

**ROLE OF GEORGIAN PARLIAMENT IN CONFLICT AND
POST-CONFLICT SITUATIONS**

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EXECUTIVE SUMMARY

There are two "frozen" conflicts in Georgia today, in the regions of Abkhazia and South Ossetia. Secessionist aspirations appeared in the Autonomous Republic of Abkhazia and Autonomous District of South Ossetia simultaneously and largely in response to Georgia's own desire to break away from the Soviet Union embodied in its national movement of the late 1980's.

Both conflicts developed into violent armed confrontations. Georgia has no control over these territories today and this has been the state of affairs since ceasefire agreements signed in 1992 for South Ossetia and 1993 for Abkhazia. The talks aimed at resolving these conflicts have been on and off since then involving international efforts of the OSCE and the United Nations as well as Russia in the role of a mediator. The Russian peacekeeping forces operate in Georgia's conflict zones under the CIS mandate.

The role of the Georgian Supreme Council led by Zviad Gamsakhurdia and then, since 1992, Parliament in the outbreak of the conflicts was quite significant and largely negative. The events that led to the escalation and eventual violence in Abkhazia and South Ossetia have sometimes been termed the "war of laws" which was essentially, an exchange of legal acts between three levels of authority including Moscow, Tbilisi, and Tskhinvali governments. Such negative role played by the legislative body in starting the conflicts can be attributed to the general uncertainty about the democratic institutions that prevailed in Georgia at the time.

The Georgian Parliament's role since the ceasefire agreements were crafted by then President Eduard Shevardnadze with both conflict parties can be said to have been negligible in terms of direct involvement in the negotiating process. This is understandable as the Georgian Constitution does not provide for this kind of a role of the legislative body. Individual members of Parliament, however, have participated in various kinds of unofficial negotiations but, unfortunately, their activities have had no results so far. The same can be said about interim parliamentary commissions that have been dealing with the conflict issues. Although the plans to galvanize the work of such a commission in the incumbent Parliament seem to exist, so far, similar bodies have been nothing but a formality.

As for Parliament's legislative activities, it passed only a few laws related to the conflicts, such as those regarding IDP's (internally displaced persons) and veterans and a much greater number of resolutions and statements. Thus, its activity has largely been political which should not be downgraded as it has often been a "safety valve" as it channeled radical public sentiments.

Parliament has a potential in terms of the adoption of the legislation that can have indirect effect on the conflict resolution: It can create a positive -- or negative -- environment for confidence building and creation of the general consensus regarding the conflicts. For example, the law on restitution for South Ossetian population could increase trust among these people toward Georgia.

Along with its legislative activities, parliamentary oversight can also play a positive role in creating general conditions that would facilitate the negotiating process. Provided there is proper separation of powers between the executive and legislative branches, it could restrain militant moods of the executive branch should such occur. Currently, Parliament does carry out its oversight function to a certain extent. However, its efficiency is easily reduced by the very close ties between the president and the parliamentary majority.

Like for many other post-Soviet countries, strong executive authority is typical for Georgia too. With the exception of the 1992-1995 convocation and the period between 2001 and 2003 when Shevardnadze's grip loosened over Parliament, the president had a great degree of control over the legislative body. Such inadequate separation of powers carries a risk of turning Parliament into a "rubber stamp" impeding it from exercising checks and balances on the executive branch. The situation is made even more difficult due to the fact that the opposition in the incumbent Parliament is very weak.

The issue of representation in terms of ethnic minorities is related to the conflicts indirectly. Today, both breakaway regions insist on independence or associate membership of the Russian Federation. The issue of their representation in the Georgian Parliament is thus only theoretical. However, meaningful inclusion of other ethnic minorities, who have been always severely underrepresented in the Georgian Parliament, into the work of the legislative body could potentially contribute to the creation of the general background positive for the overall conflict resolution process.

The Georgian Parliament has been receiving international assistance for many years but it has never been directly related to the conflict resolution. In fact, neither donors nor parliamentarians see the need to Parliament's direct involvement in this issue although they do highlight its potential indirect impact on the general negotiating and reconciliation processes.

Recommendations

The key role of the Georgian Parliament today should lie in the creation of the conditions that will have indirect positive effect on the negotiations and the eventual resolution of the conflicts.

To this end, Parliament needs to become a more independent institution, separation of powers needs to be restored between the branches. This requires the revision of the constitutional amendments of February 2004. Recommendations made by the Venice Commission need to be taken into account in this regard. International pressure is of vital importance in this case.

A characteristic that increases Parliament's reduced role is weak opposition. The way to resolve this problem is through the political parties competing for seats in Parliament:

More democratic internal structure, clearer political platform, and better public outreach will help increase their representation in the legislative body.

It is important to provide for the meaningful participation of minorities through their involvement in the political parties. Quotas can be a temporary initial solution in this case.

Introduction of professional staff for drafting the legislation could improve the work of the legislative body making it more efficient, particularly once the conflicts are resolved and Parliament faces a challenge of dealing with the new reality through new legislation.

The work of Parliament's Interim Commission on the Issues of Restoration of the Territorial Integrity needs to be galvanized. It has to become a forum for public discussions, source of legislative initiatives, and a channel for external proposals on conflict resolution.

Parliament has to be provided with easy access logistical resources which allow for better communication with the public or the media. This could be addressed by either Parliament itself depending on the availability of funds or the international community.

International assistance to Parliament has to be aimed at enhancing Parliament's capacity in general by addressing or helping to address the aforementioned issues.

The process of approximation with the European and Euroatlantic structures is another way that will provide for the improvement of governance in general and has a potential of restoring the balance of powers between the branches thus strengthening the role of Parliament in Georgia and enhancing its general role in terms of the conflict resolution.

INTRODUCTION

This paper examines the role that the Georgian legislative body played in the outbreak of the two conflicts on the territory of the country as well as the role that it has played since ceasefire was signed with both sides to the conflict until present. The paper consists of four parts. The first two of them are of rather introductory nature providing the reader with the background information about the institutional arrangements and practices in Georgia. They contain information on the parliamentary elections held in the country since 1990, political parties and their dynamic, international assistance, parliamentary rules of procedure, and other. The third part analyzes the role of the Georgian representative body regarding the conflicts from the historical perspective. This is the main part of the paper containing the details of Parliament's activities throughout the period in question. The fourth part contains general conclusions and recommendations.

PART ONE: INSTITUTIONAL ARRANGEMENTS

Parliamentary Elections in Georgia

Parliamentary elections in Georgia were held in 1990, 1992, 1995, 1999, and 2003 with repeat parliamentary elections by proportional system held in March 2004 following the Rose Revolution

Parliamentary Elections of 1990

The 28 October 1990 elections to the Supreme Council of Georgia were the first multiparty elections held in Georgia. Thirty-one opposition parties that were part of the Georgian national movement ran in those elections against the Communist Party to gain seats in the Georgian Supreme Council. Although the Communist Party still held power at that point, it was very much discredited, especially after the violent dissolution of a peaceful demonstration 9 April 1989.

Zviad Gamsakhurdia's hastily formed opposition coalition Round Table - Free Georgia scored an impressive victory over the Communist Party obtaining 155 out of 250 seats in the Council. Gamsakhurdia's campaign was based on the promotion of the rights of ethnic Georgians in Abkhazia and South Ossetia as the anti-Georgian policies in these autonomous entities became a high-profile question at the time. The Communist Party won 64 seats. No other party cleared the 4 percent election barrier. Only a few candidates from other parties gained seats in the Supreme Council through the elections in single-seat districts.

Part of the Georgian national movement which had split from Gamsakhurdia following his decision to stand in the Supreme Council elections against the Communist Party boycotted the 1990 elections. A coalition of more radical nationalist groups led by

Gamsakhurdia's rival Giorgi Chanturia called on the Georgians to participate in the alternative elections to the National Congress which would lead the country to independence.¹

The voter turnout in these elections reached 70 percent. The elections were held "in a chaotic political climate, involving violence and questionable electoral methods."²

The 1990 elections were held against the background of very tense relations with both the South Ossetian Autonomous District and Abkhazian Autonomous Republic (although the tensions were much stronger with South Ossetia at that point) and were boycotted by both of the secessionist regions. Naturally, the fact that the Georgian Supreme Council adopted the law banning the parties "that advocate violence, ethnic hatred, or violation of Georgia's territorial integrity,"³ which essentially implied parties whose activities were restricted to certain territories, from participating in the elections, did not help reduce these tensions as it excluded the Abkhazian Popular Front and South Ossetia's Ademon Nykhaz (Popular Shrine) that stood for secession from Georgia from the ballots in these elections.

