DEMOCRATISING SECURITY IN TRANSITION STATES

Parliaments in Conflict and

Post-Conflict Situations

Lessons Learned from Eastern Europe

and the Commonwealth of Independent States

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Introduction

This paper draws on the findings of six case studies on the role of parliaments in conflict and post-conflict situations that were prepared in the period January to June 2005 by the Centre for Liberal Strategies and its partners in the CIS countries studied. The case studies cover five countries (Georgia, Macedonia, Moldova, Serbia, Ukraine) and the UN-administered Kosovo region, within the federation of Serbia and Montenegro. The purpose of this paper is to elaborate trends and problems, which are common to the region of Eastern Europe as a whole. In doing so, the paper resorts to certain generalizations which do not do justice to the complexity of the six individual case studies.

The case studies focus on two groups of countries, each of which emerged after the collapse of the respective communist federation, the Soviet Union or Yugoslavia. This paper does not discuss the intensity of the conflicts nor their current status. However, it is important to accentuate the comparability of the political transformations the six studied countries went through and the institutional and international contexts of the examined political interactions/processes.

Before discussing the role of parliaments in the selected case studies, it is important to point out that most of the parliaments analyzed were elected by generally free and competitive elections. However, these legislatures are by no means fully-fledged democratic institutions; instead, they are legislatures with a fragile, problematic legitimacy, struggling for emancipation from powerful executive bodies. Finally, it is presumed that post-communist parliaments, regardless of their degree of democratization, function as representative bodies where political elites may interact and reach political decisions. Therefore, the degree of democratization should be considered a secondary factor in

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the assessment of the role of parliaments in conflict resolution.

All six states have been the target of intensive international initiatives and pressure. In these efforts by international organizations and Western governments, parliamentarians have been among the key representatives of the targeted countries. As a rule, in all six countries the legislators were recognized as legitimate partners in efforts at conflict resolution, while the role of the legislatures was often marginal and subject to criticism.

These commonalities make it possible to compare the roles that representative parliamentary bodies have played in conflict and post-conflict situations. In this vein, all of the studied countries also share similar cultural and historical backgrounds: they all constitute part of the broader Eastern Europe, and they have all experienced the long spells of communist rule, preceded by authoritarian rule of various sorts. Moreover, none of these countries have enjoyed stable and durable democratic governance. Their similar backgrounds facilitate comparative analysis and make it easier to assess the impact of institutional arrangements on the success and failure of democratization.

The main goal of this paper is to present recommendations and suggestions to solve problems typical to the discussed countries and to other countries possessing similar characteristics. Needless to say, these recommendations need to be tailored appropriately to suit the specific context of each country.

The structure of the paper is the following. Section 1 discusses two methodological approaches in the study of parliaments. Section 2 introduces a taxonomy of different roles a parliament can play in conflict and post-conflict situations. Sections 3 and 4 provide a brief assessment of the experiences of the six case studies and a more systematic discussion of the differences among them. Subsequently, sections 5 to 7 outline three traps which the examined parliaments have fallen into: the traps of nationalism, majoritarianism, and the state of emergency. Section 8 summarizes the elements of success in the work of parliaments, according to the six case studies. Sections 9 and 10 contain a final assessment of the performance of parliaments in the six countries under consideration as well as a set of recommendations.

1. Studying the Role of Parliaments

When assessing the role of parliaments in conflict and post-conflict situations, there is a preliminary methodological dilemma which needs to be addressed. On the one hand, there is a significant body of literature on the institutionalization of parliaments and on how they function to strengthen the routine operations of liberal democratic regimes. After the crisis of parliamentarism in the 1930s in Europe, there was a constitutional movement for the "rationalization of parliamentarianism" in order to strengthen parliamentary government, avoid government crises and

ultimately to provide for a more efficient relationship between the legislative and executive branches in a democracy. Most of the post-WWII democratic constitutions, especially those in Germany and Italy, borrowed heavily from the ideas of this constitutional movement. One example is the introduction of the "constructive vote of no confidence" in the German Basic Law, which is an instrument designed to avert governmental crises.

Yet, despite the abundance of literature on the strengthening and rationalizing of parliamentarism, little attention has been paid to the specific roles of parliaments in preventing and managing conflicts and in dealing with their consequences. In extreme political situations, there has always been a shift of focus to the executive branch, which is supposed to be the main actor. There are of course good reasons for such a shift – the executive has the advantage of acting swiftly, while legislatures, as collective bodies, are usually more difficult to mobilize, and their actions are often not as decisive and unanimous as the actions of governments and presidents. As a result, there has been little systematic analysis of the role of legislatures in conflict and post-conflict situations.

The present paper faces two groups of methodological options, each with different initial assumptions:

Approach 1:

(i) Institutionalization and strengthening of parliament is always beneficial in a representative democracy;

(ii) Increasing the role of parliaments in conflict prevention, management and resolution necessitates enhancing the general capacity of the legislature in terms of legislative powers, oversight of the executive, material resources, etc.

Approach 2:

(i) General strengthening of parliaments may not prevent their marginalization in a conflict situation, or, even worse, may lead to their involvement as an exacerbating factor in the crisis/conflict;

(ii) Attention should be focused on those factors which prevent parliaments from playing a constructive role in conflict and post-conflict situations.

