovo* (Prishtina, University FAMA, 2015), 301-302.

including community symbols and public holidays, are examples of this type of law.<sup>35</sup> None of these laws can be put to a referendum, guaranteeing any over-voting by the majority of community MPs. This practice is not mentioned nor found in the constitutions of any South-Eastern European or other European countries. The Republic of North Macedonia is home to approximately 25% of the ethnic Albanian community, and affirmative measures like those offered to minority communities in Kosovo have never been implemented. The same is true in Serbia and Montenegro.

The establishment of the Community Consultative Council aimed to formulate a comprehensive framework for safeguarding the rights and well-being of minority communities in Kosovo. The Council was officially established in 2008 through a presidential decree, and its primary function is to provide advisory support to the President of Kosovo. The Council possesses an independent budgetary allocation which is utilized for the purpose of providing support to projects. According to Article 60 of the Constitution of Kosovo, the Community Consultative Council is established as an institutional framework facilitating regular communication between the government of Kosovo and the various communities within the country. Furthermore, this platform facilitates the provision of early input from communities regarding legal and policy initiatives put forth by the government. Additionally, it allows communities to propose their own legal and policy initiatives to the government.

The composition of the Council is structured in the following manner: The Serbian community comprises a total of five individuals, with a stipulation that no more than two individuals from this community can hold the position of Members of Parliament. The Bosniak community comprises three individuals, with a provision for a single Member of Parliament. Similarly, the Turkish community also consists of three members, with a maximum allowance of one Member of Parliament. The Ashkali, Egyptian, Roma, Gorani, Montenegrin, and Croatian communities each have two members, with a maximum of one Member of Parliament allocated to each community. The composition of the Council consists of a majority of nominated members, comprising two-thirds of the total, with the remaining one-third being representatives from the government (specifically, parliament) and other relevant agencies. The Community Consultative Council includes permanent members from various entities, namely the Office of the President of Kosovo, the Office of the Prime Minister, the Ministry of Communities and Returns, and the Office of the Speaker of Parliament.<sup>36</sup>

The Constitution and specific laws of Montenegro establish a framework for the inclusion of minority communities in legislative power. Moreover, the constitution ensures that minority groups have the right to genuine representation in both the Parliament of Montenegro and municipal assemblies, particularly when they make up a substantial portion of the population. This is founded on the principles of affirmative action and proportional representation.<sup>37</sup> As per Article 25 of the Law on Minority Rights and

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<sup>35</sup> Constitution of the Republic of Kosovo, Article 81 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>36</sup> Constitution of the Republic of Kosovo, Article 60 (2008).

<sup>37</sup> Constitution of Montenegro, Article 79, Official Gazette No. 001/07, 25.10.2007. Available online at: <https://www.gov.me/en/documents/9f19ed1f-5b58-4232-9fb7-168f20cb3206>

Freedoms, minorities have the right to receive proportional representation in public services, national governance, and local administration. Nevertheless, this law does not contain specific provisions for the implementation of these rights. Consequently, representation in public services is far from guaranteeing equality.<sup>38</sup>

In North Macedonia, the inclusion of minority communities in parliament is ensured through legal and constitutional measures aimed at fair representation. As a multi-ethnic nation, North Macedonia's political system emphasizes the importance of representing diverse ethnic groups in governance. The Constitution of North Macedonia acknowledges this multi-ethnic composition, and it was revised following the "Ohrid Framework Agreement"<sup>39</sup> (OFA) in 2001, which ended a conflict between ethnic Albanians and the government. This agreement was key in enhancing the rights of ethnic minorities, particularly the Albanians, who represent a substantial segment of the population.

The OFA plays a critical role in defining minority rights in North Macedonia by requiring constitutional and legal reforms to guarantee fair representation of ethnic minorities. This led to amendments that promoted the inclusion of minorities in public administration, the judiciary, and the legislative branches. The electoral system in North Macedonia is based on proportional representation, allowing political parties representing ethnic minorities to gain parliamentary seats in proportion to the votes they receive. Various political parties and coalitions representing groups such as ethnic Albanians, Turks, Roma, Serbs, Bosniaks, and others participate in elections and can secure seats based on their electoral success.