Parliamentary Elections of 1992

The next parliamentary elections were held 11 October 1992. The legislative body as such had been effectively absent in Georgia for several months since Gamsakhurdia's ousting in early January of 1992 which was followed by the formation of the Military Council led by Tengiz Kitovani and Jaba Ioseliani. Tengiz Sigua, former prime minister who had resigned earlier because of his conflict with Gamsakhurdia, was reappointed as prime minister. On request of the Military Council leaders, Shevardnadze returned to Georgia to lead the newly created Georgian State Council. Shevardnadze's conciliatory efforts regarding the conflict in South Ossetia resulted in the ceasefire agreement and the deployment of trilateral peacekeeping force consisting of Russians, Georgians, and Ossetians in the region in July 1992.

However, Shevardnadze apparently lacked the power to prevent the Georgian National Guard led by Defense Minister Kitovani from storming the Abkhazia parliament building 18 August. This marked the beginning of the violent phase of the conflict with Abkhazia which continued until September 1993. It was against this background that the 1992 elections were held.

The electoral system for these elections was a combination of the vote in single-seat districts and a proportional (by party lists) ballot. The 4 percent election barrier that existed in the previous elections was removed which made it possible for weaker parties

¹ Cotter, J. M., Cultural Security Dilemmas and Ethnic Conflict in Georgia, in *The Journal of Conflict Studies*, Vol. XIX, #1, Spring 1999, available at <http://www.lib.unb.ca/Texts/JCS/spring99/cotter.htm> accessed on 13 April 2005

² Cornell, S. E., *Small Nations and Great Powers. A Study of Ethnopolitical Conflict in the Caucasus*, Curzon, 2001, p. 162

³ Report on the USSR, 2, no. 35 (31 August 1990), p. 24 quoted in Cotter

to gain seats in Parliament. The Central Electoral Commission registered 47 parties and four coalitions to participate in the elections and 24 of these made it to the legislative body. Separate party lists were also introduced for the regions in order to give regional parties a chance for being represented.

The Mshvidoba (Peace) Bloc consisting of seven very diverse parties, including the Democratic Union dominated by the former members and officials of the Communist Party, gained 29 seats (16 percent of the votes cast), 18 seats were taken by the October 11 Bloc.

Shevardnadze ran in the same elections for the potentially powerful post of the chairman of the new parliament but was not officially affiliated with any of the parties. He won a landslide victory receiving about 96 percent of the votes.

Overall, 51 of the 92 of the former State Council members were reelected to the new parliament as well as four sitting members of the State Council Presidium -- Mkhedrioni leader Jaba Ioseliani, former Prime Minister Tengiz Sigua, National Guard Commander Tengiz Kitovani along with Shevardnadze himself.⁴

International observers evaluated these elections as generally free and fair.⁵ The voter turnout in the voting districts was no less than 60 percent. Elections were postponed in nine of the 84 administrative districts. These nine districts were located in Abkhazia, South Ossetia, and western Georgia where Gamsakhurdia's forces were still in control.⁶

Parliamentary Elections of 1995

The elections of November 1995 were held following the adoption of the Georgian Constitution in August of the same year. Fifty-four parties and blocs participated in these elections but only three of them cleared the 5 percent election barrier: Shevardnadze's Citizens' Union of Georgia (23.7 percent of the votes), the National-Democratic Party (7.9 percent), and All-Georgian Revival Union (6.8 percent). Even though the Citizens' Union received only 23.7 percent of the vote, it gained the majority of seats in Parliament as more than 60 percent of the vote was received by the parties and blocs that failed to clear the 5 percent barrier.

International observers reported violations during the election process though called them an "important step in the establishment of the democratic process in Georgia."⁷

⁴ Library of Congress Country Studies, March 1994, <http://lcweb2.loc.gov/frd/cs/getoc.html>

⁵ Ibid.

⁶ Ibid.

⁷ OSCE ODIHR Press Release, *Presidential and Parliamentary Elections of the Republic of Georgia 5 November 1995*, 7 November 1995

Parliamentary Elections of 1999

The third parliamentary elections held in Georgia since 1990 were marred by serious irregularities including legislation deficiencies and problems with its implementation.⁸ The Citizens' Union reconfirmed its dominating position in Parliament receiving 41.75 percent of the vote. The election barrier was increased to 7 percent which was supposed to decrease the fragmentation of the political landscape giving advantage to larger parties and blocs. Along with the Citizens' Union, this barrier was cleared by two more blocs: Revival of Georgia (25.18 percent) and Industry Will Save Georgia (7.08 percent).

Parliamentary Elections of 2003 and Repeat Partial Elections of 2004

Characterized by "widespread and systematic election fraud,"⁹ the 2 November 2003 parliamentary elections triggered historic changes in Georgia. Mass protests against such fraud led to the ousting of President Shevardnadze. The results of the elections by proportional system were annulled but the single-seat district deputies retained their mandates despite the fact that the degree of violations was no less serious here.

Repeat partial elections by proportional system were held 28 March 2004. The OSCE described them as the "most democratic since independence."¹⁰ Mikheil Saakashvili's National Movement and the United Democrats led by former Prime Minister Zurab Zhvania and incumbent Parliament Chairwoman Nino Burjanadze, which participated in the 2 November 2003 elections separately, united into a bloc after the revolution to gain overwhelming 67.32 percent of the vote in the repeat elections. The Rightist Opposition - Industrialists - New Right bloc was the only other (and oppositionist) force that entered Parliament having received 7.51 percent.

An important amendment made to the Electoral Code prior to the 2003 elections allowed IDP's to vote by the majoritarian system as well as by proportional one.

The elections have not taken place in the breakaway regions of Abkhazia and South Ossetia since 1992. The mandate of the deputies elected from Abkhazia in 1992 was simply extended in 1995 and 1999 and cancelled by the incumbent Parliament.

Political parties and parliamentary parties: Is there an overlap?

The period of time between the late 1980's and early 1990's was marked by the abundance of political parties in Georgia. All of them had essentially identical agendas (they all supported independence and democratic values) so their leaders were their only

⁸ OSCE ODIHR, *Georgia, Parliamentary Elections 31 October and 14 November 1999, Final Report*, 7 February 2000

⁹ *Georgia, Parliamentary Elections, 02 November 2003*, OSCE ODIHR Election Observation Mission Report, Part 1, 28 January 2004

¹⁰ *Georgia, Partial Parliamentary Elections, 28 March 2004*, OSCE ODIHR Election Observation Mission Report, Part 2, 23 June 2004

distinguishing trait.¹¹ A coalition of such parties led by Zviad Gamsakhurdia won the majority of seats in the first elected Supreme Council of Georgia.

Gradually, such parties disappeared from the political arena. Several parties of this kind (e.g. National-Democratic Party, Traditionalist Union, and others) function to this day but have little political influence. Only one, the Republican Party, is represented in the incumbent legislative body but it gained seats there by joining a large coalition which now constitutes the ruling party.

Eduard Shevardnadze's Citizens' Union of Georgia was formed in November 1993 and dominated the political stage from the mid-1990's until its fragmentation started in the spring of 2002. It was a "loose coalition of different groups united by personal allegiance to Shevardnadze" which "has never been a consolidated political force with a common vision and values."¹² It has never existed outside Parliament and crumbled as soon as its leader lost power.

The same is true regarding another party, the Union of Democratic Revival of Georgia (Revival), which was built around Aslan Abashidze, the leader of the Autonomous Republic of Abkhazia. It was among the three parties and blocs that cleared the election barrier in the 1995 elections and retained representation until Abashidze's ousting in May 2004.

Under Shevardnadze, several parties, such as the Labor Party, New Right, the United Democrats, and the National Movement, developed from parliamentary factions. Unlike these parties that were created "from above," Industry Will Save Georgia was formed by businessmen to promote their interests and cleared the 7 percent barrier in the 1999 parliamentary elections.¹³

The National Movement -- the ruling party at present -- managed to mobilize sufficient political support to depose Shevardnadze and come to power. The role of its charismatic leader, now Georgian President Mikheil Saakashvili, can hardly be exaggerated. It entered Parliament as a bloc comprising several parties and eventually absorbed the United Democrats, the second largest political group in the bloc. Several members of the Republican Party who were in the same bloc with the National Movement switched to the opposition in summer 2004. The opposition Conservative Party was formed by two former leading members of the ruling coalition.

The Rightist Opposition coalition that comprised members of New Right and Industry Will Save Georgia was the only opposition group that cleared the 7 percent election barrier in the 2004 parliamentary elections. Some even speculate that the National Movement had, in fact, rigged the elections in order to let the Rightist Opposition in as

¹¹ Ghia Nodia, *Political Parties in Georgia in Developing a Democratic Community in Georgia*, IDEA Discussion Paper 7, May 2003, pp. 10-11

¹² Nations in Transit 2002, A. Karatnycky et al. eds., Freedom House, p. 183

¹³ Nodia G., *Political Parties in Georgia in Developing a Democratic Community in Georgia*, IDEA Discussion Paper 7, May 2003, Part I, p. 12

there was a risk of Georgia having a single-party parliament which would hardly be a sign of democratic governance.

