Implications of an Independent Kosovo for Russia's Near Abroad

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I. Executive Summary

The case of Kosovo is distinct and does not represent a precedent for independence for separatist movements in Abkhazia, South Ossetia, Transdniestria, or Nagorno-Karabakh. This paper examines all five cases, with particular attention given to three factors for analysis: the intractability of each conflict, potential viability of the region as an independent state, and the impact of external influences. The results of this examination are presented in both matrix and narrative form. Overwhelmingly, it is the impact of external influences—the engagement of the international community—which has shaped Kosovo's situation, rendering it fundamentally different from the cases in Russia's near-abroad.

Four key conclusions are drawn, identifying differences between Kosovo and the other case studies:

- First, in Kosovo, external influences have tended to be multinational in composition and neutral in approach, representing the impartial support of the international community. This is particularly evident in the composition and deployment objectives of peacekeepers in the regions in question.

- Second, the United Nations identified Kosovo as a region needing international protection under Security Council resolution 1244, rendering its situation unique under international law.

- Third, while viability is problematic in all case studies, the support the international community has provided Kosovo has strengthened its economy and civil society far beyond those of the other regions, and will continue to do so.

- Finally, the original impetus for international involvement, the repudiation of responsibility of the Serbian state toward its ethnic Albanian citizens, was profound—well beyond that experienced in the other separatist regions. Former President Slobodan Milosevic was indicted by the United Nations for his crimes against humanity in Kosovo. This renders the situation in Kosovo much more intractable than the other case studies: given this profound abuse of power on the part of the Serbian state, it is unrealistic to expect Kosovo to return to a subordinate political relationship with that state.

The differences between Kosovo and separatist movements in Russia's near abroad—former constituent republics of the USSR—are clear and significant. Attempts to draw parallels between them tend to be superficial and misleading, though they contain a small grain of truth: there is a very specific sense in which Kosovo already is a "precedent". It is the first case in which the international community, as represented by the United Nations, has occupied, and taken over the governance of, part of a sovereign state due to that state's profound human rights abuses. The reality of international politics is that whatever final status is determined for Kosovo will—rightly or wrongly, accurately or inaccurately—be used by separatists as a point of reference for discussions in resolving future conflicts. However, this *realpolitik* weakens, rather than strengthens, Serbia's position that Kosovo must remain its sovereign province.

Return of Kosovo to Serbia by the international community would be every bit as much a precedent as independence, "supervised" independence, continued international protection, or regional war. While respect for the territorial integrity of states is an important tenet in international relations, it is not sacrosanct. Sovereignty is not a cover for a state committing atrocities against its own people. Serbia's claim to Kosovo's territory does not supersede the international community's claim to peace and security, or the United Nations would not currently be there. Disregarding the Ahtisaari plan—in effect the impartial, expert advice of the United Nations on how to resolve the conflict—simply because it is not palatable to the state that initiated the conflict (Serbia), or the P5[1] member backing that state (Russia), seems an unwise precedent to establish. Whatever the international community does to resolve the status of Kosovo will in practice constitute a precedent. The international community needs to take a very hard look at the options to ensure that whatever precedent is set, is a good one.

II. Problem Statement

The international community faces tough decisions regarding Kosovo, and whether a previously autonomous province within the former Yugoslavia should be recognized as independent of Serbia. Many have taken the *realpolitik* view that a Kosovar declaration of independence is inevitable, and that enabling this process in a controlled fashion may avoid a bloody return to civil war in the Balkans. However, separatists elsewhere are likely to represent any action on the part of the international community to facilitate the division of an established state as some kind of precedent for their own political interests. Specifically, Russian president Vladimir Putin contends that "there is nothing to suggest that the case of Kosovo is any different to that of South Ossetia, Abkhazia, or Trans-Dniester, and we are not convinced by our partners' statements to the effect that Kosovo is a unique case,"[2] effectively arguing for the separation of these Russian-supported territories from Georgia and Moldova in the wake of Kosovo's independence. Nagorno-Karabakh, a region of Azerbaijan hotly disputed by the Azerbaijanis and Armenians, poses similar political sensitivities.

Russia has threatened to veto any attempt by the international community to enable Kosovo's independence through the United Nations Security Council. This diplomatic maneuver has prompted the creation of a 120-day "window" for further negotiations, aimed at finding a mutually satisfactory resolution. Not coincidentally, it has also increased Russia's bargaining power on the world stage and in its other negotiations with the West. The question this paper addresses is whether Russia's argument that an independent Kosovo would represent a precedent for other separatist movements is valid, or whether this is simply a negotiating tactic.

III. Methodology

This paper evaluates the argument that Kosovo's situation represents a precedent for separatists elsewhere by comparing it to the four regions in the Former Soviet Union most often cited in relation to it: Abkhazia and South Ossetia in Georgia, Transdniestria in Moldova, and Nagorno-

[1] Permanent member of the United Nations Security Council (UK, United States, France, Russia, China).
[2] Vladimir Putin, *"Kosovo is Not Any Different from Trans-Dniester,"* Tiraspol Times, 6 June 2007, accessed at http://www.tiraspoltimes.com/interviews/vladimir_putin_kosovo_is_not_any_different_from_trans_dniester.html

Karabakh in Azerbaijan. Case studies are used in examining these regions according to three criteria key to the resolution of these conflicts: (1) the intractability of the conflict, (2) the potential viability of the region as an independent country, and (3) external influences. Key findings are summarized in the comparative matrix in section V. Section VI conducts a comparative analysis of the five frozen conflicts, presenting central differences revealed by the case studies. The results of the analysis fall under the following categories: (a) repudiation of responsibility of the metropolitan state (intractability); (b) the role of international law (external influences); (c) the economy and rule of law (viability); (d) the role of peacekeepers (external influences).

This analysis is intended to highlight the similarities and differences between these cases, to facilitate negotiations on the resolution of the final status of Kosovo.

IV. Case Studies

1. Kosovo

Serbs and Albanians have lived in the Kosovo region since at least the 12th century and possibly for several centuries before. The question of who came first is debatable and peripheral to the current political discussion. In 1389 both ethnic groups fought together against the Turks on Kosovo Polje (the "field of blackbirds"). The Serbs have woven this battle into their national mythology and consider the territory to be the birthplace of their nation. Under Ottoman rule the majority of Kosovar Albanians converted to Islam, while Serbs remained Serbian Orthodox. More than 500 years later, Serbia and Montenegro regained the territory during the First Balkan War (1912–1913) and incorporated it into the country that would become Yugoslavia. In this land of *yugo* (southern) Slavs, the Albanians' language and culture were oppressed, despite the fact that they were the fourth largest ethnic group in Yugoslavia, and the majority in Kosovo.[3] Many Kosovar Albanians consider the Tito Era (1945–1980) the "good old days," in which communism emphasized the "unity and brotherhood" of all Yugoslavs, and Kosovo enjoyed a high degree of self-governance.

(a) Intractability

After Tito's death, Yugoslavia began to disintegrate. In 1987 a little-known politician named Slobodan Milosevic declared to Serbs: "No one should dare to beat you!"[4] He was referring not only to the Ottoman defeat 600 years earlier, but also to recent reports of Albanian aggression against Serbs in the region. Shortly thereafter, Kosovo's political status as an autonomous province was revoked, and Milosevic's newly-formed government repudiated its responsibility to protect all citizens by unleashing a series of ethnic discriminations against Albanians. "Thousands of doctors, teachers, professors, workers, police and civil servants were dismissed

[3] "By 1930 there were no Albanian-language schools, except for a few utterly clandestine ones, in the whole of Kosovo; nor was there a single Albanian-language publication on sale there, though almost every other minority in Yugoslavia (including Germans, Hungarians, Czechs, Turks and even Russians) has newspapers of its own." Noel Malcolm, *Kosovo: A Short History* (New York: New York University Press, 1998), 267.

[4] Tim Judah, *Kosovo: War and Revenge* (New Haven: Yale University Press, 2000), 53.

from their positions. The local court in Kosovo was abolished and many judges removed. Police violence against Kosovo Albanians increased."[5] Albanians responded by pressing for independence and establishing their own institutions, parallel to those of the state: they elected a clandestine parliament and established tax, health, and education systems. Two referenda calling for independence were passed in Kosovo, and in July 1990 separatist authorities declared independence, but this was recognized only by Albania.[6] In the late 1990s, disillusioned by the absence of Kosovo from the Dayton Accord discussions and failure to make political progress, ethnic Albanian insurgents formed the Kosovo Liberation Army and began conducting attacks on Serbian police and military installations. The Serbian government responded with overwhelming force, much of it directed at civilians: ethnic Albanians were rounded up and forcibly evacuated, in some cases stripped of their papers as they fled. Murder and destruction of property were commonplace.[7] More than 800,000 refugees fled into neighboring states, and up to 90 percent of the population was displaced.[8]

In an attempt to avoid a humanitarian crisis, in the spring of 1999, the North Atlantic Treaty Organization (NATO) launched an air campaign to drive Serbian forces from the territory. Seventy-seven days later, on 10 June, a peace agreement was signed and UNSC Resolution 1244 passed, guaranteeing the rapid withdrawal of Serbian forces from the region, the deployment of a NATO-led Force (KFOR), and the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK). Both were multinational efforts: at its height, KFOR boasted 50,000 troops from 39 nations. Today there are 16,000 troops from 24 nations in Kosovo,[9] and UNMIK continues to administer the territory, with the stated goals of establishing "substantial autonomy and self-government in Kosovo" and facilitating a "political process to determine Kosovo's future status."[10] Kosovar Albanians will accept nothing less than independence. They are supported by the United States, which holds that the "unprecedented war crimes" of the Milosevic era warrant "this province being taken away from the direct control of Serbia."[11] Serbs, on the other hand, cite the UN Charter in support of the need to preserve Serbia's territorial integrity, and have won Russia's support in this.

In November 2005, UN Special Envoy Martti Ahtisaari began a formal process to settle Kosovo's status. After more than a year of deliberation and fruitless negotiation between Belgrade and Pristina, his findings were presented to the UN Secretary General in two forms: a four-page report containing succinct recommendations, and the 63-page "Comprehensive Proposal" which outlines an implementation plan for those recommendations.[12] The Report clearly states that "Kosovo's Status should be independence, supervised by the international

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[5] Heike Krieger, *The Kosovo Conflict and International Law: An Analytical Documentation 1974-1999* (Cambridge: Cambridge University Press, 2001), 522.
[6] See http://news.bbc.co.uk/2/hi/special_report/1998/kosovo2/63822.stm.
[7] For details see International Criminal Tribunal for the Former Yugoslavia, Case No. IT-99-37 [Slobodan Milošević et al], especially paragraphs 96-97. Accessed at http://www.un.org/icty/indictment/english/mil-ii990524e.htm.
[8] See NATO Facts and Figures webpage at http://www.nato.int/kfor/docu/about/facts.html.
[9] As of the time of this writing there are 16,000 KFOR troops from 24 nations in Kosovo.
[6] See UNSC 1244 http://daccessdds.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement.
[7] Nicholas Burns, US Undersecretary of State for Political Affairs, to the Council on Foreign Relations, 16 April 2007; see http://www.cfr.org/publication/13126/future_of_kosovo_rush_transcript_federal_news_service.html.
[12] The Ahtisaari Report is available at www.unosek.org/docref/report-english.pdf; the Ahtisaari Proposal is available at www.unosek.org/docref/Comprehensive_proposal-english.pdf.

community," because reintegration into Serbia is not a viable option and continued international administration is not sustainable.[13] Ahtisaari further states that "…negotiation's potential to produce any mutually agreeable outcome on Kosovo's status is exhausted."[14] Proponents of independence had hoped to pass a resolution in the UN Security Council that would "remove… impediments to independence" as well as "provide mandates for Kosovo's post-status international supervision under Chapter VII of the UN Charter."[15] On April 24, 2007, however, Russian Deputy Foreign Minister Vladimir Titov promised, "[Russia] will not support a decision that is not backed by both parties to the conflict [the Serbs and Albanians] at the UN Security Council. The council will not pass a resolution based on the Ahtisaari plan."[16]

The options left to Kosovar Albanians are limited. Without the vehicle of a Security Council resolution, the most likely path forward is what Kosovo Prime Minister Agim Ceku is calling "coordinated independence": a gathering of assurances from the United States and EU member states that if Pristina declares sovereignty over Kosovo, the new government will be recognized. Belgrade and Moscow are calling for more negotiations, hoping to secure a deal that grants Kosovo "the widest autonomy in the world" within Serbia.[17] They state that they are willing to compromise, but that Kosovo must compromise as well. For their part, Kosovar Albanians have vowed to settle for nothing short of independence. As of the time of this writing, a troika, composed of representatives from the United States, EU, and Russia, have begun leading another 120-day round of negotiations with Pristina and Belgrade, projected to end in December 2007.

