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**LEGITIMACY AND ETHNIC POLITICS IN DE FACTO STATES:
RHETORIC, LEGISLATION AND REALITY IN ABKHAZIA AND KOSOVO**

MA thesis

Supervised by Professor Eiki Berg

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I have written this Master's thesis independently. All viewpoints of other authors, literary sources and data from elsewhere used for writing this paper have been referenced.

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Abstract

This thesis investigates three closely related research questions. The first is how de facto states make use of minority rights norms to garner legitimacy on the international stage. The second is how de facto states' desire for international legitimacy is reflected in legislation relevant to ethnic issues. The third is how the desire for international legitimacy – and the legal framework – actually affects ethnic politics and the situation of minorities. These questions are explored through a two-case comparative study, comparing Kosovo and Abkhazia. Qualitative methods are used to analytically compare the two cases with regards to official rhetoric on the international stage, legislation and the situation on the ground. It is found that in Kosovo minority rights norms have moulded legislation and official rhetoric, but have not penetrated deeply into the actual behaviour of policy-makers and have only yielded modest results on the ground. In Abkhazia it is found that the norms have had some effect on official rhetoric, but little to none on legislation or praxis. In both cases it is observed that international minority rights norms are reinterpreted to fit pre-existing, ethnocentric narratives and then used in legitimation strategies. It is hypothesized that greater international engagement results in rhetoric and legislation that more closely comply with international norms, but that this will only translate into praxis in the presence of material incentives. It is also hypothesized that norms are more likely to be adopted the more compatible they are with pre-existing norms and identities.

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List of abbreviations

ASSR – Autonomous Soviet Socialist Republic

CCC – Consultative Council for Communities

CVDIUM – Commission for the Verification of Degrees Issued by the University in North Mitrovica

ECMI – European Centre for Minority Issues

EEAS – European External Action Service

EU – European Union

FCNM – Framework Convention for the Protection of National Minorities

IGO – inter-governmental organization

IR – international relations

ISIL – Islamic State of Iraq and the Levant (Daesh)

KLA – Kosovo Liberation Army

MFA – Ministry of Foreign Affairs

MP – member of parliament

NATO – North Atlantic Treaty Organization

NGO – non-governmental organization

OSCE – Organization for Security and Co-operation in Europe

RAE – Roma, Ashkali and Egyptian/s

UN – United Nations

UNMIK – United Nations Mission in Kosovo

US – United States

USSR – Union of Soviet Socialist Republics (Soviet Union)

1. Introduction

Legitimacy is vital to all actors in the international system, but it is especially important to those polities that lack full international recognition of statehood. Such entities, known as *de facto states*,¹ may use legitimation strategies to compensate for their questionable status under international law. These legitimation strategies are the subject of this thesis. Various scholars argue that in striving for international legitimacy, *de facto states* allow international norms to exert great influence on domestic policy. Conversely, other scholars argue that, due to international isolation, *de facto states* are less exposed to international norms than other polities and so develop largely unaffected by them. This study seeks to shed light on the extent to which these two camps are correct, looking at the nature and effects of *de facto states*' normative legitimation strategies.

Specifically, this thesis investigates the effect of international norms surrounding minority rights, ethnicity and nationality. Some norms, such as the prohibition on torture, are codified and institutionalized with a high degree of specificity and are openly rejected by very few states, not least because they have the weight of international law behind them. Indeed, some such norms have taken on a "common sense" quality that means they are seldom even questioned. Compliance with such near-universal norms reveals relatively little about a polity's relationship with international society. However, the norms surrounding multi-ethnicity and minority rights remain nebulous and contested, having emerged relatively recently and not yet having crystallized into hard and fast rules. Although increasingly authoritative standards and

¹ This paper does not seek to take any stance on whether or not *de facto states*, as defined in Chapter 2.1, are in fact or should be considered independent states. For convenience, terms such as *national*, *country*, *domestic*, *government*, *border*, *state*, *citizen* and *republic* are applied to *de facto states* without intending to comment on their political or legal status. Similarly, for no reason other than to avoid repetition of cumbersome formulations like *the de facto government of Kosovo*, *the authorities in Sukhumi*, *territory under the control of Belgrade*, *Central Serbia* and *Georgia proper*, the term *Serbia* should be understood to exclude Kosovo and the term *Georgia* should be understood to exclude Abkhazia and South Ossetia. This allows use of expressions like *relations between Kosovo and Serbia* and *the Georgian-Abkhazian border*.

best practices have emerged and are promoted by influential inter-governmental organizations (IGOs), many states still reject or resist them. As such, diligent compliance with the highest standards of minority rights is not just normal behaviour, but suggests a desire to be seen as a “model country” or “star pupil” in the eyes of international society.

Kosovo and Abkhazia are both de facto states that emerged out of the turbulent geopolitical changes that followed the end of the Cold War. This period – specifically the break-up of Yugoslavia and the Soviet Union (USSR) – saw an unprecedented proliferation of such polities. Indeed, more than half of today’s de facto states originated from the Yugoslav and Soviet collapses, as did a number of other such entities that no longer exist.

Before 1991, Abkhazia was an Autonomous Soviet Socialist Republic (ASSR) within the Georgian Soviet Socialist Republic, which was one of the fifteen constituent “union republics” of the USSR. As of the 1989 census, Abkhazia’s population was 46% Georgian, 18% Abkhaz, 15% Armenian, 14% Russian and 3% Greek (International Crisis Group, 2010, p. 8).² Despite making up less than a fifth of the population, Abkhaz enjoyed a somewhat privileged status in Abkhazia, recognized as the titular ethnicity.³ The 1991 dissolution of the USSR was strictly along the borders of the fifteen union republics, meaning that Abkhazia found itself in a newly independent Republic of Georgia. Throughout the collapsing USSR, there was greater opposition to disintegration among those individuals whose ethnic group was not titular in the

² Throughout this paper, outside of direct quotations, the terms *Abkhaz*, *Georgian*, *Armenian*, *Greek*, *Russian*, *Albanian*, *Serb*, *Turk(ish)* and *Croat* are used in an ethnic sense. The terms *Abkhazian*, *Kosovar* and *Serbian* are used to refer to the polities of Abkhazia, Kosovo and Serbia and their inhabitants regardless of ethnicity or citizenship. In cases where English only has one word, as with *Georgian*, possible ambiguity is avoided through use of phrases such as *of Georgia* and *Georgia’s* when referring to the country.

³ An ethnic group is considered titular in a particular administrative unit (or independent country) if the unit is named after them and thereby perceived as belonging to them. As such, Abkhaz are titular in Abkhazia, Georgians in Georgia. The USSR as a whole was (at least formally) ethnically neutral and so had no titular ethnicity.

seceding state where they were to live. This was especially pronounced in Abkhazia, due to the uncompromising ethnic nationalism of many leaders of Georgia's pro-independence movement. Ethnic tensions erupted into violence in the Abkhazian capital of Sukhumi in 1989 and then an outright war of secession began in 1992. The war ended in 1993 with Abkhazia de facto independent, partially ethnically cleansed of Georgians and protected by peacekeepers from Russia. After that, the situation was fairly stable until 2008, when full-scale hostilities resumed and, supported by Russia, Abkhazia seized territory from Georgia. Shortly afterwards, Russia recognized Abkhazia as independent and replaced its peacekeepers with a permanent military presence. Since then Georgia and most other states have considered the territory to be occupied by Russia.

Like Abkhazia in the USSR, Kosovo was not one of Yugoslavia's six constituent republics, but was instead an autonomous province within the Socialist Republic of Serbia. According to the 1981 census, the province's population was 77% Albanian, 15% Serb, 4% Slavic Muslim (Bosniak and Gorani), 2% Roma, 1% Turkish and 1% Croat (Kosovar Stats Agency, 2008). In the first two decades after the Second World War, Serbs dominated Kosovo, while Albanians suffered oppression and discrimination. From the late 1960s onwards Albanians received increasing concessions, culminating in the creation of significant structures of autonomous self-government in 1974. However, rising Albanian nationalism and demands for status as a constituent republic led to renewed repression from the early 1980s onwards. This repression intensified under Slobodan Milošević in 1989, prompting the start of an Albanian separatist movement. This movement established a parallel state within Yugoslav Kosovo, providing education and medical care to Albanians, who boycotted Yugoslav institutions. In 1992 these parallel authorities declared Kosovo an independent state, but they did not enjoy de facto territorial control. In the mid-1990s a paramilitary group called the Kosovo Liberation Army (KLA) started a violent guerrilla campaign, with the ultimate aim of unifying Kosovo with Albania. In 1998 the Yugoslav authorities launched a military counter-offensive, which allegedly involved atrocities against Albanian civilians, who started fleeing Kosovo en masse. In 1999 NATO intervened with a bombing campaign that pressured Milošević to withdraw forces from Kosovo. Thereafter, the province was

de facto separated from Yugoslavia and was put under the temporary administration of the UN Mission in Kosovo (UNMIK). Although UNMIK was formally neutral as to whether Kosovo should become independent or be reintegrated with Yugoslavia (or its successor state Serbia), it provided Kosovo with state-like institutions of self-government, effectively making it into a de facto state. In 2004 there was a brief but serious outbreak of violence by Albanians against Serbs. In 2008, after little progress had been achieved in negotiations between Prishtina and Belgrade, the Kosovar government unilaterally declared independence, adopting a constitution based on proposals made by UN diplomat Martti Ahtisaari. Kosovo promptly received recognition from a large number of Western countries, but not from Serbia or from important world powers such as Russia and China.

This paper seeks to address the nature of the two cases' legitimation strategies on the international stage, as well as the effects of these strategies on legislation and on the real situation on the ground. On the basis of comparative analysis, various hypotheses are offered to explain the similarities and differences between the two cases, as well as the discrepancies between rhetoric, legislation and praxis. This research is placed firmly within the tradition of the "second image reversed" (Gourevitch, 1978), looking at how international factors affect domestic politics and forms of statehood. It also contributes to a growing body of literature that takes seriously the internal dynamics of de facto states, rather than just treating them as the objects of great power foreign policy. Furthermore, this paper not only advances the understanding de facto states, but also sheds light on the broader role of norms and legitimacy in the international system. By exploring the ways in which international minority rights norms are adopted and realized by de facto states, this paper contributes to the important debate about whether norms are primarily spread through the logic of consequence (as traditionally maintained by rationalists) or the logic of appropriateness (as traditionally claimed by constructivists). As much of the existing international relations (IR) literature on norms focuses on socialization through membership in IGOs, this is a particularly valuable contribution, looking at the way that norms are used for legitimation in the absence of IGO membership. This study also has practical relevance, as its conclusions have

important ramifications for how best to influence de facto states and, more generally, how to promote norms effectively.

The thesis is structured as follows. Chapter 2 provides a theoretical and conceptual framework, exploring the concepts of de facto states, legitimacy and ethnic politics, before providing an overview of the existing literature on ethnic politics in Abkhazia and Kosovo. Chapter 3 briefly outlines research design and method, explains case selection and addresses some of the study's limitations. Chapter 4 is the empirical part of the thesis, containing analysis and discussion. Finally, Chapter 5 sums up the study's findings and the implications thereof.

2. Theoretical and conceptual framework

2.1. De facto states

Greatly influenced by Caspersen (2012, p. 11), this paper defines a de facto state as an entity that fulfils the following criteria:

- It has de facto control of territory.
- The entirety of the territory it controls is claimed by one or more other states.
- It seeks to build further state institutions and demonstrate its own legitimacy.
- It has either declared independence or demonstrated clear aspirations for independence, for example by holding an independence referendum, issuing its own passports or adopting a separate currency.
- It remains unrecognized by at least one major global power and/or significant states in its region.
- It has fulfilled the above criteria for at least two years.

Although other terms have been used to describe this phenomenon, there is increasing acceptance of *de facto state* as “the most appropriate and most neutral” (O’Loughlin, Kolossov, & Tuathail, 2011, p. 2) and the “least inaccurate and least offensive” (Broers, 2013, p. 69) term available.

According to this definition, as of May 2018 there are eleven extant de facto states in the world: Abkhazia, Kosovo, Nagorno-Karabakh, Northern Cyprus, the Sahrawi Republic, Somaliland, South Ossetia, Taiwan, Transdniestria and the “people’s republics” of Donetsk and Lugansk. There are also three notable borderline cases: Palestine, Iraqi Kurdistan and Republika Srpska. The classification of Palestine is complex, as Israel exercises a great degree of control over the territory and, at the same time, does not formally claim sovereignty over it. The classification of Iraqi Kurdistan and Republika Srpska is muddied by the fact that Baghdad and Sarajevo continue to exercise some authority in the territories and the regions’ representatives participate in their respective central governments. Such entities as the Islamic State of Iraq and the

Levant (ISIL) and Syrian Kurdistan (AKA Rojava) do not satisfy the necessary criteria, as they have only ever held limited and unstable territorial control, during ongoing warfare, and only developed a relatively weak semblance of statehood. It should however be noted that such entities may develop into de facto states, as has gradually happened in Donetsk and Lugansk.

The state that claims sovereignty over the de facto state's territory – and to which non-recognizing states usually deem the de facto state to belong – is known as the *parent state*. In most cases, the de facto state was formed by secession from this polity. It is theoretically possible for one de facto state to have multiple parent states, but in practice there are currently no such cases.⁴

Many de facto states are the result of what Brubaker (1996) calls a “triadic nexus” between a nationalizing parent state, a national minority and an external *kin state*. According to Brubaker (1996, pp. 55–56), in many cases where there is a “mismatch between cultural and political boundaries”, national minorities find themselves caught between two competing nationalisms: that of the state in which they live and that of a state to which they “can be construed as belonging, by ethno-cultural affinity”. Brubaker emphasizes that a kin state need not be the actual country of origin of the national minority, nor must it be considered a homeland by the national minority themselves. Rather, what matters is that the kin state's “political or cultural elites define ethnonational kin in other states as one and the same nation” and see them as legitimate objects of their state's interest (Brubaker, 1996, p. 58). For example, throughout the post-Soviet space there are large Russian-speaking populations that identify as ethnically Ukrainian, but only Russia – not Ukraine – has positioned itself as their kin state.

A concept that is distinct from that of a kin state, but with which there is considerable overlap, is that of a *patron state*. A patron state is a recognized state that provides military, economic and political support that keeps the de facto state's independence

⁴ ISIL did have two parent states, Iraq and Syria, but as mentioned above it does not meet this paper's definition of a de facto state.

from the parent state viable (Caspersen, 2012, p. 39). The patron state may or may not formally recognize the de facto state as independent. In many cases, the patron state presents itself as a kin state, building on perceived ethnic, cultural or historic ties between itself and all or part of the de facto state's population. The current cases of kin state as patron state are Turkey vis-à-vis Northern Cyprus, Armenia vis-à-vis Nagorno-Karabakh and Russia vis-à-vis Abkhazia, Donetsk, Lugansk, South Ossetia and Transdniestria. However, in some cases (notably Somaliland) there is no patron state and in others (e.g. US-backed Kosovo and Taiwan) the patrons are not kin states. It should be noted that in the cases of Kosovo and Taiwan, although the United States is the primary patron, other states also provide significant support. Kosovo represents an interesting case, as a kin state exists (Albania), but plays a relatively minor role in supporting the de facto state. Taiwan is also an unusual case in that its parent state (China) is the one that plays the role of a kin state.

Another factor that should be considered in relation to de facto states is diaspora. Not all de facto states have substantial diaspora populations, but many do. This includes both ethnic kin that have long been dispersed beyond their historical homelands (e.g. the Armenian diaspora for Nagorno-Karabakh and the Abkhaz diaspora for Abkhazia) and diasporas created recently due to the conflict that spawned the de facto state (e.g. Somalis and Kosovar Albanians). In those cases where diasporas exist, they have often acted as a significant source of support through such means as investment, donations, voluntary work and lobbying the governments of the countries where they live (Caspersen, 2012, pp. 59–63).

There is a wealth of scholarship that deals with the particular forms of statehood that emerge within de facto states. Within this literature there is a general consensus that de facto states' anomalous position in the international system has an effect on their domestic politics and state-building efforts. However, there are divergent accounts of what this effect actually is. Chiefly pointing to the case of Somaliland, various scholars argue that non-recognition and relative isolation afford de facto states significant freedom in their state-building choices (Bradbury, 2008; Eubank, 2012; Phillips, 2016; Richards, 2014; Richards & Smith, 2015). This argument rests on the premise that as de

facto states lack substantial external engagement, their state-building is not directly influenced by foreign experts and advisors. Meanwhile, other scholars argue the opposite, that “as places striving for acceptance into the exclusive club of sovereign states, de facto states are open to international normative pressure to behave in certain ways” (Pegg, 2017) and that this “affects the kinds of statehood that emerge” (Caspersen, 2012, p. 51). This argument rests on the idea that de facto states strive for international legitimacy as a way to “earn sovereignty” or at least bring about benefits short of recognition, such as aid or the development of cultural, diplomatic, economic or political ties (Berg & Mölder, 2012; Berg & Toomla, 2009; Caspersen, 2011, 2012, 2015; Seymour, 2017).

2.2. Legitimacy and norms in international society

In order to understand how exactly the desire for international legitimacy affects de facto states, it is necessary to situate the discussion within the scholarship on legitimacy and norms in international society. As demonstrated by Finnemore and Sikkink (1998), there is a broad consensus among IR scholars of all schools that norms matter in international politics, though there are differences of opinion about the exact effect they have and how best to study them. A norm is defined as “a standard of appropriate behaviour for actors with a given identity” (Finnemore & Sikkink, 1998, p. 891). In the context of international politics, the relevant identity is usually that of a *state*, though it can be a subset of states, for example *democracy*, *European state*, *developed state* or *great power*. In any case, standards of appropriate behaviour are socially determined, meaning that states know what is appropriate by reference to the judgements of other states. Some norms are institutionalized – for example through an international treaty that explicitly spells out a prohibition – but many are not, in which case they may be vague and contested. As is highlighted by Epstein (2012, p. 137), the concept of norms is not in itself a normative one, meaning that referring to something as a norm does not imply approval.

Finnemore and Sikkink (1998) postulate that emergent norms are initially promoted by “transnational norm entrepreneurs”, who mostly work through non-governmental

organizations (NGOs) and IGOs, while more established norms are spread through “international socialization”. The former generally requires significant domestic support for the norm in question, while the latter does not. International socialization is achieved through praise and censure from states, IGOs and NGOs, reinforced by “material sanctions and incentives” (Finnemore & Sikkink, 1998, p. 902). Zürn and Checkel (2005, p. 1052) describe two main methods through which socializing agents spread norms: “arguing” (i.e. explaining why a norm is good) and “bargaining” (i.e. the use of “carrots and sticks”). They observe that both methods are used and that it can be difficult to discern which is decisive in a given case. Nonetheless, the question of which method is key – or, to formulate it differently, “how often actors follow a logic of consequences or logic of appropriateness” (Fearon & Wendt, 2002, pp. 52–53) – is a major point of contention between constructivists (who argue for appropriateness) and rationalists (who argue for consequences).

Finnemore and Sikkink (1998) suggest that one of the main reasons that states cave to the pressure of international socialization is a desire for legitimation in international society.⁵ This falls within the “logic of consequences”, but it is not a purely rationalist explanation, as the desire for legitimation can be driven equally by material or non-material self-interest. Material self-interest would be legitimation in the hope of encouraging political, economic or military support or engagement from abroad (the standard rationalist account). An example of non-material self-interest is the constructivist idea that states seek external recognition more or less as an end in itself, with no greater goal than affirming their identity and increasing their self-esteem. In reality, these two motivations are not mutually exclusive and are difficult to distinguish.