Below, we choose to employ the second approach. We recognize that a general strengthening of parliament, as one of the key bodies of liberal democracy, is almost always beneficial. Yet, the paper focuses on the specific roles of parliament in dealing with conflicts, and on the basis of these roles we elaborate problems and suggest possible remedies.

2. Roles of Parliament in Conflict Situations

The roles of parliament could be divided roughly into two main groups. The first group covers cases in which the role of parliament was not constructive, while the second group accounts for those cases where the role of parliament was constructive. Indeed, in group one, parliament had the potential to provoke a conflict or even exacerbate it. Although all of the roles that parliament has are formally legitimate in a constitutional democracy, their abuse might lead to the worsening of a conflict situation.

Conflict provocation:

(i) Expression of national/popular sovereignty and forum for identity politics

One of the main functions of the representative body in a liberal democracy is the expression of popular and national sovereignty. A lot of the acts adopted by parliaments, such as new constitutions, declarations of independence and language laws, aim to define and promote specific nation-building projects. Most of the case studies we have examined emphasize the fact that after gaining independence from the Soviet and Yugoslav Federations, legislatures have been busy adopting acts with the specific aim of promoting national ideals. However, in a pluralistic society such acts may contradict the aspirations of certain (minority) groups on the territory of a given country and, as such, may lead to a conflict situation.

(ii) Instruments for majoritarian oppression of the minority

When the traditions to tolerate minorities and protect individual rights (which was the case in the six countries we studied) have not been established in a given polity, democracy may turn into an instrument of majoritarian oppression of groups and individuals. The political opposition may be systematically marginalized by the ruling parties. This can be done through administrative harassment, control over the media and draining the opposition of resources. All of these instruments of majoritarian oppression require some form of legislative action in order to be realized. This may come in the form of laws regulating the media or party funding, tax and party laws, or simply by means of lax parliamentary oversight of abusive action by the government. In this sense, if parliament becomes a tool for majoritarian oppression of the opposition, it may provoke or exacerbate a conflict.

(iii) Subservient bodies to a powerful executive

Parliaments need a degree of independence from the executive in order to be effective in a parliamentary democracy. Of course, in a modern democracy, governments and the executive always dominate the work of the legislature by providing most of the draft laws, and by dictating the government's will over the opposition and recalcitrant backbenchers. Yet, there is one form of executive domination, which is particularly dangerous: when the executive (be it a president or a government) is able to control the composition of the legislature. This control could be exercised by manipulation of elections, by influence

over the media or by depriving the opposition of resources. If the executive dominates the parliament in such a way, a country's democracy is problematic, and a crisis or conflict might be expected, as the Ukrainian case study suggests. In any event, subservient legislatures are not conducive to the establishment of a healthy democratic regime.

The second group of roles played by parliaments in conflict and post-conflict situations tries to capture the positive experience. These are roles which have been conducive to the successful resolution of a conflict situation.

Conflict prevention

(i) Parliaments as constitutionally constrained powerful players in a system of separated powers

When parliaments or other centers of power are absolute sovereigns, the result is likely to be the abuse of prerogatives, ultimately leading to the alienation of some members of the polity. On the contrary, when constitutional bodies participate in a system of separation of powers with checks and balances, the likelihood of abuse of powers decreases. This may seem a trivial observation but its force is often underestimated. Many of the conflicts discussed in our case studies have been exacerbated or even provoked by excessive concentration of power in legislative majorities or powerful executives.

(ii) Guarantors of political pluralism: fora for the opposition

Parliaments are the key bodies when it comes to building trust among members of a given community. Parliaments can adopt the norms guaranteeing the rights of minorities and provide a forum for the political opposition to express its interests. If they play this role well, the outbreak of violent conflict in a country becomes less likely.

(iii) Instruments of political learning:

Parliaments are instruments of political learning. In none of the countries we studied were there established democratic traditions. Therefore, parliaments could facilitate the accumulation of political knowledge by providing the citizens with the possibility to explore different political alternatives. Parliament, as the main forum for the opposition, becomes the place where alternative political platforms are articulated and defended. In case governmental policies fail, parliaments provide new, viable political solutions and new actors who could carry them through. If parliaments are weak and/ or the opposition is completely marginalized, the articulation of political alternatives is stalled, and a country could enter into a period of repetition of mistakes. Needless to say, government failures and the lack of political alternatives drives conflicts outside the political arena, where outbreaks of violence may become more likely.

3. Experiences of the Six Case Study Countries

This section provides a brief evaluation of the experiences of the six countries:

(i)Parliaments have more often than not played a marginal or even conflict-exacerbating role;

(ii) The main reason for the failure of parliaments to play a constructive role: in all six cases, parliaments have been mainly seen and used by the public as instruments for nation-state building after the collapse of the Soviet Union and the breakdown of Yugoslavia. Conflicts have been mostly about the issue of national self-determination (with the exception of Ukraine);

 (iii) Part of the problem facing the six countries was that the existing national and political projects for their future conflicted with each other. In this respect, it is useful to compare the failures of these countries to deal with conflict with the success stories of Central Eastern Europe and the Baltic States. One major difference that comes to mind was the prospect for EU integration, which was lacking in both the former Yugoslavia, and especially in the Caucasus and in Moldova and Ukraine. The EU accession perspective provided a universally accepted political project, which was instrumental in keeping communities together, or, as in the case of Czechoslovakia, in ensuring a peaceful transition to national independence.

