



Graduate School of Development Studies

**Serbia's Bulldozer Revolution Reconsidered:  
Examining the Consequences of Pacted Transition in  
Cases of Regime Hybridity**

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***Mladen Joksić***

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Members of the examining committee:

Dr. Karim Knio (supervisor)  
Prof. Dr Mohamed Salih (reader)

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***Inquiries:***

Postal address:           Institute of Social Studies  
                                  P.O. Box 29776  
                                  2502 LT The Hague  
                                  The Netherlands

Location:                 Kortenaerkade 12  
                                  2518 AX The Hague  
                                  The Netherlands

Telephone:               +31 70 426 0460

Fax:                       +31 70 426 0799

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## **List of Acronyms**

BIA – Security Information Agency

DOS – Democratic Opposition of Serbia

DS – Democratic Party

DSS – Democratic Party of Serbia

EU – European Union

ICTY – International Criminal Tribunal for the former Yugoslavia

JSO – Special Operations Unit

KOS – Department of Security

NGO – Nongovernmental Organisation

OSCE – Organization for Security and Cooperation in Europe

RDB – State Security Service

RTS – Radio Television Serbia

SPS – Socialist Party of Serbia

## **Abstract**

This paper examines the consequences of the mode of extrication for democratic consolidation in the context of regime hybridity. It provides an in depth analysis of one instance of so called electoral revolution: Serbia's 'Bulldozer' revolution witnessed in October 2000. Applying the concept of path dependency, it seeks to understand how the remnants of the Milosevic regime have stood in the way of democratic reform. The primary argument brought forth in this paper is that while pacts forged between members of Serbia's democratic opposition and members of the previous regime's security sector enabled the immediate transition from regime hybridity to electoral democracy, their long-term effect would be to preserve the previous practices, prerogatives, and powers of Milosevic's security sector. Ultimately, the legacies of this reserved domain would hinder the completion of democracy in Serbia. The core argument of this paper thus challenges the assumptions of both transitological and post-transitological studies. While the former argue that pacted transitions have beneficial consequences for democratic consolidation, the latter locate the major drivers of regime change in exclusively bottom-up initiatives. This paper's findings question both of these interpretations, and thus challenge scholars and practitioners alike to reconceptualise their understandings of transitional processes.

## **Relevance to Development Studies**

As an evolving discipline, development studies has increasingly engaged in the interplay between democratic consolidation and development. The research presented in this paper builds on this growing tradition. Its findings offer relevant lessons for practitioners and foreign policymakers concerned with aiding democracy abroad. Amongst the findings brought to bear, is that when assisting democratic forces in cases of regime hybridity, a more even-handed approach to bottom-up and top-down actors may be advisable. Moreover, by concentrating on the remnants of the hybrid regime, this paper encourages practitioners to set their sights not only on short-term phenomena but also on the structural drivers that can impede democratic consolidation in the long term.

## **Keywords**

Democratic consolidation, Hybrid Regimes, Mode of Extrication, Pacted Transition, Path Dependency

# Chapter 1

## Introduction

If the early 1990s were said to have heralded the ‘end of history’, the early 2000s marked the start of a more sombre one. As democratic decay in countries across the globe failed to lend credence to the ‘transition paradigm’, scholars engaged in more sobering analyses of the state of democracy. It was these efforts which led to the emergence of a new body of literature exploring the puzzling phenomenon of regime hybridity. Initially, events in Serbia, Georgia, and Ukraine in 2000, 2003, and 2004, respectively, seemed to offer a respite from the troubles witnessed elsewhere. In each of these cases, non-democratic regimes were brought down amidst a series of dramatic protests hailed across the Western world as ‘electoral revolution’. As these post-communist regimes were relegated to the dustbins of history, their nations set out on what were soon to become tumultuous transitions to liberal democracy. Today, the difficulties of these transitions show no sign of abating. By all accounts, democratic consolidation remains at bay. This paper offers one possible explanation, albeit partial, for why this is the case. It does so at the hand of an in-depth study of one instance of electoral revolution: Serbia’s so-called ‘Bulldozer Revolution’ which took place in October 2000.

Much has been written about electoral revolutions in general and Serbia’s Bulldozer Revolution in particular. To date, most of these accounts have been positive, viewing electoral revolution as having heralded a new, democratic form of regime change sparked by bottom-up pressures and mass discontent. The outcomes of these protests were predicted not only to lead to a change in leadership, but to a change in regime-type, marking the birth of a steady transition to liberal democracy. This paper offers a fundamentally different analysis. It argues that the manner by which regime change occurred had profound consequences for Serbia’s democratic trajectory. Contrary to conventional wisdom, Serbia’s Bulldozer revolution was not the product of mass protests and other bottom-up factors, but rather the concerted efforts of key elite leaders who worked behind closed doors to forge a pact which led to Milosevic’s downfall. It was this very pact, drawn between members of Serbia’s new democratic establishment and members of the former regime’s security sector, which facilitated the emergence of a reserved domain which continues to hinder the onset of democratic consolidation in Serbia today.

Chief amongst the questions brought to light throughout this paper are the following: Did the manner of regime change witnessed in Serbia in October 2000 (i.e. the mode of extrication) influence the lack of democratic consolidation in Serbia today? What factors account for this influence, and what implications does this have for other instances of pacted transitions in contexts of regime hybridity? In answering these questions, this paper challenges mainstream accounts of Serbia’s transition with regard to both the level and mode of analysis. As pertains to the former, it focuses not on the mass but on the elite level, arguing that covert negotiations held at this level enabled bottom-up factors to succeed in October 2000. In so doing, this paper reintroduces transitology’s four-player transition model to characterise Serbia’s



mode of extrication. As pertains to the mode of analysis, this paper diverges from the classical transitological literature which relies solely on actor-based analyses. This paper primarily employs structure-based explanations to make sense of Serbia's troubled transition. Indeed, the legacies of the previous regime and the manner by which extrication occurred inhibited the onset of democratic consolidation. Although the role of actors will not be neglected, the explanations brought to light here are largely of a structural nature.

This paper thus challenges not only popular characterisations of Serbian regime change, but also one of the fundamental principles of transitology: that of the pacted transition. Transitologists often suggest that a pacted transition from authoritarian to democratic rule is desirable. Yet circumstances of regime hybridity may shed doubt on such assumptions, since the very negotiations critical to pact-making have facilitated the formation of the reserved domain in the case of Serbia. While Serbia's pacted transition proved beneficial for the initiation of transition, it would later stand in the way of democratic consolidation. The compromises struck between members of the old and new regimes led to the creation of reserved domains.

Such findings are significant for a number of reasons. Not only do they provide evidence that contemporary scholarly accounts of electoral revolutions have been overly optimistic, but they suggest that they have largely ignored the underlying causes of democratic stagnation. This failure raises question marks as to the validity of scholars' prescriptive remedies for how best to tackle this worrying phenomenon. Perhaps most importantly, however, this paper's conclusions encourage foreign policymakers to reconsider their approach to newly democratic regimes perceived to have been the product electoral revolution. Rather than embrace these young regimes as fully-fledged democracies, incentives might be provided to encourage further lustration and deeper reform targeting the remnants of the old regime.

In building its thesis, the paper is structured as follows: In Chapter 2 insight into the literature on democratic transition and consolidation is provided. Chapter 3 follows by outlining the theoretical and methodological underpinnings of the paper. Chapter 4 traces Serbia's post-communist trajectory from competitive authoritarianism to electoral ('defective') democracy and identifies the existence of reserved domains as one of the major impediments to the consolidation of democracy in Serbia. Chapter 5 continues with an exploration of the genesis of this reserved domain, locating its roots in the nature of Serbia's mode of extrication: that of the pacted transition. Chapter 6 analyses the consequences of the pacted transition with respect to the lack of democratic consolidation in Serbia today. Finally, chapter 7 concludes by wrapping the threads of analysis together and offering a brief discussion of its implications for other cases of regime hybridity.

## Chapter 2

### Key Concepts and Terms

This paper examines (some of) the factors which have inhibited the consolidation of democracy in Serbia. It seeks in particular to understand if and how one such factor—the mode of extrication—has affected Serbia’s democratic transition. The research presented in this paper is thus a product of both the ‘transitology’ and ‘consolidology’ literatures. Whereas the former focuses on the process of democratic transition, in particular the modes of extrication from authoritarianism and the routes to democratic governance (see: O’Donnell, Schmitter, and Whitehead 1986), the latter concentrates on what is commonly understood as the final stage of the three-fold process of democratisation.<sup>1</sup> The current chapter offers greater insight into both of these fields in an attempt to draw the reader’s attention to the wider relevance of the subject at hand. It also seeks to lay out the many concepts and terms which will be used throughout the paper, so as to create greater clarity and coherence. This chapter thus begins with a defence of a fluid understanding of democracy. As shall be shown, understanding democracy as a moving concept facilitates a positive vision of consolidation, according to which democratic consolidation is understood not as an end-state but as the movement towards more maximalist visions of democracy. Once the working definition of democratic consolidation is defended, the chapter proceeds by operationalising this concept, making it explicit how one can know if and when democracy in a country such as Serbia may be deemed ‘consolidated’.

#### 2.1 A Fluid Understanding of Democracy

This section begins by offering the definition of democracy employed throughout this paper. Properly defining democracy is important because most authors who write about democratic transition and consolidation either do not specify their underlying definition of democracy or else when they do, fail to specify the relationship between competing definitions of democracy, treating them as equivalent (Munck 2001). In order to avoid this problem, before

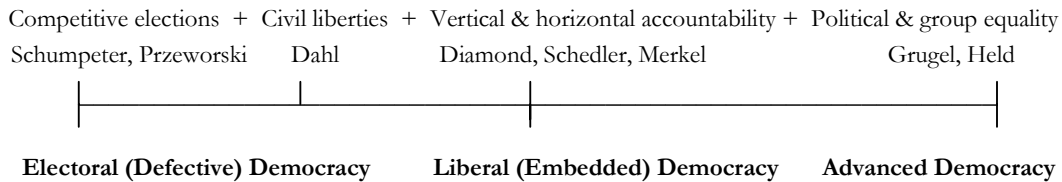
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<sup>1</sup> The democratisation literature makes a “heuristic division” between three stages or phases in a democratisation process: liberalisation, transition and consolidation (Knio 2008). While liberalisation involves the opening up of the authoritarian regime, transition, which starts with competitive elections, refers to the exiting from authoritarian rule. The consolidation phase is often understood as the institutionalisation and habituation of the newly installed democratic institutions and rules, when democracy becomes ‘the only game in town’. The democratisation literature admits that these phases may overlap chronologically, and that there is no necessarily a linear path between them. However, the justification for this division is that each phase has its distinctive logic and different tasks and problems that need to be solved, as well as varying degrees of uncertainty (Rustow 1970; O’Donnell and Schmitter 1986; Schmitter and Karl 1994; Linz and Stepan 1996; Munck 1994, 2001; Schedler 2001a; Schneider and Schmitter 2004).

beginning the discussion of democratic consolidation the definition of democracy employed throughout this paper is defended.

Choosing amongst the many different definitions of democracy is no easy task. Collier and Levitsky (1997), for example, identify more than 550 sub-types of democracy. The wealth of sub-types stems from the numerous competing perspectives on democracy, which for some includes social and economic as well as political properties, and for others is confined to the political. This paper adopts the latter approach, understanding democracy solely as a political phenomenon. But even when the meaning of democracy is reduced in this fashion, the selection of political properties included in this definition requires adequate defence. Should measurements of citizen involvement be included? Or should the definition limit itself to the minimal requirements of democracy, such as free and fair elections and civil liberties? Given the numerous factors which may be included in such a definition, as well as the many forms of democracy upheld in practice, this paper embraces a fluid conception of democracy. It views various forms of democracy as falling along a continuum, spanning from electoral (or ‘defective’) to liberal (‘embedded’) and finally, advanced forms of democracy (see figure 1).