The most vocal political group outside Parliament is the Labor Party. It lost some of its popularity as a result of its distancing itself from the Rose Revolution but has nonetheless retained its share of electorate which could grow as a result of possible popular discontent with the government's reforms. The National-Democratic Party and Traditionalists' Union are another two parties outside Parliament but these draw much less public attention. The Freedom Party formed by Konstantine Gamsakhurdia, son of Georgia's first president, shortly before the 2004 parliamentary elections fared surprisingly well receiving 4.31 percent of the votes although it still failed to clear the barrier and it is not clear whether or not the party will remain on the political stage as an active force.

Overall, both parliamentary and non-parliamentary opposition parties are rather weak. Most of their criticism is a mere reaction to the government's actions, they have no agenda of their own,¹⁴ and are often dependent on their leaders.

Division between government and opposition parties

Currently, the division between the progovernment and opposition parties is quite clear cut. The National Movement represents the only progovernment force whose opposition is composed of the Rightist Opposition, the Republican Party, the Conservative Party inside the parliament and the Labor Party outside it.

However, the situation was not as unambiguous during Shevardnadze's presidency. For instance, Revival, a local progovernment party in Ajaria but an opposition one in the center, used to change its positions based on behind-the-scene relations with Shevardnadze. New Right, which is very critical of the current government, used to oppose persons rather than ideas. After splitting from Shevardnadze's CUG and forming New Faction (which later became a party), it began to oppose Parliament Chairman Zurab Zhvania's "reformist" team which, at the time, also included Mikheil Saakashvili. At times, it was even believed to secretly support Shevardnadze. Industry Will Save Georgia, which held seats in the previous parliament, always claimed to be in opposition but was never too critical of the government's actions.

During Gamsakhurdia's time in power, the division between the government and opposition was not simply clear-cut, it was an outright confrontation. The authoritarian regime of the period was completely intolerant of the opposition activities and Gamsakhurdia himself was eventually ousted by the opposition forces. Thus, there was hardly space for the "false" opposition parties at the time.

¹⁴ Interview with political analyst Paata Zakareishvili, 15 April 2005

Parliament's prerogatives vis-à-vis the executive

The Parliament of Georgia consists of 150 members elected by a proportional system and 85 members elected by a majority system for a term of four years on the basis of universal, equal and direct suffrage by secret ballot. Based on the results of the referendum that was held in Georgia in November 2003, simultaneously with the parliamentary elections that resulted in the Rose Revolution, the total number of the members of the Georgian Parliament will be reduced to 150 after the next elections that are planned to be held in 2008. A corresponding amendment was made to the Georgian Constitution.

The relations between the executive and legislative branches in Georgia are regulated by the Constitution of Georgia adopted 24 August 1995. The Constitution is based on the US model of government which envisages clear separation of powers between the legislative, executive, and judicial authorities although the Georgian version provides for stronger presidential powers compared to the United States.¹⁵

According to the Constitution, Parliament is "the supreme representative body of the country, which shall exercise legislative power, determine the principle directions of domestic and foreign policy, exercise control over the activity of the Government within the framework determined by the Constitution and discharge other powers."

The main function of Parliament is to adopt legislation. A law is enacted after it is signed by the president. If there is disagreement between the president and Parliament regarding the law adopted by the latter, Parliament has the final say: The law can be enacted by Parliament chairperson's signature.

Parliament carries out its fiscal control by approving or rejecting the draft of the state budget submitted by the government.

Parliament makes decision on the issues of war and peace, state of emergency or martial law. Although the president can declare the state of emergency or martial law, he or she has to submit this decision to Parliament within 48 hours.

Parliament can summon and question government members and other officials approved by parliament. It can impeach the president, government members, general prosecutor, Audit Chamber chairperson, and members of the National Bank.

Parliament's main activity in terms of foreign policy is the ratification or termination of international treaties and agreements.

In February 2004, the Constitution was amended to introduce a semi-presidential system of government in Georgia. It included several key changes: The post of the prime minister and the cabinet were introduced and the president acquired the power to dissolve

¹⁵ Getsadze G., Nodia G., *The Constitutional System in Georgia*, IDEA Discussion Paper 2, May 2003, p. 9

Parliament. The dissolution of Parliament can happen in the following cases: a) if Parliament votes no confidence in the newly formed government and its program for three times, the president will appoint the prime minister (who will then appoint the ministers by the president's consent) and dissolve Parliament; b) if Parliament votes no confidence in the government, president can either dismiss the government or not but if Parliament votes no confidence in the government again, the president can choose between dismissing the government or dissolving Parliament; c) if prime minister raises the issue of confidence in the government regarding the "draft laws on the State Budget, Tax Code and a procedure of the structure, authority and activity of the Government" and Parliament votes no confidence in the government, the president can either dismiss the government or dissolve Parliament; d) if Parliament fails to approve the draft budget within three months after it was submitted, the president will either dismiss the government or dissolve Parliament.

The instances when the president cannot dissolve Parliament include: a) within six months after the parliamentary elections were held; b) during the impeachment procedure of the president; c) during a state of emergency or martial law; or d) within the last 6 months of the president's term of office.

The introduction of the prime minister's post was believed to have been designed specifically for one person -- Zurab Zhvania. Many authors believe that the cabinet and the prime minister are controlled by the president and there is no separation of powers between them.¹⁶ Thus, even though the government should receive Parliament's confidence, Demetrashvili and others believe that this is a pure formality since, if Parliament refuses to express its confidence in the government, the president will have the right to appoint the prime minister and dissolve Parliament. According to the Venice Commission, there seems to have been a dilemma of increasing the powers of the government on the one hand but retaining a very strong president on the other,¹⁷ which resulted in the system being skewed in the president's favor.

They caused heated debates in Parliament, the media, and nongovernmental organizations. Many experts believe that the amendments have considerably weakened Parliament vis-à-vis the executive, namely the president.

Rules of procedure in Parliament

The internal structure of Parliament and the procedure of its activities are determined by the Rules of Procedure of Parliament. Along with the Constitution and other laws, it covers a vast range of issues pertinent to Parliament's work. It defines basic rules of

¹⁶ Demetrashvili, A. et al., *Government in Georgia on the Central Level: The Balance Between Its Branches* (draft)

¹⁷ European Commission for Democracy Through Law (Venice Commission), *Opinion on the Draft Amendments to the Constitution of Georgia*, Venice, 12-13 March 2004

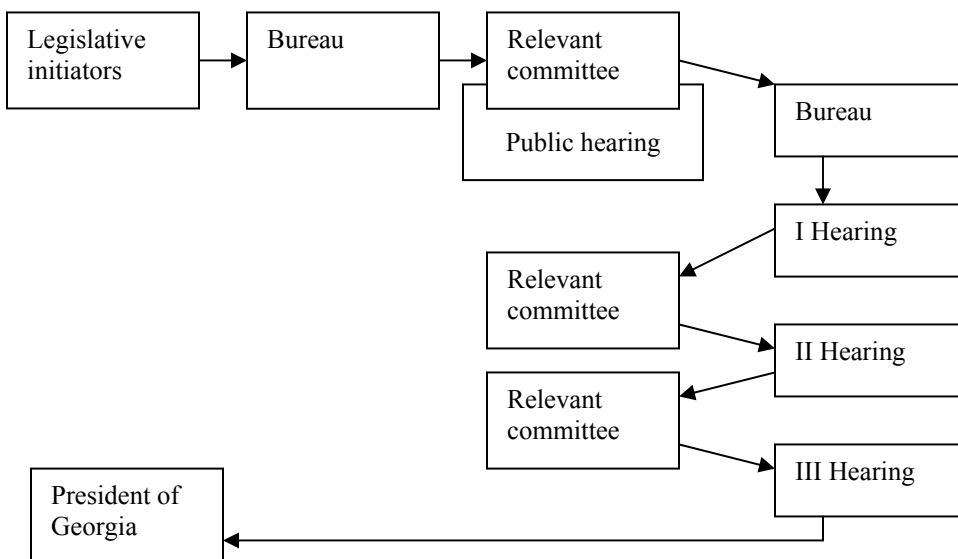
Parliament's activities, status of its members, lists constitutional prerogatives of Parliament.

In terms of Parliament's structure, the Rules of Procedure determine the number and the nature of parliamentary committees, define the rules for formation of temporary investigation and other commissions, factions, define parliamentary majority and minority.

Currently there are 13 committees, five factions, and two commissions in Parliament. Only one of the five factions in Parliament is in opposition. It takes 10 members of Parliament to establish a faction. As for the majority and minority, a faction acquires a status of the majority if the number of its members comprises more than half of the total number of parliamentarians while the parliamentary minority can be formed by factions and parliamentarians who support these factions but are not members of other factions at the same time if the total number of these parliamentarians is more than half of all members of Parliament who are not members of the majority.

