

THE CONFLICTS AND GEORGIAN NATIONAL INSTITUTIONS: TIME FOR RETHINKING?!

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INTRODUCTION

Ethno-political conflicts have been Georgia's headache since day one of the country's independence. The need to establish institutions focused on regulating the conflicts had emerged in the period after the armed phase of the Georgian-Ossetian and Georgian Abkhazian conflicts. In fact, many of the numerous agencies set up by the Georgian government during this period remain active to this day. However, circumstances have changed as time passed, and one would expect that these changes should also affect these institutions.

As of today the core of the problem lies in the fact that there are far too many governmental structures working on the same set of problems. This has led to an obvious overlap of functions, complicated coordination and increased competition within these agencies. This, in turn, has a negative impact on the implementation of their objectives.

Desk research has also revealed that organizations working on the conflicts and the mitigation of their effects cost the government a fortune, to be more precise, **88,586,000 GEL**. It is worth noting that the sum does not cover those organizations whose work is not limited to the conflicts. Financial and material resources are coupled with human and intellectual resources, which are of no less significance and should be exploited as rationally as possible in such a small country as Georgia.

The present paper attempts to describe and analyze the work carried out by state organizations as well as to highlight those shortfalls which need to be addressed to ensure a smoother operation of the latter. It should also be mentioned that the paper serves to test the waters in this direction, while much voluminous research is required in order to provide deep insight into this issue.

STATE INSTITUTIONS WORKING SPECIFICALLY ON CONFLICTS

The office of the State Minister for Reconciliation and Civic Equality

The Office of the State Minister for Reconciliation and Civic Equality is a key governmental institution responsible for developing and implementing policies regarding the conflicts.

The objectives of the office include, but are not limited to the following: develop proposals and formats supporting peace processes in Abkhazia and the former autonomous district of South Ossetia; develop and support the implementation of a mechanism for the return of internally displaced persons in safety and dignity; develop and submit recommendations, a policy paper and a strategy related to ongoing processes in the conflict regions to the government of Georgia.²

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² The official webpage of the Office of the State Minister for Reconciliation and Civic Equality. Available at: <http://new.smr.gov.ge/detailspage.aspx?ID=4>

This is how the functions of the office look from a legal perspective. In practice, it translates into the following: the office is involved in each and every international and local format (Geneva International Discussions, Incident Prevention and Response Mechanism) dealing with Abkhazian and South Ossetian themes; the State Minister is a co-chair of the interim governmental commission for responding to the needs of the conflict affected communities; the office coordinates all state funded programs which are designed to respond to the problems facing the communities residing in Abkhazia and South Ossetia (i.e. healthcare, education etc).

As already mentioned above, the Office of the State Minister is the venue which should coordinate the development of the national strategy for the conflicts in cooperation with other governmental agencies. However, a great number of organizations working on conflicts and the poor status of the office itself make this objective hard to achieve. Granting the State Minister the status of a Vice Prime Minister may provide one of the potential solutions to this problem (which is the case in Moldova).³ Such a change could improve the State Minister's political reputation and make the strategy a more coordinated effort.

In addition, due to the significance and complexity of the issue, it is very likely that many actors and stakeholders will continue providing ongoing input to the development of the policy. However, it is of utmost importance that all interested individuals or organizations both in and outside the country can identify the 'door' which they have to knock on when it comes to the conflicts in Georgia.

Note background information that, as of today, there are up to 40 employees in the office⁴ while its budget for 2015 amounted to 1,686,000 GEL. There have been almost no changes to the budget for the past few years.

THE MINISTRY OF INTERNALLY DISPLACED PERSONS FROM THE OCCUPIED TERRITORIES, ACCOMMODATION AND REFUGEES OF GEORGIA

The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia also deals with the elimination of the consequences of the conflicts. However, unlike the Office of the State Minister for Reconciliation and Civic Equality, the Ministry is mainly concerned with responding to social problems facing the communities of internally displaced persons from Abkhazia and South Ossetia (i.e. providing accommodation, creating conditions for adaptation and integration, taking social protection measures, etc).⁵

The Georgian-Ossetian, Georgian-Abkhaz and Georgian-Russian conflicts forced hundreds of thousands Georgian citizens out from their place of residence to seek shelter all over Georgia. Because of the scale of the problem, the Government had to come up with a policy and a viable institution to ensure its implementation. The committee on refugees and accommodation was set up for this very purpose in 1992, and after three years was transformed into the ministry in 1995.

