

# GEORGIA BETWEEN DOMINANT-POWER POLITICS, FECKLESS PLURALISM, AND DEMOCRACY

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**Abstract:** This article charts the last decade of Georgian politics (2003-2013) through theories of semi-authoritarianism and democratization. It first dissects Saakashvili's system of dominant-power politics, which enabled state-building reforms, yet atrophied political competition. It then analyzes the nested two-level game between incumbents and opposition in the run-up to the 2012 parliamentary elections. After detailing the verdict of Election Day, the article turns to the tense cohabitation that next pushed Georgia in the direction of feckless pluralism. The last section examines if the new ruling party is taking Georgia in the direction of democratic reforms or authoritarian closure.

Under what conditions do elections in semi-authoritarian states spur democratic breakthroughs?<sup>1</sup> This is a conundrum relevant to many hybrid regimes in the region of the former Soviet Union. It is also a question of particular importance for the citizens of Georgia, who surprisingly voted out the United National Movement (UNM) and instead backed the Georgian Dream (GD), both in the October 2012 parliamentary elections and in the October 2013 presidential elections. This article aims to shed light on the dramatic, but not necessarily democratic, political changes unleashed by these events. It is, however, beneficial to first consult some of the concepts and insights that have been generated by earlier research on

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semi-authoritarian regimes. These ideas identify obstacles to, and drivers of, democratization, and therefore help to structure our investigation into Georgia's political trajectory over the last decade and recent elections.

Thomas Carothers was one of the first scholars to conceptualize the gray zone between democracy and autocracy, where Georgia has been stuck for over two decades, in spite of several radical transformations. Carothers argued that semi-authoritarian regimes are characterized either by "dominant-power politics" or "feckless pluralism."<sup>2</sup> Under the first syndrome, one group dominates political life through the abuse of state resources for their own partisan purposes. The courts, police authorities and media operate in the interest of the ruling party. Tax revenue and employment opportunities are likewise allocated based on political loyalty. Democratic institutions do exist and opposition parties challenge the ruling party in elections. But the absence of a level playing field means that opportunities for accountability are limited. Countries plagued by feckless pluralism are characterized by another set of symptoms. Their democracy is superficial even though elections bring about transfers of power between different groupings. The political elite is corrupt, ineffective and disconnected from the people it claims to represent. Citizens rarely take an interest in politics beyond Election Day. Carothers' thoughts on dominant-power politics and feckless pluralism underscore the possibility that transitions – instead of following a linear path from autocracy to democracy – also can take a cyclical route: from one type of semi-autocracy to another.

In order to break out of these regime cycles, Andreas Schedler argued that lingering aspects of "authoritarian control" must be eliminated so as to give "democratic uncertainty" – in the form of free and fair elections – the opportunity to take hold.<sup>3</sup> He hypothesized that democratization, eventually, is likely to occur since elections in semi-authoritarian states, even if manipulated, unleash a strategic game between incumbents and the opposition. Schedler dubs it a "nested two-level game" since it is played on two distinct, yet interrelated, levels. On the institutional arena, politicians wrangle about the fundamental rules of politics, such as the constitution and election code. Incumbents often seek to skew these institutions in their own favor, resulting in authoritarian closure, whilst opposition parties push for a level playing field, resulting in democratic reform. The ruling party and opposition also vie for votes on the electoral arena, where socio-economic policies, to take but one example, are debated. Nonetheless, due to the contested nature of flawed elections, politicians in semi-authoritarian states argue over procedural and substantive issues simultaneously, thereby

<sup>2</sup> Thomas Carothers. 2002. "The End of the Transition Paradigm." *Journal of Democracy* 13: 1: 5–21.

<sup>3</sup> Andreas Schedler. 2002. "The Nested Game of Democratization by Elections." *International Political Science Review* 23: 1: 103–22.

giving rise to an interactive – or in Schedler’s phrasing: nested – two-level game between incumbents and dissidents.

Other scholars remained skeptical about the prospects of escaping the gray zone. Henry E. Hale interpreted the color revolutions in Georgia, Ukraine and Kyrgyzstan, not as democratic breakthroughs, but as oscillations in a semi-authoritarian regime cycle.<sup>4</sup> They had been triggered because presidents in these countries had come to be seen as “lame-ducks.” If the president turns ill, approaches the end of his term, or is challenged by a strong opposition during an election, Hale argued, then the expectation easily spreads that the president might become incapable of punishing his opponents and rewarding his allies. And in the absence of the rule of law, proximity to power is vital for the well-being of political elites. When the president is seen as a lame-duck, elites therefore tend to search for a new patron, who is capable of offering state protection and funneling privileges their way. This search for a new patron results in a political opening. But it only offers a fleeting opportunity for democratization. In order to seize it, Hale argued, it is crucial to opt for divided-executive constitutions and avoid presidential constitutions.<sup>5</sup> In the latter case, when there is only one dominant center, and its leader is not seen as a lame-duck, defection is highly dangerous and elites therefore align behind the presidential patron, resulting in a political closure. This outcome corresponds to Schedler’s syndrome of dominant-power politics. By contrast, when there are several centers of power, and politicians can find protection and strike up alliances with different patrons, the result can be feckless pluralism.

