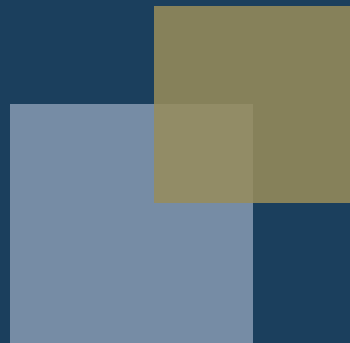




Chapter 7

Case study: Georgia



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High levels of polarization and antagonism between political parties in Georgia have characterized the country's electoral democracy over the past decade, particularly in the wake of the brief war with Russia in 2008 and the resulting contested status of two territories in Georgia, South Ossetia and Abkhazia. In this acrimonious context, some parties have harassed rival candidates and injected large sums of private finance into political competition.

Recent Georgian political history, especially in the years immediately after independence from the Soviet Union in 1991, has also been characterized by organized criminal network influence on the state and security forces through the so-called thieves-in-law, the origins of which can be traced to criminal fraternities formed in the Soviet labour camps of the 1930s (Kupatadze 2012). However, the radical reformist government led by President Mikheil Saakashvili from 2004 to 2013 largely dismantled these groups by using tough legislation against mafia-style groups, and a correspondingly sharp increase in the prison population.

As a result of this campaign, and unlike the other case studies featured in this report, there is no solid evidence pointing to the current influence of organized crime or illicit trafficking on Georgian political life. In that sense, this case study is a positive example of the way democratic institutions have, to a large extent, addressed these threats. Yet the prominent role of private finance in politics, and the connections that have emerged between party financing and networks of state-based corruption, indicate that electoral competition has become heavily monetized and open to serious abuses. While the Georgian state and judicial institutions have certainly adopted much tougher responses to illicit practices in politics, a number of these endeavours have been criticized for seeking partisan political advantage rather than promoting democratic integrity.

A polarized political environment: legal and illegal harassment

Georgia underwent a significant political transition between 2012–14 when voters awarded the Georgian Dream coalition (GDC) control of the single-chamber parliament, the presidency—which has a five-year mandate—and most local governments over the course of three successive elections. This series of electoral victories unseated the United National Movement (UNM) party that had ruled the country since 2004.

However, high levels of polarization between political parties in Georgia continues to be manifested in the form of physical, verbal and legal attacks against opposition parties. In the run-up to the first round of local elections in 2014, the chief prosecutor initiated criminal charges against Roland Akhalaia, a former UNM deputy, and summoned former President Mikheil Saakashvili for questioning, which led to criminal charges against him later that summer. During this period, former Prime Minister Irakli Garibashvili also continued to call for the dismantling of UNM, while the government gave little weight to cases of physical attacks against UNM members (IRI 2014; HRW 2015).

The forcible coercion of candidates to withdraw from election processes is one area of notable illicit interference. One reported incident took place in Mestia in the spring of 2010: eyewitnesses and video footage supported allegations that opposition party members were forcibly taken to an administrative building at 3:00 am and coerced into signing prepared withdrawal statements. Although the Georgian Government's Inter-Agency Task Force for Free and Fair Elections opened an investigation into the incident, civil society organizations allege the inquiry was rigged and unsound (Urushadze 2010). This kind of pressure continued into the June and July 2014 elections, with allegedly coerced withdrawals of opposition candidates occurring in more than 12 municipalities (HRW 2015).

The parliamentary elections in 2016, however, appear to mark a slight shift in the nature of political competition. The UNM declared its intent to run an issue-based campaign, and has plans to end the climate of retribution and polarization if it returns to power (anonymous interviews, Tbilisi, October 2015). The GDC, which is now fully in control of the government, remains a more ideologically diverse force that is still united largely by its opposition to the UNM.



