

Parliaments in Conflict and Post-Conflict Situations

Lessons Learned from Eastern Europe and the Commonwealth of Independent States

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Introduction

The present paper draws on the findings of six case studies on the role of parliaments in conflict and post-conflict situations, which were prepared in the period January-June 2005 by the Centre for Liberal Strategies and its partners from the studied countries. The case studies cover five countries (Georgia, Macedonia, Moldova, Serbia, Ukraine) and Kosovo, which is a region of the federation of Serbia and Montenegro. The purpose of the paper is to elaborate trends and problems, which are common for 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 distinctive groups of countries, each group emerging after the collapse of the two biggest communist federations, the Soviet Union and Yugoslavia. This paper does not discuss the intensity of secessionist conflicts, nor does it elaborate on the diversity in the current status of conflicts on their temporary or permanent settlement. However it is important to accentuate the comparability of the political transformations and the institutional and international context of the examined political interactions/ processes.

Before discussing the role of parliaments in the selected six countries, it is important to point out that mostly parliaments elected as a result of overall free and competitive elections are subject to comparison. However these legislatures are by no means full-fledged democratic institutions but mostly liberalized semi-authoritarian legislatures with fragile, problematic legitimacy. The presumption is that regardless of their degree of democratization, post-communist parliaments 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 the assessment of the role of parliaments in conflict resolution.

All six states have been the target of intensive international initiatives and pressures. In these efforts of international institutions 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 conflict resolution efforts, 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 six studied countries also share similar cultural and historical background: they are part of the broader region of Eastern Europe, and all of them have experienced long spells of communist rule, preceded by authoritarianism of various sorts. None of the countries have enjoyed stable and durable democratic government in their history as well. These background factors facilitate the comparative analysis, and make it easier to assess the impact of institutional arrangements on the success and failure of democratisation.

A main goal of this paper is to present groups of recommendations and suggestions targeting specific problems typical for most of the discussed countries. Needless to say, these recommendations also need to be tailored and adjusted to meet the specific needs of particular countries.

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

1. Studying the Role of Parliaments

In approaching the task of 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 institutionalisation of parliaments and their strengthening in the routine operation of liberal democratic regimes. After the crisis of parliamentarism in the 1930s in Europe, there was a constitutional movement for the “rationalisation of parliamentarism”, the task of which was to strengthen parliamentary government, to avoid governmental crisis, and ultimately to provide for a more efficient relationship between the legislative and executive branches in a democracy. Most of the post-war democratic constitutions, especially those in Germany and Italy, borrowed heavily from the ideas of this constitutional movement. An example of this borrowing 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 rationalising of parliamentarism, there has been little attention to the specific roles of parliaments in preventing and managing conflicts and 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 mobilise, 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. Therefore, the present paper faces two groups of methodological options, having different initial assumptions:

1.1 Approach 1:

- (i) Institutionalisation 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.

1.2 Approach 2:

- (i) General strengthening of parliaments may not prevent their marginalisation 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 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 in dealing with conflicts, and on the basis of these roles we elaborate problems and suggest possible remedies.

2. Roles of Parliaments in Conflict Situations

These roles could be roughly divided into two main groups. The first group covers the cases in which the role of parliaments is not a constructive one, but indeed it has the potential to provoke or exacerbate a given conflict. All of these roles are formally legitimate in a constitutional democracy, but their abuse might lead to the worsening of a conflict situation.

2.1 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. Many 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 prepared stress 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 in a given polity there are no established traditions of toleration of minorities and protection of individual rights (which was the case in the six countries we studied), democracy might turn into an instrument of majoritarian oppression of groups and individuals. The political opposition may be systematically marginalized by the ruling parties. This could be done through administrative harassment, control over the media and draining the opposition of resources. All of these instruments of majoritarian oppression need some legislative action in order to be realized. This may come in the form of laws of media regulation or party funding, tax and party laws, or simply by means of lax parliamentary oversight over abusive action by the government. In this sense, if the parliament becomes a tool of majoritarian oppression over 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 depriving the opposition of resources. If the parliament is dominated in this way by an executive, democracy in the country is problematic, and 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.

2.2 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 abuse of prerogatives, and ultimately alienation of some members of a particular polity. On the contrary, when constitutional bodies participate in a system of separation of powers and 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 the building of trust among the members of a given community. Parliaments adopt the norms which guarantee the rights of the minorities and provide a forum for the expression of the interest of the political opposition. If they play this role well, the outbreak of a 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 a possibility for the citizens to explore different political alternatives. Parliament, as the main forum for the opposition, becomes the place where alternative political platforms are being articulated and defended. In case the 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, governmental failures and the lack of political alternatives drives conflicts outside the political arena, where outbreaks of violence may become more likely.

