



## POLITICAL PARTIES IN GEORGIA: ISSUES OF PARTY FINANCING

Political parties are necessary for the functioning of a modern democracy. The strength and degree of institutionalisation of a party system is often invoked as a reliable measure of the strength of democracy itself in a given country. Evaluation of a party system is especially useful in analyses of countries with relatively short and/or mixed track records of democratic functioning. With a history of less than two decades, Georgian democracy is still quite young and volatile.

According to the ENP AP, Georgia is to “encourage greater political pluralism: strengthen the role and functioning of political parties”<sup>1</sup>. In light of these new responsibilities, a review of the Georgian political party system and the concerns of the parties is of urgent interest. Avoiding sweeping generalizations and superficial classifications, this report will look at the party system in Georgia in very general terms while focusing more closely on issues of party financing.

### Challenges Facing Georgian Political Parties

Across the political spectrum and within academic circles it is agreed that the political party system is weak in Georgia. This weakness is demonstrated across several spheres in several interrelated ways. The Georgian system has traits of a “loose multiparty” or dominant party system in which, while multiple parties are visible on the scene, only one can appropriately be characterized as strong. Characterization as a strong party is a result of electoral success – the winner takes all, quite literally, and captures the state apparatus. This ‘capture’, or merger of party and state, has been characteristic of Georgia since its very independence and is almost certainly the legacy of 70 years of communist rule.

Another important facet has been the obvious personality-centredness of politics in general and of parties in particular. Georgian political parties are identified and, in some cases, even equated with their leaders. Such has been the case for all major parties and especially for the ruling ones. Their corresponding charismatic leaders - Gamsakhurdia, Shevardnadze and Saakashvili, have catapulted all three ruling parties - the Round Table, Citizens’ Union of Georgia, and United National Movement, respectively, to center stage.

The predominance of persons over policies has undermined the need for clear political platforms. Parties are neither socially demanded, nor expected to present coherent programmes. Voting behaviour is hardly traceable to party programmes. Thus voter choice is based on leader credibility rather than on programme credibility and feasibility.

The latest research<sup>2</sup> confirms that the above conditions have contributed to the current state of the Georgian political party system. It underscores a high degree of vote concentration and a fragmented opposition, even though the political spectrum is hardly polarised in terms of ideology. Yet parties often find it difficult to cooperate, and this difficulty is exacerbated in instances of government and opposition encounter. The ruling party, which thus far has always enjoyed a comfortable majority, has enjoyed a free hand in governing the country and has faced little need to incorporate the opposition.

This list of problems is by no means exhaustive. Other issues inhibiting party system development include problems with party membership and lack of internal party democracy. Another distinct characteristic is

<sup>1</sup> Section 4.1.1 Democracy and the rule of law, human rights and fundamental freedoms.

<sup>2</sup> Nodia, Ghia and Alvaro Pinto Scholtback *The Political Landscape of Georgia* Eburon Delft, 2006. An electronic version of the book is accessible at: [http://www.caucas.itdc.ge/index.php?lang\\_id=ENG&sec\\_id=7&info\\_id=27](http://www.caucas.itdc.ge/index.php?lang_id=ENG&sec_id=7&info_id=27).



the over-centralisation of party politics – the party effectively *is* its headquarters, with the addition of a mostly weakly rooted network of branches in the regions. The issue is problematic not only for articulating local concerns, but for party recruitment capacity as well.

In addition to these, the opposition parties have identified their own, more “practical” grievances. These concerns are generally shared across all the opposition parties, but their sources and potential solutions are interpreted quite variably.<sup>3</sup>

