

Federalism and Democracy in Moldova

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Abstract: A specialist on constitutional issues in the former Soviet Union examines the prospects for federalization and democratic consolidation in Moldova. Data used are from interviews, newspapers, documents of civil society organizations, and opinion polls. The article contributes to the general discussion of federalism and democracy by specifying conditions that facilitate or impede efforts to employ democratization and federalization strategies in a mutually reinforcing manner.

Moldova is a particularly interesting case of democratic transition. A very poor and predominantly agricultural country, it consistently scores higher in terms of development of democratic freedoms than any other post-Soviet successor state with the exception of the Baltic republics (Way, 2003, 2002). The ascendance to government office in 2001 of the Moldovan Communist Party (PCRM), the only communist party in power in the post-Soviet space, put some strains on the functioning of democratic institutions but did not halt or reverse in any major way the process of democratic consolidation.²

Moldova is also a case of a very difficult and controversial exercise in state-building. The country has become known to an international audience of policy makers and social scientists largely because of the existence of multiple ethno-political challenges to its statehood. The Transdniestrian region became the site of a violent although short-lived military conflict at the beginning of the 1990s and has virtually seceded from Moldova since then. Although another conflict that erupted in the Gagauzian region at the time of the Soviet Union's disintegration did not escalate

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² Freedom House's political rights score for Moldova dropped in 2003 but Freedom House analysts attribute the decline to the changes in the survey methodology rather than to a substantive worsening in the functioning of democracy (Freedom House, 2003).

into a full-blown military confrontation and secessionist mobilization, this dispute over self-determination continues to simmer, illustrating the difficulties of managing ethno-political differences in new multinational states (Neukirch, 2001; Roper, 2001; Crowther, 1998; Chinn and Roper, 1995).

Although these conflicts are not the only political challenges to Moldovan statehood—for example, a significant segment of the titular nation and the titular political elite continues to question the very idea of separate statehood and a distinct Moldovan identity, advocating instead the option of unification with Romania (King, 2000)—these conflicts, especially the Transdniestrian one, continue to top the list of factors complicating Moldova's democracy and state-building exercises.

Federalization has recently actively been promoted as a way of solving the Transdniestrian conflict and as a way of alleviating tensions over power-sharing in the autonomous region of Gagauziya. This article examines how the pressures to federalize what is effectively a multi-ethnic state interact with the imperatives of securing the successful completion of democratic transition. This process is multi-faceted and produces both opportunities and obstacles on the way to achieving democratic development as well as effective power-sharing in this post-Soviet republic.

The existence of sharp disparities in the level of democratic development between right-bank Moldova (the part of the republic on the west side of the Dniester river, which also includes the Gagauzian autonomous region in the south) and the breakaway Transdniestrian region is of central importance in understanding how the negotiation process over federalization has been evolving. While the post-communist transition in Moldova led to the adoption of democratic norms and procedures, the evolution of the political regime in Transdniestriya was marked by strong authoritarian tendencies. The difference in the nature of the political regimes established on the left and right banks of the Dniester has a strong influence on how the parties in federalization talks perceive each other and how they approach the issue of federalization.

After a brief description of the most recent federalization initiative, I examine the democratic, values-based reasoning that makes this initiative a highly controversial topic in domestic political discourse in right-bank Moldova.³ Then I discuss how the preceding ethno-political confrontation has influenced democratic transition in minority-dominated regions and has shaped the willingness of elites in these regions to negotiate a federal constitutional settlement. I also analyze the main substantive differences in the negotiating parties' approaches to designing a federal state. I conclude by providing some thoughts on whether federalization and democratization logics can reinforce each other, or whether pursuing these two

³ Vladimir Socor, an influential analyst of Moldovan affairs, has recently traced how the current proposal is related to the previous conflict settlement initiatives and summarized arguments against federalization (Socor, 2004).

distinct political agendas is more likely to perpetuate political instability and delay consolidation of democracy in Moldova.

THE COMMUNISTS' FEDERALIZATION INITIATIVE AND DEMOCRATIC OPPOSITION

The decision of the Transdniestrian authorities to close down Romanian-language schools in the middle of 2004 led to a sharp deterioration in relations between the Moldovan authorities and the Transdniestrian leadership (Breitenstein, 2004). President Voronin, the PCRМ leader, declared that the Moldovan side was stopping any negotiations with the Transdniestrian authorities, effectively bringing to an end the most recent round of talks on federalization. This development, however, did not change the fact that the idea of federalization has been a defining element in the ruling Moldovan Communist Party's approach to Transdniestria throughout most of the 2001–2005 parliamentary term. Since most public opinion polls indicate that the communists are likely to secure a majority of parliamentary seats in the next parliament, the evolution of this party's position on Transdniestria remains of critical importance for understanding both past developments and the future prospects for solving this ethnopolitical conflict.

