

# POLICY BRIEF



GEORGIAN INSTITUTE OF POLITICS

## GEORGIA'S PARLIAMENT: A RUBBER STAMP NO LONGER?

AN ANALYSIS OF THE CHALLENGES AND OBSTACLES TO A STRONGER  
PARLIAMENT

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### EXECUTIVE SUMMARY

In 2013, Georgia implemented constitutional amendments which significantly transferred power away from the president. While some in Georgian political circles considered it a move towards a parliamentary system, constitutional analysts widely describe the new constitution as 'super-primeministerial', due to the extensive powers granted to the post of prime minister under the new system.

Now having seen the new system in action, we can begin to assess the extent to which Georgia's new constitution has increased the importance of the legislature. While there are indeed signs that parliament has become more important to Georgian political life since 2013, a number of factors, including the lack of a cohesive and strong party system and the enduring predominance of informal 'kitchen cabinet' style governance, undermine this trend.

There are no easy "quick fixes" to these impediments, as some of them are rooted in Georgian political culture and will take a long time to change. However, certain measures could be taken to encourage the strengthening of parliamentary governance. For example, better administrative support could be made available to members of parliament and additional mechanisms of public accountability and oversight could be introduced. Measures could also be taken to improve regulation in order to encourage the development of stronger, more durable political parties that better represent interest groups in Georgian society.

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## **BACKGROUND: GEORGIA'S EVER CHANGING CONSTITUTION**

Written constitutions are not meant to change often. They are meant to be a statement of fundamental principles, basic values and rules that underpin the workings of a state.

This has not been the case in Georgia. Georgia's constitution has been amended 33 times since it was adopted in 1995.<sup>1</sup> Georgia has changed its constitution more times in the space of 20 years than the USA has done in its existence.

Georgia's modern constitutional journey began after independence in 1991 when nationalist leader Zviad Gamsakhurdia was overwhelmingly elected president of Georgia under an amended version of the 1921 constitution. A new constitution was adopted in 1995, which established Georgia as a semi-presidential system. Under the 1995 constitution, the president enjoyed extensive powers, including the power to dismiss ministers, appoint regional governors and present the state budget to parliament.<sup>2</sup> Parliament retained a significant role in approving the cabinet and could not be unilaterally dissolved by the president.

After the 2003 Rose Revolution, the newly elected government used its constitutional supermajority to change the constitution significantly. In 2004, a set of amendments adopted by parliament established what has been called a super-presidential system. Between 2004-13, the president could, among other powers, issue decrees, threaten parliament with dissolution, and exercise a veto that could only be overturned by a supermajority in parliament. These powers were rarely used as the then ruling party, the United National Movement (UNM), maintained a constitutional majority in parliament. This enabled President Mikheil Saakashvili to change the constitution more or less at will, which happened no less than 27 times during his decade as president.

In 2009, the government set up a Constitutional Commission to recommend further changes to the constitution to move away from superpresidentialism and towards what was meant to be a more balanced system. The resulting amendments were adopted in 2010 and came into force after the presidential election in 2013.<sup>3</sup> However,

the defeat of the UNM at the 2012 parliamentary election resulted in a period of uneasy cohabitation in which the president retained formal power under the old constitution while real authority began to move into the hands of the prime minister, Bidzina Ivanishvili, and his Georgian Dream (GD) coalition.

## **PARLIAMENT'S CONSTITUTIONAL POWERS SINCE 2013: A MIXED BAG**

On 17 November 2013, as Giorgi Margvelashvili stood in the courtyard of the former parliament building in Tbilisi to be sworn in as president, a number of constitutional reforms came into effect, moving Georgia away from a presidential political system.

While these were widely seen as increasing the powers of the parliament at the expense of the president, the reality was more nuanced.

Parliament did become far more important to the process of appointing a government. Since 2013, parliament appoints the prime minister on the basis of a majority vote and the president has only a symbolic role unless there is a vote of no confidence. Parliament must also reapprove the government if more than a third of members are replaced.