The single most-cited concern is the electoral threshold. Currently the threshold for securing party seats in Parliament<sup>4</sup> is 7% of the total votes cast. This threshold, raised from the previous 4% in 1999, is regarded as excessively high by opposition parties and international organisations alike. The Council of Europe has been especially active in recommending that Georgia review this provision and lower the threshold. The argument is that the Georgian threshold, much higher than the 3-5% typical elsewhere in the world<sup>5</sup>, effectively disenfranchises a considerable share of the population. These citizens’ votes are practically wasted and, as a result, popular choice is not truly represented in the parliament. According to the opposition, the high threshold unfairly obstructs the opposition’s access to power and participation in the political process. The ruling party’s competing argument is that the higher threshold helps to consolidate the party system itself. The rationale is that, since the opposition parties are too small and weak to garner the support of a significant portion of voters independently, the high threshold should serve as an incentive for them to unite and solidify, either by forming coalitions (election blocs) or by merging. The result should be a stronger system with fewer but more effectively functioning parties. The Georgian Labour Party has held a somewhat different view from the other opposition members. The Labour Party maintains that, while a lowering of the threshold is to be welcomed, it is not the chief concern. Labour members hold that the most vital issue is the guarantee of fair elections.

Composition of the Central Election Commission (CEC) has also proven problematic. Opposition representatives are wary of the current method of staffing the CEC with non-partisan professionals<sup>6</sup> and believe that their interests would be better served if the parties were proportionately represented in the CEC. They believe that currently the CEC is non-partisan only formally, in practice they maintain a loyalty towards the ruling party and government. According to the election code of Georgia, six members of the CEC are nominated by the president and appointed by the parliament. The opposition is particularly agitated since the president is chair of the ruling National Movement Party and the party holds the constitutional majority in parliament. In this scenario, effectively one party gets to decide on the composition of the Commission. The opposition argues that the system is skewed in favour of the incumbent and can only be counterbalanced by including political partisans in the CEC. The method for determining which parties should be represented, and in what proportions, would then be up for debate. At present these have not been discussed in much detail. Still, the ruling party defends the current model,

<sup>3</sup> The parties tend to concentrate more on national elections and politics. Issues of this sort take precedence over those associated with local politics.

<sup>4</sup> The Georgian parliament is elected through a mixed system. Most seats are won by proportional election, while a smaller number are won by means of a majoritarian/first-past-the-post system in designated constituencies. The current parliament has 150 MPs elected through a proportional system and 85 through a majoritarian system. But in 2005 the Constitution was amended to reduce the total number of MPs to 150. One hundred seats will now be secured for those proportionally elected, while the number of majoritarian MPs will stand at 50. This rule will take effect during the 2008 parliamentary elections.

<sup>5</sup> The most recent document with recommendations on the subject: Joint Opinion on the Election Code of Georgia, as amended through 24 July, 2006 by the Venice Commission and OSCE Office for Democratic Institutions and Human Rights. Adopted by the Venice Commission at its 69-th plenary session, Venice, 15-16 December 2006. The document is available at: [http://www.venice.coe.int/docs/2006/CDL-AD\(2006\)037-e.asp](http://www.venice.coe.int/docs/2006/CDL-AD(2006)037-e.asp)

<sup>6</sup> Although the current law does not require that CEC members or candidates be election professionals per se, besides the formal educational criteria for eligibility, nominees are also expected to enjoy high public regard.



citing the performance of the party-backed CEC during Shevardnadze's presidency.<sup>7</sup> At the time there was little confidence in the CEC's objectivity. It was believed that, instead of controlling each other to ensure a fair outcome, party representatives cut deals with each other and manipulated election results for their own benefit.

Some non-governmental organizations are more concerned about the technical procedures for selecting the CEC nominees. According to the Georgian Election Code (Article 27, the nominees to the CEC membership are to be selected initially on a competitive basis. Citizens of Georgia over 25 years of age with higher education and certification as an election administration officer<sup>8</sup>, minimum three years of work experience, and non-political-partisans are eligible to apply. As discussed earlier, the president presents his nominees to the parliament—at least two candidates for each position. Parliament then votes on each nominee individually. Candidates supported by a majority of the total number of MPs are appointed (Article 28). In the case when more than six candidates secure the necessary support, the six candidates with the best results are deemed the winners. The International Society for Fair Elections and Democracy (ISFED), local observer organisation, however, argues that the law leaves many procedural issues unresolved. The process of CEC nominee selection, including the composition and activities of the selection committee, are left entirely to the president's discretion and are thus regarded as non-transparent. Criteria for the selection of nominees are not well defined, nor did the selection committee make its procedures clear to the public when it selected the nominees in 2005.

