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*This paper examines the importance of the Ohrid Framework Agreement and the subsequent constitutional changes in Macedonia on the development of its political identity. A close analysis is offered of the changes to this paramount Macedonian legal document particularly where the contested issues of language and identity are concerned. The author argues that the changes in the constitution advance a political identity of the country which is best described as 'millet' or 'ethnic' Macedonian. In contrast to a liberal theoretical framework, the constitutional amendments envisioned by the Agreement do not fully support a liberal understanding of the Macedonian political nation and the equality of all its citizens. The new amendments rather put the emphasis on the collective worth of individual citizens. As a result, their rights and duties are not solely considered within a liberal framework of constitutional democracy. Contrary to this option, the author maintains that the identity and language of Macedonian Albanians and other minorities are best preserved by a thorough observation of liberal principles of nation building.*

## **I. Introduction**

This paper focuses on the repercussions the Ohrid Framework Agreement and the subsequent constitutional changes in Macedonia will have on the development of the political identity of this country. First, a short overview is offered of the circumstances in which this accord was made and a comparison is made to the provisions of the old Macedonian constitution adopted in 1991. More specifically, a close analysis is offered of the changes in Macedonia's paramount legal document in so far as they pertain to the contested issues of language and identity. It is argued that the changes to the constitution put forward a political identity of the country that can best be described as 'millet' or 'ethnic' Macedonia. When compared to a liberal theoretical framework, it is further argued that the constitutional amendments envisioned by the agreement in Ohrid do not fully support a liberal understanding of the Macedonian political nation and the equality of all its citizens. The new amendments rather put the emphasis on the collective worth of the individual citizens, and their rights and duties are as a consequence not solely considered within a liberal framework of constitutional democracy. Moreover, the subsequent adoption of amendments to the constitution modified from those proposed in

Ohrid suffuses the basic Macedonian legal document, which places the emphasis on the rights of individuals as members of groups rather than as individuals *per se*. Such development of the legal system in Macedonia does not support just solutions to problems in multiethnic societies. In an unconstructive way, it could be argued that the Ohrid framework accord fixes the specific identities, obscures the chances for their progress and paves the way for the domination of conservative structures in all the minority communities in Macedonia. In contrast to this option, the author maintains that the identity and language of Macedonian Albanians and the other indigenous minorities are best preserved by a thorough observation of liberal principles of nation building.

## **II. Liberalism**

As a political philosophy liberalism was first formulated during the Enlightenment in response to the growth of the modern state. Ever since, liberalism has appeared in various shapes in different times and places, depending on the circumstances or the enemies it confronted. Accordingly, the liberal state was and is typically loyal to the following concepts: freedom, toleration, individual rights, constitutional democracy – which establishes the limits of government and the right of the citizens against the government, and equality before the law. Liberal theories hold that, on the one hand, individuals are the basic unit of moral value, and on the other, that government is not a natural entity but is necessary as long as it secures the conditions of various ways of life. Liberalism is in fact best understood “as a theory of the good life for individuals linked to a theory of the social, economic, and political arrangements within which they may lead that life” (Ryan 1995: 303).

According to the postulates of modern liberal theory,<sup>1</sup> the state must stay out of the individual’s autonomous construction of his/her own life plans or his/her ‘conception of the good’. The final thesis reflects the support of modern liberal theory for the idea of state neutrality towards the disputed questions of what constitutes the good life. Liberal

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<sup>1</sup> Good discussions of what constitutes ‘liberal theory’ can be found in amongst others: Jean Hampton. 1997. *Political Philosophy*. Westview Press: 179-181 and Jeremy Waldron. 1987. “Theoretical Foundations of Liberalism”. *Philosophical Quarterly*. vol. 37. no. 141

neutrality means that public action should disregard all differences among citizens including family loyalties, individual, national or religious affiliations, or economic position, so as to treat them all as equals.<sup>2</sup> This version of liberal theory advocates a ‘non-perfectionist state’ and is directly contrasted by a ‘perfectionist understanding’ of liberalism advocated by a number of political scientists.<sup>3</sup>

Although the origins of the idea of political neutrality reach back to the emergence of religious toleration in the sixteenth and seventeenth centuries, the debate about the liberal concept of neutrality has been continually on the agenda of political theorists and liberal thinkers (Kis 1996: 1). A dominant view of contemporary liberals is that the state must evince impartiality or neutrality towards different conceptions of the good. The liberal state does not take a position on the validity of a person’s beliefs about what constitutes the good life – this is the liberal commitment to tolerance and the neutrality of the state. Neutrality is understood as passive impartiality: government and its institutions – the basic structures – advance in a strictly procedural way and are separated from ideas about the good life, as proclaimed and practised by diverse subcultures in society. The state should not reward or penalize particular conceptions of the good life, consequently, governmental actions should not aim to eliminate or discourage lifestyles that are, according to popular beliefs, deviant or immoral. Rather, a liberal state should provide a “neutral framework within which different and potentially conflicting conceptions of the good can be pursued” (Kymlicka 1989: 883). The government “should be committed to tolerating the views and cultures of its people and, in general, committed to staying out of individuals’ decisions regarding the best way to lead their lives” (Hampton 1997: 173). Accordingly, individuals are left to mould their own autonomy, or pursue their own ideas

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<sup>2</sup> The expression ‘liberal neutrality’, though not the concept, is indeed rather recent, it has been employed by Gerald Dworkin. 1974. “Non-neutral principles”. *Journal of Philosophy*. 71:491-506; Alan Montefiore (ed.). 1975. *Neutrality and Impartiality*. Cambridge: Cambridge University Press; and Anna Elisabetta Galeotti in Richard Bellamy and Martin Hollis (eds). 1999. “Neutrality and Recognition”. in *Pluralism and Liberal Neutrality*. London: Frank Cass: 51 (fn.1).

<sup>3</sup> The concept of perfectionism is introduced by John Rawls in his *Theory of Justice*: “as the kind of theological theory that aims at fulfilling ethical ideals.... Classical liberalism is typically anti-perfectionist, since in general it conceives of politics as instrumental for individual ends, and purposes, and as a guarantee of rights and order. Yet, as some contemporary liberal thinkers have remarked, liberalism as a political ideal is not morally empty, but includes a set of distinctive virtues and purposes. This difference is what characterizes the debate between perfectionist or ethical liberalism and neutralist or political liberalism.” (1971: 51, fn.2).

of the good life. Liberalism on this view requires the “absence, even prohibition of any legal or governmental recognition of racial, religious, language, or [cultural] groups as corporate entities with a standing in the legal or governmental process, and a prohibition of the use of ethnic criteria of any type for discriminatory purposes, or conversely for special or favored treatment” (Gordon 1975: 105). Thus, in public policy and law the state should be neutral between conceptions of the good. As a result, within a liberal state, Christians, Jews, Muslims, Buddhists, atheists, agnostics, Macedonians, Albanians, Serbs, may all equally freely pursue the way of life proscribed to them by their religion or national characteristics. However, the liberal state cannot be neutral with regard to all people’s activities or those they perceive as contributing to their conception of the good life and how it should be led. The liberal, neutral state is not committed to displaying neutrality to those persons whose actions harm others and break the law. As Mill famously argues, “the sole reason for which power can be rightfully exercised over any member of a community.... is to prevent harm to others” (Mill 1978: 69).