But there is more to a strong parliament than a greater role in appointing the government. In many other respects, the powers of parliament remain much as they were before the constitutional reforms.<sup>4</sup> In many areas, the legislature remains weak.

Parliament's weakness is perhaps most striking in matters related to the state budget. Parliament does not possess the right to amend the state budget and faces dissolution if it fails to approve it. This effectively makes the budget the sole prerogative of the executive.

The government led by the prime minister also inherits many of the powers held by the president under the previous constitution. It "exercises the domestic and foreign policy of the state" and unilaterally appoints regional governors. Parliament's consent is not required to appoint foreign ambassadors.

Up to a third of the government can also be replaced by the prime minister without parliamentary oversight. These powers have led a number of people to say that the previous superpresidential system has been replaced by 'superprimemini-ministerial' constitution.

Once a government is appointed, Georgia's parliament also loses much of its leverage over the government, as the procedure of calling a vote of no confidence is lengthy, complex and involves a significant risk of dissolution. To do this, two-fifths of parliament must first propose to begin the procedure. After this, a first vote is held on the initiation of the vote of no confidence procedure. If this passes, the actual vote of no confidence is held. During this second vote, parliament must simultaneously propose a replacement candidate for prime minister. If it fails to agree on a replacement, the president can then dissolve parliament and call new elections. The president can also refuse to appoint a nominee agreed by parliament, in which case parliament must either override the presidential veto with a three-fifths majority or risk being dissolved by the president. This whole process potentially takes up to three months.

### **GEORGIA'S 2012-16 PARLIAMENT: THE GOOD NEWS**

The centrality of Georgia's parliament to the country's political system has waxed and waned since independence. But the 2008-12 period was the one in which parliament's importance arguably reached its nadir. Throughout the whole period of President Saakashvili's administration until October 2012, the UNM government enjoyed a constitutional supermajority that ensured that parliament effectively became a rubber stamp for the executive. But, unlike the first Saakashvili-era parliament, the 2008-12 parliament was boycotted by much of the opposition.<sup>5</sup> This meant that not only did government sponsored legislation and constitutional amendments pass through parliament largely unchallenged, but that parliament ceased to be representative of the core political cleavages in the country. Political debate between the government and the opposition happened not in parliament, but

through protests, media debates and boycotts. The opposition sought to pressure the government through pressure from the streets, not the committee rooms.

This state of affairs has undoubtedly improved in the current parliament. While UNM MPs currently boycott committee meetings, they do participate in plenary sessions and debates. Parliament is now far more representative of the real political cleavages in Georgian society. Street protest now augments parliamentary politics rather than substituting it. Some of the pro-Russian and socially conservative political forces such as Nino Burjanadze's Democratic Movement - United Georgia and Irma Inashvili's Alliance of Patriots are not represented in parliament. But this is due to the former's boycott of the 2012 poll and the fact that the latter did not exist at the time of the 2012 election.

The recent constitutional changes have also undoubtedly strengthened parliament. The increase of the threshold for constitutional amendments to three quarters has led to greater constitutional stability. There have also, on very rare occasions, been examples of grudging bipartisanship on areas such as foreign policy.

### **CHALLENGES FACING PARLIAMENT**

Despite the improvements in the Georgian legislature's position, Parliament is still not the centre of Georgian political life.

Part of the reason for this lies in the limited nature of the constitutional changes themselves. Georgia is not a parliamentary republic. The executive remains dominant over the legislature.

But the effectiveness of a legislature cannot be measured simply by constitutional analysis. Other challenges to parliamentary effectiveness in Georgia are at least as significant. These include the lack of professionalism and civil service capacity within parliament, the lack of strongly institutionalised parties and the enduring (and perhaps even increasing) power of alternative, informal political institutions. These issues stem from issues endemic to the wider political context in the country.