Republican Party chair Davit Usupashvili identifies another problem, one of principle. He argues that changing the method for appointing CEC members is not the solution. Currently both methods ensure loyalty to 'patrons'—parties or the government. This defeats the goal of having the CEC function as a neutral arbiter immune from special interests. Usupashvili believes that this objective can only be achieved if the CEC's guiding principle is independence and adherence to law, again associated with a mature political culture.

Asked to comment on the reasons behind the opposition's weakness, ruling and opposition party representatives offer different explanations. Rati Samkurashvili, deputy chair of the National Movement-Democrats faction in the Georgian parliament, argues that the opposition has failed to grasp what the public demands and has been focusing on the wrong issues. Moreover, he maintains that the weak opposition is a product of the ruling party's strength. Mr. Samkurashvili here employed the image of "communicating vessels"<sup>9</sup>, arguing that, given the overwhelming support for one party, it is only natural that the other parties find it difficult to establish a meaningful presence on the political scene.

Turning more to pragmatics, another widely discussed concern is that of party financing. The issue of political financing became especially pressing for the public after the autumn of 2006, when footage of opposition MP Koba Davitashvili accepting a large sum of money, allegedly in exchange for a place on the party list, was aired on national television. The deed was consummated just prior to the local elections. This incident served as a rallying cry and the ruling majority quickly introduced a draft bill proposing to amend the existing regulations. Rati Samkurashvili, one of the members of the National Movement initiated the bill on regulating party donations. The opposition criticized the bill claiming that the new provisions, if adopted would effectively deprive them of all financial sources. Parliamentary debate on the proposal was

<sup>7</sup> All the elections during Shevardnadze's presidency were widely believed to be manipulated. Public distrust of CEC-published results of the 2003 parliamentary elections triggered the popular protests that ultimately led to the Rose Revolution.

<sup>8</sup> This provision does not apply to the Commission elected in 2005. It will take effect for future CECs only. Only after that will the CEC become truly professional.

<sup>9</sup> "Communicating vessels" are a set of vertical tubes connected at the bottom. When liquid is poured in, it levels out rather than filling up just one of the tubes.



consequently stalled and all the parties were invited to discuss an alternative framework. The discussions took place in Strasbourg, under the auspices of the Council of Europe, on February 26-27, 2007. The resulting “Strasbourg Memorandum” was signed by the major parties<sup>10</sup>. This document is now to be the basis for development of a new version of the bill finally defining the finance-related regulations.

## Regulation of Political Financing

Funding is a necessary precondition for political party activity. Sources of funding can vary but generally fall under one of the following categories: a) membership dues; b) donations; or c) state/budgetary funding. While regulations regarding the first two sources are more or less common worldwide, discrepancies in national regulations are more striking in regard to the latter. Different states have different ways of providing for parties: some provide regular subventions to parties that satisfy certain conditions. These conditions are usually linked to electoral success. Other systems allocate funds for election purposes only, while in a third type of arrangement the costs of campaign related advertisement are shared between the state and political parties. The models differ in important ways, but state assistance to parties has already become a welcome norm. Cost-sharing by the state is usually viewed as a means of counterbalancing the soaring costs of election campaigning. This benign intervention is designed to curb wealth-based influence and protect poorer/smaller entities, thus maintaining a diverse and strong system. For this reason state funding has proven especially appealing in newly democratising countries<sup>11</sup>, Georgia included<sup>12</sup>.