The Rules of Procedure also define the functions and the status of the parliamentary leadership, i.e. the speaker, deputy speakers, the Bureau, which consists of the parliament speaker, her deputies, and heads of committees and factions.

It carries a detailed description of the legislative process which defines how draft laws should be prepared and submitted to Parliament, how such drafts are discussed at the committee hearings and plenary sessions, published and put into effect (see image below for the scheme of the legislative process in the Georgian Parliament).



Source: Official website of the Parliament of Georgia at: http://www.parliament.ge/ABOUT/leg_proc.htm

Other important issues regulated by the Rules of Procedure include reviewing the Constitution, discussing and adopting the State Budget, Parliament's relations with the executive branch, its oversight activities, procedure of impeachment, and other.

Interest groups, pressure groups, lobbies, and their institutionalization.

There is a number of business-related interest groups in Georgia, such as Businessmen's Federation as well as other associations. The level of their institutionalization varies. Some even became political parties -- a phenomenon that is considered typical for post-Soviet states. For example, Industry Will Save Georgia was created along these lines. New Right carries similar characteristics.

Surprisingly, IDP's, the largest potential interest group in Georgia, are not institutionalized. Their rallies, when they happen, are sporadic and spontaneous, they have no leadership that could organize them and put pressure on the authorities in a consistent manner. Abkhazian Government in exile could have played the leader's role in this case but it has failed to do so.

Assistance received by Parliament from international organizations

Assistance received by the Georgian Parliament throughout the 1990's was relatively smaller compared with the executive branch and particularly civil society organizations. USAID was the leading donor there working mainly through NDI, which conducted various programs ranging from constitutional and legislative development to oversight and civil integration, as well as directly providing technical assistance setting up Parliament's web site and intranet resource database. The EU channeled assistance to separate committees, parliamentary research service, and overall capacity building. UNDP's assistance to the Georgian Parliament in 1996-1999 amounted to approximately USD 330.000 (Language Center).

The Rose Revolution seems to have been a watershed in terms of assistance provided to Parliament leading to a significant increase of the international community involvement.

At present, the Georgian Parliament receives various kinds of assistance from a number of donors. The principle donors working in Parliament are the European Union, the United States Agency for International Development (USAID), and the Swiss Agency for Development and Cooperation (SDC).

The EU is currently funding the following projects: "Strengthening effectiveness and transparency of the Parliament of Georgia" implemented by the United Nations Development Program (UNDP), "Technical assistance to the Georgian Parliament - EU legislation screening" implemented by Business and Strategies in Europe (B&S Europe),

"Latvian-Georgian Parliamentary Cooperation" implemented by the London Information Network for Conflicts and State Building (LINKS). These projects will continue until mid-2005. Their aim is to create the basis for a subsequent EU TACIS program whose budget is EUR 2.2 million supplemented by a separate contract of EUR 300,000 for equipment and supplies. The overall objective of the TACIS program is to develop and consolidate democratic institutions in Georgia by "enhancing the capacity, professionalism, and accountability of the Georgian Parliament."

The USAID is funding a project entitled "Georgia: Parliamentary Oversight, Responsiveness, and Transparency (PORT)," which is implemented by the National Democratic Institute for International Affairs (NDI). The OSCE funded the work of Transparency International - Georgia on the Code of Ethics for Members of Parliament; other activities of this organization were also funded by SDC.

In addition, the Government of Netherlands is considering funding a program called "Economic Good Governance and Parliamentary Oversight: A Program in Support of Georgia's Parliamentary Democracy." The British Government (Foreign and Commonwealth Office) will fund a program called "The Majoritarian Project: Informed Citizens and Accountable Government." The Italian Senate has allocated a grant of \$50,000 for the Georgian Parliament.¹⁸

¹⁸ The information on the current assistance is based on *EU TACIS: Support to the reform of the Georgian Parliament. Background Information*, 5 April 2005

PART TWO: PRACTICES

Votes of non-confidence in the government, pre-term dissolutions of parliament, parliamentary crises, impeachment procedures regarding the president

Votes of no confidence in the government and pre-term dissolutions of Parliament have never occurred in Georgia. The 1995 Constitution simply did not provide for such mechanisms until it was amended in February 2004. The same holds true for the parliamentary crises: There was an inbuilt possibility for an impasse in case there was a serious disagreement between the president and Parliament (no feasible mechanism for resolution was provided for) but this never happened.¹⁹

The constitutional amendments introduced in February 2004 led to significant changes in the model of governance in Georgia. These amendments have provided for the mechanisms to deal with the aforementioned issues. However, these amendments are considered to have substantially increased the presidential powers and seriously weakened Parliament.²⁰ President acquired the right to dismiss Parliament. Parliament can reject the government but this can become the reason for its own dismissal by the president. The only way for the president to fail to have the desired government is that if three-fifths of Parliament vote no confidence in it which is only possible with the oppositionist majority in Parliament.

Parliament can impeach the president but the procedure of impeachment is so complicated that is almost impossible to implement.²¹ Although there was some talk about initiating the impeachment procedure in 2002-2003, this never happened.

Government sponsored legislation which has been adopted

Since its election in March 2004 and until May 2005, the incumbent Parliament adopted 367 laws and amendments to the laws, 208 of which were initiated by the executive branch (60 by the president and 148 by the government) and 159 by Parliament itself. It has to be noted that a high degree of cooperation between the members of the parliamentary majority and representatives of the executive branch is very likely to have happened as they represent a unified political team -- and emphasize this fact quite frequently -- so the actual source of the legislative initiative might not be as clear-cut and one has to bear this in mind.

¹⁹ Demetrashvili, A. et al., *Government in Georgia on the Central Level*

²⁰ Ibid.

²¹ Ibid.

Establishment of special commissions on the resolution of conflicts

The special commissions on issues of South Ossetia and Abkhazia have been functioning in the Georgian Parliament since the eruption of tensions in these regions.

The Interim Commission on the Issues of Abkhazia was first established 26 November 1992, several months after the violent conflict started in the region. All subsequent Parliaments had similar commissions whose aim was to elaborate suggestions regarding the political status of Abkhazia within Georgia and to be engaged in the discussions of this issue in general. The parliamentary resolution according to which the first such commission was established, stipulated that it was to "present a comprehensive parliamentary document" regarding the Abkhazia question. After the 1992-1995 Parliament, interim commissions on Abkhazia issues were established in April 1996 and December 1999.

A similar interim commission on South Ossetia was established as early as in the Soviet period. Like the commissions on the Abkhazia Issues, commissions dealing with the South Ossetia issue (the name was later changed to the "Interim Commission on the Issues of Tskhinvali Region" to reflect Georgian authorities' refusal to recognize such entity as "South Ossetia") existed in the subsequent Parliaments as well.

The incumbent Georgian Parliament established a single Interim Commission on the Issues of Restoration of the Territorial Integrity to deal with Abkhazia and South Ossetia matters 25 July 2004.

The role of these commissions is discussed in further detail in Part III of this study.

Parliament and the public media

The media in Georgia is relatively free. This freedom has often been called the main achievement of Shevardnadze's presidency although the process of establishment of the free media was not simple and occasionally encountered the government's resistance. The public has tended to react very painfully to the government's attempts to restrain freedom of speech: For example, security forces' raid on the independent TV channel Rustavi-2 in October-November 2001 triggered major rallies.

After the Rose Revolution, there has been increasingly intensive talk about "self-censorship" in the media which implies that journalists avoid broadcasting or publishing materials that are likely to be disapproved by the outlet owners. This is especially true in case of the electronic media since it reaches larger groups of population than the print media in Georgia.

The Georgian Parliament has always been much more open and accessible to the media than the executive branch. Its plenary sessions are televised, journalists are allowed to

attend open committee hearings. This also has a lot to do with the fact that Parliament is not a unified team like the government and the media is a way for many members of Parliament, particularly those from the opposition, to make their voices heard.

The media is successfully used by parliamentarians as a forum for political debate outside Parliament. A number of political talk shows allows for such an opportunity. Press conferences are among the opposition's favorite ways of communication with the public.

PART THREE: THE ROLE OF THE LEGISLATURE IN CONFLICT/POST-CONFLICT SITUATIONS

Situation Prior to and During Conflict

A massive wave of nationalist euphoria directed at gaining independence from the Soviet Union swept Georgia in the late 1980's. Naturally, such sentiments galvanized latent conflicts with the minorities, particularly the Abkhazians and South Ossetians. First clashes occurred in 1989 both in Abkhazia and South Ossetia although the conflicts entered their violent phase later on and at different times in both autonomous regions.