The "Badinter Principle," derived from the OFA, necessitates a "double majority" vote on matters that particularly affect ethnic minorities. This means that beyond the general majority, most minority representatives must also approve specific legislative decisions, safeguarding minority rights in the legislative process. This principle is relevant to decisions on cultural matters, education, language use, and other issues important to ethnic communities.

Additionally, the Constitution establishes a "Committee on Inter-Community Relations" with members from all significant ethnic communities to address disputes and encourage inter-ethnic dialogue. Constitutional changes also designate Albanian as a co-official language in North Macedonia, allowing its use in parliament, government, and public institutions where ethnic Albanians make up at least 20% of the population. Ethnic Albanians, as the largest minority group, have strong representation in parliament, primarily through their political parties. Other minorities, such as Turks, Roma, Serbs, Vlachs, and Bosniaks, are represented either through specific political parties or coalitions. Overall, North Macedonia's strategy for integrating minority communities into parliament relies on constitutional assurances, proportional representation, and mechanisms like the Badinter Principle to ensure that minority rights are upheld and incorporated into the legislative process.

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<sup>38</sup> Zakon o manjinskim pravima i slobodama, Član 25, 2021. <https://bvccg.me/wp-content/uploads/2021/11/7-Zakon-o-manjinskim-pravima-i-slobodama.pdf>

<sup>39</sup> Organization for Security and Co-operation in Europe. *Ohrid Framework Agreement, 13 August 2001*. <https://www.osce.org/skopje/100622>

With the establishment of a new government in North Macedonia, the majority population has initiated efforts to change the law concerning language use<sup>40</sup>, seeking to limit the rights of the Albanian language to be recognized as an official language, along with Macedonian, in areas where at least 20% of the residents are from the Albanian community.<sup>41</sup> On the other hand, legislation and the Serbian constitution guarantee the legislative rights entitlement of minority groups. Equal right to citizenship is guaranteed by Article 75 of the Serbian Constitution<sup>42</sup> (2006), which also forbids any kind of discrimination based on nationality, ethnicity, religion, or other criterion. Under the Serbian Constitution (2006), national minorities in Serbia are entitled even more to uphold their cultural identity.

The above-mentioned article guarantees equality by stating the ban of discrimination against national minorities and the need of using positive discrimination. Article 77 also gives national minorities public affairs rights and the ability to choose local self-government delegates. Moreover, Article 81 requires the state to actively support national minority participation in public life and protection of their cultural, linguistic, and religious legacy. By means of their political activity, legislative representation, and organization establishment to advocate their interests, the Law on the Protection of Rights and Freedoms of National Minorities (2002, revised 2018) protects the rights of minority groups.<sup>43</sup> The Law on Local Self-Government (2007, amended in 2018) requires minority representation in local government bodies so enabling minorities to participate in local decision-making and legislation.<sup>44</sup>

The Law on National Councils of National Minorities (2009, updated in 2018) does, however, allow the founding of National Minority Councils, which support minority groups in spheres of culture, education, language, and information flow. Minorities are qualified to run for parliament with lowered criteria under the 2000 Law on the Election of Members of Parliament (amended 2020). With less votes than majority parties, national minority parties can land parliamentary seats.

Although legal and constitutional clauses guarantee minority legislative involvement, actual application of this right varies. Minority groups including Hungarians, Bosniaks, and Albanians benefit from the lowered electoral threshold in both the National Assembly and local legislative bodies. Achieving sufficient representation of some smaller minority groups remains difficult. Considered generally as helpful are established and operational National Minority Councils.<sup>45</sup> These councils help National Minority groups to protect and promote their language and cultural legacy. Still, the councils usually lack the power to influence state policies, which fuels criticism of their decision-making process.

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<sup>40</sup> Law on the use of languages (2019) Official Gazette n. 7/2019 from 14 January 2019. Available from: <https://www.slvesnik.com.mk/Issues/1c2c606e0a894e1ea3f2cd277ff6a1fa.pdf>

<sup>41</sup> Bilalli, Asllan. "University Professor from Northern Macedonia." Interviewed on June 12, 2024 in Prishtina, Kosovo.