4. Dimensions on which the Case Studies Differ

This section discusses four dimensions on which the six case-studies differ from each other:

Time of conflict

The time when a potential conflict escalated to cause a political/social crisis is an important factor to take into account. In most cases, this happened during the first phase of democratization or transition: the liberalization of the authoritarian regime. But even within this first stage there are important distinctions to be made. In many post-communist countries, the prolonged stage of political liberalization has coincided with *the initial stage of a state-building process*, when the parliament lacked established and efficient practices and had not yet developed efficient communications with the other state and public institutions because the horizontal accountability networks had been working only at the federal level. To summarize the capacity of parliament to channel conflicts and contribute to their peaceful settlement correlates mostly with the process of the establishment and social entrenchment of nation-state institutions.

Analysis should not differentiate between those countries which could rely on developed state institutions (e.g., Yugoslavia) and those which had very peripheral and underdeveloped government structures (e.g., Moldova) during the collapse of the

federal state, but rather between countries where the *conflicts erupted during or right after the secession* (e.g., Georgia and Moldova) and countries where viable state institutions were established more than a decade before the emergence of conflict (e.g., Macedonia and Ukraine).

Attitude towards international peacekeeping efforts

There is a substantial distinction between cases where international peacekeeping missions were a key player in conflict resolution and cases where these missions have had little or no impact. But for the purpose of the current report, what matters is the attitude of the representative political elites. Two examples are symptomatic:

(i) Yugoslavia/Serbia and the *unanimously negative attitude* of MPs towards international pressure, resulting from the persistent application of sanctions by the international community.

"There was no international assistance, since the country was for most of the 1990s under heavy international sanctions. They (the sanctions) were first introduced by the EC in 1991, then in several waves by the UN Security Council, starting in May 1992. After suspension of some sanctions at the end of 1995 and a year later, they were, as it was already said, reintroduced exactly because of the excessive use of force by the Serbian police and the Army in Kosovo, in Spring 1988."[1]

(ii) Moldova with the *gradual shift in the attitudes of the political elite* from accepting the presence of the Soviet army and relying on membership in the CIS and the mediatory role of Russia to recognizing the role of the Council of Europe and unanimously approving partnership for accession to the EU as a priority"

"Consequently, on the first day of its activity, the newly elected Parliament unanimously approved the Declaration of Political Partnership for achieving the objectives of accession to EU. The document provides for the consensus of the four factions on the consistent and irreversible promotion of the strategic course towards European accession."[2]

Separation of powers

It is important to distinguish between states with strong presidential powers and states with parliamentary systems in which the president's powers are mostly symbolic. The interaction between parliament and the president has a strong explanatory value in all cases to the extent that even presidents with symbolic powers play a crucial role in conflict resolution because of the emergency powers bestowed on

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[1] Dr. Jovan Teokarevic, *Strengthening Parliaments to Better Manage Conflict and Post-conflict Situations: An Analysis of the Serbian Parliament and the Federal Yugoslav Parliament in the Kosovo Crisis.* Paper written for a UNDP sponsored project on the role of parliaments in conflict and post-conflict situations.

[2] Dr. Igor Botan, *Moldovan Parliament's Role in Conflict and Post-conflict Situations.* Paper written for a UNDP sponsored project on the role of parliaments in conflict and post-conflict situations.

each head of state. However, this is not a distinction which could explain the weaknesses or the strengths of legislatures as preventors of conflicts or mediators in conflict resolution in the selected group of countries.

An important dimension of diversity stems from the different role/powers of presidents in day-to-day politics. It is empirically proven that presidents have a tendency to impede the establishment of responsive and vibrant political parties and that they seek to promote a presidential majority in parliament, which as a whole delays the development of a competitive party system.[3] Parliaments with obstructed party competition tend to underestimate the risk of political exclusion.

The degree of party system institutionalization

It is common for a state's first election to set the main political cleavages for the coming decades. However, this was not necessarily the case in the countries under investigation: Georgia is a symptomatic case with its dramatic shifts in the main parties' characteristics, while Moldova may be considered as an exemplary case of a stable, though evolving, party system. It is important to figure out how these dramatic shifts in voters' preferences and party alignments affect the legitimacy of parliament in conflict or post-conflict situations.

5. The Trap of National Sovereignty

Evidence from the six case studies suggests that in conflict and post-conflict situations, parliaments tend to get trapped, taking action which seems attractive and legitimate at the intuitive level, but which ultimately tends to create a potential for conflict.

The first of these traps is *legislative obsession with national sovereignty*. Parliaments in the six case studies have all been vulnerable to such an obsession and have undertaken the following actions:

(i) Adoption of a constitution legally entrenching a contested national project: Georgia, Serbia, Moldova, and to a lesser degree, Macedonia;

(ii) Adoption of legislation insensitive to national, ethnic and religious minorities: Georgia, Serbia, Macedonia and Moldova. Such legislative acts concern, in particular, official language issues, state symbols, regional autonomy issues and educational matters;

(iii) Denial of regional autonomy: with the exceptions of Moldova and Ukraine, in all other case studies, the parliaments had been active in denying regional

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[3] Mainwaring, S and Schugart M.S. "Juan Linz, Presinetialism and Democracy" in *Comparative Politics*, 29:4 (July 1997), 449-71.

autonomy;

(iv) Exclusion of minority representation through prohibitions or through specially designed electoral laws; boycott of parliament by the minority (e.g., Kosovo);

(v) Rejection (by the parliamentary majority) of cooperation with international organizations (e.g., Serbia);

(vi) Avoidance of significant external conditionality (either by NATO or EU). Conditionalities are generally efficient when they are accompanied by the provision of significant benefits by the foreign partners. Out of the six countries, probably only Macedonia is in a situation in which the foreign conditionalities are coupled with prospects for EU accession. Even there, however, the Ohrid Agreement was accepted very reluctantly;

(vii) Creation and encouragement of nationalistic media and civil society organisations: in virtually all the studied countries there was a degree of political control over the public electronic media (particularly evident during Milosevic's regime) – parliaments have facilitated the exercise of such control.