South Ossetia

The series of events that eventually led to the outbreak of conflict in South Ossetia is sometimes termed the "war of laws."²² 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 resolution On the State Program for the Georgian Language was introduced. This resolution 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, 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.²³ 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

²² Cornell, *Small Nations and Great Powers*, p. 165

²³ Ibid.

further impetus to the South Ossetians' secessionist claims: In August 1990, the Georgian Supreme Council adopted a law that banned regional parties (that is, Ademon Nykhaz as well as 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.²⁴ This act could only be interpreted by the South Ossetians as a means of disenfranchising them and cutting them off from influence. In September, South Ossetian Supreme Council unilaterally upgraded the status of the autonomous district calling it Independent Soviet Democratic Republic.²⁵

The Georgian Supreme Council 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 11 December.²⁶ The Supreme Council was unanimous in this decision.²⁷ 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 legislative contributed to the escalation of tension which resulted in war.

Following Gamsakhurdia's ousting in early January 1992, Shevardnadze returned to troubled Georgia in March on request by the Georgian Military Council controlled by Tengiz Sigua, Tengiz Kitovani, and Jaba Ioseliani and became the head of the newly formed Georgian State Council. He found himself in a difficult situation having to deal with the South Ossetian conflict on the one hand and a civil war waged by Gamsakhurdia's supporters in the western part of the country on the other. As a result of Shevardnadze's efforts, a temporary ceasefire agreement was signed with the Ossetians 14 May 1992. However, the situation continued to deteriorate as Shevardnadze lacked control over the actions of the paramilitary forces that formed the Georgian Army at the time. The threat of regionalization of the conflict²⁸ as a result of involvement of external factors of Russia, North Ossetia, and North Caucasus pushed Shevardnadze and Yeltsin toward signing a new ceasefire agreement in Sochi 22 June.²⁹ The Russian-led trilateral peacekeeping force was deployed in South Ossetia about a month later. This "effectively removed Georgia from approximately half of South Ossetia's territory."³⁰

²⁴ Suny, Ronald Grigor, *The Making of the Georgian Nation*, Indiana University Press, 1994, p 325 quoted in Cornell, *Small Nations and Great Powers*, p 162

²⁵ Cornell, *Small Nations and Great Powers*, p. 166

²⁶ Svetkovsky, N., *The Georgian-Ossetian Conflict*, Chapter 4, Danish Association for Research on the Caucasus, available at <http://www.caucasus.dk/publication5.htm>

²⁷ Interview with Ghia Nodia, head of the Caucasus Institute for Peace, Democracy, and Development, 19 April 2005

²⁸ Cornell, *Small Nations and Great Powers*, p. 169

²⁹ The agreement came into effect on 28 June.

³⁰ Cornell, S. E., *Autonomy as a Source of Conflict. Caucasian Conflicts in Theoretical Perspective*, World Politics 54.2, 2002, available at <http://www.cornellcaspien.com/pub2/WorldPolitics542Cornell.htm>

Abkhazia

Like the conflict in South Ossetia, first tensions in Abkhazia began to emerge in 1989 against the background of the general nationalist sentiments in Georgia. The first confrontation occurred when the Georgian authorities decided to open a branch of the Tbilisi State University in Sokhumi for Abkhazia's ethnic Georgians. As Aleksey Zverev put it, "none of the sides was strong enough in order to resolve the conflict by military means. Battles between Georgians and Abkhazians over the Abkhazia issue were transferred to the legislative bodies of both republics."³¹

The aforementioned law banning the participation of the region-based parties in the elections to the Georgian parliament adopted by the Georgian Supreme Council in August 1990 aimed to prevent Abkhazian movement Aidgilara from nominating its candidates. On 25 August, the Abkhazian Supreme Council (its ethnic Abkhazian members) issued a declaration on Abkhazia's status of a union republic thus seceding from Georgia. The legislation canceling all of the agreements made by Georgia's Soviet government since February 1921 was adopted by the Georgian Supreme Council in 1989-1990. The Abkhazian side named the cancellation of these agreements, which represented the basis for the existence of the autonomous entities within Georgia, as the basis for the aforementioned declaration.³² Georgia's legislative body annulled the declaration the very next day.³³

Another law adopted by the Georgian Supreme Council which fueled the already existing confrontation was the law on prefects, local administration heads appointed by Gamsakhurdia, which was published on 27 April 1991. On 17 March, Abkhazians participated in the referendum (disregarding Gamsakhurdia's ban on organizing it) in which they voted in favor of remaining within the Soviet Union. Gamsakhurdia then threatened to dissolve the Abkhazian Supreme Council and to cancel Abkhazia's autonomy. The Abkhazian leadership managed to increase Russian military presence in Abkhazia as a safety measure.³⁴

This led to Gamsakhurdia's taking a step that may be described as a measure aimed at defusing tensions in Abkhazia to a certain extent. A compromise was reached regarding the representation to the Abkhazian Supreme Council. According to this decision, 28 seats (46 percent) in the 65-strong council were to be occupied by ethnic Abkhazians, 26 by the ethnic Georgians, and the remaining 11 by other minorities. This law gave a huge advantage to the ethnic Abkhazians given the fact that they comprised only 17.3 percent of the population³⁵ in the autonomous republic. However, a rift between the Georgian and non-Georgian groups occurred in the Abkhazian Supreme Council soon. "Throughout 1991, Abkhazia continued to distance itself increasingly from Georgia by

³¹ Zverev, A., «Этнические конфликты на Кавказе, 1988-1994» in «Спорные границы на Кавказе», p. 46

³² Ibid.

³³ Lezhava, G. P., *Между Грузией и Россией*, Moscow 1997, p. 290

³⁴ Zverev in «Спорные границы на Кавказе», p. 47

³⁵ Soviet Census 1989

building up a political system enshrining the dominance of the Abkhaz ethnic group and by forging ethnic coalitions both in Abkhazia (with Armenians and Russians) and regionally (with North Caucasian peoples)."³⁶

However, this did not develop into a large-scale violent conflict until 1992. In fact, the situation there remained relatively calm during the conflict with South Ossetia. The tensions started increasing along with the escalation of the civil war within Georgia proper.

The war broke out in August 1992 when Defense Minister Kitovani led the National Guard troops to Abkhazia and took Sokhumi. Shevardnadze was presented with fait accompli. He clearly was not in complete control of the situation. Nonetheless, he won overwhelmingly (almost 96 percent) in the separate vote for the post of the chairman of Parliament which was held simultaneously with the parliamentary elections in October 1992.

Thus, both conflicts in Georgia essentially started in the absence of democratic institutions even though formally they were present. Although an elected parliament was in place during the outbreak of the South Ossetia conflict, there was uncertainty about the role of the institutions in general. The Abkhazian conflict broke out in the situation that could be characterized as one close to anarchy, in a situation of an institutional breakdown with just a temporary Shevardnadze-led State Council in place and a complete absence of any elected authority.

Legislation, Political Activity. Parliament and "Frozen" Conflicts

The legislative activities of the Georgian Parliament as well as its predecessor -- Soviet Georgia's Supreme Council, happened to play quite an active role in the outbreak of the conflicts in South Ossetia and Abkhazia. As was mentioned above, the events that preceded the South Ossetia conflict were even called a "war of laws" -- a chain reaction that eventually triggered the violence like in case of the abolition of South Ossetia's autonomous status by Georgia's Supreme Council. Parliament made somewhat similar contribution with regard to the Abkhazia conflict.

Since the end of the violent phase in both conflicts, Parliament's activity has been expressed in passing a small number of laws and a considerably larger number of resolutions and statements which were often addressed to Russia and condemned its negative role in the conflict resolution process underlining the "inexpediency" of the presence of the Russian peacekeepers in the conflict zones and demanding their withdrawal. Moreover, these resolutions were often a reaction to something that had already happened rather than defining decisions according to which the executive branch was to act.³⁷

³⁶ Cornell, *Autonomy as a Source of Conflict*

³⁷ Interview with Vakhtang Khmaladze, former member of the Georgian Parliament, 26 April 2005

Only a few laws that were related to the conflicts were adopted by Parliament and these mainly concern the issues of the veterans of war, missing person, and IDP's. These laws regulate the legal status and define the rights of these categories of the population describing procedures of receiving the legal status by these people, their entitlement to humanitarian aid, the government's obligation to provide them with housing, employment, education and so on. Despite the existence of the legislative framework and due to the generally difficult economic situation in the country, the living conditions of IDP's remain hard.

The Law on Displaced Persons adopted in 1996 contains a paragraph which regulates the instance of the return of the IDP's to their permanent places of residence tasking the executive authority and local government bodies with ensuring their security and compensating them for what they have lost. In case of Abkhazia, the return of the IDP's to their homes has been an issue of negotiations for years and has led to no results so far, so this clause would hardly be something easily accepted by the Abkhazian side.