The impact of the conflict on Kosovo's population has been profound and traumatic. The 1999 conflict produced the "fastest mass exodus and rapid return of refugees in modern history,"[18] with the majority of ethnic Albanians returning to Kosovo as soon as NATO troops secured the area. This triggered a massive flight of 230,000 Serbs and Roma, fearful of Albanian revenge attacks. Only 12,500 non-Albanians have returned to Kosovo since 1999, due to concerns about physical security, lack of access to public services, and minimal economic opportunities. Today's population of 2.1 million is estimated to be 92 percent Albanian, 5.3 percent Serb, and 2.7 percent "other". Though an exact figure will never be known, the US State Department now estimates that 10,000 Albanians were killed during the war.[19] Slightly more than 5,000 people of all ethnicities have been reported missing, approximately 70 percent of them Albanian. Through UN-led efforts, just over half of these missing person cases have been resolved to date.[20] Though

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[13] See Ahtisaari Report at www.unosek.org/docref/report-english.pdf.
[14] Ibid., item 3, page 2.
[15] Nicholas Burns, Undersecretary of State for Political Affairs, Statement before the House Committee on Foreign Affairs, April 17, 2007. Accessed at http://www.state.gov/p/us/rm/2007/83120.htm.
[16] See Interfax article on April 24, "Russia will not back Ahtisaari plan on Kosovo at UNSC," at http://www.interfax.ru/e/B/0/28.html?id_issue=11719671
[17] In a BBC interview on 1 August 2007, Serbian Foreign Minister Vuk Jeremic stated that Serbia is willing to give Kosovo "the widest autonomy in the world… like being able to have their own access to the World Bank and the IMF, like the international financial institutions, like some kind of representation abroad… we are prepared to give up a lot of things, but they also need to be prepared to give up something." See http://news.bbc.co.uk/2/hi/europe/6927080.stm.
[18] See http://www.unhcr.org/cgi-bin/texis/vtx/balkans-country?country=Kosovo.
[19] See US State Department Report, December 1999, *Ethnic Cleansing in Kosovo: An Accounting* http://www.state.gov/www/global/human_rights/kosovoii/homepage.html#exe.
[20] See UNMIK Department of Justice: Office on Missing Persons and Forensics, 2006, accessed at http://www.unmikonline.org/justice/ompf_index.htm.

the Serbs are widely viewed as the aggressors in the conflict, both sides are guilty of committing atrocities during and after the war, including murder, rape, and the burning of homes, villages, mosques, churches and monasteries. The NATO-led Kosovo Force (KFOR)[21] has enforced a relative calm in the region since 1999. However, tension runs just below the surface, as demonstrated in March 2004, when three days of Albanian-led violence displaced more than 3,000 people and destroyed 30 Serbian Orthodox churches. There is fear that if independence is not granted soon, ethnic Albanians will incite violence again.

(b) Viability

Kosovo's legal status is unusual in that UNSC 1244 grants "substantial autonomy" and calls for the establishment of the institutions of self-governance through an "interim administration," while future status is being decided. Never before has the UN removed part of a sovereign territory and promoted self-governance within its borders. Kosovo's Constitutional Framework (promulgated in May 2001) reserves some powers for UNMIK, such as the control of the customs service, monetary policy, authority over the Kosovo Protection Corps, and external relations. All other responsibilities have devolved to the Provisional Institutions of Self-Government (PISG), including economic and financial policy, fiscal and budgetary issues, domestic trade, education, culture, health, public administration, tourism, good governance, and non-resident affairs.[22]

Though governing institutions are in place, there is broad skepticism about Kosovo's ability to function as a viable state without supervision. More than a decade of oppression and limited access to outside resources has left Kosovo's relatively young population[23] one of the most poorly educated in the region. Adult illiteracy remains high at about 6 percent,[24] and according to the International Crisis Group, "graduates from Pristina's academically inbred university are poorly matched to employment opportunities and of insufficient caliber to sustain state institutions."[25] Medical care and health outcomes are among the worst in southeast Europe.[26] Although UNMIK still oversees the appointment of judges, "the efficiency of the judicial system is low and Kosovo's judicial institutions have made little progress in delivering an effective service, both in civil and criminal justice."[27] Corruption is widespread at all levels.[28]

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[21] KFOR currently has 16,000 troops from 35 countries.
[22] For background, see Constitutional Framework: http://www.unmikonline.org/constframework.htm#1.
[23] Thirty three percent are under the age of 14 and 61 percent between the ages of 15 and 64. Statistical Office of Kosovo. Universal Resource Link Located at: http://www.ks-gov.net/ESK/esk/english/english.htm; accessed 19 June 2007.
[24] Commission of the European Communities, *Commission Staff Working Document, 2006 Kosovo Progress Report*, 21. See http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/ks_sec_1386_en.pdf.
[25] International Crisis Group, *Kosovo: The Challenge of Transition,* Europe Report Number 170, February 17 2006,
[26] World Bank, Kosovo Brief, 2006. Accessed at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/KOSOVOEXTN/0,,contentMDK:20629286~pagePK:141137~piPK:141127~theSitePK:297770,00.html. Kosovo's infant mortality rates are the highest in the region and nutrition deficiencies, tuberculosis, disabilities, and mental health problems present serious concerns.
[27] Commission of the European Communities, *Commission Staff Working Document, 2006 Kosovo Progress Report*, page 10. See http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/ks_sec_1386_en.pdf.

Kosovo's Gross Domestic Product (GDP) is the lowest in the Balkans at approximately $3,068 million, or $1,500 per capita.[29] With no resolution of its political status, Kosovo is "unable to access international financial institutions, fully integrate into the regional economy or attract the foreign capital it needs to invest in basic infrastructure and redress widespread poverty and unemployment."[30] Official government statistics report 44 percent of the population is unemployed, with two-thirds registered as unskilled workers and the majority between the ages of 25 and 39.[31] An estimated 37 percent of the population lives in poverty (income below $2.00 per day) and 15 percent in extreme poverty (income below $1.30 per day).[32] Though the area is rich in coal (lignite), zinc, and lead, massive amounts of funding would be needed to build new plants and/or overhaul existing structures. Without final status resolution, investors are leery of Kosovo. As one report noted, if Kosovo remains part of Serbia, Belgrade "is in no position or mood to make capital transfers to Kosovo."[33]

(c) External Influences

All this said, Kosovo's future holds some promise. With a young, enthusiastic population and strong affinity with the West, Kosovars are eager to participate in European institutions and enjoy the advantages that would come with EU membership. The Kosovo Police Service (KPS), consisting of 7,400 officers and representative of Kosovo's ethnic ratios, is widely recognized as one of the most competent and least corrupt in the region, thanks in large part to the training programs established by the Organization for Security and Cooperation in Europe (OSCE) and a cadre of international civilian police.[34] It remains to be seen if the KPS can sustain this reputation in the absence of international colleagues, whose numbers are reduced each year and will most likely not be present post-UNMIK.

Though international attention to the Balkans in general has waned in recent years, the international community is committed to shepherding Kosovo toward stability and greater integration into Euro-Atlantic structures. As previously mentioned, the territory has been under UN supervision since June of 1999. UNMIK is unparalleled in its scope and complexity; "no other mission ha[s] ever been designed in a way that other multilateral organizations were full partners under UN leadership."[35] The Kosovo case is important, not only for peace and security in Europe's backyard, but also because of the new ground it is tilling in international enforcement of peace and security. Never before has a UN peacekeeping mission been so complex in structure and comprehensive in scope. Rarely has the Security Council used its powers to place a tourniquet on a "bleeding" sovereign territory. The active engagement of the

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[28] International Crisis Group, *Kosovo: The Challenge of Transition I,* Europe Report Number 170, 17 February 2006 and Commission of the European Communities, *Commission Staff Working Document, 2006 Kosovo Progress Report*, page 11. Accessed at http://ec.europa.eu/enlargement/pdf/key_documents/2006/nov/ks_sec_1386_en.pdf.
[29] Aide-memoire of the IMF Staff Mission to Kosovo, May 22-31, 2006 (converted from Euros to U.S. dollars).
[30] Ahtisaari Report, point 9, page 3.
[31] Statistical Office of Kosovo, *Kosovo in Figures Report,* 2006, page 40. Accessed at http://www.ks-gov.net/ESK/.
[32] World Bank, Kosovo Brief, 2006. Accessed at http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/KOSOVOEXTN/0,,contentMDK:20629286~pagePK:141137~piPK:141127~theSitePK:297770,00.html.
[33] ICG Report Number 170, 5.
[34] In December 2000 there were 4450 international police from 47 countries working with 3135 KPS officers.
[35] See www.unmikonline.org.

international community has made, and will continue to make, a significant difference for the future of Kosovo.

2. Abkhazia

Often called the Soviet Riviera because of its geography, outstanding subtropical climate, and resorts,[36] Abkhazia has also had a complex history. "After enjoying in the 1920s the status of union republic, attached by treaty to the Transcaucasian Soviet Federal Socialist Republic, Abkhazia was joined to Georgia in 1931."[37] After WWII, Stalin "orchestrated resettlement of Georgians into Abkhazia to work in agriculture, changing the ethnic balance of the population."[38] Policies of "Georgiafication" closed Abkhaz language schools and gave government positions to Georgians.[39] "But in 1978, in response to protests, Soviet authorities instituted 'Abkhazization' affirmative action that reinstated Abkhaz language schools and assigned official positions to people of Abkhaz nationality."[40] This reinforced the concept of identifying nationality with comparative advantage or disadvantage, and paved the way for future conflict.[41]

(a) Intractability

Abkhazia differs from other separatist conflicts in that independence was declared by the Abkhaz population, which was not the majority at the time.[42] Prior to the first signs of civil conflict in 1989, the Abkhaz made up only 17.8 percent of the region's population.[43] "The reason for this included the departure to Turkey of many Abkhazians (called *Mohajirstvo*) after a failed revolt in 1866 following the imposition of tsarist rule and subsequent arrival of many Georgians, Russians, and Armenians."[44] As Soviet power waned and Georgian nationalism increased, the Abkhaz elites, fearing for their existence, signed the Lykhny Declaration in March 1989, calling for the creation of a Soviet Socialist Republic of Abkhazia.[45] The first sign of violence "broke

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[36] Timothy Blauvelt, "Abkhazia: Patronage and Power in the Stalin Era," *Nationalities Papers* (London: Routledge, 2007), 203.
[37] UN High Commission for Refugees (UNHCR), *The dynamics and challenges of ethnic cleansing: The Georgia-Abkhaz case*, *WRITENET reports*, 1997. Universal resource link located at: http://www.unhcr.org/cgi-bin/texis/vtx/; accessed on 20 June 2007.
[38] Ibid.
[39] Ibid.
[40] Ibid.
[41] Ibid.
[42] European parliament briefing on the 'frozen conflicts', PE no. 366.180, February 2006. Universal resource link located at: http://www.europarl.europa.eu/meetdocs/2004_2009/documents /dv/afet_220206_southcaucasu/afet_220206_southcaucasus2.pdf; accessed on 12 July 2007, 5.
[43] Dov Lynch, *Engaging Eurasia's Separatist States* (Washington DC: United States Institute of Peace Press, 2004) 27.
[44] European parliament briefing on the 'frozen conflicts', PE no 366.180, February 2006. Universal resource link located at: http://www.europarl.europa.eu/meetdocs/2004_2009/documents /dv/afet_220206_southcaucasu/afet_220206_southcaucasus2.pdf; accessed on 12 July 2007, 5.
[45] Ibid.

out in 1989, after a Georgian attempt to create a branch of Tbilisi University in the Abkhaz regional capitol, Sokhumi."[46]

Ethnic tensions increased after an outspoken nationalist, Zviad Gamsakhurdia, became president of Georgia in 1990 and instituted state policies that alienated minorities.[47] "In 1991, the Abkhaz parliament declared that Abkhazia would revert to its 1925 constitution, which described Abkhazia as an independent Soviet republic."[48] The conflict escalated in 1992 after the Georgian National Guard entered Abkhazia to allegedly secure transportation and communication lines, after annulling the Abkhaz claim of independence from Georgia. The Abkhaz responded by soliciting help from Russia and other armed forces throughout the North Caucasus to fight against the Georgians. Civil war ensued until 1993, when the Abkhaz had effectively taken back by force (and with substantial reinforcement by Russian assets) what they considered to be the territory of Abkhazia. The 1994 Moscow Agreement created a cease-fire between the parties and established the unarmed United Nations Observer Mission in Georgia (UNOMIG) to monitor implementation of the agreement and to work with the 1,800 strong Commonwealth of Independent States Peacekeeping Force (CIS-PKF). The ceasefire has generally held despite some skirmishes that continue today. Two main issues present obstacles to a lasting resolution: the political status of Abkhazia with respect to Georgia, and the mechanism for repatriation of the displaced Georgians.[49] Efforts by the UN Secretary General's Friends of Georgia (France, the UK, the United States, Russia, and Germany), the Coordinating Council, and leaders in Tbilisi and Sokhumi have had little success in resolving this 15-year-old conflict.[50]

For their part, Abkhazians fear assimilation by Georgia, recall atrocities under Georgian rule, and cite the fate of the *Mohajirstvo* as an example of what could happen to Abkhazians.[51] The fear of being eliminated by a stronger power is an important factor in all the conflicts in the South Caucasus. For Abkhazians during the buildup to civil war in 1992, comments such as "Georgia for Georgians", made by nationalistic extremists, instilled the belief that there was no room for other ethnic groups in an independent Georgian state. Fear of Georgian nationalism also shapes Abkhaz attitudes toward Georgian policy on internally displaced persons (IDPs), which some in Abkhazia believe is intended to tip the demographic balance in favor of Georgians.