**Figure 1**  
**Continuum of Democratic Regime-Types**



Source: Author’s elaboration based on literature review

*Electoral Democracy:* Electoral or ‘defective’ democracy is based on a minimalist, Schumpeterian conception of democracy which sees competitive elections for governmental offices as the essence of democracy. This understanding of democracy is very popular in the transitology literature (accepted, among others, by Huntington (1991); and Przeworski et al 1996) yet is often criticized for excluding non-electoral dimensions of democracy.<sup>2</sup> In recent years, the concept of electoral democracy has expanded to include not only regular, competitive elections but the whole gamut of civil and political freedoms necessary for elections to be free and fair. Understood in this way, electoral democracy can be equated with Dahl’s conception of polyarchy (Dahl 1971; 1989). Although polyarchy is commonly believed to offer a minimal vision of liberal democracy, this paper argues that it represents a ‘thicker’ definition of electoral democracy (see figure 1). This is because Dahl’s seven institutional requirements of polyarchy refer exclusively to free and fair elections. According to Dahl, the main

<sup>2</sup> This makes it prone to what Karl and Schmitter (1991) call the electoral fallacy.

institutions of polyarchy are: elected officials; free and fair elections; inclusive suffrage; the right to run for public office; freedom of expression; alternative information; and associational autonomy (Dahl 1989:221). The institutions of polyarchy thus guarantee competition, participation, and civil liberties, all of which are necessary for free and fair elections. Yet they fail to consider what elements are required to maintain democratic practice *between* elections. This in turn represents the essence of liberal democracy.

*Liberal Democracy:* In addition to all the elements of electoral democracy, minimal visions of liberal democracy require the absence of reserved domains of power for non-elected officials (Diamond 1999: 10).<sup>3</sup> In addition, both vertical and horizontal forms of accountability (i.e. checks and balances) must exist (Diamond 1999:10). For such modes of accountability to work in practice, however, the rule of law must be abided. This means that the judiciary is independent and that the state and its agencies are subject to the rule of law. Thus, liberal democracy includes a complex network of relationships and interactions between governments and citizens. More maximal interpretations of liberal democracy might set specific requirements for the protection of minorities or for citizen participation and involvement, seeing active, vibrant and autonomous civil society as the vital characteristic of liberal democracy.

*Advanced Democracy:* Despite the high esteem with which it is held amongst democratisation scholars, liberal democracy is not without its share of critics. Advocates of more advanced forms of democracy argue that liberal democracy does not go far enough in ensuring political equality amongst its citizens. According to Grugel (2002: 21), liberal democracy does little to correct the hidden and structural privileges which avert a level playing field and disable groups from competing equally for access to government. Scholars such as Grugel (2002), Held (1996), and Macpherson (1977) call for more advanced forms of democracy. However, even more so than with electoral and liberal democracy, little consensus exists as to the core requirements of advanced forms of democracy. Indeed, there is no single concept of advanced democracy but a great variety of concepts, such as deliberative democracy, participatory democracy, cosmopolitan democracy, etc. All such conceptions are normative (rather than empirically based) and exceptionally demanding concepts of democracy.

This paper refrains from adopting a single definition of democracy which would equate the term democracy with any single variant. This is because each of the aforementioned concepts (electoral, liberal, and advanced democracy) has equal right to the label 'democracy': none is non-democratic. While they differ in the scope and quality of their democratic practice, none is so shallow as to fail to meet the minimal requirements of democracy. The oncoming discussion refers to

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<sup>3</sup> This is implicitly embedded in Dahl's first institutional requirement, that of elected officials.

electoral, liberal, and advanced democracy as inter-related but distinct phenomena, each of which falls along the so-called democratic continuum. As shall be demonstrated in the following section, the democratic continuum serves the purposes of this paper particularly well, as its fluidity allows for an equally fluid conceptualisation of consolidation, according to which democratic consolidation is not conceived as an end-state but rather, as the movement from one end of the democratic continuum to another.

## **2.2 A Positive Vision of Democratic Consolidation**

The conceptualisation of democratic consolidation as employed throughout this paper builds on the work of Schedler (1998), who argues that each democratic regime-type demands its own concept of democratic consolidation. By adopting this view, it is accepted that the meaning of democratic consolidation depends both on where one stands (i.e. is the form of democracy being analysed an electoral or liberal type) and where one looks to (i.e. which normative goals does one have in mind). Of the five competing meanings of democratic consolidation offered by Schedler (1998), this paper adopts the notion of democratic completion: a positive vision of consolidation which focuses on obtaining the missing features of liberal democracy. Understanding consolidation in this manner necessitates the examination of the steps required to move along the democratic continuum or in Serbia's case, from electoral to liberal democracy.

This particular vision of consolidation finds its justification in the demands required of EU membership. As did other new EU entrants, to become a future member of the EU, Serbia will have to endure a series of deep-going reforms of a liberal democratic nature (Whitehead 2001). The Copenhagen Criteria demand that future members are not only 'democratic', but that they uphold the rule of law, respect human rights, and protect the rights of their minorities. Because EU membership demands the movement from electoral to liberal democracy, it does not suffice to concentrate solely on negative conceptions of consolidation: one must assume a positive conception of democratic consolidation.

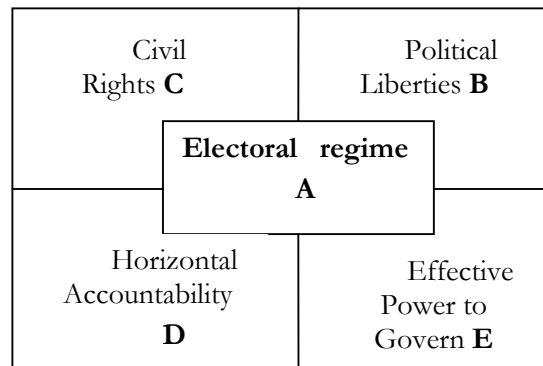
That said, Serbia is not yet an EU member state and its failure to uphold the principals of liberal democracy are in no small part to blame. As chapter four demonstrates, Serbia lacks several of the most important characteristics of liberal democracy, including the absence of reserved domains, horizontal accountability, and the rule of law. The purpose of this paper is to examine how Serbia's mode of extrication generated reserved domains and how these, in turn, have obstructed the completion of democracy in Serbia, thus inhibiting the country's progression from electoral to liberal democracy. But how is one to know when a country has progressed to the state of liberal democracy? At what point does a regime deserve the label 'liberal democratic' and when does the term 'electoral democracy' suffice? The following section seeks to answer such questions.

## **2.3 Operationalising Democracy**

In distinguishing between electoral versus liberal forms of democracy, this paper applies the conceptual framework developed by Merkel (2004). Merkel offers the

notion of electoral or what he dubs ‘defective’ democracy as a diminished sub-type of ‘embedded’ (i.e. liberal) democracy, which is conceptualised not as a single regime, but as a composite of five partial regimes: a democratic electoral regime, political liberties, civil rights, horizontal accountability, and the guarantee that the effective power to govern lies in the hands of democratically elected representatives (Merkel 2004:36; Bühlmann et al 2007: 27; see figure 2 and table 1). Merkel awards the electoral regime the central position among the five partial regimes, yet stresses that regimes can function effectively only when mutually embedded and supportive of one another. Defective democracy exists when the electoral regime lacks support from other partial regimes and, as a consequence, partial regimes are no longer mutually embedded. Since a defective democracy fulfils a minimal democratic requirement – free and fair elections – it is still classified as electoral democracy, rather than a hybrid regime type. However, although a regime can organise free and fair elections, a high level of corruption can exist between elections due to a lack of rule of law, checks and balances, and independent control and regulatory bodies (a defect in a partial regime D), or the inability of the government to govern effectively as a consequence of reserved domains (a defect in partial regime E).

**Figure 2**  
**Merkel’s concept of embedded democracy**



Source: Adapted from Merkel (2004: 37)

**Table 1**  
**Partial regimes and their functions**

Partial Regimes	Functions
Civil Rights (C)	Individual liberty/Protection of individual rights
Political Rights (B)	Participation/ Responsiveness/Transparency
Electoral and Voting Regime (A)	Accountability/Representation
Horizontal Accountability (D)	Constraint of executive autonomy
Effective Power to Govern (E)	Government autonomy/Control over policies

Source: Bühlmann, et al (2007: 27)

As will be shown in chapter four, in contemporary Serbia defects can be identified in partial regimes D and E – ‘division of power/horizontal accountability’ and ‘effective power to govern’. While most of the post-communist countries of Central and Eastern Europe have had difficulties with the partial regime D—establishing constitutional guarantees, the rule of law and horizontal accountability (Kaldor and Vejvoda 1997)—Serbia is one of but a few countries in the region which has also struggled to establish partial regime E. A defect in this partial regime creates a system in which certain actors—so-called ‘veto powers’ such as the military, guerrillas, militia, entrepreneurs or multi-national corporations—remove certain political domains from the hands of democratically elected representatives (Merkel 2004:49). The result is reserved domains: important areas that resist reforms despite the government’s attempts to implement them, which in turn can present a major structural setback for democracy.

As shall be argued in oncoming chapters, in Serbia a reserved domain exists with respect to the state security sector. One aim of this paper is to determine the genesis of this reserved domain and in particular, the factors that have contributed to its creation. It will be shown that one particular variable is accountable for its creation: the mode of extrication from the previous regime. The following section provides a theoretical overview of the mode of extrication, emphasising its contributions to and influence on democratic consolidation. As shall become apparent, this paper takes issue with the standard conceptualisations of the mode of extrication and its impact on post-transitional politics commonly found in the transitology literature.

## **2.3 The Mode of Extrication**

### ***2.3.1 Mode of Extrication and Democratic Consolidation***

The mode of extrication (often referred to as the mode of transition)<sup>4</sup> is a critical phase in every democratisation (transition) process. It is the shortest phase, lasting from the point at which the regime is first challenged until the main features and institutions of the new order are established (Elster,Offe and Preuss 1998). Yet despite its brevity, the heritage of the extrication period can significantly shape a country’s democratic trajectory. As shall be demonstrated in oncoming chapters, the mode of extrication matters. This is why prominent democratisation scholars, especially in the early transitology literature, paid significant attention to the question of the mode of extrication, linking it to the problems and prospects of democratic consolidation (see: O’Donell, Schmitter and Whitehead 1986; Di Palma 1990; Karl and Schmitter 1991; Huntington 1991; Linz and Stepan 1996; Munck 1994, 1997; Elster,Offe and Preuss 1998; McFaul 2002; Schiemann 2005). It was believed that different modes of extrication produce different problems in the phase of democratic consolidation.

However, not all authors follow this path-dependent analysis of democratisation. Przeworski (1991: 95-99), for example, is sceptical about

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<sup>4</sup> In this paper these two terms will be used interchangeably.

assessing the impact of modes of transition and finds little linkage between the modality of transition and the features of the emerging regime. Welsh (1994) deemphasises the role of modes of transition and instead calls attention to the changing modes of conflict resolution in the transition process. Despite the scepticism of these authors regarding the impact of the mode of extrication on democratic transition and consolidation, this paper accepts that how a country enters democracy does influence the prospects for democratic consolidation. This does not mean that the mode of extrication is the only variable affecting democratic consolidation or that its legacies are ‘frozen’ and permanently fixed. It is just one of many independent variables that influence prospects for democratic consolidation (see Linz and Stepan 1996:16-83). However, the limitations of the paper do not allow us to address all of these variables in a meaningful manner. Instead, we will focus on how the mode of extrication from regime hybridity helps explain the lack of democratic consolidation in Serbia. Thus, the mode of extrication is here treated as an independent variable, while democratic consolidation is viewed as the dependent variable.