6. The Trap of Majoritarianism

The second trap into which parliaments managing conflict tend to fall is the trap of majoritarianism. Parliaments fall into this trap when the majority becomes an instrument for the suppression of the political opposition. The following activities are signs of aggressive majoritarianism:

(i) Marginalization and fragmentation of the political opposition through control over the mass media, administrative harassment, starving the opposition of funding, administrative bias in favour of governmental parties and their supporters, and even through openly criminal methods such as political violence and bribery. Unfortunately, these problems have all plagued the political life of the studied countries. Political killings and harassment of the opposition were quite common in Milosevic's Yugoslavia, and violence against political opponents has also taken place in Ukraine, Macedonia and Georgia. Administrative harassment against the opposition has been common in Serbia, Ukraine, and to a lesser extent in Macedonia. The same is true of government favoritism: granting favors to businesses close to the political majority and the government. All of these developments have been facilitated by parliaments, or at least have taken place with the tacit approval of parliamentary bodies, which have all but resigned from their oversight function;

(ii) Lack of an independent judiciary – governmental control over the personnel and budgetary policies of the judiciary. The independence of the judiciary has

been problematic in all six studied countries. The role of parliament in ensuring independence of the judiciary is crucial – the legislature first needs to adopt proper laws, and then to monitor closely their implementation especially on issues concerning personnel policies and the budget of the judiciary;

1.3 Election fraud and manipulation of electoral laws in favour of governmental parties. The most egregious cases of this kind led to the recent "revolutions" in Georgia and Ukraine. Electoral manipulation has been common also in Serbia, and to a lesser extent in Macedonia. The Ukrainian example clearly shows that manipulation is much more difficult when parliament actively opposes it: there, the parliamentary reaction to the allegations that the President had manipulated the elections was a key element in resolving the crisis of the "orange revolution";

7. The Traps of the *State of Exception* and the *State of Emergency*

The third trap consists of the temptation to resort exclusively to the powers of the executive in the resolution of conflict situations, hereby marginalizing parliament completely:

(i) In exceptional circumstances, the role of parliament is reduced and the executive comes to the forefront: this is the main assumption of the third trap, popular since the German constitutional theorist Carl Schmitt introduced it in the 1930s. This argument is extremely popular in the six case studies. Actually, all their constitutions are designed in such a way so as to make a charismatic president the ultimate guarantor of the constitutional order. It is no surprise that in most of these countries the birth of the new republic was intimately linked with the figure of a powerful (and charismatic) president: Milosevic in Yugoslavia, Gligorov in Macedonia and Shevardnadze in Georgia. In Moldova and Ukraine, presidents also have claimed to be the indispensable figures in the establishment of the independent state and its subsequent development (e.g., Kuchma and Voronin).

(ii) The Schmittean rationale of super-presidentialism permeates the constitutional regimes of Ukraine, Serbia, and Georgia. The "orange revolution" signaled the beginning of a process of parliamentary rehabilitation vis-à-vis the presidency, but the results of this process are by no means conclusive. On the basis of the evidence of the six countries, it is probably warranted to argue that "super-presidential" models of government marginalize parliaments more than any other form of government, making the emancipation of the

legislature very difficult in such regimes.

(iii) One of the reasons for this difficult emancipation is the role of "oligarchs" – powerful businessmen who build their financial empires mostly on the basis of government favours and on their connections with the executive. The political power of oligarchs transforms the political process into a process of corporate representation, which further marginalizes parliaments.

(iv) The lack of internal democracy in political parties is another problem typical to all six case studies, but also for the East Europe in general. It leads to diminishing confidence in the mechanism of representation, which in turn has a negative impact on the confidence in the legislature.

8. Elements of Success

It should be noted that the traps discussed in the previous sections have at times been avoided by the parliaments in the six case studies. Their stories are by no means stories of unmitigated parliamentary failure. Below we list some examples of positive roles played by the legislatures in the management of conflicts:

(i) Self-restraint in the pursuit of national sovereignty: One of the best examples of legislative self-restraint in the pursuit of national sovereignty is the Moldovan parliament's granting of autonomy to the Gagauz region. Also, the Parliament of Macedonia was a key actor in the process leading to the Ohrid Agreement, despite the fact that the accord was not reached within the assembly itself.

(ii) Self-restraint by the political majority and the establishment of a viable opposition: Instances of self-restraint were most visible in Macedonia during the conflict, and especially after the Ohrid Agreement was reached. Similar instances can be found in the Ukrainian and Moldovan case studies. The existence and strength of the Macedonian opposition to the right-wing government of Lupcho Georgievski facilitated the relatively smooth implementation of the Ohrid Agreement: when this government fell from power, the socialist opposition took over and avoided governmental crisis. Parliaments are effective when they produce and articulate alternative policies – the Macedonian parliament was able to do so, and this explains in great part its positive role in the overall management of the conflict situation.