During the civil war, Abkhaz and Georgian soldiers alike terrorized the civilian population, and at times took entire villages hostage in exchange for weapons and other supplies. According to UN and Human Rights Watch reports, almost all respondents to surveys and questions characterized the conflict as ethnic cleansing.[52] Both sides state that acts of rape, murder, theft, hostage-taking, looting, forced migration of civilians, and destruction of homes based on

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[46] Ibid.
[47] Ibid. Gamsakhurdia banned the participation of a South Ossetian political party from participating in elections, which had a spillover effect on Abkhazia, which already feared Georgian nationalism.
[48] Ibid.
[49] Ibid., par. 7.
[50] Ibid.
[51] Stuart J. Kaufman, *Modern Hatreds: The Symbolic Politics of Ethnic War* (Ithaca, New York: Cornell University Press, 2001), 96.
[52] Ibid.

nationality, gave the conflict a violent ethnic character.[53] Almost all of the pre-war Georgians in Abkhazia were displaced.

The conflict was localized and affected the entire population of Abkhazia. By many accounts, the intense fighting left 10,000–15,000 dead, with 8,000 wounded. The region is now thought to be somewhere between 17 and 30 percent Abkhazian, 25 percent Georgian, 20 percent Armenian, 15 percent Russian, and 5 percent Greek.[54] It should be noted that "as of 2003, over 40,000 Georgian IDPs are estimated to have spontaneously returned again, or at least seasonally returned to farm their lands."[55] Although some IDPs have returned, the repatriation of the rest is a significant roadblock in conflict resolution. The Abkhaz claim that the reason for their minority status is because of forced migration policies, and that many of the displaced Georgians residing in Abkhazia are there because of a strategic policy to "Georgianize" the region during the Soviet period.

(b) Viability

Prior to 1994, Abkhazia had maintained an autonomous government structure. Today, Abkhazians claim to have a functioning government with a democratically elected president, who appoints 12 ministers.[56] However, the Abkhaz government has never been officially recognized by the international community, and the elections held are considered illegal by both Georgia and the United Nations.[57] Widespread corruption weakens any claim to authority over the space: smuggling and trafficking remain major problems due to the region's uncertain status, and the war economy is used by criminal elements for their own enrichment. It has been alleged that one motivation for Russia's support of Abkhazia is to allow Muscovite criminal elements to use its ungoverned space as a hub for smuggling.

In terms of policing,

> [T]he de facto authorities maintain some level of control over Upper Gali, but Lower Gali lacks any kind of police presence, receiving only Russian Peacekeepers and patrols in hard skin vehicles from the United Nations Observer Mission in Georgia (UNOMIG). Robbery, assault and

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[53] UNHCR, *The dynamics and challenges of ethnic cleansing: The Georgia-Abkhaz case*, *WRITENET reports*, 1997. Universal resource link located at: http://www.unhcr.org/cgi-bin/texis/vtx/; accessed on 20 June 2007.
[54] Jane's Security Sentinel Assessment-Russia and CIS. Abkhazia, 2007. Universal resource link located at: http://www8.janes.com/Search/documentView.do?docId=/content1/janesdata/sent/cissu/geors190.htm@current&pageSelected=allJanes&keyword=Abkhazia&backPath=http://search.janes.com/Search&Prod_Name=CISS&#toclink-j1111112797246874; accessed 26 June 2007.
[55] Ibid.
[56] ICG, *Abkhazia Today,* 2006. Universal resource link located at: http://www.crisisgroup.org/library/documents/europe/caucasus/176_abkhazia_today.pdf; accessed on January 20, 2007, 12.
[57] UN Report to Secretary General on the situation in Abkhazia, no S/2004/822. October 18, 2004. Universal resource link located at: http://daccessdds.un.org/doc/UNDOC/GEN/N04/553/38/PDF/N0455338.pdf?OpenElement; accessed June 26, 2007, 2.

> kidnapping are common and criminal gangs from both sides smuggle high value commodities, such as petrol, drugs, arms and cigarettes.[58]

According to an International Crisis Group interview, Abkhazia has somewhere between 15,000 and 25,000 reservists in land, air, and sea components who train three to four times a year and can be called up on short notice.[59] Georgian officials accuse Russia of supplying and training these forces.

(c) External Influences

In Abkhazia, all political roads lead to Moscow, and the Russians have effectively become peace spoilers. Russian interests in Abkhazia range from access to prime real estate and sanatorium (spa) getaways, to additional ports to the Black Sea and regional leverage. Other external influences of note include criminal elements that benefit from Abkhazia's de facto status and lack of border security.

In terms of an international presence, the UN and Commonwealth of Independent States Joint Peace-Keeping Force (CIS-JPKF) operate in tandem in the region. The unarmed UNOMIG troops observe implementation of the 1994 Moscow Agreement and cooperate with the armed CIS force. The international community primarily works through the UN-led Coordinating Council and the UN Secretary General's Group of Friends of Georgia. The former convenes to address areas of potential progress (as well as emergencies),[60] while the latter serves with the OSCE as a vehicle for confidence-building mechanisms. NATO does not have a presence in Abkhazia, though media reports suggest that Georgia might be offered membership by 2008. The OSCE has a small presence in Abkhazia as a participant in the Coordinating Council, but is mainly focused on South Ossetia. The Russian led-process and CIS-JPKF have worked unilaterally, and at times in opposition to the international community's efforts.[61] However, it was Russia that brokered the "Moscow Agreement," which instituted the ceasefire agreement that is in place today.[62] During the conflict, Abkhazians were supported with troops from other North Caucasus regions and by Russian resources, and can, if needed, call on these elements again.

3. South Ossetia

South Ossetians argue that they have existed in what is today Georgia since the 8th century, though claims to ties between Ossetians and the Sarmatians in the 13th century appear to be better-founded.[63] Either way, it is commonly accepted that South Ossetians residing in Georgia

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[58] UN Development Program, Assessment of opportunities for microfinance development in Abkhazia, 2005. Universal resource link located at: http://www.undp.org.ge/news/MFFinalRep.pdf; accessed June 27, 2007, 4.
[59] Ibid., 14.
[60] ICG, *Abkhazia*: *Ways Forward*, 2007. Universal resource link located at: http://www.crisisgroup.org/library/documents/europe/caucasus/179_abkhazia___ways_forward.pdf; accessed on February 4, 2007, 3.
[61] John Mackinlay and Evgenii Shrov, "Russian Peacekeeping Operations in Georgia", *Regional Peacekeepers: The Paradox of Russian Peacekeeping* (Tokyo and New York: United Nations University Press, 2003), 74.
[62] Ibid., 5.
[63] Kaufman, 97.

came down from the North Caucasus after the Mongol invasions.[64] Ossetians, like the Georgians, are predominantly Christian, and at times fought alongside each other against their Muslim neighbors.[65] At other points in history, however, they fought each other, and South Ossetians argue that they have sought autonomy/independence since the 18th century.[66] Like the Abkhaz, South Ossetians emphasize their bloody repression in the 1920s under Georgian rule.[67]

(a) Intractability

For most of the 19th century, Ossetians lived in peace with Georgians. In fact, the majority of the population did not live in South Ossetia, but throughout Georgia.[68] However, a combination of problems, including economic repression, Georgian nationalism, lack of political representation, and the spreading of rumors, led to conflict.[69] In September 1990, South Ossetia voted for full sovereignty within the USSR, which was countered by vetoes from the Soviet and Georgian parliaments alike.[70] In December, Georgian president Gamsakhurdia "…abolished South Ossetia's autonomous status within Georgia, and military confrontation began the next month. The results of 18 months of chaos and urban warfare were devastating: some 1,000 dead, 100 missing, extensive damage to homes and infrastructure, and many refugees and IDPs."[71]

In 1992, Georgia and Russia brokered a ceasefire. The supported peace process by which the parties aim to settle the conflict is through the Joint Control Commission (JCC). The JCC is a "quadrilateral body with Georgian, Russian, North and South Ossetian representatives, plus participation from the [OSCE]."[72] No formal peace agreement has been reached between Georgians and Ossetians, but the "Sochi Agreement on the Principles of the Settlement of the Conflict between Georgia and South Ossetia" established a ceasefire in 1992. The conflict resumed in the summer of 2004 with "tit-for-tat" ceasefire violations. Although another ceasefire agreement was signed, the region remains volatile to this day, with almost daily clashes between Russian, Georgian, and Ossetian security forces.[73]

The greatest fear the South Ossetians have is the elimination of their culture and assimilation into Georgia's. A state law, passed in 1989, making Georgian the official language, "diminished the importance of national minorities and confronted the people's sense of nationality."[74] Under current president Mikhail Saakashvili much has been done to change this. One example is Georgia's adoption of the European Framework Convention on the Protection of National

[64] Ibid., 98.
[65] Ibid.
[66] Ibid.
[67] Ibid.
[68] Ibid.
[69] Ibid., 98-99.
[70] Ibid.
[71] ICG Report, *Georgia-South Ossetia: Refugee Return the Path to Peace*, April 19, 2005, 3.
[72] Ibid.
[73] Ibid.
[74] Mackinlay and Shrov, 74.

Minorities (FCPNM) in 2006.[75] The fear of losing identity, culture, land, and language that caused so much violence continues to be an issue today.

(b) Viability

In theory, there are four presidents recognized by residents of South Ossetia: Russian President Putin, Georgian President Saakashvili, *de facto* separatist President Kokoity, and Georgian government representative (and Kokoity camp defector) Sanakoev.[76] The absence of clear leadership for the region complicates both negotiations and the running of an effective government. Partly as a consequence of this, crime—particularly smuggling—is a significant problem. Without a recognized central government, the policing of South Ossetia's borders is limited and subject to corruption. The South Ossetian military consists of a small, ill-equipped, and ill-trained force of roughly 2,000 servicemen, 1,100 paramilitary police, and a 100-person security detail.[77] The region lacks both the infrastructure and capacity to provide basic security and essential services for the population. Medical care is limited and health problems are compounded by the absence of a reliable water system. "Infrastructure in mountainous South Ossetia is among the worst in Georgia and has been seriously affected by post-war problems of lack of investment and de facto internal division."[78] South Ossetia is reliant upon Russia for its electricity needs and Georgia for its natural gas needs. The region has little economic potential without subsidies from Russia, Georgia, and the international community. "The major source of budgetary income is from tariffs; in 2000, the budgetary income was 48.6 million rubles (approximately USD $1.7 million). Custom tariffs comprised 54.5 percent of overall revenues."[79]

(c) External Influences

As is the case with Abkhazia, the resolution of South Ossetia's conflict depends largely on external forces. South Ossetia finds itself sandwiched geographically and politically between a Georgian state with aspirations to join NATO and a Russian state which sees NATO on its periphery as a direct threat to its national security. Russia's interests in South Ossetia include stopping the spread of conflict to Russia (especially the volatile North Caucasus), re-establishing Russian influence in order to stymie NATO expansion, and preserving important trade routes between Russia and Georgia.[80] Other individuals and groups benefit from South Ossetia's porous borders, which allow transit routes for smuggling illicit goods. Russia's most important tool of influence is its supportive relationship with de facto president Kokoity, and the presence of

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[75] Guram Svanidze, "Concept on the Policy Regarding the Protection and Integration of Persons Belonging to National Minorities in Georgia", *European Center for Minority Issues,* 2006. Universal resource link located at: http://www.ecmigeorgia.org/works/occasional_paper_svanidze.pdf; accessed July 27, 2007, 9.
[76] Interview with American officials in Tbilisi, Georgia, Jan-May 2007.
[77] Jane's Sentinel Review. See South Ossetia: Armed groups. Universal resource link located at: http://www8.janes.com/Search/documentView.do?docId=/content1/janesdata/sent/cissu/geors210.htm@current&pageSelected=allJanes&keyword=South%20Ossetia&backPath=http://search.janes.com/Search&Prod_Name=CISS&#toclink-j1131178636878690; accessed July 10, 2007, armed forces section.
[78] Ibid., infrastructure section.
[79] Ibid., 80.
[80] Mackinlay and Sharov, 72.