Campaign finance: regulating private donations and state funds

Prior to the entry of the Georgian billionaire Bidzina Ivanishvili into the country's political life in 2011, the ample private and state-based financial resources of the UNM proved impossible for opposition parties to match. Carrying out a proper political poll in Georgia costs between USD 35,000 and 55,000, whereas the Georgian Labour Party spent a recorded USD 25 on all of its research in 2007. The Republican Party's annual budget in 2012, meanwhile, was about USD 5,000. In contrast, the UNM officially had 20 to 25 times more funding available than all the other parties in the 2008 elections, in addition to its influence over the media and the backing of public institutions (anonymous interviews, Tbilisi, October 2015).

Ivanishvili, whose personal wealth when he entered politics was close to half of Georgia's annual GDP—a fortune he had made through operating business enterprises in the Russian Federation—was finally able to pose a credible electoral threat to the UNM through his sponsorship of the GDC. Prior to this, he had spent years making large-scale charitable donations in his hometown and in the capital, Tbilisi.

In an effort to limit Ivanishvili's ability to support the GDC financially, in December 2011, and again in May and June 2012, the UNM made a series of changes to the country's political financing regulations. These included prohibiting corporations from donating to political parties, even though they had previously been the largest donors to political parties; capping donations from private persons at GEL 60,000 (USD 24,846) per year; limiting annual campaign expenditures to 0.2 per cent of Georgia's GDP for the previous year, which in 2012 was GEL 48.5 billion (USD 20.08 billion); and demanding compliance with comprehensive financial declaration forms, with administrative and criminal charges for any 'vote-buying' offences. The laws also gave oversight authority for the new regulations to the State Audit Office (SAO), which was headed by a UNM official (Bolkvadze 2013; anonymous interviews, Tbilisi, October 2015).

The UNM's fears that Ivanishvili would deploy his financial firepower to fund the GDC's election were not unfounded. He and Kakha Kaladze, who would eventually become energy minister, were found to have illegally donated a combined GEL 22.5 million (USD 9.32 million), and were subsequently fined GEL 114 million (USD 69 million) (OSCE/ODHIR 2012: 17). However, it is widely believed that the SAO disproportionately targeted opposition parties and their donors in its investigations. For example, the Election Observation

Mission of the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights found that in 40 randomly selected cases, the SAO called more than 200 witnesses and questioned over 100 people and legal entities that donated to the GDC, and eventually fined 68 people (OSCE/ODHIR 2012). Of these cases, the SAO investigated only ten UNM donors and fined eight, despite the fact that the UNM received 6.5 times more in total donations than the GDC (OECD 2013; Bolkvadze 2013).

Reports of the SAO acting in a partisan fashion were all the more serious given that it had the power to apply sanctions five to ten times higher than the initial financial violation, and to immediately seize private property as collateral. This led to a number of cases in which homes and other property belonging to donors were seized. When the GDC came to power in 2013, it capped the sanctions at twice the rate of the initial violation, in line with civil society recommendations (anonymous interview, Tbilisi, October 2015; OECD 2013; OSCE/ODHIR 2012).

Other changes made by the GDC in 2013 included allowing donations to political parties by citizens and legal entities of up to GEL 60,000 (USD 25,976) and GEL 120,000 (USD 51,952) respectively, with donations made by legal entities being limited to only those registered in Georgia with Georgian citizens as beneficial owners. The annual amount that could be spent by parties was also lowered to 0.01 per cent of the country's GDP in the previous year. Furthermore, the SAO's powers were circumscribed: having been criticized for biased investigations in the 2012 parliamentary elections, it was then criticized for being too passive during the 2013 presidential elections. A number of civil society organizations contended that the body performed relatively well during the 2014 local elections, when the SAO took into account the recommendations of an NGO consultative body on issues such as illegal donations and vote buying (anonymous interviews, Tbilisi, October 2015).

Modest progress has also been made in curbing the linkages between political party donations and the awarding of state procurement contracts. Transparency International Georgia found that between 2010 and 2013, the ruling party's donors almost exclusively won competitive government tenders and simplified procurement contracts (Transparency International 2014). In contrast, Transparency's latest study found that although donors connected to the ruling party still won most of the government contracts awarded between January 2013 and May 2014, companies affiliated with opposition party donors also won some contracts (Transparency International 2014). While companies connected to the ruling party still enjoy a marked advantage, the distribution of contracts represents an improvement on the previous state of affairs.