### **III. Liberal Neutrality and the Nation-Building Process**

Nation building is a phenomenon of the modern liberal democratic state.<sup>4</sup> By and large, nation building is understood as the process that diffuses among the citizens of a given country with a certain ‘code of understanding’ about the nature of the state they live in, its history, laws, and functions. Through its public institutions, the state educates all citizens in the official language, the country’s history, its insignia, state organs and legal system, etc. A typical nation-building process principally rests on a unified educational system able to transfer similar, if not the same values, to consecutive generations of citizenry. The process is characterized as ‘nation-building’ because, generally, throughout the population of the country it creates an image of the people as being part of a unified body, of a single nation. Consequently, a single language is spoken by the officials

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<sup>4</sup> The process is essentially taken to be ubiquitous in the contemporary world. See, for example, Will Kymlicka in his “Western political Theory and Ethnic Relations in Eastern Europe” in Magda Opalski. (ed.) 1998. *Managing Diversity in Plural Societies: Minorities, Migration, and Nation-Building in Post-Communist Europe*, Ottawa: Forum Eastern Europe; or from the classic works on nationalism, Ernest Gellner. 1983. *Nations and Nationalism*. Oxford: Blackwell and Benedict Anderson. 1983. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, London: New Left Books.

throughout the nation, and a single set of legal holidays and insignia are accepted and celebrated throughout that country. The policies of ‘nation-building’ include the establishing of unified national educational curricula, state support for national media, the adoption of national symbols and official language laws, citizenship and naturalization laws, and so on.

Within the process of nation building, the diffusion of a national language and culture strengthens the process of democratization in that state. On the one hand, all citizens, regardless of their ethnic and regional origins, religion, or gender, acquire a tool which they can use to participate in the democratic processes of the state. As a result of this process, peasants, businessmen, priests, wine producers, all alike, acquire fluency in the official idiom of the state, fluency that provides them with the opportunity to partake in the democratic affairs within their country. Through the process of nation building the liberal democratic state provides information about the functioning of its democratic institution thereby advancing the democratic prospects of the country. Given that collective political deliberation is feasible only if participants understand one another by learning the official language, all citizens have an equal opportunity to participate in the common institutions of government. Therefore, when the state promotes a common national language, it can be seen as enabling democracy, even “a more robust form of deliberative democracy” (Kymlicka and Straehle 1999: 69). The official language, on this view, is taken as the necessary tool for participation in, and understanding of, the state institutions. Having one official language as an institution that can link members of various ethnocultural groups is indispensable, otherwise the image of Babel is haunting.<sup>5</sup> Under such circumstances there is “no reason why the requirement would conflict with liberal principles” (O’Hagan 1999: 151).

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<sup>5</sup> The story of Babel speaks of the efforts of people of the Earth after the Flood when, being “of one language”, they attempted to “build a city and a tower whose top may reach unto heaven.” Genesis 11:4. God took this as a challenge to his authority, for being of one language “nothing will be restrained from them, which they have imagined to do.” Genesis 11:6. The “Lord did there confound the language of all the earth” and scattered the people “upon the face of all the earth”, the very thing that the building of the city and of the tower was meant to prevent. Genesis 11:9. As Adeno Addis in his article “Liberal Integrity and Political Unity: the Politics of Language in Multilingual States” has put it, “an aspect of the story of Babel, therefore, is that a common language is a source of unity and strength and perhaps of unlimited possibilities, while the absence of such a language leads to fragmentation and conflicts.” *Arizona State Law Journal*, Fall, 2001, fn.160.

Additionally, by learning the official language all citizens become competitive in the national labour market. In the modern economy, jobs require a high degree of literacy, education and the ability to communicate, all of which citizens acquire through nation building. According to Ernest Gellner, the diffusion of mass education in a common language was not initially done in order to promote equality of opportunity for all citizens, but was instead a functional requirement of the modernization of the economy (Gellner 1983). However, the nationalization of education was quickly adopted by the social democrats as a crucial tool for achieving greater equality in society. Moreover, “national systems of education, providing standardized public education in a common standardized language, succeeded in integrating backward regions and the working class into a common national society, and made it possible (in principle) for children from all regions and classes to gain the skills needed to compete in a modern economy” (Kymlicka and Straehle 1999: 70). In other words, all citizens, through nation building, through the diffusion of a common language and institutions throughout society, are offered the chances of equal opportunity, that is, equal access to educational and economic opportunities, as well as to legal institutions and government services. Consequently, the nation-building process not only enhances democracy but also provides all its citizens with the possibility to acquire skills essential for advancement in their careers.

Finally, it can be argued that the process of nation building engenders trust between members of different cultural or ethnic groups within the country. Any given country needs to develop a sense of community among the members of various ethnocultural groups if it is to sustain itself as a political entity over a long period of time. As trust is one of the prerequisites for the sustenance of a community, and one of the prerequisites for trust is the possibility for understanding among the citizens of the polity,<sup>6</sup> the minimum required for developing a shared understanding among peoples is a common

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<sup>6</sup> Cf. Brian Barry, “Self-government Revisited”, in David Miller and Larry Siedentop. (eds). 1983. *The Nature of Political Theory*, Oxford: Clarendon Press.

medium of communication, which is exactly what nation building attempts to fashion through the policy of teaching all citizens an official language(s).<sup>7</sup>

#### **IV. In Favour of Liberal Nation Building**

Given these justifications, it may be legitimately asked what is the problematic aspect of the nation-building process in contemporary liberal democratic states? What is the ‘proper relationship’ between liberal theory and nation building? As we discussed above, the process could be accused of partiality for benefiting the language and culture of one group of people within a given state over that of another.<sup>8</sup> However, this partiality of the nation-building process stems from the fact that from a mere functional aspect any given state needs, for example, an official language, for it needs citizens who will not only be able to understand each other, but also to communicate with governmental officials and participate in the political culture shaping the policies of the state. In fact, it is difficult to imagine a state disentangled from the culture of the majority nation. To be sure, “almost all liberal states have a dominant culture and value system, from which some national minorities feel marginalized” (Moore 1998:904). However, this element of the organization of the state is not problematic for a nation-building process based on the majority language still does not necessarily go against the basic postulates of liberal theory.