The Organic Law of Georgia “On Political Associations of Citizens,” adopted in 1997, provides guidelines for political party activity. The current text stipulates that parties are entitled to collect membership dues (the maximum amount per member is not specified), donations (individual and corporate), and state support where applicable (Article 25). Parties may not collect funds in any form from foreign nationals or companies, religious and civic organisations (i.e., non-entrepreneurial organisations), state bodies and businesses with more than 10% state ownership, or stateless persons<sup>13</sup> (Article 26). Beginning in 2009, the current legislation states, there will be an additional prohibition targeting anonymous contributions. Parties will be required to forward contributions of this kind to the state. Until 2009, however, parties may accept anonymous contributions not in excess of 30,000 GEL annually (Article 39, paragraph 7). Contributions in excess of this amount must be transferred to the state budget. Further, annual contributions must be limited to 30,000 GEL<sup>14</sup> per individual and 100,000 GEL per corporate donor (Article 27). If a party fails to forward contributions in excess of the legally acceptable amount, it is disqualified from receiving state funding for a period of one to four years depending on the sum withheld (Article 28).

<sup>10</sup> The only exception was the Labour Party. Its political secretary, Giorgi Gugava, claims he was deliberately deprived of the right to participate when his visa application was denied.

<sup>11</sup> For a helpful discussion of modes of political party financing and their effects on the party system see Van Biezen, Ingrid and Petr Kopecky *On the Predominance of State Money: Reassessing Party Financing in the New Democracies of Southern and Eastern Europe*, Perspectives on European Politics and Society, 2:3 2001; also Roper, Steven D. *The Influence of Romanian Campaign Finance Laws on Party System Development and Corruption Party Politics*, Vol.8, No. 2 pp. 175-192 2002.

<sup>12</sup> Council of Europe European Commission Comments on the amendments and addenda to the Organic Law of Georgia “Election Code of Georgia” and the amendments and addenda to the Organic Law of Georgia on “the Political Association of Citizens” by Dr Marcin Walecki, Research Committee on Political Finance and Political Corruption, International Political Science Association. In addition to financial support, the Georgian state also provides free air time and print space and regulates fair media coverage during pre-election campaigns. These latter provisions, however, will not be addressed in this report.

<sup>13</sup> Foreign donations may be acceptable if they are targeted specifically for the organisation of public lectures, seminars, or related activities.

<sup>14</sup> 1 USD= 1.70 GEL



Questions of state funding were addressed in the law from the very beginning. Article 30 stated that the state budget would define a specific amount to be proportionally distributed among the entities (i.e., party blocks and parties participating in elections individually) that had received more than 5% of the vote. This article was planned to enter into force on January 1, 2000. However, as vague as it was in defining sums, this strategy was effectively abandoned. Instead, on May 19, 2000, the Parliament of Georgia adopted a resolution allotting 150 GEL monthly to each proportionally elected MP. In February 2005 this figure was increased to 200 GEL. The resolution was abrogated in March 2006.

The current system was introduced with the December 2005 amendments to the Organic Law. The amended Article 30 stipulates that, effective January 1, 2006, parties that secured at least 4% of the vote in the most recent parliamentary elections are entitled to state financial support. The amount is determined with respect to the number of votes received: a party that received less than 200,000 votes will be awarded two GEL per vote; 200,000 – 500,000 votes – an additional 1.5 GEL per vote; more than 500,000 votes – one additional GEL per vote. In addition, parties are again entitled to 200 GEL per month per proportionally elected MP. The amounts received by political parties in 2006 are summarised in the table below.

| Political Party                          | Amount in GEL |
|--|---------------|
| National Movement                        | 1,543,500     |
| Industry Will Save Georgia               | 131,313       |
| The New Rights                           | 131,313       |
| Georgian Labour Party                    | 179,692       |
| Political Movement “Tavisupleba”/Liberty | 131,618       |
| Republican Party                         | 61,740        |
| Georgian Conservative Party              | 61,740        |

Source: Political Party Funding in Georgia. The Monitoring Report of the Georgian Young Lawyers’ Association carried out in 2006 Tbilisi, 2007.

The legislation provides for the measures of transparency of the funds parties receive. Firstly, all donations must be registered by the parties and donors must provide sufficient personal data to be easily identifiable. Most importantly, each year before February 10 the parties must publish a formal declaration with auditor’s independent opinion in press and then file it with the Ministry of Justice. Failure to comply with this procedure is to result in disqualification from funding for the next year. However, according to the Georgian Young Lawyers’ Association, this norm has not been universally enforced. The report shows that not all parties have published declarations and that those who have tend to submit them in incomplete form and/or after the annual deadline. Technically, this kind of behavior should prove especially costly for parties that are entitled to state funding. But the report highlights the case of Tavisupleba, which continued to receive funding as before despite the late submission of its declaration.