The landslide victory of the PCRМ in the 2001 parliamentary elections marked the start of a new round of bilateral and multilateral negotiations aimed at solving the 13-year-old Transdniestrian conflict and reintegrating the country. President Voronin articulated the ruling party's position most explicitly in his February 2003 statement, which proposed that Transdniestria become a co-author of a new constitution, which would transform Moldova from a unitary into a federal state (Voronin, 2003). The Voronin statement emphasized that a new constitution should be drafted, based on the principles of territorial integrity and unity of state authority and on the basis of a democratic and republican system of governance.

The formation of such a position by the ruling party was undoubtedly influenced by the mediators in the Transdniestrian conflict, the Organization for Security and Co-operation in Europe (OSCE), Russia, and Ukraine. The mediators, who played a crucial role throughout the entire period of the conflict, saw the federal framework as a meaningful formula that could produce a solution that would be acceptable for both the Moldovan and the Transdniestrian authorities. The evolution of the mediators' positions in the Transdniestrian conflict is well documented and has received a great deal of attention in the academic and policy-oriented literature (International Crisis Group, 2004; Hanne, 2004; Neukirch, 2003; Hill, 2002).

The actual work of a Joint Constitutional Commission (JCC) comprising Moldovan and Transdniestrian official representatives started in April 2003. Despite the initial optimism and intense efforts on the part of the OSCE Moldova Mission, aimed at facilitating the smooth functioning

of the JCC, the Commission's activities did not become the focal point of the current constitutional negotiations. The Commission almost immediately ran into difficulties because of differences in the positions on some basic issues of federal constitutional design (International Crisis Group, 2003).

The Moldovan and Transdniestrian sides had fundamental disagreements about how to approach the task of writing a constitution. The negotiating parties differed about several major issues, including (1) how a federation should be formed: decentralization and delegation of powers from the center to the federation subjects *versus* a constitutional treaty between negotiating parties that delegates some powers to the federal center; (2) how many federation subjects there should be; (3) whether most of right-bank Moldova should be transformed into a federal territory with special status; (4) how powers should be distributed between the federal center and federal subjects; (5) whether the federation should be symmetrical or asymmetrical; and (6) what international guarantees should be provided in order to secure the stability and longevity of the constitutional settlement (Creanga, 2003; Galinski and Kushakov, 2003).

President Voronin's initiative faces another formidable challenge inside Moldova itself. The initiative is perceived as a project that is sponsored exclusively by the Communist Party. In its present shape, the federalization plan is not supported by any opposition political force, nor is it based on any broad societal consensus about optimal strategies for dealing with Transdniestria. In Moldovan domestic politics, the level of politicization of the Transdniestrian conflict is very high, and alternative approaches to the Transdniestrian problem serve as an important marker of differences among the political parties occupying the center stage of Moldovan politics.

Although the level of Voronin's personal popularity is very high, the level of support that the ruling Communist Party commands in society and, consequently, the strength of its mandate for implementing such a major policy initiative as a constitutional settlement of the Transdniestrian problem should not be exaggerated. The formidable presence of the Communist Party in the Parliament, where it occupies 71 out of 101 seats, does not accurately reflect the level of support that the communists gained in the 2001 parliamentary elections. The fragmentation of the opposition parties and the adoption of a vote-to-seat transfer principle that favors large parties are the main reasons why the 50 percent vote received by the Communist Party in the elections was converted into 70 percent of the seats in the parliament (Hill, 2001).

After being in office for more than three-quarters of its parliamentary term, the ruling party remains largely unsuccessful in its attempts to build broader societal support for the federalization plan. In a poll commissioned at the end of 2003 by the Institute for Public Policy (IPP) in Chisinau, more than 70 percent of respondents did not consider the idea of federalization to be an important policy priority for the country (Institute for Public Policy, 2003). Public indifference is combined with the fact that many

leading civil-society organizations strongly resent the federalization plan. At two of the four regional civil-society forums coordinated by "Contact" (The National Assistance and Information Centre for NGOs) that were held during the last quarter of 2003, the delegates even felt compelled to include in the resolutions of the forum special clauses condemning the federalization plan (Niculita, 2003).⁴

Although observers agree that many voters in the 2005 parliamentary elections will opt for renewing the communists' mandate because of the party's relative successes in halting economic decline and marginally improving living standards, it is highly unlikely that the party will replicate its 2001 electoral success. This suggests that constitutional negotiations will continue in a more complex parliamentary setting where the idea of federalization can be contested on a number of grounds.