These authors equip us with analytical tools capable of explaining distinct twists and turns on Georgia’s road to democracy over the last decade. The first section of this article examines how Saakashvili created the semi-authoritarian system that Carothers calls “dominant-power politics.” Using Schedler’s notion of a “nested two-level game,” the second and third sections analyze the build-up to the 2012 parliamentary elections on the “institutional arena” and “electoral arena,” respectively. The outcome of this power struggle is detailed in the fourth section, which deals with Election Day and its results. The fifth heading maintains that Georgia drifted towards “feckless pluralism” during the ensuing cohabitation between President Saakashvili and Prime Minister Ivanishvili, who had to share executive prerogatives due to a constitutional transition. The sixth, and concluding, section searches for signs indicating whether the

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<sup>4</sup> Henry Hale. 2005. “Regime Cycles: Democracy, Autocracy and Revolution in Post-Soviet Eurasia.” *World Politics* 58: 1: 133–65.

<sup>5</sup> Henry Hale. 2006. “Democracy or Autocracy on the March? The Colored Revolutions as Normal Dynamics of Patronal Presidentialism.” *Communist and Post-Communist Studies* 39: 3: 305–29; Henry Hale. 2011. “Formal Constitutions in Informal Politics: Institutions and Democratization in Post-Soviet Eurasia.” *World Politics* 63: 4: 581– 617.

new ruling party is taking Georgia in the direction of democratic reforms or authoritarian closure.

### Saakashvili's System of Dominant-Power Politics

In November 2003, Mikheil Saakashvili came to power in a nation still haunted by the ethnic strife of the early 1990s. Eduard Shevardnadze, the outgoing president, had spent the preceding years acting as an arbiter between corrupt factions, who had captured state institutions and were pilfering public resources.<sup>6</sup> Georgians and minorities alike were alienated from these institutions, which were rife with clientelism, corruption and crime.<sup>7</sup> The protests that culminated in the Rose Revolution were in large part driven by frustration over this dysfunctional state of affairs. Thus, after Saakashvili won 96 percent of the vote in the January 2004 presidential election, he saw himself as a state-builder, with a popular mandate to construct a modern and functional social contract.<sup>8</sup>

Saakashvili quickly pushed constitutional amendments through parliament, vastly increasing his power at the expense of both the parliament and judiciary.<sup>9</sup> With the help of these prerogatives, he set out to build a modern state. The president cracked down on militias and smuggling in areas adjacent to Abkhazia and South Ossetia, reintegrated the Black Sea province of Adjara, and extended the state presence into Armenian and Azerbaijani inhabited areas to the south.<sup>10</sup> In tandem, Saakashvili suppressed the ethno-nationalist doctrines of the past and sought to integrate Georgia's minorities within the framework of an inclusionary nationalism. Notably, his policies also eliminated petty corruption and helped crush the crime syndicates. The police and the education system were reformed, and tax revenue began flowing into state coffers. Georgian citizens thus came to enjoy a supply of public goods, such as improved roads and a steady provision of water and electricity. This progress is apparent in cities around the country, and in the World Bank's Ease of Doing Business rating and Transparency International's Corruption Perceptions Index, where Georgia even outperformed some EU countries.<sup>11</sup>

<sup>6</sup> Jonathan Wheatley. 2005. *Georgia from National Awakening to Rose Revolution: Delayed Transition in the Former Soviet Union*. Aldershot: Ashgate.

<sup>7</sup> Ghia Nodia. 2005. "Georgia: Dimensions of Insecurity." In Bruno Coppieters & Robert Legvold, eds., *Statehood and Security: Georgia after the Rose Revolution*. Cambridge: MIT Press.

<sup>8</sup> Lincoln Mitchell. 2009. "Compromising Democracy: State-Building in Saakashvili's Georgia." *Central Asian Survey* 28: 2: 171–83.

<sup>9</sup> Miriam Lansky & Giorgi Areshidze. 2008. "Georgia's Year of Turmoil." *Journal of Democracy* 19: 4: 154–68.

<sup>10</sup> Svante Cornell. 2006. "The Narcotics Threat in Greater Central Asia: From Crime-Terror Nexus to State Infiltration?" *China and Eurasia Forum Quarterly* 4: 1: 37–67.

<sup>11</sup> Svante Cornell & Niklas Nilsson. 2009. "Georgian Politics since the August 2008 War."

These feats made Saakashvili into a state-builder. But more and more questions were being raised about the president's commitment to democratization, in view of his "ends justify the means" approach to politics.<sup>12</sup> In order to break the corrupt equilibrium that had prevailed under Shevardnadze, Saakashvili used all levers of government.<sup>13</sup> His party, the United National Movement, dominated parliament and Saakashvili could easily have any laws adopted, including changes to the constitution. Since the president had the right to nominate the minister of interior, his influence also stretched into the domain of policing. Saakashvili's appointment powers similarly placed the courts under his influence. The president therefore exerted significant influence over the administration of justice – from the making of laws, to their policing and interpretation by the courts.