3. The Experiences of the Six Case Studies

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

3.1 Parliaments have more often played a marginal or even conflict-exacerbating role;

3.2 The main reason for the failure: in all six cases, parliaments have been mainly seen and used by the public as instruments of 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);

3.3 Part of the problem with the six countries were the existing conflicting national and political projects for their future. It is useful to compare the failures of these countries in dealing with conflict with the success stories of Central Eastern Europe and the Baltic States. One major difference which comes to mind is the EU integration perspective which was missing in both former Yugoslavia, and especially in the Caucasus, Moldova and Ukraine. The EU accession perspective provided a possibility for a universally accepted political project, which was instrumental in keeping communities together, or, as in the case of Czechoslovakia, in peaceful transition to national independence.

4. Important Dimensions of the Diversity of the Cases

This section discusses four dimensions on which there are important differences among the six case-studies:

4.1 Time of conflict

It is important to determine the time when a potential conflict has escalated and caused political/social crisis. In most cases, this has been during the first phase of the 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 lacks established and efficient practices and has not yet developed efficient communications with the other state/ public institutions (because the horizontal accountability networks had been working at the central, i.e., federal, level). To summarize the capacity of the parliament to channel conflicts and contribute to their settlement correlates mostly with the process of establishment and social entrenchment of nation-state institutions.

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

4.2 Attitude towards international peacekeeping efforts

There is a substantial distinction between cases where international peacekeeping missions are a key player in conflict resolution and cases where these missions have little or no influence. But for the purposes 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 pressures because these have been persistent sanctions”

“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 1998.”

(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 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.”

4.3 Separation of powers

It is important to distinguish between states with strong presidential powers and states with parliamentary systems in which the president has mostly symbolic powers. The interaction between the 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 that each and every head of state has. 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.

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

4.4 The degree of party system institutionalization

Usually the first free elections play the role of founding elections setting the main cleavages for decades. This is not a rule in all countries under consideration: the case of Georgia is very symptomatic with its dramatic shifts in the main parties' characteristics, while Moldova may be considered as exemplary case of a stable though evolving party system. It seems important to figure out how these dramatic shifts in voters' preferences and party alignments affect the legitimacy of the parliament in conflict or post-conflict situations.

5. The Trap of National Sovereignty

The evidence from the six case studies suggests that in conflict and post-conflict situations parliaments are prone to falling into traps. These traps consist of courses of action which superficially seem attractive and legitimate, but ultimately tend to create a potential for conflict.

The first of these traps is *legislative obsession with national sovereignty*. Parliaments in the six studied countries have been vulnerable to such obsessions and have undertaken the following actions:

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

5.2 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;

5.3 Denial of regional autonomy: with the exception of the cases of Moldova and Ukraine, all other case study parliaments have been active in denying regional autonomy;

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

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

5.6 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;

5.7 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 in Milosevic's regime) – parliaments have facilitated the exercise of such control.

6. The Trap of Majoritarianism

The second trap into which parliaments tend to fall in the management of conflict is the trap of majoritarianism. It consists of a course of action according by which parliaments become instruments for the suppression of the political opposition. The following activities are signs of aggressive majoritarianism:

6.1 Marginalisation 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 been plaguing the political life of the studied countries. Political killings and harassment of the opposition have been quite common in Milosevic's Yugoslavia, but violence against political opponents has taken place also in the 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 governmental favouritism: granting favours 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;

6.2 Lack of 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;

6.3 Election fraud and manipulation of electoral laws in favour of governmental parties. The most egregious case 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 to happen when the parliament opposes it actively: there, the parliamentary reaction to the allegations that the President was manipulating the elections was a key element in the resolution of the “orange revolution” crisis;

7. The Trap 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, and to marginalize parliament completely:

7.1 In exceptional circumstances the role of parliaments is reduced and the executive comes to the fore: this is the main assumption of the third trap and this assumption has been popular since the German constitutional theorist Carl Schmitt introduced it in the 1930s. This argument is extremely popular in the six studied countries. Actually, their constitutions are designed in such a way so as to make a charismatic president the ultimate guarantor of the constitutional order. It is not a surprise that in most of these countries the birth of the new republic was intimately linked with the figure of powerful president: Milosevic in Yugoslavia, Gligorov in Macedonia and Shevernadze 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).

- 7.2 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 rehabilitation of the parliament 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 other forms of government. The emancipation of the legislature is a very difficult process in such regimes.
- 7.3 One of the reasons for this difficult emancipation is the role of “oligarchs” – powerful businessman who build their financial empires mostly on the basis of governmental favours, and on the basis of their connections with the executive. The political power of oligarchs transforms the political process into a process of corporate representation, which further marginalizes parliaments.
- 7.4 The lack of internal democracy in political parties is another problem typical of all six studied countries, but also for the East European region 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

The traps discussed in the previous sections have sometimes been avoided by the parliaments in the six studied countries. Their stories are by no means stories of unmitigated parliamentary failure. Below we list some examples of a positive role played by the legislatures in the management of conflicts:

8.1 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.

8.2 Self-restraint of the political majority and the establishment of a viable opposition: Instances

of self-restraint have been 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 the 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.