<sup>42</sup> Constitution of Republic of Serbia, (2006). Available online at: [https://www.constituteproject.org/constitution/Serbia\\_2006](https://www.constituteproject.org/constitution/Serbia_2006)

<sup>43</sup> Law on the Protection of Rights and Freedoms of National Minorities, (2018). Available online at: <https://ravnopravnost.gov.rs/wp-content/uploads/2021/08/43e756834.pdf>

<sup>44</sup> The Law on Local Self-Government, (2018). Available online at: <https://rju.gov.rs/wp-content/uploads/2020/07/Zakon-o-lokalnoj-samoupravi.pdf>

<sup>45</sup> The Law on National Councils of National Minorities, (2018). Available online at: <https://www.rik.parlament.gov.rs/extfile/en/170/ZoNSNM-eng.pdf>

Notwithstanding these legal underpinnings, smaller minority groups like the Roma still face significant challenges to political involvement and representation including socioeconomic inequalities and prejudice. Particularly in local governments where minority rights are sometimes insufficiently protected or enforced, there are questions about the effectiveness of passed laws and policies.

Though not all get equal legal treatment, Serbia acknowledges 23 national minorities. Legal framework for minority rights in Serbia is implemented in a complicated manner with considerable improvement required as well as weak enforcement. Discrimination, lack of representation, lack of Albanian education, and limited use of the Albanian language and national symbols are among the several rights violations Albanians in Serbia experience. With wages below average for the same work done elsewhere of Serbia, the areas inhabited by Albanians have the lowest degree of economic development and capital investment. Moreover, Serbia runs a discriminating campaign to "passivate" Albanian addresses so depriving them of their rights guaranteed by international conventions and personal documentation. This resembles administrative approaches of ethnic cleansing.<sup>46</sup>

Serbia has thorough constitutional systems that clearly provide legislators' power for minority groups. To properly defend the rights of minority groups, the country must constantly match laws with reality and ensure fair application of legal standards for all its people.

### 5.1. Representation in the Government

Overall, the Balkan governments have adopted various approaches for involving ethnic groups into the central government and related institutions. While Montenegro and especially Serbia are blatantly negligent in involving ethnic minorities in the running of the nation, some states, including Kosovo and North Macedonia, incorporate elements of consensus democracy<sup>47</sup>. Ethnic minorities' participation in governance is seen as a factor that promotes more stability and ownership in the decision-making process, so improving the expected stability of the government.

The inclusion of non-majority communities in the government of Kosovo is a vital aspect of the country's democracy and stability, which are built upon a robust legal and political framework. The Constitution of the Republic of Kosovo, ratified in 2008, and the Law on the Protection of the Rights and Freedoms of Minorities, which was enacted in 2004 establishes a legal structure to safeguard the rights of non-majority communities and enhance their participation in state institutions. Hence, non-majority communities in Kosovo are granted proportional representation in the Assembly. This includes reserved seats for Serbs and other non-majority communities.

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<sup>46</sup> Beqiri, Fejzi. "University Professor from Serbia and Albanian political representative". Interviewed on September 2, 2024, in Prishtina, Kosovo.

<sup>47</sup> Lijphart, Arend. "Chapter 3. The Consensus Model of Democracy" In *Patterns of Democracy*, 30-45. New Haven: Yale University Press, 2012. <https://doi.org/10.12987/9780300189124-005>

Aiming at the inclusion of minority groups in government composition, the Kosovo constitution requires at least two ministers to be from ethnic groups other than the majority community represented in the Assembly. The other minister must come from another community than Serbian one. Furthermore, should the government decide to name more than twelve ministers, it also must name a third minister from a community without majority in Kosovo. First, the government must confer with the political parties and minority groups represented in the Assembly before choosing this minister. Through its clauses, the written constitution of the Republic of Kosovo has established the fundamental institutional ideas, duties, and policies of the Government of the Republic of Kosovo as a tool of executive authority to implement laws approved by the Assembly of Kosovo. Furthermore, covered by the government are other interests within its constitutional and legal responsibilities.<sup>48</sup> With reference to the representation of minority groups in the government, the Constitution exactly outlines the type of ethnic minority involvement by means of reserved seats for minorities.