On the bright side, this extensive power enabled Saakashvili to arrest dishonest elites who had stolen fortunes under Shevardnadze's rule. Due to the president's influence over the courts, the accused anticipated trials to end in conviction, and therefore felt compelled to accept the prosecutors' plea bargain offers, according to which defendants were released in exchange for admitting guilt and paying hefty fines to the state. Several prominent figures underwent this ransom-like procedure, including Shevardnadze's son-in-law, former ministers, heads of state-owned companies, and other business moguls. This tactic not only uprooted corrupt elites, including those who had been in league with organized crime, but also helped fill state coffers, which enabled Saakashvili to start paying civil servants wages on which they could survive without resorting to bribery.

But the story has a darker side. For alongside this fight against petty corruption and the purging of corrupt opposition figures, Saakashvili failed to discipline loyalists, whether politicians, businessmen, or civil servants, who abused their official positions or connections for personal or partisan purposes. Despite the official rhetoric, which held that everyone was equal before the law, informal practices signaled that it was possible to get away with plenty of shenanigans under the protection of the ruling party.

Thus, Saakashvili's loyal Interior Ministry was not sanctioned for abuse of power. In a decision concerning the murder of a young man

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*Demokratizatsiya* 17: 3: 251–268; Gavin Slade. 2011. *Mafia and Anti-Mafia in the Republic of Georgia*. Oxford: St. Antony's College; World Bank. 2012. *Fighting Corruption in Public Services: Chronicling Georgia's Reforms*. Washington D.C.: Directions in Development.

<sup>12</sup> Svante Cornell. 2013. *Georgia: Political Power Transfer and Its International Implications*. Roundtable arranged at the Jamestown Foundation on March 1.

<sup>13</sup> Stephen Jones. 2006. "The Rose Revolution: A Revolution Without Revolutionaries?" *Cambridge Review of International Affairs* 19: 1: 33–48; Vicken Cheterian. 2008. "Georgia's Rose Revolution: Change or Repetition? Tension between State-Building and Modernization Projects." *Nationalities Papers* 36: 4: 689–712; Erekle Urushadze. 2011. "National Integrity System." In Caitlin Ryan, eds., *Transparency International Country Study*. Tbilisi: Transparency International Georgia, 66–74.

by high-ranking police officials, the European Court of Human Rights noted that: “the different branches of State power [...] acted in concert in preventing justice from being done in this gruesome homicide case.”<sup>14</sup> The police likewise engaged in unchecked wiretapping and surveillance, which enabled it to collect *kompromat* (compromising materials) against public figures and political dissidents.<sup>15</sup> Transparency International also found that tax authorities, despite their drive to increase tax revenue, ignored dignitaries earning fortunes due to the dismantling of antitrust legislation under the ruling party.<sup>16</sup> The Saakashvili-loyalist David Kezerashvili thus made good business in the oligopolistic gasoline market and by monopolizing the advertising market.<sup>17</sup> Another profiteer was Kakhaber Okriashvili, an MP for the ruling party and the owner of PSP Pharma, one of the country’s largest pharmaceutical companies. Okriashvili donated profits from this business to the ruling party, which in return made no efforts to undermine the oligopoly in this sector.<sup>18</sup> Another person shielded by the ruling party’s *krysha* (protection, or literally: roof) was Rusudan Kervalishvili, vice speaker of parliament, whose company Center Point Group duped thousands of individuals into paying for apartments that were never built.<sup>19</sup>

By contrast, businessmen outside the UNM’s clientelistic circle and opposition politicians, in particular, confronted the long arm of the law. A vivid example of this occurred in late 2007 when the former minister of defense, Irakli Okruashvili, and oligarch Badri Patarkatsishvili mounted a challenge to Saakashvili.<sup>20</sup> Patarkatsishvili’s TV channel Imedi started railing against the incumbents and Okruashvili accused Saakashvili of various scandalous acts. A motely group of opposition parties initiated street protests outside parliament. Matters came to a head as the Interior Ministry resorted to force to disperse the protesters and to raid Patarkatsishvili’s TV channel. In addition, Saakashvili transferred ownership of another large TV channel, Rustavi 2, from a tycoon linked with Okruashvili to his own

<sup>14</sup> “ECHR Ruling into Girgvliani Murder Case.” *Civil Georgia*. April 26, 11, at <http://www.civil.ge/eng/article.php?id=23376>, accessed March 16, 2014.

<sup>15</sup> Mathias Huter & Mamuka Andguladze. 2012. “Ending unchecked, illegal wiretapping practices.” *Transparency International (TI) Georgia*. November 20, 2012, at <http://transparency.ge/en/blog/ending-unchecked-illegal-wiretapping-practices>, accessed March 16, 2014.

<sup>16</sup> TI Georgia. 2010. *The Georgian Taxation System*. Tbilisi: Transparency International; TI Georgia. 2012. *Competition Policy in Georgia*. Tbilisi: Transparency International.

<sup>17</sup> TI Georgia. 2011. *The Georgian Advertising Market*. Tbilisi: Transparency International; Paul Rimple. 2012. *Who Owned Georgia 2003 – 2012*. Tbilisi: Transparency International.

<sup>18</sup> TI Georgia. 2012. *The Georgian Pharmaceutical Market*. Tbilisi: Transparency International.

<sup>19</sup> TI Georgia. 2012. *Centre Point Group – Georgia’s Biggest Corruption Scandal*. Tbilisi: Transparency International.