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<sup>7</sup> Note that this is a minimum requirement, neither is it sufficient nor is it the most important one. As Adeno Addis has pointed out “although a common language may make it easier for trust to develop among members of the political community such that there will be less resistance to distributive as well as egalitarian policies of the government, clearly a common language is not a sufficient or even the most important condition for trust to develop among groups within the political community or for distributive policies to be effected smoothly. One need only point to the United States to see how this is so. Blacks and whites clearly speak some version of the same language, but if there is anything that defines their relationship, it is mistrust.” (Addis 2001: fn 61).

<sup>8</sup> The official language does not necessarily have to be taken from those spoken within a country; a government might decide to adopt a foreign language as a national one, for example. As Brian Barry has put it “No doubt every language has its own singular excellencies, but any language will do as the medium of communication in a society so long as everybody speaks it.” (1998: 316). Indeed, in some African states consisting of numerous ethnic groups, the language(s) of the former colonial power is chosen as an official language. This way one can argue that the neutrality of the state in relation to it can be preserved. Still, the culture related to the state organs, like, for example, the selection of non-working days, national holidays, historical memories, can hardly be separated from the past of the ethnic groups living in that country.

The question then arises as to what to do with demands by individuals from minority cultures for alternative nation-building processes. Minority members might demand that their language be used in addition to the official one, in the process of education. The issue of equal treatment of all citizens, regardless of their credo on what constitutes well-being in life, arises when, for example, the state, for the reasons outlined above, has to adopt one language and culture as official and thus denies the members of minorities who wish to develop and use their own language and culture from doing so. In effect, if denied the opportunity and means to enhance their own particular culture and language the individuals of the minority culture, who might already feel marginalized by the nation-building process conducted in the language of the majority, might become increasingly politically mobilized and agitated. More importantly, individuals of the minority cultures seeking to promote their own distinct language and identity cannot be satisfied *only* with the formula of ‘colour blind laws applying to persons of all races and cultures’, as these might not necessarily be colour blind or neutral, and might therefore be inadequate to meet the minority demands. In fact, “given that the social stigma of certain differences are sustained and reinforced by public blindness, public recognition of different identities is then claimed in various forms as a move for the substantive inclusion of members of marginalized and oppressed groups on the same footing as members of majority” (Galeotti 1999: 46-47). Liberal theory’s emphasis on the equality of citizen cannot as a consequence be satisfied if certain individuals within the state do have public means to learn their language and others who would like to gain them do not. Unlike with regard to religion, it is difficult for the state to remain neutral with regard to language. The state may be able to be “neutral towards all religions within its borders by not having an established religion, but the state cannot help but choose a language, and consequently at least partially establish a culture” (Addis 2001: 748). Consider also the following statement:

Language, like race and religion, is one of the passions of our time – at once a powerful focus for uniting people who share a common language, and a potential source of fission and discord in the community at large. While differences of race and religion can be put aside in an attempt to be neutral, it is impossible for a state to remain language neutral in its communication activities or in its contacts with the public (de Varennes 1994: 164)

If the language and culture of the majority population is publicly supported, while that of the minority is not, despite the requirements of individual members of this minority, then we have a violation of the liberal principle of equality among the citizens of the polity.

There are, however, a number of reasons why liberals would support what I call ‘liberal nation building’, a process of nation building that takes into consideration the interests of members of national minorities who wished to preserve their language, culture or particular aspects of it. Let’s consider the situation in which members of national minorities find themselves in respect to the nation-building process. On the one hand, they are content that the government allows them possibilities for learning the official language and culture and thereby enabling them to participate in the economic and political contest on an equal footing with the rest of the citizens. On the other hand, they might wish for equal governmental support for their national language and culture, things that they might perceive as important life choices. The situation they find themselves in is not one they choose to develop. Members of non-majority culture do not, generally speaking, choose their nationality, native tongue and culture. Yael Tamir has accurately explained how the situation in which minorities find themselves is not a matter of their preference:

membership in a cultural community is a matter of personal choice, but this does not imply that members have chosen to be a minority. This status is imposed on them.... and could be seen as supplying a reason to support their chances of leading a meaningful and worthwhile life without having to renounce their cultural commitments (Tamir 1993: 42)

But, if these attributes of their life are not their choices they should then not be penalized for them by not receiving state support for development of their culture while members of the majority take this provision for granted. The state cannot claim that a member of a minority culture who would like state assistance in preserving his/her language or culture has an expensive preference for well-being in life, if at the same time the state inevitably supports aspects of the majority language and culture through the process of nation building. The conception of the ‘good life’ for members of the majority culture might not necessarily be shaped by the acquisition of cultural tools via the process of nation

building. In fact, it would be less likely that their well-being in life is satisfied only through acquiring these goods. However, the tools they acquire, mainly the language, but also the cultural practices, or the knowledge of the historical account of the nation, will undeniably be used for shaping their conception of well-being in life no matter what that might become.

To treat members of the minority cultures differently than others would therefore be arbitrary from a moral point of view because the natural features of individuals, such as race, gender, age, or nationality are factors for which people cannot be held responsible. Although nationality in legal terms can be changed, renounced or acquired, this is difficult to do, and even when it is not the case, then ‘blending with the natives’ is quite a huge task to be undertaken. One might easily become a naturalized citizen of a country, but to become accepted as equal to one of the in-born citizens is much more difficult to achieve as it requires a painful process of acculturation, a process which many are never able to fully complete.<sup>9</sup> Therefore, it seems that if we extend Rawl’s understanding of moral equality of persons, treating people’s highest-order interests differently on grounds of ethnicity would be arbitrary from a moral point of view.<sup>10</sup> Given that for modern liberals like Dworkin and Rawls, it is important that the liberal state does not discriminate among conceptions of the good on the one hand, and that individuals should be held responsible for what they choose to do in life, and, on the other, that granted the fact that

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<sup>9</sup> Consider the point taken by Janos Kis on this matter: “Successfully joining the majority demands more than assimilating to the high culture of the state-forming nation. In fact, the requirement is different. In order for someone to be accepted as belonging to ‘us’ group, she must first participate with faultless precision in everyday practices: she must speak the language with no foreign accent, she must not deviate from the accepted procedures of physical contact, she must have nothing odd about her gestures, she must move around in space and pick up objects the way ‘we’ have been accustomed or else she will be recognized immediately as an alien. These things are not all complicated; any child can easily learn them. Not by deliberate study, however, but by living with adults who provide models of behavior.... The individual assimilating as an adult does not have that familial environment in which he could learn everything by spontaneous practice, and what is more, the learning skills necessary for such acculturation are age-specific: they vanish with the passage of youth so that most adults are not capable of acquiring perfect facility in foreign ethno-linguistic culture, even in favorable surroundings. Thus, for many people, crossing over means.... not achieving full acceptance by the new, chosen community.” (1995: 210-211).