Regardless of whether the underlying motive is material or non-material, Finnemore and Sikkink (1998, p. 906) suggest that if legitimation is a main driver of norm following, we should expect those states whose legitimacy is under question – those

⁵ Finnemore and Sikkink (1998, pp. 903–904) actually treat “legitimation” and “esteem” as two separate phenomena driving socialization, but they do not clearly conceptualize the difference between the two. As such, the term “legitimation” as used in this paper encompasses both terms as used by Finnemore and Sikkink.

who are “insecure about their international status” – “to embrace new international norms most eagerly and thoroughly.” Of all polities in the international system, none have status more precarious than de facto states. As mentioned above, Caspersen (2011, 2012, 2015), Berg and Toomla (2009), Berg and Mölder (2012) and Seymour (2017) have highlighted ways in which de facto states seek international legitimacy by adhering to internationally prevalent norms.

Caspersen (2015) draws a distinction between *internal* and *external legitimacy*, the former referring to popular support from inhabitants of the polity in question and the latter to support from state and non-state actors beyond the polity’s borders. That described in the preceding paragraphs is external legitimacy, but internal legitimacy is also vital to any regime, not least de facto states. There are two main reasons that internal legitimacy is paramount to de facto states. Firstly, if the polity’s inhabitants perceive it to be legitimate, they are less likely to emigrate and more willing to defend it against possible incursions from the parent state. Secondly, domestic popular support for the regime is vital to the central claim of sovereignty as an expression of the right to self-determination, thus internal legitimacy will increase external legitimacy (Caspersen, 2015). Furthermore, Finnemore and Sikkink (1998) postulate a link between internal and external legitimacy in the opposite direction. They argue that “states [...] care about international legitimation because it has become an essential contributor to perceptions of domestic legitimacy held by a state's own citizens”, who “make judgments about whether their government is better than alternatives by looking at those alternatives (in the international and regional arena) and by seeing what other people and countries say about their country” (Finnemore & Sikkink, 1998, p. 903). These arguments are compatible, suggesting that internal and external legitimacy are in fact mutually reinforcing.

However, there is also significant potential for conflict between the interests of internal and external legitimacy. As Caspersen (2015, p. 191) argues, legitimacy is “a multidimensional concept” and “legitimation strategies differ depending on the chosen audience”. As discussed above, in the eyes of most foreign states, IGOs and NGOs, the main source of legitimacy is adherence to internationally prevalent norms. However,

domestic sources of legitimacy may diverge considerably. It is important to remember that adoption of a new norm often entails abandonment of an old one, which may constitute the loss of a valued identity and so meet domestic resistance (Epstein, 2012, pp. 142–143). In addition, adoption of a particular norm may entail any number of material disadvantages (for example, compliance with environmental protection norms may damage important industries).

Seymour (2017, p. 820) emphasizes that legitimation strategies rely on different norms in different contexts, but says that for *de facto* states the most important norms for external legitimacy are those of “liberal internationalism”, which he defines as “rights-based norms around self-determination, democracy, human rights, international law, and an evolving responsibility to protect.” Coppieters (2003, p. 6) is more specific, referring to “civic nation-building and minority rights” as key “liberal democratic principles” to which *de facto* states adhere in order to boost external legitimacy. Similarly, Berg and Mölder (2012, pp. 527–528) see it as central to “liberal democratic legitimacy” that a polity has a consolidated demos (“a population with a shared identity”) that is congruent with its population, i.e. that no significant group within the *de facto* state should be excluded from the national community. However, for the domestic audience, as well as for kin states and diasporas, a key source of legitimacy can be ethnic nationalism (Caspersen, 2015, pp. 187–188). As scholars like Anderson (2006), Horowitz (2001) and Smith (1993) have argued, ethnic nationalism is especially powerful in the absence of strong, reliable, established state institutions. It goes without saying that most *de facto* states find themselves in exactly such a situation. Moreover, the norms relied upon and championed during the period of secession are likely to be those of ethnic nationalism, often involving significant animosity towards groups associated with the parent state. Considering the premium placed on minority rights internationally and the prevalence of ethnic nationalism domestically, ethnic politics is a highly contested sphere, experiencing contradictory pressures.

2.3. Ethnic politics, minority rights and civic nation-building

Ethnic politics (also known as ethno-politics) is conceived of as a broad sphere encompassing inter-ethnic relations, political activity organized along ethnic lines and state policies towards minorities, ethnicity and diversity. In societies with low ethnic diversity, or where ethnic divisions are of limited political salience, relatively little is likely to fall into the bracket of ethnic politics. However, in highly diverse states – and in less diverse states where ethnic cleavages are paramount – a wider range of political issues are likely to fall under ethnic politics.

Kymlicka (2007) convincingly argues that since the 1980s *liberal multiculturalism* has emerged as a set of international norms. What he calls liberal multiculturalism is more or less synonymous with the concept of *minority rights*, entailing a retreat from the homogenizing model of the nation-state in favour of inclusion and accommodation of ethnic minorities. Specific manifestations vary considerably between different contexts but include such measures as territorial autonomy, language rights and quotas to guarantee political representation. Kymlicka argues that minority rights have become an international norm that is reflected in the domestic policies of individual states as well as the policies and recommendations of such IGOs as the UN, Organization for Security and Co-Operation in Europe (OSCE), EU and Council of Europe. He observes that minority rights norms have been institutionalized to a degree through such instruments as the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, but that they remain fluid and flexible. As he puts it, what is more institutionalized is “a set of minimum standards below which no states should fall”, whereas there is less institutionalization as concerns “ideals and best practices to which all states should aspire” (Kymlicka, 2009, p. 4).

A related concept is that of a *civic nation*. This is defined by Smith (1993, p. 9) as the understanding of a nation as “a community of people obeying the same laws and institutions within a given territory”. It is contrasted with an *ethnic nation*, which is tied together by ethnicity or, in other words, by imagined common descent along with language and folk culture (Smith, 1993, pp. 11–12). An ideal-type civic nation is one

where individuals of various ethnic backgrounds are all equally considered part of the nation. An ideal-type ethnic nation is one for whom ethnic minorities born and raised locally are considered foreigners. The United States, the United Kingdom, France and India are often cited as classic examples of civic nations, while the Estonians or Hungarians might be described as ethnic nations. However, in reality no nation matches the ideal type and each case combines civic and ethnic elements to some degree (Smith, 1993, p. 13).

When trying to capture the essence of liberal multiculturalism, Kymlicka (2009, p. 61) focuses on that which it rejects: “models of the unitary, homogenous nation-state” that treat the state as “the possession of a dominant national group, which [uses] the state to privilege its identity, language, history, culture, literature, myths, religion, and so on”. What Kymlicka is describing here is essentially ethnic nationalism. However, civic nations are not synonymous with minority rights. As Jackson Preece (2005, pp. 107–110) shows, while ethnic nationalists see linguistic minorities as alien, civic nationalists have historically been just as uninterested in minority language rights, viewing linguistic homogeneity as necessary for mass participation in public life. The perfect example of this is France, which has professed a staunchly civic official conception of nationhood since the Revolution while systematically marginalizing minority languages (Judge, 2002). In short, international minority rights norms contain a strong preference for civic nationhood, but go considerably further than this, promoting special measures to explicitly accommodate minority groups.

The most extensive form of minority rights regime is known as *consociationalism*. This form of statehood is designed to share power between groups (or *segments*) within a state. According to Lijphart (1977, pp. 25–44), consociationalism’s main features are: 1) grand coalitions including all segments; 2) a right of all segments to veto; 3) proportionality (through proportional representation in elections and quotas in education and state employment); and 4) territorial and/or cultural autonomy. Various scholars and practitioners recommend consociationalism as the best way to overcome divisions in *plural or deeply divided societies*. Lijphart (1977, pp. 5–6) defines *plural societies* as societies in which political divisions closely follow segmental cleavages (e.g. ethnicity,

religion or language) and where important facets of life (e.g. political parties, schools, media, voluntary associations) are organized along segmental lines. Guelke (2012, pp. 30–32) defines *deeply divided societies* as societies with entrenched segmental cleavages that are “recurrent and endemic”, where different segments have fundamental disagreements about the legitimacy of the polity and where large numbers of individuals “attach overwhelming importance to the issues at stake” and/or “manifest strongly held antagonistic beliefs and emotions” towards other segments. Many experts – both scholars and practitioners – have come to view consociationalism as a best practice. As a result, the consociational model of statehood has had significant influence on post-conflict state-building around the world, including in Afghanistan, Bosnia, Iraq, Macedonia, Northern Ireland and Kosovo.

2.4. Ethnic politics in Abkhazia and Kosovo

There are numerous studies focusing on ethnic politics in either Abkhazia or Kosovo, as well as some that look at ethnic politics in de facto states in general. This section provides a brief overview of the existing scholarship, with particular focus on how the overall situation has been characterized in the two polities.

Caspersen (2011) writes about ethnic politics in de facto states in general, making reference to both Abkhazia and Kosovo. She argues that de facto states tend towards *ethnic democracy*, a term coined by Smooha (1990, p. 391) and defined as a system that “combines the extension of political and civil rights to individuals and certain collective rights to minorities with institutionalized dominance of the state by one of the ethnic groups”. Caspersen (2011, p. 351) argues that de facto states experience a “more pronounced” and “more defensive” form of ethnic democracy, due to their precarious status and “siege mentality” (Caspersen, 2011, p. 351). As illustrative of this difference she points to the fact that in Smooha’s model, all ethnic groups are legally citizens, but that in de facto states the question of citizenship is often unresolved. She postulates that this ethnic democracy is a result of “countervailing internal and external pressures”, whereby internal legitimacy demands ethnic nationalism and external legitimacy demands minority rights (Caspersen, 2011, p. 353). Caspersen (2011, p. 352) further

argues that de facto states often conceal their ethnic democracy behind a civic façade, which results primarily from external normative pressure. She also predicts that as international commitment to liberal democratic values falters – and the prospects of “earning sovereignty” reduce – minority rights may be some of the first things that de facto states roll back, as doing so bears less risk of domestic backlash than repealing reforms that benefit the majority (Caspersen, 2011, p. 352). However, she notes that de facto states where the dominant group is numerically weak, like Abkhazia, have an additional, internal pressure to accommodate diversity, as they require support from minorities for their independence to be viable. (Caspersen, 2011, p. 352)

One of the most comprehensive scholarly works on ethnic politics in Abkhazia is a 2008 article by Clogg. Clogg provides an overview of inter-ethnic relations, education, language policy, citizenship policy, minorities’ political representation and other ethnic issues. She also presents the results of interviews conducted among both Abkhaz and minorities, investigating perceptions of ethnic matters. She reports that minorities show little concern about ethnically motivated hatred or violence, but complain of extensive discrimination, including in law enforcement, education, employment and the military (Clogg, 2008, p. 317). However, she notes that minorities are sympathetic to Abkhaz concerns about the Abkhaz language and the demographic situation and also that few non-Abkhaz object to laws privileging the Abkhaz language or barring minorities from the presidency (Clogg, 2008, p. 318). Clogg writes that Abkhaz attitudes to ethnic issues are primarily shaped by concern for the preservation of their identity, language, culture and numerical superiority. As a result, there is a prominent ethnic nationalist discourse, which seeks to exclude minorities. However, many Abkhaz see parallels between minorities’ desire for rights within Abkhazia and the narrative of Abkhaz struggle against Tbilisi (Clogg, 2008, p. 319). Furthermore, Clogg notes that ethnic tolerance forms part of the Abkhaz national narrative, linked to the idea of Caucasian hospitality, the history of Sukhumi as a cultural meeting point and the fact that Abkhaz themselves are variously Christian, Muslim and pagan (Clogg, 2008, p. 319). She observes that due to the tension between ethnic nationalism and the multi-ethnic population, Abkhaz elites are reluctant to address ethnic issues at all (Clogg, 2008, p. 322). She also points to Abkhazia’s international isolation and the lack of external

pressure to prioritize ethnic issues and adhere to international standards (Clogg, 2008, p. 321). She argues that the policies that have been adopted are less influenced by Western models of multiculturalism than by Soviet-era practices, most notably *korenizatsiia* (*коренизация*), whereby the titular group benefits from positive discrimination (Clogg, 2008, p. 322). Clogg concludes that this practice – combined with considerations of different communities’ roles in the war of secession – results in an ethnic hierarchy with Abkhaz at the top, Georgians at the bottom and others in between.

Kolstø and Blakkisrud (2013) provide another important study of Abkhazia’s ethnic politics, focusing on the Armenian community. This work agrees with Caspersen (2011) that the term ethnic democracy applies to Abkhazia, especially as concerns the situation of minorities other than Georgians. However, Kolstø and Blakkisrud (2013, p. 2089) suggest that the policy towards Georgians is less akin to ethnic democracy, and closer to *ethnocracy*. Ethnocracy is a term coined by Yiftachel (1997, p. 507) and defined as a regime where “ethnicity, and not citizenship, is the main logic around which state resources are allocated” and “the interests of a dominant ethnic group shape most public policies”. Kolstø and Blakkisrud (2013, pp. 2089–2090) conceive of the difference between the two regime types as being that ethnic democracies are “softer and more democratic”, whereas ethnocracies rely more on violence, or at least the threat thereof. They believe that both terms are relevant in Abkhazia, but that neither captures the full nature of the situation. To complete the picture, on the basis of field research, they highlight the fact that Armenians voluntarily keep out of politics, accepting Abkhaz as the legitimate “sons of the soil” – i.e. the indigenous, titular, or state-bearing ethnicity (Kolstø & Blakkisrud, 2013, p. 2091). This is in line with Clogg’s (2008) aforementioned observations as well as Ó Beacháin’s (2012, p. 167) findings that minorities have no desire for top political positions, as they accept Abkhazia as “the land of the Abkhaz”. Ó Beacháin notes that minorities often justify this view with reference to Abkhaz having earned their right to political leadership through bloodshed during the wars of secession.

In their analysis of language and education laws in Abkhazia and Transdniestria, Comai and Venturi (2015, p. 887) argue that the two polities have adopted legislation “with the

aim of promoting new state identities, supporting nation-building projects, and furthering claims to statehood” and that actual implementation is not its primary purpose. In the case of Abkhazia, they argue that the nation-building project is fundamentally ethnic and that legislation aims to alter the domestic “language tipping game” in favour of Abkhaz (Comai & Venturi, 2015, p. 887). They suggest that the degree to which the laws are actually implemented depends on pragmatic consideration of what is needed for Abkhazia’s survival: “a degree of internal unity and inter-ethnic accord, friendly relations with the Russian Federation, and measures to prevent the return of Georgians to the region” (Comai & Venturi, 2015, p. 899).

Despite Kosovo’s lower level of ethnic diversity, there is considerably more scholarship dedicated to its ethnic politics than to Abkhazia’s. A great deal of this work assesses the success of Kosovo’s minority rights regime as a method of conflict resolution. In this body of research there is a general consensus that the measures adopted have yielded some positive effects in terms of ensuring minorities’ representation and improving their quality of life, but that the policies have simultaneously institutionalized ethnicity, entrenched segregation and discouraged the development of a cohesive, civic nation (Baliqi, 2018; Beha, 2014; Calu, 2018; Dahlman & Williams, 2010; Jenne, 2009; Limani, 2015; Lončar, 2015; Rossi, 2014; Vučićević, 2015). Another recurring theme is the discrepancy between inclusive, multiculturalist political rhetoric and legislation on the one hand and poor implementation on the other (Beha, 2014; Calu, 2018; Krasniqi, 2015; Landau, 2017).

Krasniqi (2015) provides a particularly original analysis of Kosovo’s ethnic politics, arguing that, as a result of the contradiction and tension between civic and ethnic nationalism, an ethnic hierarchy has developed. He situates Albanians at the top as the “core dominant community”, dominating Kosovo’s economy as well as central political and security institutions (Krasniqi, 2015, p. 204). Next he places Serbs, whom he describes as the “core non-dominant community”, benefiting from a high degree of political organization and support from Serbia as a kin state, as well as from various specific group rights and protections in Kosovo’s legal framework (Krasniqi, 2015, pp. 204–208). In third place he puts Turks as a “semi-peripheral community” enjoying a

special position due to affluence, legal rights, good relations with Albanians and the influence of Turkey as a kin state (Krasniqi, 2015, p. 208). Next he places Gorani and Bosniaks, as “elusive peripheral communities”, which he says are “caught between multiple and often conflicting political visions and interests” and do not benefit from decentralization (Krasniqi, 2015, p. 209). These are followed by Montenegrins and Croats, the numerically small “unrecognized communities” (Krasniqi, 2015, pp. 209–210). He puts Roma, Ashkali and Egyptians (RAE) at the bottom of the hierarchy, dubbing them “invisible communities” due to their almost total exclusion from society and in particular from political life. He notes that the Kosovar political establishment does not view RAE as political subjects to be engaged with, but as a human rights issue to be addressed by IGOs and NGOs (Krasniqi, 2015, pp. 210–211).

Dahlman and Williams (2010, p. 415) are notable for describing Kosovo as an ethnocracy, stating that “resources and power are allocated on the basis of ethnicity” and that there is “an ethnically defined ruling class in control of state apparatus”. In particular, they focus on *ethno-territorialism*, the idea that territory should be assigned to ethnic groups in an exclusive manner. They argue that ethno-territorialism was responsible for the Yugoslav Wars and continues to shape Kosovo, specifically resulting in Serb enclaves, which they characterize as “an attempt to create localised majority territories that invert Kosovar Albanian rule” (Dahlman & Williams, 2010, pp. 407–408). They claim that Kosovo, as an ethnocracy, uses state apparatus to “[reorganize] the political space by ethnically segregating the population, producing geographies of discrimination and marginalization” (Dahlman & Williams, 2010, p. 415). Ultimately, they conclude that territorial segregation serves to reinforce ethnic nationalism (Dahlman & Williams, 2010, p. 424). In a slight variation, Baliqi (2018, p. 65) terms Kosovo a *power-sharing ethnocracy*. He notes that minorities do play an important role in decision-making and are represented in state institutions, but that ethnicity is institutionalized and there is no overarching loyalty to the state (Baliqi, 2018, p. 63). He also argues that Kosovo institutionalizes Serbia as the advocate and protector of Kosovo’s Serbs, which he claims undermines domestic inter-ethnic dialogue and co-operation and obstructs Kosovar Serbs from developing their own independent political elite (Baliqi, 2018, p. 62).

Rossi (2014, p. 872) describes Kosovo as a *centrifugal democracy*, a term coined by Lijphart (1977, p. 114) and defined as a democracy rendered “unstable, ineffective and immobilist” by societal fragmentation. In classifying Kosovo in this way, Rossi (2014, p. 872) points to “deep political, cultural, and historical differences between Albanians and Serbs” as well as “policies of decentralization that empower the Kosovo Serb minority to maintain a functional distance away from Pristina and toward Belgrade”. He attributes this ethnic segregation to the very act of Kosovo’s secession, which he argues served to legitimize ethnic nationalism in the eyes of all communities (Rossi, 2014, p. 868).

Landau (2017) calls Kosovo a *state of communities*, emphasizing that it is neither an ethnic Albanian nation-state nor a civic, ethnically neutral polity. As evidence she highlights Kosovo’s consistent self-definition as a multi-ethnic state, its extensive minority rights, its use of ethnically neutral symbols and its denunciation of both Albanian and Serb nationalism (Landau, 2017, p. 444). She argues that this form of statehood was adopted as an attempt to gain legitimacy both externally – in the eyes of Serbia and the wider international community – and internally – in the eyes of Serbs and other minorities. However, Landau argues that this approach has caused a crisis of legitimacy in the eyes of a third audience: Kosovar Albanians, who increasingly reject the multi-ethnic project and lean towards ethnic nationalism.

Despite an absence of research directly and systematically comparing ethnic politics in Kosovo and Abkhazia, this literature review reveals some important commonalities. Firstly, the literature unanimously indicates that both de facto states can accurately be described as plural and deeply divided societies. Furthermore, although the exact classification of both cases is contested – as indeed are the terms of classification themselves – there is repeated application of such terms as ethnocracy and ethnic democracy. Similarly, both cases are described as exhibiting ethnic hierarchy, with the largest group enjoying a privileged, dominant position. Furthermore, ethnic politics is repeatedly linked to the question of legitimacy. Specifically, the particular forms of

statehood that have emerged are attributed to the tension between domestic and international legitimacy. This thesis explores the results of this tension in detail.

