The Path to Ohrid Framework Agreement
(Onngoing research)

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Paper prepared for the
2012 Swedish National Conference on Peace and Conflict Research
Panel 1.3 Contesting Concepts and Challenging Interventions

1. Introduction

Today, R. Macedonia is candidate state for accession to the European Union and is awaiting membership application to join NATO and to complete its integration processes. However, this was not a very close prospect for the country not so far ago when in 2001 an armed conflict broke out between the Macedonian security forces and the Albanian National Liberation Army or the NLA.

As the result of the armed conflict the Ohrid Framework Agreement was signed on 13 August 2001. The Agreement was negotiated between the four major Macedonian and Albanian Political Parties and the international community. It envisaged significant constitutional and legal reform.
The agreement sets forth a list of concrete constitutional and legal reforms to be undertaken by the Macedonian Assembly in the field of decentralized local government, non-discrimination and equitable representation, special parliamentary procedures for the protection of minorities, education and use of languages, expression of identities and implementation measures.

The Ohrid Framework Agreement and the constitutional amendments that followed its adoption aim at promoting Macedonia as a common state of all its communities and citizens.

There is a common understanding that the implementation of the agreement is and will be an ongoing process for a significant period of time and is crucial for peaceful inter-ethnic relations in the country.

In addition, its implementation always is on top of the list as a condition to be fulfilled in order for Macedonia to join EU and NATO. The Ohrid Framework Agreement of August 13 2001 is regarded as the corner stone of the stability of R. Macedonia.

While it is very true that the Ohrid Framework Agreement was the product of the military crisis of the time and most likely it would not have existed at all without it, it is also true that calls for major constitutional and legal reforms that would reflect the ethnic composition of the country in the public life were made since the independence of R. of Macedonia.

Good timing is very often the key for success and while the agreement and all what it stands for was unacceptable prior to 2001, today is praised by the people of Macedonia and the international community as the Agreement that brought peace to the country and transformed Macedonia into a multiethnic state while in the same time preserved its unitary character.

2. Independence and the Constitution of Macedonia
After the disintegration of the Former Yugoslavia, Macedonia declared its independence on September 8, 1991\(^1\). Unlike Slovenia, Croatia, and, most tragically of all, Bosnia-Hercegovina, the Republic of Macedonia emerged peacefully from the collapse of the former Yugoslavia. Immediately after becoming sovereign and independent state, the new Macedonian constitution was being drawn up and later adopted in November 1991, which in turn revealed tensions between two opposing principles: the principle of constitutional nationalism, according to which the dominant \textit{nation} in the state is sovereign and members of that \textit{nation} are privileged over others, on the one hand, and the principle of democracy, according to which all are citizens of the state, regardless of their nationality (\textit{nation}), are sovereign, on the other.\(^2\) In fact, this was a major point of contention during the parliamentary debates that took place while the Macedonian constitution was being drawn up. Would the Republic of Macedonia be a “national state,” or a “state of the Macedonian \textit{nation}”? Would it be a “state of equal citizens”?

After long discussions that were held as part of an effort to gain legitimacy and recognition from the United Nations, European Community, and other international organizations, the former President Kiro Gligorov hoped to demonstrate his commitment to democracy, pluralism and the protection of minority rights\(^3\). A compromise to the demands of the two major opposing political forces at the time - the party for the Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity (VMRO-DPMNE) and the party for the Democratic Prosperity (PDP) - was found and the preamble of Macedonian constitution defined the republic of as “the national state of the Macedonian people (ethnic group), in which full equality of as citizens and permanent coexistence with the Macedonian people is provided for Albanians, Turks,

\(^1\) Two important features on the referendum held on September 8, 1991: one, Albanians boycotted this referendum expressing dissatisfaction with their minority status in a variety of ways; and second, the extension of the right to vote meaning that voting included all people who identified themselves as Macedonians regardless of where they were born, where they lived, or what states they were citizens of.

\(^2\) Danforth (1995).