8.3 Rationalised 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 strong parliamentary opposition in Macedonia is a good sign. In Ukraine and Georgia the opposition was also strong, but its strength translated not so much into parliamentary strengthening, but into extra-parliamentary “revolutionary” activities. This side-stepping of parliament, although probably positive in the short-run, is questionable from a long-term governance perspective.

8.4 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; particularly in the case of the former, parliament has been a breeding ground for political alternatives.

9. Overall Assessment of the Role of Parliaments in Conflicts

9.1 Conflict Prevention: parliaments sometimes take measures and enact laws, which provoke conflicts. In this sense, their role in avoiding conflicts by avoiding certain traps (discussed above) can be significant.

The conflicts discussed in the reports are mainly local (with the exception of Ukraine) and with limited duration. They have emerged within territories where social peace has been existent for over 40 years. The other peculiarity is the relative general 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.

These two prerequisites of the political context suggest that in the studied post-communist states parliaments played a secondary role during violent conflicts. There are two noticeable exceptions in the case-studies – the first is the pro-active preventive role of the Ukrainian parliament described as follows:

During the 2004 presidential elections, the parliament was a battlefield on which the pro-government 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 pro-government 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 Yanukovich 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.

This exceptional role of the Ukrainian parliament was the outcome of 15 years of parliamentary practice, the initial five being characterised by the dominance of the parliament over the weak presidential institution and the last five resulting in the effective prevention of the unconstitutional attempts of the president to additionally strengthen his powers and establish a dominant pro-presidential party in the parliament. It is also important that the initially clear territorial divisions were gradually overshadowed by alternative privatization strategies and competing business interests.

The second exception is the case of the FR Yugoslavia parliament, which openly disregarded the danger of the escalation of the Kosovo conflict, as the overwhelming majority of the parliamentary parties were “instigators of chauvinism, ethnic conflicts and wars”. In fact the parliament deliberately excluded ethnic Albanians from politics and explicitly and consistently followed a policy of violation of local minority political rights and thus provoked and later intensified 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 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.

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 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.

The distinction between the FR Yugoslavia parliament and the first Georgian legislature was that, in Georgia, an aggressive nationalist strategy could not survive for long. It did not endure

even for a single parliamentary mandate since Gamsakhurdia had very limited resources – there were no efficient government institutions, nor institutionalized party structures [DANIEL, this sentence is not clear in meaning – please restate the point].

9.2 Conflict Resolution: parliaments have very limited resources to deal with conflicts which have turned violent, especially secessionist conflicts where the interests of other countries are involved as well. At the time of violence, parliaments have little role to play. Then, the executive steps in. Yet, the parliamentary role is crucial in terms of post facto control over the legitimacy of executive action, adoption of amnesty laws and so forth (see below).

9.3 Negotiations and Settlements: Parliaments are not particularly suited for negotiating settlements, but they are indispensable for the endorsement and ultimate legitimation of the settlements: the example of the Ohrid Agreement stands out in this regard.

The direct role of parliaments in all six selected countries in peace negotiations and settlements is assessed by the researchers as not very significant. The Macedonian parliament is the only legislature that played a role by passing (without deliberation) constitutional amendments agreed by the conflicting sides

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 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.

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,

even vital for the settlement of the conflict. The debates “for” and “against” the *referendum initiative*, the rejection of the proposals to limit the constitutional amends and even to avoid the symbolic change of the constitutional preamble made the new constitution acceptable for 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.

The parliamentary role in implementing the constitutional amendment into laws on local government and on amnesty is also significant and important. 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.”

9.4 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, by becoming examples of rationalised legislatures.

In Moldova and Georgia the participation of parliaments in the negotiations and cooling down 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 influence 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 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 that 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.

In Moldova it is more appropriate to speak about the role of parliaments in peace-building. The major contribution of the parliament was the adoption of a new constitution and respective laws which guarantee 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 [supported??] 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 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.

What proves to guarantee the efficiency of the process is the alteration of party majorities which try to implement alternative strategies, as well as shifts in the balance of powers providing for dominant role of either the executive (the President) or the legislature.

The Moldovan case is symptomatic of 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 relations with international institutions is achieved despite the slow and limited democratization of the political system.

It is also appropriate to discuss the role of the Georgian parliament in peace-building and sustainable development.

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

The peace-building activities of the Kosovo parliament are not only limited but rather inefficient. It is acknowledged in the report that the executive is the internationally recognized and politically

effective branch, while the legislature is lacking 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 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.

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.

10. Main Conclusions and Recommendations

- (i) Notions of parliamentary sovereignty as 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 a violent conflict. 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 organisation of political parties, their funding, level of internal democracy, public trust and so forth. The parliamentary process extends beyond the walls of the legislature. It covers areas such as coalition negotiations and building, political education of members and supporters and so forth. These areas need to become the focus of sustained efforts to improve the current practices; and
- (vi) Political education thus far has been entrusted either with the government or with the nongovernmental sector. It is worth exploring the German experience, where political parties (through their foundations) have been and still are involved in political education. This approach will strengthen the influence of parliament vis-à-vis the executive in the area of political education.