3. Research design and method

As intimated in the introduction, this thesis seeks to address three closely related research questions. The first is how de facto states make use of minority rights norms to garner legitimacy on the international stage. The second is how de facto states' desire for international legitimacy is reflected in legislation relevant to ethnic issues. The third is how the desire for international legitimacy – and the legal framework – actually affects ethnic politics and the situation of minorities. These questions are addressed through a two-case comparative study, using the cases of Kosovo and Abkhazia. In order to address the three questions, analysis is broken down into three separate levels: the rhetorical (Chapter 5.1), the legislative and institutional (Chapter 5.2) and the practical (Chapter 5.3). This breakdown allows detailed and nuanced comparison of the nature, degree and effect of norm compliance in both cases. Furthermore, discussion sections offer hypotheses that might explain the similarities and differences between the two cases, as well as the discrepancies between rhetoric, legislation and praxis. As such, this is a hypothesis-generating study, providing hypotheses that could fruitfully be tested by future research.

3.1. Case selection

In principle a great number of different policy spheres could have been chosen for this study, but ethnic politics has been chosen for a variety of reasons. Firstly, this is a broad policy sphere with no simple, clear-cut prescriptions, meaning that there is considerable scope for international norms to be realized to varying degrees and in diverse ways. Secondly, the norms surrounding minority rights are by no means universally accepted or commonsensical. This is vital because compliance with deeply rooted, virtually universal norms such as prohibitions on murder and theft is quite trivial, revealing little about a polity's relation to international society. However, at the same time, minority rights norms do have a fairly broad base of support, actively promoted not only by Western actors but also by the Russian Federation and other post-Soviet states. This means that, unlike such spheres as gay rights, attitudes to minority rights should not simply reflect allegiance to a particular ideological-geopolitical bloc. In addition,

minority rights represent a hard case, as inter-ethnic relations in de facto states are often highly tense and perceived concessions to minorities are likely to be met with considerable resistance. For this reason, when accommodation of minorities does occur, it is more likely to be due to external influence than to have emerged autonomously from within the society in question. Furthermore, ethnic politics in de facto states is an important object of study in itself, as minority rights can serve as instruments of conflict prevention or resolution.

When studying de facto states, the pool of available cases is quite small. As mentioned above, as of May 2018 there are eleven polities that match the definition used in this paper (see Chapter 3.1). Furthermore, in order to study ethnic politics, it is necessary to choose cases that actually have significant minority populations. Kosovo and Abkhazia both meet this criterion: around 13% of the population are minorities in Kosovo (ECMI Kosovo, 2013), as are at least 49% in Abkhazia (Kavkazskii Uzel, 2011).⁶

Furthermore, in keeping with the “most similar systems” research design, Abkhazia and Kosovo are similar in other key ways. Most obviously, they are both de facto states, meaning they are both hypothesized to have a similar need for international legitimacy. Furthermore, they were both formed through violent secessionist ethnic conflict, meaning that ethnic questions are sensitive and ethnic nationalism is rife. Moreover, in both cases the largest ethnic minority is the parent state’s titular group. Of particular importance is the fact that they are both plural and deeply divided societies (see Chapter 2.3). It is also worth noting that both polities have been de facto independent for a similar amount of time: Abkhazia since 1994 and Kosovo since 1999. With Abkhazia protected by Russia and Kosovo protected by NATO, neither is under immediate military threat. Vivaly, unlike many de facto states, Abkhazia and Kosovo both seem

⁶ If, as many have suggested, less than half of Abkhazia’s population are Abkhaz, non-Abkhaz may not constitute *minorities* in a strictly mathematical sense. Nonetheless, for the sake of convenience and in keeping with much of the literature on ethnic politics, throughout this paper non-Abkhaz are referred to as minorities, as Abkhaz are certainly the most numerous group and dominate the polity.

genuinely set on sustained independence, rather than incorporation into another polity.⁷ This is important because a polity seeking to join an existing political unit – like Transdniestria and South Ossetia, both declaring intent to join the Russian Federation – does not have the same impetus to secure international legitimacy as a polity seeking to function as an independent state.

By comparing Kosovo and Abkhazia, this paper seeks to address the shortage of work that compares post-Soviet de facto states to those in other regions, a gap in the literature highlighted by Pegg (2017). This is important because de facto states in the post-Soviet space and elsewhere are both instances of the same phenomenon, but for a variety of reasons they are subject to quite different external conditions. Therefore this work helps shed light on just where the similarities and differences lie. Furthermore, it highlights the fact that Abkhazia has an internal life of its own, thereby counteracting the tendency of mainstream Western media and political discourses to treat post-Soviet de facto states as little more than objects of Russian foreign policy.

Both cases are temporally delineated from 2008 to 2017. To be exact, Kosovo is studied from 17 February 2008 to 31 December 2017 while Abkhazia is taken from 26 August 2008 to the same end date.⁸ 31 December 2017 was chosen as an end date for the simple sake of convenience, as this was shortly before work on the empirical part of this paper began. 17 February 2008 is a logical starting point to study Kosovo, as this was the day it declared independence. From this date onwards, Kosovo is expected to be fully committed to pursuing recognition and other forms of international engagement. Moreover, although its independence continued to be “supervised” by UNMIK until 2012, from February 2008 onwards Kosovo’s leaders can be considered essentially autonomous actors. 26 August 2008 has been chosen as a starting point for the study of

⁷ A 2010 survey by O’Loughlin et al. (2014, p. 448) showed that in Abkhazia, overwhelming majorities of Abkhaz and Georgians preferred independence over union with Russia, along with over half of Russians and just under half of Armenians. A 2010 Gallup poll showed that in Kosovo, 81% of Albanians support union with Albania, but mainstream Kosovar politicians maintain that unification will only be achieved in the form of both states joining the EU (Likmeta, 2010).

⁸ Naturally, legislation and institutions introduced earlier than 2008 are still considered if they remained in force during the period 2008-2017.

Abkhazia, as was the date when Russia formally recognized Abkhazian independence. More importantly, by this point the dust had settled from the Russo-Georgian War. Although Abkhazia had already declared independence in 1992, the situation changed greatly after the Russo-Georgian War of 7-12 August 2008. After this, the UN mission in Abkhazia was closed and the chances of Abkhazia being re-integrated into Georgia reduced significantly. Of particular importance is the fact that from August 2008 onwards Abkhazia has enjoyed a considerable degree of existential security. In short, the start points chosen mark the geneses of the Kosovo and Abkhazia that exist today. Nonetheless, it should be emphasized that the chosen time limits for this study are not meant to be a definitive statement about whether the situation changed fundamentally in 2008. Indeed, comparison of the situation before and after 2008 is beyond the scope of this paper.

3.2. Method

For each of the case studies, three different features are explored: Chapter 4.1 analyses the official discourse about minorities and national identity as directed at international audiences, Chapter 4.2 addresses the legislative and institutional frameworks pertaining to minorities and Chapter 4.3 addresses the actual state of ethnic minorities. Within each of these chapters, the relevant issues are examined for each case individually before the two cases are compared and hypotheses are offered to explain the similarities and differences.

In terms of method, Chapter 4.1 employs comparative textual analysis. This analysis seeks to draw out three main factors, although these are all closely interlinked and overlapping and so are not necessarily considered separately from one another. Firstly, attention is given to what is said directly about minority rights and ethnic policy. Secondly, there is analysis of the representation of the nation, with particular focus on the extent to which the national community is constructed ethnically or civically as per the categories discussed in Chapter 2.3. Finally, there is analysis of the representation of minorities, including the extent to which they are presented as an “other”. The aim here

is to reveal the ways that minority rights norms are used in de facto states' legitimization strategies.

Chapter 4.2 involves comparative analysis of relevant legislation in the two de facto states. The texts of pertinent laws are summarized and analysed so as to reveal the way that the legislative and institutional frameworks address ethnic minorities and their interests. As such, this section compares the de jure extent of minority rights in the two cases.

Chapter 4.3 analyses and compares the overall situation of ethnic minorities in the two cases, on the basis of various indicators. For the most part, this involves qualitative data, but, where available, quantitative data and survey results are also used. Factors considered include integration, cultural life, economic wellbeing, political inclusion and inter-ethnic relations.

3.3. Source selection

As it is analysing official discourse, Chapter 4.1 makes use of texts produced by those with authority to speak on behalf of the state. This includes diplomats, individuals holding government office and ministerial spokespeople. By extension, this also includes texts produced by ministries and government bodies that lack attribution to an individual author. However, it excludes opposition politicians and people who no longer hold office. Specifically, the analysis is of discourse directed at an international audience. As such, the focus is on documents and statements from the Ministries of Foreign Affairs (MFAs), as well as interviews with foreign media and speeches delivered by state representatives abroad or when hosting foreign delegations. One strong indication that a text is intended for foreign consumption is if it is produced in or translated into a foreign language. For this reason, as well as due to practical limitations, only English-language texts are used for Kosovo. The situation is more ambiguous in Abkhazia, where Russian is both a local lingua franca and a means of communicating with key international partners. As such, for Abkhazia language is a less important indicator and both English- and Russian-language texts are used. It is important to note

that texts on all topics are analysed, not just texts explicitly relating to ethnic issues. Indeed, for analysing the prevalent understanding of national identity and minorities, texts that are not explicitly about these issues are in many ways more useful, including less self-conscious representations. Furthermore, as one of the key questions explored is whether minority rights are invoked as a source of legitimacy, the issue's absence in a text may be just as important as its presence. Practically speaking, texts were collected by searching the internet for speeches by and interviews with relevant individuals as well as by systematically browsing MFA websites. Collection of texts continued until nothing substantially new was being revealed.

Chapter 4.2 makes use of legislation. This includes the constitution and the criminal code as well as all laws pertaining directly and indirectly to ethnic issues, particularly languages, education, citizenship and local government. Relevant laws were initially identified on the basis of the reports used as sources for Chapter 4.3. In addition, there was a degree of “snowballing”, as some laws make reference to other laws, which were then also consulted.

Chapter 4.3 relies primarily on “grey literature”, i.e. reports by IGOs and NGOs. For Abkhazia, this includes reports by the International Crisis Group and the EU. For Kosovo, this includes reports by the OSCE, the EU, Human Rights Watch, the Minority Rights Group, the European Roma Rights Centre and the European Centre for Minority Issues (ECMI). Furthermore, some scholarly sources are used, primarily those that include fieldwork. Additionally, some news articles and government websites are used to fill in the gaps left by the aforementioned sources.

3.4. Limitations

Direct comparison of the situation in Abkhazia and Kosovo is not straightforward, as the data available for the two cases are qualitatively and quantitatively different. This particularly concerns Chapters 4.1 and 4.3. As Kosovar officials are much more prominent on the international stage than their Abkhazian counterparts, it is considerably easier to analyse Kosovar than Abkhazian rhetoric. Representatives of

Kosovo frequently make and receive official visits and speak in international fora, whereas Abkhazia has few official contacts with anyone outside Russia – and even in Russia does not receive a great deal of attention. Similarly, for Chapter 4.3 there was generally more and better quality information available about Kosovo. This is unsurprising considering the considerable attention Kosovo has received from the rest of the world – particularly from IGOs and international NGOs – compared to Abkhazia’s relative isolation. In light of these limitations, this paper aims to compare the big picture in each case, focusing on general tendencies and the overall situation, rather than detailed, direct comparison of specific qualitative indicators.

Another impediment to direct comparison of the two cases is their different cultural and historical legacies. This is most marked with regards to Kosovo’s marginalized and greatly disadvantaged Roma, Ashkali and Egyptian (RAE) communities. Like Roma and related groups throughout Europe, these communities have a centuries-long history of exclusion, discrimination and persecution. In Abkhazia, however, there is no significant Roma population or any other ethnic group with a comparable history. It would be patently inappropriate to directly compare the situation of RAE in Kosovo to that of Armenians, Russians or Georgians in Abkhazia. Nonetheless, RAE are an important element of Kosovar society and no consideration of the country’s minorities would be complete without including them. As such, issues pertaining to these communities are considered, but care is taken to retain awareness of their particular circumstances. Indeed, awareness of historical legacies is maintained throughout the paper’s analysis and in relation to all ethnic groups.

4. Analysis

4.1. Rhetoric

4.1.1. Abkhazia

One issue with evaluating the extent to which Abkhazian officials exhibit an ethnic or civic conception of nationhood is that it is often difficult to tell whether they are talking about ethnic Abkhaz or Abkhazian citizens in a given statement. Although English allows differentiation between the words *Abkhaz* for the ethnic group and *Abkhazian* for the territory and its population (see footnote 2, page 8), this distinction is not always maintained, with frequent references to things like *the Abkhaz government* and *the Abkhazian language*. Furthermore, no such distinction is possible in Russian. The lack of careful differentiation between Abkhaz and Abkhazians should be seen as a purely linguistic issue, rather than revealing anything in particular about the speakers' conceptions of nationhood. Despite this issue rendering many statements ambiguous, there is still a great deal of material that sheds light on the conception of the nation, most but not all of which suggests an ethnic perspective.

One of the clearest examples of ethnic nationalism is the frequent emphasis placed on fostering connections with the Abkhaz diaspora. For instance, Daur Kove⁹ speaks of “consolidating” the diaspora, “unify[ing] their intentions” and “breath[ing] life into them” (Abkhazian MFA, 2017a). One document produced by the Abkhazian MFA even lists migration to Abkhazia by Turkey’s Abkhaz as one of the country’s three main goals, alongside international recognition of statehood and war reparations from Georgia (Abkhazian MFA, 2015, p. 1). Abkhazia’s interest in the Abkhaz diaspora is treated as “natural” (Abkhazian MFA, 2017a) despite the fact that most foreign Abkhaz are descended from people who left the Caucasus in the nineteenth century, meaning they largely lack personal or familial connections to Abkhazia. Although exact data is scarce, many sources suggest that the majority of the Abkhaz diaspora do not even speak Abkhaz (Danver, 2015, p. 259; Gachechiladze, 2014, p. 81; Rimple, 2014). If so,

⁹ Foreign minister 2016-present.

the tie between the Abkhaz diaspora and Abkhazia really is a purely ethnic one and the Abkhazian government taking an interest in Abkhaz abroad can only be explained by an ethnocentric conception of the state and nation.

An ethnic understanding of nationhood is also suggested by a preoccupation with protecting and promoting the Abkhaz language and increasing the Abkhaz proportion of the population. For example, Sergei Bagapsh laments that “[w]hen the Georgians were here, we Abkhazians only made up 17 percent of the population” (Klußmann, 2009), implying that the titular group should make up a greater share. This is also a very clear instance of the national “we” being used in a strictly ethnic way. Moreover, the most common justification for Abkhazian independence makes reference to oppression and even attempted genocide of Abkhaz by Georgians. This narrative typically treats the Republic of Abkhazia very much as a state of and for the Abkhaz. However, there are instances of deliberately inclusive language, acknowledging the multi-ethnic nature of Abkhazia’s populace. For example, it is claimed that the conflict “united the entire multinational people of Abkhazia in the face of the common enemy” (Abkhazian MFA, 2017c). Particularly revealing is the bizarre claim that Georgia “committed genocide and ethnic cleansing of the multinational people of Abkhazia” (Abkhazian MFA, 2017d). This nonsensical application of the concepts of genocide and ethnic cleansing to Abkhazia’s whole multi-ethnic population suggests a clumsy attempt to tack inclusive language onto a fundamentally ethnocentric argument – that Abkhazia’s secession is justified by Georgian atrocities against Abkhaz.

Despite occasional inclusive statements, there are many cases of Georgians in particular being excluded from the national community. Georgians are presented as not being authentically local, having been “artificially” (Royle, 2016) settled in the region by Stalin and Beria as part of a deliberate Georgianization campaign that was aimed at disempowering or even destroying the Abkhaz ethnos. At best, Georgians are portrayed as guests, welcome to stay as long as they do not claim Abkhazia as “their land” (Royle, 2016). At other times, Georgians are represented as a security threat and potential fifth column for Georgia. In particular, those Georgians who fled Abkhazia during the war are presented as having abandoned Abkhazia and chosen to side with Georgia.

When directly discussing questions of legitimacy and strategies to increase international engagement, there is no mention of minority rights or multi-ethnicity. Daur Kove does on one occasion acknowledge the importance of normative legitimation, saying that in order to gain international recognition Abkhazia “should become attractive, in every sense of the word, to other countries”, including by building a good domestic political system (Sobytie nedeli, 2017). In general, however, focus is on non-normative sources of legitimacy. One potential source mentioned is Abkhaz/ian history and culture, with some statements implying that if foreigners learn about Abkhazia and come to appreciate its culture, they will become more sympathetic to its situation. This logic is behind efforts to support cultural events among the Abkhaz diaspora.

The most prominent legitimization strategy, however, relies on a narrative of oppression under Georgian rule and subsequent victory in armed conflict. For example, in one interview Kove says:

“In modern history, we have gained our statehood and independence through the lives of thousands of people in the Georgian-Abkhaz war. This is our rightness today; the world must hear, understand and accept.” (Abkhazian MFA, 2017a)

References to military victory and to the established fact of de facto independent statehood are fundamentally non-normative. Two logics underlie this kind of legitimation strategy. The first is the declarative theory of statehood: that international society should just pragmatically accept the fact that Abkhazia already is a de facto independent state. The second is a conception of earned sovereignty different to the usual understanding of the concept: that Abkhazia has earned independence through hard work and bloodshed. This idea is in fact antithetical to the international norm against violent secession.

However, the narrative of victimhood and oppression is a normative one, with references often made to atrocities committed by Georgia and Georgians. One episode frequently referred to in this context is the arson committed in 1992 by Georgian troops,

burning down the Abkhazian Institute of Language, Literature and History and Abkhazia's main archives. Mistreatment of Abkhaz under Georgian rule is an inter-ethnic issue, but it is seldom framed in terms of minority rights. Instead it is presented as a simple question of violence and aggression. Abkhazian officials do not try to present Abkhazia as respecting minority rights in contrast to Georgia's mistreatment of minorities. Instead, they tend to do the reverse, using whataboutism to deflect from accusations of mistreating Gali Georgians. In other words, they try to use Georgia's alleged abuses of minorities to justify their own, presenting Georgia as even worse rather than Abkhazia as better. Indeed, when it comes to substantive issues related to minorities, little concern is shown. For example, MFA statements dismiss out of hand the very idea that the closure of crossing points along the Georgian-Abkhazian border might be a problem for local Georgians.

There are however some isolated cases of minority rights being used to increase legitimacy. For example, a report by Western European human rights experts is cited to counter accusations from Tbilisi of violations of the rights of Gali Georgians (Abkhazian MFA, 2017b). This is notable as a rare instance of external minority rights standards being used as a source of legitimacy. On another occasion, it is reported that recent elections "represented an important step towards successful democracy and equitable treatment of all Abkhazian residents, regardless of ethnicity" (Abkhazian MFA, 2015, p. 1). Similarly, Sergei Shamba¹⁰ repeatedly asserts that Abkhazia is not following the model of the homogenous ethnic nation-state, but is rather "building a civil society" (Carroll, 2011). Bilingualism is presented as "a natural phenomenon" (Royle, 2016) and it is emphasized that "[w]e aren't going to force everyone to speak Abkhazian" (Carroll, 2011). Interestingly, Raul Khajimba¹¹ presents tolerance as something historically and culturally rooted in Abkhazia, attributing it to "the ancient mind-set of our people" (Royle, 2016). This implies a desire to give the impression that Abkhazia respects diversity not because of anything external (such as international norms), but due to its own intrinsic nature. In this vein, Khajimba also says that

¹⁰ Foreign minister 1997-2010 and prime minister 2010-2011.