\(^3\) Ibid., 144
Vlachs, Romanies and other nationalities living in the Republic of Macedonia”. This compromise failed to please either the leaders of VMRO-DPMNE (who had argued that the Republic of Macedonia should be defined as “the national state of the Macedonian people and all citizens living in it”) or the leaders of PDP (who argued that the Albanians should be referred to as “one of the two constitutive nations of the Macedonian state”).

The Ohrid Framework Agreement (OFA) appears to be a result of unfinished debates in 1991 on the preamble and the constitution of the Republic of Macedonia. The OFA brought many constitutional amendments, including rewriting the preamble, legislation modifications, and implementation of confidence building measures. The rewritten preamble emphasizes “the citizens of the Republic of Macedonia, taking over responsibility for present and future of their fatherland…” as well as explicitly stating Macedonia’s sovereignty and territorial integrity, and the unitary character of the State as inviolable which must be preserved.

2.1. Future prospects

During the period of struggle with internal problems in Macedonia, two critical developments were happening in immediate neighboring countries and greater Europe. The war in Bosnia and Herzegovina, which was ended by the Dayton Agreement in 1995, had formed a very complex structure for the newly formed state. The result of the four-year war did not bring an ultimate winner at the end. Later this was followed by the Kosova crisis which was ended by 53 days of NATO bombing strategic targets in Serbia and Kosovo. While this was happening in the immediate neighboring countries, in Europe political unity through “the European Union” was established, promoting economic and social progress among the peoples of Europe by creating an area without

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4 Ibid., 145

5 Ohrid Framework Agreement was signed on 13.08. 2001 in Ohrid through the mediation of international community.

6 For full modifications see OFA constitutional amendments.

7 For more detailed information see discussions on Dayton Peace Agreement.
internal frontiers. The latter development in Europe was contrary to the aspirations of political leadership that were developed or affected by developments in the immediate neighboring countries. Lack of recognizing the need for a shift in strategic priorities led to slower implementation of reforms in social, economic and political areas. Therefore, granting a candidate status for EU membership would not come before November 2005.

2.3. Change in Political Discourse

It was not until 2001 that the country’s political leadership recognized the need for a new political discourse in order to bring more social and economic progress to the country. Challenges faced after the independence were not merely political. Therefore, political solutions did not adequately respond to the expectations of all ethnic groups. Neither had they proved to be politically attainable. Soon it was realized that Macedonia’s path to becoming a modern democratic state would be through recognizing the multiethnic character of the society and encouraging the participation of all citizens in democratic life. For this reason, the development of local self government was essential for establishing strong relations between all the country’s citizens. Clearly, with the decentralization process aiming at giving more functional powers to local authorities, not only Macedonia’s road to democratization has been strengthened but also the state’s unitary character has been consolidated.

Macedonia became independent in 1991 and immediately after the declaration of independence as every new country, Macedonia adopted its constitution setting up the basis for the new constitutional and legal order of the country.

However, both the independence of R. Macedonia and the constitution of were reached in a process of opposite positions by the Albanian\(^8\) and Macedonian communities\(^9\) in the country. As a result, the Albanians boycotted both the referendum and the constitution of the country.

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\(^8\) The term Albanians referred in this document refers to the Albanian community in R. Macedonia.

\(^9\) The term community is the correct one according to the Framework Agreement and the Constitution Amendments. Other terms, such as “nationalities” were used prior to the FA. This caused confusion with the meaning of citizenship of a specific country.
Many consider these two acts as the basis for the continued ethnic tensions in the country due to their importance and effects they have to both the Albanian and to the Macedonian community. To be more specific, the Constitution has been specified by the Albanian political parties as the main generator of crisis which eventually led to the events of 2001.\footnote{Arben Xhaferi, Challenges to democracies in multiethnic countries, October 1998, pg.6. Further at: Eurointeegrimet e sistemit politik, juridik dhe shoqëror të Republikës së Maqedonisë, Shkup 2002.} Therefore, an analysis of both processes is required and follows.