## The Latest Initiatives

Although Georgian party-related/electoral legislation could undoubtedly benefit from further streamlining and systematisation, this process has recently renewed on a relatively ad hoc basis. While deliberations on the streamlining of election legislation have been ongoing since 2003, it is also true that large-scale reforms tend to follow on the heels of equally large-scale scandals. This is especially true in regard to anti-corruption initiatives. As described above, the scandal surrounding MP Davitashvili prompted the ruling party to seek better regulation of party finances. The draft introduced by MP Samkurashvili on October 20, 2006 called for a prohibition of all cash donations and the directing of all transactions through the banking system. The bill was to set a ceiling on party dues at 50 GEL per month and, more importantly, add conditions to further



regulate party donations. While the ceiling for contributions – 30,000 GEL for individual and 100,000 GEL for corporate donations – was maintained, the new initiative prohibited individuals from contributing any amount in excess of his/her income for the last 12 months. In addition, individuals desiring to contribute more than 50 GEL per month would need to file an income-tax declaration at the Tax Department.<sup>15</sup> Given that the Georgian legislation does not require a universal income tax declaration, this new provision on the filing of declarations in case of donating money to the parties was regarded by the opposition as an attempt to put pressure on opposition party donors. The opposition argued that the requirements for information disclosure were excessively strict and could have no other grounds, but to prevent individuals and companies to donate any money to opposition groups.

The draft also revised the measures in place to ensure transparency of party finances. According to the terms of the draft, the state could withhold funding for one year from a party whose declaration was deemed inaccurate or inexhaustive. Another highly controversial initiative proposed barring political parties from election participation for three years if their activity was “substantially” financed by means in violation of the Organic Law. As an independent expert of the Civil Society Institute Zurab Ezugbaia observed, these provisions would require clarification on the exact form of the party declaration required and the instructions for its completion. In addition, the definition of “substantial financing” and the time period for which this rule would be applicable would need to be clarified.<sup>16</sup>

The opposition’s outcry against the proposed amendments stalled the draft law. An indefinite period for reflection and inter-party dialogue was subsequently proposed. The debates culminated in Strasbourg, where the Council of Europe again facilitated closed discussions resulting in a common memorandum. Strasbourg Memorandum signatories agreed that anonymous donations should be prohibited<sup>17</sup> and limits set on non-monetary donations. According to the memorandum, all donations must be public and ensure the donor’s easy identification. The only exception concerns funds collected at public events (rallies, concerts, other fundraising activities), provided they do not exceed 30,000 GEL annually. Donations must be in non-cash form, except for annual contributions up to 300 GEL made by a single individual.

The memorandum introduces new regulations for increased transparency. Individuals registered as candidates for parliament must file a financial and property declaration (a simplified version of the declaration for civil servants, which is to be public [there is no provision of this sort in the current legislation]) within seven days of registration. Additionally, party finances must be independently audited and reviewed by the Central Election Commission. While the provision on auditing was already present in the current legislation, the provisions for control and oversight of finances were deemed rather confusing. The law defined the roles of the Ministry of Justice and Central Election Commission, but evidence presented by GYLA suggests a lack of communication and collaboration between the two bodies. While the current law stipulates that the audit report must be submitted to the Ministry and that the CEC is responsible for transferring funds to the parties, there is no mechanism in place for the CEC to ascertain whether or not the parties have fulfilled their obligations.

The agreement establishes new provisions for state funding. As in the current law, it maintains that parties meeting the 4% threshold at parliamentary elections are eligible for state funding. But it also introduces a 3% threshold for municipal elections and defines a clear formula for determining state contributions to each party. The total is the sum of a base subvention, an amount calculated based on number of seats in

<sup>15</sup> The draft amendments to the Tax Code of Georgia, presented by Mr. Samkurashvili as part of the legislative package, stated that an individual would need to file the declaration within ten days of the transfer of the contribution.