¹¹ Defence minister 2002-2003, prime minister 2003-2004, vice president 2005-2009 and president 2014-present.

“Europeans and Americans should learn from Abkhazia” about inter-ethnic harmony (Royle, 2016). This would appear to be a repudiation of the minority rights norms promoted by international society in favour of some alternative, ostensibly superior approach, the nature of which is not specified.

In summary, Abkhazian officials do demonstrate some awareness of normative legitimacy and of international minority rights norms, but attempts to employ inclusive language are often clumsy and superficial. There is a predominantly ethnic conception of nationhood, limited concern is shown for minorities’ interests and claims to legitimacy are primarily based on alternative bases, unrelated to good governance or human rights.

4.1.2. Kosovo

Kosovar officials exhibit a uniformly civic and inclusive conception of the nation. When referring to the national community, they almost always use the inclusive term *Kosovar*, seldom referring to *Albanians*, other than when specifically distinguishing between ethnic groups. Even then, slightly euphemistic language is often employed, referring to *the majority* or *the majority community* rather than mentioning Albanians by name. Officials frequently go out of their way to specify that they are referring to all Kosovar citizens, regardless of ethnicity. This all suggests the utmost compliance with international norms of civic nationhood.

Most importantly, Kosovar officials consistently and clearly refer to minority rights and inclusivity as sources of legitimacy. These form key pillars of a legitimation strategy that relies on democratic values. This is most marked with Atifete Jahjaga,¹² who often mentions Kosovo’s framework of minority rights as a great national achievement and a sign of the country’s status as a democracy. She even claims that “to build a democratic and inclusive country and to protect minorities” is one of Kosovo’s main goals (Jahjaga, 2011), illustrating the extent to which minority rights are seen as essential to democracy. She also says that ethnic diversity is “one of the largest treasure [sic] that

¹² President 2011-2016.

we have as the [sic] country” (Woods, 2014) and that “offering security and equal opportunities to everyone regardless of their ethnicity” is the only way to build citizens’ trust in state institutions (Jahjaga, 2013). This latter point emphasizes that minorities cannot be blamed for not integrating if the state does not make an attempt to welcome them. Although Jahjaga makes particularly extensive references to minority rights, the same tactic is used across the board. Even KLA veteran Ramush Haradinaj¹³ routinely refers to inclusivity and minority rights as testaments to Kosovo’s legitimacy, for example when discussing the Kosovo Defence Force (Bugajski, 2017; Kosovar PM’s Office, 2017).

There are many examples of explicit denunciation of ethnic nationalism. When brought up by interviewers, the idea of pan-Albanian unification is unequivocally rejected, with Albania referred to pointedly as “another country” (Synovitz, 2012). Ethnic nationalism is depicted as backwards and discredited and it is blamed for the violence that the Balkans saw in the 1990s. In one particularly illustrative instance, Jahjaga (2013) discursively links domestic ethnic diversity with globalization and international integration, characterizing ethnic nationalism and inter-ethnic conflict as something that prevents progress. She celebrates the fact that across the world “countries and people historically divided or left on the outskirts through means of oppression, social tradition or prejudice are taking their deserved places on [sic] the table” (Jahjaga, 2013). In this statement, she puts the marginalization of minorities in Kosovo on the same plane as the marginalization of Albanians in Yugoslavia and of Kosovo in international society. By doing so, she draws on the narrative of Albanians’ oppression in Yugoslavia and subsequent liberation through Kosovar independence, framing inclusion of minorities in Kosovo as part of the same course of progress.

Alleged violations of minority rights norms are also sometimes used to discredit Serbia. For example, Hashim Thaçi¹⁴ (2015) quotes a Serbian official who called for a “wider Christian front” against Kosovo joining UNESCO and condemns the statement as

¹³ Prime minister 2017-present.

¹⁴ Prime minister 2008-2014, foreign minister and deputy prime minister 2014-2016, president 2016-present.

having “clear racist undertones” and stirring up inter-religious hatred. Less pointedly, Jahjaga (2011) contrasts Kosovo’s “civic ideas of the [sic] citizenship” with the ethnic nationalism prevalent in the rest of the Balkans. This comment can be understood as a veiled slight at Serbia, or equally as a way of emphasizing that Kosovo is more deserving of recognition and engagement than its universally recognized neighbours.

There are also notable attempts to emphasize diversity, tolerance and inter-group harmony as something historically rooted and intrinsically Kosovar, rather than something learned or imported. For example, Jahjaga (2011) says:

“We are proud for [sic] our inter-religious tolerance. Kosovo, not only from today, not only from the [sic] decade back, but for about centuries back, we have the Catholic, Muslim and the Orthodox living side by side, living together, respecting their culture, tradition, religions and their monuments.”

This is particularly interesting, as it presents a narrative that tolerance and inclusivity are not being fostered due to contemporary international norms, but in fact pre-date said norms. To an extent, this contradicts the narrative of Kosovo striving to comply with international standards and the association of inclusivity with progress. However, it is in line with the linkage of minority rights with Kosovo’s struggle for independence. In essence, Albanian separatism is reimaged as a movement to create a civic state free of the ethnic nationalism that plagues the rest of the Balkans.

As well as the numerous apparent instances of treating minority rights as a source of legitimacy, there are a few particularly revealing comments that directly refer to them as such. The best example of this is when Enver Hoxhaj¹⁵ (2014) refers to “promoting Kosovo as a regional model of secularism and interfaith tolerance” as part of an effort “to change the image of Kosovo from a post-conflict place to an attractive place for international investments and tourism”. More bluntly and cynically, Ramush Haradinaj recounts that “we adopted the Ahtisaari [Plan] hoping this is the last thing and that China and Russia will recognize our independence” (Bugajski, 2017). These statements

¹⁵ Foreign minister 2011-2014 and 2016-2017, deputy prime minister 2017-present.

confirm that representatives of Kosovo consciously and deliberately emphasize the country's compliance with minority rights norms as part of a concerted legitimization strategy.

When it comes to the discursive construction of minorities themselves, there is no significant negativity or othering. Indeed, as mentioned above, non-Albanians are often explicitly included in the national community. However, there is a notable tendency to treat minorities as somewhat passive, focusing on things done *to* or *for* them, rather than on their own actions or agency. For example, Serbs are often mentioned as being integrated (by the Kosovar state) and are sometimes portrayed as the victims of meddling by Serbia, but they are seldom presented as actively integrating themselves and never referred to as actively colluding with Serbia. Indeed, the question of minorities' own preferences are often left conspicuously unaddressed, in particular as concerns sensitive issues such as "parallel institutions" (see Chapter 4.3.2), relations with Serbia and Kosovo's independence.

Thaçi (2014) provides one of the few examples of minorities' preferences and opinions being directly addressed. He starts by conceding that Serbs "have feared and have distrusted the Government of Kosovo, because of everything that has happened in the past decades". However, he goes on to argue that Serbs' participation in the 2014 elections shows new willingness to integrate and to accept Kosovar sovereignty. The main thrust of his comments is that ethnic conflict is over and that all of Kosovo's communities share common views and a common interest. Specifically, he claims:

"Albanians, Serbs and others all share the same dreams, the same hopes and the same rights to a secure future, with a focus towards the economy and the creation of new jobs. The citizens of Kosovo today, be they Albanian, Serb, Bosniak, Turk or Ashkali, are not interested in nationalistic speeches and their old ethnic dreams. They want jobs; they want progress and they want to see peace after decades of discrimination, war and uncertainty."

As such, this can hardly be considered an example of acknowledging minorities' agency. Rather, it is an explicit attempt to deny Kosovo's different ethnic groups distinct, autonomous interests and views. Furthermore, in this same speech Thaçi goes on to promise to "integrate the Serb minority", typifying the tendency to treat integration as something done by the state to communities, rather than as something minorities choose to do themselves.

In summary, Kosovar legitimation efforts make extensive reference to compliance with minority rights and official rhetoric is almost totally in line with international norms. Respect for diversity is portrayed as something inherent to Kosovo. Empowerment and inclusion of minorities in Kosovo and the Albanian struggle against Yugoslav rule are presented as two sides of the same coin. Civic citizenship, tolerance and diversity are treated as modern and progressive, while ethnic nationalism is associated with backwardness and war. In this vein, Kosovo's purportedly civic model of statehood and its respect for minorities are favourably contrasted with allegedly ethnocentric Serbia, which did not respect Albanian minority rights in Yugoslavia and continues to block Kosovo's progress as a state. However, despite the inclusive rhetoric regarding ethnic minorities, there is a tendency to treat them as mere objects of state policy, rather than as autonomous actors with full agency of their own and voices that should be taken into account.

4.1.3. Comparison and discussion

There is a clear difference in rhetoric between the two cases. While the Kosovars exclusively frame the nation in civic terms, the Abkhazians exhibit a predominantly ethnic conception of nationhood. Likewise, the Kosovars regularly mention minority rights and multi-ethnicity as testaments to Kosovo's legitimacy as a polity, while the Abkhazians do this occasionally, but mainly build their claim to legitimacy on other bases. Abkhazian officials engage in considerable othering of Georgians, consistently portraying them as outside the national community – sometimes as guests and sometimes as security risks. Kosovar officials do not do this towards their minorities,

but they do tend to neglect minorities' capacity to hold independent views and present them as lacking agency.

That said, it should be reiterated that Abkhazian legitimization strategies do exhibit some influence of minority rights norms. In particular, when specifically asked about ethnic issues, they explicitly reject ethnic nationalism and forced assimilation, just like their Kosovar counterparts. They also sometimes go out of their way to verbally include non-Abkhaz, for example by referring to "the multinational people of Abkhazia".

Moreover, in both cases there is a similar tendency to appropriate the language of international norms for their own purposes. This is exemplified in attempts to present tolerance and inter-ethnic harmony as something indigenous. At first glance this appears to be a repudiation of the deterministic, primordialist "ancient hatreds" or "clash of civilizations" argument often used by ethnic nationalists to present inter-ethnic conflicts as deep-rooted or even inevitable. However, inter-ethnic harmony is presented as natural to Kosovo and Abkhazia, rather than to the entire regions of the Balkans or the Caucasus. As such, it seems that the real purpose is to suggest that bad, aggressive ethnic nationalism is the exclusive domain of the parent state and thereby to further a narrative of innocence and victimhood. In this way, the ancient hatreds narrative is not so much rejected as repackaged: *we* have an ancient tolerance for diversity; *they* have an ancient hatred for us. In line with this, in neither case is there any denunciation of the ethnic nationalism that resulted in secession. Rather than addressing the roles played by Albanian and Abkhaz nationalism in the separatist movements, officials reimagine the ethnic secessionist conflict as one against ethnic nationalism and in favour of diversity and inter-ethnic harmony. The essential idea of secession as an expression of national self-determination remains, but the identity of the nation in whose name independence was sought is modified to nominally include minorities, despite their actual absence from the separatist movements.

This means that in both cases, rather than an outright abandonment of ethnic nationalism in favour of inclusivity, the rhetoric in fact reflects an amalgamation of the ethnocentric logic of secession and the internationally legitimate norms of multi-

ethnicity. This is certainly more obvious in Abkhazia, where ethnocentric views are clearly voiced and attempts at co-opting inclusive language are often heavy-handed or superficial. In Kosovo, the language of minority rights is used much more thoroughly and consistently, but the absence of a truly inclusive perspective is revealed by the lack of acknowledgement of non-Albanians having their own views.

When forming hypotheses to explain the different extents to which Abkhazian and Kosovar rhetoric conforms to international norms, it is instructive to consider the four variables that Zürn and Checkel (2005, p. 1055) identify as affecting whether norms are adopted. These are: 1) properties of the socializers, 2) properties of the socialized, 3) properties of the norms, and 4) properties of the interaction between socializers and socialized. For both cases studied here, factors 1 and 3 are the same: the norms are those pertaining to minority rights, as described in Chapter 2.3, and the socializer is international society as a whole, epitomized in the UN, the OSCE, the EU and the Council of Europe. This means that, although the cases are selected for similarity, the differences in rhetoric should be explicable with reference to either the properties of the socialized or the interaction between socialized and socializers.

The greatest and most relevant difference is to be found in the relationship between the socializers and the socialized, i.e. the level and nature of international engagement. Kosovo has received extensive attention from IGOs, NGOs and states around the world. Although it is not a member of the main norm-promoting organizations, these organizations have all been very active on its territory. Furthermore, Kosovo has been a member of the IMF and the World Bank since 2009, of the European Bank for Reconstruction and Development since 2012 and of the Council of Europe Development Bank since 2013. Moreover, as an aspiring EU member, Kosovo is subject to the normative pressure of accession conditionality. In Abkhazia, on the other hand, few foreign NGOs operate and there has been no UN or OSCE presence since 2009. Abkhazia does not even permit the EU Monitoring Mission in Georgia to enter its territory. Abkhazia is also excluded from Russia-led organizations like the Eurasian Economic Union, the Collective Security Treaty Organization and the Commonwealth of Independent States. On the question of international isolation, it is instructive to refer

to the normalization index developed by Berg and Toomla (2009, pp. 30–43), which compares the level of international integration of de facto states. On a ten-point scale, where 10 is the most integrated and 0 is the most isolated, they give Kosovo a score of 8.2 (“quasi-recognition”) and Abkhazia a score of 4.5 (“boycott”). Although the index was compiled in August 2009, early in the period with which this paper is concerned, it is still relevant. Indeed, if the index were made again for 2017, the contrast between the two would probably be even greater, as since 2009 Kosovo has certainly become more integrated, while Abkhazia’s situation has not changed significantly.

In light of this, it is hypothesized that greater international engagement results in rhetoric that more closely complies with international norms. There are two mechanisms that might explain this causal link. Firstly, the greater level of interaction with external actors should increase local politicians’ familiarity with the norms in question, enhancing their ability to use compliance as a legitimation strategy. Secondly, the greater prospects of material reward (e.g. grants, investment, EU membership) should increase the polity’s incentive to use compliance as a legitimation strategy. These hypotheses are in line with the views of Clogg (2008), Bradbury (2008), Eubank (2012), Philips (2016) and Richards (2014) that norm compliance depends on active socialization.

A further factor of relevance, concerning the nature of the socialized, is the extent to which the discourse of minority rights is compatible with the pre-existing conflict narrative. In Kosovo, the prevailing narrative among Albanians has always been that their separatism was a reaction to being treated as inferior to Yugoslavia's other ethnicities and in particular to repression under Milošević. As their secession was caused by the denial of rights to them as a minority, it is relatively easy for Kosovar Albanians to frame themselves as committed to minority rights. In Abkhazia, on the other hand, the narrative of minority rights does not fit as well, considering that Georgian leader Zviad Gamsakhurdia respected the region’s autonomy and allowed Abkhaz to dominate regional government much more than their population size justified. This is in line with Epstein’s (2012) argument that receptiveness to new norms is shaped by a polity’s prior norms and identities.

The importance of prior norms and identities is also useful for explaining why, even in Kosovo, there are remnants of ethnocentrism in rhetoric. The ideal of national self-determination, the victimhood narrative and the narrative of longstanding conflict with the parent state remain paramount, overriding any other consideration or norm. As such, minority rights norms are adopted to complement and contribute to these existing narratives, not to replace them outright. This explains why tolerance is presented as historically rooted and used to show normative superiority to the parent state. Likewise, fully acknowledging minorities' views and treating them as autonomous political subjects, while in line with the values of inclusivity, would be contrary to the idea of independence as an expression of unanimous, civic national self-determination, as in reality many minorities favour union with the parent state.

4.2. Legislation and institutions

4.2.1. Abkhazia

Abkhazia's constitution mostly takes an ethnically neutral tone, neither providing extensive minority rights nor elevating the Abkhaz to any kind of special status. In other words, the constitution only complies with the most basic liberal democratic norms vis-à-vis minorities, guaranteeing freedom to speak one's native language (Article 6, Abkhazian constitution, 1994), freedom of religion (Article 14, Abkhazian constitution, 1994) and equality before the law (Article 12, Abkhazian constitution, 1994). Indeed, the constitution does not specifically mention any of Abkhazia's ethnic communities other than the Abkhaz. There is provision for local self-government, but this is quite limited and lacks any apparent intention to grant ethnic communities control over their own affairs (Chapter 6, Abkhazian constitution, 1994).

At least formally, the constitution professes a civic conception of the nation, stating:

“The sovereignty bearer and sole source of authority in the Republic of Abkhazia shall be its people, i.e., the citizens of the Republic of Abkhazia.”
(Article 2, Abkhazian constitution, 1994)

However, this is undermined by the fact that Abkhaz is named the sole “official language”, with no mention made of any other language except Russian, which is recognized as a language of “state and other institutions”, a status at least symbolically inferior to that of Abkhaz (Article 6, Abkhazian constitution, 1994). An even more striking exception to the constitution’s ethnic neutrality is found in Article 49, which violates even the most minimal conception of minority rights by specifying that the president must be of Abkhaz ethnicity.

The constitution also contains a ban on “the incitement of social, racial, national and religious discord”, the purpose of which is somewhat ambiguous (Article 18, Abkhazian constitution, 1994). It resembles a provision against hate speech, which would be an important instance of compliance with minority rights norms. However, the fact that it concerns “discord” rather than hatred or violence suggests that it was intended less to protect minorities than to restrict their freedom to organize politically or make demands. This would follow the precedent of similar laws in authoritarian post-Soviet states, used to silence separatist minorities and other critics of the regime (for an example from Kazakhstan, see Human Rights Watch, 2016).

In keeping with the constitution, the Law on the State Language gives an unequivocally privileged position to Abkhaz, while providing considerable scope for use of Russian but affording little space for other languages. Indeed, the legislation’s main purpose seems to be strengthening the position of Abkhaz and reducing the use of other languages. The document starts by reiterating Article 6 of the constitution: that Abkhaz is the “state language” while Russian and Abkhaz are both “recognized as languages of state and other institutions” (Article 2, Abkhazian language law, 2007). The rest of the document essentially explains what this means in practice. Several articles focus on

ways in which the state will encourage the study, preservation and development of Abkhaz, a preoccupation that strongly suggests an ethnic conception of the nation, but which is not contrary to international norms per se.

The language law is most strident in privileging Abkhaz on issues of primarily symbolic value. Particularly noteworthy in this respect is the requirement that in all official documents, personal names must be written in Cyrillic in accordance with Abkhaz spelling rules (Article 12, Abkhazian language law, 2007). Toponyms on signs must be in Abkhaz, with additional Russian and English optional (Article 18, Abkhazian language law, 2007). Private businesses' advertisements, signs and promotional materials should be "predominantly" in Abkhaz (Article 17, Abkhazian language law, 2007). Labels, instructions and prices on domestically produced goods must be in Abkhaz and may also have Russian and English, as long as Abkhaz is more prominent (Article 17, Abkhazian language law, 2007).

On more substantive issues, there is a greater degree of pragmatism, with Russian generally enjoying equal status to Abkhaz, although always mentioned secondarily. At the same time, there is no scope for the use of other languages, even where one might expect language to be unregulated. All state enterprises, institutions and organizations should conduct business in Abkhaz if possible, but may use Russian if necessary (Article 11, Abkhazian language law, 2007). Legislation and official state documents such as passports and birth certificates must all be published in both Abkhaz and Russian (Articles 9 and 12, Abkhazian language law, 2007). Abkhaz and Russian are the languages of court proceedings, the military and all government ministries (Articles 14 and 8, Abkhazian language law, 2007). It is even stipulated that service industries and commerce should conduct business in Abkhaz or Russian (Article 17, Abkhazian language law, 2007).