## THE PERSISTENCE OF INFORMAL GOVERNANCE

Governance through informal institutions has always been a central part of the Georgian political culture. Aspects of Soviet political culture, such as the centrality of *blat* (personal connections), and traditional Georgian values centred around particular communities, families and social groups combine to form a political culture that values personal relationships over formal institutions. In Georgia, loyalty to ones friends, family and neighbours is generally considered to be more important than fealty to a given ideology or formal political institutions. This is not to say, of course, that neither are important in Georgian politics, but Georgia is a place where your political allegiances are more likely to be determined by who your friends are and political intrigue, rather than ideas.\*

In politics, this culture has manifested itself throughout recent Georgian history in the concentration of power in the hands of small close-knit groups of people, or "clans" in popular Georgian parlance. During the Eduard Shevardnadze-era, close relatives of the president ran everything from the biggest mobile phone company to the fuel import industry. Shevardnadze's successor as president, Mikheil Saakashvili, came to power on a strong anti-corruption platform, and is often credited with reforming key institutions and stamping out petty bribery in universities, schools and the police. But power in Saakashvili's Georgia was nevertheless concentrated in a small, close knit group of his friends and allies, his "kitchen cabinet". While some of these figures, like his interior minister Vano Merabishvili, held powerful positions in the government, others like Giga Bokeria, who spent much of Saakashvili's presidency in the relatively junior post of deputy chair of the Legal Affairs Committee of Parliament, held only minor formal roles that did not reflect their true influence.

Under the current Georgian Dream administration, the tradition of informal hierarchies trumping formal institutions has reached new heights. The most powerful figure in Georgia today is widely seen to be former prime minister and Georgia's richest man, Bidzina Ivanishvili, who has not held formal office of any kind since he resigned in November 2013. When his successor as prime minister unexpectedly resigned in December 2015 for no clear reason, it was widely speculated that Ivanishvili had decided to "replace" him, despite the fact that he has no formal position even within the political party he founded. Ivanishvili himself denies making these decisions, and some of his allies argue that Ivanishvili's role in the government is exaggerated by the opposition.

Nevertheless, while the opposition are the loudest voices accusing Ivanishvili of being the grey cardinal behind the government, there is considerable evidence that the billionaire retains considerable influence over those formally in charge of Georgia's government. For example, Ivanishvili frequently attends meetings of the Georgian Dream coalition. And even members of the ruling coalition have made statements effectively conceding that Ivanishvili retains a significant role. For example, President Giorgi Margvelashvili, whose relationship with other members of the ruling team has become strained, hinted strongly at frustration with Ivanishvili when he felt the need to say that "the country should be ruled by strong institutions and not from the backstage". Ivanishvili's influence can also be seen in the sheer proportion of prominent political appointments of people who worked for the billionaire before he entered politics. This has led some to dub the government the "Cartu Bank Government" in reference to fact that both the current Prime Minister, Giorgi Kvirikashvili, and his predecessor, Irakli Gharibashvili, previously held senior roles at Cartu which is owned by Ivanishvili. A recent report by Transparency

\*There are several Georgian politicians who serve as good examples of this. Former acting president and parliamentary speaker Nino Burjanadze is perhaps the most striking. Burjanadze served most of her political career first as a leading figure in both the "young reformist" pro-Western faction of Shevardadze's ruling Citizens Union party and then in the stridently Atlanticist United National Movement. But in 2008, after a dispute with President Saakashvili over the party list for the 2008 parliamentary election she left the party only to emerge less than two years later sitting next to Vladimir Putin as Georgia's most prominent pro-Russian politician.

International revealed that a large number of other officials in the Georgian Dream government previously worked for Ivanishvili-owned firms.<sup>6</sup>

The strength of informal political institutions (or in Ivanishvili's case, the informal power of an individual) undermines the importance and effectiveness of the legislature. When the real political decisions are not made within parliament, or even within institutions formally accountable to parliament, this is bound to weaken the legislature. This accentuates the constitutional situation which elevates the importance of parliament in the initial appointment of a government but then sidelines it. The risk for Georgia is that, as was the case during much of Saakashvili's presidency, this situation reduces parliament to the role of rubber stamping decisions made by informal hierarchies.