### ***2.3.2 Problematising Pact-Making***

Many analyses of modes of extrication and their impact on the process of democratic consolidation follow the O’Donnell-Schmitter (1986) approach, known as a ‘strategic choice model’ because of its focus on the strategies, interactions, pacts and bargains between major political actors. According to this model, the outcomes of the transition process can be explained at the hand of these strategies, thus leading to the conclusion that the mode of extrication strongly influences the character of the new regime. This O’Donnell-Schmitter model (later expanded by Karl (1990), Huntington (1991) and Przeworski (1991)) identifies four major choice-making actors in the extrication period: soft-liners and hard-liners in the authoritarian ruling elite, and moderates and radicals in the opposition. The strategic interaction between these actors can generate multiple modes of extrication. Criteria for distinguishing modes of extrication differ from author to author.

This paper uses the typology of modes of extrication offered by Karl and Schmitter (1991) which distinguishes between transitions by pact (when elites forge a multilateral compromise among themselves); by imposition (when the soft-liners from the old regime set the terms of transition, even if by force); by reform (when masses mobilize from below and impose a compromised outcome without resorting to violence); and by revolution (when masses rise up in arms and defeat the previous authoritarian rulers militarily). More so than other typologies (e.g. Mainwaring et. al. 1992; Huntington 1991), this one examines not only the extrication from the previous regime, but also the consequences of the mode of extrication for the new regime. It does so by emphasizing the degree of control that outgoing rulers bring to bear over the transition process as well as the strategies employed in challenging the old regime. Of all the modes of extrication in the transitology literature, the pacted-transition has received the greatest theoretical attention and will be the point of investigation throughout this paper.

According to O’Donnell and Schmitter (1986: 37), a pact is defined as “an explicit, but not always publicly explicated or justified, agreement among a select



set of actors which seeks to define (or, better, to redefine) rules governing the exercise of power on the basis of mutual guarantees for the ‘vital interests’ of those entering into it.” A democratic outcome is thought to be most likely when soft-liners from the authoritarian elite and moderates from the opposition forge pacts that set the terms of the transition. Early transitology literature emphasises the need to limit the role of the masses in the extrication period. Hence, pacted-transitions are elite affairs, more likely to be harmed rather than supported by popular mobilisation (see: Przeworski 1991; Di Palma 1990; Huntington 1991; Gunther et al 1995). This led to the initial consensus that pact-making is beneficial for democratisation and preferable to mass protest. This argument has since been expanded, so that pacts are now thought not only to facilitate the transition to democracy, but democratic consolidation as well (Encarnación 2003).

Theories of pact-making are not without their share of critics, even within transitology circles. Scholars now diverge on both the value and relevance of pact-making to democratic transition. Belonging to the first category are authors such as Karl (1990), Przeworski (1991), and Hagopian (1990, 1992), who argue that pact-making leads to the institutionalisation of some form of political (and economic) exclusion, since pacts can easily become cartels that restrict competition and distribute the benefits of political power among insiders. They also argue that pacts serve to marginalise civil society since they are forged by elites behind closed doors. This conservative nature of pact-making has been seen as an impediment to democratic consolidation, given its potential to institutionalise specific non-democratic practices.

The passing of time and in particular, the electoral revolutions witnessed throughout post-communist Europe in the late 1990s and early 2000s, have largely been seen as substantiating such claims. According to Bunce (2000:716), “In the post-Socialist context...pacting appears to be no more desirable than those transitions that involve substantial mass protest or a sudden collapse of the authoritarian regime.” McFaul (2002) goes one step further, arguing that many post-communist transitions—including those which were most successful—did not even follow the pacted-mode of extrication. On the contrary, “Revolutionary movements from below—not elites from above—toppled communist regimes and created new democratic institutions” (McFaul 2002: 222-23). Authors such as Bunce and McFaul share transitology’s actor-oriented approach, but take issue with the theory’s elite-driven focus. They argue that actors working from the bottom-up—including nongovernmental organizations, societal movements, unions, etc.—worked in concert to force the hand of the non-democratic regime. The masses which were considered so damaging to democratisation in the early transitology literature are now considered crucial for the success of democratic breakthrough and democratic consolidation.

Yet as will become clear in the oncoming chapters, this paper takes issue both with supporters of pact-making theories, as well as the critics. As pertains to the former, the findings of the paper demonstrate that pact-making need not always have positive effects for democratic consolidation, particularly in instances of semi-authoritarianism or other forms of regime hybridity. The Serbian case demonstrates that the pacted transition may indeed spur the onset of democratic breakthrough, but its legacy can also impede the process of consolidation. With regards to the critics of pact-making, bottom-up conceptions of regime change

fail to account for the powerful role played by elite actors in paving the way towards democracy. As shall be demonstrated, behind-the-scenes pacts forged between leading members of the opposition and segments of the state security services played a crucial role in the success of Serbia's 'Bulldozer' revolution, thanks to which regime change was secured. Yet their role was no less central with respect to Serbia's failure to fully undergo a process of democratic consolidation.

## **2.4 Conclusion**

This chapter presented the primary concepts that are used throughout this paper, beginning with a defence of a fluid understanding of democracy as well as a complementary positive vision of democratic consolidation. It continued by operationalising democratic consolidation by presenting Merkel's concept of embedded democracy as composed of five partial regimes. Finally, it offered insight into the mode of extrication and pacted transitions, which shall be the focus of the oncoming chapters. Chapter 3 proceeds by making explicit the theoretical and analytical underpinnings of this study.

## Chapter 3

### Theoretical Framework and Methodology

To make sense of the concepts presented in the previous chapter, this paper draws on the major theoretical debate which has dominated democratisation studies since its founding: the question of whether structure or agency-based explanations are more suitable for understanding transition and consolidation processes. As shall become evident, this debate forms the backbone of the paper's oncoming efforts to identify the causal links between mode of extrication and democratic (under)consolidation. This chapter thus begins by presenting the dominant trends in democratisation studies regarding this theoretical debate. It continues by shedding light on the dialectical approach employed throughout the remainder of this paper. As shall be demonstrated, this approach seeks to move beyond the simple binary structure-agency debate by stressing not the dualism between structure and agency, but rather the interaction among them.

#### 3.1 Structure and Agency-based Explanations of Democratisation

The main focus of democratisation studies has been on the causes of democracy. Scholars have sought to locate not only the conditions that make democracy possible, but also those that make it flourish. As this section demonstrates, however, the literature has not always found consensus in this regards.

At the outset of democratisation studies, in the 1960s and 1970s, structural-based explanations were predominant. The early democratisation scholars stressed structural factors or background conditions that needed to be in place before democracy could occur and endure. These so-called prerequisites included, but were not limited to: levels of economic development (Lipset 1959), pro-democratic values and beliefs known as 'civic culture' (Almond and Verba 1971), national unity (Rustow 1970), and patterns of relationships between the landowning aristocracy, peasants and the crown, and the creation of a bourgeois class (Moore 1966). During this period, it was generally accepted that democracy would only emerge under particular circumstances and that it could not be reproduced in countries where either the required level of economic development was absent or where the class or social structure was unfavourable to it.

Following the global spread of democracy since the mid 1970s, however, it soon became clear that such theories were not without their limits. While structural theories sketched the necessary conditions for democracy to exist and succeeded empirically in demonstrating the correlation between development and democracy, they proved less successful at explaining when or how democracy occurred. Significantly, they failed to distinguish between democracy and its product—"to decipher if their independent variables, such as a society's high level of economic development, were actually dependent ones" (Mazo 2005: 8). This classic chicken-egg dilemma raised question marks as the theory's relevance. But perhaps the greatest failure of the early structural scholarship was its failure to explain, let alone predict, the global spread of democracy that began in 1974 in countries where structural conditions for democracy were lacking. This spurred a

significant turn in democratisation studies thanks to which scholars began to focus less on structures and more on agency and the process of democratic transition.

The ‘transition’ or ‘agency’ approach, which came to life in the 1980s, looked not to structures but to conscious actors to explain democracy’s creation. Political elites, their conflicts and bargains were seen as central for democratisation. Thus, democracy was not defined as structurally determined. Rather, it could be forged in any country, at any level of development, independent of structural context. Drawing on the work of Rustow (1970), O’Donell and Schmitter (1986) explained democratisation by focusing on the interaction among elites. They argued that “there is no transition whose beginning is not the consequence – direct or indirect – of important divisions within the authoritarian regime itself, principally along the fluctuating cleavage between hard-liners and soft-liners” (O’Donell and Schmitter 1986: 19). Successful transitions depended upon agreements between elites, including outgoing authoritarian leaders. This was, in essence, a rational choice explanation of democratisation in which the strategies adopted by key actors were interpreted in terms of cost-benefit calculations. Although O’Donell and Schmitter based their findings on analyses of transition processes in Southern Europe and Latin America, their agency-based explanation—which argued that strategic interactions between elites established the mode of extrication and the type of regime that emerges—was extended to other parts of the world, including post-communist Europe. Although the transition approach recognised that structural factors may exert an influence over actors’ preferences and power, these were believed to have “causal significance only if translated into human action” (McFaul 2002:214).

Actor-based explanations made a significant contribution to the democratisation debate. By emphasising interactions among actors, they offered an alternative to the purely structural explanations which saw outcomes as determined by conditions. This line of analysis (focusing on the choices made by relevant actors) is particularly suitable for understanding situations in which the same structural contexts produce divergent effects. However, as Munck (1994) argues, the shift from prerequisites to process, or from structural determinants to strategic choices, has gone too far. Actor-based explanations often ignore the context within which actors make choices. Furthermore, by focusing mainly on short-term changes, actor-based explanations fail to examine deep-rooted obstacles to the completion of the democratisation process over the long term (Grugel 2002). As a consequence, they failed to explain why some democratic transitions never completed and, far from becoming consolidated liberal democracies, got stuck in a so-called ‘grey zone’.

Unlike transitology, which embraces a wholly actor-centric approach, consolidology combines both actor-based and structure-based explanations of democratic consolidation. Although actor-based explanations are still dominant, structure-based explanations—stressing the role of economic development (Przeworski 1991; Przeworski et al 1996; Lipset and Lakin 2004), political culture (Diamond 1999), the nature of the prior, non-democratic regime, and historical institutional arrangements (Kitschelt et al 1999; Linz and Stepan 1996)—are gaining prominence. A case in point is Linz and Stepan’s 1996 study on democratic consolidation in which they introduce seven explanatory variables: two

macro variables (stateness and prior regime type), two actor-centered (the specific leadership base of the prior nondemocratic regime and who initiates and controls the transition), and three context-centered variables (international influence, political economy of legitimacy and coercion, and constitution-making environment) (Linz and Stepan 1996: xiv-xv).

### 3.2 A Dialectical Approach

This paper roots itself in a structure-based approach in so far as it explains the lack of democratic consolidation in Serbia by the persistence of a reserved domain in the state security sector, the formation of which was made possible by the particular mode of extrication from the previous regime. The pacted transition employed in Serbia in 2000 did not break with the practice of the previous regime, but instead created a legacy which has shaped the subsequent path of democratisation. The Serbian case confirms that the mode of extrication does indeed generate durable legacies that can affect post-transitional politics. Moreover, the mode of extrication sets the context within which strategic interactions among major political actors take place, which in turn helps to explain whether and how democracies emerge and consolidate. This element of path dependence is, by its very nature, structural and lies at the very heart of this paper. However, employing structure-based explanations does not mean that the role of actors is neglected. This paper recognises that the mode of extrication is particularly open to agency—a moment of plasticity (or critical juncture) in which actors are in a position to shape the course of events much more so than in periods of routine politics.