Russian military officers acting as "defense minister and head of security services in South Ossetia's de facto government."[81]

Russia also maintains a dominant position in the Joint Peace Keeping Force (JPKF), as key elements of the force are Russian.[82] Through the JCC, Russia is considered the guarantor of stability in the region. Considering Russia's interests, it is difficult to view Russia and the JPKF as impartial third parties in the resolution of the conflict. Georgia also participates in the JPKF, but works primarily on the Georgian side of the conflict zone. Georgia's interests are to see the territorial integrity of Georgia restored and to protect the Georgian population. Georgia views Russia as a dishonest broker,[83] and supports the dismantling and/or significant reform of the JCC structure. Georgia would like to see more "bilateral dialogue between the Georgian and the South Ossetian side" with less Russian involvement.[84] Neither South Ossetia nor Russia believes that limiting Russian involvement is a way forward.

The European Union (EU) has had more involvement in South Ossetia than in Abkhazia, mainly through its economic development programs, which are predicated on the continuation of peaceful negotiations.[85] In principle, the EU supports the Georgian approach for resolving the conflict peacefully.[86] The EU's more active involvement in this conflict stems from its belief that "South Ossetia is a conflict that is easier to resolve [than Abkhazia]," and that it is more important for the peaceful functioning of a Georgian state, since South Ossetia is only 100 km from Tbilisi.[87] Moreover, the EU sees more room to become a lead negotiator in South Ossetia, as the UN is already heavily involved in Abkhazia.[88] However, the EU's involvement has been limited by its inability to push too hard on Russia for fear of complications in energy shipments from Russia to Europe. Aside from Russia, the OSCE has by far the most active influence on South Ossetia, through its eight-member observer mission[89] and economic development programs. Unfortunately, competitive outside economic development from Russia and Georgia undermines the confidence-building potential for the OSCE-led projects. Instead, "aid is politicized in the zone of conflict."[90]

Of the Abkhazian and South Ossetian conflicts, the latter is more likely to be resolved if the influential third parties can find concrete ways to work together. Georgia has publicly acknowledged that the South Ossetian conflict could have been prevented, as it was mainly

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[81] Svante E. Cornell, "Georgia After the Rose Revolution: Geopolitical Predicament and Implications for US Policy," report of the Strategic Studies Institute of the U.S. Army War College, February 2007, 28. Available at: www.strategicstudiesinstitute.army.mil; accessed July 9, 2007.
[82] Mackinlay and Sharov, 80.
[83] ICG Report, *Georgia's South Ossetia conflict: Make haste slowly,* June 2007, 2.
[84] Ibid.
[85] Nicu Popescu, "Europe's Unrecognized Neighbors: The EU in Abkhazia and South Ossetia," *Centre for European Policy Studies,* no. 260, March 2007, 16.
[86] Ibid.
[87] Ibid.
[88] Ibid., 17.
[89] ICG Report, *Georgia's South Ossetia Conflict*, 20.
[90] Ibid.

economic and about land.[91] Moreover, there is much more cross-ethnic cooperation amongst the civilian populations in South Ossetia than there is in Abkhazia. While Russian influence remains important, South Ossetia is less important to Russia than Abkhazia.

4. Transdniestria

Transdniestria is, in essence, a smuggling / criminal operation cloaked in nationalist rhetoric. Self-styled "President" Igor Smirnov has stoked russophone fears of marginalization within a post-Soviet Moldova to justify the de facto partition of Transdniestria: a separation established and maintained primarily by Russian "peacekeeping" troops, and bankrolled by the lack of customs enforcement along Transdniestria's 1,200-mile border with Ukraine. Unlike the other case studies in this analysis, Transdniestria and Moldova are "ethnically and linguistically heterogeneous (each with significant proportions of Romanians, Russians and Ukrainians),"[92] and interethnic tensions are virtually nonexistent.[93] The war was brief, with relatively few casualties,[94] and was not ethnically based. Transdniestria's own population remains unconvinced of the validity of the nationalist argument,[95] despite the elite's attempts to build an identity based on a cult of personality around Smirnov and a selective presentation of history.[96] However, the status quo is entrenched internally; it suits the ruling elite financially,[97] and Smirnov exercises considerable control over the media and any opposition via the security services.[98]

(a) Intractability

As is the case with most contested areas, Transdniestria boasts multiple competing histories, which vary with the social ties and consequent territorial claims of the historian. A narrow strip of land along the eastern bank of the Dniestr River in modern Moldova, Transdniestria was first populated by ethnic Romanian and Ukrainian peasants in the late 17th century.[99] Russian troops annexed the area in 1792 and subsequently folded it and part of old Moldova into the Russian province of Bessarabia in 1812.[100] In 1859, what remained of Moldova joined Wallachia to form Romania. Bessarabia attempted to establish its independence during the Russian Civil War, but instead was coerced by occupying troops into joining Romania in 1918.[101] In 1940, Stalin again seized Bessarabia under the Molotov-Ribbentrop Pact, expanding the borders of the Moldavian

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[91] Tebrone Gomelauri, "The Role of Economic Factors in Georgia and the South Caucasus," *Central European University Center for Policy Studies,* 2002. Universal resource link located at: http://pdc.ceu.hu/archive/00001807/01/Gomelauri.pdf; accessed on June 27, 2007, 7.
[92] ICG Report, *Moldova's Uncertain Future,* Europe Report No.175, August 2006, 1.
[93] Lynch, 86.
[94] Ibid.
[95] Ibid.
[96] ICG Report, *Moldova: Regional Tensions Over Transdniestria,* Europe Report No.157, June 2004, 13.
[97] Austin Kilroy, *Promoting Stability on Europe's Borders: A Comparative Study of Kosovo, Transdniestria, and Abkhazia*, Conflict Studies Research Center, Special Series 06/38, Defense Academy of the United Kingdom, August 2006, 8.
[98] ICG Report, *Moldova: No Quick Fix,* Europe Report No.147, August 2003, 27.
[99] Kaufman, 131.
[100] Ibid., 131.
[101] Ibid., 132.

Autonomous Soviet Socialist Republic to where they are today.[102] Modern Moldova gained independence in 1991 with the dissolution of the USSR, but continues to be torn between the influences of Romania and Russia.

In 1990, as Moldova was breaking away from the USSR, ethnic Russian leaders in Tiraspol (the de facto capital of Transdniestria) proclaimed independence from Moldova and sought to remain within the Soviet Union.[103] This subsequently evolved into a demand for autonomy in a federal Moldova within the CIS,[104] then to the current demand for international recognition as an independent country. Transdniestrian elites, led by "President" Igor Smirnov and his sons, have led this process[105] with ongoing economic, political, and military support from Russia.[106] The rationale and catalyst for the separatist movement originated with Moldova's attempt to make Moldovan (Romanian) the state language, thus ensuring that key government positions would go to Moldovans rather than (frequently unilingual) russophones: "Separatist violence occurred largely because russophone elites stood to gain power by promoting it, while they could lose everything—their jobs, their influence, and their perquisites—if they were to submit to the language law. Transdniestrian elites therefore chose to turn the language issue into an ethnonationalist struggle for group dominance."[107] This they did, stoking violence while simultaneously presenting themselves as the only guarantors of russophone security.[108]

The fighting was limited to small-scale clashes, most notably at Bendery, in 1992.[109] Fewer than 1,000 were killed, and 3,000 injured, with minimal lasting social damage: "The ethnically-mixed population of the left bank bears no sense of hostility toward, or desire for revenge against, the Moldovan state. Exchanges and ties across the river have been deep and constant almost since the day after the cease-fire."[110] The problem lies not on the level of individual citizens, as the International Crisis Group assessed in 2006:

> There is no reason why mutual confidence cannot be improved. Relations between the populations are reasonably warm. The ethno-linguistic dimension of the dispute... is exaggerated. Most Transdniestrians have family or friends in Moldova, and vice versa, and there is considerable freedom of movement between the areas. The extent to which hostility between the governments reaches the average citizen is limited.[111]

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[102] Ibid., 132.
[103] Ibid., 148.
[104] Ibid., 160.
[105] "On 27 February 2003, the European Union imposed a travel ban on seventeen Transdniestrian leaders, including Igor Smirnov and his two sons, 'considered to be primarily responsible for the lack of cooperation to promote a political settlement of the conflict'. The EU called the 'continued obstructionism' of the Transdniestrian leadership unacceptable..." (ICG Report, *Moldova: No Quick Fix,* Europe Report No.147, August 2003, 10-11.)
[106] Kaufman,158.
[107] Ibid., 146.
[108] Ibid., 148.
[109] Lynch, 86.
[110] Ibid., 86.
[111] ICG Report, *Moldova's Uncertain Future*, 18.

(b) Viability

Transdniestria enjoys many of the trappings of a state: "it has an elected president and parliament, a national bank that issues currency, a judicial system from the lowest courts up to a Constitutional Court, an army, police and militia, a strong internal security service, border guards and a customs service, a constitution, a national anthem, a coat of arms, and a flag."[112] However, the state apparatus is wholly subordinated to the interests of the ruling elite. There is a general consensus in the international community that elections are neither free nor fair; opposition movements are regularly harassed and dissolved, and the media is under almost complete control.[113] The judicial system is authoritarian and damaging to the development of civil society: "NGOs are either funded by the authorities or... subjected to pressure and harassment. Persons critical of the authorities are likely to be beaten up or prosecuted and convicted by biased courts implementing the will of authorities."[114] The head of Transdniestria's security services was at one point wanted by Interpol, though the charges have since been dropped.[115] Transdniestria's failure to control its customs space costs Moldova and Ukraine hundreds of thousands of dollars a year. While the region does have a legal economy inherited from the USSR (primarily steel production), the backbone of its economy consists of smuggling, for the most part otherwise licit goods such as foodstuffs.

(c) External Influences

International involvement in the dispute has had mixed results. The EU Border Assistance Mission (EUBAM), operating in Ukraine along the border with Transdniestria, has assisted in tightening border controls, but this is difficult given its length (1200 miles) and topography (primarily flat). Shutting down the illegal transit of goods is key to controlling the Transdniestrian economy and putting pressure on the authorities. The OSCE is the point organization for engagement with Transdniestria, and leads negotiations with Moldova, Transdniestria, Russia, and Ukraine, with the United States and the EU as observers. Progress to date has been limited. ICG assesses that most Transdniestrian authorities "recognize that international recognition is unlikely, if not impossible,"[116] and that "the leadership's strategy seems to be to legalize the status quo through a very loose confederation with Moldova under Russian supervision. Toward that end, [Transdniestria] has lobbied Russia, Ukraine, and Moldova extensively and exploited illegal economic ties as a bargaining tool."[117]

Russia continues to remain actively engaged, with its "peacekeeping" mission serving to maintain the status quo: "This peacekeeping arrangement has become part of the problem. On the ground, the peacekeeping troops maintain static posts, which has allowed the [Transdniestrians] to deploy additional 'security forces' in the security zone and done nothing to halt smuggling. Moreover, the right of veto accorded to the [Transdniestrians] in the Joint Council Commission

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[112] ICG Report, *Moldova: No Quick Fix*, 5.
[113] Ibid. 27.
[114] Ibid. 27.
[115] Ibid., 6-7.
[116] ICG Report, *Moldova: Regional Tensions Over Transdniestria,* Europe Report No.157, June 2004, 17.
[117] Ibid.

has prevented the OSCE [from] assuming a more extensive role."[118] Gaining Russia's constructive cooperation will be key to any lasting resolution of the Transdniestrian question, something of which they are well aware: Russian support of the separatists appears to be a tactical, rather than a principled, choice. In the words of Boris Pastukhov, deputy chairman of the Russian Special Committee for Negotiations on Transdniestria: "[Russia] shall no longer tolerate the foolishness, boorishness, and thievishness of some Dnestr politicians…. We have understood that there are some people in the Dnestr region who are parasitic on warfare and political chaos, as each day brings more fortunes to them—they are kings in their own kingdom, where neither law nor common sense works."[119] To resolve the issue, Russia must be persuaded to abandon its role as "spoiler"—this may be possible should the role cease to be to its advantage.