### **WEAK PARTY SYSTEM**

Another factor undermining the creation of a European style parliamentary politics is the weak institutionalisation of political parties.

Georgian parties fail to adequately aggregate the interests of sectors of society. Most Georgian parties exist primarily (if not purely) to serve as the vehicles of individual political ambition. They are elite parties; not mass parties. With very few exceptions, the role of the membership is minimal even for those parties that do (on paper at least) possess anything approaching a significant grass roots membership.

To the extent that Georgian parties are ideological, they do not really fit comfortably into the traditional left-right political spectrum. The real ideological cleavage in Georgia is between (generally pro-Western) cosmopolitans on the one hand and nationalist, traditionalist forces (many of which tend to be more critical of European integration) on the other. There are essentially no social liberal, social democratic or left political parties of real electoral strength.

Cross-party political alliances do not follow even these blurry ideological lines. The ruling Georgian Dream coalition, for example, is an eclectic mix of pro-Western centrist liberals (like the Republican Party and some in the Georgian Dream party itself),

right-wing nationalist populists (like the Conservative and National Forum parties), business interests and opportunists who support whoever is in power. One member party, the Industrialists, openly opposes the foreign policy of the government, backing membership in the Russia-led Eurasian Economic Union. The only unifying factor between these disparate elements is opposition to the previous UNM administration and a taste for power.

The UNM spent most of its time in power presenting itself as a market libertarian party while pursuing policies in direct contradiction to this stated ideological position. Its time in government saw a significant increase in the power of the state and small businesses complained of being harassed by tax authorities on absurd technicalities.

The UNM was not ideologically coherent in power. In schools, for example, it combined a Milton Friedman inspired voucher system for school funding with centralisation of power in the Ministry of Education and significant political control over teachers. Despite its secular ideology, many of its leading figures also enjoyed very close ties to the Georgian Orthodox Church, which was granted special legal status during the UNM's time in government. In relations with other parties, the UNM enjoyed better relations with conservative, traditionalist groups like the Christian Democrats and the National Democratic Party than with the parties that supposedly shared its purportedly cosmopolitan, liberal outlook like the Republicans and Free Democratic parties.

Georgian parties also tend to have very short lives. The UNM is notably the only party of government that has continued to exist after losing power. Both Gamsakhurdia's Round Table-Free Georgia Party and Shevardnadze's Citizens Union of Georgia ceased to exist after they were ousted from power. The main opposition party in the 2008-12 parliament, the Christian Democrats, has all but ceased to exist, with the remnants joining Nino Burjanadze's pro-Russian Democratic Movement - United Georgia party.

All of this undermines the strength of parliament as an institution as legislatures without ideologically distinct parties risk becoming mere arenas for

behind the scenes, inter-elite political bargaining rather than public platforms for political parties to argue for their policies.

### **CHALLENGES RELATED TO INSTITUTIONAL FUNCTIONALITY**

Georgia's parliament also faces challenges related to how well it fulfils the basic functions of a legislature - passing laws and scrutinising the government.

Some of these problems are political. The UNM is following a long established pattern in Georgian politics of preferring to boycott parliamentary processes rather than participate in them. When parliament's committees were moved from Kutaisi back to Tbilisi, the UNM decided to boycott them, depriving the committees of a significant opposition voice and weakening the scrutiny function of parliament in the process. UNM MPs also rarely vote against bills they verbally criticise, preferring to abstain. Between 1 August 2013 and 13 March 2014, the attendance rate of UNM MPs at plenary sessions was just 42% while the figure for the ruling coalition was 88%.<sup>7</sup> The opposition factions also rarely propose legislation of their own. In 2013, the parliamentary majority proposed 331 laws while the minority factions proposed just 15 between them.<sup>8</sup>

But there are also problems related to a lack of professional capacity and support for MPs in basic legislative tasks such as drafting laws. A recent report by the Council of Europe found that the "lack of human resources, in combination with the assessed lack of guidance, knowledge and skills of drafting staff, has a significant influence on the quality of drafts and needs to be addressed urgently".