(iii) Rationalized parliamentarianism? It is difficult to speak of a stable process of rationalization of parliamentarianism in any of the six studied countries. Yet, elements of success in this regard also exist. Macedonia stands out somewhat, given that a fairly serious effort is underway to make the legislature into an

effective counterweight to the executive branch. Moldova appears to be following suit, while the other four legislatures are struggling to compete with powerful and aggressive executives. The existence of a strong parliamentary opposition in Macedonia is a good sign. In Ukraine and Georgia the opposition was also strong, but its strength was translated not so much into a strengthening of the parliament as it did to strengthen extra-parliamentary "revolutionary" activities. This side-stepping of parliament, although probably positive in the short-run, is questionable from a long-term governance perspective.

(iv) Parliamentarianism as a learning process? As mentioned above, parliaments have played a positive role as instruments for political learning. Again, Macedonia and Moldova stand out, Especially in the former case, parliament has been a breeding ground for political alternatives.

9. Overall Assessment of the Role of Parliaments in Conflicts

(i) Conflict Prevention: parliaments sometimes take measures and enact laws, which provoke conflicts. In this regard parliament's role in avoiding conflict, by avoiding the traps discussed above, can be significant.
The conflicts discussed in the reports are mainly local conflicts (with the exception of Ukraine) of a limited duration. It is noteworthy that these conflicts emerged in territories where social peace had existed for over forty years. Another peculiarity is the relative weakness of the legislative institutions vis-à-vis the executive – in all countries under consideration, parliaments have been secondary bodies, in many cases rubberstamping decisions of single-party governments, with short working sessions and non-professional MPs.
The political context outlined above suggests that in the post-communist states examined, parliaments played a secondary role to the executive during violent conflicts. However, there are two noticeable exceptions, the first which is the proactive preventive role played by the Ukrainian parliament described below:

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During the 2004 presidential elections, the parliament was a battlefield on which the progovernment majority and the de-facto opposition challenged each other's presidential candidates. Under conditions of information blockade, the parliament was the only major forum for the opposition forces to voice their opinions. When opening the 6th session of the parliament on September 7, 2004, Speaker Volodymyr Lytvyn announced that the parliament must demonstrate profound responsibility so that the totally agitated present-day situation in Ukraine did not turn into yet another lost historic chance for the country. He described the deteriorating public divide as a national security challenge

and called for measures to ensure stability in the transition period, prevent a vacuum
of state power and keep the election processes within democratic norms. He also initiated
the parliament's leading role in monitoring implementation of the election law by
establishing a special parliamentary commission, approved by 239 votes. The vote on the
special ad hoc commission signified the de facto collapse of the pro-presidential and progovernment
majority after the majority coordinator Stepan Hawrysh had announced on
behalf of the majority the boycott of the commission-to-be. The parliamentary majority
crisis in 2004 was reflected in major changes in the composition of the factions and
groups. Within four months …. factions that supported the government's presidential
candidate lost substantial number of members, many of whom moved to the faction of
Speaker Lytvyn.
Following the second round of the presidential elections in Ukraine on November 21,
2004, recognized as badly fraudulent by various domestic and international observers,
the mass protests against vote manipulations began in Kyiv and a number of other major
cities of Ukraine. The events, known as the "Orange Revolution" involved the participation
of hundreds of thousands of people – supporters of either of the two presidential
candidates, then Prime Minister Viktor Yanukovych and his challenger, leader of the united
opposition forces Victor Yushchenko. At the height of the conflict the parliament of
Ukraine, the Verkhovna Rada, remained the only legitimate body of power and played
a critical role in preventing the violent development of the conflict and releasing the
confrontation.[4]

The exceptional role played by the Ukrainian parliament was the outcome of fifteen
years of parliamentary practice, the initial five years which were characterised by the
dominance of the parliament over the weak presidential institution and the last five
years which resulted in the effective prevention of the unconstitutional attempts of
the president to further strengthen his powers and to establish a dominant pro-presidential
party in parliament.

The second exception is the case of the parliament of the Former Republic of Yugoslavia,
which openly disregarded the dangers of escalation of the Kosovo conflict, as
the overwhelming majority of parliamentary parties acted as "instigators of chauvinism,
ethnic conflicts and wars".[5] In fact, the parliament deliberately excluded ethnic
Albanians from politics and explicitly and consistently followed a policy of violation
of local minority political rights, thus provoking and later intensifying the Kosovo
conflict.

[I]nternationalization of the conflict that had been going on ever since the autonomous
status of Kosovo had been revoked by the Serbian Assembly in 1989.
Elections for both the Serbian Assembly (held in August, 1996) and for the FRY Assembly
(held in November, 1997) brought to power a coalition of parties that were key
instigators of chauvinism, ethnic conflicts and wars in Serbia: Milosevic's Socialist Party of

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[4] Inna Pidluska, *The Role of the Ukrainian Parliament in the "Orange Revolution" of November-December 2004 in Ukraine.* Paper written for a UNDP sponsored project on the role of parliaments in conflict and post-conflict situations.