<sup>16</sup> This is Civil Society Institute expert Zurab Ezugbaia’s, opinion on the legislative package. The document (in Georgian) is available upon request.

<sup>17</sup> The provision on elimination of anonymous donations was overlooked in the draft submitted by Mr. Samkurashvili and it left the current provision of allowing such donations until 2009 intact.



parliament, and an amount calculated based on the number of votes received. The document identifies 150,000 GEL as the base figure which can be increased by budget law. Eligible parties are to be transferred the funds upon their written consent and are then free to redirect them to an electoral campaign account without restriction<sup>18</sup>.

This memorandum, signed on February 27, 2007 by representatives of the National Movement, Industry Will Save Georgia, the New Rights, the Republican Party and the Conservative Party, was designed to serve as the basis for a new version of amendments to the current legislation. The new bill has already been drafted and is expected to be submitted to the Parliament by May.

The draft marks clear progress from the existing legislation. Firstly, the introduction of a systematised and comprehensive scheme for state funding for political parties is immensely important. It can be regarded as one of the most important steps the state can take to promote institutionalised political discourse and a stable political system. Also, the identification of three distinct elements – base, vote-related and parliamentary seat-related – as determining factors in the calculation of state financial support to parties is to be commended. The combination of increased state support and stricter, more streamlined rules for disclosure and transparency (of both budgetary and non-budgetary funds) will help to safeguard both state and public interests and to promote political culture and a sense of responsibility among the political parties.

## Lingering Concerns

The agreement reached in Strasburg has not proven exhaustive however. There are still concerns among the opposition. At a recent conference on party financing<sup>19</sup>, MP Zviad Dzidziguri of the Conservative Party stressed that the base state funding figure should not be left to the goodwill of the ruling party. Instead of arbitrary figures, he and fellow MP Irakli Iashvili of the New Rights suggested tying the amount to an indicator – share of budget, GDP, etc. - to ensure better security and flexibility.

Another concern, cited by Tina Khidasheli from the Republican Party, regards corporate donations made by companies bidding in public procurement tenders. While maximum limits on contributions are strictly defined, the opposition argues that allowing these companies to contribute provides easy grounds for corruption and gives an unfair and unlawful advantage to the incumbent party. Khidasheli proposes prohibiting contributions from these companies to incumbent and opposition parties alike to ensure better insulation from special interests. She recalls the experience of the local elections in 2006, when the campaign financial declarations officially submitted by the National Movement indicated that a sizable portion of their corporate donors had won public tenders conducted by Tbilisi city or other state institutions.

Finally, agreement has not yet been reached on when the new amendments should enter force or when the parties should begin receiving funds according to the new scheme. The opposition argues that the ruling party, and the president himself, have breached their promise to make funds available immediately upon adoption of the amendment – tentatively by summer 2007. However, one prominent ruling party MP, Giga Bokeria, has recently stated during a parliamentary hearing that the new scheme will enter into force on January 1, 2008. Khidasheli suspects that postponing enactment of the law until 2008, when both

<sup>18</sup> Georgian legislation does not set a ceiling for the election campaign funds either.

<sup>19</sup> The conference was organised by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the Netherlands Institute for Multiparty Democracy (IMD), and the Caucasus Institute for Peace, Democracy and Development (CIPDD). The conference was held on March 27, 2007 in Tbilisi. Further comments are reproduced from an audio recording of the conference, kindly provided by IMD.



parliamentary and presidential elections are to be held, will enable the National Movement to exploit the new legislation as a PR tool – by presenting it as an act of generosity to the opposition.<sup>20</sup>

Despite the remaining concerns and disagreements the issue of political party financing has proven to be one of the few issues on which the opposition and the ruling majority have engaged in dialogue in constructive manner and have reached an agreement. This precedent is to be commended and can serve as a useful model for emulation in the future as well.

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<sup>20</sup> These comments were made on the Imedi television channel's "Ghia Eteri" (Live Air) show on May 3, 2007.