MPs also vary widely in terms of how competently they fulfil their representative function. This is especially true for 'majoritarian' constituency MPs, some of whom rarely visit the regions which they represent and do not respond to enquiries from constituents.<sup>9</sup> In a recent survey, just 2% of respondents said they had any contact with their local MP since 2012.<sup>10</sup>

### **CONCLUSION AND RECOMMENDATIONS**

There are no simple answers to the problems of Georgia's legislature. Many of the impediments to the development of a stronger Parliament stem from Georgia's political culture, which is closer to that of the presidential 'delegative democracies' of Latin America than to that of consolidated party-based parliamentary systems common in many other European countries. Nevertheless, there are a number of measures that could be taken to improve the effectiveness and centrality of Parliament to Georgia's political system.

- **ENSURE BETTER ADMINISTRATIVE SUPPORT FOR MPS.** The Georgian authorities should work with both international donors and local civil society to ensure a higher level of professionalism within parliament. Legal training and clearer, more stringent criteria for civil servants working on draft legislation (possibly alongside improved remuneration) would significantly improve the current state of affairs.
- **MORE PUBLIC CONSULTATION OVER LEGISLATION.** The public is detached from parliamentary politics. In a recent survey, just 10 % of the population said that they thought Parliament was performing well, making it the institution perceived to be least effective of those the poll asked about.<sup>11</sup> There are currently few formal public consultations on proposed legislation. Laws are overwhelmingly drafted, passed and amended without any sort of public input whatsoever.
- **STRENGTHEN POLITICAL PARTIES THROUGH BETTER REGULATION.** The weakness of political parties is partly a product of Georgian political culture. But regulatory measures could be taken to encourage the development of mass parties that more effectively aggregate and represent particular demographics. One measure would be tightening regulation of parties to enforce internal democracy (or even encourage US-style open primaries) or introducing minimum membership levels before granting registration as a political party. Other possibilities such as



legalising trade union and other interest group affiliation to political parties would encourage the emergence of more ideologically coherent parties. Parties could also be legally required to publish full policy manifestos online. Campaign finance reform could also play a role here. For example, stopping defunct political parties from simply gifting their state-guaranteed finance and airtime to new political forces (as the Christian Democrats did when they joined Democratic Movement - United Georgia) would encourage more continuity.

- **LONG TERM IMPROVEMENT IN PARLIAMENTARY POLITICAL CULTURE.** Georgian politics has little precedence of the concept of a loyal opposition. In Georgia, your political opponents are your enemies and political institutions controlled by other political parties must be undermined through boycotts as illegitimate. The first thing every new Georgian government to date has done has been to arrest members of the previous government. In some cases, where proven criminal acts have taken place, this impulse is understandable. But the leaders of the major political forces have a responsibility to overcome this political culture. The government must do more (even if it is unpopular) to reassure opposition party members that they are considered to be legitimate participants in Georgian politics. Similarly, the opposition must rely less on endless boycotts and more on participation in political institutions.
- **CREATE STRONGER MECHANISMS OF PUBLIC OVERSIGHT OF MPS.** Many constituency 'majoritarian' MPs rarely set foot in the places they purport to represent. One way of incentivising MPs to take their representative function more seriously is to introduce a mechanism for recall elections in constituencies where the local MP has been especially neglectful of their duties in this regard. Low participation in parliamentary activities can also be disincentivised by introducing financial penalties for MPs who do not turn up to votes.
- **CONSIDER FURTHER CONSTITUTIONAL REFORM TO STRENGTHEN PARLIAMENT.** Many of the Council of Europe Venice Commission's recommendations on the constitution were never implemented. A bipartisan agreement to amend the constitution to increase parliamentary input into the state budget and simplifying the vote of no confidence mechanism would significantly boost the powers of Parliament.

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