<sup>20</sup> David Aprasidze. 2009. “State-Building and Democratization in Georgia: Have the Limits Been Reached?” In *OSCE-Yearbook*. Hamburg: Centre for OSCE Research, 63–74; Cory Welt. 2009. “Still Staging Democracy: Contestation and Conciliation in Postwar Georgia.” *Demokratizatsiya* 17: 3: 196–227.

ally Davit Bezhuashvili.<sup>21</sup> Patarkatsishvili's companies were, moreover, targeted by Saakashvili's loyal law enforcement agencies.<sup>22</sup>

By protecting loyalists and punishing dissidents, Saakashvili created incentives for politicians and businessmen to join his side and make donations to his party. Civil servants faced a similar incentive structure. As the labor code banned neither the arbitrary firing of employees nor partisan interference in the appointment of civil servants, public employees' careers hinged on showing loyalty to their superiors, both in a personal and political sense.<sup>23</sup> And regardless of these incentives to align with the UNM, Saakashvili's system of dominant-power politics made internal and external challenges unlikely to succeed. By using his right to appoint ministers, and moving around all but his closest associates in a "government carousel," the president hindered autonomous power bases from forming inside state institutions.<sup>24</sup> Meanwhile, external challengers were undercut by a series of timely and self-serving amendments to the election code, which gave the UNM a decisive edge whenever people's votes were to be translated into parliamentary seats.

With time, as Saakashvili's state-building achievements became taken for granted, criticism against his system of dominant-power politics grew louder. Indeed, during the UNM's nine-year tenure, Georgia advanced a meager 0.01 on the democracy index established by Freedom House; from 4.83 in 2003 to 4.82 in 2012 (scaled from 1-7, with lower ratings denoting more democracy).<sup>25</sup> As late as July 2011, one prominent analyst contemplated the possibility that Georgia was turning into a one-party state.<sup>26</sup> Nonetheless, difficult challenges awaited Saakashvili.

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<sup>21</sup> Studio Monitor. 2012. *Media after Rose Revolution*, at [www.youtube.com/watch?v=d-vef-DcvLZY](http://www.youtube.com/watch?v=d-vef-DcvLZY), accessed March 16, 2014.

<sup>22</sup> "Georgians Put the Squeeze on Local Tycoon." *Institute for War and Peace Reporting*. December 20, 2007, at <http://iwpr.net/report-news/georgians-put-squeeze-local-tycoon>, accessed March 16, 2014.

<sup>23</sup> Christofer Berglund. 2013. "Georgia." In Sten Berglund, Joakim Ekman, Kevin Deegan-Krause, and Terje Knutsen, eds., *Handbook of Political Change in Eastern Europe* (3rd edition). Cheltenham: Edward Elgar, 775-821; Christian Timm. 2014. "A Liberal Developmental State in Georgia?" *Research Papers Series No. 2014: 2*. Göttingen: Private Hochschule Göttingen (PFH), 6-8.

<sup>24</sup> "Georgian Government Carousel." *Institute for War and Peace Reporting*. December 22, 2004, at <http://iwpr.net/report-news/georgian-government-carousel>, accessed March 16, 2014; Joel Migdal. 2001. *State in Society: Studying How States and Societies Transform and Constitute One Another*. Cambridge: Cambridge University Press, 75.

<sup>25</sup> Freedom House. 2012. *Nations in Transit – Ratings Tables*, at <http://www.freedomhouse.org/sites/default/files/2012%20%20NIT%20Tables.pdf>, accessed March 16, 2014.

<sup>26</sup> Thomas de Waal. 2011. *Georgia's Choices: Charting a Future in Uncertain Times*. Washington D.C.: Carnegie Endowment for International Peace, 20.

## Challenges in the Institutional Arena

In the institutional arena of Schedler's two-level game, where the basic rules of politics are laid down, Saakashvili found that the super-presidential constitution that he had pushed through parliament upon coming to power in 2004 posed a challenge to him, as his second – and constitutionally final – term as president was scheduled to end in 2013. To be sure, Saakashvili was young and healthy, and the political arena was completely dominated by his ruling party. But since he was barred from running for a third term as president, and since the holder of this office enjoyed such vast powers, the expectation could spread that Saakashvili might become unable to punish his opponents and reward his allies. If so, then political elites might defect in search of a new presidential patron to curry favor with, and Saakashvili might succumb to Hale's lame-duck syndrome.<sup>27</sup> Saakashvili was not ignorant of this danger. When he defected from Shevardnadze he did so within days after the latter had become a lame-duck in the build-up to the 2003 parliamentary elections. What is more, Saakashvili began maneuvering in a way that reflected an awareness of the fact that he now faced the very same danger of defections.