Every country facing the problems of accommodating a large number of internally displaced persons at different times needed to set up similar institutions. However, it is also worth noting that these countries chose different paths. In neighboring Azerbaijan, issues related to refugees and internally displaced persons fall under the responsibilities of the State Committee for Refugees and IDPs, while the Chair of the

³ A similar idea has already been voiced in a joint publication by the Institute for the Study of Nationalism and Conflict and the Caucasian House titled - Conflicts in Georgia: Ongoing Challenges and Ways to Solution. Author's note.

⁴ The official webpage of the Office of the State Minister of Georgia for Reconciliation and Civic Equality. Available at: http://new.smr.gov.ge/Uploads/_2f23f21a.pdf

⁵ The statute of the Ministry. Available at: <http://www.mra.gov.ge/geo/static/197>

Committee is also a Vice Prime Minister, which points to the great significance attached to the committee in Azerbaijan.

For comparison, consider that according to official data of the Azerbaijani government 1,200,000 individuals were internally displaced as a result of the conflict in Nagorno-Karabakh⁶ while there are 70 staff for the committee. In spite of the fact that the number of IDPs in Georgia is significantly smaller than that of Azerbaijan, there are 308 staff members in the ministry (excluding 40 freelancers).⁷

The same refers to Moldova and Ukraine, where there are no specific ministries deal with the issues of IDPs. The number of IDPs is not great in Moldova, unlike Ukraine where 1,382,000 persons have lost their homes to the annexation of Crimea and armed confrontations in the South-East of the country.⁸ Ministries with different profiles deal with the issues of IDPs in both countries with ministries of labor, health and social protection, and regional development being the ones which are most often responsible for taking care of IDPs.⁹ In the Ukrainian case, in addition to the two aforementioned agencies, there is a state agency for the rehabilitation of Donbas, which is responsible for coordinating the activities and operations of international organizations and the local and central authorities.¹⁰

It is beyond the limits of the paper to ascertain which approach is more relevant: the coordination of IDP related matters through a single ministry or the distribution of functions across various agencies? In spite of this, it could be said that in light of scarce resources as well as the severe social background in the country, the Georgian government needs to constantly think of further improvement and cost-effectiveness of operations undertaken by these agencies.

Note background information that the ministry's budget for 2015 was 70,000,000 GEL.¹¹ Expenses of the ministry as well as the number of staff have increased as compared to previous years, possibly due to wide scale projects implemented in 2015 aimed at improving the living conditions of IDPs.

SOUTH OSSETIAN DIRECTION

South Ossetian Administration

Often times the Georgian-South and Georgian Abkhaz conflicts are viewed from the same angle even though there is substantial difference between the two. This ambivalence has impacted the Georgian state institutions dealing with conflicts.

In fact, the so called 'war of laws' between Tbilisi and Tskhinvali,¹² ended on December 11, 1990 with the abolition of the autonomous district of South Ossetia by the Georgian Supreme Court. Consequently, mandates of both legislative and executive structures of the Autonomous District of South Ossetia were suspended. This led to the fact that, unlike Abkhazia, there were no institutions in exile working on the South Ossetian direction.

The so called Dagomis Accords concluded between Georgia and Russia in June 1992 ended the mil-

6 The official webpage of the State Committee of the Republic of Azerbaijan on Deals of Refugees and Internally Displaced Persons. Available at: <http://www.refugees-idps-committee.gov.az/en/pages/11.html>

7 The official webpage of the Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation. The number of employees at the Ministry for 2015. Available at: <http://mra.gov.ge/res/docs/2015022313104918815.pdf>.