The public perception that current constitutional talks represent a defeatist position and threaten the sovereignty and the unity of the country has multiple sources. There is very little discussion in society of the costs of preserving the *status quo* and also not much discussion of the possible benefits that federalism could bring in terms of re-integrating the country, alleviating security concerns, providing a more favorable climate for economic activity and foreign investments, and giving hope for eventual integration into the European Union. Disintegration of the former socialist federations—the Soviet Union, Yugoslavia, and Czechoslovakia—is also a very recent and vivid experience that is often used by various political and civil society leaders to illustrate the potential dangers of federalism. It is, however, the character of the political regime in the breakaway region of Transdniestriya that serves as a focal point of much of the opposition to the idea of a federal state.

"FIRST DEMOCRATIZATION THEN FEDERALIZATION"

One of the key factors undermining President Voronin's ability to consolidate support for his initiative domestically is the lack of democracy in Transdniestriya. A wide spectrum of political and civil-society organizations in Moldova perceive the Transdniestrian regime as an authoritarian and criminal entity. A relatively high level of institutionalization of democratic norms and principles (by the standards of the former Soviet Union) as well as the hegemonic status of beliefs in the virtues of a Western-style democracy make political elites and representatives of civil society in Moldova question the status of the Transdniestrian authorities as an acceptable negotiating party. A large number of leading politicians and civil society activists in Moldova deny the legitimacy of the Trans-

dniestrian regime and question attempts to find a settlement with the ruling authorities in Transdniestriya.

"Democratization, decriminalization, and demilitarization," or the so-called "3Ds" principle, summarizes this attitude (Nantoi, 2002). First elaborated by the Institute for Public Policy (IPP), an influential think tank in Chisinau, this principle became one of the main slogans of opposition parties and civil-society organizations in Moldova.⁵ After federalization talks broke down in mid-2004 because of the Transdniestrian authorities' decision to shut down Romanian-language schools, the "3Ds" concept began to regain momentum.⁶ The authors argued that enacting democratic changes, decriminalizing state structures and the economy, and demilitarizing the Transdniestrian region⁷ should become a prerequisite for any final settlement of the Transdniestrian conflict. Among the key elements of the "3Ds" strategy are the removal of the existing Transdniestrian leadership (the "3Ds" advocates tend to underestimate the degree of this leadership's legitimacy in the eyes of the Transdniestrian public) and an appeal for both increased international pressure and additional sanctions against the Transdniestrian elites.

An example of rhetoric based on the appeal to democratic values is the wording of the final resolution adopted by the regional forum of civil society organizations in the town of Soroca in October 2003. Federalization is described as a threat to the functioning of democracy in Moldova and as a project that will lead to "the expansion of a totalitarian system of the Transdniestrian type" (Contact, 2003). While no details on the mechanism that would lead to the breakdown of democracy in Moldova after the adoption of a federal model are provided, the resolution unequivocally rejects the idea of a federal state. Similar types of declarations condemning the federalization plans appeared throughout 2003 and early 2004 as various civil society organizations' reaction to the obvious intensification of federalization talks during that period.

Although the current distribution of political forces in Parliament, where the ruling party controls more than two-thirds of seats, does not allow opposition political parties to influence government policies on federalization and Transdniestriya in any effective fashion, these opposi-

⁵See, for example, "Appeal of Civil Society Representatives of the Republic of Moldova," in the online journal *de Chisinau* (no. 236, November 21, 2003, available online at www.wjournal.md) and "Declaration of Representatives of Civil Society in the Republic of Moldova" in response to the US ambassador's letter published on August 5 in *The Wall Street Street Journal* (no. 191, August 15, 2003, available online at www.journal.md).

⁶See, for example, "NGOs Propose New Strategy of Transdniestrian Settlement" (November 30, 2004, available online at the Moldova Azi website, www.azi.md); Ozau Nantoi, "3D Strategy Presentation in Washington" (December 8, 2004, available online at www.azi.md).

⁷The demilitarization clause refers, first of all, to the continuing presence of Russian troops in Transdniestriya. Although the Russian Federation committed itself at the OSCE Istanbul Summit in 1999 to a complete withdrawal of its troops by the end of 2002, there are still troops in Transdniestriya, although in reduced numbers. Both local actors and the OSCE view this situation as a very serious obstacle to negotiating a final settlement (Neukirch, 2003).

⁴See, for example, the Resolution of the Civil Society Forum held in Soroca, on October 28, 2003 (Contact, 2003).

tion parties have been vocal on both issues. A higher degree of political pluralism in Moldova than in, for example, Russia or even Ukraine, the two largest post-Soviet successor states, means that the opposition in Moldova is better able to convey its views on the main political issues to the public. The ever-changing configuration of so-called centrist political parties, however, means it is not possible to speak about one consolidated position on the part of these parties on the main political issues. While their position on the Transdniestrian issue is a strange mixture of accommodationist and confrontationalist stances towards the Transdniestrian leadership, they have been very critical of federalization plans, using this issue as one of the main ways of differentiating their political identities from that of the ruling party.