Thus, in October 2010, Saakashvili decided to accept long-standing international recommendations to reduce the president's tremendous powers.<sup>28</sup> A new constitution was adopted, which stripped the president of the right to initiate legislative proposals. The government would answer to the parliament, which was tasked with electing the prime minister. The latter was empowered to appoint and dismiss government ministers, including the ministers of interior and defense, which previously had been the president's domain.<sup>29</sup> The reforms curtailed the clout that Saakashvili had bestowed upon the presidency in 2004 and instead made the prime minister the country's most powerful person. But Saakashvili did not reduce his own power. Since the constitution was scheduled to enter into force only after the next presidential election, Saakashvili had effectively robbed his successor of the lion's share of the power he himself enjoyed as president. In addition, he had greatly expanded the clout of the prime minister; an office that Saakashvili, as opposed to the presidency, could run for.<sup>30</sup> This cunning constitutional maneuver helped Saakashvili sustain

<sup>27</sup> Hale, "Regime Cycles"; Hale, "Democracy or Autocracy on the March?"

<sup>28</sup> Venice Commission. 2010. *Final Opinion on the Draft Constitutional Law on Amendments and Changes to the Constitution of Georgia*. Strasbourg: Council of Europe.

<sup>29</sup> Cory Welt. "Georgia's Constitutional Reform." *CACI Analyst*. November 11, 2010, at [www.cacianalyst.org/?q=node/5443](http://www.cacianalyst.org/?q=node/5443), accessed March 16, 2014; "Key Points of Newly Adopted Constitution." *Civil Georgia*. October 15, 2010, at <http://www.civil.ge/eng/article.php?id=22757>, accessed March 16, 2014.

<sup>30</sup> Saakashvili never declared his intention to pursue the prime ministerial post, but he also refused to rule out the possibility of doing so (see "Saakashvili Noncommittal on Prime Min-

expectations that he would continue to be capable of rewarding loyalists and punishing opponents well into the future, despite the end of his presidential tenure. He thus held the lame-duck syndrome at bay.

The next challenge Saakashvili faced in the institutional arena concerned the election code. In order to preserve his system of dominant-power politics, Saakashvili had to ensure that the UNM won a majority of seats in the parliament that would elect the soon-to-be powerful prime minister. This made the question of how to convert votes into seats during the upcoming parliamentary elections all the more important. Negotiations over the election code therefore gained momentum. In November 2010, an Election Code Working Group was formed in which both the UNM and the opposition proposed formulas that they expected would work out to their own advantage. This wrangling in the institutional arena of the two-level game, as Schedler would have put it, again ended with Saakashvili stacking the cards in his own favor. The opposition parties tried to change the rules for single mandate districts which, given the fragmented state of the opposition, would give the UNM a disproportionately large share of seats.<sup>31</sup> However, just like during the 2006 local elections,<sup>32</sup> the 2008 parliamentary elections,<sup>33</sup> and the 2010 local elections,<sup>34</sup> Saakashvili chose to push through an election code that tilted the playing-field against the opposition – albeit not to the same extent as before.<sup>35</sup> Hence, in June 2011, the ruling party announced that it had concluded an agreement on a new election code together with two opposition parties of rather dubious character.<sup>36</sup>

No sooner had the institutional arena taken shape, when Georgia's richest man, who until then had been on good terms with the government, announced his intention to challenge Saakashvili in the coming

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isterial Prospects." *Civil Georgia*. May 24, 2011, at <http://civil.ge/eng/article.php?id=23505>, accessed March 16, 2014).

<sup>31</sup> "Opposition Lays Out Election Reform Proposal." *Civil Georgia*. October 14, 2010, at <http://www.civil.ge/eng/article.php?id=22725>, accessed March 16, 2014.

<sup>32</sup> Lincoln Mitchell. 2009. *Uncertain Democracy: U.S. Foreign Policy and Georgia's Rose Revolution*. Philadelphia: University of Pennsylvania Press, 94.

<sup>33</sup> Lansky & Areshidze, "Georgia's Year of Turmoil," 161.

<sup>34</sup> "Talks on Rule of Electing Tbilisi Mayor." *Civil Georgia*. November 14, 2009, at <http://www.civil.ge/eng/article.php?id=21675>, accessed March 16, 2014.

<sup>35</sup> "Proposal to Increase Number of MPs May Be Reconsidered." *Civil Georgia*. December 7, 2011, at <http://www.civil.ge/eng/article.php?id=24240>, accessed March 16, 2014.

<sup>36</sup> The parties were the Christian-Democratic Movement and the New Rights. A representative for the Christian-Democratic Movement (Giorgi Chanturia) had curried favor with the UNM by splitting the opposition vote during the last Tbilisi mayoral elections, in exchange for government support in his personal business ventures (see "Leaked Cable: CDM Mayoral Candidate Encouraged by Gov't to Run." *Civil Georgia*. September 3, 2011, at <http://www.civil.ge/eng/article.php?id=23898>, accessed March 16, 2014). The leader of the New Rights (David Gamkrelidze) was an insurance tycoon whose business projects were closely entwined with associates of the ruling party (Berglund, *Georgia*, 805).

parliamentary elections.<sup>37</sup> Bidzina Ivanishvili had a fortune of USD 6.4 billion and a reputation as a generous philanthropist, which gave him economic and political capital to finance and unite the withering opposition parties. Saakashvili reacted by renegeing on the concessions he had made concerning the election code. UNM elites tried to strengthen his hand by increasing the share of seats allocated through single mandate districts to unprecedented levels.<sup>38</sup> But, after protests from the opposition, a more modest formula was agreed upon.<sup>39</sup> The new election code, adopted in December 2011, stipulated that parliament was to consist of 150 seats: 73 of which were elected in single mandate constituencies, and 77 allocated among parties surpassing a five percent threshold using a proportional election system. Any party surpassing the proportional threshold was guaranteed at least six seats; enough to be granted the status of a parliamentary faction. These provisions did encourage the institutionalization of small political parties, but were otherwise similar to the electoral code already in place.