Serbia, his wife's party United Left and Vojislav Seselj's Serbian Radical Party. In fact, Milosevic continued to rule, only with partners that were partly new, but this time – unlike before – his partners were eager and capable of making much bigger influence within the coalition…

The whole ruling coalition, to be sure, showed clear signs that it would tolerate neither an Albanian uprising, nor the enhancement of Albanian rights in Kosovo. Having lost previous wars in Slovenia, Croatia and Bosnia, the Serbian regime was not ready to allow yet another defeat on the territory it fully controlled with the help of extremely large and potent armed forces.[5]

The role of parliaments in the other cases is much less pronounced, as for example in the case of Georgia where the "sins of omission" (underestimating the danger of local secession or openly promoting nationalism) are to be explained with the very early stages of the political liberalization process, when the legislature was just emerging out of the authoritarian institutions.

The series of events that eventually led to the outbreak of conflict in South Ossetia is sometimes termed the "war of laws." It involved three layers of authority: The central government of the USSR, the Union Republic of Georgia, and the authorities of the autonomous entities within the Republic of Georgia. It started in November 1988, when a decree, known as *On the State Program for the Georgian Language*, was introduced. This decree caused serious complications in the relations with both South Ossetia and Abkhazia. In 1989, the Georgian Supreme Council, a nominally elected body in the best Soviet traditions, put forward a language program which was seen as discriminating by most of the minorities. This increased the feeling of insecurity and fuelled ethnic consolidation among the South Ossetians. In the spring of 1989, Ademon Nykhaz, the South Ossetian Popular Front, addressed the Abkhazian people in an open letter supporting their secessionist aspirations. In September 1989, the South Ossetian authorities came up with an initiative of giving equal status to Georgian, Russian, and Ossetian in the autonomous district, but very soon, the local Council made a decision to make Ossetian the state language of the region. During the same month, Ademon Nykhaz appealed to Moscow asking for the unification with North Ossetia. In November, the South Ossetian Autonomous District Council put forward a demand to upgrade the autonomous region's status to that of the Autonomous Republic of South Ossetia. Georgia responded by declaring its right to veto the Union-level laws and to break away from the union. This led to the escalation of tensions and the period between November 1989 and January 1990 -- essentially the first stage of the violent conflict -- was marked with inter-ethnic clashes.

In April 1990, the Supreme Council of the USSR adopted a law which generally enhanced the position of autonomous regions vis-à-vis the central governments of Union Republics. The step that was taken by the Georgian Supreme Council in response gave a further impetus to the South Ossetians' secessionist claims. In August 1990, the Georgian Supreme Council adopted a law that banned regional parties (i.e., Ademon Nykhaz, as well as the Abkhazian Popular Front) from participating in the upcoming Georgian Supreme Council elections in October. Zviad Gamsakhurdia succeeded in forcing this law through by blocking Georgia's main railroad line. This act could only be interpreted by the South Ossetians as a means of disenfranchising them and cutting them off from influence. In

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[5] Teokarevic, op.cit.

September, the South Ossetian Supreme Council unilaterally upgraded the status of the autonomous district calling it the Independent Soviet Democratic Republic. The Georgian Supreme Council, which had been elected in October, reacted promptly. It canceled the results of the election to South Ossetia's new legislative body and abolished the South Ossetian Autonomous District as a separate entity within the Republic of Georgia on 11 December 1990. The Supreme Council was unanimous in this decision. This led to the resumption of the violent inter-ethnic clashes between Georgians and Ossetians. Thus, although the processes that eventually led to the outbreak of the conflict in South Ossetia started much earlier, Georgia's first elected legislature contributed to the escalation of tension which resulted in war.[6]

The distinction between the parliament of the Former Republic of Yugoslavia and the first Georgian legislature was that in the latter an aggressive nationalist strategy could not survive for long. It did not even endure for a single parliamentary mandate since Gamsakhurdia only had very limited resources – there were no efficient government institutions nor institutionalized party structures.

(ii) Conflict Resolution: parliaments have very limited resources to deal with conflicts which have turned violent, especially secessionist conflicts where interests of other countries are involved as well. During violent conflict, the executive steps in although parliament is crucial in terms of granting post facto control over the legitimacy of executive action and in adopting amnesty laws and so forth (see below).

(iii)Negotiations and Settlements: Parliaments are not particularly well suited for negotiating settlements, but they are indispensable for their endorsement and ultimate legitimation: the Ohrid Agreement stands out as an example in this regard.

The direct role played by the parliaments in the case studies during the peace negotiations and settlements is rather insignificant. The Macedonian parliament is the only legislature that played a role by passing (without deliberation) constitutional amendments agreed to by the conflicting parties.