Contentious electoral reforms

Georgia has a mixed electoral system to elect its 150-member Parliament: 73 of the members are elected in majoritarian, single-member constituencies, while the remaining 77 are elected according to a proportional list system from parties that receive at least 5 per cent of the vote. There have been calls to reform this mixed system for many years, since there is a large population size discrepancy between districts, and because the number of seats a party receives is not necessarily proportional to the percentage of the total national vote it wins. The Constitutional Court also ruled in May 2015 that majoritarian districts violate the principle of equality in voting.

However, electoral reforms have also been treated as part of the polarized contest that shapes most efforts at political regulation in Georgia. The GDC ran on the issue of establishing a fair election system, but has been criticized for proposing minor changes that do not address the problem, and which will also likely give an advantage to the party ahead of the 2016 parliamentary elections. Opposition parties and some civil society organizations counter that there is no need to continue the majoritarian system at all, and that it could have been abolished prior to the 2016 elections. The opposition is also critical of the redrawing of majoritarian districts, arguing that lines have been artificially constructed without party consensus or adherence to administrative boundaries. There have also been allegations of attempted gerrymandering: a UNM deputy argued that the ‘cutting and tailoring of the districts’ will not help the GDC win the upcoming elections (*Civil Georgia* 2015). One GDC member asserted in response that the majoritarian system is more important to people in the regions, as this is the best way to ensure that they have a representative in central government. The current system also benefits ethnic minorities by giving them an outsized influence based on their population size (anonymous interview, Tbilisi, October 2015).

Meanwhile, observers note that although the UNM is vocal on the issue of dismantling the majoritarian system, it stamped out previous attempts to dismantle it in 2008 and 2010 when it was in power. Likewise, when the GDC was in the opposition, it pushed for reforms it now opposes. Indeed, parties understand the majoritarian system to be very favourable to the ruling party: any candidate with over 30 per cent of the vote in a single-member constituency can win (GeoWel 2012). This resulted in the UNM winning 79 per cent of the seats in parliament with just over 59 per cent of the vote in the 2008 elections. The GDC also benefited in the 2014 elections for the Tbilisi City Council, when it was awarded 74 per cent of the seats with only 46 of the total vote (anonymous Interview, Tbilisi, October 2015).

Conclusion

Georgia has been held up as a model in recent years for its efforts to crack down on state corruption, and for its notable success in dismantling the previously entrenched powers of criminal organizations. Various initiatives in the field of political finance, judicial oversight and electoral reforms also indicate recognition of the importance of shielding electoral competition from a number of illicit influences. However, these reforms have been tainted by evidence of partisan manipulation in a political environment marked by extreme polarization (fuelled by the tensions with Russia and Georgia's occupied territories), misuse of state resources and acts of judicial intimidation. Many observers concur that the radical measures taken since 2004 to dismantle criminal organizations embedded in the state and security forces generated the conditions under which greater political influence could be exerted over the state, the private sector and judicial bodies. The regulation of elections and political finance has fallen under the influence of exactly this sort of partisan control.

While current election laws are considered in line with best European practices and seem to have been key in preventing organized criminal influence in elections, observers are concerned that the prospect of a tight contest between the two main parties in the October 2016 parliamentary poll may incite efforts to circumvent the new regulations. In response, certain civil society organizations are calling for additional rules, such as a lower cap for individual donations and encouraging parties to ask for membership dues in order to help with financing. However, it is also evident that Georgia's system of political regulation would gain in strength and legitimacy by showing clear signs of independence from the ruling party, and by demonstrating greater transparency in the decision-making process. National and international observation missions and support programmes that focus on the impartiality of judicial and government decisions taken in the realm of political finance would be of critical assistance to Georgia as it seeks to overcome the risks of state capture by politically dominant actors, and the associated corrupt practices.