<sup>10</sup> In his *Political Liberalism* Rawls does in fact do so: “...the parties [in the original position] are not allowed to know the social position of those they represent, or the particular comprehensive doctrine of the person each represents. The same idea is extended to information about *people’s race and ethnic group*, [emphasis added] sex and gender, and their various native endowments such as strength and intelligence, all within the normal range.” (1993: 200)

members of minority cultures do not choose their position in society, then the government must take into consideration requests made by these individuals for support of their language and culture. The key issue here is the state support of majority nation building. If the autonomous choices of members of the minority cultures are *different* to the state sponsored nation-building policies, then the state should provide such individuals with opportunities to fulfil these choices, as do the members of the majority nation. Failing to do so, the state would be discriminating against those members of minority nations willing to preserve their culture or some aspects of it, because they would have to use own resources unlike members of the majority culture who would take cultural benefits for granted.

From a liberal point of view, given the unfair position in which the members of non-majority ethnic groups find themselves, granted the liberal value of equality and the importance of language and culture for these individuals, it seems just that the state should provide the members of the ethnic minorities who wish to do so, with the means to preserve their own culture. In other words, if we accept the liberal ideals of equality and freedom, and the *respect for each and every person's conception of the good life*, then the denial of the equal possibility for realization of this goal for the members of the national minorities, as a result of the nation-building process that neglects *their preferences*, requires state support for the cultural choices of these individuals. If we are committed to treating all citizens with equal concern and respect, we must deal with the cultural preferences of the members of minorities in an even-handed or fair way. Doing so, no breach of neutrality is “necessarily implied in the notion of recognition of differences [cultural preferences]” (Galeotti 1999: 48). The state has a duty to do so, because individuals within a minority culture are in an inequitable position *vis-à-vis* the members of the majority nation; while individuals of the majority nation take it for granted that their language and culture appear in the public domain, the persons belonging to the minority culture cannot take this for granted. If the individual members of majority cultures have their language taught through the educational system, while there are minority persons who would like the same to be done for their own language, then the state should also provide teaching in the given minority language.

Therefore, if the modern state wishes to follow liberal principles it has to adapt the nation-building process to the liberal postulate of equality of all citizens. A commitment to equality of all the people in the political society will allow members of minorities to pursue their own conceptions of the good life with equal support from the state as for the members of the majority groups.<sup>11</sup> If the individuals belonging to the minorities envision that preservation of their national culture and language is a good aim in life, as they frequently do throughout the world, then a liberal state which, already through the nation-building process necessarily favours the majority language and culture, needs to equalize the preferences of the two different type of citizens and assist the minority persons. Public recognition and support of minority rights “should be to counter the unequal respect publicly paid to the bearers of social differences, reversing their invisibility and including them fully into citizenship, *given that* (and not *because*) the differences in question does not infringe the harm principle and is compatible with the liberal order” (Galeotti 1999: 48 – emphasis in original). In other words, if the liberal state “functions to protect and perpetuate one culture, then surely liberal justice demands that it protect and perpetuate others as well” (Poole 1998: 121).

## **V. Liberal Nation-Building in Macedonia**

Liberal nation building has a significant impact on multiethnic states. Justice in ethnically heterogeneous states is provided if the state is not understood as a ‘nation-state’ In an ethnically divided society:

the state which treats every citizen as an equal cannot be a nation state: it must be a co-nation state. It cannot be identified with a single favored nation but must consider the political community of all the ethnic groups living on its territory as constituting it. It should recognize all of their cultures and all of their traditions as its own. It should notice that the various ethnic groups contend with unequal initial chances for official recognition and a share of public authority, and it should offer particular assistance to the members of disadvantaged groups in

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<sup>11</sup> I will turn to the question of how to evaluate the extent of support of majority and minority cultures in terms of public expenditures below. Here, it is important to establish the validity of the principle of equal treatment of all members of the political community.

approaching a position of equality. The privileges which are meant to countervail the initial disadvantages are inevitably lasting (since the inequality of the relationships of force between the state-forming groups are also lasting) and they might need to be expressed as rights (Kis 1996: 224-225).

A plural state, is more legitimate the more all its citizens and not only those of the majority consider the territory of the state their own homeland, the legal system of the state and their institutions, the insignia of the state as their own symbols. These are goods to be jointly shared with all of the other citizens. The political community of a multicultural country will be just if

it is formed from a union of ethnic groups living together. Its official symbols, holidays, its cultural goods handed down in school, and its historical remembrance will absorb something from the tradition of all the ethnic groups belonging to it, so that everyone can see the state is also theirs: likewise, everyone can see that the state is not their exclusive possession but is held jointly with the other ethnic groups forming it (Kis 1996: 237).

In this context, the demands by the Macedonian Albanians can be interpreted as wanting such a just union. Indeed, when one looks at the claims put forward by political representatives of Macedonian Albanians one finds many which can be well suited in a just framework of relations in a multiethnic state. In the last ten years, the key demands of the Macedonian Albanians which became a bone of contention with the central government were: reform of the constitution, greater representation of Macedonian Albanians in the civil service sector, provision of university education in the Albanian language, and decentralization of state power.<sup>12</sup> Certainly, reforms were enacted and improvements were made as the participation of the Macedonian Albanians in the civic sector has risen in the last years. Similarly, a law was passed allowing private education in other languages than Macedonian while a European financed trilingual university

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<sup>12</sup> See, for example, the reports by the International Crisis Group. 1999. *Towards Destabilisation?* ICG Balkans Reports No. 67 (May 1999), Skopje/Brussels, and *Macedonia's Ethnic Albanians: Bridging the Gulf*, ICG Balkans Reports No. 98 (August 2000), as well as Farimah Daftary. 2001a. "Testing Macedonia". *ECMI Brief* # 4. European Centre for Minority Issues, Flensburg and 2001b. "Conflict resolution in FYR Macedonia: Power-sharing or the 'civic approach'". *Helsinki Monitor*. no. 4.

(Albanian, English, Macedonian) was opened in 2001. However, the constitution remained unchanged.