### Challenges in the Electoral Arena

Given the rules laid down in the institutional arena, defining the shape of the constitution and electoral code, Ivanishvili had to win a majority of seats in the 2012 parliamentary elections in order to dislodge Saakashvili's system of dominant-power politics. The prospects of such a victory hinged on Ivanishvili's ability to unite the opposition, match UNM media and campaign resources, and – finally – win people's votes in the electoral arena.

Uniting the opposition was crucial, as a fragmented opposition could not mount a serious challenge to the UNM in the competition for the 73 seats elected in single mandate districts. Since Ivanishvili was regarded as a unifying figure, Saakashvili tried to cool the billionaire's political interest. Like other elites who had left the protective shield of the ruling party, Ivanishvili's business interests came under attack. Saakashvili had parliament adopt laws for the financial sector, which were applied exclusively against Ivanishvili's Cartu Bank.<sup>40</sup> The president also revoked Ivanishvili's citizenship and, thus, his right to form a political party and partake in the

<sup>37</sup> "Georgian Billionaire Plans Political Party." *Civil Georgia*. October 5, 2011, at <http://www.civil.ge/eng/article.php?id=23996>, accessed March 16, 2014.

<sup>38</sup> "Talks Planned on How to Revise Electoral System." *Civil Georgia*. December 19, 2011, at <http://civil.ge/eng/article.php?id=24284>, accessed March 16, 2014.

<sup>39</sup> "New Deal on Electoral System." *Civil Georgia*. December 19, 2011, at <http://civil.ge/eng/article.php?id=24285>, accessed March 16, 2014.

<sup>40</sup> Revaz Sakevarishvili. 2012. *Amendments Made to Banking, Tax, Enforcement and Related Legislation of Georgia*. Tbilisi: Open Society Georgia Foundation.

election campaign.<sup>41</sup> These measures, however, did not deter Ivanishvili. In December 2011, he founded the Georgian Dream; a public movement which in April 2012 evolved into the party Georgian Dream – Democratic Georgia.<sup>42</sup> Ivanishvili identified partners among the opposition and soon emerged as the main force within the Georgian Dream coalition. The alliance included six parties with disparate ideological profiles, but actors who were considered radical or co-opted by the government were shunned.<sup>43</sup> The unity of the opposition was put through one last ordeal on September 27, when several embarrassing recordings of politicians badmouthing each other were publicized. But the opposition unanimously rejected the recordings as a gambit organized by Saakashvili's interior ministry for the aim of splintering the GD.<sup>44</sup>

Apart from maintaining unity, the Georgian Dream had to match the media and campaign resources of the UNM in order to mount a successful challenge. This was no easy task since the ruling party borrowed heavily from the menu of manipulation.<sup>45</sup> The UNM used state resources for financing projects linked to its election campaign; employed the ministry of foreign affairs for carrying out partisan lobbying; pressured civil servants and businessmen to support the UNM; had dozens of opposition figures and civil society activists arrested; and benefitted from having proxies in the media sector, who spun reporting in favor of the incumbents. Ivanishvili could, on the other hand, match this machinery of dominant-power politics because of his fortune. The billionaire paid lobbying firms to make his voice heard abroad and supported the Georgian Dream through his business conglomerate.<sup>46</sup> He utilized his charitable foundations

<sup>41</sup> UNM argued that Ivanishvili had annulled his own citizenship by taking a French passport. It is, however, odd that Saakashvili did not cancel Ivanishvili's Georgian citizenship until after he had gone into opposition, even though information on his French citizenship had been public (see "Ivanishvili Loses Court Case over Citizenship." *Civil Georgia*. December 27, 2011, at <http://civil.ge/eng/article.php?id=24309>, accessed March 16, 2014).

<sup>42</sup> "Ivanishvili's Political Party Launched." *Civil Georgia*. April 21, 2012, at <http://civil.ge/eng/article.php?id=24683>, accessed March 16, 2014.

<sup>43</sup> The GD coalition comprised: Bidzina Ivanishvili's Georgian Dream – Democratic Georgia, Davit Usupashvili's Republican Party, Irakli Alasania's Free Democrats, Zviad Dzidziguri's Conservative Party, Kakha Shartava's National Forum, and Gogi Topadze's Industry Will Save Georgia. By contrast, the Christian-Democratic Movement and New Rights were seen as co-opted by the UNM; and the Labor Party and Democratic Movement – United Georgia were considered too radical.

<sup>44</sup> "Ivanishvili's body guard makes scandalous statement." *Rustavi-2*. September 27, 2012, at [http://rustavi2.com/news/news\\_text.php?id\\_news=46739](http://rustavi2.com/news/news_text.php?id_news=46739), accessed March 16, 2014.