At its core, this paper's analysis relies on a path dependent form of analysis. Although path dependency has primarily been employed in historical institutionalism, it has gained prominence as an analytical tool in other approaches and disciplines including economy, law, institutional sociology, etc. (Thelen 1999: 386). Despite the existence of different forms of path dependent analysis, all share the same logic. They occupy a middle position between 'preconditionists' who argue that only structural factors matter and actors do not, and 'transitologists' who argue that actors matter and structures do not. Thus, path dependency is understood in this paper to mean that actors and their preferences, choices, powers, as well as the strategic interactions among them, matter. However, they do not interact in a vacuum. The effects of these agencies are "mediated by the contextual features of a given situation often inherited from the past" (Hall and Taylor 1996: 941). Understood in this way, the main analytical components of path dependent explanations are the concepts of critical juncture and legacy.

The concept of critical juncture is employed in path dependency analysis in an attempt to explain change. Indeed, however successful they are at explaining the persistence of previous patterns and practices, path dependent explanations suffer from a serious weakness: in and of themselves, they cannot account for change. Critical junctures help fill this gap. They represent particular moments during which actors have the possibility to transcend structural constraints by making choices which, in effect, set new rules of the game. These choices later manifest themselves as institutional structures with self-perpetuating properties that may 'lock' actors into specific patterns of behaviour. As regards the

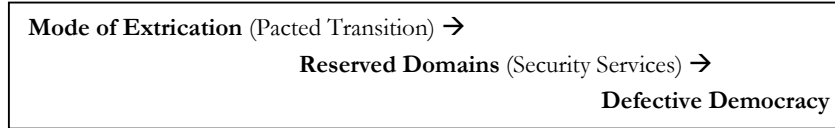
conceptualisation of critical junctures employed here, this paper relies on the work of Mahoney (2001), who identifies two core components of critical junctures. The first stresses the existence of several alternatives among which the one particular option is chosen, while the second emphasises the notion of irreversibility. Once one of many options is selected, it becomes increasingly difficult to ‘turn the clock back’ and return to the initial set of choices. In conceptualising critical junctures and path-dependency in this fashion, this paper attempts to remedy the faults of past practices. Whereas most path-dependent analyses fail to specify the mechanisms that translate critical junctures into lasting political legacies (Thelen 1999: 388), this paper tries to avoid this trap by stressing the manner in which the critical juncture was transformed into a lasting legacy which impeded democratic consolidation in Serbia. It therefore focuses on the mode of extrication experienced in Serbia as well as the process of pact-making that characterised it.

That said, the concept of critical juncture is not unproblematic. The concept remains largely unspecified, thus making it particularly prone to conceptual ‘stretching’. One of the greatest problems pertains to the formation of critical junctures. According to some, critical junctures are spurred by material factors such as deep economic crises or armed conflict. For others, ideational sources such as new ideologies, serve as the motivating factor in bringing critical junctures to life. As will be argued with respect to Serbia, the critical juncture—represented here as a pact drawn between key elites—was initiated by the process of regime change. Although actors’ choices, interests, and powers spurred this critical juncture into fruition, its formation and to a large extent its consequences were shaped and constrained by contextual features, in particular the character of the previous regime. In the Serbian case, it will be shown that the context of regime hybridity proved particularly conducive to the four-player transition set on by pact-making.

In sum, in intertwining both structure and actor-based approaches, this paper admits that while actors make choices, they do not choose the circumstances in which they make them. In order to avoid the *tabula rasa* perspective, it is necessary to place actors and their choices in the broader context within which the transition occurs. Hence, this paper constructs a dialectical approach in which the explanatory framework will allow for forward (structures select agents and determine their choices), as well as backward linkages (choices and agents define institutional rules which, in turn alter structural determinants) (Elster, Offe and Preuss 1998). This paper thus stresses a contextualised view of actors. This means paying attention not only to the relative power of actors, but also to the structural context. Among other things, this means defining features of the preceding non-democratic regime, as well as habits pre-dating this regime. Concretely, when analysing the pacted transition in Serbia and its consequences for democratic consolidation, it is not enough merely to pin point the actors that starred in it (i.e. the democratic opposition and security services), but it is essential to explain how these actors were in a position to influence the mode of extrication in the manner they did. It is also necessary to explain how the legacy created by the mode of extrication managed to survive for almost a decade.

### 3.3 Methodology

The methodology applied in this paper is qualitative in nature and is based primarily on secondary data. The primary method of analysis employed is that of process tracing (see: Gerring 2001). Through process tracing, the causal relationship explored will be sketched as follows:



The mode of extrication is therefore treated as the independent variable and the level of consolidation as the dependent variable. It will be shown that the relationship between these variables is indirect, in so far as Serbia's pacted transition has resulted in reserved domains, which in turn have stood in the way of democratic consolidation.

Among the limitations facing this research, it bears noting that a focus on the mode of extrication does not mean that the other aforementioned variables are less significant for democratic consolidation. Unfortunately, the scope of this paper does not allow addressing all of them in a meaningful manner. Another limitation facing this research is produced by the behind-the-scene, informal character of Serbia's pacted transition. Although O'Donnell and Schmitter (1986) recognise that a pact is an explicit, if not always public, agreement forged between elites, the most prominent cases of pact-making in Central and Eastern Europe tended to be very public and formal affairs. Yet as shall be explained, the pact drawn in Serbia was anything but public. One of its hallmarks was in fact the absolute exclusion of public discourse throughout its making. This secretive nature of Serbia's pacted transition makes it difficult to assess the arrangements that were forged during the extrication period with absolute certainty, since no written documents exposing their content exist. However, that does not influence the prospects of assessing their consequences, which will be the focus of this paper.

### 3.4 Conclusion

This chapter has presented the theoretical framework within which the oncoming empirical discussions lying at the heart of this paper will be embedded. The approach adopted in this paper is dialectical in so far as it goes beyond structure-agency dualism and allows for the interaction among them, despite giving more weight to the structure-based explanations. Thus, it offers a path-dependent form of analysis which admits the importance of legacies, but at the same time recognises the importance of actors. Through this analytical framework some of the basic postulates of transitology will be challenged. The following chapter proceeds by providing insight into the larger structural context within which Serbia's mode of extrication occurred.

## Chapter 4

### From Competitive Authoritarianism to Electoral Democracy: Serbia from 1990 – 2008

This chapter traces Serbia's post-communist trajectory from competitive authoritarianism to electoral ("defective") democracy. It begins with an analysis of the defining features of the previous non-democratic regime, before continuing with an examination of the democratic transition after regime change. In so doing it follows the analytical approach presented in chapter three, which places actors and the choices they made during the period of extrication within the broader context in which the transition occurred. To better assess the level of democratic consolidation in Serbia today (and hence, remaining deficiencies in Serbian democracy), the chapter concludes by applying Merkel's conceptual framework of democracy to the Serbian case. As shall be explained, Serbia currently fulfils only three of the five partial regimes necessary to be considered liberal democratic. Deficits in partial regimes D and E have hindered the country's democratic transition, and have kept democratic consolidation at bay.

#### 4.1 The Transition to Competitive Authoritarianism - Milosevic's Serbia 1990 - 2000

The regime-type which emerged in Serbia following the collapse of communism in 1989 was best described as hybrid in so far as "the existence of formally democratic political institutions, such as multiparty electoral competition, mask[ed]...the reality of authoritarian domination" (Diamond and Stepan 1989: xviii). Not only did Milosevic's Serbia exemplify the hybrid regime-type, but it embodied one particular variant thereof: competitive authoritarianism.

As do other hybrid regime-types, competitive authoritarian regimes combine the procedures of democracy with the practice of authoritarianism (Levitsky and Way 2002). Such regimes incorporate dictatorial tendencies into an otherwise 'democratic' system, thereby denying the latter of its more substantive elements. What distinguishes competitive authoritarian regimes from other hybrid regimes is the former's emphasis on political pluralism. Unlike other hybrid regimes, competitive authoritarian regimes permit a degree of genuine political competition.<sup>5</sup> Thus, they allow rival political parties to exist, they hold regular multiparty elections, and their competitors are free to campaign publicly. Perhaps the defining feature of competitive authoritarian regimes is the extent of parliamentary opposition: whereas ruling parties in

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<sup>5</sup> For more on the differences between hybrid regime types see: Levitsky and Way (2002).



purely façade democracies compose as much as 90 percent of parliament, parliaments in competitive authoritarian regimes boast a significant degree of pluralism (Diamond 2002). In Serbia for example, critics of the regime composed half of parliamentarians. Thanks to this ‘real’ competition, such regimes may even face electoral defeat, as was the case in Serbia in 2000 and Ukraine in 2004. But however much they want to call themselves democratic, such regimes are essentially authoritarian. They do their best to shift the balance of power away from their opponents by, for example, compromising election results, violating citizens’ political and civil liberties, and harassing the opposition. The Milosevic regime was no exception to this rule.

Upon taking office as Serbia’s first post-communist president, Milosevic did not wait long to secure his hold over the republic’s media. Amongst Milosevic’s first targets were Serbia’s largest television station, Radio Television Serbia (RTS), Serbia’s most widely read daily, *Politika* and its accompanying tabloid, *Politika ekspres*. He later went on to eliminate alternative sources of information—including independent radio stations, newspapers, and magazines (Gordy 1999: 63). This was accomplished at the hand of physical violence, as well as legal and financial pressures. In each of these ways, the regime sought to narrow the space for free expression and in so doing, set the tone of popular opinion.

With his hold on the media secure, Milosevic proceeded to tighten his grip on state institutions including the parliament, presidency, and judiciary. The regime put parliament under its control through the systemic manipulation of Serbia’s electoral system. Electoral system manoeuvring was not, however, the sole means by which the Milosevic’s Socialist Party of Serbia (SPS) maintained its parliamentary majority. As his party’s popularity waned, Milosevic resorted to increasingly blatant forms of electoral manipulation. As early as 1992, independent election observers described parliamentary elections as “riddled with flaws and irregularities” (as quoted in Schoen 2007: 125), while in 1997, the regime’s refusal to recognise the opposition’s municipal victories during local elections sparked 88 days of protest throughout Serbia.

Milosevic’s hold over parliament had several consequences. First and foremost, it allowed his party to command Serbia’s government, the ultimate source of executive power. It also gave the party control of the republic’s judiciary. Because Serbia’s parliament, not president, has the power to appoint and dismiss republican judges, power in parliament soon translated into the coercion of Serbia’s ‘independent’ judiciary. In 1997 alone, the Milosevic-led parliament dismissed a total of sixty judges, each deemed too insistent on maintaining judicial independence (Antonic 2006: 93). SPS-appointed judges were an integral part of the Milosevic regime, enabling the crackdown on Serbia’s independent media and giving Milosevic the green light to rule by way of presidential decree.

Unsatisfied with his monopolisation of the executive, legislative, and judicial branches, Milosevic closed in on the police, army, and secret services. By placing allies in positions of authority, Milosevic was able to stop potential rivals. Those that defied Milosevic’s orders faced dismissal. From 1991 to 1992 Milosevic purged the army, personally firing 130 generals and other high-ranking officers. By contrast, those close to Milosevic were rewarded with

prestigious promotions. In 1995, Serbia's parliament passed a law which awarded Serbia's president (Milosevic) the exclusive right to promote police officers and commanders (Antonic 2003). In an act of special decree, Serbia's President also assigned himself full control of Serbia's secret services, the State Security Service (RDB). The regime's hold over the police, armed forces, and security forces had a profound impact on Serbian politics in general, and Milosevic's political opponents in particular. Milosevic regularly relied on the police and security forces to disperse mass demonstrations, to badger and beat members of the opposition, as well as to covertly monitor, kidnap, and assassinate his rivals (Trivunovic 2004: 172). Thus, by monopolising the state's instruments of violence, Milosevic was able to root out opposition through the use of force or the mere threat thereof.