5. Nagorno-Karabakh

Conflict between Armenians and Azerbaijanis has existed for centuries. The most recent escalation started in 1988 and evolved into a bloody civil war that lasted until a ceasefire agreement was signed in 1994. The conflict was about the rights to Nagorno-Karabakh, a territory considered historically and culturally important to Armenians and Azerbaijanis alike. Although a ceasefire generally holds today, remnants of the conflict persist. There is no peace agreement, and third-party mediation has not been successful. The conflict itself was the bloodiest to occur in the former Soviet space. Both parties committed mass atrocities, and neither Armenia nor Azerbaijan has come to terms with the tactics used during the war.

(a) Intractability

During the Soviet period, Nagorno-Karabakh was granted to the Soviet Socialist Republic of Armenia in 1920, but this decision was reversed in 1921 due to anti-Bolshevik sentiments. As a result, Nagorno-Karabakh was given the status of an Autonomous Oblast within the Soviet Republic of Azerbaijan. Nagorno-Karabakh Armenians used the "autonomous" title to their advantage by holding a referendum to join Armenia proper in 1988. This, coupled with policies of *glasnost* and *perestroika*, and the eventual collapse of the Soviet Union, resulted in the conflict escalating into open war. As a result of this conflict, virtually no Azerbaijanis remain in or around Armenia, and seven additional regions surrounding Nagorno-Karabakh are occupied by Armenian forces.[120] The conflict, as it exists today, is caught between two principles: territorial integrity for Azerbaijan and self-determination for the Nagorno-Karabakh Armenians. Other latent issues blocking a peaceful resolution include: the settlement of Armenians in Nagorno-Karabakh and its seven occupied territories, the right of return for Azerbaijani IDPs, the bringing to justice of war criminals, restoration of property rights, and the destruction of Azerbaijani historical monuments in Karabakh.

The 1994 ceasefire agreement tasked the Minsk Group of the OSCE—France, Russia, and the United States—with the lead in negotiations. It was thought that once a peace agreement was

[118] Lynch, 76.
[119] April, 2001; cited in Lynch, 67.
[120] ICG Report, *Nagorno Karabakh: Viewing the Conflict from the Ground*, September 14, 2005, 4.

signed by the conflicting parties, the first-ever OSCE peacekeeping mission would be implemented. This has not happened. In addition, the United Nations Security Council adopted four Resolutions in 1993 that reaffirmed "the respect for sovereignty and territorial integrity of all states in the region, as well as the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory."[121] The Minsk Group has had little success in negotiating a peace agreement, due to both sides' unwillingness to compromise on their positions. Initial disagreement over the resolution of this conflict has been overcome, as the sides have agreed on a "package solution, but implementing it step-by-step."[122]

One of the factors complicating resolution of this conflict is the shifting population in the region. During the 19th and 20th centuries, there were mass migrations of Armenians from Turkey and Iran to Nagorno-Karabakh,[123] which forced Azerbaijanis to live elsewhere in Azerbaijan.[124] Prior to the conflict, the population of Nagorno-Karabakh was recorded as 189,085. Of this, 76.9 percent was Armenian, and 21.5 percent was Azerbaijani, with only 1.6 percent of other nationalities.[125] As a result of the conflict, more than 300,000 ethnic Armenians left Azerbaijan,[126] and over a million ethnic Azerbaijanis, Kurds, and people of other ethnicities fled Armenia and the occupied territories.[127] The fighting left tens of thousands dead. Atrocities were committed on both sides. Between 1994 and 1999, roughly 30,000 Armenians returned to the region, an issue that causes debate, because almost no Azerbaijanis have been allowed to return to Nagorno-Karabakh or its surrounding regions.[128]

(b) Viability

Nagorno-Karabakh's budget, security, and infrastructure are largely supported by Armenia, Russia (via Armenia), and the Armenian diaspora. Nagorno-Karabakh has become one of the world's most militarized societies and still considers itself at war, "with martial law in force."[129] Russia has 2,500 troops based in Armenia that serve as an additional security layer. If Russia further withdraws from the Conventional Forces in Europe (CFE) treaty, it is possible the region will see an increase in Russian troop levels. Economically, Nagorno-Karabakh has seen an increase in its GDP (up by 10 percent from 2006) and growth in some light industries. However,

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[121] UNSC Resolutions 822, 853, 874, 884 adopted during 1993.
[122] ICG Report, *Nagorno-Karabakh: A Plan for Peace*, October 11, 2005, 10.
[123] S. Griboyedov, Ambassador of the Russian Empire to Persia, wrote in 1828 [*Notes on migration of Armenians from Persia to our Regions*, 1828, in two volumes. Vol. II (Moscow: "Pravda" Publishing House, 1971), 339-341]: "During the period from 1828 to 1830 we brought to Trans-Caucasus over 40,000 Armenians from Persia and 84,600 Armenians from Turkey and settled them on the best public lands of Yelizavetpol and Erivan provinces where there [were] practically no Armenians."
[124] N. I. Shavrov, "New Threat to Russian Activities in Trans-Caucasus: Forthcoming Sale of Mugan to Aliens," Sankt-Peterburg, 1911, 59-61.
[125] ICG, *Nagorno-Karabakh: A Plan for Peace*, 17.
[126] Ibid., 6.
[127] Ibid.
[128] Ibid.
[129] Decree of the President, "On extending martial law," 29 December 1999. Martial law is renewed yearly by presidential request and parliament's approval. ICG interview with de facto Nagorno-Karabakh President Ghoukasian, May 2005.

it remains isolated, with Armenia (and to a lesser degree, Russia) as its main trading partners.[130] No economic ties between Armenians and Azerbaijanis exist, and Armenia itself is blockaded by Turkey, which supported Azerbaijan in the conflict. The lack of free trade and open borders has hindered the economic development not only of Nagorno-Karabakh, but also of the South Caucasus. It is also a significant obstacle to confidence-building efforts.

(c) External Influences

Unlike the other conflicts in Eurasia, Nagorno-Karabakh does not have an international peacekeeping presence. In terms of monitoring, the OSCE performs fact-finding missions when ceasefire violations occur. Other than that, the Nagorno-Karabakh Armenians provide their own security. The few NGOs working in the region primarily focus on humanitarian assistance. Unlike the conflict in Kosovo, where the international community has actively sought ways to build cooperation, the "external actors" in Nagorno-Karabakh are actually parties to the conflict. Russia's interests in the region have cast a shadow on its ability to be impartial. Energy issues have also entered into the Nagorno-Karabakh debate: revenues from the Baku-Tblisi-Ceyhan pipeline have allowed Azerbaijan to increase its military capabilities.[131] This increase only reinforces the security dilemma for a region that has witnessed some of the worst violence in the former Soviet space. If not for the involvement of external actors, the conflict might have been resolved long ago.

V. Comparative Matrix

The following matrix summarizes some of the key differences between the situations in Kosovo, Nagorno-Karabakh, Abkhazia, South Ossetia, and Transdniestria. Three broad categories are identified for comparison: (1) the intractability of the conflict, (2) the potential viability of the region as an independent country, and (3) external influences. Analysis of these findings follows in the next section.

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[130] Jane's Information Group, *Overview of economics in Nagorno-Karabakh*, 2007. Universal resource link located at: http://www8.janes.com/Search/documentView.do?docId=/content1/janesdata /sent/cissu/azers190.htm@current&pageSelected=allJanes&keyword=Nagorno-Karabakh&backPath=http://search.janes.com/Search&Prod_Name=CISS&#toclink-j0011160005028; accessed July 23, 2007, economics section.

[131] This is from an earlier publication written by two of the study's authors. Michael Baranick and Samuel Schwabe, "In Pursuit of Peace in Nagorno-Karabakh," The Cornwallis Group's *Analysis for Civil Military Transitions*, 2007, 321.

Intractability

	Kosovo	N-K	Abkhazia	South Ossetia	Transdniestria
Atrocities Committed	Yes	Yes	Yes	Yes	No
Peace Process	Yes/UN-led	Yes/OSCE	Yes/ Group of Friends, Coordinating Council	Joint Control Commission (JCC)	Yes/ 5+2, led by OSCE
Peace Treaty	UNSC 1244	Ceasefire only, signed 1994	Ceasefire only, signed 1994	Ceasefire only, signed 1992	Ceasefire only, signed 1992
Adherence to Peace Treaty	Yes	No, parties have not settled on agreement and sporadic cease-fire violations	No	No, parties have not settled on agreement and numerous cease-fire violations	Yes
Population Before Conflict	1,900,000	~180,000	525,000	~100,000	~630,000
Population Present Day	2,100,000	~130,000	~200,000	~79,000	~630000
Ethnic Makeup Before Conflict	82%Albanian 10% Serb 8% Other	73% Armenian, 25% Azerbaijani 2% Other	17.8% Abkhaz 45.7%Georgian 14.6%Armenian 14.3% Russian 7.6% Other	70% Abkhaz 30%Georgian	40%Moldovan 28%Ukranian 25% Russian 7%Other
Ethnic Makeup Present day	92%Albanian 5.3% Serb 8% Other	Almost 100% Armenian with small groups of Greeks and Russians.	~35% Abkhaz 25%Georgian 20%Armenian 14%Russian 6%Other	~90%S Ossetian 10%Georgian (in sep-controlled area)	Largely unchanged
Dead (# and % of pop.)	est. ~10,000 Albanians (6.4% of Albanians), 200 Serbs (0.1% of Serbs)	~15,000/9-10%	~10-15,000/2-3%	~1,000/1%	~1,000/ 0.16%
IDPs/Refugees	~800,000 Albanians fled and returned; ~230,000 Serb and Roma fled,12,500 returned.	By most accounts, there are 528,000 total displaced.	~300,000 with an estimated ~30,000 Georgians returnees to Gali District	60,000 Ossetes displaced from Georgia and 10,000 Georgians from South Ossetia	~30,000 displaced; most have returned.

Viability

	Kosovo	N-K	Abkhazia	South Ossetia	Transdniestria
Functioning Government	Yes-under UN supervision	No-authoritarian and dependent on Armenia, Russia	Weak-Only functioning in capital	No-Authoritarian, parallell structures, dependent on Russia	Weak-Soviet style, authoritarian
Functioning Judicial System	Yes- under UN	No-corrupt, bias	No-corrupt, bias	No-corrupt, bias	No-corrupt, bias
Functioning Security Services	Yes-7,400 well trained police; no army	Roughy 10,000 mobilization capacity.	~20,000 with small land, air, and sea components.	No, small number of ill-trained reservists.	No, harass citizens and destroy opposition
Corruption	Yes	Yes, endemic	Yes, endemic	Yes, endemic	Yes, endemic
Ethnicity	Limited Serb/Roma freedom of movement	Predominantly Armenian	Poor treatment of Georgians	Both sides claim oppression	Alleged oppression of Russians by Moldovans
GDP	$3,068M (2006)	~$11M (2004)	~$150-200M (2006)	$~15M (2004)	~$300M (2004)
Production Capacity	Some energy production	Some industrial and construction	Potential for tourism, but limited investment	Weak with little hope of future production	Strong, mainly steel & textiles
Natural Resources	Limited	Yes	Yes	Limited	Limited
Chief Imports	Food, mineral products, machinery and electronic equipment.	Energy, industrial materials. Mass smuggling.	Energy, cigarettes, other small goods. Mass smuggling.	No legal means exist for the import of goods. Mass smuggling.	Energy (owes Gazprom $960M). Mass smuggling.
Chief Exports	Metals, scraps, and plastics.	Wheat to Armenia	(smuggled): scrap metal, fruits, and nuts.	(smuggled): Timber, food, energy.	(smuggled):food, fuel, alcohol, tobacco.
Location / Neighbors	Landlocked; mountainous; Serbia, Macedonia, Albania, Montenegro.	Isolated and land-locked by Azerbaijan, Iran and Armenia. Outside access through Armenia.	Russia, Georgia, and Black Sea.	Landlocked; Russia, Georgia.	Landlocked; sandwiched between Moldova and Ukraine.
Accessibility	Roads and rail in disrepair	Extensive transportation links with Armenia and Iran.	Internal transportation by road and rail; only external access by sea	Difficult mountainous terrain, poor roads, no rail, only access to outside world is the Roki tunnel.	Highly porous border; has been strengthened on Ukranian side by EUBAM

External Influences

	Kosovo	N-K	Abkhazia	South Ossetia	Transdniestria
UN Presence	Yes, UNMIK	No	Yes, UNOMIG	No	No
NATO Presence	Yes, KFOR	No	No	No	No
OSCE Presence	Yes	Limited	Limited	Limited	Yes
EU Presence	Yes	Limited	Limited to econ-dev.	Limited to econ-dev.	EUBAM
Legal Status of Region	Part of Serbia; self-administered under UNSC 1244	Not recognized by any state.	Not recognized by any state.	Not recognized by any state.	Not recognized by any state.
Applicable International Laws	UNSC 1244	No	No	No	No
Mechanism for Negotiations	UNOSEK (and troika of US / EU/ Russia)	OSCE Minsk Process	CC, and Group of Friends of the UN.	JCC	OSCE leads negotiations
External Military Presence	UN & NATO	No	CIS Peacekeepers	CIS Peacekeepers	CIS Peacekeepers
Spoilers	Criminal groups	Yes, Armenian and de facto authorities; multiple criminal groups	Yes, multiple criminal groups and de facto authorities.	Yes, multiple criminal groups and de facto authorities.	Smirnov and sons/ Transdniestrian elite.
Russian Policy	Maintain state sovereignty	Support separatists	Support separatists	Support separatists	Support separatists

VI. Analysis

An analysis of the intractability of the conflicts, viability of the separatist regions as states, and external influences operant in these case studies reveals four key distinctions between Kosovo and the South Caucasus / Moldova. (1) The *repudiation of responsibility* exhibited by the Serbian state toward its ethnic Albanian citizens was not evident in the other states toward their separatist regions. A forcible occupation of the Caucasus by the international community has not proven necessary. (2) Kosovo's *legal status* as a United Nations protectorate, subject to the provisions of Security Council resolution 1244, renders its situation unique under international law. (3) While *viability* (economic and political) is problematic in all regions, the support provided by the international community has strengthened Kosovo's capacities far beyond those of the other regions. (4) International involvement in Kosovo tends to be multilateral in composition and neutral in approach, representing the *impartial support of the international community*. The other conflicts are subject to significant unilateral influence by Russia. This distinction is particularly evident when comparing the differences in peacekeeping approaches of the UN and CIS. These four distinctions are elaborated below.