However, there are some substantive provisions that greatly privilege Abkhaz. Most strikingly, it is mandatory for heads of state organs, heads of local administration and members of parliament to know and use Abkhaz (Article 2, Abkhazian language law, 2007). This would seem to totally exclude the vast majority of non-Abkhaz – and

indeed many Abkhaz – from political participation. Furthermore, Article 8 stipulates that parliament and the cabinet must conduct business in Abkhaz, though it also states that simultaneous translation should be provided to and from Russian for any participants who request it. Another highly exclusionary, if somewhat ambiguous, clause is found in Article 2, which states that Abkhazian citizens “should know the state language of the Republic of Abkhazia”. It is unclear whether this is supposed to imply that knowledge of Abkhaz is a precondition for citizenship or whether it is simply a statement of intent to promote study of the language. In either case, it puts a burden on minorities to learn Abkhaz without similarly requiring Abkhaz to learn any other language. Other particularly restrictive requirements are those that pertain to the media. Any print media published in Abkhazia must have at least half of its content in Abkhaz – or two thirds if it is a state-owned publication – while all radio broadcast domestically must have two thirds of its content in Abkhaz, with the exception of programming and music produced abroad (Article 16, Abkhazian language law, 2007). In short, these provisions all fly in the face of the spirit of minority rights.

The language law does however provide some rights and protections for speakers of languages other than Abkhaz and Russian. Firstly, the basic right to use any language is protected for “informal inter-personal relations” and “social and religious associations [and] congregations” (Article 1, Abkhazian language law, 2007). Similarly, when stipulating that service industries and commerce should use Abkhaz or Russian, Article 17 also specifies that service cannot be denied to customers on the grounds of not knowing these languages. There are also some exceptions to the rules on language in the media for ethnic minority organizations, although it is not clear how these organizations are defined (Article 16, Abkhazian language law, 2007). These meagre protections can however hardly be considered minority rights.

More substantially, participants in court proceedings who do not speak the language of court have the right to an interpreter and translation of relevant documents (Article 14, Abkhazian language law, 2007) and ethnic organizations have the right to form pre-schools and cultural institutions that use their ethnic languages (Article 7, Abkhazian language law, 2007). The most generous linguistic right afforded to minorities pertains

to education. In addition to being “guaranteed” education in Abkhaz or Russian, school-aged Abkhazians “have the right to” education in the language of their choice, within the bounds of what can be offered by the education system (Article 7, Abkhazian language law, 2007). These provisions are in fact very generous, bestowing considerable minority rights in line with international best practices. However, it should be noted that the vague proviso about minority-language education only being provided if possible leaves the possibility of minority-language institutions being closed down under a pretext such as lack of funds.

Probably the most ethnocentric piece of Abkhazian legislation is the 2005 Law on Citizenship, which clearly applies separate standards to Abkhaz and other ethnicities. The law’s preface sets the tone, declaring that members of the Abkhaz and Abazin¹⁶ diasporas have a right to “return” to Abkhazia. This is realized through Article 5, which bestows automatic citizenship on all Abkhaz and Abazins, regardless of their place of residence and whether they hold other citizenships. In contrast, people of other ethnicities are only automatic citizens if they had been resident in Abkhazia for five years as of 12 October 1999 and if they hold no other citizenship (Article 5, Abkhazian citizenship law, 2005). Indeed, other than for Abkhaz and Abazins, the only form of dual citizenship permitted is Abkhazian-Russian (Article 6, Abkhazian citizenship law, 2005). Citizenship is acquired at birth primarily on the basis of *jus sanguinis*: if both parents are Abkhazian citizens, the child is too regardless of place of birth; if one parent is an Abkhazian citizen and the other is not, the child is only a citizen if born in Abkhazia (Article 12, Abkhazian citizenship law, 2005). All those not within the categories already mentioned – including those born in Abkhazia to two parents without Abkhazian citizenship – must go through a naturalization process if they wish to become Abkhazian citizens. To be eligible for naturalization one must ordinarily have lived in Abkhazia at least 10 uninterrupted years since receiving permanent residency (*вид на жительство*) and must speak Abkhaz (Article 13, Abkhazian citizenship law,

¹⁶ Abazins (also known as Abaza) are an ethnic group closely related to Abkhaz, who resided in what is now western Abkhazia up until the 14th or 15th century, when they migrated northwards to today’s Russia. In the 19th century, along with many Abkhaz, they migrated en masse to the Middle East. Today significant populations remain in Russia, Turkey, Syria, Jordan and Lebanon (Tishkov, 1994).

2005). It should also be noted that citizenship can be denied to anyone who has acted against the “sovereign status of the Republic of Abkhazia”, which presumably includes anyone who served in the Georgian army during the wars (Article 16, Abkhazian citizenship law, 2005). This legislation seems to be designed to actively prevent minorities from attaining full political rights and ultimately to discourage non-Abkhaz from living in Abkhazia. Moreover, making citizenship more easily accessible to some ethnicities than to others fundamentally undermines any commitment to building a civic nation.

As the citizenship law is likely to deprive many non-Abkhaz of citizenship, it is also relevant to consider the 2016 Law on Foreign Citizens. According to this law, various categories of person are eligible for a temporary residency permit (*разрешение на временное проживание*). The clause most relevant to local ethnic minorities is the one stating that anyone “born in the Abkhaz ASSR and permanently residing in the Republic of Abkhazia for no less than five years” can receive temporary residency (Article 7, Abkhazian law on foreign citizens, 2016). This permit is valid for up to 4 years and can be renewed an unlimited number of times. Permanent residency (*вид на жительство*) is only available to those married to Abkhazian citizens and to “stateless persons born in the Abkhaz ASSR and permanently residing in the Republic of Abkhazia for no less than 10 years since 12 October 1999” (Article 10, Abkhazian law on foreign citizens, 2016). In other words, most non-citizens resident in Abkhazia have no prospect of permanent residency and therefore no prospect of naturalization. It should also be noted that both forms of residency will be denied or revoked if the holder or applicant has campaigned against the “independence and state sovereignty of the Republic of Abkhazia”, or if in the 1992-3 war they fought against the Abkhazian separatists or collaborated with the “occupying regime” (Article 9, Abkhazian law on foreign citizens, 2016). This would presumably prevent the return of any Georgians who performed mandatory military service during the war and certainly restricts the political activity of anyone who favours union with Georgia.

In addition to being unable to vote or run for public office (Article 17, Abkhazian law on foreign citizens, 2016), those without Abkhazian citizenship are forbidden from

working for the government, crewing a ship flying the Abkhazian flag, piloting an aeroplane or holding any job related to national security (Article 18, Abkhazian law on foreign citizens, 2016). Furthermore, they are only able to work in the district specified on their residency permit, making them unable to travel throughout Abkhazia in search of work (Article 14, Abkhazian law on foreign citizens, 2016). Another inconvenience is that all those without Abkhazian citizenship must report to the authorities annually to confirm that they are still living in Abkhazia (Articles 7 and 10, Abkhazian law on foreign citizens, 2016).

Abkhazia totally lacks any law on discrimination (Hammarberg & Grono, 2017, p. 26), let alone any legislation specifically creating minority rights. Nor are there any state bodies or government posts dedicated to minority issues. The closest to this is the Ombudsman for Human Rights, a position created in February 2016 and first filled nine months later (Hammarberg & Grono, 2017, p. 27). The Ombudsman can receive complaints about human rights abuses from anyone resident in Abkhazia, regardless of citizenship.

In summary, Abkhazia's legal framework is somewhat mixed with regards to minority rights. In general, it shows little influence of international norms. A great deal of legislation is highly ethnocentric, privileging Abkhaz and Abazins, especially on symbolic issues. However, ethnocentrism is moderated somewhat by extensive recognition of Russian as Abkhazia's second language. Furthermore, the law pertaining to education stands in stark contrast to most of Abkhazia's legislation and is in fact in line with internationally recommended best practices.

4.2.2. Kosovo

From the point of view of minority rights, Kosovo's legal framework is one of the most generous in the world. The constitution frames the nation in explicitly civic and inclusive terms, with its preamble expressing determination to build a "country that will be a homeland to all of its citizens" and its third article declaring that the "Republic of

Kosovo is a multi-ethnic society consisting of Albanian and other Communities”.¹⁷ The rhetorical commitment to multi-ethnicity does not stop there, with clauses mentioning the right of minorities to “freely express, foster and develop their identity and community attributes” (Article 57, Kosovar constitution, 2008) and to “preserve, protect and develop their identities” (Article 58, Kosovar constitution, 2008). Acknowledging the fraught nature of inter-ethnic relations in Kosovo’s post-conflict society, there is also a commitment to “promote a spirit of tolerance [and] dialogue and [to] support reconciliation among communities” (Article 58, Kosovar constitution, 2008).

The laws relating to citizenship are among the most important, laying the groundwork for a civically defined nation. Citizenship is automatically granted to all those who were legally resident in Kosovo on 15 June 2008, as well as “all citizens of the former Federal Republic of Yugoslavia habitually residing in Kosovo on 1 January 1998 and their direct descendants”, “regardless of their current residence and of any other citizenship they may hold” (Article 155, Kosovar constitution, 2008). These terms are quite broad and inclusive, guaranteeing citizenship to those of all ethnicities who left Kosovo due to the war. In the same vein, there is a commitment to “promote and facilitate the safe and dignified return of refugees and internally displaced persons and assist them in recovering their property” (Article 156, Kosovar constitution, 2008). Importantly, there is a clear and unconditional protection of the right to dual citizenship (Article 3, Kosovar citizenship law, 2008). Furthermore, for those born after the declaration of independence, both *jus sanguinis* and *jus solis* apply (Articles 5-6, Kosovar law on special protective zones, 2008)(Articles 5-6, Kosovar law on special protective zones, 2008)(Articles 5-6, *Kosovar law on special protective zones*, 2008)(Articles 5-6, *Kosovar law on special protective zones*, 2008)(Articles 3, 6 and 7, Kosovar citizenship law, 2008). Naturalization usually requires five years residence in Kosovo and proof of

¹⁷ The Law on the Protection and Promotion of the Rights of Communities and their Members in Kosovo (henceforth “the communities law”) recognizes seven ethnic minorities: Serbs, Turks, Bosniaks, Roma, Ashkali, Egyptians and Gorani (Article 1.4, Kosovar communities law, 2008). In addition, it specifies that Albanians in municipalities where they constitute a minority shall also benefit from minority rights (Article 1.4, Kosovar communities law, 2008).

integration into society, as well as sufficient finances and elementary knowledge of either Albanian or Serbian (Article 10, Kosovar citizenship law, 2008). So as to facilitate naturalization of those who left Kosovo before, during and after the war, the law extends the right to Kosovar citizenship to anyone born in Kosovo – or who has a parent born in Kosovo – who maintains family links there (Article 13, Kosovar citizenship law, 2008). By international standards, these laws are very inclusive.

Perhaps the most elaborate minority rights are those pertaining to government, which are clearly based on consociationalism. In parliament, 20 of the 120 seats are reserved for minorities: ten for Serbs, four for RAE, three for Bosniaks, two for Turks and one for Gorani (Article 64, Kosovar constitution, 2008). Furthermore, constitutional amendments require not only a two-thirds majority of the whole parliament, but also a two-thirds majority of the twenty minority representatives (Article 65, Kosovar constitution, 2008). Likewise, legislation pertaining to certain issues, such as languages, education, religion, cultural heritage, education and municipal boundaries, must be passed not only by a parliamentary majority, but also a majority of the twenty minority members of parliament (MPs) (Article 81, Kosovar constitution, 2008). There also has to be at least one deputy president, one minister and two deputy ministers from the Serb community and one deputy president, one minister and two deputy ministers from other minorities (Articles 67 and 96, Kosovar constitution, 2008). Within parliament there is a Committee on Rights and Interests of Communities – composed of one third Albanians, one third Serbs and one third others – which should review legislation (Article 78, Kosovar constitution, 2008). Outside parliament, there is a Consultative Council for Communities (CCC), which should “provide a mechanism for regular exchange” between minorities and the government (Article 60, Kosovar constitution, 2008).

Further in line with consociationalism, ethnic quotas extend beyond parliament. There is a strict quota for at least 15% of judges to be non-Albanians (Article 103, Kosovar constitution, 2008) and judges in courts serving Serb-majority municipalities are only appointed by Serb MPs (Article 108, Kosovar constitution, 2008). Of the Central Election Commission’s ten members, one is appointed by Serb MPs and three are appointed by other non-Albanian MPs (Article 139, Kosovar constitution, 2008).

Minorities are “entitled to equitable representation in employment at all levels in publicly owned enterprises and public institutions” (Article 9.5, Kosovar communities law, 2008). It is also required that minorities be “adequately represented on the regulatory bodies relating to the media” and “appointed to the Independent Media Commission in consultations with community representative organizations” (Article 6.7, Kosovar communities law, 2008). It is further specified that if minorities “find it difficult to meet standards for admission to positions in public services, including in particular higher-level positions, special measures shall be provided” (Article 9.6, Kosovar communities law, 2008). This seems to imply affirmative action.

Kosovo’s legislation on local self-government is also very relevant to the question of minority rights. In line with consociationalism, Kosovar municipalities effectively provide a degree of local autonomy for territorially concentrated ethnic groups, with many municipal borders having been deliberately drawn to match ethnic distribution (Krasniqi, 2015, p. 206). Although Kosovo is a unitary state, municipalities have extensive competencies, realized through directly elected municipal assemblies and mayors (Articles 17-18, 35 and 56, Kosovar local government law, 2008). In addition, the Serb-majority municipalities of North Mitrovica, Gračanica and Štrpce have extra competencies for provision of secondary health care, while all Serb-majority municipalities have enhanced competencies in cultural affairs and “enhanced participatory rights in the selection of the local station police commanders” (Articles 20 and 22-23, Kosovar local government law, 2008). Kosovar municipalities have the right to co-operate and form partnerships with one another and with local government bodies abroad (Articles 28 and 30, Kosovar local government law, 2008). Specifically, municipalities may co-operate with “municipalities and institutions, including government agencies, in the Republic of Serbia”, including receipt of “financial and technical assistance, [...] expert personnel and equipment” (Article 30, Kosovar local government law, 2008). This is a particularly notable provision, helping Serbs maintain links with their kin state.

However, municipalities are not defined as being of or for particular ethnicities and the Law on Local Self-Government includes extensive protection for those groups that form

minorities within a municipality. Each municipal assembly includes a “communities committee”, composed of assembly members along with community representatives, which has the task of “review[ing] all municipal policies, practices and activities” to “ensure that rights and interests of the Communities are fully respected” (Article 53, Kosovar local government law, 2008). In municipalities where the largest ethnicity accounts for less than 90% of the population, there is a “deputy mayor for communities” and a “deputy chairperson of the municipal assembly for communities” – posts that must be filled by individuals of an ethnicity that is a minority within the municipality (Articles 54 and 61, Kosovar local government law, 2008). The assembly’s deputy chairperson for communities should “serve as formal focal point for addressing non-majority communities’ concerns and interests” and should review claims by citizens that the municipal assembly’s acts or decisions violate minority rights (Article 55, Kosovar local government law, 2008). The role of the deputy mayor for communities is to assist and advise the mayor on minority issues (Article 61, Kosovar local government law, 2008).

The legal framework also contains important provisions relating to language. At the most basic level, everyone has the right to “use their language and alphabet freely in private and in public” (Article 59, Kosovar constitution, 2008). Likewise, any language may be used by private businesses and NGOs, though official languages must be used in certain spheres of “legitimate public interests” (Article 29, Kosovar language law, 2006). MPs all have the right to use their native language and receive interpretation, while official parliamentary documents must be published in Albanian and Serbian and all laws must be published in Albanian, Serbian, Bosnian and Turkish (Article 5, Kosovar language law, 2006). Furthermore, those arrested or detained by police have the right to be informed promptly of the reason in a language they understand and, if necessary, to a free interpreter in court (Article 4, Kosovar communities law, 2008). Of particular symbolic importance is the right for personal names to be “registered in their original form and in the script of their language” (Article 59, Kosovar constitution, 2008). In a similar vein, there is a commitment to “affirmative measures” to ensure that minority languages are “preserved, maintained and promoted” (Articles 4.9, Kosovar communities law, 2008). Other provisions on language include the right to

communicate with the Ombudsperson Institution in any language (Article 6, Kosovar language law, 2006), a guarantee of medical safety instructions in minority languages (Article 10.3, Kosovar communities law, 2008) and a requirement that penal and detention institutions “ensure that their staff speaks the language(s) of the greatest number of the incarcerated” (Article 18, Kosovar language law, 2006). The constitution also requires state broadcast media to include programming in all Kosovo’s languages and for a whole Serbian-language television channel to be established (Article 59, Kosovar constitution, 2008).

Albanian and Serbian are both official languages with completely equal status throughout Kosovo (Article 5, Kosovar constitution, 2008). If a community accounts for 5% of the population or more in a given municipality, their language is official in that municipality, alongside Serbian and Albanian (Article 2.3, Kosovar language law, 2006). Exceptionally, the municipality of Prizren has Turkish as an official language regardless of Turks’ share of the population (Article 2.3, Kosovar language law, 2006). Albanian and Serbian can be used equally in all state institutions and public enterprises and languages official at municipal level can additionally be used in municipal institutions (Articles 4, 7 and 11, Kosovar language law, 2006). This includes the right of citizens to use the relevant languages to communicate with and receive services and documents from institutions, the right of staff to use any relevant language and the publication of official documents in all relevant languages (Articles 4 and 7, Kosovar language law, 2006). Official languages have equal status in judicial proceedings (Article 12.1, Kosovar language law, 2006) and courts have a duty to issue documents in any official language requested by any party to proceedings (Article 14, Kosovar language law, 2006). Official status at municipal level also means that public signage should include that language alongside Albanian and Serbian (Article 9.2, Kosovar language law, 2006). Furthermore, if a community accounts for 3-5% of a municipality’s population, their language can be used to communicate with municipal authorities (Articles 2.4 and 8, Kosovar language law, 2006).

There are also extensive minority rights in education. Everyone has the right to state education in Serbian and Albanian at all levels, while education is to be provided in

other languages at pre-school, primary and secondary levels (Article 59, Kosovar constitution, 2008). If there are too few pupils to justify a school of a particular language locally, the state will offer transport, distance-learning or boarding (Articles 8.1-8.2, Kosovar communities law, 2008). Furthermore, minorities have the right to “establish and manage their own private educational and training establishments for which public financial assistance may be granted” (Article 59, Kosovar constitution, 2008). Of particular note are special dispensations for Serbian-medium schools, permitting them to use curricula and textbooks developed by Serbia’s Ministry of Education, upon approval by Kosovo’s Ministry of Education (Article 8.5, Kosovar communities law, 2008). Curricula and textbooks in other languages are to be developed by the Kosovar authorities together with the minority-language educational establishments themselves (Article 8.7, Kosovar communities law, 2008). They are to include content on the relevant group’s “culture, history and traditions” in addition to study of either Albanian or Serbian and the standard subjects taught in Albanian-medium schools (Articles 8.10 and 8.12, Kosovar communities law, 2008). Universities are free to decide for themselves which languages are used for instruction and administration (Article 23, Kosovar language law, 2006), but there is a commitment to establish “special measures” to ensure minorities “equal access” to higher education (Article 8.11, Kosovar communities law, 2008). The university in North Mitrovica enjoys special recognition as “an autonomous public institution of higher learning” operating in Serbian under the authority of the local municipality (Article 8.6, Kosovar communities law, 2008).

There is also a comprehensive and thorough law on discrimination, which makes an explicit exception for affirmative action (Kosovar anti-discrimination law, 2004). Indeed, the law on communities includes a commitment to use affirmative action “to promote full and effective equality in all areas of economic, social, political and cultural life, including education, media, health and other public services” (Article 3.4, Kosovar communities law, 2008). There is also a constitutional commitment to protect all citizens from “threats or acts of discrimination, hostility or violence as a result of their national, ethnic, cultural, linguistic or religious identity” (Article 58, Kosovar constitution, 2008). Similarly, there is a commitment to “refrain from policies or

practices aimed at assimilation” and to actively protect citizens from assimilation (Article 58, Kosovar constitution, 2008). Likewise, any measures to reduce the minority share of the population in a given area are forbidden (Article 2.3, Kosovar communities law, 2008). The criminal code bans incitement of “national, racial, religious or ethnic hatred, discord or intolerance” (Article 147, Kosovar criminal code, 2012) and describes as “aggravated” any crime motivated by ethnicity, national origin, nationality, language, religion or colour (Article 74.2.12, Kosovar criminal code, 2012).