<sup>45</sup> TI Georgia. 2012. *An Analysis of the Pre-Election Environment 1 October 2011 – 1 August 2012*. Tbilisi: Transparency International; TI Georgia. 2012. *Pre-Election Period Monitoring Results 1 August – 28 September 2012*. Tbilisi: Transparency International; TI Georgia. 2012. *Assessment of Pre-Election Environment: Joint Briefing Paper*. Tbilisi: Transparency International, GYLA & ISFED

<sup>46</sup> While Ivanishvili did use his companies for political purposes, the UNM seems to have been

to try to support victims of “political persecution” and established his own proxies in the media sector so as to counter the barrage of pro-government reporting. But the president did not sit idly by as the Georgian Dream carried out these activities.

Although the authorities had recently proposed permitting larger donations to political parties, Ivanishvili’s entry instilled a sudden concern among the UNM over the lax party financing regulations. A strict law was therefore adopted in December 2011. The state audit office was equipped with wide-ranging and ill-defined powers, and its UNM-affiliated director began taking selective legal actions against an array of offenses that Ivanishvili personally, or his foundations and business, were said to be guilty of.<sup>47</sup> Similarly, due to the UNM’s ties in the media sector, no cable provider except Global TV, which belonged to Ivanishvili’s brother, was willing to broadcast the opposition outlet Channel 9, which Ivanishvili’s wife had started. Global TV was soon accused of money laundering. Under pressure from channels controlled by Saakashvili’s proxies, Global TV tried to reclaim market shares by installing satellite dishes at low cost, but Saakashvili’s courts declared this to be a violation of the new law on party financing.<sup>48</sup>

Even after the adoption of the constitution and election code, some rules of politics thus remained contested. Since the UNM were seen to be adopting, interpreting and applying laws in their own favor, the GD questioned the legitimacy of these rulings, resulting in an all-out vendetta. Local watchdog organizations hence concluded that the period leading up to the 2012 parliamentary elections had been just as unfair as the run-up to previous elections.<sup>49</sup> But owing to Ivanishvili’s success in uniting the opposition and matching the ruling party’s resources, the campaign was competitive.

However, as noted by Schedler, the flawed nature of the electoral environment in semi-authoritarian states detracted attention from substantial political issues.<sup>50</sup> The incumbents and opposition did launch

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more dependent on donations from businessmen. During the first half of 2012, the median contribution to UNM was 10,000 Lari and 55 percent of the donations came from individuals associated with businesses. The median contribution to GD was 32 Lari and only 10 percent of the donations came from individuals associated with businesses (TI Georgia, *Assessment of Pre-Election Environment*, 7).

<sup>47</sup> TI Georgia. 2012. *Need for Improvements and Clarifications of New Party Finance Regulation*, at <http://transparency.ge/en/node/1674>, accessed March 16, 2014; TI Georgia. 2012. *What are the Reasons for Imposing Fines on Bidzina Ivanishvili?*, at <http://transparency.ge/en/blog/what-are-reasons-imposing-fines-bidzina-ivani>, accessed March 16, 2014.

<sup>48</sup> TI Georgia. 2012. *Georgia’s Television Landscape*. Tbilisi: Transparency International, 19-24.

<sup>49</sup> “Local Observers Assess Pre-Election Period.” *Civil Georgia*. September 30, 2012, at <http://civil.ge/eng/article.php?id=25278>, accessed March 16, 2014.

<sup>50</sup> Schedler, “The Nested Game of Democratization by Elections”, 110.

similar populist action plans, which prioritized reducing unemployment and promised investments in agriculture, health care, infrastructure and education. Both sides also held on to the country's pro-Western foreign policy, even though the GD struck a less antagonistic tone vis-à-vis Russia. Nonetheless, for the voters, the election arguably revolved around the individuals Mikheil Saakashvili and Bidzina Ivanishvili and the credibility of their mutual accusations. Recent history taught voters that opposition politicians are not always more "democratic" than incumbents. Saakashvili's UNM had been viewed as a democratic opposition and won overwhelming electoral victories after the Rose Revolution, and yet – state-building triumphs aside – democratic progress was notable mostly by its absence. How were Georgians to know what Ivanishvili's intentions were?

Saakashvili exploited this fear by referring to Ivanishvili as a "fifth column" who represented the "dark forces of the past."<sup>51</sup> Opinion polls prior to Election Day indicated that many Georgians were unwilling to cast their vote for the mysterious Ivanishvili. Thirty-seven percent said that they would vote for the UNM, while only 12 percent favored the GD in August 2012. But 43 percent refused to answer or claimed not to know whom to vote for<sup>52</sup> – a large and ambiguous pool of voters, who perhaps were more sympathetic to the GD but felt uneasy about revealing their opinions. Many undecided voters presumably swung over to the GD two weeks prior to Election Day, when video recordings emerged showing prison guards torturing and sexually abusing inmates.<sup>53</sup> The president reacted by accusing the opposition of having staged the recordings, which he portrayed as part of a Russian "conspiracy."<sup>54</sup> But regardless of the origins of these recordings, they drew attention from the UNM's state-building accomplishments and to the chronic accountability deficit, which had enabled prison guards, police officers and ministers to engage in wrongdoing and get away with it. Because of the system of dominant-power politics, there were no impartial institutions left to administer justice, and responsibility therefore had to be sought at the very top. Considering the timid GD support recorded in polls the preceding months, many voters seem to have regarded Election Day as a rare window of opportunity to hold the authorities accountable – and leapt at the chance.