Repudiation of responsibility

The previous Serbian government was seriously derelict in its responsibilities toward its non-Serb citizens in Kosovo. The state did not merely fail to ensure the security of these citizens, a basic responsibility of any government to its people. Rather, led by President Slobodan Milosevic, the Serbian government itself used its security forces to conduct ethnic cleansing by murder, deportation, and destruction of homes and property, displacing approximately 90 percent of the population of Kosovo. Over 800,000 ethnic Albanians fled to other states for protection. The scope of these atrocities was so great, and international moral outrage so intense, that NATO intervened militarily and the international community occupied Kosovo as a United Nations protectorate. In 2001, Milosevic was indicted by the United Nations' International Criminal Tribunal for the former Yugoslavia (ICTY) for, among other charges, crimes against humanity in Kosovo.[132]

The sheer magnitude of the atrocities unilaterally perpetrated by the Serbian state against its own civilian population in Kosovo is unmatched in the other cases examined. As is clear from the intractability section of the matrix, neither Transdniestria nor South Ossetia experienced anything on this scale. Abkhazia has seen sporadic ethnic cleansing by both its Georgian and Abkhazian populations, who now live in an uneasy truce. Nagorno-Karabakh suffered extremely bitter fighting, with some 38,500 dead and over 780,000 displaced; however, in this case, the atrocities were committed by both sides, rather than unilaterally by the states of Azerbaijan or Armenia. Nagorno-Karabakh is in many ways the mirror image of the situation in Kosovo: the parallel situation would be if ethnic Albanians had conducted a bloody campaign to murder and/or forcibly evict all Serbs from Kosovo, then laid claim to the territory with a "buffer zone"

[132] See http://www.un.org/icty/indictment/english/mil-ai010629e.htm.

surrounding it. In reality, Kosovar authorities (led by the late Ibrahim Rugova) sought peaceful dialogue with Belgrade and openly denounced the violent actions of the Kosovo Liberation Army.[133]

This raises a key question: if the Serbian government had been receptive to Rugova's attempts at constructive engagement, would Kosovar authorities have sought an independent state? While a part of the Federal Republic of Yugoslavia (FRY), Kosovo had enjoyed a great degree of autonomy. However, in 1989, this autonomy "was severely restricted, with power over the police, courts, civil defense and economic, social and educational policy taken by Serbia proper. Virtually all Kosovo Albanian judges and prosecutors were dismissed from their positions."[134] There were clearly serious gaps in good governance, as evidenced by the parallel structures (including schools and medical facilities) that ethnic Albanians felt compelled to construct for their own communities. Self-realization was limited for ethnic Albanians within the Serbian government structure. In the absence of murder and ethnic cleansing, would these limitations in and of themselves have justified the secession of Kosovo to form an independent state?

Dov Lynch presents an insightful analysis of the modern tendency to equate self-determination with statehood:

> [A]reas seeking self-determination face an incentive system that leads them to seek statehood rather than any other form of existence—autonomy or association—with their metropolitan state.... The international game is now closer to zero-sum; there are states and there is little else. The exclusive nature of the club of states, and the principles of equal sovereignty and of non-interference upon which it is based, has meant that most self-determination movements will be content with nothing less than state sovereignty to achieve what they perceive as justice.[135]

Secessionist movements are inherently driven toward statehood because of the opportunities and security this entails: "Without state sovereignty and its recognition by the international community, a separatist movement has very few rights and no status that protects it in international law".[136] *Realpolitik* suggests that, even had Serbia not committed atrocities in Kosovo, ethnic Albanians would likely have pushed for their own state (particularly after the dissolution of Serbia and Montenegro) to protect their own interests. However, while Montenegro enjoyed an equal relationship with Serbia and was able to separate peacefully via referendum, Kosovo was still a province of Serbia and had no such legal mechanism for secession.[137] It is unclear whether the international community would have recognized a unilateral declaration of independence absent the compelling reasons Milosevic provided (in the form of ethnic cleansing).

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[133] See http://news.bbc.co.uk/2/hi/special_report/1998/kosovo2/62067.stm. At the time, the U.S. State Department classified the KLA as a terrorist organization; Rugova was unwilling to alienate his base by following suit. KLA violence typically targeted Serb authorities (e.g. police and army), rather than civilians. Under international supervision, it has since been reformed into a national guard.
[134] See http://www.osbar.org/publications/bulletin/03febmar/lawlife.html
[135] Lynch, 18
[136] Ibid.
[137] ICG's report, *Current Legal Status of the Federal Republic of Yugoslavia (FRY) and of Serbia and Montenegro*, September 19, 2000 http://www.crisisgroup.org/library/documents/report_archive/A400098_19092000.pdf, explores in greater detail the complexities of the breakup of the SFRY and constitution of the FRY.

Non-interference in the sovereign affairs of another nation and respect for territorial integrity are central tenets in the conduct of international relations. As Lynch notes, even through the process of decolonization, the United Nations insisted on "the principle that newly decolonized states inherit the colonial administrative borders they held at independence" and denounced "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country".[138] While United Nations General Assembly Resolution 1514 (Declaration on the Granting of Independence to Colonial Countries and Peoples) is not directly applicable to the dissolution of the USSR and FRY, it is indicative of the approach of the international community and the intent of international law. It takes a great deal to overcome this reluctance to intervene, particularly within multilateral organizations such as NATO and the UN, where a broad consensus is typically necessary. International intervention is more likely to take the form of mediation, aimed at resolving internal conflicts while maintaining political boundaries, as in the cases we have examined.

Separatists who act as "spoilers" to such negotiations and fail to engage in good faith do themselves no favors in the international arena (though they may have powerful sponsors). An obvious case is that of Transdniestria. The OSCE is leading six-party talks,[139] through which Moldova has offered the establishment of a highly autonomous Republic of Transdniestria within Moldova. This would address Transdniestria's nominal language concerns, while offering substantial self-determination for the ethnic Russian minority. However, the proposal has been rejected by Smirnov, who will accept nothing short of independence (and in the meantime is quite satisfied with the status quo). Yet the odds the international community will intervene to recognize Transdniestria are nil. First, the "conflict" was artificially generated by Transdniestrian elites as a vehicle for obtaining personal power; and second, such linguistic concerns as were nominally present are addressed by the proposal of the sovereign state. Simple intransigence and an unwillingness to productively engage with the international community are unlikely to result in recognition of Transdniestrian independence.

It takes a profound repudiation of responsibility (such as ethnic cleansing) for the international community to contravene the principle of sovereignty. Serbia provided this in Kosovo, in the form of mass murder and mass expulsion, some of the gravest crimes that a state can commit against its citizens under international law. It would be unrealistic to expect that Kosovars would again be willing or able to subordinate themselves to Serbia under the circumstances, or that any kind of relationship short of that between full sovereign states would even be functional. The exceptional nature of Kosovo's situation was evidenced by the swift and comprehensive international condemnation of Serbia's actions (with the notable exception of Russia). As a result, the international community proceeded not only to militarily expel Serbian forces from Kosovo, but to occupy the region as an international protectorate under the authority of the United Nations Security Council. This action changed the legal environment surrounding the question of secession, the consequences of which will be addressed below. The International Criminal Tribunal for the Former Yugoslavia was established specifically to investigate the

[138] Ibid., 17.
[139] OSCE, Moldova, Transdniestria, Russia, with the United States and EU as observers.

crimes against humanity perpetrated across the Balkans, and Milosevic became the first sitting head of state to be charged with such crimes for the atrocities in Kosovo.[140]

Fortunately for the other regions under discussion, they have not been subject to this profound repudiation of responsibility on the part of their metropolitan states, and a forcible occupation by the international community has not been necessary. These two factors in and of themselves are sufficient to distinguish Kosovo's situation from the others. However, it is worth comparing certain other parameters, including the legal environment, the nature of international intervention, and the impact of these on the viability of these would-be "states", to better clarify the differences between these cases.

Legal Status

International law does not provide a standard process by which states can secure independent status. However, historical precedent and modern diplomatic practice provide a range of methods by which independence can be achieved. The case of Kosovo presents unique legal factors relative to Abkhazia, South Ossetia, Transdniestria, and Nagorno-Karabakh. A process that guides Kosovo to independence could be implemented through the United Nations system without establishing a precedent for like intervention in these other disputed regions.

International law provides the standards used to determine whether a given group of people, or a political subdivision within another state, has achieved independent status and can be recognized in their own right as a sovereign state. Traditionally, this has encompassed rules regulating relations among independent states. More recently, the scope of international law has widened to include relations with international organizations established by agreement among states (e.g., the United Nations) and, to some extent, disputes between individuals and states regarding human rights violations. Issues often arise in international law that cannot be answered by reference to a single treaty or other legal source. That is the case with Kosovo.

The question of whether a given territory has achieved independent status, and therefore can be formally recognized as such by other states, is a relatively new one in historical terms.[141] Formal recognition by other states is not a prerequisite to achieving independence, but is highly sought after to achieve legitimacy in the international community.[142] An early precedent arose from the American Revolution, when France determined that the 13 colonies had achieved independent status, and deserved recognition as the United States of America. Over time, a consensus emerged among the governments of established states as to what rule applied. A territory could be considered independent—thus eligible for recognition and the opening of formal diplomatic relations—when it had effectively achieved separation from another state and was no longer under its control. In other words, one state cannot arbitrarily recognize the existence of another if

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[140] See http://www.cnn.com/WORLD/europe/9905/27/kosovo.milosevic.04/.
[141] Peter Macalister-Smith et al, *Encyclopedia of Public International Law*, vol.4, North-Holland, New York 2000, 34.
[142] Malcolm N. Shaw, *International Law*, 2nd ed., Grotius Publications Limited, Cambridge 1986, 132.

the latter has not, as a practical matter, been able to effectuate an actual separation or effectively secure such independence in some other manner.

In the early twentieth century, another method was established to achieve independence within the framework of international law. The League of Nations created "mandates" in the Middle East, the Asia-Pacific Region, and Africa. European states were given responsibility to administer these mandates to prepare the populations for independence. (Israel, Lebanon, and Syria are states that ultimately emerged from this mandate system.) Following World War II, the UN Charter was adopted, which included a trusteeship system with like goals that replaced the old mandate system. The UN's trusteeship work involved colonies under the control of European states and is now completed. No trusteeship-administered territories remain in existence.[143] Based on these and other historical precedents, and political decisions made by states as to when they would recognize newly independent states, the legal models available for would-be states to secure such status and recognition can generally be categorized as follows: (1) Military force, e.g., the American Revolution; (2) Partition or dissolution, e.g., India-Pakistan partition and the dissolution of the Former Republic of Yugoslavia; (3) Mutual consent, such as Czechoslovakia's partition into the Czech and Slovak Republics; (4) Guidance toward independence under an internationally recognized trusteeship. This last system was adopted in the UN Charter to aid the process of post-World War II decolonization. It cannot be directly applied in other situations. Similarly, a sovereign or a colonial power might unilaterally relinquish control over territory and thereby grant it independence, as happened when Portugal let go of its African colonies in the 1970s.