As concerns religion, Kosovo is constitutionally defined as a secular state (Article 8, Kosovar constitution, 2008), where religious freedom is guaranteed (Article 38, Kosovar constitution, 2008). Religious groups have the right to “independently regulate their internal organization, religious activities and religious ceremonies” as well as “establish religious schools and charity institutions” (Article 39, Kosovar constitution, 2008). Furthermore, there is a commitment to protect “religious rites, traditional forms of religious life, including monastic life, and religious education [...] along with church property” (Article 7.4, Kosovar communities law, 2008). There is also a law that establishes “special protective zones” with the purpose of protecting Serbian Orthodox religious sites and other “historical and cultural sites of special significance” to Serbs (Article 1, Kosovar law on special protective zones, 2008). This law means that, in specified areas around designated sites, “commercial constructions or development”, “public gatherings, recreation and entertainment” and “urbanization of agricultural land” require permission of the Serbian Orthodox Church, while “industrial construction or development” and “construction or development leading to deforestation or pollution of the environment” are prohibited outright (Articles 5-6, Kosovar law on special protective zones, 2008).

The constitution enshrines the right of minorities to maintain links with ethnic kin abroad (Article 59, Kosovar constitution, 2008). This is furthered by a provision of the law on communities that commits Kosovo to “conclude [...] agreements with other states to encourage and foster cultural, educational and other forms of cross-border cooperation” (Article 5.8, Kosovar communities law, 2008). A different provision protects the right to receive television and radio broadcasts from abroad (Article 6.6,

Kosovar communities law, 2008). Minorities also have “the right to celebrate freely and publicly their traditional and religious holidays” (Article 5.5, Kosovar communities law, 2008). Toponyms must “reflect and [be] sensitive to the multi-ethnic and multi-linguistic character of the area” (Article 59, Kosovar constitution, 2008). The right to “use and display community symbols” is also protected. (Article 59, Kosovar constitution, 2008). Kosovo is even required to provide financial support to minorities’ “cultural initiatives” (Article 58, Kosovar constitution, 2008). Perhaps most unusually, the constitution names the Framework Convention for the Protection of National Minorities (FCNM) and the International Convention on the Elimination of All Forms of Racial Discrimination as “directly applicable” in Kosovo (Article 22, Kosovar constitution, 2008) and later states commitment to “respect the standards set forth in” the FCNM and the European Charter for Regional or Minority Languages (Article 58, Kosovar constitution, 2008).

In summary, Kosovo’s legal framework is exemplary of international minority rights norms, clearly influenced by recognized best practices. All four elements of Lijphart’s definition of consociationalism are present: minorities are guaranteed representation in parliament and inclusion in government; minority MPs can veto constitutional amendments and other key legislation; quotas are endorsed to ensure ethnic proportionality in state institutions; and extensive decentralization permits a considerable degree of localized self-government. Furthermore, numerous measures, especially concerning language, aim to facilitate minorities’ everyday lives and even to maintain links with their kin states, while other provisions serve to symbolically include and accommodate minority groups.

4.2.3. Comparison and discussion

The difference in legislation and institutions between Abkhazia and Kosovo is striking. Kosovo provides extensive minority rights and allows no trace of ethnocentrism in its legislation. In Abkhazia, on the other hand, the picture is mixed: Abkhaz are clearly privileged over other groups and there is little in the way of minority rights, with the

notable exception of education. Furthermore, in Abkhazia, Russian is effectively acknowledged as a lingua franca.

The greatest divergence can be seen in relation to government. In line with consociationalism, Kosovo's constitution is clearly designed to include minorities in politics, guaranteeing parliamentary seats to them and endowing their MPs with an effective veto over constitutional amendments and much other legislation, as well as creating various committees and bodies to deal with minority issues. In stark contrast, Abkhazia's legal framework apparently aims to exclude minorities from political life. Not only is there an absence of special measures to include minorities, but there is an explicit prohibition of non-Abkhaz serving as president and the requirement for all MPs to speak Abkhaz can be understood as an indirect measure to exclude minorities from parliament, considering how few non-Abkhaz know the language.

The contrast is also marked in relation to citizenship. Not only does Abkhazian legislation explicitly employ ethnicity as a criterion, granting citizenship to all Abkhaz and Abazins, but by only extending citizenship to those non-Abkhaz resident in Abkhazia in 1999, it excludes the great numbers who fled during the 1992-1993 and 1998 wars. Kosovar citizenship, in contrast, is constitutionally guaranteed not only to those who were living in Kosovo in 2008, but also to those resident in Kosovo before the 1998-9 war. Although this does exclude those who left Kosovo during the uncertainty and turbulence of the 1980s and 1990s, this is mitigated by the right of all born in Kosovo (and their children) to naturalize if they still have family in Kosovo. It is also highly significant that Kosovar legislation unconditionally permits dual citizenship, while Abkhazia unconditionally allows dual citizenship to Abkhaz and Abazins, but only allows others dual Russian-Abkhazian citizenship. The right to retain Serbian citizenship increases the sense of security among Kosovar Serbs, Roma and Gorani, reducing the risk involved in obtaining Kosovar documents and not forcing them to definitively choose allegiance. This means that even those opposed to Kosovar independence may hold citizenship, allowing them to integrate into Kosovar life. In contrast, Abkhazia's Georgians and Armenians can only benefit from Abkhazian citizenship if they are willing to forego the right to freely live and travel in their kin

states, not to mention symbolically severing allegiance with those nations. Those unwilling to make these sacrifices are left either unable to live in Abkhazia, or marginalized and disenfranchised.

Abkhazian and Kosovar legislation both provide for state-funded education in all minority languages. However, unlike Abkhazia, Kosovo also allows minority-language schools to include lessons on relevant ethnic history and culture. Moreover, Kosovar legislation grants scope for Serbian-language schools to employ textbooks and curricula from Serbia, allowing Serbs to maintain robust links with their kin state and firmly preventing education from becoming a tool of assimilation. No such concession is granted to Abkhazia's minorities. Another important language issue is the media, with Kosovo pledging support to minority-language media while Abkhazia requires both state and private media outlets to use Abkhaz.

When it comes to the languages in use in government and state institutions, Kosovo gives absolutely equal status to Albanian and Serbian. In a sense, Abkhazia is not too dissimilar, giving almost equal status to Abkhaz and Russian (the privileging of Abkhaz over Russian being more symbolic than practical). However, despite Armenians and Georgians both accounting for a greater share of the population in Abkhazia than Serbs in Kosovo, there is no scope for use of their languages. In contrast, even Kosovo's smaller minorities have the right to use their languages in local institutions in the municipalities where they live in significant numbers.

An important symbolic issue is that while Kosovo allows citizens of all ethnicities to have their names spelt in their native language in official documents – including Cyrillic script for Serbs – Abkhazia prescribes Abkhaz spelling, with no scope for the Georgian or Armenian alphabets, or even use of Russian spelling rules. Similarly, Kosovar legislation goes to lengths to ensure that public signage is always in both Albanian and Serbian, as well as the languages of minorities present locally, whereas Abkhazia only mandates signs in Abkhaz, and does not allow for signs in Georgian or Armenian at all.

Overall, it is fairly clear that international norms have had decisive influence on Kosovar law but little effect on the law of Abkhazia. As with the divergence in rhetoric discussed in Chapter 4.1.3, the difference in legislation between the two cases is best explained by their contrasting relationships with international society. It is hypothesized that greater international engagement results in legislation that more closely complies with international norms. As with rhetoric, there are two plausible causal mechanisms here. The first is that of material incentives. The second is the direct role of international actors in drafting legislation. Kosovo's constitution is directly based on Martti Ahtisaari's recommendations and foreign experts are available to advise Kosovar lawmakers on the drafting of any new legislation. Meanwhile, Abkhazian legislation is drafted without direct involvement or influence from external actors. In these circumstances, the gulf between the two cases is hardly surprising.

4.3. Situation on the ground

4.3.1. Abkhazia

Abkhazia's ethnic make-up has been the subject of much dispute since the end of the Soviet Union. The last figures that are generally accepted as accurate date back to the last Soviet census of 1989, which showed Abkhazia's population as 46% Georgian, 18% Abkhaz, 15% Armenian, 14% Russian and 3% Greek (International Crisis Group, 2010, p. 8). It is widely agreed that since then mass emigration has increased the Abkhaz proportion of the population, but there is no agreement on the extent of this (Trier, Lohm, & Szakonyi, 2010, pp. 139–40). The official results of the 2003 census give the population as 44% Abkhaz, 21% Armenian, 20% Georgian, 11% Russian and 1% Greek (Lenz, 2011). The 2011 census shows 51% Abkhaz, 19% Georgian, 17% Armenian, 9% Russian and 1% Greek (Kavkazskii Uzel, 2011). However, analysis by Lenz (2011) has shown that the 2003 and 2011 results cannot both be correct, as the growth in Abkhaz population (from 94,606 to 122,069) is much higher than can realistically be accounted for by natural population growth or immigration. Comai and Venturi (2015, p. 886) conclude that, as of their time of writing, "Abkhaz are most probably a plurality, but not a majority". In addition to the groups mentioned, there are

also small, largely Russified communities of other ethnicities, such as Ukrainians, Estonians and Ossetians.

Armenians are largely concentrated in the Gagra Region, where they constitute the plurality, and Sukhumi Region (excluding Sukhumi itself), where they form the majority (Kolstø & Blakkisrud, 2013, p. 2082). Rural Armenians mostly live in mono-ethnic villages, especially in central and eastern Abkhazia, while urban Armenians are more integrated with other groups (Kolstø & Blakkisrud, 2013, p. 2082). Small numbers of Georgians live throughout Abkhazia (O'Loughlin et al., 2011, p. 14), but the vast majority live in Gali Region,¹⁸ close to the Georgian border (International Crisis Group, 2013, p. 3). Gali's population is almost entirely Georgian and so has little contact with other ethnicities (International Crisis Group, 2013, p. 13). Most Georgians outside Gali are either elderly or are married to non-Georgians and well integrated with other groups (International Crisis Group, 2010, p. 9). Russians are mostly concentrated in the capital and in coastal resort towns in the northwest of the country (Ethno-Kavkaz, n.d.). The remaining Greeks, mostly elderly, are concentrated in Sukhumi (de Waal, 2002).

As of 2016, around 8,000 members of the Abkhaz and Abazin diasporas have been granted Abkhazian citizenship and some 3,500 are residing in Abkhazia (Dzutsati, 2016). Most of these migrants have come from Turkey. Since the Syrian Civil War started in 2011, the Abkhazian government has helped some 500-550 Abkhaz and Abazins from Syria migrate to Abkhazia. Despite receiving significant aid and support from the Abkhazian government, 150-200 of these Syrians have already left, citing difficulties integrating, lack of work and low living standards (Pender & Aedy, 2017).

Abkhaz overwhelmingly dominate politics. From 2012 to 2017, out of a total of 35 MPs, 31 were Abkhaz, three were Armenians, one was Georgian and none were Russian (Hammarberg & Grono, 2017, p. 53). From 2007 to 2012, there were 27 Abkhaz, three Armenians, three Russians and two Georgians (International Crisis Group, 2010, p. 10). In both cases all minorities were underrepresented relative to their share of the population, except Russians 2007-2012, whose number of seats was

¹⁸ Henceforth the word Gali refers to Gali Region and not to its eponymous town.

proportional to their population. Non-Abkhaz are particularly underrepresented in the higher echelons of government. For example, when David Iradyan was appointed Minister for the Economy in 2011, this was the first time in almost a decade that an Armenian had held a ministerial post (Kolstø & Blakkisrud, 2013, p. 2077). At the local level in Gali, very few Georgians hold administrative positions (International Crisis Group, 2013, p. 20).

It has been suggested that non-Abkhaz may be able to play a role as kingmakers, choosing to vote as ethnic blocs to support a particular Abkhaz faction. In apparent recognition of this, in his 2009 presidential campaign, Sergei Bagapsh focused his activities almost exclusively on areas with large Armenian and Russian populations (Kolstø & Blakkisrud, 2013, p. 2086). Similarly, at least until 2014, the Georgian vote had significantly impact on election outcomes and was courted accordingly (Hammarberg & Grono, 2017, p. 52). However, the authorities have responded negatively to attempts by non-Abkhaz to wield influence in this way. In 2011, after Abkhazia's main Armenian organization backed Sergei Shamba's unsuccessful bid for the presidency, newly elected president Aleksandr Ankvab forced the organization to change its leader (Kolstø & Blakkisrud, 2013, p. 2085). Moreover, the 2014 decision to revoke many Georgians' citizenship served to drastically reduce that community's voting power (Hammarberg & Grono, 2017, p. 52).

Non-Abkhaz are also underrepresented in the judiciary, the prosecution and law enforcement. As of July 2017, it is reported that among Abkhazia's judges, 35 are Abkhaz, three are Russian and one is Armenian (Hammarberg & Grono, 2017, pp. 20, 53). Although Russians and Armenians are reasonably well represented among police officers, there are none running the Ministry of Interior (Hammarberg & Grono, 2017, p. 53). In a 2010 survey, just over half of Abkhaz and Armenians, 41% of Russians and 26% of Georgians expressed trust in the police (O'Loughlin et al., 2011, p. 23). The ethnic neutrality of the courts is questionable, as it is reported that rulings in sensitive cases are often influenced by Abkhaz public opinion, which is determined by a strong sense of familial and ethnic loyalty (Hammarberg & Grono, 2017, pp. 21–22).

Implementation of legislation encouraging use of Abkhaz at the expense of other languages has been slow and patchy, largely due to the fact that less than half of the population speak Abkhaz. For example, as of 2015, parliament and government continue to hold their sessions in Russian (Comai & Venturi, 2015, p. 897). Most of the population consume media produced in Russia, while media produced locally mainly use Russian anyway (Hammarberg & Grono, 2017, pp. 28–29). For non-Abkhaz this non-implementation is largely positive, allowing them to continue to participate in public life.

According to the Ministry of Education, during the 2016-2017 academic year there were 156 schools in Abkhazia, with the official medium of instruction Abkhaz in 59, Russian in 57, Armenian in 25 and Abkhaz and Russian bilingually in 15 (Hammarberg & Grono, 2017, p. 34). In the 2013-2014 academic year, there were 165 schools, with the medium of instruction Abkhaz in 60, Russian in 47, Armenian in 31, Abkhaz and Russian in 16 and Georgian in 11 (Apsnypress, 2013). Both sets of data show that the share of schools teaching in Armenian matches the Armenian share of the population, while the proportion of Russian-medium schools is much greater than the Russian percentage of the population. Abkhaz and Abkhaz/Russian schools together account for a slightly smaller proportion of schools than the official Abkhaz share of the population (although potentially significantly higher than the true share). Georgian-medium schools are much fewer than the Georgian proportion of the population would suggest. It should be noted that as different schools can be radically different sizes, the number of establishments in itself does not tell the whole story. In particular, the fact that as few as a quarter of Armenians are said to attend Armenian-medium schools (Comai & Venturi, 2015, p. 897) suggests that the Armenian schools must on average have significantly fewer pupils than schools operating in other languages.

Comparing the two sets of figures reveals two important changes. Firstly, the numbers reflect an ongoing decline in the number of Armenian schools. By all accounts, this is due to lack of interest from Armenians rather than any shortcoming in the system. Most Armenian parents choose to send their children to Russian-medium schools for the simple reason that they believe this will give them better opportunities in life (Kolstø &

Blakkisrud, 2013, p. 2083). The second and more striking change reflected is 2015's forced Russification of Abkhazia's 11 remaining Georgian-medium schools – all of which were in the southern part of Gali, close to the Georgian border (Hammarberg & Grono, 2017, pp. 34–36). The official reason given for this change was that education in Russian will help Georgians integrate into life in Abkhazia. As many of the teachers had limited grasp of Russian, they were given preparatory language courses for two months prior to the switch. Needless to say, for many teachers this was insufficient preparation to teach effectively. It is reported that in practice some Georgian is still used to help children learn, but nonetheless the pupils have struggled with the transition and their learning progress has slowed considerably. The schools have been subject to compliance checks by state officials and law enforcement officers, who have on occasion searched pupils' bags for Georgian-language books, creating an atmosphere of intimidation (Hammarberg & Grono, 2017, p. 37). Georgian language and literature have continued to be taught in these schools as distinct subjects, usually for three hours per week. Within 12 months of the switch, some 60 children reportedly transferred to schools in Georgia. In some cases this meant children moving away from their parents to live with other relatives, while in other cases it entails daily border crossings.

Before the change, these 11 schools in lower Gali essentially used the curriculum and textbooks from Georgia. In fact, these schools were not integrated into the Abkhazian system at all until 2005 and only started issuing Abkhazian diplomas in 2007 (Hammarberg & Grono, 2017, p. 35). All Georgian-medium schools in other parts of the country were Russified in 1994 (Hammarberg & Grono, 2017, p. 34). In some of these schools, even elective classes on Georgian language and literature have been abolished.

Abkhazia's Russian- and Armenian-medium schools use textbooks and curricula from Russia and Armenia respectively, with the addition of classes on Abkhazian history and Abkhaz language (Hammarberg & Grono, 2017, pp. 34–35). Hammarberg and Grono (2017, p. 35) describe the Armenian-medium schools as “a good example of a well-functioning multilingual model”, highlighting the use of Armenian as the main language combined with comprehensive study of Russian and Abkhaz. Nonetheless, they report

that some Armenians want bilingual use of Armenian and Russian as media of instruction. It should be noted that Armenian-medium schools function well partly thanks to funding from the Armenian diaspora.

Over 200,000 Georgians left Abkhazia during the 1992-1993 war, but only around 45,000-55,000 have returned (Hammarberg & Grono, 2017, p. 38). This is largely because Georgians have only been permitted to return to Gali. Abandoned homes were occupied and looted en masse during the conflict, mostly by Abkhaz, and few have been returned to their pre-war owners (Hammarberg & Grono, 2017, p. 39). This problem affects Georgians, Russians and Greeks. Those few cases when Abkhazian courts have upheld the property rights of non-Abkhaz have caused resentment among the Abkhaz public and in many cases remain unimplemented (Hammarberg & Grono, 2017, p. 40).

Many non-Abkhaz returnees have been unable to obtain citizenship (Hammarberg & Grono, 2017, p. 54). This problem is particularly acute among Gali Georgians, who until 2006 could not generally acquire Abkhazian citizenship at all. A 2010 survey showed that Abkhazian passports were held by almost all Abkhaz and around 80% of Armenians and Russians, but only just over half of Georgians (O'Loughlin et al., 2011, p. 21). Between 2006 and 2013, around 22,000 Gali Georgians renounced citizenship of Georgia and received Abkhazian passports. The remainder either used old Soviet documents with a special stamp from the Abkhazian authorities, or an Abkhazian-issued document known as Form n.9. Until 2013, both the passport stamp and Form n.9 allowed bearers to cross the Abkhazian-Georgian border and to vote in Abkhazian elections, without formally conferring Abkhazian citizenship. However, in 2013 all passports issued to Gali Georgians since 2006 were declared invalid. From 2013 to 2017, the only document Gali Georgians could get was Form n.9, which now merely enables holders to cross the conflict line. The issuance of these documents required a lengthy and unreliable process and often entailed bribery. In 2017 the authorities stopped issuing Form n.9 altogether and Gali Georgians were required to apply for residency permits. In short, Gali Georgians' legal status in Abkhazia is unclear and precarious and there are concerns they could eventually be treated as foreigners (Hammarberg & Grono, 2017, pp. 58–60).