The Framework Agreement, signed in Ohrid on August 13, 2001, represented a formal end of confrontations between the Macedonian security forces and ethnic Albanian extremists of the National Liberation Army (NLA) in the conflict that started in March the same year. The Macedonian parliament was barely politically involved in the phase at the very beginning of the conflict, but mostly in the post-conflict implementation process of the Agreement. Both pre- and post-conflict periods were politically tense. As Albanian extremists were demilitarised, a process of radical change was drawn up for the old constitutional

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[6] Maia Nikolaishvili, *Role of Georgian Parliament in Conflict and Post-conflict Situations. P*aper written for a UNDP sponsored project on the role of parliaments in conflict and post-conflict situations.

order of the republic. Certain political structures used every possible method
to obstruct implementation of the peace process and a tough political battle was fought
over those stressful months.
Nevertheless, on November 16, 2001, two months after the NLA disbanded, the Macedonian
parliament adopted the agreed constitutional amendments. This signified the
conclusion of an important chapter in Macedonian history in which the Macedonian parliament
played only an occasional role, and rarely fulfilled an essential political role.[7]

Though underestimated in the report, the role of the Macedonian parliament in legitimizing
the constitutional and legal amendments envisaged in the Ohrid Agreement
is extremely important. It can even be considered as being vital for the settlement
of the conflict. The debates "for" and "against" the *referendum initiative*, the
rejection of the proposals to limit the constitutional amendments and the decision
to avoid the symbolic change of the constitutional preamble made the new constitution
acceptable to the public.

Though parliamentary party fractions were the major agents in the debate on constitutional
amendments, the process was open to civil society organizations, including
the Macedonian Church. The debate outcome was also heavily influenced
and de facto sanctioned by external / international agencies.

Parliament's role in implementing the constitutional amendment into laws on local
government and on amnesty is also significant. The Macedonian parliament
approved "a package of legal reforms demanded by the Ohrid Agreement. These
included the electoral laws, state administration legislation regulating the use of
non-majority languages and a law to guarantee better representation of minorities
in state institutions. Compromise and accommodation had produced a hard-won
victory against ethnic polarization and confrontation."

(iv) Post-conflict Recovery: Here parliaments do have a key role to play. They
need to avoid the traps of nationalism, majoritarianism and subservience to
the executive, and they ought to become rationalised legislatures.
In Moldova and Georgia the participation of parliaments in the negotiations and
de-escalation of conflict were even more limited than in the Macedonian case. In
both countries, the post-communist governments lost control over the secessionist
territories. Therefore, the parliaments could only influence the post-conflict situation
to a very limited extent, mostly by approving the multi-lateral or bi-lateral
negotiations.
Since the ceasefire agreements were signed with Abkhazia and South Ossetia, the Georgian

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[7] Saso Ordanoski, *Case Study: Macedonian Parliamen. P*aper written for a UNDP sponsored
project on the role of parliaments in conflict and post-conflict situations.

Parliament's role regarding the conflicts has been essentially negligible. Both patterns can be explained by the tendency of the executive branch's domination over the legislative authority (with only short-lived exceptions in 1992-1995 and between 2002 and 2003) when the decisions were made by the "ruling team" which unified the president and the government and the parliamentary majority.

Another reason why Parliament did little to prevent violence and to contribute to the negotiating process afterwards is the fact that the Abkhazian and South Ossetian secessionist parties were not represented in the Georgian Parliament (each had their own legislative body around which the events were concentrated) and, therefore, could not use it as a forum for dialogue between each other.

The status of the conflicts in Georgia -- they are often referred to as "frozen" -- has also contributed a great deal to the lack of involvement of Parliament in the aftermath of the ceasefire agreements. This essentially means tvvhat Georgia has no jurisdiction over the conflict territories, both regions are de facto independent and have their own leadership, they are not recognized by the international community as independent states, but there is no large-scale violence or an active armed confrontation there either. This implies the ongoing process of negotiation is the prerogative of the executive authority in Georgia.[8]

In Moldova it is appropriate to speak of the constructive role played by parliament during the peace-building process. There, parliament's main contribution was the adoption of a new constitution and laws which guaranteed minority rights and regional autonomy.

The Moldovan Parliament wanted to put into evidence that human and minorities rights protection is a priority and to obtain in advance a kind of sympathy and support of international community in solving separatist conflicts.

At the same time, Article 111 of the Constitution stipulates that, "The places on the left bank of the Dniester river, as well as certain other places in the south of the Republic of Moldova may be granted special forms of autonomy according to special statutory provisions of organic law". The new Constitution was supported by the parliamentary majority of about 80% of seats in the newly elected 1994 Parliament. The pro-democratic and pro-Western Christian Democrats and liberals from the Intellectuals' and Peasants' Bloc refrained to support the new Constitution as it stipulated in article 13 that the state language was Moldovan, not Romanian as they insisted.

The most important success of the Parliament in solving the separatist conflict was the adoption on December 23, 1994 of the Law on the special juridical status of Gagauzia (Gagauz-Yeri) which in principle solved the Gagauz separatist conflict. The law established the political system of an "autonomous territorial formation" within the Republic of Moldova. The draft law was elaborated by the parliamentary majority supported by the Socialist Movement with the consent of the Government and the President. The opposition was against the bill as it stated the right of Gagauz to leave Moldova in case it loses its independence.