An important amendment was made by Parliament to the Electoral Code prior to the 2003 parliamentary elections. If before, IDP's could only participate in the elections through voting by proportional system, that is to say, for the parties, the amendment allowed them to participate in the election of Parliament members from single-seat districts which has a potential of giving IDP's an opportunity to have a more direct access to Parliament through "their" deputies. Thus, this amendment can serve as a better protection of their rights and improve their representation in the legislative body. Given general sentiments that prevail among IDP's (who will always press for returning home), such access could cause the majoritarian deputies, whose constituencies contain large groups of IDP's, to assume a more belligerent stance regarding the conflict resolution on the one hand, or simply press more actively to find solution -- on the other. Ideally, it should also lead to more active discussion of the issues related to the breakaway regions in Parliament which has not been the case so far.

Therefore, Parliament's activity regarding the conflicts throughout these years has been of political rather than legislative nature. Statements and resolutions issued by Parliament or made by individual parliamentarians that were often of quite belligerent nature shaped the legislative body as a forum for political discourse. These resolutions have hardly ever drawn a real response on the part of the executive authority; they were rather used by the latter as a bargaining chip in negotiations with Russia or as a means of diverting public attention from domestic problems.³⁸

By harboring radical discourse in such a manner, Parliament has served as a safety valve for radical public sentiments. The degree of individual responsibility in case of the representatives of the executive branch is much higher than of Parliament due to the collective nature of the latter. This makes the executive authority a lot more cautious in what it says or does. Thus, the division of roles between "moderate" executive authority and "radical" Parliament was used to appease certain groups of the population, such as

³⁸ Interview with G. Nodia

IDP's demanding that the authorities did something to ensure their return to their homes.³⁹

In spite of its inactivity in terms of conflict-related legislation so far, Parliament can adopt legislation that can have a potential indirect effect on the conflict resolution by creating a positive -- or negative for that matter -- environment for such processes as confidence building, creating a general consensus regarding the conflicts. For example, there has been talk of adopting a law on restitution that would apply to the population that was affected by the South Ossetian conflict. Many believe that the adoption of such a law will significantly increase trust among the population of South Ossetia (and not just ethnic Ossetians) toward Georgia.⁴⁰

One of the arguments that have been put forward by various analysts regarding the negative effect of the existing legislation on the conflict resolution concerns the law on the status of the Ajarian autonomy in Georgia. Some experts stress that the limited nature of autonomy given to Ajaria could have damaging consequences for Georgia's negotiating efforts and the stance that may be adopted by the parties to the conflict as this could undermine Georgia's efforts to convince the Abkhazians and South Ossetians in its willingness to give them a sufficient degree of autonomy in the possible future federative arrangement.⁴¹ However, others believe this argument to be far-fetched. They believe that the case of Ajaria differs significantly from those of Abkhazia and South Ossetia in many aspects (historically, demographically) and the degree of autonomy that satisfies the Ajarians would never be accepted by the breakaway regions.⁴² Their opinion is backed by the comments made by various Abkhazian officials who have noted that Ajarians are not a minority in a strict sense of this word. For example, the Georgian Census lists Ajarians as ethnic Georgians.

What sometimes is seen as a vacuum that needs to be filled by Parliament is the absence of a general vision as to what Georgia is going to offer to the breakaway regions. The chapter on Georgia's territorial arrangement was temporarily omitted from the Georgian Constitution as neither Abkhazia nor South Ossetia were under country's jurisdiction when the Constitution was adopted in 1995. Two approaches can be singled out in this regard. According to the first one, Georgia has to have some sort of a key document stipulating the country's territorial arrangement and the negotiations with the conflict parties has to be based on such a document (elaborated by Parliament).⁴³ The second view which seems to have more support at the moment and is actively discussed in Parliament is to define the country's territorial arrangement while leaving the status of Abkhazia and South Ossetia a subject for negotiations.

³⁹ Ibid.

⁴⁰ Interview with P. Zakareishvili

⁴¹ Ibid.

⁴² Interview with G. Nodia

⁴³ Interview with Nikoloz Gvaramia, member of the Georgian Parliament, member of the Interim Commission on the Issues of Restoration of the Territorial Integrity

Naturally, Parliament's role in terms of its legislative activity will increase immensely once the real peace process with the conflict sides begins as well as after the conflicts are settled. Amending the Georgian Constitution as well as harmonization of other laws will be its primary goal.

Parliamentary Oversight

Effective parliamentary oversight is another aspect that can enhance Parliament's role in the post conflict situation.⁴⁴ The Georgian Constitution stipulates that Parliament "shall control the government's activities within the framework of the Constitution." Parliament has the right to inquire the executive branch about any issue it is interested in. It can do this in writing or orally, by summoning a corresponding official to Parliament. It is the latter's obligation to answer the question asked by Parliament within time limits determined by the law.

Parliamentary oversight can, under certain circumstances, curb militant or aggressive intentions should they emerge in the executive branch. This is especially true regarding the control over the military and security spheres through, for example, defense budget and military aid oversight. The current galvanization of the government's efforts to enhance the country's military potential makes parliamentary oversight all the more important.

However, for oversight to be effective, Parliament needs to be independent from the executive branch. Currently, oversight practices appear to be carried out only to a certain extent due to the domination of Parliament by the executive branch (see next section). The opposition has made complaints about executive officials' failure to show up when summoned by parliamentarians and this particularly concerns power department representatives. After the escalation of the conflict in South Ossetia in the summer of 2004, Parliament requested that then Internal Affairs Minister Irakli Okruashvili reported about the death toll as a result of the escalation, which the minister did. However, Parliament had no access to information about the resources that were spent on the campaign.⁴⁵

Relations with Executive Branch

Georgia has a history of powerful state leaders and dominating executive branch. The parliamentary majority in Parliaments since 1990 (with the exception of the 1992-1995

⁴⁴ It is hard to talk about parliamentary oversight over the executive before and during the conflicts in Georgia since, as mentioned earlier in the text, the outbreak of the South Ossetia conflict happened when the Soviet Constitution of 1978 was in force while the Abkhazian conflict started in the absence of parliament as such.

⁴⁵ Save for the Parliamentary Group of Trust, whose members have access to classified information. It is noteworthy that the opposition spot in this group is still vacant.

Parliament and the period when Shevardnadze's Citizens' Union split into several parts in the spring of 2001) represented members of the pro-presidential party.

In 1990-1992 Supreme Council, President Zviad Gamsakhurdia's "complete domination" of the Round Table - Free Georgia bloc, which represented parliamentary majority at the time, made the newly introduced separation of legislative and executive powers nothing but a formality.⁴⁶ The fact that this legislative body abolished South Ossetia's autonomous status unanimously is illustrative.

Shevardnadze achieved similar degree of domination over the Georgian legislative body. His control was weakest in the 1992-1995 Parliament which can be explained by its very fragmented nature. At one point, Shevardnadze even threatened to resign because of parliamentary disputes. Nonetheless, when important decisions had to be forced through, Shevardnadze managed to "mobilize" the parliamentarians (many of whom were not even in the country quite often) and muster the necessary number of the votes. For example, this is was the case during the ratification of the agreement on Georgia's joining the Commonwealth of Independent States (CIS) in 1993.⁴⁷

An interesting detail is that Parliament of this convocation even attempted to revoke the agreements regarding Abkhazia -- the Quadripartite Agreement on Voluntary Return of Refugees and Displaced Persons signed on 4 April 1994 and the Agreement on a Ceasefire and Separation of Forces, signed in Moscow On 14 May 1994 -- stating that they had been signed by officials who were not authorized to do so. However, these attempts did not go any further than discussion.⁴⁸

In 1993, Shevardnadze established the Citizens' Union of Georgia, a party comprising his personal supporters who often could hardly stand each other. This party dominated the political scene -- and Parliament -- for several years before the president started to gradually lose the grip over the majority in the 1999-2004 Parliament in the second half of its four-year term.

The current situation in Georgia is not very dissimilar. The ruling National Movement faction counts 132 members in the 235-strong Parliament reinforced by Majoritarian faction of 22 deputies as well as other members of Parliament elected in single-seat districts ("majoritarians") who tend to vote with the president's party. Thus, the parliamentary majority amounts to two thirds of all Parliament members forming the constitutional majority -- something that has never happened in Georgia before.

In addition to controlling Parliament through the party links and personal and informal ties, the president has the power to dissolve Parliament. This, naturally, provides the executive branch with further levers for influencing the legislative body.

⁴⁶ Nodia G., *Attempting to Establish Democracy in Georgia*, IDEA Discussion Paper 1, Part I, p. 13

⁴⁷ Interview with Khmaladze.

⁴⁸ Ibid.

According to some observers, virtually none or very few laws originate in Parliament today as most of them drafted by the government. Even in cases when the drafts are prepared by local NGO's (or sometimes informally, representatives of international organizations) they tend to get to Parliament through the government.⁴⁹ The degree of personal loyalty of many members of the ruling party to the president is extremely high and the parliamentary majority forms a unified team with the government disrupting the separation of powers stipulated by the Constitution.

