

INSTITUTIONAL COSTS OF THE GEORGIAN-SOUTH OSSETIAN CONFLICT: THE TRANSFORMATION OF POLITICAL INSTITUTIONS IN SOUTH OSSETIA

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INTRODUCTION

When the Soviet Union began perestroika in the 1980s, the air of freedom and weaknesses of the Communist Party brought to light many ethnic conflicts that had been concealed and tightly controlled by the Soviet regime. In a situation of political and economic crisis, the inability to effectively respond to such crises led to ethnic and ethno-political conflicts.

Unfortunately, this was the case for South Ossetia as well, whose state institutions have been in the process of formation and transformation since the late 1980s to the present day. South Ossetian statehood was formed in difficult conditions alternated amongst armed conflicts, relatively stable periods of peace, and political crises. This article presents an analysis of the main stages in the development of political institutions in South Ossetia throughout the Georgian-South Ossetian conflict, as well as an analysis of the current stage of it, in the absence of broad international recognition of the country.

THE DISMANTLING OF THE SOVIET SYSTEM AND THE ADVANCE OF NATIONALISM

The beginning of perestroika coincided with the rise of nationalist sentiments in almost all Soviet republics: in December of 1986 there were riots with casualties in Alma-Ata, the Armenian-Azerbaijani conflict developed into a full-fledged war in Nagorno-Karabakh, and the political rally in Tbilisi in April of 1989, held under the slogan "Independence of Georgia," was tragically dispersed by security forces.

Against this background of exacerbating nationalist and separatist sentiments in the Soviet republics, local national movements arose, the purpose of which was the creation of sovereign nation-states. The same process took place in Georgia, whereby a radical form of Georgian nationalism began to fight against ethnic minorities and autonomies. Nationalistic Georgian voices emphasized their importance over others, claiming the autochthonous nature of the Georgian people and claiming that Ossetians were merely guests on the Georgian land who had arrived not too long ago. These Georgian nationalist voices proclaimed the uniqueness and greatness of the Georgian people and the insignificance of representatives of non-Georgian ethnic groups.

"Any nationalism tends to refer to ancient contradictions and differences. The appeal to ancient and noble historic roots has become a distinctive feature of any nationalism, and, through this appeal, it aims to extend and deepen the ancestry, just as a tree roots itself in the soil and does not grow from its own roots.

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Something similar happens with historical roots: they are constantly being deepened in the historical strata of time.”²

In early November 1988 the newspaper "Comunisti" published a program draft on the development of the Georgian language. According to this project, all educational institutions were now adopting Georgian language as the official language, instead of the Russian language. For Ossetians, this meant:

1. A return to illiteracy, similar to the one in the recent history of the South Ossetian Autonomous Region in the '40s, which was an extremely negative chapter in the history of South Ossetians.
2. Ossetians could no longer pursue a professional career, especially political, or occupy high positions, given that not all Ossetians knew Georgian language, and those who did, mostly knew the informal Georgian and could not maintain official documentation in it.

This project was deeply disturbing to the public and caused unrest among Ossetian intellectuals. From that moment on, the South Ossetian Pedagogical Institute-based student club "Nykhas" was holding regular meetings. Among topics discussed were then-current events, the political situation in South Ossetia, relations with Tbilisi, publications in nationalist Georgian media, and intentions of new Georgian leaders, primarily Zviad Gamsakhurdia, who rapidly gained wide popularity among Georgians.

These meetings gained more and more popularity and began to attract not only local intelligentsia and students, but other social groups as well. As a result, the socio-political movement "Ademon Nykhas" was formed on the basis of the student club "Nykhas" and played an important role in the struggle for the independence of South Ossetia and the construction of new political institutions.

A dual power system was formed in the late 1980s: Soviet institutions still existed de jure, however weak their work and influence were in the society, while, on the other hand, "Ademon Nykhas" was becoming a major political force de facto as the movement most trusted by the people. It was only after the elections to the Supreme Council of South Ossetia on December 9 of 1990, when the majority of seats were won by candidates from "Ademon Nykhas", that the party moved from the "streets" to the Parliament, thus acquiring legal authority as well. The First Parliament Assembly, convened on November 2 1993 adopted the first Constitution of South Ossetia.