Political parties that occupy the right end of the political spectrum in Moldova have been even more consistent in their criticism of federalism. The Popular Christian Democratic Party of Moldova, the most influential of these parties and the only one that has enjoyed a steady representation in Parliament across a number of parliamentary terms, is the most vocal opponent of the ruling party on the main political issues, including recognizing the legitimacy of the Transdniestrian leadership and federalism. The party rejects any form of federalism for Moldova and condemns any talks with the Transdniestrian leadership, which is perceived as an illegitimate group of former communist functionaries and state enterprise directors who, with the help of Russian troops, usurped power on part of Moldovan territory.

Although the party has never enjoyed the electoral support of more than 10 percent of the population, the newspaper *Flux*, which is closely associated with the party, is widely read in the country. The fact that the radical opposition's newspaper has a large circulation and enjoys the *de facto* status of a mainstream publication is again unparalleled in either Russia or Ukraine.

THE RECORD OF DEMOCRATIZATION IN TRANSDNVESTRIYA

Accusations about the Transdniestrian authorities' dismal record in upholding democratic principles and human rights are well grounded. The Transdniestrian republic's power ministries attracted some very questionable Soviet military and secret police figures from all over the former Soviet Union (International Crisis Group, 2003). It is claimed that the security services dominate the functioning of government authorities and control the media to a very large extent. The Moldovan human rights watchdogs, which have established credibility with various international organizations, such as the Council of Europe and the International Helsinki Federation for Human Rights, report numerous instances of psychological and physical persecution of individuals and organizations by the authori-

ties in the Transdniestrian region (Ostaf, 2000; Moldovan Helsinki Committee for Human Rights, 1999).

There has been no significant turnover in the top political leadership positions since the so-called "Transdniestrian Moldovan Republic" (IMR) was established in 1990 (Troebst, 2004). President Smirnov and Parliamentary Speaker Maracuta, two key office-holders in Transdniestria, have occupied their respective offices since the beginning of the self-proclaimed republic. Other key government officials such as, for example, TMR "Foreign Minister" Lickaj, have been in office for just as long. Although presidential and parliamentary elections take place on a regular basis, they do not seem to have any major effect on the configuration of political power in the region. Political opposition to the existing regime has been systematically harassed, and, in particular, dissention from the government position regarding a settlement with Moldova is not tolerated.

These political developments are in a stark contrast with the political evolution in Gagauziya, another zone of ethno-political tension in Moldova. After the 1994 constitutional settlement was reached, which granted Gagauziya the special status of an autonomous unit in the Republic of Moldova, three rounds of very competitive elections to the regional legislative and executive bodies took place. They led to a leadership change in the office of the Governor (*Bashkan*), who is a popularly elected head of the executive, and to even more frequent turnover in the leadership positions in the People's Assembly of Gagauziya, which is vested with legislative power in the region. There is agreement among analysts that the political system of Gagauziya is pluralistic and that regional government institutions in Gagauziya have made significant progress in embracing the principles of democracy and rule of law (Neukirch, 2002; Chirn and Roper, 1998).

Reaching a compromise over conflict settlement, which manifested itself in the 1994 Autonomy Statute for Gagauziya, undoubtedly contributed to the advance of democracy in the region. Gagauziyan progress in adopting democratic principles, in turn, further decreased opposition to the idea of Gagauziyan autonomy, even on the part of the most radical elements in the political and civil-society establishment in Moldova. This progress provided them with evidence that, in the eyes of the region's population, the successive groups of Gagauziyan leadership who first negotiated and then implemented the autonomy arrangement had strong legitimacy. Although the Moldovan central government's failure to adhere to some of the 1994 Statute provisions has been strongly criticized in Gagauziya and many issues concerning the competencies of the center and the region have not been satisfactorily resolved, having the 1994 agreement allowed the parties to the conflict to improve their relations and to strengthen both national and regional democratic practices.

When confronted with claims about the lack of democracy in Transdniestria, the representatives of the Transdniestrian elites refer to a "siege mentality" phenomenon. They believe that being confronted with

Moldovan and international pressure to dismantle Transdniestrian sovereignty led the people of Transdniestriya to "rally" around their leaders and around one position. In this view, the lack of turnover in leadership is a function of societal consensus about the appropriate policies and the appropriate people to safeguard the region's interests as well as a distinct political and cultural identity (Galinskiy and Kushakov, 2003).

The lack of international recognition and the existence of threats to territorial autonomy might indeed have contributed to the development of a "siege mentality" in Transdniestriya. At the same time, these factors cannot be held exclusively responsible for the prevalence of authoritarian political practices found in Transdniestriya. As the experience of Northern Cyprus, which has many parallels with the international situation surrounding the Transdniestrian conflict, indicates, unrecognized states can still make significant progress in democratizing political life.