Unambiguous assurance for the representation of minorities in the government composition comes from the constitutional clause of reserving at least two seats in the executive branch for ministers from Kosovo. Other countries in the region or beyond have their constitutions free of this unique clause. The goal to have at least two ministers from minority communities does not exclude the possibility of having more ministers from other communities inside the government provided there is the will of the government mandate holder.

In a multi-ethnic environment, this reserved representation of minority communities in government reflects the so-called "broad-based governance" and serves as one of the fundamental requirements of democracy. Apart from the already mentioned clauses, the Constitution requires Kosovo's government to designate minimum two seats for ministers from the Serbian community and another two seats for members of other minority groups residing in Kosovo. Should the government have more than twelve ministerial portfolios, it sets two extra seats for deputy ministers from minority groups. Consequently, it is quite evident that the legal framework not only reserves ministerial seats but also guarantees ethnic minorities living in Kosovo specific positions at the level of deputy ministers.

Ensuring fair and inclusive representation in Kosovo's public institutions depends critically on the Civil Service and Independent Agencies including members of minority communities being employed in them. The Kosovo Constitution<sup>49</sup> and the Law on Civil Service<sup>50</sup> state that every citizen, from all ethnic backgrounds, has an equal right to work in public institutions and the civil service. Developing systems that ensure a specific percentage of employment opportunities for members of non-majority communities is crucial component of this process. For example, depending on the ethnic makeup of the population in that area, public institutions are obliged under present laws and policies to

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<sup>48</sup> Constitution of the Republic of Kosovo, Article 96 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>49</sup> Constitution of the Republic of Kosovo, Article 61 & 62 (2008).

<sup>50</sup> Law No. 08/L-197 for Public officials, article 7.1 (2023). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=81430>



guarantee that up to 10% of their personnel reflect non-majority communities. Notwithstanding these clauses, possible prejudices, lack of institutional capacity, and issues in the practical application of laws and regulations still provide major obstacles in fully and effectively representing minorities. Still, full integration of these groups into Kosovo's public services depends on constant improvement in institutional policies, awareness-raising, and training.

While following the guidelines of professionalism and ethics which govern the daily affairs of the public sector in Northern Macedonia, legislation controlling work in the public sector includes clauses to guarantee fair representation of minority communities in all important public entities and at every employment stage inside these entities. The authorities will take steps to correct present differences in the composition of the public service, notably through hiring people from underprivileged areas.<sup>51</sup> Law on local self-governance guarantees, in line with the Ohrid Agreement, equal participation of members from various ethnic groups in the local government.<sup>52</sup> According to Statistical Office in North Macedonia show that there are 1,346 central and local establishments employing roughly 133,000 people. Of them, the majority adhere to other ethnic communities; about 84,000 are Macedonian, over 23,000 are Albanian. Some members of the majority Macedonian community have registered as citizens of the Albanian or other ethnic communities, therefore securing jobs in public institutions, following affirmative actions targeted at encouraging the employment of minority community members in the public sector.<sup>53</sup>

According to official data from the 2011 census, the percentage of Albanians in Montenegro stands at 4.91% of the total population, translating to 30,439 individuals. Observations of current practices indicate that the involvement of Albanians in various administrative bodies has been the result of political agreements rather than the government's proactive strategy or willingness to enhance proportional representation of the Albanian minority in public institutions. Data published in 2011 revealed that Albanians accounted for 2.80% of the public administration workforce. Furthermore, a report released by the Ministry for Human and Minority Rights in June 2016 on the ethnic composition of employees in the state police indicates that Albanians constitute 1.33% of the public police force. Specifically, out of 3,377 individuals who declared their ethnicity, 45 identified as Albanian. Among other minority communities, the Bosniak and Serbian communities are better represented within Montenegro's state administration.<sup>54</sup>

As per 2022 population census, Albanians represent the fourth largest national minority in Serbia, with over 61,000 citizens. The majority reside in the southern municipalities of Presheva and Bujanovc, where they constitute 95 % of the population. The remaining 5%

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<sup>51</sup> Organization for Security and Co-operation in Europe. Ohrid Framework Agreement, 13 August 2001. <https://www.osce.org/skopje/100622>