Let's consider the issue more closely. The controversy revolves around the Preamble of the Macedonian constitution. The Preamble of the Macedonian constitution declared that "Macedonia is established as a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies, and other nationalities living in the Republic of Macedonia."<sup>13</sup> The Preamble of the Macedonian Constitution explicitly recognizes the role of the national minorities in the country. Unlike some other states in Eastern Europe which have in the Preambles of their new constitutions unambiguously declared their countries to 'belong' to the majority nation (see, for example, the constitutions of Romania, Albania, Croatia or Estonia) and 'the other minority groups', Macedonia specifically mentions its minorities in the Constitution. However, the naming of the peoples within the Preamble is a highly problematic exercise since on a symbolic level it recognizes the primacy of the Macedonian nation over the other minority nations which are only guaranteed 'full equality as citizens'. Symbolically then we have a classification of peoples into three categories, the Macedonians as the primary bearers of the right to the state, the members of the four mentioned minorities as peoples with equal rights but not being the primary claimants to the right to the state, and the members of the nations not even mentioned in the Preamble specified as 'others'.

The Preamble as cited above, gave reasons for complaints from all citizens of non-Macedonian background because they were not equally valued as the majority nation. Even further, Macedonian Serbs or Macedonian Bosnians could have complained that their symbolic worth is not only unequal in comparison with the majority Macedonians, but also in contrast to the Macedonian Albanians, Turks, Roma, and Vlachs.

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<sup>13</sup> Preamble of the Constitution of the Republic of Macedonia, promulgated 6 January 1992 at: [www.soros.org.mk/mk/en/const/htm](http://www.soros.org.mk/mk/en/const/htm)

As a consequence, the Preamble of the Macedonian constitution violated the principles of liberal equality and was a cause for great resentment among the national minorities in this country. The political parties representing the interests of the largest minority in Macedonia, the Macedonian Albanians, were particularly vocal in showing their dissatisfaction with the Preamble of the Constitution of Macedonia. At the session when the new constitution was promulgated on 6 January 1992, the members of the Party for Democratic Prosperity (PDP), a party concerned with the well-being of the Macedonian Albanians, did not vote in favour of boycotting the event. Ever since, this and other parties of Macedonian Albanians have urged for constitutional reforms that would change the wording of the Preamble.

Another problem with the Constitution is the position of the Macedonian Orthodoxy. One problematic aspect of the Constitution is article 19, which stipulated that:

- 1) The freedom of religious confession is guaranteed.
- 2) The right to express one's faith freely and publicly, individually or with others is guaranteed.
- 3) The Macedonian Orthodox Church and other religious communities and groups are free to establish schools and other social and charitable institutions, by ways of a procedure regulated by law.<sup>14</sup>

Although in practice the third paragraph of article 19 does not discriminate among the citizens of the country it clearly symbolically ranks the Macedonian Orthodox Church higher, or as being special in relation to the other religious communities. The wording of article 19 has therefore been the cause of a considerable amount of friction between the authorities of the Macedonian Orthodox Church and the heads of the Islamic and Catholic communities within the country. In the years since independence, the Macedonian Albanian political representatives have also called for this article to be amended.

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<sup>14</sup> The Macedonian Constitution at: [www.soros.org.mk/mk/en/const/htm](http://www.soros.org.mk/mk/en/const/htm)

Indeed, citing the problematic aspects of the Macedonian Constitution as evidence of discrimination, in addition to the other arguments put forward in 2001, radical Macedonian Albanians undertook violent action against the institutions of the state, aiming to change their legal status. After the armed clashes in Macedonia in the spring and the summer of 2001, and under significant pressure and supervision by experts from the international community an agreement was conceived on 13 August in Ohrid to change the Constitution. This agreement was brokered by the four major political parties in the country: two ethnic Albanian parties, the Democratic Party of Albanians (DPA) and the Party for Democratic Prosperity (PDP), and two Macedonian parties, the Internal Macedonian Revolutionary Organization-Democratic Party of Macedonian National Unity (IMRO-DPMNU) and the Social Democratic Alliance of Macedonia (SDAM). As a consequence of striking this agreement, labelled the Framework Agreement, and the involvement of the international community, the fighting then ended.<sup>15</sup>

What did the Framework Agreement stipulate? The accord envisioned a series of political and constitutional reforms designed to address ethnic Albanian demands for equal standing and representation. The major provisions include: amending the Preamble to the Constitution, instituting double-majority voting in parliament, increasing the representation of ethnic Albanians in the police force, and stipulating the use of the Albanian language in official proceedings. Generally speaking, the proposed amendments of the Constitution of Macedonia as outlined in the Framework Agreement can be divided into two categories: alterations that emphasize a liberal conception of the republic, and changes that underline the importance of the worth of ethnic groups.

In the first group of proposals were the proposed changes pertaining to the Preamble of the Constitution. Here, the Ohrid Agreement called for the elimination of any reference to specific ethnic groups. Instead, it proposed formulations that speak only of the citizens of Macedonia.<sup>16</sup> In addition, the principle of ethnic neutrality was to be carried throughout other sections of the Constitution, eliminating any mention of ‘nationalities’ or ‘peoples’.

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<sup>15</sup> The English version of the Agreement can be accessed at [www.president.gov.mk](http://www.president.gov.mk)

<sup>16</sup> The proposed text of the Preamble was thus to read “the citizens of the Republic of Macedonia...have decided to establish the Republic of Macedonia as an independent, sovereign state...”

For example, in article 48, which guarantees the right to the freedom of expression of identity, the phrase “members of nationalities” was to be replaced by the phrase “members of communities”. These proposals for changes to the Constitution fitted nicely with the liberal concept of nation building that has been described above.

More numerous, however, were the proposals for changes to the Constitution that emphasize the importance of the ethnic affiliation of the citizens. A stipulation of the Ohrid Agreement called for the amendment of Article 19 of the Constitution, which, as we have seen, had so far given the Macedonian Orthodox Church a privileged status. The Ohrid Agreement stipulated that the other major religions are given equal symbolic standing as the Macedonian Orthodox Church. Thus, the proposed amendment reads:

#### Article 19

- (1) The freedom of religious confession is guaranteed.
- (2) The right to express one’s faith freely and publicly, individually or with others is guaranteed.
- (3) The Macedonian Orthodox Church, the Islamic Religious Community in Macedonia, the Catholic Church, and other Religious communities and groups are separate from the state and equal before the law.
- (4) The Macedonian Orthodox Church, the Islamic Religious Community in Macedonia, the Catholic Church, and other Religious communities and groups are free to establish schools and other social and charitable institutions, by ways of a procedure regulated by law.