This lack of democracy in the region leads one to question the extent to which a "rallying" phenomenon is genuine in Transdniestriya. There is some evidence that the "rallying" effect is artificially manufactured and that the authoritarian regime is needed to suppress dissent and maintain the appearance of support. The question of consent or support becomes especially interesting given the multi-ethnic character of the Transdniestrian region. Unlike the Gagauzian region, which consists of more ethnically homogeneous, although not always adjacent settlements, the Transdniestrian population consists of three territorially mixed ethnic groups: Moldovans (Romanians), Ukrainians, and Russians. According to the 1989 census, Moldovans constituted about 39.9 percent of the population, Ukrainians 28.3 percent, and Russians 25.5 percent (Goskomstat, 1990).

The Moldovan media and human rights groups are especially concerned about the plight of ethnic Moldovans in Transdniestriya. These sources claim that the predominantly rural ethnic Moldovan population is underrepresented in the government structures of the self-proclaimed republic and experiences various types of linguistic and cultural discrimination. For example, despite pressure from ethnic Moldovans in Transdniestriya, the region's authorities refused to adopt a change from the Cyrillic to the Latin alphabet for the Moldovan language, a move that would have brought Moldovan speakers from Transdniestriya into sync with linguistic developments in right-bank Moldova, where such a change was enacted at the beginning of the post-communist transition.

To solidify their control over the educational sphere, in the summer of 2004 the Transdniestrian authorities attempted to close down even the last few schools on its territory that were subordinated to the Moldovan Ministry of Education. The formal justification for this decision, which caused an international outcry and led to the breakdown of constitutional talks, was the Transdniestrian authorities' claim that these schools did not follow the registration procedures and refused to comply with the norms and standards issued by the educational authorities in Transdniestriya. The decision to close these schools led to police blockades of

the schools and detention of some of the protesting parents. The OSCE Permanent Council and a number of other international organizations condemned the actions of the Transdniestrian authorities, interpreting them as a clear violation of European standards on human rights and minority rights.

The high degree of ethnic heterogeneity in Transdniestriya poses many more challenges for the Transdniestrian authorities' attempts to maintain support for their policies on how to settle the conflict. While the ability of regional authorities in Gagauziya to command a very high level of popular support for claims to autonomy is generally accepted by both the current government and opposition in Chisinau, there are many more questions in this respect about the Transdniestrian leadership, especially on the part of the opposition in Moldova. The stand of the opposition is logical in this respect. Since there is no democracy in Transdniestriya, it is difficult to accept the election results or the results of public opinion polls as a reliable source of information about the preferences of the population in the region.

At the same time, the Moldovan opposition's claims that the Transdniestrian leadership lacks any substantial popular support cannot be verified either. There is evidence that indicates the existence of genuine support for the Transdniestrian leadership on the part of societal organizations active in the region. Especially in the early days of the "Transdniestrian Moldovan Republic," organizations such as the Committee of Defenders of Transdniestriya and the Women's Strike Committee were able to mobilize significant segments of the regional population in support of achieving the political and socioeconomic goals outlined by the Transdniestrian leadership. The emergence of these organizations was largely a result of self-organization primarily on the part of non-Moldovan inhabitants of the region in response to what were perceived as highly discriminatory policies put forward by the first Moldovan governments.

Throughout the existence of the "Transdniestrian Moldovan Republic," the authorities have also been able to secure living standards that, according to some experts, are equal to or even higher than those in Moldova.⁸ Although the sources of this relative well-being are frequently questioned and attributed mainly to Russian economic injections and the Transdniestrian regime's involvement in various illegal economic activities, the Transdniestrian authorities' ability to provide a minimum social welfare for the region's population serves as a critical pillar of the regime's support, especially among the older generation.

Officially, there is also linguistic equality in the region. Russian, Moldovan, and Ukrainian all are state languages in Transdniestriya. One can see local currency that bears text in three languages, or buy local official newspapers published in Russian, Moldovan, or Ukrainian. This tri-lingualism, however, is only nominal: Russian completely dominates both

⁸For a discussion of sources on the economic situation in Transdniestriya, see Troebst (2004).

governmental and educational institutions. The region's education system relies on Russian textbooks and programs for the needs of both secondary and higher education.

The relative success of the Transdniestrian authorities in normalizing life for ordinary citizens in a breakaway republic underscores the tensions between the positions that the ruling Communist Party and opposition in right-bank Moldova take with regard to the Transdniestrian region. Both government and opposition have valid points of reference but draw their evidence from different facets of Transdniestrian reality. While the opposition points to the authoritarian practices of regional authorities and questions both the domestic and international legitimacy of the Transdniestrian regime, the ruling party can point to the ability of the Transdniestrian authorities to guarantee some minimum welfare and stability to the region's inhabitants and thus to command some genuine popular support. Securing regime change prior to achieving a constitutional settlement therefore is a problematic task in the eyes of the communists, even with the help of increased pressure on the Transdniestrian leadership on the part of the OSCE and the European Union.