8 The official webpage of the Office of the United Nations High Commissioner for Refugees. Available at: <http://www.unhcr.org/pages/49e48d4d6.html>

9 Titles of the ministries vary across countries. However, functionally these are major entities (Author's note).

10 The Vice Prime Minister of Ukraine on setting up the agency and its functions. Available at: <http://en.glavnoe.ua/news/n235651>

11 Fiscal year 2015. The official webpage of the Ministry of Finance of Georgia. Available at: <http://mof.ge/4742>. 2015

12 A stage of a legal-political conflict between Tbilisi and Tskhinvali whereby legislative bodies of the parties adopted colliding resolutions (author's note).

itary phase of the conflict,¹³ and soon a joint control commission was set up to become a venue for discussions concerning every issue related to the conflict by Georgian, Russian, South Ossetian and North Ossetian parties for many years to come. The Georgian team was led by a special envoy of the president of Georgia. This function, alongside the development of policies towards conflicts, was later on handed over to a state minister.¹⁴

However, in 2006 the Georgian government started reviving the structures in exile and setting up new parallel institutions. This policy targeted several goals and persons of interest: a) the international community was expected to recognize that not all feelings and perceptions in the problematic regions were secessionist, but that there were also those who favored Tbilisi (manifested by respective authorities); b) the introduction of individuals with a relevant ethnic background in the parallel structures would help to secure the buy-in of some parts of the local population; and c) the inclusion of exiled and parallel institutions in the negotiation and dialogue formats was ostensibly to beef up Tbilisi's positions in such processes.

In line with this particular policy, the Kodori gorge of Abkhazia, then under effective control of the Georgian authorities, was renamed as Zemo (upper) Abkhazia and became home to an administration of Abkhaz government in exile in this area. Within the same period, more specifically in 2007, an administration of South Ossetia was set up in order to serve the agenda above. Dmitry Sanakoev, an ethnic Ossetian who in the past had worked in a de-facto government of South Ossetia in quite high rank positions was elected as a head of the administration.

However, in the aftermath the Georgian-Russian war of 2008 and the Russian occupation of Georgia's additional territories, the South Ossetian Administration, as the Government of Abkhazia, became exiled and lacked land. This circumstance failed to provide enough justification for both Saakashvili and the incumbent government to retract the administration of South Ossetia. This can be explained by several possible reasons: a) for Saakashvili's government this was a matter of principle, while the retraction of the institution would mean that this policy was inherently flawed; b) the incumbent Georgian government has been shying away from giving additional food for criticism to the opposition, while the potential retraction of the administration is considered as a potential bargaining chip to use in negotiations with the de-facto authorities; c) many sources suggest that the South Ossetian administration is quite effective in carrying out its responsibilities (see below).

The South Ossetian administration leads in several directions: education, relations with IDPs, culture and sports, healthcare and social protection.¹⁵ Within those directions, the administration takes care of IDPs from South Ossetia and ethnic Ossetians living in the rest of the country, to provide assistance (both short and long time), organize sports events, promote the Ossetian culture etc.

At the same time, the healthcare and social protection unit of the administration acts as a kind of a broker between the Georgian Ministry of Labor, Health and Social Protection on the one hand, and Ossetian patients from across the South Ossetia who are eligible to free medical treatment under the state referral program, on the other. Besides, the growing number of individuals from Abkhazia and South Ossetia seeking medical care in Georgia proper further emphasizes the importance of the effective management of the program.

Therefore, despite its original purpose, the administration of South Ossetia has managed to adapt to a new reality and develop as a functional institution. However, like any other state structure, the administration should be subject to relevant state supervision and thus prevent the state from becoming a hostage to the symbols that it created. Any institution which does not fit into the present reality, or fails to perform its functions, should not become a financial burden for the state budget.

13 On the principles for the regulation of Georgian-Ossetian conflict. See *On the Causes, Dynamics, Searching for the Resolution and Potential Directions of the Georgian-Ossetian Conflict*. Available at: <http://www.nplg.gov.ge/gsd/cgi-bin/library.exe?e=d-01000-00---off-0period--00-1---0-10-0---0---0direct-10---4-----0-11--11-ka-50---20-about---00-3-1-00-0-0-11-1-0utfZz-8-00&a=d&c=period&cl=CL1.7&d=HASH01dc15a267fb4bea1d0d9d23.1>

14 The title of the Office of the State Minister has changed on numerous occasions. Its current title reads as the Office of the State Minister for Reconciliation and Civic Equality (Author's note).