2.4 Independence

Macedonia was one of the Republics of the ex Yugoslavia. The crisis of the end of the 1980s and the bloody conflicts in much of its territory resulted with the dissolution of the country and the independence of Republic of Macedonia, Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Serbia, Kosovo.

The independence of Macedonia was reached after the referendum held on 8 September 2001. Though it was successful, as stated before, the referendum was boycotted by the Albanian part of the population of the country. Continuing the path of boycott, the Albanian community also boycotted the census.

In addition, by boycotting both the independence and the adoption of the constitution without mutual consent, in 1992, the Albanian community\footnote{Arben Xhaferi, Challenges to democracies in multiethnic countries, October 1998, pg.6. Further at: Eurointeegrimet e sistemit politik, juridik dhe shoqëror të Republikës së Maqedonisë, Shkup 2002.} held a plebiscite of their own in which they opted for autonomy which was never brought to life.

The boycott further continued with the census of 1994 which was monitored by the international community and yet again was publicly rejected. According to that census Albanians made up 23% of the population.

After 2001 R. Macedonia organized another census in 2002. Out of the total number of 2.022.547 people 64.2% are Macedonians, 25.2% Albanians, 3.9% Turkish, 2.7% Roma, 0.2% Serbs, while other groups make up for the remaining 3.8%.\footnote{Arben Xhaferi, Challenges to democracies in multiethnic countries, October 1998, pg.6. Further at: Eurointeegrimet e sistemit politik, juridik dhe shoqëror të Republikës së Maqedonisë, Shkup 2002.}
2.5 The Constitution

The Constitution of R. Macedonia was adopted on 17 November 1991 and became effective on November 20, 1991. Major amendments were made in 2001 in the series of constitutional amendments related to the Framework Agreement and further in 2005 with amendments in the judiciary. As with the act of independence the political representatives of the Albanians in the Parliament of Macedonia boycotted the vote.

In regard to the constitution the president of the country Mr. Branko Crvenkovski on the 6th year anniversary of the framework agreement stated that: “not the content of the constitution of 1991, the way it was adopted it made it a constitution with a fabric mistake”.

The adoption of the constitution in such a manner made Albanian political parties to demand major reforms in the constitution and also in the public life in regard to use of languages, representation at the civil service, decentralization etc.

As a result, the Framework Agreement itself contained demands for major amendments of the constitution. As Prof. Svetomir Shkaric stated, the agreement requires amendments of 14 articles of the constitution and of the preamble of constitution which amount to the amendment of up to 12% of the pre 2001 constitution.

Major dissatisfaction with the Constitution by the Albanian Community were caused by the preamble of the constitution which was a major set back even in comparison with the old Socialist Republic of Macedonia which was part of ex Yugoslavia and furthermore with the position of the Albanian community.

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15 Evrointegracija na pravniot, politickiot, i opshtestveniot sistem na Republika Makedonija, Svetomir Shkaric: Ramkovniot Dogovor at pg. 52, Skopje 2002.
The constitution of Macedonia was altered from its origins in ex Yugoslavia stating that (Macedonia is) the state of the Macedonian people and the Albanian and the Turkish minorities" to "(Macedonia is) the national state of the Macedonian nation".

More precisely the preamble after calling on historical, spiritual and statehood heritage of the Macedonian people further states that: Macedonia is established as the national state of Macedonian people which guarantees the full civic equality and permanent coexistence of the Macedonian people with the Albanians, Turchs, Vlachs, Roma and other nationalities.16

Accordingly, it seems that we have three categories of citizens as Zhidas Daskalovski stated: the Macedonians as the primary bearers of the right to the state, the minorities mentioned and the others.17 In addition the new constitution declared the Macedonian language and the Cyrillic alphabet as the only official language of the country which did not allowed the Albanian community access to higher education in Albanian and access to university. The degrees received by the Universities in Tirana and Prishtina had a long process of recognition or not recognized at all. Not having access to higher education and university degrees resulted in less access to jobs in the civil service.