As for political acts such as parliamentary resolutions, the executive branch has tended to either ignore them or, as was mentioned above, use them as a bargaining chip in talks with Russia.⁵⁰ Moreover, Parliament has rarely come up with an initiative that was not coordinated with the executive branch beforehand. In the words of a Georgian political analyst, the Georgian Parliament has been "a toy in the hands of the executive," "has never had a policy of its own," and has always expressed the will of the ruling party rather than the people who elected it.⁵¹ Others disagree, recalling the hard time that Parliament gave to the government regarding the adoption of the state budget and other legislation in 2004.⁵²

Normally, in a situation where the majority in Parliament is controlled by the executive, the opposition becomes a force exercising checks on the executive. However, the situation in Georgia is further aggravated by the absence of a strong opposition both inside and outside Parliament. The criticism voiced by most of the opposition parties is based on the reaction to the government's actions and they have no program of their own.⁵³

Most of the Georgian political parties have a common flaw which is their lack of platforms and are unified around people, not values. When such parties obtain seats in Parliament their lack of a clear agenda contributes to the general inability of Parliament to develop a relatively cohesive position regarding various issues, including the ethnic conflicts.

Naturally, a strong executive facing weak and controllable legislative branch has a potential of reducing the effect of such mechanisms as parliamentary oversight. There is also a danger that this will keep the Georgian Parliament's role in conflict and post-conflict situations negligible because the legislative body will be a simple continuation of the executive branch voicing its will and this is precisely how it is perceived by the conflict parties. Strengthening Parliament as an independent institution capable of exercising meaningful checks on the executive should be among the priorities for international assistance.

⁴⁹ Interview with a representative of an international nongovernmental organization who preferred to remain unidentified.

⁵⁰ Interview with Zakareishvili.

⁵¹ Ibid.

⁵² Interview with Nodia.

⁵³ Interview with Zakareishvili.

When the situation in South Ossetia escalated to a violent conflict as a result of the Georgian Government's actions in the summer of 2004, Parliament became a forum for heated debate regarding this issue. Opposition forces in Parliament were very critical of the government's policies in this regard even though the media hailed it for "thawing" the long-frozen conflicts and getting the ball rolling. Although opposition representatives' critical remarks were received very aggressively by some of the majority members, different opinions were nonetheless expressed which indicates the existence of pluralism in Parliament.

Commissions

The widely shared opinion maintains that the interim commissions on the issues of Abkhazia and South Ossetia, which have existed since escalation of tensions in these regions in the late 1980's and early 1990's, have done nothing worthy of attention. The Commission on Abkhazia Issues in the Parliament of 1999-2004 convocation could be called the most "active" one but the activity was mainly confined to publishing compilations of documents and brochures on Abkhazia.

It appeared that these commissions have been nothing but a formality. According to a member of one of such commissions, the body had once prepared a document on the status of Abkhazia but could never get Parliament to discuss it.

The incumbent Georgian Parliament established the Interim Commission on the Issues of Restoration of the Territorial Integrity. Unfortunately, there is a deep skepticism regarding its activities among analysts as well as parliamentarians. It seems to have come into existence for a trivial reason of providing a parliamentarian from deceased Prime Minister Zurab Zhvania's team⁵⁴ with a certain post.⁵⁵ According to one of the members of Parliament, the Commission is doing "absolutely nothing" and was simply created to allow its members to employ a couple of relatives or friends in the Commission staff.

Thus, although potentially a good instrument for generating ideas on conflict resolution and future reconciliation or a channel for carrying through the messages on the settlement, proposing initiatives regarding IDP's, and other productive activities, this commission in the incumbent Parliament (as well as all previous Parliaments) is nothing but a formal group of people only a few of whom are involved in seeking avenues for a dialogue with the conflict parties.

The plans to galvanize the work of the Commission seem to exist. According to one of the members of the current Commission, it is going to start the discussion of the political

⁵⁴ The ruling force is informally divided into three "teams" associated with the three leading figures of the Rose Revolution -- Mikheil Saakashvili, Nino Burjanadze, and Zurab Zhvania. Correspondingly, there was an unofficial understanding that a certain balance would be retained between them in terms of distribution of the government positions.

⁵⁵ Interview with Zakareishvili.

status of Abkhazia and South Ossetia in order to come up with a comprehensive document on the issue.⁵⁶ However, when in the summer of 2004 a group of experts prepared a blueprint on the settlement of the Abkhazia conflict, there was no reaction on the part of this commission even though it would have been an ideal route for public discussion of the document.

Parliament's Engagement in Negotiating Process, Role of Individual MP's/Groups

The negotiations between the parties to the conflict take place at three main levels: 1) official talks at the executive level; 2) talks at the level of non-governmental organizations; and 3) unofficial meetings involving parliamentarians as well as representatives of non-governmental organizations.

The Georgian Parliament as an institution does not take part in the official negotiations with the parties to the conflict. This is not where its primary role lies and is not its main function.⁵⁷ Members of the 1992-1995 Parliament participated in the negotiations at the official level and even signed documents but their participation often depended on Shevardnadze's decision.⁵⁸

There are efforts on the part of the individual parliamentarians who participate in the unofficial meetings mentioned above. Such efforts were made in the past and continue to be made to this day.⁵⁹ Unfortunately, they have produced no effect so far but this can be considered a worthwhile initiative as an additional means of communication with the conflict parties.

Issue of Representation

Ethnic Minorities

When the Georgian Supreme Council adopted the law banning parties whose activities were region-based from participating in the national parliamentary elections planned for October 1990, this, of course, was perceived by the ethnic minorities (Abkhazians and South Ossetians) as an attempt to disenfranchise them and keep them away from the central government. This was very much in line with the nationalist rhetoric of Zviad Gamsakhurdia.

However, this seems to have been just another step in the "war of laws" that was waged by the legislative bodies of Georgia and separatist regions at the time because the issue of representation was more acute at the local than at the central level. According to the

⁵⁶ Interview with Gvaramia.

⁵⁷ Interview with Zakareishvili.

⁵⁸ Interview with Khmaladze.

⁵⁹ Interview with Nodia.

Soviet Census of 1989, ethnic Abkhazians, for example, comprised only 17.3 percent of the population in Abkhazia while Ossetians comprised only 66.2 percent in South Ossetian Autonomous District.⁶⁰

Given the fact that Abkhazians comprised only 1.8 percent and Ossetians -- 3 percent of the total Georgian population in 1989, only introduction of bicameralism could have allowed some degree of representation for these ethnic groups at the central level. This issue was discussed with the Abkhazians prior to the outbreak of the war in August 1992. However, these sides only put forward various options (e.g. granting all deputies elected in Abkhazia or ethnic Abkhazian deputies elected in Abkhazia the right to veto certain decisions concerning Abkhazia, or adoption of a constitutional provision setting a high quorum for number of issues so that a decision could not be reached without the consent of Abkhazian deputies, and so on)⁶¹ and no agreement was ever reached in this regard.

Under the current circumstances, when both breakaway regions insist on independence or associate membership of the Russian Federation, the question of their representation in the Georgian Parliament is only theoretical. However, meaningful inclusion of other ethnic minorities (Armenians, Azerbaijanis) into the work of the Georgian legislative institution could potentially contribute to the creation of the general background positive for the overall conflict resolution process.

Despite Georgia being a multiethnic country, ethnic minorities have always been severely underrepresented in Parliament. Ethnic minorities comprised less than 3 and less than 2 percent in the 1990-1992 Supreme Council and in the 1992-1995 Parliament respectively while their share in the population of Georgia in 1989 amounted to 30 percent (including Abkhazia and South Ossetia).

The situation improved only slightly in the subsequent years. In 1995-1999 and 1999-2004 Parliaments there were 13 representatives of ethnic minorities among 235 (about 6 percent) deputies. The increase in the number apparently stemmed from Shevardnadze's efforts because most of these deputies appeared on the list of his Citizens' Union of Georgia. Nonetheless, it failed to reflect the real picture since, according to the 2003 Census, ethnic minorities made up no less than 16 percent of Georgian population.⁶²

Another problem is that the minority representatives that were or are in Parliament usually fail to be politically active. They have never occupied any leading positions in the ruling or other parties or created any influential groups within Parliament. One of the hampering factors is the fact that they usually do not speak Georgian and this is the sole language of operation of the Georgian Parliament. Meaningful representation and active participation of ethnic minorities in Parliament's activities could render the Georgian Government's statements regarding building a country based on equal rights for the minorities more credible.

⁶⁰ The compromise ensuring advantageous position for the ethnic Abkhazians in the Abkhazian Supreme Council was mentioned earlier in the text.

⁶¹ Interview with Khmaladze.