The political viability of any of these roads to independence may be understood as the intersection of two continuums: the degree of support of the international community, and the degree of consent of the sovereign government that controls the territory (see figure 1, below). In the case of the United States, there was no strong international support for independence, and there was no consent on the part of England. The only path available for independence was military in nature. Portugal granted its African colonies independence largely in the absence of concerted international pressure: unilateral decolonization was achieved by mutual consent. The partition of India and Pakistan was established with attendant recognition by the international community for each state. Israel, Lebanon, and Syria all emerged out of a League of Nations mandate for decolonization, which resulted in international custodianship. As a heuristic model, this characterization is of course an oversimplification: consent and support are neither comprehensive nor absolute, nor are they the only factors in determining political viability. Nor are categories mutually exclusive. For example, widespread violence and massive movement of populations accompanied the political partition of Pakistan and India by England. However, in contrasting the cases of Kosovo with those of Nagorno-Karabakh, Abkhazia, South Ossetia, and Transdniestria, the importance of international involvement and the consent of the originating state come into sharp focus.

[143] Macalister-Smith et al, 1197.

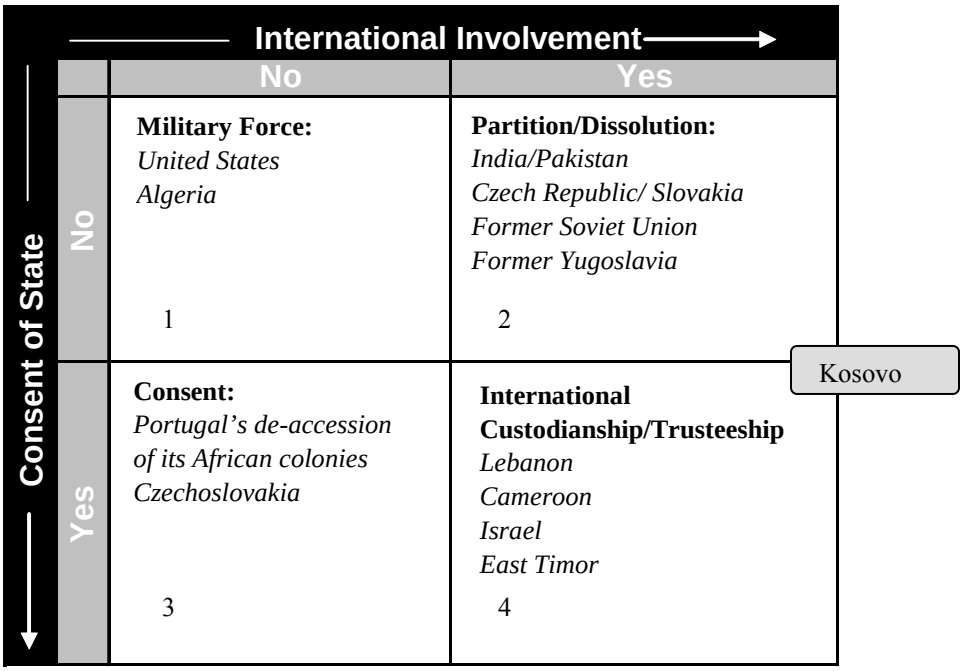

Figure 1: Political model of the role of consent in determining a path to independence. While Nagorno-Karabakh, Abkhazia, South Ossetia and Transdniestria all fit squarely into quadrant 1, Kosovo wavers between quadrants 2 and 4 as diplomatic negotiations continue.

Four of the case studies we have examined—Nagorno-Karabakh, Abkhazia, South Ossetia, and Transdniestria—have neither the consent of their state for holding control and asserting sovereignty nor the broad support of the international community for separation. They find themselves squarely in the first quadrant of this model, with the only real avenue to independence a military one (as was evident in the case studies). In contrast, the international community has extended its protection to Kosovo. Any potential route for independence for Kosovo would therefore fall into the second and fourth quadrants (on the right hand side of the matrix). It is important to note that, unlike Montenegro (which peaceably seceded from Serbia in 2006 following a referendum), Kosovo is legally a province of Serbia, not in an equal association with it,[144] and so the more straightforward avenue of a binding vote is closed to it. In the absence of Serbia's consent, the available vehicle for Kosovo's independence would be an involuntary partition recognized by the international community (quadrant 2). However, if the international community were able to persuade Serbia to agree to Kosovo's secession, this would move negotiations into the fourth quadrant: a vehicle to independence based on Kosovo's current status under international protection. The question is whether a legal mechanism exists for this. The trustee systems adopted by the League of Nations (and its successor the United Nations) were designed to prepare populations of colonies for independence. However, these were specific in their scope and mandate, and do not apply to Kosovo.

[144] All other constituent elements of Yugoslavia (Slovenia, Bosnia and Herzegovina, Croatia, Montenegro and Macedonia) were Republics, equal in legal status to Serbia. Kosovo and Vojvodina were designated autonomous provinces of Serbia.

Recent UN practice indicates that another legally acceptable channel to secure independence may be opening up in exceptional cases. In 1999, following militia violence in East Timor, the UN Security Council passed Resolution 1272, authorizing establishment of the UN Transitional Administration in East Timor. This was not a trusteeship, but rather an interim governance system, established under the authority of Chapter VII of the UN Charter, following long and harsh Indonesian military occupation of territory that had never been recognized as being part of that nation. Chapter VII allows the UN Security Council to authorize action in response to "any threat to the peace, breach of the peace, or act of aggression."[145] Similarly, UN Security Council Resolution 1244 authorized establishment of an international civil presence, under Chapter VII, to provide interim administration for Kosovo. These cases provide precedent for UN Security Council decisions to intervene in circumstances where civil disturbances and state-sanctioned human rights violations have reached major proportions. Arguably, the Security Council could authorize partition of an existing state where prospects for peaceful reconciliation have been exhausted, and independence is the only method available to secure human rights protections for a distinctive segment of the population and ensure international peace and security. However, this argument should be made with the knowledge that it extends beyond established Chapter VII practice and precedent.

The fact remains that Kosovo presents a unique situation, legally as well as politically. Of the cases examined, Kosovo is the only one in which the UN Security Council has authorized an interim administration to replace existing governmental authority. If the Security Council were to pass a new resolution facilitating partition in the case of Kosovo, it would do so only after a long process of administration, consultation, and negotiation. UN-facilitated independence for Kosovo would not open the way for like action elsewhere before a similar process of Chapter VII intervention had unfolded, based on similar if not identical legal justification. The circumstances leading to Kosovo's current situation are exceptional, and are simply not present in Nagorno-Karabakh, Abhkazia, South Ossetia, or Transdniestria. Consequently, Security Council action in Kosovo would in no way set a precedent for these other cases.

International law provides more than one established mechanism by which states can achieve their independence, but Kosovo does not fall neatly into any established category. Kosovo has not effectively seceded on its own by military means (quadrant 1 of the matrix), nor has Serbia agreed to a voluntary partition of the kind that took place in Czechoslovakia (quadrant 3). The United Nations Security Council must eventually pass a successor resolution to 1244 addressing Kosovo's status, but Russia has promised to veto any attempt to grant Kosovo even graduated independence (as presented in the Ahtisaari plan).[146] Independence through international custodianship (quadrant 4) may therefore be blocked by Serbia's lack of consent, though negotiations are ongoing. The remaining option, international recognition of the de facto partition (quadrant 2), has not been popular with the international community, which is attempting to work through United Nations mechanisms. However, if Russia persists in using its veto on the Security Council to prevent the implementation of the United Nations' own plans for Kosovo, it is possible that both Kosovo and the international community will find some other means to stabilize the region. Kosovo Prime Minister Agim Ceku is becoming increasingly

[145] United Nations Charter, Chapter VII, Article 39. See http://www.un.org/aboutun/charter/

[146] Nicholas Burns, Undersecretary of State for Political Affairs, Statement before the House Committee on Foreign Affairs, April 17, 2007. See http://www.state.gov/p/us/rm/2007/83120.htm.

outspoken in his call for "coordinated independence," announcing that any declaration on the part of Kosovo will be "coordinated with the U.S. and the EU…. Kosova is ready to declare independence the moment they are ready to recognize our independence as a sovereign state."[147]

Viability

Viability is often cited as a factor in determining whether or not a given region should be considered for independent status. In the context of this paper, viability of a region as a potential state is defined in terms of having economic, social, and security structures in place that are, or are projected to become, self-perpetuating in the years to come. As is evident in the matrix, the regions of Abkhazia, South Ossetia, Transdniestria, and Nagorno-Karabakh enjoy varying degrees of viability, but fall significantly short of Kosovo. Although Kosovo does not meet all of the criteria assessed here, it is ahead of all the other cases and has the greatest potential for viability in the years to come.

Economic. None of the separatist regions possesses a viable, standalone economy. Abkhazia comes closest with its access to trade routes, potential for tourism, and sub-tropical climate for agriculture. However, its potential for investment is severely hampered by its breakaway status and consequent restrictions on trade to Georgia and elsewhere. In addition, investment in the tourism industry is hampered by restrictions on travel to Abkhazia and the freedom of movement by its people to neighboring areas. South Ossetia has neither the population base nor the resources to function as an independent country. It is isolated in difficult, mountainous terrain with poor roads, no rail, and only one access point to outside markets. Nagorno-Karabakh has seen a significant increase in its GDP in 2006, mostly from light industry and construction,[148] but most of the de facto state depends on remittances from the Armenian diaspora and so-called "state-to-state loans" from Armenia itself. Transdniestria maintains a relatively strong steel and textile capacity, a legacy of the Soviet era, but suffers from acute corruption. All of these regions rely to some extent on illicit smuggling to fill their coffers, none more so than Transdniestria, which makes full use of its porous 1,200-mile border for evading customs duties in both Moldova and Ukraine. However, even Transdniestria has begun to see a reduction in income with the establishment of the European Union Border Assistance Mission (EUBAM) and the consequent tightening of the border with Ukraine.

Kosovo's economic potential is inherently no better than these other cases. Once the powerhouse of Yugoslavia, its industrial plants' capacity has dropped significantly as a result of the war,[149] and its lignite mines are no longer cost-effective. The difference here lies in the engagement of the international community, which is determined to see Kosovo succeed. The example of energy illustrates the kind of support being provided, both financial and technical. As of 2004,

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[147] Speech given by Agim Ceku July 20, 2007, cited in Koha Ditore, July 21, 2007.
[148] Jane's Information Group, Nagorno-Karabakh, 2007. Universal resource link located at: http://www8.janes.com/Search/documentView.do?docId=/content1/janesdata/sent/cissu/azers190.htm@current&pageSelected=allJanes&keyword=Nagorno-Karabakh&backPath=http://search.janes.com/Search&Prod_Name=CISS&; accessed on August 9, 2007.
[149] See http://www.kek-energy.com/kek-cmnPg.jsp?mID=168&cat=161&l=2.

the EU had provided over €374 million in support, repairing Kosovo's power plants, "rehabilitating the lignite mines that feed the power stations, improving the transmission and distribution systems, and modernizing district heating systems in the more densely populated areas".[150] Kosovo has also been systemically brought into the international fold by its UN protectors: for example, Kosovo is a member of the EU-sponsored Stability Pact, which works toward improving coordination and cooperation throughout Southeast Europe. In energy terms, this translates into developing a "regional strategic approach to infrastructure development",[151] including a shared energy grid.

Social. Good governance, the rule of law, and an active civil society are all essential to the viability of a state. They are also reflective of a government's ability to promote pluralism, encourage the right of return of displaced populations, and protect human rights. The roles played by the media and non-governmental organizations serve as good measures of a region's social viability, because these elements of civil society serve as the voice of democratic opposition. A government's response to them is often telling of its capacity to exercise responsible governance.

Abkhazia, South Ossetia, Nagorno-Karabakh, and Transdniestria all boast democratically held elections and political pluralism. However, none of their elections have been internationally monitored, and all have been plagued by alleged voter intimidation and ballot inconsistencies. Political participation of minority groups and the displaced is limited. In Abkhazia, laws require Abkhaz citizenship for voting, which forces the Georgian minority to give allegiance to the Abkhaz government, which many Georgians do not see as legitimate. Moreover, political competition rests primarily with the Abkhaz, with only three Georgian parliamentarians—"far fewer than their estimated 45,000 would entitle them to."[152] In Nagorno-Karabakh, the Azerbaijanis who have been displaced by the conflict are not able to participate in elections. South Ossetia's situation is complex, due to the competing regimes of Kokoity and Sanakoev: one supported by Moscow, the other by Tbilisi. Although it is a good sign that voters in South Ossetia feel safe voting for either leader, the lack of cohesion represented by this split does not bode well for viability. While Transdniestria claims to hold democratic elections, the reality is that both the opposition and the media are suppressed by the security services if they dare to challenge Smirnov's rule.