Those in Abkhazia who lack Abkhazian citizenship face several restrictions. Most significantly, they are unable to acquire property other than through inheritance. This inhibits their ability to move to different parts of the country and even prevents parents giving legal ownership of their homes to their children before they die. It also dissuades those without property in Abkhazia from returning. Non-citizens are also unable to register births or marriages in Abkhazia, meaning they have to go to Georgia to do so. They cannot work in the civil service, prosecution or local administration and since 2014 they have been unable to vote or run for election. They also face problems in education: in practice they can enrol in schools, but it is not certain that this is technically allowed. Some have succeeded in enrolling at Abkhazian State University, but many have been rejected due to their status (Hammarberg & Grono, 2017, pp. 56–57, 61–63).

Gali Georgians face various other issues. In some respects their situation has shown improvement and in other respects deterioration. Prior to mid-2012, Gali was often described as “lawless” and was plagued by violence from Georgian militias and criminal gangs of various ethnicities (International Crisis Group, 2013, pp. 18–19). Since then, there has been a decrease in criminal activity and improvement in the security situation (Hammarberg & Grono, 2017, p. 58). Another positive development is that many Georgians now regularly travel to Sukhumi for trade, work and administrative purposes – something that was unthinkable in the 1990s due to perceived safety concerns (Hammarberg & Grono, 2017, p. 51). In contrast, since 2008 it has become increasingly difficult to cross the Abkhazian-Georgian border other than at official crossing points, a fact that has reduced Gali Georgians’ freedom of movement into Georgia (Hammarberg & Grono, 2017, p. 58). Abkhazia countered this by establishing six crossing points by 2013, but in 2016-2017 three of these points were closed, a move that has had a particularly severe impact on the inhabitants of lower Gali (Hammarberg & Grono, 2017, pp. 64–65). Even when there were six open border crossings, for some children attending school across the border, the nearest crossing point was as much as 10km away. Such children mostly cross where there is no official crossing, thereby facing the threat of being detained or turned back by border guards

(Hammarberg & Grono, 2017, pp. 66–67). Around half of local law enforcement officers are Georgian, but nonetheless residents show low trust in the police, accusing them of corruption (Hammarberg & Grono, 2017, p. 19).

Hammarberg and Grono (2017, p. 53) mention that Armenians “are said to be in the lead” in “small and medium business and trade”, but they do not go into more detail on the matter. Kolstø and Blakkisrud (2013, p. 2088) report that Armenians themselves feel that they are doing better economically than Abkhaz, particularly due to their involvement in the lucrative tourist industry. Kolstø and Blakkisrud also mention the possibility of an unspoken contract whereby the Abkhaz who dominate the state agree not to interfere in Armenian business as long as Armenians stay out of politics. However, they point out that Armenian preponderance is limited to small and medium businesses, with Abkhaz totally dominating major enterprises. In a 2010 survey, Abkhaz reported marginally higher satisfaction with their financial situation than Armenians and Russians, while Georgians were significantly less satisfied than the others (O’Loughlin et al., 2011, p. 17).

Armenians and Russians generally perceive Abkhazia as open and welcoming in the context of everyday life and describe inter-ethnic relations as good (Hammarberg & Grono, 2017, p. 51). In a 2010 survey, around 80% of Armenians and Russians said they never felt discriminated against, compared to around half of Georgians (O’Loughlin et al., 2011, p. 21). However, paradoxically, in the same survey only around 40-45% of Georgians, Armenians and Russians said that non-Abkhaz “probably” or “definitely” had the opportunity for “well-paid jobs and significant posts” (O’Loughlin et al., 2011, p. 24). There have been reports of street-level discrimination and harassment against Armenians as well as of exclusion from state jobs and discrimination in the judicial system (Kolstø & Blakkisrud, 2013, p. 2078). There have also been cases of Abkhaz harassing elderly Russians into selling their homes and leaving Abkhazia (Hammarberg & Grono, 2017, p. 41). There is a sentiment among many Georgians, Russians and Armenians that Abkhaz have a privileged position in the eyes of the law and Georgians in particular complain of having a second-class status (Hammarberg & Grono, 2017, p. 51). Continuing ethnic tensions are reflected in a 2010

survey, which shows low readiness across the board to forgive other ethnic groups for violence committed in 1992-1993, especially among Abkhaz (O'Loughlin et al., 2011, p. 27). Similarly, in the same survey Abkhaz, Armenians and Russians overwhelmingly agreed with the statement that “among those displaced by war, there are people who should not be allowed to come back to Abkhazia” – which would have been understood by most respondents as a reference to Georgians (O'Loughlin et al., 2011, p. 28).

4.3.2. Kosovo

According to the best recent estimates, Kosovo's population is around 87% Albanian, 8% Serb, 2% Roma, Ashkali or Egyptian,¹⁹ 2% Bosniak or Gorani²⁰ and 1% Turkish (ECMI Kosovo, 2013). There are also a few hundred individuals who identify as Croats and Montenegrins respectively. The vast majority of Serbs live in settlements where they are the dominant group: around 85% live in Serb-majority municipalities, while about half live in the four Serb-majority municipalities north of the Ibar River²¹ (ECMI Kosovo, 2013, pp. 18–19). The largest concentration of Serbs south of the Ibar is in Gračanica, just 10km east of Prishtina. The average age of Serbs is the highest of any

¹⁹ Ashkali and Egyptians are Albanian speakers of Roma origin who since the 1990s have come to identify as distinct groups. Egyptian ethnogenesis resulted from exclusion by Albanians and a desire to escape anti-Roma sentiment. Ashkali identity emerged for the same reasons, but was adopted by those who wanted to emphasize loyalty to Albanians and distance themselves from the Egyptian movement, which was perceived by many as pro-Serbian. Furthermore, the structure of the Kosovar political system and the policies of IGOs have created incentives for these communities to organize as separate groups. (Lichnofsky, 2013)

²⁰ The line between Bosniaks and Gorani is not clear-cut and is partly political. In Yugoslavia, all Slavic Muslims had their ethnicity simply classified as *Muslim*. In the 1990s, some of those in Kosovo followed the example of Bosnia's Muslims and started identifying as Bosniaks, while others emphasized their unique local dialect and declared themselves a distinct ethnicity, Gorani. Although there is a tendency for those with their origins in Gora region (the southernmost part of Dragash municipality) to identify as Gorani while those whose ancestors came to Kosovo from Bosnia or Sanjak identify as Bosniak, there is also a tendency whereby those supporting Kosovo's independence identify as Bosniak and those opposing it identify as Gorani. (Cocozzelli, 2008, pp. 290–294)

²¹ These are North Mitrovica, Leposavić, Zvečan and Zubin Potok. Henceforth they are referred to as North Kosovo.

group, much higher than the Kosovar average. Bosniaks and Gorani mostly live in the south of Kosovo: 58% of Bosniaks and 6% of Gorani live in Prizren municipality, where together they account for 10% of the population, while 82% of Gorani and 14% of Bosniaks live in Dragash municipality, where they make up 39% of the population (ECMI Kosovo, 2013, pp. 24–25, 52). There is also a notable Gorani population in North Mitrovica and a significant Bosniak population in Peć. The Gorani and Bosniak populations are considerably older than the Kosovar average (ECMI Kosovo, 2013, pp. 25, 53). The largest concentration of Turks is in Prizren, where they account for 5% of the population. Kosovo also has one Turkish-majority municipality, centred on the village of Mamusha, plus a significant number of Turks also reside in Prishtina, where they make up 1% of the population (ECMI Kosovo, 2013, p. 29). Turks are slightly older than the Kosovar average (ECMI Kosovo, 2013, p. 30). Roma, Ashkali and Egyptians (RAE) are spread throughout Kosovo. The municipalities with the largest populations are Prizren (which is 4% RAE), Gjakova (7% RAE), Kosovo Polje (12% RAE), Peć (4% RAE) and Ferizaj (4% RAE) (ECMI Kosovo, 2013, pp. 35, 41, 47). They are considerably younger than the Kosovar average (ECMI Kosovo, 2013, pp. 36, 42, 48).

In line with the relevant legislation, as of the 2017 parliamentary elections non-Albanians hold 20 seats in parliament, meaning they are overrepresented relative to their share of Kosovo's population (Zeqiri et al., 2017). Since the declaration of independence, minorities have never been underrepresented in parliament. Similarly, minorities have consistently held ministerial posts, as prescribed by law (OSCE, 2015, p. 21). Importantly, non-Albanian MPs report that they exert real influence on decision-making (Lončar, 2015, p. 366). Furthermore, they say that their presence in parliament reduces their communities' distrust of Kosovar institutions and helps them feel more included in Kosovar society (Lončar, 2015, p. 365).

However, it is reported that there is little co-operation between Albanian and non-Albanian MPs and that Serb MPs in particular rarely communicate with their Albanian counterparts outside of the plenary hall (Lončar, 2015, p. 368). Non-Albanian MPs mostly influence policy through international actors – whose help they reportedly seek

on almost all issues – rather than by directly engaging with Albanian MPs (Lončar, 2015, p. 366). Furthermore, many Albanian MPs feel that minority MPs abuse their powers, using their veto to block the policy-making process and the threat thereof as leverage to gain concessions (Lončar, 2015, p. 365). This perception has a negative effect on inter-ethnic relations, causing resentment. Moreover, many Albanian MPs believe that the minority MPs use their position to advance their personal interests rather than the interests of their communities. They claim that ethnic minorities themselves are aware of this, which leads them to be disillusioned with the system (Lončar, 2015, p. 367).

It should also be mentioned that since 2013 the vast majority of Serb MPs have come from the Serb List (*Srpska lista*), a Kosovar party with close ties to Serbia's governing party, the Serbian Progressive Party (*Srpska napredna stranka*). Indeed, the Serb List is often said to be under Belgrade's control. The electoral success of the Serb List is at least partly due to pressure they put on Kosovar Serbs. Specifically, employees of parallel institutions (see below) are obliged to vote for them or risk losing their jobs (Zeqiri & Arsić, 2017). This means that Serbs lack genuine democratic representation. Furthermore, as Serb List MPs usually do not constructively engage with Kosovar institutions or Albanian MPs, their presence in parliament does little to further Serbs' integration (Zeqiri & Arsić, 2017).

Beyond parliament, the CCC is quite active, issuing recommendations to institutions on issues of relevance to minorities and reviewing draft laws. However, MPs do not systematically consult the CCC in the early stages of legislation and policy development and when they do consult it, this is often only due to prompting by IGOs. Furthermore, the CCC does not report to international human rights mechanisms as foreseen by law, nor does it make significant efforts to engage with the communities it is supposed to represent (OSCE, 2015, p. 21). As at the central level, municipal governments adhere to the rules concerning minority representation. However, communities in the minority at municipal level have limited meaningful participation in decision-making, with many minority representatives playing little more than a tokenistic role (OSCE, 2015, p. 22).

A 2014 survey about Serbs' and Albanians' views of one another reveals massive ethnic distance between the two groups. While 80.2% of Albanians and 74.2% of Serbs would accept members of the other ethnicity as neighbours, just 57.6% of Albanians and 50.6% of Serbs would accept a member of the other ethnicity as a boss and a mere 15.7% of Albanians and 12.3% of Serbs would accept them as a spouse (Jović, 2015, pp. 263–264). Similarly, just 14.5% of Albanians and 7.5% of Serbs would send their child to a school where the majority of pupils were of the other ethnicity (Jović, 2015, p. 267). There is little age-based variation in these responses, with attitudes just as negative among the younger generation as among those who lived through the war (Jović, 2015, p. 265). This inter-ethnic animosity results in low support for minority rights. Just 49.6% of Serbs and 20.7% of Albanians think the Albanian and Serbian languages should have equal status in Kosovo, while just 56.7% of Serbs and 56.2% of Albanians think non-Albanians should be in Kosovo's parliament (Jović, 2015, p. 268).²² The survey not only shows negative opinions, but also physical separation: 50.6% of Albanians report having no contact whatsoever with Serbs and 35.9% of Serbs say they have no contact with Albanians (Jović, 2015, p. 266). Only a tiny minority of Serbs regularly travel to Albanian-majority areas for work or education (Fridman, 2015, p. 175)

Similarly, the OSCE (2015, p. 4) writes of a “lack of interaction and dialogue among communities” and “limited expression of tolerance in society”. At both central and municipal level, there have been few efforts to bring citizens of different ethnicities together or to otherwise promote tolerance and diversity, and those initiatives that have been undertaken have been predominantly donor-driven (OSCE, 2015, p. 6). The Working Group on Dealing with the Past and Reconciliation has failed to meet regularly, has experienced very little participation from minorities and has been generally unproductive (OSCE, 2015, p. 6).

²² The low number of Serbs in favour of non-Albanians joining parliament presumably reflects an outright rejection of Kosovar institutions, rather than a belief that their own community should not have political representation.

Crimes with apparent ethnic motivation remain common, particularly against Serbs, including theft, physical assault, verbal assault, threats, vandalism and hate speech (OSCE, 2015, p. 9). An especially common issue is vandalism against religious and cultural sites, with Serbian Orthodox sites disproportionately affected (OSCE, 2015, p. 32). Kosovo is unable to appropriately address such crime, as the police do not systematically and reliably record whether crimes are ethnically motivated (OSCE, 2015, p. 11). As such, there is an impression among minorities that the perpetrators of hate crime enjoy impunity (European Commission, 2016, p. 29). That said, in areas where attacks against non-Albanians have been repeatedly reported, the police have increased their presence and installed surveillance cameras (OSCE, 2015, p. 11). The police make use of community liaison officers to maintain regular contact with minorities and have attempted to recruit non-Albanians, though some minority groups remain underrepresented (OSCE, 2015, p. 13).

Of the 220,000 persons displaced outside of Kosovo by the 1999 conflict and the 2004 riots, only 26,098 have returned (OSCE, 2015, p. 29). Moreover, the rate of returns has been decreasing annually (European Commission, 2016, p. 29). The question of non-Albanian returnees is a major source of inter-ethnic tension. Albanians often express resistance to Serbs and other non-Albanians returning to Albanian-majority settlements and even to non-Albanians coming to these settlements to visit relatives' graves (OSCE, 2015, p. 7). In addition to isolated acts of violence, vandalism and intimidation, there have also been concerted campaigns to petition the authorities to block returns (OSCE, 2015, p. 31). In the majority of locations where the local population has expressed such resistance to returnees, the authorities have taken little or no action to mediate or otherwise support the return process (OSCE, 2015, p. 9). Furthermore, there is a huge backlog of court cases relating to the property rights of displaced persons (OSCE, 2015, p. 13). Even when courts come to decisions on property cases, there is often weak enforcement of rulings, leaving displaced persons unable to reclaim their former homes (OSCE, 2015, p. 15). Displaced RAE have faced particularly difficult conditions. Notably, RAE displaced from Mitrovica were left in makeshift camps outside the city for over a decade (Hopkins, 2016). Not only was this much longer than most IDPs of other ethnicities had to live in camps, but the RAE camps were knowingly built on lead-

contaminated land and had dangerously poor sanitary conditions, with many residents suffering serious health consequences (Rorke, 2016).

In many ways, Kosovar Serbs have stronger social and political ties to Serbia than to Kosovo (Limani, 2015, p. 355). This is particularly the case in North Kosovo, from which one can relatively quickly and easily go to Serbia (Lončar, 2015, p. 367). Serb-populated areas throughout Kosovo have Serbian state institutions known as “parallel structures”, which are illegal under Kosovar law. These institutions include local government, healthcare and schools. Until 2013, these were the only institutions in North Kosovo, whereas in the rest of the country they existed alongside Kosovar institutions (with the exception of education, see below). Until 2013, North Kosovo also had Serbian police and a body called Civil Protection (*Civilna zaštita*), which assisted the population in emergencies and also worked on road maintenance, bridge repairs and providing security (Stakić & Bjeloš, 2015). Since 2013 Kosovar institutions have been gradually introduced in the north, Serbia’s police force has been removed and Civil Protection has disbanded, its former members given employment in Kosovar institutions (Kosovar Ministry for Dialogue, 2016). Until 2016 the Kosovar justice system was completely absent from North Kosovo, where the Serbian judicial system was in effect (OSCE, 2015, p. 12). In 2016 Kosovo began preparing for the introduction of its judicial institutions in these municipalities by recruiting 44 judges, 34 prosecutors and 148 administrative staff, all Serbs (Kosovar Ministry for Dialogue, 2016, p. 4). In October 2017 the judiciary in these municipalities was fully integrated into the Kosovar system (EEAS, 2017).

Two completely separate educational systems operate in Kosovo: Serbian and Kosovar. The Serbian schools operate more or less as if they were in Serbia, following Serbian curricula, without input from Kosovar authorities (OSCE, 2015, p. 17). There is no formal co-operation between the two systems other than a handful of cases where a Serbian and a Kosovar school share the same premises and there are arrangements vis-à-vis maintenance and utilities (OSCE, 2015, p. 8). Schools from the Kosovar system operate in Albanian, Turkish and Bosnian. Turkish- and Bosnian-medium schools are generally available to everyone who wants them – even where the number of pupils is

less than the required minimum – but there is a lack of Kosovar textbooks in these languages, so teachers often rely on imports (OSCE, 2015, pp. 17–18). These schools all follow essentially the same curriculum, with additional classes on the relevant ethnic history and culture. The Albanian-medium schools offer no opportunity to learn any minority languages, while the Turkish- and Bosnian-medium schools offer Albanian as an elective subject taught two hours per week, but lack proper training or teaching materials for this (OSCE, 2015, pp. 7–8, 19). Schools from the Serbian system all use Serbian as their main medium of instruction and none offer the opportunity to learn Albanian. Kosovo has no Romani-medium schools, but some schools from both systems offer Roma pupils special classes on Romani language, history and culture (OSCE, 2015, p. 17). However, there is no proper training available for teachers of these classes (OSCE, 2015, p. 19). Neither system offers any schools or classes dedicated to Gorani, Croats, Ashkali, Egyptians or Montenegrins (OSCE, 2015, p. 18).²³

There is no higher education available in minority languages other than Serbian. Serbian-medium education is offered at an institution in North Mitrovica that was founded when Serbs from the University of Prishtina relocated there during the war. The university operates within the Serbian system and calls itself the University of Prishtina (*Univerzitet u Prištini*), while Kosovar authorities and IGOs refer to it as the University in/of North Mitrovica, the University in/of Kosovska Mitrovica or the University in/of Mitrovica (OSCE, 2015, p. 19). Due to its non-compliance with Kosovar legislation, its degrees are unrecognized by Kosovar institutions, restricting its graduates' employment opportunities. However, since 2015 it has been possible for graduates to have their degrees “verified” so that they can apply for jobs in Kosovar institutions (CVDIUM, 2016).

²³ This should not be seen as too serious of a shortcoming, considering that Gorani, Croats and Montenegrins are very small in numbers and speak essentially the same language as Serbs and Bosniaks, while Ashkali and Egyptians speak Albanian and do not really have any history or culture distinct from that of Roma. Gorani have the greatest claim to educational accommodation, as their distinct dialect could in principle be taught in schools, but this would require extensive work in codification, standardization and development of teaching materials.

RAE children face various problems in education, including high rates of non-enrolment and dropouts and low educational achievement. In both school systems they face bullying from fellow pupils as well as systematic discrimination, such as segregation from children of other ethnicities (OSCE, 2015, p. 18). As a result of these issues, RAE have high rates of illiteracy (OSCE, 2015, p. 26). RAE are also highly disadvantaged by various other metrics. Perhaps most strikingly, they suffer from high rates of malnutrition and their infant mortality rate is around three times as high as the Kosovar average (Kosovar Stats Agency, 2014, p. 4). All minorities – but especially RAE – have problems with access to public utilities and health services (OSCE, 2015, p. 23). For RAE, these issues are often exacerbated by difficulties they face in acquiring personal documents (Human Rights Watch, 2018, p. 475). RAE also face serious discrimination in all aspects of their lives (Human Rights Watch, 2018, p. 474). As the 2004 Law on Anti-Discrimination was vague in prescribing enforcement mechanisms, it was poorly implemented (OSCE, 2015, p. 28). The 2015 Law on Protection from Discrimination addressed these issues, but implementation remains poor due to citizens being unaware of their rights (OSCE, 2015, p. 29). With the apparent aim of ameliorating the situation of RAE, the government published the “Strategy and Action Plan for the Integration of Roma, Ashkali and Egyptian communities in Kosovo, 2009-2015”. However, the authorities failed to implement this in a co-ordinated or systematic way (OSCE, 2015, p. 25).