As for Soviet government institutions, such as regional councils, city councils, district councils, regional executive councils, etc., almost all of the party bureaucrats had left their seats, and many of them left South Ossetia in the early 1990s. Not all of them could take the side of the people at the time, as their political and professional allegiances were stronger than that to the nation. Under these circumstances, the population began to nominate their own leaders at all levels. A striking example was the district level offices, which were still called district councils, but the nature of their work has changed; they no longer represented the party. Their main focus now was management of various projects, such as self-defense and logistical projects, including food supply, safety, evacuation, and during peaceful times they dealt with economic issues, such as sowing, logistics, etc. After a while they changed their names as well. Thus, the content of work of these institutions changed faster than their terminology. This was the first stage in the transformation of political institutions in South Ossetia.

FORMATION STAGES OF POLITICAL INSTITUTIONS IN SOUTH OSSETIA

The first stage

The formation of state institutions was greatly influenced by militias. Back in the late 1980s and early 1990s, during the times of the threat to the very existence of Ossetian people, people began to self-organize in order to defend their homeland. These groups were organized spontaneously on the basis of friendship, kinship, neighborhood ties, etc. Since the beginning of hostilities in South Ossetia, they began to transform into more stable paramilitary groups and played an active role during the war. In addition, they enjoyed wide popularity in society, and of course wanted to participate in political life and influence

2 Gunther Schlee, "Managing Conflicts: Theory and Practice", Moscow, 2004, p. 12.

it. Therefore, when the Chairman of the Supreme Council Torez Kulumbegov resigned on September 17 1993 and a new nominee had to be announced, the decision to nominate Ludwig Chibirov had to be coordinated with these military groups. The candidacy of Ludwig A. Chibirov, the provost and professor of the South Ossetian Pedagogical Institute, seemed to be the most reasonable compromise, especially given that his nomination was assumed to be only temporary. By then, open hostilities had subsided, the Sochi Agreement was signed,³ and peacekeeping forces had entered the conflict zone,⁴ all of which created an illusion of peace, when South Ossetia finally resumed normal life and entered negotiations on the Georgian-Ossetian peace settlement. Therefore, it made sense to nominate a candidate representing civil society, a scientist with a big name, numerous titles, and awards.

Here it should be noted that, along with the entry of peacekeepers, South Ossetia began a very complex and ambiguous process of forming state institutions. Until now, all efforts were directed at the survival of the nation and therefore combat units were prioritized, but, with the entry of peacekeepers, there was no longer the need to fight. Meanwhile, members of military groups, having enormous respect for the people as national heroes, were assumed to take on a more active role in forming state institutions. During those difficult times of transition from war to peace, the first serious clashes erupted between military leaders and often ended tragically. On the other hand, in accordance with the Sochi Agreement, regulating demilitarization, disarmament, and the withdrawal of heavy weapons, the issue of dismantling military groups arose. In order to achieve that, it was necessary to answer an important question of what to do with these groups, which were not going to give up their weapons. They would not give up their weapons, as the conflict had not been resolved and there were no guarantees it would not resume again, regardless of the peacekeeping force's presence. It was decided to create official structures that would include these armed units. This was, in fact, the creation of South Ossetia's own army on 22 February 1993 by the Ministry of Defense of South Ossetia, which was formed primarily from these armed groups. Valery Khubulov, one of the military leaders, became the first Minister of Defense.

Elections to the Second Assembly of the Supreme Council were held on March 27 1994, and the Communist Party of South Ossetia received the most votes. Having secured the support of the Communist Party, nonpartisan Chibirov was re-elected as the Chairman of the Supreme Council of South Ossetia. The Second Assembly adopted laws on citizenship and national symbols. In addition, the Supreme Council worked on the transition from a parliamentary form of government to a presidency, with corresponding amendments to the Constitution. By this time, all the post-Soviet countries were transitioning from a parliamentary to a presidential form of government. The latter seemed more attractive as the President was voted for by all people, while the Supreme Council deputies went by a single-member system, in which people of only one district voted for a deputy, instead of a nationwide vote. A Chairman of the Supreme Council was then elected from among these deputies accordingly. Meanwhile, Georgia had been voicing an opinion that the Supreme Council of South Ossetia was merely a junta that ceased power and was headed by the leader chosen by the same junta. In the summer of 1994, the country underwent a serious political crisis, when the Chairman of the Supreme Council was pressured and, as a result, resigned in August, but the majority of deputies did not support his resignation, and Chibirov remained to serve as the Chairman. It was decided to move toward a presidential form of government so that the citizens of South Ossetia themselves could elect the President of the country. The society was dealing with difficult socio-economic issues, given the enormous damage resulting from the war, which included logistical, financial, economic collapse, the destruction of infrastructure, more than 100 destroyed villages, problems with refugees, economic migration, brain drain, etc. Since the country's President was to be elected by

3 Agreement on Principles of Settlement of the Georgian-Ossetian Conflict", Sochi, June 24, 1992, signed by the Boris Yeltsin and Eduard Shevardnadze.