According to the law, in Gagauzia judicial, legislative, and executive branches exercise authority within the framework of Moldova. The People's Assembly, or parliament (Khalk Toplushu), of Gagauzia is a unicameral body of thirty-five deputies, elected for terms no longer than four years in duration. The law gives the assembly the power to nullify decrees

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[8] Maia Nikolaishvili, op.cit.

and regulations of the executive committee if the decrees or regulations conflict
with the code and other existing laws. The Governor (Bashkan) is the official Supreme
person of Gagauzia. All public administration authorities of Gagauzia are subordinated
to the Bashkan. The Bashkan is ab initio member of the Government of the Republic of
Moldova.
No doubt that the success of the Parliament in solving the Gagauz separatist conflict was
due to the fact that it was an internal one, without the implication of foreign countries and
army as is the case of Transdniestrian one. However, the Moldovan Parliament continued
to improve the human rights conditions. Through its Decision No.1447-XIII of January 28,
1998, the Parliament adopted a program to adjust the legislation of the Republic of Moldova
to the provisions of the European Convention for the Protection of Human Rights
and Fundamental Freedoms. It obliges the Government to submit to the Parliament the
proposals of modification of the legislative acts that provide directly or indirectly for the
fundamental human rights and freedoms. At the same time, the parliamentary Committee
on Human Rights examines all draft laws to be considered and adopted or rejected
by the Parliament as regards their compliance with the human rights standards. The Law
No.1349-XIII on the Parliamentary Advocates of 17.10.1997 established an independent
body consisting of three parliament-appointed Parliamentary Advocates (Ombudsmen),
together with additional personnel from the Moldovan Centre for Human Rights, a legal
entity with its own budget.[9]

What guarantees the efficiency of the process is the alteration of party majorities,
which each seek to implement alternative strategies, as well as shifts in the balance
of power, thus ensuring that neither the executive (the President) nor the legislature
comes to dominate the political landscape.

The Moldovan case soundly illustrates the gradual nature of the peace-building process.
The evolution of the adopted party strategies and institutional solutions, as
well as the evolution of the partnership with international institutions, have been
achieved despite the slow and limited democratization of the political system.

It is also appropriate to discuss the role of the Georgian parliament in peacebuilding.

(v) Parliament's Role in Transitional Administrations: here again, parliaments can
potentially play a very significant role. Unfortunately, evidence from our case
studies is not encouraging.

The peace-building activities of the Kosovo parliament are not only limited but also
rather inefficient. It is acknowledged in the report that the executive is the internationally
recognized and politically effective branch, while the legislature lacks legitimacy
and is as a rule "sidelined" by the executive or by the peacekeeping international
administration.

There is definitely a link between parliamentary crisis and the increase of tensions in general.
There were two cases when the Kosovo Assembly insisted that they be consulted on

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[9] Igor Botan, op. cit.

issues that were of major interest to Kosovars and international community:

1. The issue of Kosovo agreeing to participate in talks with Belgrade in October 2003: These were the first high-level talks between Serbian and Kosovo Albanian officials. However, the then Kosovar Prime Minister, Bajram Rexhepi, stood by his decision not to attend the talks, brokered by the European Union. The Prime Minister's argument for not going was that the government had not received authorisation from the Kosovo assembly. The international community tried to avoid the discussion of this issue in the parliament, since they were not certain of the outcome of the discussion.

2. The issue of implementing the decentralization policy framework, which called for implementing different models of decentralization in five pilot municipalities. The selection of municipalities and the whole decentralization debate was politicized beyond repair. The assembly pressured the executive branch not to start implementing anything without the consent of the assembly. The international community did not favour any debate that would change the already agreed plans of decentralization. This issue led to the polarization of the opposition and even a split within the government coalition.[11]

Hence it is more relevant to discuss the activities of the Kosovo parliament in the context of interaction with the international peacekeeping forces and the transitional administration. According to the report on Kosovo, this interaction is also in the stage of seeking efficient institutionalization.

As mentioned above, UNMIK very often has tried to push for decisions that affect Kosovo through individuals that they identify as allies within institutions at the cost of sidelining the role of the institutions, particularly the role of Assembly. This has many times created unnecessary tensions between the UN and local institutions. International communities' issues have a sense of urgency attached to them so it always seems that the international community has no time for processes of building local ownership. There were many cases when the international community discouraged debate out of fear that the outcome of debate may not be the one they like. This fear and distrust in Kosovar institutions has not been productive and has resulted in outcomes that were not sustainable.[12]

10. Main Conclusions and Recommendations

(i) Notions of parliamentary sovereignty as an expression of national sovereignty are dangerous. Parliaments should be treated as constitutionally constrained bodies, working within a frame of domestically and internationally recognised rights;

(ii) The existence of a viable opposition is key to the establishment of parliament as a guarantor of political pluralism: the opposition should have sufficient funding, international contacts, media exposure and so forth;

(iii) Super-presidentialism is dangerous. It leads to the marginalisation of the political opposition and ultimately reduces pluralism and denies representation, which is a step towards violent conflict. The separation of powers should be well-entrenched;

(iv) International actors should attempt to enter, where possible, into processes of

imposing conditionality in return for membership in prestigious clubs or other benefits;

(v) There is no parliamentarianism without political parties. Much more attention should be paid to the internal organization of political parties, their funding, their levels of internal democracy and on public trust and confidence. The parliamentary process extends beyond the walls of the legislature, as it also covers areas such as coalition negotiations and coalition building, and the political education of its members and supporters. Sustained efforts are needed to improve the current practices;

(vi) Thus far, political education has been entrusted either with the government or with the nongovernmental sector. Hence, the German experience, where political parties (through their foundations) have been and still are involved in political education, is worth exploring. This approach will strengthen the influence of parliaments vis-à-vis the executive in the area of political education.

[11] Argjentina Grazhdani, *The Role of the Kosovo Parliament in Conflict and Post-conflict Situations.* Paper written for the UNDP sponsored project on the role of parliaments in conflict and post-conflict situations.

[12] Ibid.