In applying Merkel's concept of embedded and defective democracy to the Milosevic regime, it is evident that the regime failed to satisfy even the most basic requirements of defective (i.e. electoral) democracy. As the preceding section has shown, the Milosevic regime exhibited defects in almost all of the five partial regimes, with the exception of partial regime E (indeed, there were no reserved domains and hence, Milosevic's government effectively boasted the power to govern—however undemocratically). Thus, the Milosevic regime cannot be regarded as even a minimal form of democracy, despite the existence of formally democratic institutions and constitution. The following pages go on to explain that the regime-type to emerge after Milosevic's ousting democratised to the extent that it is now best described as a 'defective' (electoral) democracy.

## **4.2 The Transition to Electoral Democracy**

### ***4.2.1 October 5, 2000: Regime Change***

On September 21, 2000 federal Presidential elections were held in Serbia. In a stunning upset, Milosevic lost to his pro-democratic rival, Vojislav Kostunica, and was ultimately forced to concede his defeat on October 5, 2000. The mode of extrication from the Milosevic regime, its causes and its consequences for the consolidation of democracy in Serbia, will be discussed in greater depth in following chapters. Here it suffice to state that Milosevic's ouster was widely regarded as a democratic breakthrough; the key transitional moment from which to launch Serbia's liberal democratic trajectory (Uzgel 2001; Birch 2002; Nielsen 2001). Eight years after Milosevic's fall, the extent to which such expectations have been realised is questionable. The remainder of this chapter argues that Serbia's transition has effectively achieved the status of defective or electoral democracy, as defined by Merkel (2004), but yet fails to qualify as a liberal democracy.

### ***4.2.2 Serbia as an Electoral ('Defective') Democracy***

Serbia's transition to democratic rule began in the fall of 2000, when Vojislav Kostunica took office as president. Having campaigned on the promise to deliver honesty, democracy, and prosperity to his electorate, Kostunica and his

supporters set about laying the foundations for Serbia's first free and fair parliamentary elections. The passing of a new election law in October remedied many of the OSCE's concerns and the international community embraced December 2000 parliamentary election as an indicator of Serbia's democratic aspirations. But was this enough to qualify Serbia as an electoral democracy? According to Merkel (2004), a minimal requirement for electoral ('defective') democracy is the existence of partial regimes A (the electoral regime) and B (political rights) without any anomalies. This means that elections are regular, competitive, and free and fair, thus fulfilling Dahl's procedural requirements for polyarchy. In the years that followed Milosevic's ouster, Serbia embraced both partial regimes A and B to the extent that it can now be described as an electoral democracy.

As reflects partial regime A, although public participation was not always high, elections could be said to reflect the 'will of the people'. In each of the four parliamentary and five presidential elections held since Milosevic's departure in late 2000, the international community praised the conduct of the elections as free and fair.<sup>6</sup> The results provided in Freedom House's index of electoral democracies confirm such findings. According to Freedom House, Serbia (then Yugoslavia) was an electoral democracy by 2001.<sup>7</sup>

With respect to partial regime B, the situation after 2000 is slightly more ambiguous. Following Milosevic's departure, the new authorities quickly ensured that associational rights and the freedom of speech and opinion were fully respected. Indeed, since 2000, no political party has been denied the rights of political organisation and free speech and citizens have formed interest groups freely and independently from the state. However, in the immediate aftermath of Milosevic's ouster, from 2000 to 2003, the media was visibly slanted in the new regime's favour (Pavlovic and Antonic 2007). By the time the second post-Milosevic government entered parliament in early 2004, however, media had become markedly freer. Thus, according to Freedom House's Nation in Transit index, Serbia's average score for independent media from 2000 to 2008 has averaged at approximately 3.5 while under Milosevic it was only 5.75 (where 1 represents absolute independence of media and 7 the total lack thereof).

Having established that partial regimes A and B exist, it can be accepted that Serbia is in fact an electoral democracy. Yet as the following pages explain, it does not exceed the bounds of electoral democracy to the extent that we can speak of liberal democracy. To be considered as such, Serbia would have to respect all of Merkel's partial regimes. As shall now be explained, this is exactly what Serbia misses today.

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<sup>6</sup> Following the parliamentary elections held in January 2007, the OSCE Parliamentary Assembly president went so far as to state that he was "personally impressed and proud on behalf of the Serb people for the professional, orderly and well-organized way they carried out this election" (As quoted on the OSCE's website at: [www.oscepa.org/index.aspx?articleid=+529](http://www.oscepa.org/index.aspx?articleid=+529)).

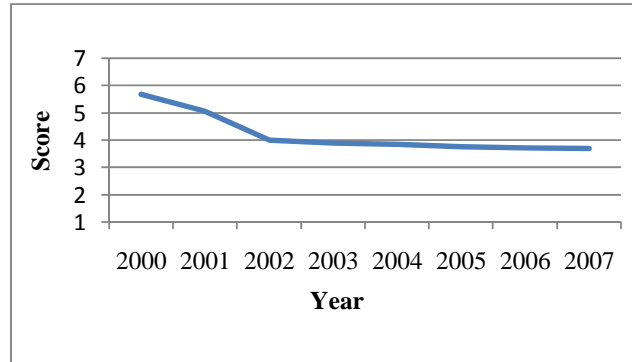
<sup>7</sup> Please refer to [www.freedomhouse.org](http://www.freedomhouse.org)

### 4.3 Democratic Consolidation Still at Bay

As figure 3 demonstrates, in the years proceeding Milosevic's ouster, Serbia's transition reached a point of stagnation and while incremental advances have been made, these have been rather modest. It is notable however, that despite such stagnation, Freedom House's annual assessment of political rights and civil liberties finds Serbia to have been 'free' since as early as 2003 (a term synonymous with that of liberal democracy). By contrast, the Bertelsmann Transformation Index is more sceptical.<sup>8</sup> The Economist Intelligence Unit takes a similar standpoint, labelling the country a 'flawed democracy.'<sup>9</sup>

Applying Merkel's conception of embedded versus defective democracy, we see that the requirements of the former have not yet been met. Instead, Serbia is best described as a defective democracy. This is because Serbian democracy incorporates just three of the five partial regimes required of embedded (i.e. liberal) democracy: its electoral regime, political liberties, and civil rights. Thus, suffrage is inclusive; representatives are democratically elected; elections are recognized by international observers to be free, fair, and regular; and associational autonomy is guaranteed. But, as the following pages explain, Serbia continues to suffer from significant democratic deficits in the areas of partial regime D and E. Because the manifestations of the latter serve as the focal point of this research, an entire chapter is dedicated on its behalf.

**Figure 3**  
**Freedom House Nations in Transit: Democracy Score for Serbia**



Source: Freedom House (2008)

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<sup>8</sup> Results from the Bertelsmann Transformation Index can be found at: [http://www.bertelsmann-transformation-index.de/fileadmin/pdf/BTI\\_2006\\_Detailed\\_Ranking.pdf](http://www.bertelsmann-transformation-index.de/fileadmin/pdf/BTI_2006_Detailed_Ranking.pdf), last accessed August 28, 2008.

<sup>9</sup> Results from the Economist Intelligence Unit's Index of Democracy can be found at: [http://www.economist.com/media/pdf/DEMOCRACY\\_INDEX\\_2007\\_v3.pdf](http://www.economist.com/media/pdf/DEMOCRACY_INDEX_2007_v3.pdf), last accessed August 28, 2008.

*Partial Regime D:* The fourth partial regime of an embedded democracy consists of the separation of powers and checks and balances, which result in horizontal accountability. Thus, horizontal accountability refers to the structure of power. It embodies “the division of power between mutually interdependent and autonomous legislative, executive and judiciary bodies” (Merkel 2004: 41). As do many post-communist states, Serbia suffers from a weak system of checks and balances, with the powers of the parliament and judiciary paling in comparison to those held by the executive. Given the ceremonial role of Serbia’s presidency, the executive branch is largely dominated by Serbia’s government. In a consolidated democracy, this problem is solved by establishing autonomous regulatory and control bodies with executive authority, which control the work of the executive branch and assume some of its functions, but function independently from it. Since 2001, a handful of such bodies were established in Serbia, among them an Anti-monopoly Commission, an Anti-corruption Agency, a Commission for Preventing the Conflict of Interest, and a Radio-diffusion Agency. Apart from the Radio-diffusion Agency, however, none of these bodies obtained genuine executive authority or became independent from the government. As a result, they all have “grave deficiencies due to distorted political influence” (Pescic 2007: 24).

By contrast, whereas Serbia’s executive branch boasts excessive powers, its judicial branch is all but powerless. Indeed, ongoing problems in the judicial system rank amongst Serbia’s most pressing owing in large part to its lack of independence. In Serbia, parliament takes an active role in appointing state judges and members of the High Judicial Council (the body that oversees the management of Serbia’s judiciary). Newly appointed judges are placed under an extensive period of review lasting several years, during which their every move is monitored by their colleagues in parliament. Judges, particularly recent appointees, are therefore greatly susceptible to pressures from parliament.

The practice in this partial regime in Serbia thus clearly fails to meet the requirements of effective horizontal accountability, which in a consolidated democracy implies that the three bodies check each other reciprocally, without one body dominating or interfering with the constitutionally defined core-sphere of the others (Merkel 2004).

*Partial Regime E:* A second defect in Serbian democracy is one in the partial regime ‘effective power to govern’. In an embedded ‘liberal’ democracy, governments not only pass reformist legislation, they have the capacity to implement such legislation. A defect in partial regime E means that a government effectively lacks this capacity due to the presence of so-called ‘reserved domains’: important areas that resist reforms despite the government’s attempts to implement them. One of the most troubling areas in which such a domain may exist is that of the security sector. Until this sector—which consists of the armed forces, police, and intelligence agencies—is firmly under the control of a democratically elected government, the process of democratic consolidation has yet to take hold. Indeed, as Merkel (2008) explains, defects in partial regime E are detrimental for democratic consolidation, in so far as they can easily contaminate other partial regimes,

thus inspiring “creeping re-authoritarianisation” which may compromise the foundation of democracy. Thus, only when the appropriate legal and institutional framework for the governance and oversight of this sector exists, can we speak of effective democratic governance.

Unfortunately, the literature on democratisation focuses on just two areas of the security sector: the need to place military and police forces under civilian and democratic control. It thus largely ignores the question of who controls the state intelligence agencies (Boraz and Bruneau 2006: 28). Yet as the Serbian example clearly illustrates, reforming the intelligence sector and placing it under civilian control can be more difficult than doing the same with military or police forces. This is because intelligence agencies in new democracies often reached fruition in an authoritarian context, where they were used for repressive purposes including the arrest, torture, or assassination of the regime’s political opponents. In post-conflict settings such as Serbia’s, they may even have taken part in war crimes and organised criminality. Where democratic reforms hinge on lustration, such intelligence agencies are particularly likely to stand in the way of democratic reform. As the following chapters demonstrate, this has indeed been the case in Serbia following Milosevic’s ouster in 2000.

#### **4.4 Conclusion**

This chapter has shown that when applying Merkel’s conceptual framework of embedded democracy, Serbia is best described not as a liberal, but rather as a defective (or electoral) democracy. This paper argues that the presence of reserved domains in the security sector is partly to blame for this dilemma. Before drawing this link however, the following chapter examines the genesis of the reserved domain. As shall be demonstrated, the continued existence of this domain is largely the product of the particular mode of extrication witnessed in Serbia in 2000—the legacy of the pacted transition.