Paradoxically then, the problem that article 19 of the constitution symbolically ranked the Macedonian Orthodox Church higher, or at least as special in relation to the other religious communities, was solved by placing the Islamic and the Catholic faiths on an equal level with the Orthodox Church. If the previous situation was not good, the proposed amendment was not ideal either, since it was to symbolically rank the members of the three religious communities mentioned in the document higher than the citizens of different religious beliefs. The fact is that the members of these three religions are probably the vast majority of the country, but this still does not justify a special legal status. Members of the Judaic religion, or Protestants, were to be symbolically ranked lower than the individuals belonging to the major religions in Macedonia.

The proposed changes to article 78 can also be seen as promoting different status of the citizens of Macedonia, contingent on their religious or ethnic affiliation. Article 78 of the 1991 Constitution established a Council for Inter-Ethnic Relations, consisting of the President of the Assembly and two members each from the ranks of the Macedonians, Albanians, Turks, Vlachs and Romanies, as well as two members from the ranks of other nationalities in Macedonia, all chosen by the parliament. Its main duty was to consider issues of interethnic relations in the Republic and make appraisals and proposals for their solution. The Assembly was obliged to take into consideration the appraisals and proposals of the Council and to make decisions regarding them.<sup>17</sup> The problematic aspect of this article can be understood to be the provision that guarantees that the Council would have just two members from the ranks of other nationalities in Macedonia compared to the two members guaranteed to Macedonians, Albanians, Turks, Roma, and Vlachs. Obviously there was no equality if all the other ethnic groups in the country were to be represented by two members on the council. If you were Serb then, you could not have two of 'your' representatives on the Council, while if you were Turk you could. To avoid this situation the legislators could have used a different formulation without mentioning any ethnic affiliations. They could, for instance, have specified that the Council for Inter-Ethnic Relations was to have equal number of delegates from all ethnic groups in Macedonia with a share in the population greater than some deliberately chosen threshold, say, one percent. If the council was to deliberate upon interethnic relations, then admittedly the presence of members of different ethnic groups was necessary. However, since there cannot be a delegate sent from all the ethnic groups in the country, a threshold specifying a sufficient number of individuals from a particular minority in the country would be needed. Such a system would guarantee the equal representation of the interests of all relevant ethnic groups in the country.

Instead, the proposed changes took another direction. Thus, the first two paragraphs of the proposed amendment to article 78 read:

- (1) The Assembly shall establish a Committee for Inter-Community Relations.
- (2) The Committee consists of seven members each from the ranks of the

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<sup>17</sup> See article 78 of the Constitution at [www.soros.org.mk/mk/en/const/htm](http://www.soros.org.mk/mk/en/const/htm)

Macedonians and Albanians within the Assembly, and five members from among the Turks, Vlachs, Romanies and two other communities. The five members each shall be from a different community; if fewer than five other communities are represented in the Assembly, the Public Attorney, after consultation with relevant community leaders, shall propose the remaining members from outside the Assembly

Under these provisions, Macedonians and ethnic Albanians were to achieve greater representation than Macedonian Turks, Vlachs and Romanies. On the other hand, other ethnic groups were again to be put in the same underprivileged position as in the original article in the Constitution. Moreover, if there were not enough parliamentarians from the above-mentioned ethnic groups to fit the required number, then they were to be nominated by the Public Attorney from the general population after prior consultation with relevant community leaders. However, the proposal is unclear as to who exactly the ‘relevant community leaders’ are. It is not that difficult to believe that they would be sought among the party structures in the country rather than from non-governmental organizations. It would be very difficult to imagine, however, that the public attorney would look for the opinion of the ‘leaders’ of various alternative movements within ethnic groups. One could hardly think that the public attorney would consult the leader of the Macedonian Turks’ feminist movement, for example. Thereby, if adopted, this provision could easily be understood as supporting the domination of conservative structures in the minority communities in Macedonia.

A number of other proposals for amendments to the Macedonian Constitution as envisioned by the Framework Agreement then introduced different ‘consociational’ elements to the political life in the country.

The idea of consociational democracy was introduced by the Dutch political scientist Arend Lijphart in response to the failure of the Anglo-Saxon, majoritarian type of democracy in the new, post-colonial states in Africa and Asia. Lijphart explained the failure by the lack of suitability of liberal democracy to deeply divided societies. Instead, he proposed a consociational democracy based on four main characteristics:

- 1) government by a grand coalition of the political leaders of all significant segments of the plural society
- 2) mutual veto or ‘concurrent majority’ rule, which serves as an additional protection of vital minority interests
- 3) proportionality as the principle standard of political representation, civil service appointments, and allocation of public funds
- 4) a high degree of autonomy for each segments to run its own internal affairs

(Lijphart 1977: 25)

Additionally, consociationalism includes such elements as: separation of powers, both formal and informal; balanced bicameralism and minority representation; multiparty system; multidimensional party system; territorial and nonterritorial federalism and decentralization (Lijphart. 1984: 23-29). In consociational democracy ethnic groups are recognized by the state and given all the necessary conditions to preserve their separate existence and identity. Furthermore, the consociational state takes “a neutral stand toward the conflict between the groups and impartially implements the compromises reached by group elites” (Smooha 2001: 19).

Lijphart maintains that consociational democracy is appropriate to societies with moderately ethnic differences and conflicts, while critics of consociational democracy emphasize that it results in the division of a plural society into more homogenous and self-contained elements. On that view, consociational democracies are by nature stagnant, conservative, and oppressive. The segment “to which an individual belongs stands between him and the national society and government, and the segment may be oppressively homogenous” (Lijphart 1977: 48). Since consociationalism results in fragmentation of the political community into more self-contained elements, a highly homogenous and conformist community may have a damping effect on individual liberty. Furthermore, as Lijphart concedes himself, consociational democracy is “more concerned with the equal or proportional treatment of groups than with individual equality.... segmental isolation and autonomy may be obstacles to the achievement of societywide

equality" (Lijphart 1977: 49). Finally, consociationalism accentuates elite responsibilities in reaching political accommodation with leaders of other segments of the population.

The general principles of the Agreement as well as the outline of the proposal for the Laws on the Civil Service and Public Administration, together with the proposal for changes of the Rules of Procedure of the Assembly also reflected the ideas of consociationalism. Most importantly, the proposals for amendments to articles 69, 77, 104, 109, 114, 131, also echoed consociationalist principles.

Consider the proposed changes to article 69 paragraph 2:

(2) For laws that directly affect culture, use of language, education, personal documentation, and use of symbols, the Assembly makes decisions by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who claim to belong to the communities not in the majority in the population of Macedonia. In the event of a dispute within the Assembly regarding the application of this provision, the Committee on Inter-Community Relations shall resolve the dispute.