<sup>52</sup> Law on Local Self-government in Northern Macedonia, Article 59 (2002). Available online at: [https://mls.gov.mk/images/laws/EN/Law\\_LSG.pdf](https://mls.gov.mk/images/laws/EN/Law_LSG.pdf)

<sup>53</sup> Buletini ekonomik. *Maqedonasit deklarohen si shqiptarë për t'u punësuar në administratën publike* (May 12, 2023). Available online at: <https://buletiniekonomik.com/2023/05/maqedonasit-deklarohen-si-shqiptare-per-tu-punesuar-ne-administraten-publike/>

<sup>54</sup> Faik Nika. *Plava dhe Gusia Sot. Shqiptarët në administratën publike* (April 05, 2024). Available online at: <https://plavaeguciasot.com/faik-nika-shqiptaret-ne-administraten-publike/>



comprises citizens of Serbian, Bosniak, and other ethnic backgrounds. In the Basic Court of this region, 18 of the 62 employees are Albanian. In other public institutions, Albanians make up approximately 37% of the workforce, including departments such as education, postal services, and telecommunications. The 2023 European Commission Report on Serbia's progress states that "despite the legal obligation to consider the ethnic composition of the population, national minorities remain underrepresented in the state administration."<sup>55</sup> It is evident that Western Balkan states have a solid legal framework for the inclusion of diverse ethnic communities in state administration institutions; however, the implementation of these legal obligations remains inadequate.

## 6. Empirical Findings: Mechanisms for the Protection of Minority Community Rights at the Local Level in Kosovo

Human rights, with a particular emphasis on those of minority communities, are protected by a comprehensive legal framework that incorporates key international human rights documents.<sup>56</sup> These international instruments have direct applicability in the context of Kosovo and, as such, take precedence over domestic legislation. Additionally, the rights of minority communities are guaranteed by Chapter III of the Constitution of Kosovo, establishing a wide range of mechanisms that enable the effective protection and promotion of community rights.<sup>57</sup>

Participation mechanisms at the local level play a crucial role in facilitating the realization of various human rights for communities that are a numerical minority within a municipality. These rights include, but are not limited to, education, freedom from discrimination, freedom of religion, employment opportunities, access to essential services, and social welfare. In Kosovo, the primary entities responsible for facilitating equal access to public participation for all communities are the Community Committees (CC), Municipal Offices for Communities and Return (MOCR), as well as the positions of Deputy Mayor for Communities and the Deputy Chairperson of the Municipal Assembly for Communities. The continued effectiveness of these mechanisms is essential to ensuring the protection of these rights. Kosovo's legal framework mandates that Kosovo institutions adopt affirmative measures to promote equality among communities in social, economic, cultural, and political spheres, and includes specific guarantees for the position of Deputy Chairperson of the Municipal Assembly for Communities.<sup>58</sup>

According to the Law on Local Self-Government (LLSG), municipalities are obligated to guarantee the representation of minorities in all local structures. This ensures that these communities make up at least 10% of the community's population that is expressed through representation. The provisions of this law demonstrate a complete and total

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<sup>55</sup> Manojlovic, Mila, Vuckovic, Branko. Integrimi i shqiptarëve në institucionet e Serbisë: Një kërkesë e vjetër mbi një dekadë. Radio Evropa e Lirë. (August 29, 2024). Available online at: <https://www.evropalire.org/a/integrimi-i-shqiptareve-ne-institucionet-e-serbise-/33098149.html>

<sup>56</sup> Constitution of the Republic of Kosovo, Article 22 (2008). Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

<sup>57</sup> Constitution of the Republic of Kosovo, Articles 57-62.