⁶² Census 2003 (note that Abkhazia and S. Ossetia are not included there)

Women

The number of women in the Georgian Parliament has remained relatively stable throughout all convocations. Currently, there are 22 women in the 235-strong Parliament. They are clearly underrepresented in terms of their numbers but they have always been vocal and have occupied leading positions, especially in the previous and the incumbent legislative bodies. The speaker of the incumbent Parliament, the leader of the parliamentary majority, and a leading member of the opposition are women. Two committee chairpersons are also women. The situation regarding women's participation and activeness is an improvement compared to the previous parliaments but the fact remains that they do not comprise more than 10 percent of the Parliament's composition.

Despite otherwise being active, female parliamentarians do not participate in conflict-related negotiations at any level.

Abkhazia Faction

The Law on the Election of the Parliament of Georgia adopted 1 September 1995 extended the mandate of the parliamentarians who had been elected from Abkhazian territory in the 1992 elections. This was the basis of the appearance of the set-aside seats in the Georgian Parliament which existed for nine years until their abolition by the incumbent Parliament as unconstitutional and, according to a more radical assessment, a part of the former "criminal" regime.⁶³

The meaning of this faction was purely symbolic: It represented unity of Georgia⁶⁴. It frequently raised the issue of Abkhazia in Parliament. Arguably, the position of the faction which advocated strong-arm resolution of the Abkhazia conflict made it harder for Parliament to act in a constructive way.⁶⁵

Although the existence of this faction resulted in a much more active discussion of the Abkhazia issue throughout these years compared with the South Ossetia conflict which was essentially neglected until its escalation in the summer of 2004, its activities of this kind never produced any tangible results. Radical sentiments expressed by the members of this faction were sometimes played out by the executive government as a demonstration of its own positive role against the background of "belligerent" legislative body, especially at the international stage. Domestically, radical discourse which this faction represented could always be used by the government to divert attention from other topical issues when there was such need.⁶⁶

⁶³ Interview with N. Gvaramia.

⁶⁴ Interview with P. Zakareishvili.

⁶⁵ Correspondence with Professor Charles King, Georgetown University, April 2005.

⁶⁶ Interview with G. Nodia.

Relations with and the role of international community/organizations

Since gaining independence, Georgia has been receiving substantial bilateral and multilateral international assistance aimed at building and strengthening its democratic institutions, civil society, independent media, and developing market economy. The United States has been the largest bilateral donor allocating approximately USD 1.4 billion for assistance to Georgia.⁶⁷ In 2004, it allocated USD 102.1 million for assistance to Georgia, USD 14.4 million of which was for democracy programs. The United States is followed by the World Bank, the European Union (approximately EUR 370 million between 1992 and 2003⁶⁸), and other donors.

The optimism that the international community demonstrated as Georgia took its first steps as an independent country was not disillusioned even by the violent civil confrontation that resulted in ousting of Zviad Gamsakhurdia in the early 1992. After Shevardnadze returned as the head of the Georgian state, the country joined many international organizations, aid started to flow in. Georgia seemed to be making progress in the 1990's with inflation curbed, GDP showing double-digit growth rates in 1996 and 1997, democratic constitution and laws adopted, and the country itself turning into an "NGO heaven" of the South Caucasus⁶⁹ displaying lively activities of the civic sector.

However, by the end of the 1990's, it became apparent that Georgia's democratic development was rather a false impression. This led to a cut in donor assistance. The United States reduced its assistance by approximately USD 25 million in the course of three years between 2000 and 2003.⁷⁰ However, the United States increased its assistance to Georgia following the Rose Revolution in November "in response to its progressive reform plans and its outward effort to combat corruption."⁷¹

Parliament has not been bypassed by this flow of donor assistance (see Part I) which increased quite significantly after the Rose Revolution. However, Parliament has never received any external assistance directly linked to the conflict issues. In fact, an international NGO representative said that such sensitive issues are vigilantly avoided at the donor meetings as they are not seen as a priority as far as working with Parliament is concerned.⁷²

Assistance from the international organizations that work with Parliament is usually based on the needs assessment which, in turn, is based on the requests put forward by the recipient of the assistance. Apparently, no request has ever been made for the Parliament to get involved in conflict resolution issues.⁷³

⁶⁷ US Department of State Bureau of European and Eurasian Affairs, Background Note: Georgia, February 2005 available at <http://www.state.gov/r/pa/ei/bgn/5253.htm#relations>, accessed 26 April 2005

⁶⁸ The EU's Relations With Georgia available at http://europa.eu.int/comm/external_relations/georgia/intro/index.htm, accessed 26 April 2005

⁶⁹ Devdariani, Jaba, *The Impact of International Assistance on Georgia*, Discussion Paper 11, IDEA, p. 13

⁷⁰ Civil Georgia, 1 October 2003

⁷¹ US Department of State Background Note

⁷² Interview with National Democratic Institute Program Officer Khatuna Khvichia, 19 April 2005

⁷³ Ibid.

Neither donors nor parliamentarians see Parliament as a body that needs to be directly involved in the conflict resolution issues as an institution even though unofficial efforts by individual parliamentarians are quite energetic. However, they do emphasize its potential of positive indirect influence through other means such as its main function of adopting relevant legislation, serving as a forum for discussion, carrying out oversight, and steering the country's foreign and domestic policies in general as stipulated by the Constitution although it does not seem to be doing this at present.

The international organizations that are involved in conflict resolution in Georgia usually separate these efforts from those that envisage working with Parliament. There is no history of promoting parliament's participation in conflict resolution in Georgia although some nongovernmental organizations have always involved individual parliamentarians in their settlement efforts.

PART FOUR: RECOMMENDATIONS FOR THE FUTURE

The historical course of events in Georgia has demonstrated that the Georgian Parliament has played a negative role in the outbreak of the ethnic conflicts in Georgia. This had a lot to do with the fact that, at the time, this institution was a pure formality, separation of powers was absent, and checks and balances were not exercised. Since the ceasefire agreements were signed with Abkhazia and South Ossetia, 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 then -- to contribute to the negotiating process afterwards is the fact that Abkhazian and South Ossetian conflict 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 its resolution 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 negotiations and negotiations are the prerogative of the executive authority in Georgia.

Given the aforementioned and considering that Parliament's contribution to the negotiating process is restricted to unofficial efforts undertaken by individual members, the current role of the legislative body should lie in the creation of the background, the atmosphere that will have indirect positive effect on the negotiations and the eventual resolution of the conflicts.

To do so, Parliament will need to become a stronger, more independent institution capable of exercising checks and balances over the executive. Several issues need to be addressed to achieve this.

The constitutional amendments of February 2004 need to be revised taking into account the recommendations made by the Venice Commission in March 2004 in order to ensure proper separation of powers between all branches. International pressure is of vital importance in this case.

An aspect that contributes to the reduced role of Parliament in exercising checks and balances on the executive is the absence of the strong opposition in the legislative body. The reduction of the 7 percent election barrier for the political parties to 5 percent is a widespread recommendation made by the international community and the opposition itself. The aim of this recommendation is to increase the representative nature of the legislative body. However, this issue can also be effectively addressed at the level of political parties competing for seats in Parliament through democratization of their internal structure, clearer political platform, and better public outreach which will allow for their increased representation in the legislative body.

Ethnic minorities in the Georgian Parliament are notably underrepresented. They are also politically passive. Due to the ethnic nature of the conflicts in Georgia, it is important that minority rights are protected in all spheres of public life as this can a) enhance credibility of the Georgian Parliament among ethnic minorities in Georgia proper and b) create an extra positive argument in the process of negotiations with the conflict parties. One of the ways to enhance their participation in the political life of the country is through their involvement in the activities of the political parties. Quotas may be a temporary solution at the early stages to address this issue.

Since parliament's legislative activity is its main function through which it can influence the processes in the country, it needs skillful staff for legal drafting. A good way of enhancing this capability would be a change in the system of its staff and introduction of a professional service for drafting legislation similar to those in the state and federal legislative bodies in the United States. This innovation could prove particularly useful in the future, when the conflicts are resolved and Parliament faces a major challenge of drafting lacking parts of the Constitution, devising new and amending old legislation to reflect the new reality in a speedy and efficient way. This would also save time today by helping to avoid situations when laws need to be amended within days after their adoption.

Parliament's Interim Commission on the Issues of Restoration of the Territorial Integrity is an idle but potentially useful instrument for providing a forum for public discussion on the conflict issues. It needs to become more active in terms of coming up with legislative initiatives, serving as a channel for the conflict resolution proposals that originate outside Parliament.

Finally, Parliament should not have such problems as availability of printing paper or internet access. Easy access to such resources allows for better communication with the public or the media.

International assistance to Parliament does not need to be specifically conflict-oriented. It has to be aimed at enhancing Parliament's capacity in general by addressing or helping to address the aforementioned issues.

Another way of increasing Parliament's potential in exercising checks and balances has to do with the fact that Georgia is a country aspiring to join European and Euroatlantic

structures. The very process of approximation with the EU and NATO standards provides for improvement of governance in general which has a potential of restoring the balance of powers between the branches thus strengthening the role of Parliament in Georgia.