Clearly the amendment anticipates the right of minority veto, a typical consociationalist practice, for the protection of the interests of national minorities in Macedonia. Like Belgium, where in 1970 a constitutional amendment was passed which stipulated that: "laws affecting the cultural and educational interests of the language groups can be passed only if majorities of both the Dutch- speaking and French-speaking parliamentary representatives give their approval" (Lijphart 1977: 38). Macedonia was to constitutionally protect the educational and linguistic interests of its own ethnic groups. The proposed amendment to article 131 called for a minority veto regulating how the parliament could make further changes in the Macedonian Constitution. According to this provision of the Framework Agreement, and somewhat similarly to the situation in Belgium, the paramount legal document in Macedonia could be changed by a two-thirds majority of the deputies in the parliament, but the articles in the constitution that were considered of vital interest to the national minorities would require approval of the majority of the members of the parliament not belonging to the majority group in the population.<sup>18</sup>

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<sup>18</sup> The exact text of this provision is stipulated in paragraph 4, of article 131. It reads "A decision to amend the Preamble, the articles on local self-government, Article 131, any provision relating to the rights of

Additionally, in the amendments to articles 77, 104, 109, 114, the Framework Agreement envisioned veto powers of the minorities in fields that are beyond the spheres of educational and linguistic rights. Thus, the laws on local finances, local elections, boundaries of municipalities, and the city of Skopje, as well as the law on local self-government are to be passed not only by a two-thirds majority of the deputies in the parliament, but also by the consent of a majority of the deputies that are not members of the largest ethnic group in the country.<sup>19</sup> The Public Attorney is also elected by a similar procedure.<sup>20</sup> Moreover, three of the seven members of the Republican Juridical Council<sup>21</sup> according to the Framework Agreement were to be elected by “a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.”<sup>22</sup> Finally, three of the nine judges on the Supreme Court were to be elected with the same formula as the members of the Republican Juridical Council.<sup>23</sup> The amendments discussed here were clearly intended not only to protect specific cultural interests of minority ethnic groups but also to politically empower them. How else could one explain the provisions that ensure minority approval of the election of the public attorney, and a proportion of the judges to

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members of communities, including in particular articles 7, 8, 9, 19, 48, 56, 69, 77, 78, 86, 104 and 109, as well as a decision to add any new provision relating to the subject matter of such provisions and articles, shall require a two-thirds majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.” In Belgium, the constitution can only be changed by a two-thirds majority in both chambers of the legislature. The rule, however, entails a minority veto, if the minority, or a combination of minorities controls at least a third of the votes in one chamber. (See Lijphart 1984: 29).

<sup>19</sup> See article 114, paragraph 5, as outlined in the Framework Agreement.

<sup>20</sup> Thus, the Assembly elects the Public Attorney by “a majority vote of the total number of Representatives, within which there must be a majority of the votes of the total number of Representatives claiming to belong to the communities not in the majority in the population of Macedonia.” See article 77, paragraph 1 of the Framework Agreement.

<sup>21</sup> According to article 105 of the constitution the Republican Judicial Council has the following prerogatives:

- proposes to the Assembly the election and discharge of judges and determines proposals for the discharge of a judge’s office in cases laid down in the Constitution;
- decides on the disciplinary answerability of judges;
- assesses the competence and ethics of judges in the performance of their office; and
- proposes two judges to sit on the Constitutional Court of the Republic of Macedonia.

<sup>22</sup> See paragraph 2, article 104, of the Framework Agreement.

<sup>23</sup> See paragraph 2, article 109, of the Framework Agreement

sit on the Constitutional Court as well as the Republican Juridical Council? One can hardly argue that the cultural interests of the minorities are dependent on the election of these public officials.<sup>24</sup> These proposed changes of the constitution within the Framework Agreement were again in line with the consociationalist theory as outlined by Arend Lijphart as they were to secure proportionality in the selection of public officials.

Be that as it may, in the period leading up to the parliament's approval of the amendments to the Constitution, some of the issues agreed upon in Ohrid were revised in the parliamentary debate. The chief bone of contention, and a particular matter of concern to SDSM and VMRO-DPMNE, was the language of the Preamble to the Constitution. Practically, the reality was that many Macedonians would not welcome the wording of the Preamble agreed upon at Ohrid. Therefore, a tentative compromise was reached under international pressure that added an ethnic element to the Preamble, while avoiding the use of the word "nationalities". According to this version, Macedonia's Preamble reads as follows "citizens of the Republic of Macedonia, the Macedonian people, as well as the citizens that live within its borders, who are part of the Albanian people, Turkish people, Vlach people, Serb people, Roma people, the Bosniak people, and others.... have decided to establish the Republic of Macedonia as an independent, sovereign state...".<sup>25</sup> On the one hand, the compromise gave the Macedonians pride of place, while on the other hand it projected equality to all ethnic groups as 'peoples' rather than 'minorities'. However, the changes in the text of the amendment envisioned by the Framework Agreement again emphasized the importance of ethnic belonging rather than the bonds of common citizenship as ultimate values of the individuals living in the country. Thus citizens of Macedonia, according to the new Preamble, are automatically and principally regarded as members of ethnic groups rather than simply counted as citizens of the republic. Besides,

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<sup>24</sup> The above-mentioned amendments of the Macedonian constitution are comparable to similar provisions of the constitution of Belgium. For example, the Constitutional Court of Belgium (Arbitration Court) is composed "of twelve judges, appointed for life by the King from a list of two candidates proposed alternately by the House of Representatives and the Senate by a majority of at least two-thirds of the members present. Six judges belong to the Dutch language group, six to the French language group. One of them must have an adequate knowledge of German. See the web page of the court at <http://www.arbitrage.be/en/common/navigation.html#> Similar in composition is the Supreme Court of Belgium (Court of Cassation). See the web page [www.cass.be](http://www.cass.be).

<sup>25</sup> See amendment IV of the Constitution. The Preamble itself is a typical rather long epitaph of the historical and geopolitical circumstances that led to the establishment of the country.

the problems of the original Preamble still remain, as one could argue that having Macedonians mentioned first, together with the phrase “as well as the citizens that live within its borders, who are part of....” still puts them in a superior position *vis-à-vis* the rest of the population. Moreover, if one was a member of an ethnic group not mentioned in the Preamble, say a Macedonian Bulgarian, one could still argue that this individual was symbolically classified as of lower status. Clearly, then, from a liberal nation-building point of view, the formula devised in Ohrid was better than the one finally adopted.