15 The webpage of the Administration of South Ossetia. Available at: <http://soa.gov.ge/geo/mtavari/8/>

In this respect, a considerable amount of resources were expended to promote the administration and attract human resources, as well as for the development of infrastructure projects initially. The administration's budget has largely remained the same for the past few years and 2015, with the total budget of 3,500,000 GEL was no exception.

THE ABKHAZ DIRECTION

The Government of the Abkhaz Autonomous Republic

The completion of the military phase of the Georgian-Abkhaz confrontation in 1993 was followed by the displacement of the local population and government loyal to Tbilisi. Consequently, the Abkhaz government moved its seat to Tbilisi.

The Law on the Structure, Authority and Rules of Operation of the Autonomous Republic of Abkhazia reads as follows:

‘The government of the Autonomous Republic of Abkhazia is the supreme executive body of the Autonomous Republic of Abkhazia, which exercises the executive authority and determines the key directions of the executive branch of the Autonomous Republic of Abkhazia’.¹⁶

As of today, the structure of the government of Abkhazia consists of the Head of Government, Ministry of Education and Culture, Ministry of Finance and Economy, Ministry of Health and Social Protection, the Office of the Minister for Confidence Building and Reconciliation of the Abkhaz Autonomous Republic, Department of IDP issues, Department of Justice, and Department of Agriculture, Environmental protection and Natural Resources.

Quite an extensive list of agencies is complemented by the office of the government of Abkhazia and representations in all those regions where IDPs from Abkhazia live in collective settlements: eastern Georgia, Imereti, Samegrelo-Zemo Svaneti and Zemo Abkhazia (which was occupied in 2008, but the position of a representative was not abolished).

When considering international experience, it becomes evident that there is no exact analogue to Georgian institutions (the government of Abkhazia and the Supreme Council). In Azerbaijan the displaced population is represented by the *Azerbaijani Community of Nagorno-Karabakh*¹⁷ which, in spite of its involvement in international dialogue formats, still functions as a public union.

As for Ukraine, a structure of a similar type is led by the president's permanent envoy to the Crimean Autonomous Republic located in the town of Kherson with a staff of 28 members.¹⁸

As already mentioned above, the Abkhaz government sits in Tbilisi and has no access to the territory of Abkhazia. Therefore, its functions are limited to taking care of the IDP communities and participating in various dialogue formats.

However, dealing with these issues is also under the competences of other structures as well. For instance, accommodating the needs of the IDP communities falls under the responsibilities of the *Georgian Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees*, while the *Office of the State Minister for Reconciliation and Civic Equality* deals with negotiations and the development of policies related to the conflicts. *The Ministry of Foreign Affairs* is yet another governmental body which is involved in these processes.

Presumably, an excessive number of structures working in the same direction further complicates coor-

¹⁶ On the Structure, Competences and Rules of Operations of the Autonomous Republic of Abkhazia. Available at: http://abkhazia.gov.ge/index.php?lang_id=GEO&sec_id=25

¹⁷ A full title reads as follows: Azerbaijani Community of Nagorno-Garabagh region of Azerbaijan Republic. Available at: <http://www.karabakh.az/>.

¹⁸ УКАЗ ПРЕЗИДЕНТА УКРАЇНИ №17/201 [Decree of the President of Ukraine]. Available at: <http://www.ppu.gov.ua/dokumenti/>

dination, leads to an overlap of functions, and ultimately negatively affects both the state budget and the attainment of the set objectives.

Smoothly functioning structures are one of the prerequisites for Georgia to develop into a modern nation-state. This process cannot bypass the Abkhaz government while the Georgian authorities need to answer the following questions through a series of public discussions: A) What is a role of the Abkhaz government in the country's strategy for conflicts? B) If the Abkhaz government serves as merely a political symbol, how expedient is it to spend a fortune on it? C) Would the distribution of some of its functions among other sectoral ministries make its management easier (while the spared funds would be spent on responding to actual needs of internally displaced individuals)?