<sup>58</sup> Organization for Security and Co-operation in Europe, Mission in Kosovo: *An Assessment of Local-level Mechanisms for the Protection and Promotion of Communities' Rights and Interests in Kosovo*. June 2014, p. 5-7.

respect for the Constitution of Kosovo. The Constitution places a particular emphasis on the fact that the position of Deputy Chairperson for Communities within the Municipal Assembly would be assigned to a representative who represents at least ten percent of the population in municipalities where at least ten percent of the population is comprised of communities that are not the majority.<sup>59</sup>

The Constitution of Kosovo stipulates that the position of Deputy Mayor be reserved for a member of a non-majority community residing in the municipality. This position is held by the candidate from a minority community who has received the highest number of votes in the municipal assembly elections. The primary role of the Deputy Mayor is to facilitate discussions within the municipality, fostering intercommunity dialogue, addressing various issues, and safeguarding the interests of minority communities. During their term, the Deputy Mayor for Communities is responsible for reviewing all grievances submitted by communities. If these grievances are not adequately addressed through the municipal decision-making process, the Deputy Mayor has the authority to refer such cases to the Constitutional Court of Kosovo.<sup>60</sup> This procedure aims to ensure that the rights of communities are recognized and properly upheld in accordance with the provisions outlined in the Constitution of Kosovo.

Established to defend and advance the rights of communities, guarantee equal access to public services for all communities, and create conditions for the sustainable return and reintegration of refugees, displaced persons, and repatriated individuals, Municipal Offices for Communities and Return (MOCR) The founding of MOCR fits the responsibilities of the Republic of Kosovo to uphold human rights (Chapter II of the Constitution), the rights of communities and their members (Chapter III of the Constitution), and the building of conditions for the sustainable return and reintegration of refugees and displaced persons.

The MOCR supports municipal offices in sufficiently defending community rights and offering public services to all communities, including refugees, displaced persons, and people qualified for readmission to Kosovo following repatriation. Regarding community issues, it counsels the municipal assembly, municipal directorates, the mayor, and particular municipal institutions. By means of this support, the MOCR seeks to guarantee that municipal choices, policies, and services include efficient community engagement, so sufficiently addressing the circumstances, needs, and rights of non-majority communities and so enabling communities to experience equality. Policies concerning community rights, fair access to public services, and return and reintegration inside towns are consistently implemented thanks to the MOCR. It oversees making sure such policies are carried out under complete cooperation with pertinent central government agencies and municipal departments.<sup>61</sup>

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<sup>59</sup> Law No. 03/L-040 on Local Self-governance (2008), Article 54 and 61. Available online at: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2530>

<sup>60</sup> Constitution of the Republic of Kosovo, Article 62.

<sup>61</sup> The Ministry for Communities and Return, Terms of Reference for the Municipal Offices for Communities and Return (MOCR), approved by the Inter-Ministerial Working Group on MOCRs (April 21, 2011). Available online at: <https://dokumen.tips/documents/zyra-komunale-pr-komunitete-dhe-kthim-termat-e-referencs-pr-zyrat-komunale.html?page=1>

Other Balkan states (Serbia, North Macedonia, Montenegro) guarantee the rights of minority populations and their involvement in decision-making procedures only in municipalities where these groups account for a considerable proportion or even the whole population. On Kosovo, however, these rights are assured at the state level regardless of the ethnic composition of a community. Consequently, unlike other Balkan nations, all Kosovo's municipalities have committees for their respective communities.

Assessing the adherence of municipal authorities' activities to applicable laws and closely reviewing all municipal policies is the responsibility of the Committee for Communities (CC), which guarantees the entire protection of community rights. The Committee also provides recommendations to the Municipal Assembly on actions necessary to ensure the enforcement of clauses safeguarding communities' rights to promote, express, defend, and cultivate their ethnic, cultural, religious, and linguistic identities, so making sure adequate protection of community rights within the municipality. Members of municipal assemblies and community representatives constitute the Committee for Communities. Most committee members are representatives from non-majority communities, limited to a maximum of five members. Committee member appointments depend on individuals recommended by the non-majority community, subject to Municipal Assembly final approval. The CC chairperson is chosen by committee members voting in majority rule.<sup>62</sup>

Every one of Kosovo's 38 municipalities has established a community committee. Notwithstanding the mechanism applied generally across all municipalities, the Law on the Protection and Promotion of the Rights of Communities (LPPRC) mandates that every community within the municipality be represented in the CC regardless of a minimum population threshold for obligatory representation.<sup>63</sup> Thus, as stipulated by constitutional and legislative clauses, all these mechanisms not only monitor the rights of citizens, particularly those belonging to non-majority communities, but also actively serve their reasonable requirements and interests. While in some Kosovo municipalities these mechanisms are still under development, others have more evolved versions.