Yet another provision of the Ohrid Agreement that was greatly contested was that requesting the amendment of Article 19 of the Constitution. As we have discussed above, article 19 had given the Orthodox Church a symbolically privileged status. The Ohrid Agreement stipulated that the other two main religions in the country be given equal standing to the Macedonian Orthodox Church. Many Macedonians, as well as the clergy from the Orthodox Church, including some of its highest ranks, fiercely objected to the Framework Agreement proposal for the amendment of article 19. Again under international brokerage, a compromise was made in which the Macedonian Orthodox Church was semantically given prior mention to Islamic, Roman Catholic, and other religions.<sup>26</sup> Putting the Macedonian Orthodox Church first in line of the many mentioned, as well as adding the phrase, “as well as” was intended to placate Macedonian Orthodox believers, i.e. the majority of the population. It is not clear, however, whether from a liberal nation-building point of view the formulation finally adopted by the parliament was better than the one at Ohrid. While the amendment adopted by the parliament specifically includes other religions besides the Macedonian Orthodox Church, the Islamic community and the Roman Catholic Church, and therefore ameliorates some of

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<sup>26</sup> Thus, Amendment VII reads:

1. The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are separate from the state and equal before the law.
2. The Macedonian Orthodox Church, as well as the Islamic Religious Community in Macedonia, the Catholic Church, Evangelical Methodist Church, the Jewish Community and other Religious communities and groups are free to establish schools and other social and charitable institutions, by way of a procedure regulated by law.
3. Item 1 of this amendment replaces paragraph 3 of article 19 and Item 2 replaces paragraph 4 of Article 19 of the Constitution of the Republic of Macedonia.

the problems of the wording from Ohrid, it does so by putting the Orthodox Church first in line and before the phrase “as well as the Islamic Religious Community....”. On the other hand, the phrase in the new Agreement “and other Religious communities” leaves small religious communities that exist, or religions that could come to exist in the country, nameless and unmentioned. The same problems as with the Preamble thus remain, as one could argue that having the Macedonian Orthodox Church mentioned first, together with the phrase “as well as” still puts members of other religions, say, Muslims, in a inferior position *vis-à-vis* the Orthodox believers. Moreover, if one was a member of a religion not mentioned in the Preamble, say a Macedonian Buddhist, one could still argue that this individual was symbolically classified as of a lower status.

The changes to the wording of the amendment to article 18 were also an insufficient improvement on the Framework Agreement. Namely, the final version stipulated that the Committee for Inter-Ethnic Relations consists of nineteen members of whom seven each are from the ranks of the Macedonians and Albanians within the Assembly, and a member each from among the Macedonian Turks, Vlachs, Romas, Serbs and Bosniaks.<sup>27</sup> Thus, against the version of the Framework Agreement, Macedonian Serbs and Bosniaks were included as members of the committee. However, as already explained, the selection of members of the committee, does not give equal status to all ethnic groups in the country. On the one hand, under these provisions Macedonians and ethnic Albanians were to have greater representation than Macedonian Turks, Vlachs, Romanies, Serbs,

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<sup>27</sup> See Amendment XII to the Constitution, which states:

1. The Assembly shall establish a Committee for Inter-Community Relations.

The Committee consists of 19 members of whom 7 members each are from the ranks of the Macedonians and Albanians within the Assembly, and a member each from among the Turks, Vlachs, Romas, Serbs and Bosniaks. If one of the communities does not have representatives, the Public Attorney, after consultation with relevant representatives of those communities, shall propose the remaining members of the Committee.

The Assembly elects the members of the Committee.

The Committee considers issues of inter-community relations in the Republic and makes appraisals and proposals for their solution.

The Assembly is obliged to take into consideration the appraisals and proposals of the Committee and to make decisions regarding them.

In the event of a dispute among members of the Assembly regarding the application of the voting procedure specified in Article 69(2), the Committee shall decide by a majority vote whether the procedure applies.

2. Item 1 of this amendment replaces article 78 of the Constitution of the Republic of Macedonia and line 7 of article 84 is deleted.

and Bosniaks. On the other hand, individuals belonging to other ethnic groups in the country, let us say Macedonian Croats, do not have the possibility to become members of the committee at all. This provision puts these individuals in an even less equal position compared to that of the rest of the population.

## **VI. Conclusion**

As it becomes clear, the Ohrid Framework Agreement and the subsequent constitutional changes in Macedonia have a significant impact on the development of the political identity of the country. The changes of the constitution advance a political identity of the country best described as ‘millet’ or ‘ethnic’ Macedonia. Compared to a liberal theoretical framework, the constitutional amendments envisioned by the Agreement in Ohrid did not fully comply with a liberal understanding of the Macedonian political nation and the equality of all the citizens. The problems present in the proposed amendments of articles 19 and 78 as given in the Framework Agreement were fundamental, as they did not provide for an equal treatment of all citizens. Instead, the accent was put on the worth of individuals based on ethnic criteria whereby certain ethnic groups were to be put in more privileged positions than others. Additionally, the Ohrid Framework Agreement envisioned a number of changes to the constitution that were to introduce consociationalist arrangements into the Macedonian political structure. Consociational theory, too, emphasizes the importance of ethnic belonging in designing and maintaining the political system.

In general, the new amendments highlight the collective worth of the individual citizens, but their rights and duties are not solely considered within a liberal framework of constitutional democracy. The subsequent adoption of amendments to the constitution from those proposed in Ohrid by the Framework Agreement additionally burdened the basic Macedonian legal document with a spirit which concentrates on the rights of individuals as members of groups rather than as individuals. The change of the Ohrid text of the Preamble as well as the amendment to article 19 reflects this additional ‘ethnification’ of the Macedonian Constitution. Such development of the legal system in this country does not support just solutions to problems in multiethnic societies.

Furthermore, an additional problem with the Ohrid Framework Agreement as well as the corresponding changes to the Constitution is that it locks individuals into specific ethnic identities and as a result heralds the domination of conservative structures in all the minority communities of Macedonia.

Unfortunately then, the changes to the Macedonian political system do not fall neatly into liberal principles of nation building. Liberal nation building guarantees a culture of protection of national minorities as well as safeguarding their fair representation in state institutions, without privileging members of certain ethnic groups. On the other hand, nation building within the context of liberal theory is not an elitist programme. Neither does liberal nation building promote a strict relationship between individuals and ethnic belonging as it leaves the choices pertaining to the development and preservation of culture and national identity to interested citizens. The identity and language of Macedonian Albanians and the other minorities are best preserved by a liberal nation building, a state of affairs the legal experts should have aimed at achieving in Ohrid and in the later debates in the parliament.

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