It would be inaccurate to characterize these separatist regions as completely lacking in civil society: they all enjoy some degree of involvement of non-governmental organizations. However, this involvement tends to be restricted by separatist authorities, particularly where NGOs are seen to challenge the status quo. Transdniestria's 750 registered NGOs[153] are limited by separatist authorities to working in social spheres such as youth development, rather than political issues.[154] South Ossetia is in the primary stages of building a civil society, as the focus has largely been on "increasing the availability of unbiased information to the population

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[150] See http://www.ear.europa.eu/publications/main/documents/K_2004_011.pdf.
[151] See http://www.stabilitypact.org/about/default.asp.
[152] Ibid., 12.
[153] Juliana Abramova, "The Third Sector In Transnistria: Public Opinion And Cross-Sector Cooperation," *Center for the Development and Support of Civic Initiatives,* 2006, 6.
[154] Nicu Popescu, *Democracy and secessionism: Transnistria and Abkhazia's domestic policies,* 2006, 5.

affected by the conflict".[155] Like the other regions, Nagorno-Karabakh suffers from an extremely corrupt government, opposition is weak "due to the need to project an image of strength through internal atmosphere of unity and consolidation,"[156] and free and fair media is limited inside the conflict zone. Abkhazia makes the case for having the strongest civil society, as organizations have mobilized citizens around civic duties and responsibilities and helped produce new political leaders,[157] and were effective in reversing a decision by the Abkhaz government that closed a local media outlet.[158] However, the predominant benefactors in this regard are the Abkhazians—not the other two-thirds of the population, primarily Georgians and Armenians.

The intervention, management, and training instituted by the international community have put Kosovo in a much better position: the region enjoys good governance in a number of key areas. Civil society is active, there is freedom of the press, and the government actively engages with the international community. While imperfect in practice, minority rights have been formally ensconced, as have IDP/refugee rights of return. Elections have been internationally recognized, and government officials have been subject to monitoring and mentoring by the international community. These elements, key to the viability of post-conflict societies, are present only to varying degrees in the other case studies, and none enjoy all of them. (See the viability matrix in section V for a point-by-point comparison.) Kosovo's civil society is strong and will continue to blossom in the years to come, unlike those in Abkhazia, South Ossetia, Nagorno-Karabakh, and Transdniestria.

Rule of Law. With the exception of Kosovo, rule of law is weak throughout the separatist regions. For example, right of refugee return is limited in Abkhazia and nonexistent in Nagorno-Karabakh, while the personal rights of non-Abkhazians and non-Armenians in these areas vary from weak to nonexistent. As a self-governing entity, South Ossetia is fundamentally dysfunctional, with up to four leaders recognized by inhabitants of the region. Transdniestria exercises old-school Soviet despotism: all power resides in the nominal president, who abuses his control of the security services and judiciary to crush all opposition. While some of these case studies share some of Kosovo's capabilities in terms of governance (for example, refugee returns are not a problem in Transdniestria), none have fundamental capacities across the entire spectrum. This is another key distinction which separates Kosovo from the rest.

In any conflict, criminal elements often thrive: the absence of an effective rule of law, combined with widespread poverty and unemployment, provides a breeding ground for illicit economic activity. Smuggling of weapons, drugs, and human beings is common in any environment where law enforcement is absent or easily bribed. Weak border controls in conflict zones also allow for the smuggling of ordinarily licit goods, such as food, tobacco, alcohol, and fuel, often at great profit due to the evasion of customs fees. Those enjoying the benefits of the black economy are inevitably reluctant to cede this advantage and frequently act as spoilers, undermining any attempt at establishing peace and security. This dynamic is particularly evident in Transdniestria,

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[155] ICG Report, *Georgia: Avoiding War in South Ossetia,* 2004, 24.
[156] Anna Mateeva, "The Conflict Prevention Capacities of Local NGOs in the Caucasus," *Royal Institute of International Affairs,* January 2000. Accessed July 17, 2007 at http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/0a7eb61df29dafeec125687e00677969, par. 3.5.
[157] ICG Report, *Abkhazia today,* 2006, 15.
[158] Ibid., see footnote 167.

an area predicated on smuggling and its remittances to separatist authorities. These authorities are for the most part satisfied with the status quo, as the ambiguity surrounding Transdniestria's status essentially provides them with a proprietary ungoverned space, where international laws and standards are not applied by the separatist authorities. The leadership thus has a direct financial stake in the area remaining a "black box".

While Kosovo has certainly served as a platform for criminal activity, the involvement of the international community and the professionalization of the KPS have minimized the impact of this. Corruption continues to be a problem, and would likely worsen in the absence of direct international supervision. However, Kosovo does not suffer the serious and endemic criminality of the other regions, and has developed functioning police and judicial systems to address these problems. Unlike the other regions examined, criminal elements are not the driving force undermining the resolution of Kosovo's frozen conflict.

Status of Peacekeeping Forces

While there is some level of international involvement in all the conflicts in this study, the nature of this involvement is qualitatively different in Kosovo. Nowhere is this more evident than in the presence of "peacekeepers": the term itself means something very different to Russia and the CIS than would be accepted under a United Nations mandate. United Nations peacekeepers derive their legitimacy from their impartiality: these troops are drawn from multiple third-party member nations, and are neutral to the conflict. Furthermore, they are only deployed with the consensus of the international community, in the form of a Security Council resolution, and are subject to ongoing international oversight, both at the mission and from headquarters.

CIS "peacekeepers", led by Russia, are present in Abkhazia, South Ossetia, and Transdniestria.[159] While their presence has limited further conflict, it also serves to maintain the territorial integrity of these separatist areas. There is little impetus to resolve these frozen conflicts, as separatist leaders (and Russia itself) are for the most part satisfied with the status quo. Unlike the UN-sanctioned operation in Kosovo, which had the consent of the international community, the CIS peace operations were, at best, agreed upon ex post facto by the conflicting parties[160], and often under a fair amount of duress. This support to regional separatists has increased Russia's influence in its near abroad, and as an added bonus, has enabled Russia to circumvent the CFE Treaty by reclassifying its troops stationed in these regions as "peacekeepers".

[159] Nagorno-Karabakh's security is guaranteed by Armenia with resources from Russia. Russia has a military base and 2,500 troops in Armenia.
[160] Dmitri Treninl, "Peacekeeping in the Former Soviet Union: Lessons for Africa," *Carnegie Moscow Center,* 2000. Universal resource link located at: http://www.iss.co.za/Monographs/No46/Peacekee.html; accessed on 17 July 2007, par.12.

These deployments have taken various forms, "from military bases to peacekeeping bases to peacekeeping forces deployed in conflict zones."[161] The objective became evident in 1994, when Russian Minister of Defense Pavel Grachev announced that they would maintain "23,000 soldiers in Georgia to protect the region against outside threats."[162] At the same time, "Georgia found itself forced to accept the Russian conditions in return for what was seen as somewhat dubious Russian help in the wake of Georgia's military defeats in Abkhazia and South Ossetia—defeats for which Russia itself was partly to blame."[163] Overall, the "development of the former Soviet space into an area of vital interest to Russia raised serious doubt as to the true intentions of the peace operations,"[164] unlike the transparent goals of the international community in Kosovo.

As a party to the conflicts in all four South Caucasian case studies, Russia's military interventions cannot be considered "peacekeeping" in the internationally accepted sense.[165] These operations "emphasized firepower and the use of overwhelming force, and showed little concern for both civilian and military casualties,"[166] failed to gain UN authorization,[167] and were clearly intended as a further projection of Russian power across its near abroad.

VII. Conclusion

The differences between Kosovo and separatist movements in Abkhazia, South Ossetia, Nagorno-Karabakh, and Transdniestria are clear and significant—they are of neither the same quality nor order of magnitude. Four key differences have been explored above: (1) The repudiation of responsibility of the Serbian state toward its ethnic Albanian citizens is not evident in the approach of the other metropolitan states toward their separatist regions. A forcible occupation of these areas by the international community has not proven necessary. (2) Kosovo's status under United Nations protection, subject to the provisions of Security Council resolution 1244, renders its situation unique under international law. (3) While viability (economic and political) is problematic in all these regions, the support provided Kosovo from the international community has greatly strengthened its capacities, far beyond those of the other regions. (4) International involvement in Kosovo tends to be multilateral in composition and neutral in approach, reflecting the impartial support of the international community. The other conflicts are subject to significant unilateral influence by Russia; this is particularly evident when comparing the differences in peacekeeping approaches of the UN and the CIS.

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[161] Geir Flikke and Jakub M. Godzimiski, "Words and Deeds: Russian Foreign Policy and Post Soviet Secessionist Conflicts," *Norwegian Institute of International Affairs,* no. 711, 2006, 84.
[162] Ibid.
[163] Ibid.
[164] Domitilla Sagramoso, "Russian Peacekeeping Policies", *Regional Peacekeepers: The Paradox of Russian Peacekeeping,* ed. John Mackinlay and Peter Cross, 2003, 29.
[165] Implicit in internationally accepted peacekeeping are the concepts of impartiality, minimal use of force, and consent of the parties concerned.
[166] Ibid.,16.
[167] Ibid.,14.

Attempts to draw parallels between Kosovo and the cases in Russia's near abroad are superficial and misleading, though they contain a small grain of truth: there is a very specific sense in which Kosovo already is a "precedent". It is the first case in which the international community, as represented by the United Nations, has occupied, and taken over the governance of, part of a sovereign state due to that state's profound human rights abuses. The reality of international politics is that whatever final status is determined for Kosovo will—rightly or wrongly, accurately or inaccurately—be used by separatists as a point of reference for discussions in resolving future conflicts. The question is, therefore, not whether Kosovo might be used by separatists as a precedent, but what precedent the international community wants to set, and in what cases it will be applicable. The frozen conflicts in Nagorno-Karabakh, Abkhazia, South Ossetia and Transdniestria do not share with Kosovo the critical elements explored above: an international intervention on the scale of Kosovo's has not been warranted. However, what if a conflict arose that did warrant such a response?

What if a state again deployed its security forces against its own civilian population, to commit murder, ethnic cleansing, destruction of property, and terrorization of a particular ethnic or religious group? What if, in response to widespread, massive, internationally identified war crimes and human rights violations, the international community again was compelled to intervene under the authority of Chapter VII of the United Nations charter, to ensure regional peace and security? What if, after billions of dollars in support, and the concerted efforts of hundreds of thousands of international security experts over eight years, it became clear to the most impartial authorities within the United Nations that return of the region to state control was not a possibility, that further violence and instability would result? What precedent do we in the international community want to set?

Return of Kosovo to Serbia would be every bit as much a precedent as independence, "supervised" independence, continued international protection, or regional war. While respect for the territorial integrity of states is an important tenet in international relations, it is not sacrosanct. Sovereignty is no cover for a state committing atrocities against its own people. Serbia's claim to Kosovo's territory does not supersede the international community's claim to peace and security, or the United Nations would not currently be there. Disregarding the Ahtisaari plan—in effect the impartial advice of the United Nations on how to resolve the conflict—simply because it is not palatable to the state which initiated the conflict (Serbia), or the P5 member backing that state (Russia), seems an unwise precedent to establish. Whatever the international community does to resolve the status of Kosovo will in practice be used as a precedent. The international community needs to take a very hard look at the options to ensure that whatever precedent is set, is a good one.

APPENDIX A – LOCATIONS OF SEPARATIST REGIONS

RUSSIAN FEDERATION
Abkhazia
South Ossetia
GEORGIA
TURKEY
ARMENIA
AZERBAIJAN
BLACK SEA
National capital
Autonomous republic capital
Town, village
Major airport
International boundary
Autonomous republic boundary
Main road
Secondary road
Railroad
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
Map No. 3769 Rev. 6 UNITED NATIONS
August 2004
Department of Peacekeeping Operations
Cartographic Section

AZERBAIJAN
RUSSIAN FEDERATION
GEORGIA
ARMENIA
TURKEY
NAKHCHIVAN (AR)
ISLAMIC REPUBLIC OF IRAN
CASPIAN SEA
Nagorno-Karabakh
National capital
Autonomous republic (AR) and oblast (AO) centres
Town
Major airport
International boundary
Main road
Secondary road
Railroad
The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.
Map No. 3761 Rev. 6 UNITED NATIONS
February 2007
Department of Peacekeeping Operations
Cartographic Section