THE SUPREME COUNCIL OF ABKHAZIA

The Supreme Council of Abkhazia was elected in 1991 and after the 1992-1993 conflict its members had to leave Abkhazia together with the most of its population. For this very reason, no elections of the Council's members have been held since 1991 and under a decree of the President of Georgia signed in 1996, the Council's authority was extended until the restoration of Georgia's jurisdiction in Abkhazia.¹⁹

Pursuant to the Constitution of Abkhazia, the supreme representative body is the Council. The Council is responsible for adopting the constitution of Abkhazia and making relevant changes, passing laws and approving the budget, appointing the head of the government and the cabinet of ministers etc.²⁰

As of today, there are 22 members in the Supreme Council of Abkhazia who, in turn, form four permanent commissions on de-occupation, international relations, education and culture; legal and procedure issues; constitutional and human rights; fiscal-budgetary and sectoral issues. The operations of the Council are supported by the office and seven departments.

As mentioned above, the members of the Council were elected in 1991 and the constitution of the Council still remains the same after 25 years. This fact begs a question regarding the legitimacy of the members of the Council. The legitimacy issue aside, most of the members are quite senior citizens and presumably their number is likely to decrease as time passes. I believe these two issues require thorough rethinking and require a timely and relevant decision.

For the year 2015, the budget of the Autonomous Republic of Abkhazia amounted to 13,400,000 GEL²¹ about 1,700,000 GEL of which was spent on the needs of the Council, while the rest was spent on the government. As of today, more than six hundred individuals work in the structures of the Autonomous Republic of Abkhazia²² and a large part of the budget is allocated for their remuneration.

19 Decree on the Prolongation of terms of Authority of the Supreme Council. Available at: <http://scara.gov.ge/ka/2010-03-17-12-49-55/2010-03-17-13-51-32/78-dadgenileba-umaghlesi-sabtcos-uflebamosilebis-vadis-gagrdzelebis-shesakheb.html>

20 The Constitution of the Autonomous Republic of Abkhazia. Chapter 11, Article 93. Available at: <http://scara.gov.ge/ka/2010-03-17-12-48-03/2010-03-17-13-48-11.html>

21 On the budget for the year 2015 of the Autonomous Republic of Abkhazia. Available at: http://abkhazia.gov.ge/files/documents/biujeti_2015.pdf

22 Ibid

INSTITUTIONS WHICH ARE WORKING ON CONFLICTS BUT ARE NOT LIMITED ONLY TO THEM

Being one of the greatest challenges to the country, conflicts (approximately 20 per cent of the country's territory is beyond Tbilisi's effective control and three hundred thousand individuals are internally displaced) are being dealt by almost every ministry to a varying degree. The present section provides a review of those actors which are, directly or indirectly, involved in conflict related policymaking and implementation.

The Ministry of Foreign Affairs has always been involved in various processes with regard to the conflicts. However, it was not until 2008 that the Ministry was charged with greater importance after the inter-state confrontation snowballed into a full-fledged conflict.

At this stage, the Ministry fulfils two important functions: on one hand, the deputy minister leads the Georgian delegation at the Geneva International Discussions, and manages the non-recognition policy on the other. In spite of the considerable support Tbilisi has been receiving from its friends in pursuing the non-recognition policy, the latter still requires substantial time, energy and financial resources.

"... I am an old man and this is what I do everyday. I have one cow and a calf, and I take care of them. Now slowly I restore the garden, I planted grapes, and I plant new trees. I work little by little, and try to do something. But the problem is that there is no water. And what can a farmer do without water? Ossetians do not allow water to flow in our direction. It is hard. But I often think that we should move forward –both Ossetians and us. After all, we should not go back, right? I do not know how it would be. Maybe they also will change their minds so that we will be together and live in peace. I watch TV and see that in parliament also they don't get along. If there is not peace and harmony in the parliament, how can there be peace in the country? And what should we, the ordinary people, do? Really? Nothing depends on us? Is it really everything that depends on the government and they have to solve all the problems? And so it turns out –what can the peasants do? No matter how much I talk –nothing will work? No one wants to listen to the ordinary people? They only eat and make the air bubble. I'm not afraid of them, what do I have to fear, I have nothing to lose. I'm not a supporter, and not the opposition. I am there where the good and kind people are ... "