4 Joint peacekeeping force, made up of Georgian, Ossetian, and Russian peacekeepers, entered the conflict zone on July 14, 1992, in accordance with Agreement on Principles of Settlement of the Georgian-Ossetian Conflict, signed on June 24, 1992 in Sochi, and stayed in conflict zone until August of 2008.

popular vote and not from among the Council deputies, this excluded the possibility of lobbying pressure by the ex-combatants who indirectly influenced all political issues, including key government posts. Yet the idea to create a new political institution did not enjoy the unequivocal support of the Supreme Council. Some deputies expressed vehement disagreement against this move, while referring to traditional forms of parliamentary self-governance rooted in Ossetian culture. They were not supported by the majority of the Supreme Council and had to leave the Assembly in disagreement (Znaur Gassiyev and Nafi Dzhussoyty). On November 10 1996, South Ossetia held its first presidential election, won by Ludwig Chibirov with 52.6% of the vote.

THE SECOND STAGE

The second stage of institutional development of South Ossetia was marked by the emergence of new institutional developments. These include: developing the institution of the presidency with extensive powers, the Supreme Council beoming the Parliament, and civil society beginning to form, represented by non-governmental organizations and political parties. While in 1993 there was only one officially registered political party, the "Communist Party" of the Republic of South Ossetia, other political parties were beginning to emerge around 1999. It can be argued that the new political parties would have emerged much later, if the parliamentary system was not reformed by 1999; if before it was a majority system, the third Parliament elections were based on a proportional representation system. It is most likely that the Communist Party of South Ossetia supported this change, thinking of its own interests, to make it easier for their general lists of candidates. But, on the other hand, the move to a proportional representation system ignited the process of creating new, ideologically different political parties.

Although at the end of the 1980s "Adaemon Nykhas" was a powerful social and political movement in the life of the society, it failed to develop into a political party, or to consolidate itself as a political entity. Upon the completion of its historic mission, it left the socio-political arena of South Ossetia. On May 2 1999, the elections to the Third Assembly of the Parliament of South Ossetia were held. The Communist Party won the elections by receiving 47.70% of votes and 12 seats out of 29.

1990 was a period of economic survival for the people of South Ossetia. People were left to fend for themselves and everyone survived as best they could. The main source of survival was rural farmsteads, although urban residents also engaged in subsistence farming on the land distributed by the state. By the end of the 1990s, a transit highway, crossing throughout South Ossetia and connecting Russia with the South Caucasus countries, Turkey, and Iran, was actively used. Therefore, customs duties on goods transported across South Ossetia became the main source of income for the state budget, which was then used to compensate state employees, comprising almost the entire adult population of the country. At this point, ordinary people from South Ossetia and Georgia began to develop personal connections, small business thrived, and, by mid-1990s, on the border between South Ossetia and Georgia, a spontaneous market in the village of Ergnet appeared. Part of this market was on Georgian territory, while another part on the territory of South Ossetia. A large transit point was organized for the consumer goods that were coming from the South Caucasus, Turkey, and Iran to Russia and vice versa, while enriching the domestic South Ossetian market. The Ergnet market was primarily serviced by the residents of nearby areas, who began to revive old personal and business ties and form new ones.

Mikhail Saakashvili, who came to power in the aftermath of the "Rose Revolution" in Georgia, issued a decree to close the Ergnet market down. This decision was explained by the fact that the market had been declared a place of thriving smuggling and corruption activities, which then funded criminal groups controlling it. The situation flared up again, politically and economically. A large number of people, for whom this market was the only source of income, were stripped of their livelihoods.

The Joint Supervisory Commission, established under the Sochi Agreement of 1992 and comprised of Russia, South Ossetia, Georgia, and North Ossetia, played an active role as a mechanism for the settlement

of the Georgian-Ossetian conflict in the 1990s. This period was also a time of the strengthening of state institutions, whereby all ministries and executive departments were operational, legislative committees were created, courts of all levels were functional, with the exception of the Constitutional Court, which has not been created to this day, in violation of the Constitution of the Republic of South Ossetia. International organizations also began to work in South Ossetia under the umbrella of the UNHCR in the second half of the 1990s. Their presence stimulated the emergence of the first NGOs in South Ossetia.