## Chapter 5

### **Serbia's Pacted Transition and the Genesis of its Reserved Domain**

This chapter makes the case that the mode of extrication employed in Serbia in October 2000 was not the result of solely bottom-up factors but rather the product of elite-made pacts. It seeks not only to define Serbia's democratic breakthrough in pact-making terms, but to determine why these pacts were formed, and how they materialised in the formation of reserved domains. As shall be shown, pacts forged between members of Serbia's democratic opposition and members of the previous regime's security sector enabled the immediate transition from regime hybridity to electoral democracy. Yet while this pact undoubtedly had positive short-term consequences (i.e. ensuring that regime change was both peaceful and successful), its long-term effect would be to preserve the previous practices, prerogatives, and powers of Milosevic's security sector. Ultimately, the legacies of this reserved domain would come to haunt the completion of Serbia's democratic transition.

#### **5.1 The Character of the Serbian Mode of Extrication**

As are similar cases in Georgia (2003) and Ukraine (2004), the mode of extrication employed in Serbia in 2000 is often portrayed as the product of 'people power' and bottom-up movements led by activist youths and determined NGOs, rather than elite actions and behaviour (see: McFaul 2005; Bunce and Wolchik 2006a, 2006b, 2006c; Kuzio 2006; Binnendijk and Marovic 2006; Thompson and Kuntz 2004; Birch 2002; de Krnjevic-Miskovic 2001). According to contemporary interpretations, democratic openings are the product of agency, with individuals uniting to form a critical mass through which to bring about regime change. Such accounts thus generally focus on factors such as electoral fraud, a unified opposition, mass protests, foreign assistance, or youth engagement. Indeed, McFaul and others argue that the impetus for change in Serbia (as well as in Georgia and Ukraine) was external to the incumbent elite.

Given that such interpretations are bottom-up and actor-centric, it is hardly surprising that the labels popularly associated with Serbian regime change are the 'bulldozer revolution' and 'electoral revolution'. Even when these analyses acknowledge the role played by elites and security forces, they understand it solely as a consequence of mass protests. The bottom-up characterisation of Serbia's transition has been used to challenge the basic postulates of the early transitology literature, concretely those pertaining to the role of civil society, popular mobilisation, and the international democracy promotion community. According to these 'post-transitological' scholars, elites do not make a mode of extrication, mass protests do.

This chapter takes issue with this bottom-up characterisation of the Serbian mode of extrication. It argues that ‘traditional’ transitological approaches of the Schmitter-O’Donnell variant, which emphasise splits within authoritarian regimes, offer compelling—if not entirely comprehensive—insight into the mode of extrication adopted in Serbia. As shall be shown, the mode of extrication in Serbia is best characterised as a pacted transition in which behind-the-scenes negotiations between key elite actors played an instrumental role in enabling the transition to occur. Although one should not neglect the importance of mass protests—hundreds of thousands of citizens protested for days in cities throughout Serbia, and almost one million people were gathered in Belgrade on October 5<sup>th</sup> (this author among them)—one must not forget the factors which enabled their success. Indeed, the accounts of McFaul, Bunce, and others fail to justify their causal reasoning. By solely stressing the role of bottom-up factors in democratic breakthrough, they oversimplify what is in fact a very complex extrication process. Moreover, in their attempt to distance themselves from mainstream transitology, these analyses fall victim to the same trap as did early transitologists: they become one-dimensional, undermining (and sometimes excluding) the role of elites and the interactions among them.

The following section presents an alternative explanation of the mode of extrication witnessed in Serbia in 2000. To do so, it applies O’Donnell and Schmitter’s four-player model to demonstrate the mode of extrication’s pacted character. Although Serbia is not the quintessential ‘transitological’ case, pacts and negotiations were indeed the key to its transition.

### ***5.1.1 Serbia’s Pacted Transition***

As classical transitologists would predict, Milosevic’s removal in October 2000 was preceded by a split amongst the ruling regime between hard-liners and soft-liners. Yet unlike the O’Donnell and Schmitter model, according to which hardliners within the authoritarian bloc are found in the regime’s most repressive areas (i.e. security services) and soft-liners are recruited from amongst political circles, in the Serbian case the opposite was true: soft-liners included members of the security services and the army, whereas hardliners were regime politicians led by Milosevic. By contrast, the opposition—a coalition composed of 18 parties and groups calling themselves DOS (*Democratic Opposition of Serbia*)—was dominated by moderates led by Vojislav Kostunica (the presidential candidate who beat Milosevic) and Zoran Djindjic (who later became prime minister of Serbia), while radicals were confined to the leaders of smaller parties inside DOS (see table 2). In the period following Milosevic’s defeat in federal Presidential elections in September 2000, moderates amongst the opposition (DOS leaders) and soft-liners amongst the ruling regime (segments of the security sector) aligned to form a covert pact that would seal Milosevic’s fate.



**Table 2**  
**The four-player scheme in Serbia's pacted transition**

Regime		Opposition	
<b>Hardliners</b>	Milosevic and the leadership of SPS	<b>Radicals</b>	Leaders of small parties within DOS
<b>Soft-liners (Reformers)</b>	Intelligence agencies (JSO); the army	<b>Moderates</b>	DOS leaders: Kostunica (DSS); Djindjic (DS)

Source: Author's elaboration

The results of the federal Presidential elections of September 2000 marked a clear defeat for Milosevic. Indeed, the results of independent domestic observers indicated that Kostunica, Milosevic's democratic rival, had surpassed the 50% threshold necessary to take office as Yugoslavia's next president. The regime's response was characteristically undemocratic. After a protracted delay inviting speculation of electoral fraud, Milosevic's handpicked electoral commission announced that neither candidate had succeeded in passing the 50% threshold, thereby ushering in a second round of presidential elections to be staged in early October. The announcement served as a reminder of Milosevic's inability to accept his political defeat, as well as the growing lengths to which his regime would go to maintain its grip on power. It also served to galvanise the opposition into action, with DOS responding by staging a series of mass protests.

In planning these protests, DOS's major concern was to prevent Serbia's security forces from intervening on Milosevic's behalf (Edmunds 2008). As the past decade of protests was testament to, Milosevic's employment of security forces invariably brought mass protests to a close. DOS confronted this challenge by going straight to the source: not to Milosevic, but to his instruments of oppression: the RDB (State Security Service), JSO (Special Operations Unit) and the military. Whereas in previous years, elites among the security sector remained loyal to Milosevic, by 2000 such loyalty could no longer be taken for granted. DOS leaders sought to capitalise on the security sector's growing disillusionment with Milosevic by forging a compromise which would work to both side's (short-term) advantage.

The pact which emerged was not made by DOS as an entity, but rather by the two primary leaders of the coalition: Zoran Djindjic, the leader of the Democratic Party (DS), and Vojislav Kostunica, the leader of the Democratic Party of Serbia (DSS). Both sought to establish their own power bases and channels of influence within the security sector. Thus, while Djindjic made a pact with the JSO, meeting its commander on October 4<sup>th</sup> and 5<sup>th</sup>, Kostunica negotiated with other elements of the RDB, the military and its intelligence agencies (Kusovac 2001; Edmunds 2008; Bujosevic and Radovanovic 2001; Pavlovic and Antonic 2007). According to their agreements, security forces would disobey Milosevic's orders to break-up marches on Belgrade in return for the new democratic regime's promise not to crack down on the security-

criminal nexus (Pond 2006: 214). This behind-the-scenes pact proved crucial for the success of the extrication process in Serbia in three respects:

1. Size of protests: As a consequence of the pact, security services chose not to take preventative measures to pre-empt mass protests, such as blocking access to Belgrade on 5 October, interfering with telephone networks, arresting the leaders of the opposition, etc. As a result, the streets were left free for protestors, who came out *en masse*. D'Anieri (2006) demonstrates this point at the hand of a rational choice analysis, according to which individuals are sensitive to the costs and benefits of participating in a protest, and their perceptions of the costs and benefits are dependent upon the number of people already participating. Citizens' perceptions that security services would not intervene "lowered the potential cost of participating in the protests", thus enabling more citizens to join the protests, and hence allowing the protest to grow to the point that they threatened the regime's hold on power (D'Anieri 2006: 338).
2. Unity of the Security Sector: In agreeing to meet with the leaders of the opposition, in forging an agreement with them, and in giving clear signals that they would not intervene on behalf of the regime, the JSO convinced other segments of Serbia's security forces—the army leadership and the police in particular—to similarly disobey Milosevic's orders.
3. Danger to Milosevic: The security forces' refusal to follow Milosevic's orders left him unprotected in the face of protesters' mounting anger. As Serbs stormed parliament, there was increasing danger that their fury would be directed towards Milosevic himself. In such a situation, Milosevic had little choice but to accept defeat.

Pact-making provided a wholly different scenario than was present in earlier protests, when Milosevic enjoyed the loyalty of the security forces. For over a decade, Serbia's opposition had staged mass protests throughout Serbia. Each time, however, such protests dissipated before the regime itself was forced to make far-reaching compromises. The reason for this lay not in the size of the protests or the urgency with which Serbs protested—indeed, in the protests of 1996-1997, hundreds of thousands of Serbs came to the streets for a period of over three months to protest electoral fraud—but the targeted employment of violence. In the large scale protests of 1991, for example, members of the opposition were beaten to the point of near-death, one protestor was in fact killed. The leader of the opposition, Vuk Draskovic, was himself severely beaten and placed in jail. Throughout the 1990s, thousands were arrested and thousands more brought to their knees with teargas, water cannons, and the mere threat of violence. The failure of such protests demonstrated that "putting thousands of people in the streets for extended periods does not automatically force the ruler out" (D'Anieri 2006: 337). Indeed, despite the importance of the bottom-up factor of mass protest, elite

pact-making was the key to Serbia's democratic breakthrough. The security sector's agreement not to use violence against protesters ensured that the protests could reach an unprecedented scale. Without this pact-making element, the protests of 2000 would likely have had the same destiny as did those of 1996-1997.

## **5.2 Conclusion**

The pact which was drawn in October 2000, between members of Serbia's democratic opposition and segments of the old regime's security, would have a number of consequences. On the short term, it ensured that mass protests would not be met by violence, thus facilitating Milosevic's ouster. On the long term, however, the consequences would be more pernicious. In exchange for the security sector's assurances to refrain from intervening on Milosevic's behalf, Serbia's democratic opposition agreed that once in power, they would in turn refrain from intervention. In essence, members of Serbia's security services were promised the maintenance of the status quo, as their positions, privileges, and powers would go unchecked by the new authorities. As the following chapter demonstrates, what began as a conscious decision on the part of Serbia's oppositional elites to allow Serbia's security services free range in its own internal affairs, soon took a life of its own. When in the early 2000s Serbian authorities attempted to renege on the pact by launching a series of deep-going reforms, security services resisted, violently. The ability of the sector to thwart the government's edicts singled the formation of a reserved domain, the very existence of which stood in the way of democratic consolidation.

## Chapter 6

### Serbia's Reserved Domain and its Consequences for Democratic Consolidation

The previous chapter has shown that Serbia's mode of extrication is best described as a pacted transition. Whatever the short-term benefits brought by the pact forged between elites in the autumn of 2000, the long-term repercussion was the establishment of a reserved domain in the security sector. While the previous chapter sketched the genesis of this domain, the present one offers an analysis of its consequences for Serbia's democratic transition. It begins with a comparison of the character and role of the intelligence sector both before and after regime change. In so doing it demonstrates that a high degree of continuity exists with respect to past and present practices. It continues by expanding on its path-dependent analysis of Serbia's democratic trajectory and concludes with an explanation for the negative consequences of pacted transition in cases of regime hybridity.