SUBSTANTIVE ISSUES IN NEGOTIATION TALKS: FORMING A FEDERATION

The question of how to apply democratic norms or how to interpret the relevance of one democratic principle or another also arises in discussions about substantive issues involving constitutional design. Although the current JCC made very little progress in designing a new constitutional document, its experience, as well as the experience of high-level political negotiations over constitutional settlement in a five-party format (Moldova and Transdniestriya, with the OSCE, Russia, and Ukraine as mediating parties), points to a number of key differences in approach and the main stumbling points in negotiations over how to form a federation.⁹

Problems discussed here include: (1) a form of agreement about federation; (2) the ratification procedure; and (3) the number of constituent parts, i.e., federation subjects. How a federation is formed can have multiple implications for how the federation functions. This is well understood by the negotiating parties, and their positions in this respect are well articulated.

⁹I concentrate here on the problems related to the general issues of federation formation. For a review of specific proposals that are currently on the table, the reader should consult the so-called 2002 "Kiev Document"—that is, the "Draft Agreement on the Basis of Relations between the Republic of Moldova and Transdniestriya" (Kiev Document, 2002), the 2003 Kozak Memorandum or "Russian Draft Memorandum on the Basic Principles of the State Structure of a Unified State in Moldova" (Russian Draft Memorandum, 2003), and the 2004 OSCE Recommendations, "Proposals and Recommendations of the Mediators from the OSCE, the Russian Federation, Ukraine with regards to the Transdniestrian Settlement" (OSCE, 2004). For a detailed comparison of these documents, see Botan (2004).

Chisinau refuses to accept the Transdniestrian authorities' long-maintained position that federation should be based on a treaty between Moldova and Transdniestriya. Critics of this position point to the fact that such a treaty would amount to a formal recognition of the Transdniestrian region as an independent entity. Equally important in their view are the implications of such a treaty for the stability of a future federation. Entities that enter federation on a treaty basis can always claim the right to withdraw from the federation. Such a treaty could thus serve as one source of future instability for a common state. Rather than signing a treaty, adopting a constitution that does not envision the right of self-determination for the federation subject is a starting point of negotiations for the current Moldovan leadership. Denying the choice of exit might not be democratic with respect to the federation subject but it is critical for the survival and proper functioning of the state, the Moldovan side argues, pointing to the absence of self-determination clauses in the constitutions of most states.

The idea that the constitution has to be ratified in a nationwide referendum does not generate much disagreement on the part of the negotiation parties. Yet securing popular majority support for any form of a federal state in such a referendum might prove to be very challenging. As the previously cited 2003 IPP Barometer of Public Opinion (Institute for Public Policy, 2003) and other recent polls indicate, the majority of the population in right-bank Moldova does not consider federalization to be an important policy priority for the country. The lack of concern about progress in the constitutional talks, and even hostile attitudes toward the idea of federalization, are partly explained by the lack of concerted efforts to educate and inform the public about the nature of the constitutional process and the advantages that federalization could bring to Moldova. Fierce criticism of the idea of federalization on the part of opposition political parties and civil society complicates any educational or informational efforts undertaken by the government, with the tacit support of such international actors as the OSCE, to consolidate public support for federalization in right-bank Moldova.

The situation surrounding public support for constitutional negotiations is even more complicated on the left bank of the Dniestr, in the Transdniestrian region. Serious restrictions on freedom of expression in the region mean that reliable information on public attitudes toward settlement of the conflict is lacking. Regional newspapers create the impression that a significant part of the population is not ready to accept the idea of re-integration with Moldova on federal principles. "No Occupation under the Disguise of Federation" is one of the slogans regularly found in the regional newspapers taking a radical stand against settlement with Moldova. Because of tight control of the media and the activities of non-governmental organizations (NGOs), the view of the constitutional process sanctioned by the authorities dominates public discourse. This view conveys the message that the only acceptable institutional settlement is a constitutional arrangement that allows Transdniestriya to keep most of its

acquired statehood attributes and provides for a union with Moldova on the principles of a contractual federation created by two equal states. The *de facto* meaning of this is that the endorsement of a loose confederation is the only acceptable form of a future state.

Given the difficulties of securing popular support, one idea is to have a constituent assembly ratify a new constitution. Proponents of this view point to examples of well-known federal constitutions such as the 1950 Indian constitution that was debated and adopted by the constituent assembly (Mocrea, 2003). This discussion of alternative ratification options indicates that finding ways to secure the legitimacy of a new state may involve making some uneasy choices that cut to the core of such concepts as democratic participation and representation.