The research is also supported by quantitative data collected from 474 respondents across three different municipalities in Kosovo (Vushtrri, Obiliq, and Fushë Kosovë), inhabited by citizens belonging to various ethnic, gender, and educational backgrounds (Table 2).

**Table 2.** Respondents structure

Respondents ethnicity	Number of respondents	Male	Female	Basic education	High school	University education
Albanian	87	51	36	0	29	58
Serb	225	142	83	0	92	133
Turkish	46	26	20	0	21	25

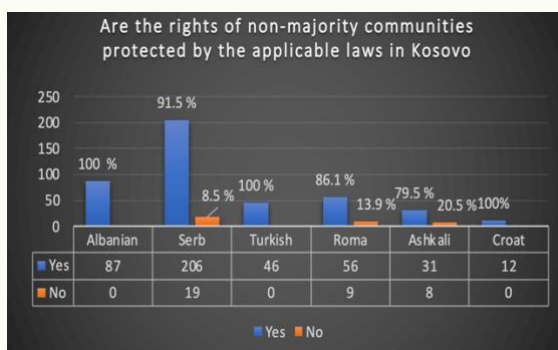
<sup>62</sup> Articles 8 and 9 of Administrative Instruction (MPL) No. 05/2020 on the Procedure for Establishment, Composition, and Competencies of Permanent Committees and Other Committees in the Municipality.

<sup>63</sup> Organization for Security and Co-operation in Europe (OSCE), Mission in Kosovo: Assessment of the Establishment, Functionality, and Performance of Municipal Mechanisms for Community Participation and Representation, October 2021, page 16. Available online at: <https://www.osce.org/sq/mission-in-kosovo/499822>

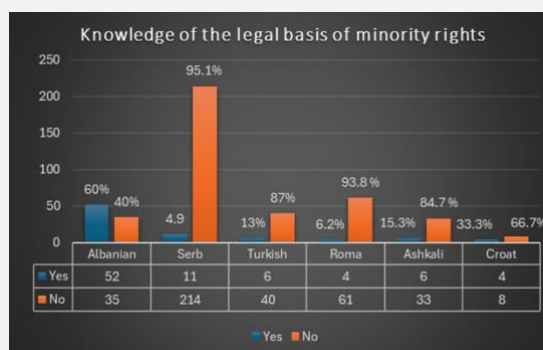
Roma	65	39	26	38	25	2
Ashkali	39	25	14	8	31	0
Croat	12	3	9	0	5	7
<b>Total</b>	<b>474</b>	<b>286</b>	<b>188</b>	<b>46</b>	<b>203</b>	<b>225</b>

Of the 12 survey questions, several yielded interesting data regarding the rights of minority communities. Even though respondents were contacted during a period of heightened security tensions in northern Kosovo, the overwhelming majority (438 respondents, or 92.5%) stated that the rights of non-majority communities are legally protected. A small proportion of respondents (36, or 7.5%) indicated that their rights are not legally protected. This result is highly significant and relates to the integration process of non-majority communities, the enhancement of interactions with local government institutions, and the increasing trend of interethnic cooperation.

**Figure 1.** Non-majority communities’ rights protected by the applicable laws in Kosovo



**Figure 2.** Knowledge of the Human Rights Law

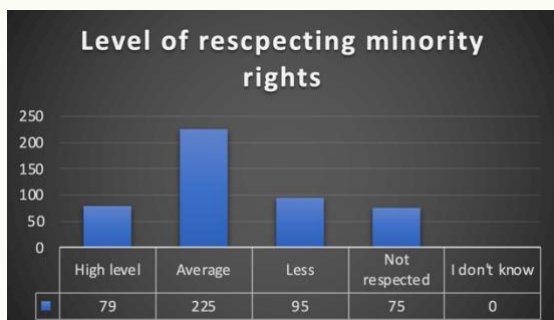


Even though respondents expressed satisfaction with the legal protection of the rights of non-majority communities, only 17.5% (83 individuals) were able to mention some of the applicable laws in this area. Meanwhile, 82.5% (391 individuals) were unable to name any of the relevant laws. It was found that respondents from non-majority communities knew very little about the laws that protect human rights.