This was also mentioned as a justification for the low numbers in the civil service in the one hand and served as basis for calls for education in Albanian language and a separate university on the other. All this, deteriorated the constitutional position of the Albanian community and again and again it was named as the “crisis generator”.18

As one Albanian politician explained, getting more rights for the Albanian community with the present constitution is same as playing a football match and trying to score against an opponent that has built a wall in the goal, and this is impossible.

16 Preamble of the Constitution of R. Macedonia.  
3. International mediation

The international community from the independence of the country has had special interest in the inter-ethnic relations as a threat to the stability of the country and of the region. It is common knowledge that the Ohrid Framework Agreement was reached with the mediation of the US representative James Perdue and the EU representative Fransoa Leotar.

Prior to the Ohrid Agreement there were other attempts with international mediation to address the ethnic tensions in the country. In this regard, especially the negotiations of the mediator Mr. Gert Arens after the independence in 1992 and of Mr. Robert Frovik, the special representative of the president of the US at OSCE are very important.

Mr. Gert Arens at the 1992 London Conference was named as the mediator in ethnic disputes in Macedonia. It is very interesting that there were negotiations in Ohrid in 1992 (as were for the Framework Agreement) and there was a settlement achieved at the highest level.

Most of the settlement is the essence of the Framework Agreement which was achieved almost 10 years later. According to PDP, the biggest Albanian political party of the time that took part in the negotiations with Mr. Arens, PDP made a number of demands. For instance, at the Geneva Conference on the Former Yugoslavia PDP summed several points, with which the party took part as a representative of all Albanians in Macedonia: changes in the Macedonian Constitution; equal number of Albanian teachers in high-schools and opening a Teacher's School in Albanian; at least 4-5 hours of program in Albanian on the Macedonian national television channel; inclusion of Albanians in all government bodies and internationally monitored census of the population.\textsuperscript{19}

PDP representatives stated similar demands during talks with the Macedonian Government, mediated by Gert Arens. This is an interesting situation since PDP was a

\textsuperscript{19}\textsc{MILS} in \textsc{MAK-NEWS} reports in June 1994 \url{http://b-info.com/places/Macedonia/republic/partiesPDP.shtml}
government coalition partner and instead of negotiating within the government it did through international mediation and not in the country.\textsuperscript{20}

According to Prof. Dimitar Mircev, the official use of languages, the right to use of language in the Parliament, national quotas were all existent in the previous Socialist Republic of Macedonia and someone quickly denied them in 1991. Education in Albanian and participation in the public administration were already achieved at the highest meeting held in Ohrid in 1992 which made the PDP MPs return to the Parliament and Gert Arens at least in three places is mentioned as a participant of the meeting in Ohrid.\textsuperscript{21}

Regardless of this, some experts looking back to 2001 as prof. Frchkovski considered that 2001 was not necessary. “If we did not have such an agreement and a conflict at the same place and in such a concentrated form, practically the same decisions would have been imposed to Macedonia through the European integration process. Interestingly enough, it is not of doubt that the decisions would have been made but what would it take to achieve them remains a dilemma. Taking all this into account it is interesting to see why the agreed settlement in Ohrid of 1992 failed.

Some explanations are given by experts in the country as well as by Mr. Arens himself. According to Prof. Vlado Popovski, active in the whole negotiation process of the framework agreement the situation was as follows: “While Gert Arens in Ohrid was discussing with the representatives of the Government of Macedonia and the Albanian Party PDP, the police entered Radolishta and with using great force, two and a half rifles from Second World War were found”.\textsuperscript{22}

\textsuperscript{20} MILS in MAK-NEWS reports in June 1994 \url{http://b-info.com/places/Macedonia/republic/partiesPDP.shtml}
\textsuperscript{21} Prof. Dlmitar Mircev, Macedonian Solar System, Saturday, March 18, 2006, DNEVNIK daily newspaper. Also available online on: \url{http://217.16.70.236/?pBroj=2540&stID=38591}
\textsuperscript{22} Dialogue for Macedonia” organized by the president of R. Macedonia on 31.08.2007, available at: \url{http://www.a1.com.mk/vesti/default.aspx?VestID=83332}
The post independence negotiations held through international mediation of Mr. Gert Arens failed due to the government of the time. On the other hand Mr. Arens has his own explanations for the whole process.