THE THIRD STAGE

It should be noted that until 2008, all political institutions of South Ossetia aimed at mobilizing. Unrecognized sovereignty and unresolved conflict created a sense of living in a state of emergency with uneasy expectations of impending hostilities. Under these circumstances, the rights and freedoms of citizens were limited. Citizens agreed this as a temporary security measure. For example, curfews during the state of emergency, and limitations on freedom of movement, were agreed upon since the situation was recognized as dangerous, etc. 2002 was marked by an escalation of sniper attacks and a wave

1988. I was...12-13 years old. I remember our closest neighbor, the deputy chief of police, and they often visited him... at that time they were called "leaders." For another 20 years, this word was the worst word for me that meant people who come, insult and kick people out. Our family several times defended this man, for which once my father and once my uncle were beaten up. In the end, the family did not leave the area. His wife was a Georgian, and they stayed. But for them all this was an insult –people came swearing at them, threw things at them, and yelled, anyways ... Then I remember that the children left our class. And we tried our best to say that we are sorry that they left us. They were Ossetians. I remember one of my classmates, a guy, said how much he did not want to leave, but they went to Vladikavkaz, and their lot has been a hard one. At school we were those who were firing things up. There were those who said that it was unnecessary. I can't say that even one person tried saying that "it is none of your business kids" and it would be better if you just get an education. Nobody, nobody told us that minor students should not participate in political events.

Leningor Resident, female

of terrorist attacks throughout South Ossetia, etc. In a situation when decisions had to be made quickly because of rapidly changing events, the power was now concentrated in the hands of the leader, the President of the country. This arrangement proved to be quite effective during wartime. Despite the fact that all branches of government were subordinated to the President, human rights and violations of freedom took place, including arbitrary arrests, etc. This was justified by the state of emergency and the need to tackle security issues.

The third stage of institutional development of the Republic of South Ossetia began after the August War and recognition of South Ossetia's independence by the Russian Federation.

With agreements signed between South Ossetia and Russia and the Russian military base having been created, according to the "Friendship, Cooperation and Mutual Assistance Treaty between the Russian Federation and the Republic of South Ossetia"⁵, the issue of security became irrelevant. In the absence of war and with strengthened security, the population had high expectations for a speedy recovery from socio-economic problems, thriving education and health systems, legal reforms that would protect the rights and freedoms of all citizens, and building an inclusive society for all. These expectations were bolstered by the general feeling that the time for serious reforms for the country's institutions had come. But the authorities of South Ossetia were not ready for that.

5 <http://archive.kremlin.ru/text/docs/2008/09/206582.shtml>

The country did not have this kind of experience. What it had were two types of experiences: the experience of the Soviet system, that did not exist physically any longer and would not be helpful if it did, and military experience of mobilizing a self-defense system, which was no longer needed. At the same time there was a lack of desire to share power and to delegate it to relevant institutions. Moreover, when the issue of security disappeared, a large number of unresolved during the war issues came to the fore: destroyed infrastructure, undeveloped economic sector, absent mechanisms for legal redress, serious issues in education and health systems, psychological trauma, social insecurity, etc. All these overlapping issues were not solved and were compounded by the issue of corruption. The one billion rubles that came from the Russian Federation for the purpose of restoring South Ossetia after the August 2008 war presented a great temptation to the political elite at the time, as the political system was not transparent and made it hard to investigate corruption schemes. As a result, most of the funds were misused. This caused an outrage among the population of South Ossetia, which was negatively affected by the consequences of war, such as destroyed housing and crumbling infrastructure, dirty and dusty streets that were continuously under construction and excavation, constant talk of kickbacks and millions in bribes among political elites, and incessant pressure from the security forces. In the winter of 2011, widespread dissatisfaction and distrust among the people resulted in a mass protest on the central square. The protest was named the "Snow Revolution." The main demand of the protesters was the resignation of the President and his allies. This was a sign that the system no longer worked. With the recognition of the independence of South Ossetia, the population had high expectations. Most importantly, the population expected the development of a socially oriented state governed by law, and fundamental improvements in socio-political and socio-cultural conditions. South Ossetian society anticipated greater consolidation of elites and the public in jointly addressing these issues in order to increase cooperation while working creatively on processes that require transparency and a willingness to share responsibility for them. But the elites were afraid to let go of their habit of closely controlling social processes. It turned out that the society progressed and carried a considerable modernization potential, while the government system was outdated, afraid of changes, and could not keep up with the society. The "Snow Revolution" resulted in new elections, and change of political elites, while the political system remained intact.