The question of how many constituent parts a new federation should have is not easily answered either. While the ideal preference of the Transdniestrian leadership would be to have two equal federal subjects, Moldova and Transdniestria, linked by a treaty and a weak federal center, the Transdniestrian side realizes that such a solution is unattainable. At the same time, the Transdniestrian leadership is also under increasing pressure to settle the conflict. What has changed from the earlier rounds of negotiations is the fact that there is less ambiguity about where the OSCE mediators and Western governments put the blame for the lack of progress in reaching a settlement. The February 2003 ban on travel to European Union countries imposed on the Transdniestrian leaders by the Council of the European Union is one indication of such a change.

The Moldovan government seems to have in mind a very different type of federal arrangement altogether. Of the three most recent proposals on conflict settlement—the Kiev Document of July 2002 (Kiev Document, 2002), the Kozak Memorandum of November 2003 (Russian Draft Memorandum, 2003), and the OSCE Recommendations of February 2004 (OSCE, 2004) only the 2003 document, which is named after the principal author of the document, the deputy head of the Russian presidential administration, Dmitriy Kozak, specifies the number of subjects that federation will have. The fact that the Moldovan side came very close to signing the document—Moldovan President Voronin made a decision not to sign the document only hours before the planned signing ceremony—suggests that the Moldovan government supports the basic architecture of the state proposed in the Kozak Memorandum.

The Kozak Memorandum envisions that Moldova will consist of two federal subjects, Transdniestria and Gagauziya, and a federal territory that encompasses the rest of Moldova. What this document proposes is not what many analysts and politicians in Moldova and abroad call “an asymmetrical federation.” This term usually implies an arrangement whereby all of the state’s territory is divided among federal subjects but these federal subjects have different powers. The Kozak Memorandum provides for a type of federal political system in which Transdniestria and Gagauziya become federal subjects, but the rest of the Republic of Moldova does not.

While the details on how the rest of the republic would be governed are not well elaborated, the Kozak Memorandum implies that the federal government, which would have jurisdiction over matters of federal competency throughout the Republic of Moldova, would also exercise specific governmental functions over Moldova’s territory outside Transdniestria and Gagauziya. Such a model bears some resemblance to the recent territorial and administrative changes introduced in the United Kingdom, where the UK government governs over the UK and England, but Scotland, Wales, and Northern Ireland have their own regional governments that deal with regional matters. The rejection of the Kozak Memorandum by the Moldovan side has to be attributed not to a fundamental conflict about the general structure of the state but to specific disagreements about how federal and federal subjects’ competencies should be divided and how federal government bodies should be formed.

A two-subject federation is not the only option discussed in Moldova. Regionalization could be seen as a main alternative to the government-sponsored project of federalization (Popa, 2004). This alternative is emerging in the circles of academics, civil society leaders, and politicians opposed to or suspicious of the current government’s plans to negotiate a federal state. They point to a number of issues that, in their view, could be problematic for the viability and stability of a future state. Most prominently, they oppose federalization based on ethnic principles. They feel that ethnically based federalizations have a poor record in securing the successful resolution of conflicts and ensuring a country’s stability. They also question the value of an asymmetrical design. Pointing to the experience of the Russian Federation, they argue that inequality of subjects encourages competition for the control of greater competencies and encourages system instability.

The regionalization alternative emerged as a reaction to the current settlement proposals and, as such, has no elaborated documents associated with it. There is no agreement on the number of regions, the division of competencies, or a roadmap for conducting negotiations on the basis of this idea. The proponents of this alternative derive their inspiration from the process of European regionalization and envision the creation of four to six regions on a territorial basis in Moldova, with Transdniestria (and sometimes also Gagauziya) being granted the status of such a region. Elaborating and concretizing the regionalization alternative, especially along the lines suggested by the relatively recent Spanish experience with regionalization, would have great value. It could be beneficial both for the purpose of building broad support for reaching a settlement with Transdniestria and also for promoting decentralization and power sharing as tools for the further democratization of the policy-making process in right-bank Moldova. At the same time, such a proposal will meet even more opposition on the part of the Transdniestrian authorities than the current one. Nor would it help to avoid facing some difficult tradeoffs between ensuring the stability of a new constitutional system and making it responsive to the specific needs of individual regions.

IMPLICATIONS AND CONCLUSION

Federalization plans are far from concrete in Moldova. The recent escalation of confrontation caused by the decision of the Transdniestrian authorities to close down the Romanian-language schools in mid-2004 makes the prospects for federalization even more elusive. At the same time, it does not appear as if the school crises have changed any fundamentals in the equation of the Transdniestrian conflict. Neither of the two negotiating parties was able to strengthen very substantively its bargaining position. In addition, the set of mediating actors remains the same despite intense attempts by President Voronin to change the format of negotiations in the summer of 2004, and, so far, no viable alternative to the idea of federalization has been fully articulated.