#### 6.1 The State Security and Intelligence Sector during the 1990s

Throughout the 1990s, Serbia boasted numerous intelligence agencies, most of which were inherited from the communist period. Among the most influential were the Department of Security (KOS) and the State Security Service (RDB). Under Milosevic, KOS served as a 'Big Brother' within the military, overseeing purges of the officer corps while attempting to root out ideological dissidents. During the Yugoslav wars of the 1990s, KOS was in charge of providing military, intelligence, and financial support to Serbs in Bosnia. In the aftermath of war, it supported and protected war crimes indictees, such as former Bosnian Serb general Ratko Mladic. Notably however, both before and after the communist period, KOS enjoyed a high degree of autonomy in its activities (Edmunds 2008: 32). Thus, it was never wholly under Milosevic's control, but could—and in fact, did—act independently on occasion. As a consequence, it was often sidelined by Milosevic in favour of the RDB.

The RDB offered Milosevic a number of advantages over KOS. First, unlike KOS, the RDB was organised at the republican (Serbia) rather than federal (Yugoslavia) level. This awarded Milosevic—who for most of the 1990s served as president of the Republic of Serbia—clear legal authority over it. Furthermore, the RDB never enjoyed the same institutional autonomy as did KOS (Edmunds 2008: 32). Finally, during the communist period, the RDB was widely regarded as a powerful, much feared organisation. Milosevic manipulated its reputation for his own purposes, using it to defend the regime's interests and to discourage the opposition's actions against him. Indeed, during the 1990s the RDB's main task was not preservation of law and order or intelligence and counter-intelligence activities, rather, its focus was internal (on domestic opposition to Milosevic) and explicitly politically driven. The RDB was used for behind-the-scenes, illegal activities including the smuggling of weapons, drugs and cigarettes, the monitoring of opposition

leaders and in rarer instances, political assassinations. Many of these tasks were linked to organised crime. Not only did the RDB organise criminal activities, but it directly recruited criminals into the organisation, although this habit predated Milosevic (Pond 2006: 218). One example of this was the Special Operations Unit (JSO or popularly known as Red Berets), which was erected within the RDB. This unit was composed of Serbian paramilitary troops from the wars in Croatia and Bosnia. The unit's 1,200 fighters were highly militarised, well equipped and ruthless. Many—including the infamous Zeljko 'Arkan' Raznatovic—were drawn directly from criminal life. The unit itself was responsible for many of the regime's most horrid crimes, including ethnic cleansing and mass murder. Essentially, the unit functioned as Milosevic's elite praetorian guard (Edmunds 2008: 33; Pavlovic and Antonic 2007: 126). Members of the RDB and JSO were protected by the police and judiciary, and their activities went undisclosed to the public, with Milosevic having sole control over them.

The existence of powerful security forces with tight linkages to organised crime was not unique to Serbia. But in contrast to other post-communist countries, where personnel and structural reforms in the secret services were initiated, the Serbian State Security Service was left "almost intact" throughout the 1990s (Pond 2006: 217). Therefore, by 2000 the RDB was a criminalised, politicised and widely feared organisation (Edmunds 2008: 33). The following section examines the evolution of this agency in the aftermath of regime change.

## **6.2 State Security and Intelligence Sector after 2000**

On October 5, 2000 Slobodan Milosevic was removed from power, while his security services stood idly by. In return for their agreement not to use force against democratic protesters, agents of the old regime were promised the same benefits and freedoms as existed under the previous regime. As a consequence of this, the political transition which occurred in October 2000 was not mirrored by a similar transition in the security sector. To the contrary, the security apparatus remained virtually unchanged in the years immediately following Milosevic's ouster. Thus, key personnel closely associated with the former regime maintained their positions, the prerogatives of such personnel went unchallenged, and accountability and transparency remained mere pipedreams. Yet it was only in 2003, when the first serious efforts were undertaken to reform the security sector, that the legacy of this reserved domain became fully (and frightfully) visible. The following pages provide further insight into the problems effecting Serbia's security sector post-2000 in an effort to establish the lingering remnants of this reserved domain.

To do so, it employs Edmunds' three-level analytical framework, focusing on: 1) the establishment of institutional civilian controls over intelligence agencies; 2) the establishment of mechanisms for oversight and accountability of both the agencies and their civilian controllers (through the media, non-governmental organisations and civil society); and 3) organisational reform within the agencies themselves, removing the most politicised and

compromised personnel from within the agencies, eliminating the most corrosive legacies of the past, and reorienting them for new roles. As shall be shown, eight years after regime change, none of these three levels have been fully reformed in Serbia. To the contrary, intelligence agencies continue to exhibit remarkable continuity with past practice.

### ***6.2.1 Civilian Control over the Intelligence Agencies after 2000***

In the aftermath of regime change in 2000, intelligence sector resisted all attempts to place it under civilian control. While the lustration of the police sector occurred soon after Milosevic's ouster—resulting in the dismissal of 13 police generals and more than 1,300 police officers—the government “did not even dare to enter” into the RDB (Pavlovic and Antonic 2007: 129). Indeed, in the early 2000s any direct action to break the reserved domain in the security sector risked inspiring a dangerous backlash. This was brought to bear in 2001, when the Serbian government, led by the new Prime Minister Zoran Djindjic, tried to implement a whole range of security sector reform measures, among them replacing the head of the RDB, a Milosevic ally. The JSO struck back by erecting roadblocks and staging republic-wide protests. For seven days it disobeyed government orders, coming to the streets *en masse* armed with weapons and wearing special unit uniforms. Tensions ran so high that Djindjic not only abandoned his proposals, but gave in to JSO demands that it place its own allies in leading positions of the RDB (Cvijanovic 2001). The JSO used this opportunity to consolidate its power, including its connections to organised crime.<sup>10</sup> Thus, among other things, the RDB was involved in the murder of the Belgrade police chief in June 2002. In fact, the commander of the JSO-Milorad Ulemek-Legija was the leader of the biggest criminal group in the country, known as the *Zemunski Klan*. Amongst the most infamous of the JSO's actions was the assassination of the Serbian prime minister. In late 2002 and 2003, Djindjic opted to re-assert the government's control over the state's intelligence agencies. Thus, he transformed the RDB into the Security Information Agency (BIA) and introduced new legislation allowing the government to appoint and dismiss the director of BIA. Additionally, he put forward a new law introducing mechanisms for parliamentary oversight and judicial regulation of BIA activities (Edmunds 2008). The new law effectively reinserted the government's oversight of organised crime, as did Djindjic's approval of a special court to combat organised crime. The combination of these reforms clearly proved too much for Serbia's intelligence agencies, prompting the JSO's assassination of Serbia's prime minister in March 2003.

The government's response to the murder was “swift” and “unprecedented” (Edmunds 2008: 37). The government enforced a state of emergency lasting over two months. During this period the JSO was disbanded, perpetrators arrested, and the massive organised crime network to which the security sector was linked destroyed. Following this action, it might

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<sup>10</sup> See: ‘Serbian Criminals Assault the State’, *Jane's Intelligence Review*, April 2003.

be assumed that this reserved domain had been rooted out for good. But it soon became apparent that such changes were only skin-deep. One of the prime examples of this can be witnessed even today, as despite the government's insistence that he be located and extradited, intelligence agencies are believed to be protecting ICTY indictee Ratko Mladic.<sup>11</sup> The security sector has succeeded in interfering with the country's political and economic development—as the country's entrance into the EU has been made contingent of Mladic's extradition. Thus, despite the gradual strengthening of the role of civilians in overseeing intelligence agencies, “many of the features of truly democratic civil-intelligence sector relations are weak or dysfunctional” (Edmunds 2008: 40).

### ***6.2.2 Accountability and Transparency***

The lack of transparency in the security sector was the norm both during the communist era as well as under the Milosevic regime. Norms of secrecy and exclusivity remained strong long after 2000 as well, in fact much of the intelligence agencies' work “still remains closed to outside scrutiny” (Edmunds 2008: 37). Despite domestic calls for transparency, the agencies themselves still remain secretive in their dealings with the media, NGOs, and civil society as a whole. For example, when in 2007 a Serbian NGO requested that the BIA (formerly known as the RDB) clarify the extent of its eavesdropping operations, BIA refused to comply despite their clear legal obligation to do so (Pavlovic and Antonic 2007). The situation is no less dire when it comes to the accountability of these agencies. While the 2002 Law on the Security Information Agency (BIA) introduced parliamentary oversight over the BIA's activities—a major feat by the institution's standards—it proved to be of little use since the BIA is obliged only to submit a bi-annual report to the parliament. Today, the BIA maintains a high degree of independence in sensitive areas including wiretapping.

### ***6.2.3 Organisational Reform and Responsibility***

As has been shown, under the Milosevic regime intelligence agencies were involved in state repression, war crimes and organised criminality. When democratic forces assumed power in late 2000, they were forced to come to terms with the legacy of such activities. There are two ways in which post-communist countries have tended to broach this topic: The first solution is to disband intelligence agencies involved in the most notorious crimes of the old regime, as was the case with the East German *Stasi* and the Czechoslovakian State Security. The second solution is to form an independent body charged with executing a detailed and careful lustration of such agencies, as well as to

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<sup>11</sup> See: ‘Mladic Without Yugoslav Army Security’, *B92 News Archive*, 26 March 2002, available at: [www.b92.org](http://www.b92.org), accessed 18 August 2008; ‘Allies in Serbian Intelligence Reportedly Tipping off Mladic’, *RFE/RL Newslines*, 4 August 2006.

conduct organisational reform within them (Edmunds 2008: 29). In Serbia, neither of these solutions has been employed.

As pertains to the first approach, none of the intelligence agencies was disbanded (besides JSO). Although they were renamed, their organisational structure remained intact. With respect to the second solution—liquidation and reorganisation—this, also, was never implemented. Notably, almost two thirds of personnel in the intelligence sector today were in one or another way involved in the atrocities of the old regime (Pavlovic and Antonic 2007). Despite individual instances of personnel change, organisational secrecy remains a defining characteristic of all intelligence agencies. As such, it is virtually impossible to determine who has been dismissed and why. There has been no systematic calling to account of those responsible for past crimes, and many perpetrators continue to hold senior positions within the agencies. Furthermore, as Edmunds (2008: 42) argues: “It is naive to believe that the links between organised crime and the Serbian intelligence sector have been completely eliminated.”

Thus, it is evident that even eight years after the fall of the previous regime, its major instrument of repression and coercion—the intelligence sector—remains in urgent need of reform. The following section examines the consequences such continuity has had for the lack of democratic consolidation in Serbia today.

### **6.3 How Serbia’s Reserved Domain Stood in the Way of Democratic Consolidation**

In Chapter 3, the concept of path-dependency was introduced to make sense of Serbia’s transition. According to this model, the mode of extrication adopted in Serbia in 2000 should be characterised as a moment of critical juncture. As the reader may recall, one of the defining features of critical junctures is that they are points of choice, in which one of several options is selected. The previous chapter demonstrated that in Serbia’s case, this critical juncture occurred when Serbia’s democratic opposition opted to forge a pact with the security sector. Events witnessed in Serbia provide further evidence that choices made during moments of critical juncture are far-reaching because they lead to the creation of patterns and practices that persist over time. Indeed, as Mahoney (2001: 114) writes: “A defining feature of path dependence is the idea that it is difficult for actors to reverse the effects of choices made during critical junctures.” The Serbian case clearly illustrates this element of path-dependency.

By opting to engage parts of the security sector rather than dismantling the security-criminal nexus in 2000, the new regime failed to exploit a window of opportunity through which to make a clear break with the past. The security sector’s ability to withstand Milosevic’s ouster materialised in the creation of a reserved domain. As the previous section demonstrated, this domain gradually gained self-reproducing properties, managing to survive even after it lost the support of the new authorities. By strengthening its connections with the criminal underworld, by placing its personnel in the institutions of the new regime, and by dividing the new democratic governing coalition, Serbia’s



intelligence sector managed not only to maintain its privileged position, but arguably even to strengthen it.