As of 2012, Kosovo's overall unemployment rate was 45%. The level was lower among Serbs, Bosniaks and Turks, who all had 38% unemployment (ECMI Kosovo, 2013, pp. 22, 27, 33). The Serb community in North Kosovo, which maintains considerable ties with Serbia, is generally wealthier than the more rural Serb population in the rest of the country. Unemployment was somewhat higher among Gorani, at 50% (ECMI Kosovo, 2013, p. 55). Among RAE, the situation was considerably worse: 60% for Roma and Ashkali and 80% for Egyptians (ECMI Kosovo, 2013, pp. 39, 44–45, 50). Furthermore, Egyptians' average household income was less than half the Kosovar average, and among Roma and Ashkali the income level was even lower.

Kosovo's media is ethnically polarized. Reporting is often biased and incomplete due to the fact that journalists generally only use sources from their own community and media outlets usually only employ staff of a single ethnicity (OSCE, 2015, p. 7). This particularly skews reporting of ethnic issues, where media from different groups often present completely divergent narratives (OSCE, 2015, p. 34). Although the constitution mandates the establishment of a Serbian-language state television channel, this was only achieved in 2013 (OSCE, 2015, p. 34). The resulting channel, RTK2, allocates 15% of its programming to languages other than Serbian, most notably Romani. The other state channel, RTK1, which broadcasts primarily in Albanian, has special programming dedicated to RAE and Turks. There is however no state television dedicated to Bosniaks (OSCE, 2015, p. 34).

In a 2015 survey, 67% of non-Albanians expressed lack of trust in Kosovar judicial institutions, while 68% voiced the belief that the judicial system lacks equality (OSCE, 2015, p. 11). This sentiment is lent credence by the fact that non-Albanian defendants lack legal representation considerably more often than Albanians (OSCE, 2015, p. 11). Minorities are also underrepresented in the judiciary: as of 2015, Kosovo had just five non-Albanian prosecutors, none of whom were Gorani or RAE, while just 5% of registered lawyers were from minorities (OSCE, 2015, p. 14). Before 2014, UN-funded legal aid was provided to many non-Albanians in Mitrovica and Gračanica, but since funding ended there has been little legal aid available to the minorities in these areas (OSCE, 2015, p. 13). A particularly important issue is that of language in court. Of 105 criminal cases involving only Serb defendants monitored by the OSCE in 2014, all were conducted in Albanian (OSCE, 2015, p. 12). Moreover, in the majority of cases where translation is required, it is either not provided or of poor quality (OSCE, 2015, p. 11).

The non-realization of linguistic rights is an issue not just in court, but throughout Kosovo. Institutions have been slow to comply with their obligations to provide services and documents in different languages, municipal assemblies have been slow to introduce simultaneous interpretation and authorities have been slow to introduce bi- and multi-lingual signage (OSCE, 2015, p. 15). Furthermore, too few translators and interpreters are employed and the number of state employees fluent in Serbo-Croatian is

actually decreasing, as only those Albanians educated in Yugoslavia know the language (OSCE, 2015, p. 16). Identity cards and civil registry documents are available in Turkish, Albanian, Bosnian, Serbian Cyrillic, Serbian Latin and English, but Serbian Cyrillic, Bosnian and Turkish only were only introduced in 2015 (OSCE, 2015, p. 15). Parliament provides interpretation for Albanian, Serbian and Turkish at all committee meetings and plenary sessions and reliably publishes all documents in Albanian and Serbian, but there have been numerous cases where the Serbian translations of laws have not matched the Albanian versions (OSCE, 2015, p. 16).

4.3.3. Comparison and discussion

At first glance, the situation in government is totally opposite in the two cases: non-Abkhaz are drastically underrepresented in Abkhazia, while non-Albanians are overrepresented in Kosovo. Furthermore, Kosovar minority MPs claim to exercise real influence on policy. However, these representatives do not significantly collaborate with their Albanian counterparts, but rather contribute to the ethnic segmentation of public life. Moreover, reports of low political engagement among Kosovar minorities and of representatives disconnected from their constituents raise doubts about the extent to which non-Albanians really are represented. Most markedly, Serbs lack true democratic representation, as the Serb List secures predominance by putting pressure on voters and hounding opposition. As such, it seems that the guaranteed seats in Kosovo's parliament create the appearance of political inclusion, regardless of the level of actual involvement of minority communities themselves. The apparently low level of political engagement among Kosovar minorities is mirrored among minorities in Abkhazia, who have shown general reluctance to become involved in political life and are wary of dissenting from Abkhaz popular opinion. In those Kosovar municipalities where non-Albanians form a majority, they enjoy a significant degree of self-government, unlike in Abkhazia, where governance is strongly centralized. However, ethnic groups in minority at the municipal level in Kosovo do not exercise much influence on local government, just as it is reported that non-Abkhaz are underrepresented at local level in Abkhazia.

Abkhazia's total ban on Georgians returning to any region other than Gali stands in stark contrast to the official policy in Kosovo, which formally welcomes returnees of all ethnicities. However, in practice the returnee situation in the two cases is quite similar: in both cases the pace of returns by minorities has been slow, with only small numbers of Serbs and RAE having returned to Kosovo and small numbers of Georgians, Greeks and Russians having returned to Abkhazia. Furthermore, in Abkhazia the idea of Georgians returning meets great resistance from Abkhaz, Armenians and Russians, just as Albanians resist the return of Serbs and RAE to Kosovo. Another clear similarity can be seen in the slow progress on property cases where Abkhaz and Albanians have occupied the homes of minorities. In both countries, the court cases drag on sluggishly and when there are rulings in favour of minorities, they are often unimplemented.

A major difference can be seen in citizenship policy. The Abkhazian ban on dual citizenship for minorities has no equivalent in Kosovo, which permits dual citizenship unconditionally. Likewise, many non-Abkhaz experience difficulties obtaining Abkhazian citizenship even if willing to give up other passports, whereas in Kosovo there have been no significant complaints of such issues. As a result, large numbers of Abkhazia's Georgians (and some Russians, Armenians and Greeks) have ambiguous legal status, are stateless or are aliens. These people face numerous serious restrictions, including the inability to vote, run for office, buy property, register births and marriages or work in certain spheres. It is true that in Kosovo some RAE experience difficulties obtaining identity documents, but these individuals are nonetheless ultimately treated as citizens. In general, everyone in Kosovo has been able to acquire citizenship, have they wanted to. In a similar vein, Abkhazia has run a concerted campaign to encourage immigration by Abkhaz and Abazins from the diaspora, while Kosovo has made no open attempt to increase Albanians' share of the population. However, it should be noted that the effects of the Abkhazian "repatriation" campaign have been very limited.

There is a lack of data on the actual prosperity of different Abkhazian ethnic groups, but satisfaction with their personal financial situation is somewhat lower among Russians and Armenians than among Abkhaz, and considerably lower among Georgians (who are largely excluded from various careers due to citizenship). Although Abkhaz dominate

large enterprises, Armenians have a firm niche in small business. In Kosovo, Turks, Bosniaks and Serbs (or at least the Serbs of North Kosovo) are actually more prosperous than Albanians. However, Gorani and RAE are substantially disadvantaged. Indeed, no ethnic group in Abkhazia comes close to the level of marginalization faced by RAE in Kosovo.

In both cases, minorities are underrepresented in the judiciary, the prosecution and law enforcement, especially at higher levels. There has however been some increase in the inclusion of minorities during the period studied, particularly in Kosovo but also in Abkhazia, where more Gali Georgians have been recruited by the police. In both countries, the ethnic neutrality of the courts is under serious doubt, as they are hesitant to rule against members of the ethnic majority in ethnically sensitive cases.

A major difference is Abkhazia's cessation of Georgian-medium education (in most of the territory from 1994 and totally since 2015), compared to Kosovo's firm commitment to provide education in all communities' languages. However, Abkhazia's Armenians and Russians enjoy access to education in the language of their choice, just like most Kosovar minorities. In both countries smaller minorities (e.g. Greeks, Estonians and Ukrainians in Abkhazia; Gorani, Ashkali, Egyptians and Croats in Kosovo) lack their own schooling, but this is largely justified by their small numbers, older population and their tendency to speak Russian in Abkhazia and Albanian or Serbo-Croatian in Kosovo. Another notable similarity in the sphere of education is the lack of locally produced curricula and teaching materials in minority languages. Serb, Armenian, Russian and pre-2015 Georgian curricula come entirely from abroad, while Bosniak and Turkish schools do use Kosovar curricula but are heavily reliant on textbooks from Bosnia and Turkey. The "parallel" nature of the Serb education system in Kosovo is unlike anything in Abkhazia during the period studied, but does have similarities to how Gali's Georgian schools functioned prior to 2005.

In Abkhazia, generally, the level of inter-ethnic integration is higher than in Kosovo. While Kosovar Serbs continue to use "parallel" Serbian institutions, Abkhazians of all

ethnicities make use of the de facto state's services.²⁴ Significantly, Georgians move freely within Abkhazia, frequently and safely travelling to Sukhumi for various purposes, while most Kosovar Serbs still do not feel safe leaving their enclaves. Especially important in relation to integration and inter-ethnic relations is the fact that in Abkhazia there is a high level of bilingualism, whereby Abkhaz, Georgians and Armenians know Russian alongside their ethnic languages. As such, Russian serves as an ethnically neutral lingua franca, facilitating inter-group communication. Moreover, as Abkhazia's language law remains unimplemented, Russian is the main language of government and administration, allowing inclusion of all communities. In contrast, Kosovo has seen increasing monolingualism, even among Turks, as members of the younger generation do not learn the languages of other communities. Not only does this make it difficult for individuals to access services outside of areas where their community predominates, but it also severely limits prospects of inter-ethnic reconciliation. Of course, the amicability of Abkhazia's inter-ethnic relations should not be overstated: there are credible reports of discrimination and hate crime against Russians, Armenians and especially Georgians. Indeed, inter-ethnic relations are poor by global standards, especially between Abkhaz and Georgians, but the level of ethnic distance and animosity does not appear as great as in Kosovo.

In summary, the situation of minorities is somewhat worse in Abkhazia than in Kosovo, but not uniformly so. The situation in Abkhazia is especially bad for Georgians, particularly with regards to right of return, acquisition of citizenship and native-language education. However, on many issues the discrepancy between the two cases is not as great as it may seem. The most important example of this is political representation: Kosovar minorities have the parliamentary seats and government posts that Abkhazian minorities lack, but their actual involvement in policy-making remains limited and ordinary non-Albanians remain disconnected from political life. The two cases also have a fairly similar situation as concerns education (other than for Abkhazia's Georgians), property rights of displaced persons and representation in the judiciary, prosecution and law enforcement. Moreover, the degree of inter-ethnic

²⁴ Though due to the rudimentary state of Abkhazia's public services, many Abkhazians of all ethnicities go abroad for serious healthcare and for higher education.

integration appears to be greater in Abkhazia than in Kosovo: all communities engage with Abkhazian services and institutions; minorities routinely travel freely and safely around the territory; far more people live in ethnically mixed settlements; and Russian serves as an ethnically neutral lingua franca to facilitate inter-group communication.

Part of the explanation for why the radically different rhetoric and legislation do not translate into radically different situations on the ground is non-implementation. Non-implementation is a recurrent theme in both cases, but its effects are quite different in the two countries. In Kosovo un-implemented laws are generally those granting and protecting minority rights, so their non-implementation is detrimental to the position of non-Albanians. In Abkhazia, on the other hand, legislation intended to strengthen the position of the Abkhaz language remains un-implemented, meaning that non-implementation is actually beneficial to minorities. Similarly, non-implementation of the legislation pertaining to education in minority languages means that Armenian- and Russian-medium schools continue to use materials and curricula from Armenia and Russia, allowing the Armenian and Russian minorities greater cultural links to their kin states. This all suggests that non-implementation reduces the gulf between the two cases, explaining why markedly divergent legislation leads to fairly similar results. It should be noted that there are exceptions to this trend in both cases. In Abkhazia non-implementation of Georgians' right to Georgian-medium education is clearly negative from the point of view of minority rights. Conversely, implementation of Kosovar legislation vis-à-vis Serbian-medium education would probably be perceived negatively by Serbs, as it would reduce their ties to Serbia.

A good explanation for the non-implementation of Abkhazian language legislation has been proposed by Comai and Venturi (2015). They suggest that the legislation was never intended to be fully implemented, but rather that its primary function is symbolic. By legally privileging and protecting the Abkhaz language at the expense of other languages, the Abkhaz assert their dominance over the polity and strengthen their societal position. In other words, the legislation was penned so as shore up the regime's legitimacy in the eyes of a domestic constituency, namely Abkhaz ethnic nationalists. As less than half of the population speak Abkhaz, actual full implementation would be

highly impractical and yield few benefits to anyone, not even to Abkhaz themselves, who are often more comfortable using Russian in spheres such as business and politics, only using Abkhaz in informal settings. Furthermore, policy-makers are likely wary that full implementation could trigger backlash from ethnic minorities or from Russia.

Non-implementation of Kosovar legislation – i.e. the non-realization of various minority rights – may to an extent be explained by lack of resources. Kosovo is one of the poorest countries in Europe and it is not cheap to provide simultaneous interpretation or high-quality translation of documentation. However, in many cases implementation would not incur significant costs. For example, it would cost little for the government to regularly consult with the CCC or for municipal assemblies to genuinely include minorities in decision-making. Furthermore, it should be noted that international donors are very active in Kosovo, making extensive funds available for programmes intended to benefit minorities. This would suggest that although lack of funds may be a contributing factor, non-implementation of minority rights is largely due to absence of political will.

To explain why Kosovo has not fully complied with minority rights norms in practice, despite extensive international engagement and faithful compliance on the rhetorical and legislative level, it is useful to recall a point made by Caspersen (2012). She predicts that in de facto states there may be “discrepancy between rhetoric and substance” due to “tension between the ‘ethnos’ of self-determination and the ‘demos’ of liberal democracy” and due to desire to “please more than one audience at a time” (Caspersen, 2012, p. 74). In other words, there is a clash between the demands of internal and external legitimacy: the domestic audience demands ethnocentrism, while international society demands minority rights.

However, this raises the question of why the power of international norms over Kosovo has been enough to make it adopt and maintain a generous legal framework and to employ norm-compliant rhetoric, but not enough to actually entrench commitment to the values contained therein. Considering the extent of international involvement in Kosovo, it cannot reasonably be argued that the level of international engagement was

too low. Instead, it is hypothesized that the explanation can be found in the rationalist account of norm diffusion, the logic of consequences. If the Kosovar political establishment has not internalized the norms in question, but simply complies with them to the extent necessary to yield material benefits, the poor realization of minority rights can be explained by the policies and practices of the norm promoters.

In particular, it should be noted that the biggest “carrot” – recognition – was already given to Kosovo by most Western states promptly after the declaration of independence. This has been described as a case of “earned sovereignty” (Hooper & Williams, 2002). However, it is clear that Kosovo primarily earned recognition on the basis of its impressive legal framework, without needing to prove its willingness and ability to translate this legislation into palpable results. Since then, there has been a distinct lack of sticks and carrots from the UN or OSCE. From the EU, carrots come in the form of grants and, more importantly, promises of a Stabilization and Association Agreement, a visa-free deal and eventual membership. However, as highlighted by Muk and Cvijić (2018), the EU has tended to shy away from strong criticism of Balkan states, preferring to praise them for minor achievements and give the impression that accession is just around the corner. For this reason, there has been no incentive for Kosovo to follow through on its rhetoric and its legal commitments.

5. Conclusion

In Kosovo international minority rights norms appear to have moulded legislation and official rhetoric, but they have not penetrated deeply into the actual behaviour of policy-makers and they have only yielded modest results on the ground. Meanwhile, in Abkhazia these norms have had some effect on official rhetoric, but little to none on legislation or praxis. In both cases the international norms surrounding tolerance and minority rights are reinterpreted to fit pre-existing, ethnocentric narratives and then used in legitimation strategies towards international society.

This thesis has generated several hypotheses that could fruitfully be tested by future research. It is suggested that greater international engagement results in rhetoric and legislation that more closely comply with international norms. For rhetoric, it is theorized that greater interaction with international society increases local actors' familiarity with norms, enhancing their ability to use compliance as a legitimation strategy, while greater prospects of material reward increase the incentive to use compliance as a legitimation strategy. For legislation, the same mechanism is proposed vis-à-vis material incentives and it is additionally highlighted that direct involvement of international actors in drafting legislation increases norm compliance. Furthermore, it is suggested that norms are more likely to be adopted the more compatible they are with pre-existing norms and identities. Finally, it is argued that norm-compliant legislation and rhetoric will only translate into praxis in the presence of material incentives.

This paper's findings have important theoretical and practical implications. Firstly, the study confirms Epstein's (2012) argument that scholars of international norms need to take into account the nature of those polities that are being socialized, including their pre-existing identities and normative frameworks. From a practical perspective, this means that a particular norm might be adopted by some polities more quickly than others. Specifically, this work highlights the difficulty of instilling full respect for diversity and minority rights in plural and deeply divided societies. Even in Kosovo, where more effort has been dedicated to this goal than perhaps anywhere else in the world, the results have been modest.

Another important finding is that despite Abkhazia's general lack of minority rights and at times highly ethnocentric legislation, the situation of Abkhazian minorities is in many ways not substantially worse than that of minorities in Kosovo. In particular, it is revealed that the presence of an ethnically neutral lingua franca can to an extent serve as a substitute for minority language rights. Furthermore, as highlighted by Clogg (2008), Ó Beacháin (2012) and Kolstø and Blakkisrud (2013), lack of minority rights is not necessarily objected to by minorities who accept a particular ethnicity as legitimately leading the polity. This suggests that scholars and practitioners need to employ a broad, flexible approach to ethnic politics, taking account of local particularities and historical legacies.

This work supports the rationalist account of norm diffusion: that norm compliance depends first and foremost on material incentives. It refutes the idea that norms are diffused naturally or automatically across the globe. There is some evidence of such norm diffusion, but it is mostly limited to the level of rhetoric, without significant influence on legislation or praxis. Therefore, it appears that Finnemore and Sikkink's (1998, p. 906) prediction that polities "insecure about their international status" will "embrace new international norms most eagerly and thoroughly" is overly simplistic. Similarly, the evidence from Abkhazia does not support Caspersen's (2012, p. 51) and Pegg's (2017) claims about the influence of international norms on de facto states. Instead, this paper's findings support the view expressed by such scholars as Bradbury (2008), Eubank (2012), Philips (2016) and Richards (2014) that de facto states neglected by international society are free to pursue policies and forms of statehood that would not be recommended by influential IGOs or foreign experts. Specifically, there is support for Clogg's (2008, p. 321) argument that Abkhazia lacks extensive minority rights due to lack of international pressure.

In other words, even though de facto states have an overwhelming motivation to seek legitimacy, they cannot be relied upon to conform to norms unprompted. This means that it is necessary to actively engage de facto states (or indeed ordinary, uncontested states) in order to socialize them into particular patterns of behaviour. Correspondingly,

boycotting or isolating norm violators is unlikely to be an effective way to encourage compliance. Moreover, this study suggests that full compliance with norms will only be realized if incentivizing measures are linked to implementation and results, rather than to rhetoric or to the adoption of legislation.

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