If federalization talks resume, as international mediators currently recommend, a number of changes in the position of the parties now in conflict will need to take place in order to make such talks productive. The defiant stand of the Transdniestrian authorities with regard to the principles of international law, democratic governance, and human rights has to be altered. Russia and Ukraine, the two mediating sides in the conflict, are in a position to exercise considerable leverage in this matter. The OSCE and the international community have to put even stronger pressure on Russia to complete a long-promised withdrawal of Russian troops and ammunition from Transdniestria, and they must pressure Ukraine to introduce the proper mechanisms for preventing illegal cross-border trafficking between Transdniestria and Ukraine. These are the most immediate steps from a well-elaborated list of policy recommendations that continue to reappear in conflict management proposals dealing with Transdniestria (International Crisis Group, 2003, 2004).

The success of federalization talks or, for that matter, any other talks based on the idea of granting substantial autonomy to the Transdniestrian region in the framework of the Moldovan state will also depend on changing the prevailing expectations on either side of the Dniester with regard to the effects of federalization or autonomy. Right-bank concerns about "losing the Moldovan state" and left-bank fears about having their self-governance dismantled could be alleviated if more attention is paid to the various mechanisms of power-sharing articulated in the conflict management literature and applied in practice in various ethno-political conflict zones.¹⁰

This article's central concern is with the position of the democratic opposition in Moldova. Instead of flatly rejecting the idea of federalization, opposition political parties and civil-society organizations should show the will to discuss constructively the concept and explore the multiple opportunities that a fine-tuned federal constitutional design can provide for

¹⁰ For the most recent discussion on the topic of power sharing, see the section entitled "Complex Power-Sharing Arrangements as a Means of Overcoming Self-Determination Disputes" in European Centre (2003).

addressing such concerns as securing the integrity and stability of the country and ensuring the effectiveness of the federal decision-making process. Both government and opposition also have to make much more of an effort to engage society in an informed debate about the advantages that federalization can bring to Moldova in terms of territorial integrity, stability, and sustainable development. Gaining public support for conflict settlement is a critical condition for successful reintegration efforts. As the results of the April 2004 memorandum on the reunification of Cyprus reminded everyone involved in resolution of ethno-political conflicts, having a well-elaborated legal document negotiated by the political elites (in the case of Cyprus it was the more-than-a-thousand-page Annan Plan) does not guarantee success in solving entrenched conflicts.

Moving ahead with federation talks should not alienate those advocates for democracy in Moldova who blame the Transdniestrian authorities for their adherence to authoritarian and illiberal political practices. The fears that introducing a federation will only solidify the authoritarian regime will not materialize if proper safeguards are introduced, ones that put federal authorities in charge of securing the provision of individual rights and liberties for the whole territory of the country. Contemporary federal systems vary greatly in how various competencies are distributed between the federal center and the federation subjects but they are fairly similar in granting the federal center enforcement power with respect to protection of individual rights and liberties, which is of fundamental importance to the democratic functioning of a political system (Stepan, 1999).

Finding a federal solution in the case of the Transdniestrian conflict implies, among other things, finding a way for the federal center to have a say in how ethnic Moldovans are treated in Transdniestria, an obvious and legitimate concern for right-bank Moldovans. Those politicians and civil society leaders in Moldova who demand democratization in Transdniestria are correct to argue that only genuine democratization can help reveal the true extent of support that the current Transdniestrian authorities enjoy among the Transdniestrian population. Moldova's own experience in dealing with the Gagauziyan region, however, suggests that finding a solution for the conflict through institutional accommodation, and under the condition that the center itself adheres to democratic political practices, increases chances of subsequent democratization in a region. In this sense, the democratization imperative becomes embedded in the very process of constitutional negotiations.

Those who warn that federalization can provide ethnic entrepreneurs with an institutional framework and resources for mobilizing support and undermining political stability are correct in unmasking some of the general risks associated with introducing a federal model. But they miss the point in the case of Moldova. Ethno-political mobilization had already taken place in Moldova, and federalization is a way to accommodate the ethno-political differences that, to a very significant extent, were crystallized in the course of a prior mobilization. These differences are not going

away and they have to be taken into account in any form of a final settlement.

Willingness on the part of the Moldovan opposition to discuss constructively the federalization options would help to prevent the excessive politicization of the conflict settlement issue. It would also help to move public debates to a more constructive level, allowing for concentration on the design of specific instruments of power sharing. The result could be a more unified approach to conflict settlement that would substantially increase chances of reducing ethno-political tensions and re-integrating the country.

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