Regarding the respect of the rights of minority communities, respondents' opinions show some hopeful trends. While 36% of respondents feel that the rights of minority groups are not sufficiently maintained, about 64% of respondents think these rights are well protected. This statistic shows a rise in respect of human rights satisfaction; nonetheless, more work is required to lower current dissatisfaction further.

Most respondents (70%) stated that their rights should be further protected through additional human rights documents, compared to 30% of respondents who either partially agree or do not agree with this view. It is evident that among minority communities, there is a prevailing perception that the degree of rights implementation is directly linked to the existence of documents and instruments guaranteeing these rights. However, considering the diversity of human rights instruments and documents, Kosovo is already at a fairly high level compared to the other Balkan countries.

**Figure 3.** Respect of the rights of minority communities



**Figure 4.** Should the rights of non-majority communities be guaranteed with additional documents?



The results show that various Balkan countries have adopted different approaches to respecting the rights of minority communities. Among these countries, Kosovo has established a very robust legal framework to guarantee the rights of minority communities, exceeding even the standards set by international conventions. The findings of the survey expose a complicated but encouraging picture of minority rights in Kosovo, characterized by notable legal protections but also awareness and implementation problems.

Significantly indicating a solid legal framework, an overwhelming majority of respondents (92.5%) confirmed the presence of legal protections for minority communities. But among non-majority communities especially, the inadequate knowledge of certain laws, 17.5% of respondents could name any, highlights a crucial gap between legislative provisions and popular awareness. Although 64% of respondents said they were satisfied with the respect for minority rights, 36% pointed out flaws, therefore highlighting continuous difficulties in enforcement and attitude. Especially, the demand for more human rights documentation by seventy percent of respondents points to a general conviction that legal tools are essential for improving rights protection, albeit Kosovo's current system is strong when compared to other Balkan countries. This contradiction emphasizes the need of more outreach and education regarding current rights systems. Kosovo has made impressive progress in creating a legal framework that exceeds international norms, but the poll emphasizes how urgently stronger implementation, more awareness-raising, and ongoing interethnic involvement are needed to turn these legal protections into reality for all people.

## 7. Conclusion

Respect for human rights directly affects peace, stability, and development in multiethnic societies; special attention on the rights of minority groups helps to explain this. Driven by the European Union integration process, Balkan nations have adopted a strong normative approach to address the rights, needs, and legal interests of minority communities, emphasizing on quantitative indicators while often neglecting qualitative indicators of fulfilment and respect for these rights. Therefore, even with the well-written legislative framework, human rights—especially those of minority groups—demand more respect than is being shown. Therefore, at least in Kosovo, the normative approach

to respecting and implementing human rights resulted in direct application of international instruments or their inclusion into the applicable laws. Thus, Kosovo stands out in ensuring minority rights; yet efforts by state institutions must be strengthened to apply the legal provisions resulting from constitutional and legislative clauses.

The Balkan countries are multiethnic, hence any significant violation of minority rights can have serious security implications, potentially triggering region-wide conflicts, as evidenced multiple times in the 20<sup>th</sup> century with devastating impacts on both people and infrastructure. Achieving lasting peace requires tailored strategies that respect the unique ethnic and cultural dynamics of Kosovo and other Balkan nations, moving beyond one-size-fits-all global solutions. This entails raising awareness through community-based outreach and education to ensure minority groups understand their rights and the mechanisms available for enforcement. Additionally, reforming and strengthening consultative mechanisms, including empowering traditional systems and sub-municipal entities with legal authority and resources, is essential for fostering meaningful minority participation. Promoting inclusive governance by ensuring fair and active involvement of minority groups in institutional and policymaking processes is also vital to prevent preferential treatment and encourage collective engagement. Studies highlight those contextualizing policies within Kosovo's socio-cultural dynamics enhances their sustainability, as shown through comparative analyses of other Balkan experiences. By bridging the gaps between institutional frameworks and the lived realities of minority groups, these measures aim to transform Kosovo's social fabric from division to cooperation, fostering trust, mutual respect, and enduring peace and prosperity across the Balkan region.

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