THE CURRENT STAGE

As of today, the transformation of social and political institutions has not been completed; moreover, it has entered into a new phase, associated with the signing of the "Alliance and Integration Agreement between the Russian Federation and the Republic of South Ossetia."⁶ Under this agreement, it can be assumed that such transformations will continue. Article 2 of the Agreement states that the Russian Federation and South Ossetia now form a joint defense and security space. The Russian Federation now takes over the South Ossetian state border protection, assures its defense and security. For this purpose, some units of security and armed forces of South Ossetia became a part of the relevant structures representing Russia. This means that security and defense institutions will be transformed, if not disappearing altogether by being integrated (or dissolved) in corresponding Russian bodies.

Article 4 of the same Agreement talks about the creation of the Joint Information and Coordination Center within Internal Affairs institutions in order to fight organized crime and other types of criminal activities. This means that a new institution will be established. While the cross-departmental agreements are not finalized and carried out, it can only be stipulated what type of institutional changes this will cause in South Ossetia.

⁶ <http://kremlin.ru/supplement/4819>

THE DEVELOPMENT AND ESTABLISHMENT OF POLITICAL INSTITUTIONS IN THE CONTEXT OF NON-RECOGNITION

The development of the country's institutions is affected by external factors and international recognition. In order to get a better understanding, we must ask the question: what does the state of non-recognition mean? It means:

1. A lack of stable security. People do not think about living in their country over the long-term.
2. A poorly developed economic sector, when investments are needed, but are very rare. Potential investors are interested in generating profit and not so much in charity. Investors want to secure their investments, but this can be done only by international mechanisms. Yet unrecognized countries are not part of the international legal framework *de jure* and investments in unrecognized countries cannot be guaranteed by international law. This presents an enormous risk and responsibility for an investor.
3. Markets for trade are also very limited. Local products require available local markets even though external markets may often seem more appealing. But, external markets almost impossible to attain legally, because the goods must be certified and have bar codes, which they do not. This gives rise to the illegal import of the goods to another country, thus generating corruption schemes within the customs structures of the bordering countries.
4. A weak banking system that is not capable of implementing its functions, such as transfers, credit, financing, operations with securities, intermediary transactions, property management, etc. In this case, the banking system is reduced to managing savings and issuing small loans under a certain percentage, since it is not connected to the global banking system. It is virtually impossible to make transfers to these bank accounts from other countries. This institution is no longer the powerful economic lever it must be.
5. It is virtually impossible to protect human rights. There is no direct access to international institutions upholding human rights, for example, the Strasbourg court, etc.
6. Restrictions on the right to freedom of movement due to the non-recognition status, as well as documents issued on the territory of unrecognized or partially recognized states.
7. An inability to defend the position in the international arena (UN, PACE, OSCE, etc.), where unrecognized states are not allowed to participate due to their unrecognized status, despite the fact that the issue could be on the agenda, directly related to that country. Will the international community have an objective picture of what is happening there in this case? The answer is no, given the absence of participation and understanding of the other side.

In any case, these countries, whether recognized or not, exist and are a part of the world. Therefore, the civilized world should recognize the value in seeing these countries as part of the democratic world in order to develop mechanisms and traditions of democracy, when rule of law institutions are strengthened by sharing experiences and providing direct access to each other's institutions and mechanisms. As of today, the state institutions of South Ossetia are in transition; preventing them from getting access to international institutions and mechanisms strips South Ossetia of acquiring valuable experiences that would allow it to advance much faster. It can be argued that it is necessary to help countries such as South Ossetia to build a rule of law-based society, to reform public and strengthen civil society institutions, and to establish mechanisms of maintaining institutional transparency and civil society control over government institutions.

CONCLUSION

The refusal to recognize the status of countries such as South Ossetia, prevents their access to international institutions that would help them develop local democratic institutions and mechanisms, triggers isolation and self-isolation processes, which adversely affects not only the society itself, but regional dynamics as well. The international community will end up with a new set of authoritarian regimes that

declare themselves to be democracies, yet lack properly functioning mechanisms, and which are unstable since they rely on force to maintain power which is source of serious internal conflicts. The greater is the pressure, the greater is the resistance, which adversely affect the stability and security of the region in general. The international community must clearly separate the two concepts: recognition and access. If access is granted, then recognition becomes not so critical.

It should be noted that the initial emergence of institutions in South Ossetia was due to the dismantling of the Soviet Union and socialist system. But, the evolution of these institutions, with difficulties carrying out reforms, intensifying isolation of South Ossetia, discrimination against civil society, and limitations on freedom of movement, etc., are the institutional price, which South Ossetia has paid as a result of 20 years of the Georgian-Ossetian conflict.