As this domain gained in strength, the odds that it would be dismantled grew ever slimmer. Even as select government officials increased their determination to bring about reform, the costs involved in doing so multiplied. The assassination of Serbia's reformist prime minister demonstrated that the threat of a violent backlash was more than empty words. Indeed, as Edmunds (2008: 34) notes: Serbia's new democratic government "was weak and divided, and simply did not have the political confidence or resources to take on Milosevic's still powerful security structures directly." Although democratic authorities were all too aware that a reserved domain in the intelligence sector threatened the country's democratic trajectory, they permitted its existence out of fear for the possible costs and risks associated with its dismantling. This illustrates what Mahoney (2001) calls a 'power component of path-dependency'. According to Mahoney, an institution (or practice) may persist even when rational individuals prefer to change it, provided that powerful elite which benefits from the existing arrangement has sufficient strength to resist its transformation. The power component of path dependency is certainly important, as the Serbian case demonstrates. However, it would be meaningless without a structural component: indeed, the practices, prerogatives and powers of the security sector were pre-existing, dating back to the Milosevic regime. This clearly supports the path dependent proposition that "once a path is taken, then it can become 'locked in', as all the relevant actors adjust their strategies to accommodate the prevailing pattern" (Thelen 1999: 385).

The task now is to determine why Serbia's pact transition brought about such negative consequences for Serbia's democratic trajectory. If the pact transition proved so beneficial in countries such as Spain, Hungary or Poland, why was it harmful in Serbia? The rest of the paper argues that the answer to this question lies in the character of the previous regime.

#### **6.4 Explaining the Negative Consequences of Pact-Making in Cases of Regime Hybridity**

According to Linz and Stepan (1996: 55-65), the character of the previous regime influences both the emergence and success of pact-making. As pertains to the former, a four-player pact transition can emerge only under those circumstances in which soft-liners of the old regime have sufficient autonomy to negotiate with oppositional moderates, and vice versa. In sultanistic and totalitarian regimes, these two conditions cannot be fulfilled because moderate players are absent. Transitologists therefore argue that only mature post-totalitarian regimes (Hungary in the mid-1980s) and authoritarian regimes (Spain in the mid 1970s) are capable of producing four-player games. Although the literature has been largely silent in this regards, this paper provides evidence that hybrid regimes such as Milosevic's Serbia (i.e. cases of competitive authoritarianism) may be doubly likely to do so. Although transitologists have thus far excluded hybrid regimes from their analyses, this paper's findings suggest that regime hybridity may not only present positive

structural conditions for the emergence of pact making, but may also produce negative structural constraints on democratic consolidation.

*Regime Hybridity and the Emergence of Pact-Making:* Chapter 4 provided insight into one form of hybrid regime: that of competitive authoritarianism. As was explained, hybrid regimes are democratic to the extent that they incorporate a multiparty electoral process into the political sphere and allow for a degree of political pluralism not witnessed in fully totalitarian or sultanistic regimes. The limited freedoms permitted in hybrid regimes allow them to fulfil the conditions for pact-making set out by Linz and Stepan. Indeed, both soft-liners in the authoritarian regime and members of the opposition have sufficient autonomy and power to make negotiation possible. Hybrid regime-types thus provide positive structural conditions for the emergence of the four-player game leading to pacted transition. Nevertheless, although hybrid regimes make the four-player pacted transition likely, this mode of extrication does not provide the same beneficial consequences for the consolidation of democracy as they do in the context of fully authoritarian regimes.

*Regime Hybridity and the Success of Pact-Making for Democratic Consolidation:* There are two primary reasons which account for pact-making's negative consequences in cases of regime hybridity. The first reason is located in the agenda up for negotiation. Unlike in hybrid contexts, in authoritarian and post-totalitarian regimes democratic institutions are non-existent. Hence, any transition to democracy revolves around the creation of new democratic institutions, and it is this topic which forms the mantelpiece of negotiation. In many post-communist pacted transitions, for example, roundtable negotiations focused on the character of new electoral systems, dates and terms of democratic elections, the writing of new constitutions, etc. Such discussions were so complex in fact, that in cases such as Hungary, more than 1,000 meetings were held over a period of three months in which more than 500 experts were actively engaged (Welsh 1994: 385). Yet in hybrid regimes, such as Milosevic's Serbia, the situation is markedly different. Although heavily flawed, democratic institutions do exist. Serbia, for example, boasted a democratic constitution, elections which were regularly conducted, a formal division of power, party pluralism, etc. As such, in contexts of regime hybridity, negotiations centre not on the formation of new democratic institutions, but solely on the position of the authoritarian elite in the new regime. This inevitably leads to the creation of reserved domains. Indeed, because negotiations in hybrid regimes rely on a compromise on the *powers* of the old elite, hybrid regimes are particularly vulnerable to reserved domains.

The second explanation for the negative consequences of pact-making in contexts of regime hybridity lies in the nature of the reserved domain created as a result of pact-making. Although it is true that hybrid regimes are particularly vulnerable to reserved domains, the pact-making process lends itself to their production even in cases of authoritarianism and post-totalitarianism. As the examples of Spain, Poland, and Chile demonstrate, the actors of the previous regime will attempt to secure their positions and privileges within the institutions of the new regime. Thus, they will seek to

incorporate self-serving clauses into new constitutions, arrange dates of elections which suite their own purposes, shape the character of the electoral system in a fashion benefitting their own parties, etc. Reserved domains created in such a manner are thus highly institutionalised, and can therefore be changed through formal democratic institutions and procedures once the balance of power has shifted in democrats' favour. By contrast, when pacts are drawn in hybrid regimes, they are unlikely to be formal. The example of Serbia shows that reserved domains are not solely created through formal arrangements, but also through informal deals made among elites. Such secretive, invisible origins make the reserved domain even harder to dismantle. Particularly when the actors involved in the pact-making process are not politicians but members of the state security, as was the case in Serbia and Ukraine, they are able to act outside of the major democratic institutions and thus shield themselves from potential institutional reform. This ensures that reserved domains are likely to be especially durable in contexts of regime hybridity, and thus likely to hinder democratic consolidation on the long term.

In sum, the analysis of Serbia's pacted transition provides further credence to Linz and Stepan's conclusion that the character of the previous regime influences the emergence and success of pact-making. The pacted character of Serbia's mode of extrication initially provided for a peaceful extrication process. However, it went on to create a reserved domain which resisted all attempts of reform and ultimately made the forces of the previous regime so powerful that they succeeded in assassinating Serbia's reformist Prime Minister. This section has demonstrated that the negative consequences of pacted transition for the consolidation of democracy in contexts of regime hybridity are two-fold: on the one hand, hybrid regimes are highly prone to the creation of reserved domains. On the other, once created, these domains are likely to be durable.

## **6.5 Conclusion**

This chapter has demonstrated how a reserved domain in the area of state security has debilitated Serbia's democratic trajectory. Applying Edmund's three-level analytical framework for assessing the democratisation of the intelligence sector, the chapter has shown that intelligence agencies continue to act outside the realm of governmental oversight, thus inhibiting Serbian authorities' effective capacity to govern. As has been shown, a clear break with the past practice is not demonstrable at any one of the three levels. Since democratic consolidation, as defined in chapter two, cannot be said to exist in cases where reserved domains compromise authorities' ability to govern, it can be concluded that this reserved domain is one of the impediments for the consolidation of democracy in Serbia. In explaining the negative consequences of pact-making in the Serbian case, it has been argued that the character of the previous regime is in no small measure to blame. In instances of regime hybridity such as Milosevic's Serbia, Kuchma's Ukraine, or Shevardnadze's Georgia, pact-making may carry pernicious effects—reserved domains—which despite their short-term benefits, may inhibit the long-term democratic trajectories of the nations in question.

## Chapter 7

### Conclusion

Eight years after regime change, Serbian democracy continues to be hampered by defects so severe that it cannot be called consolidated. Amongst Serbia's more glaring problems is that of the government's persistent inability to effectively exercise its authority. Time and again, the reserved domain of Serbia's security services has stood in the way of democratic reform, challenging the will of democratically-elected officials and in some instances, assassinating those who would not heed their warnings. This paper has argued that the manner by which Serbia embarked upon its transition to democracy (i.e. the mode of extrication) facilitated the emergence of this reserved domain. Despite their short-term benefits, pacts drawn between members of Serbia's democratic opposition and segments of the security services in October 2000 laid the foundation for Serbia's current woes. Although these secretive agreements undoubtedly enabled a peaceful transition from regime hybridity to electoral democracy, their long term effects would be to allow the preservation of the practices, prerogatives, and powers of Milosevic's security sector.

Such findings are significant for several reasons. For one, they challenge some of the basic postulates found in classic transitology. Whereas the latter argues that pacted transitions are beneficial for democratic transition and consolidation, this paper provides evidence that pact-making may in fact have negative consequences for democracy's long-term trajectory in cases of regime hybridity. One of this paper's central arguments has been that the character of the previous regime plays a determining role in the long-term successes or failures of the pacted transition. While, as a critical juncture, the extrication process represents a moment of plasticity during which actors and their choices are no doubt important, the legacy of the past and in particular, the character of the previous regime, may have a profound impact on the long-term outcomes of such critical junctures. Thus when examining transitional processes, it does not suffice to focus solely on actors and their choices, as has been the norm in transitological studies. A holistic analysis requires a focus on the larger context in which key actors interact and make decisions. This dialectical approach to agency and structure has formed the mantelpiece of this paper's analysis.

The findings of this research challenge not only the assumptions of classical transitologists, but also those found in post-transitological studies conducted on electoral revolutions, such as those witnessed in Serbia, Georgia, and Ukraine in the early 2000s. Mainstream interpretations of electoral revolutions argue that the factors enabling this so-called 'second wave' of post-communist transitions are bottom-up. This includes societal mobilisation, youth activism, and civil society. Yet this paper has shown that bottom-up factors, while important, do not always account for the ultimate realisation of regime change. In Serbia, pacts drawn between key actors representing both old and new elites enabled the immediate transition to democracy to occur. This point is notable not only because it highlights the flaws inherent in current explanations of electoral revolutions' successes but more importantly, because it draws scholars' attention back to the origins of impediments to democratic consolidation.

The findings of this paper raise a number of provocative questions, thus pointing to further areas of research for scholars and practitioners concerned with democratisation processes. With respect to the former, the findings of this paper need to be tested in other instances of electoral revolutions. A cursory glance at the case of Ukraine provides ample indication that the conclusions of this research have broader relevance beyond a case-specific analysis. Like Milosevic's Serbia, Kuchma's Ukraine was an instance of regime hybridity in which an elite pact played a behind-the-scene role in regime change. Like Serbia, Ukraine continues to suffer from democratic deficits which might arguably be traced to similar reserved domains. The tentative nature of such propositions suggests that a comparative study is needed before generalisations can be drawn in any certainty.

That said, even the tentative findings of this research have the potential to offer relevant lessons for practitioners and foreign policymakers concerned with aiding democracy abroad. To begin with, when assisting democratic forces in cases of regime hybridity, a more even-handed approach to bottom-up and top-down actors may be advisable. Currently, support for civil society forms the core of what Thomas Carothers (1999) entitles, the democracy promotion 'tool kit'. Because the catalyst of regime change is often located in bottom-up processes, civil society assistance is often the primary focus of the assistance effort. The findings of this paper indicate that the drivers of such processes may be located elsewhere, and hence require the tools of assistance to be refocused accordingly. By concentrating on the remnants of the hybrid regime and its long-lasting legacy, this paper encourages practitioners to set their sights not (only) on short-term phenomena (i.e. the ouster of an authoritarian leader) but also on the long-term structural drivers that can impede democratic consolidation. Yet such an approach will likely be timely, costly, and offers no assurance of success. If anything, the research presented here provides yet further evidence of just how difficult it is to disentangle past legacies from present practices.

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