Resident of the village Zardiaantkari, Gori Municipality

Since 2008, in order to counter Russia's efforts, Georgia has made greater diplomatic efforts all over the world. It became evident that only working through the UN and existing embassies could not ensure an effective non-recognition policy. Therefore, the ministry identified so called 'risk zones'²³ and later on opened representations in a series of countries. For instance, in such important countries as Brazil and Argentina, Georgian embassies were opened as late as 2010²⁴ and 2012 respectively.²⁵ Presumably, neither Brazil nor Argentina belongs to the risk zone, unlike other Latin American countries, which are covered by the two embassies mentioned here.

At the same time, even though the opening of Georgian embassies was initially thought to serve a different goal, it is very likely that, from a mid-term perspective, this decision will contribute to strengthening economic, cultural and other ties between Georgia and the respective regions, which, in turn, will balance the costs incurred at the initial stage.

The Ministry of Defense is not in charge of developing the policy towards the conflicts. However, it has to focus on these very factors while planning for the country's defense capacity, as conflicts remain the key

²³ The regions and countries which were likely to recognize the independence of Abkhazia and/or South Ossetia (Author's note).

²⁴ The official webpage of the Embassy of Georgia in Brazil on bilateral relations. Available at: http://brazil.mfa.gov.ge/index.php?lang_id=GEO&sec_id=809&info_id=15933

²⁵ The official webpage of the Embassy of Georgia in Argentina on bilateral relations http://argentina.mfa.gov.ge/index.php?lang_id=GEO&sec_id=934&info_id=17625

security challenges for Georgia.²⁶ At the same time, the occupation of Abkhazia and South Ossetia has had an ostensibly odd effect on the defense expenditure of Georgia. What is implied here is the discrepancies between the 2008 and 2015 budgets of the ministry. There has been a lot written and said around this issue, both reasonable and far from it, however, I believe the correlation between the defense budget and the state policy towards conflicts is too obvious to go unnoticed.

The conflicts have had effects on the country's legislative authority as well. Because of the high priority attached to these issues, a *Temporary Commission on Territorial Integrity* was set up in the parliament. In addition, the National Security Council, State Security and Crisis Management Council, State Security Agency and the Ministry of Internal Affairs also participate in policy development and take part in delivering specific proposals to decision makers. The interest of the Public Defender of Georgia towards and measures taken for the protection of human rights of conflict affected communities has increased drastically for the past few years.

One would expect that the number of agencies involved in these processes would contribute to the accumulation of knowledge, high quality analysis and well developed policies, but reality provides a drastically different picture. However, this issue belongs to another category of problems and neither this paper nor a voluminous book would have sufficed to undertake its analysis.

CONCLUSION

One of the key characteristics of a successful state is well developed, cost effective and tuned-up institutions. Even though Georgia has made considerable progress in this direction, there is yet a long way ahead.

I believe the paper managed to demonstrate the complexity of the functions of various institutions and the overlap affecting their effectiveness. It is also evident that costs of sustaining these institutions are quite high. However, for the sake of fairness it should be noted that transferring the functions to other profile ministries may not necessarily cut back the cost considerably.

Sensitivity attached to conflict related issues further restricts the possibility for any revision in this direction. Retraction of any institution, or reduction of functions may be perceived poorly by the public. Therefore, an effective communication strategy needs to be developed by the authorities prior to making such decisions.

In spite of the above mentioned impediments, it is apparent that Georgia is in need of effective institutions. Otherwise, rethinking conflicts and implementing effective policies will be close to impossible. Therefore, the sooner we start thinking in this direction, the higher is the probability that we will start making progress towards regulating our conflicts.

²⁶ Expenses allocated for Georgia's defence purposes amounted 1,547 billion GEL in 2008, while for 2015 it dropped to 667 million GEL. Available at: <http://mof.ge/4586>; <http://mof.ge/4742>