According to him, the international community in 1992 tried to find a sustainable solution for the problems between Macedonians and Albanians starting from the Constitution which defined Macedonia as the national country of Macedonians while Albanians claimed it was the country of all citizens living in it.

Furthermore, education was important and we discussed this lot and agreed to have more classes especially in the secondary schools and we also discussed the university and we had progress. The international community made a mistake when it decided to withdraw from the negotiations in 1995.

This was done because it was too busy with Bosnia. There was another working group lead by the German Ambassador but it was connected to the Council for the implementation of the peace in Bosnia and this connection to Bosnia was not pleasing the government since there was no crisis in Macedonia at the time.

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It is interesting to note that according to the same source Lord Owen said that the negotiations should be stopped since there are Albanian Ministers in the Government there is no need for foreign mediations.

Finally in regard to the constitution, Mr. Arens stated that perhaps it would have been wise to find the possibility for an historic compromise with the Albanians when drafting the new constitution. When you have a community of 25% which may be growing, concentrated in one part of the country perhaps it is better to have a constitutional understanding with that group.

On the other hand Robert Frovik, the special representative of the president of the US at OSCE is considered by some as the “father” of the Framework Agreement. He prepared the Prizren Declaration and the environment for things to go smooth for the agreement.

According to Robert Frovik himself, he states that he did not negotiate but only helped the beginning of the negotiation process but unfortunately the government was emotional. They claimed that the Albanian fighters were terrorists and should be won and he was of the opinion that this is not possible. Though never really officially clarified, the Mr. Robert Frovik was declared persona non grata by the government and had to leave Macedonia.

4. The Ohrid Framework Agreement

The Ohrid Framework Agreement (OFA), signed on 13 August 2001, strengthened the multiethnic character of the state through expanding the right of ethnic minorities and proclaiming its territorial integrity and unitary character. Since then, the implementation of the Agreement has been a cornerstone of the return to stability.

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The basic principles of the Framework Agreement are:

- The use of violence in pursuit of political aims is rejected completely and unconditionally. Only peaceful political solutions can assure a stable and democratic future for the country.
- The sovereignty and territorial integrity, and the unitary character of the State are inviolable and must be preserved. There are no territorial solutions to ethnic issues.
- The multi-ethnic character of the society must be preserved and reflected in public life.
- A modern democratic state in its natural course of development and maturation must continually ensure that its Constitution fully meets the needs of all its citizens and comforts with the highest international standards, which themselves continue to evolve.
- The development of local self-government is essential for encouraging the participation of citizens in democratic life, and for promoting respect for the identity of communities.

The most important constitutional amendments adopted in November 2001 with the purpose to incorporate the principles of the Framework Agreement are:

- Replacing the term “other nationalities” with “communities” in the new preamble when used to refer to minority groups. This change has the effect of declaring the Republic a state of all its citizens;
- A language that is spoken by at least 20% of the citizens is considered an official language;
- Equitable representation of all communities in public bodies at all levels and in other areas of public life;
- Protection of the ethnic, cultural, linguistic and religious identity of all communities and the right to freely express, foster and develop their identity and community attributes, and to use their community symbols;
- Introduction of double majority principle in the Parliament when voting on laws that directly affect culture, use of language, education, personal documentation, and use of symbols, as well as on laws pertaining to decentralisation;
- Strengthening of the Ombudsman’s role who is responsible to give particular attention to safeguarding the principles of non-discrimination and equitable representation of communities in public bodies at all levels and in other areas of public life;
- Establishment of a Parliamentary Committee for Inter-Community Relations responsible for deliberation on issues of inter-community relations and proposing solutions for resolving issues.

The principles were consequently translated in the relevant pieces of legislation.