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<sup>51</sup> "Saakashvili's Independence Day Speech from New Parliament Building." *Civil Georgia*. May 26, 2012, at <http://www.civil.ge/eng/article.php?id=24814>, accessed March 16, 2014.

<sup>52</sup> National Democratic Institute. 2012. *Public Attitudes in Georgia: Results of August 2012 Survey*. Carried out by the CRRC and funded by SIDA. Tbilisi: NDI.

<sup>53</sup> "Videos of Inmates Abuse, Rape Emerge." *Civil Georgia*. September 19, 2012, at <http://www.civil.ge/eng/article.php?id=25220>, accessed March 16, 2014.

<sup>54</sup> "Saakashvili Speaks of 'Russian War of Compromising Materials'." *Civil Georgia*. September 22, 2012, at <http://www.civil.ge/eng/article.php?id=25242>, accessed March 16, 2014.

## Judgment Day

The feud between Saakashvili and Ivanishvili culminated on October 1, 2012, with the surprising defeat of the United National Movement and victory of the Georgian Dream. The outcome was remarkable for several reasons. Most importantly, it represented Georgia's first constitutional change of government ever. But the GD had also made a meteoric rise; in August it had, according to the polls, only attracted 12 percent of likely voters, but on Election Day the opposition raked in no less than 55 percent of the nation-wide vote. In addition, few had expected the losing party to accept the outcome of the election, which Saakashvili did in a statesman-like speech on election night.<sup>55</sup> Yet the president had unwittingly corned himself by inviting over 100,000 election observers.<sup>56</sup> Instead of putting a seal-of-approval on the anticipated UNM victory, these monitors suddenly ended up certifying the validity of the Georgian Dream's triumph.

Despite the foul pre-election period, the EU, NATO, and many Western countries praised the conduct of the elections.<sup>57</sup> The Council of Europe, for instance, concluded that the elections "were generally conducted in a democratic manner in line with European standards and Council of Europe commitments."<sup>58</sup> Some incidents did, however, deviate from this image. In Khashuri, police forces raided polling stations and initiated a "recount." In Signaghi, election protocols were falsified to give the victory to the UNM. The OSCE evaluated the vote counting process negatively in almost one sixth of polling stations observed.<sup>59</sup> But, all in all, results from only 16 out of 3,766 districts were invalidated. Most striking therefore was that serious violations were rare and quickly discovered by election observers and opposition media. A reliable indication that the official election result reflected popular opinion is provided by the parallel vote tabulation conducted by the democracy watchdog organization International Society for Fair Elections and Democracy, which yielded an almost identical outcome.<sup>60</sup> The final election results are presented in Table 1. Only the UNM and GD entered parliament.

<sup>55</sup> "Saakashvili Concedes Defeat in Parliamentary Election." *Civil Georgia*. October 2: 2012, at <http://www.civil.ge/eng/article.php?id=25299>, accessed March 16, 2014.

<sup>56</sup> Giorgi Kldiashvili. 2012. "The President in Opposition: Georgia's 2012 Parliamentary Elections." *Caucasus Analytical Digest* 43: 2–5.

<sup>57</sup> "In Quotes: Int'l Reactions to Georgian Elections." *Civil Georgia*. October 4, 2012, at <http://www.civil.ge/eng/article.php?id=25312>, accessed March 16, 2014.

<sup>58</sup> Council of Europe Parliamentary Assembly. 2012. *Observation of the parliamentary elections in Georgia (1 October 2012, Doc. 13068)*. Strasbourg: Council of Europe.

<sup>59</sup> Organization for Security and Cooperation in Europe. 2012. *OSCE/ODIHR Election Observation Mission Final Report*. Warsaw: OSCE/ODIHR, 25.

<sup>60</sup> "Parallel Vote Tabulation: GD – 54%; UNM – 40.7%." *Civil Georgia*. October 2: 2012, at <http://www.civil.ge/eng/article.php?id=25298>, accessed March 16, 2014.

**Table 1. Official Results in the October 2012 Parliamentary Elections.**

Eligible voters: 3,613,851 Voters: 2,215,661 Turnout: 61%

Party / coalition	Vote share	# PR seats	# SMD seats	# seats	Share of seats
Georgian Dream	55%	44	41	85	57%
United National Movement	40%	33	32	65	43%
Christian-Democratic Union	2%	0	0	0	0%
Labor Party	1%	0	0	0	0%
Others (under 1 %)	2%	0	0	0	0%
Total	100%	77	73	150	100%

Source: Central Election Commission. 2012. *Parliamentary Elections*, at <http://results2012.cec.gov.ge>, accessed March 16, 2014.

Even as it was clear that the UNM had lost to the opposition under the proportional (PR) component, Saakashvili expected to win the election by capturing the lion's share of seats allotted in single-mandate districts (SMDs).<sup>61</sup> In fact, he only admitted defeat after results had trickled in, which proved that the opposition was just as competitive in the SMDs as in the PR component of the race. In contrast to the parliamentary elections of 2008, this meant that the allocation of seats was almost proportional to the parties' nationwide share of the votes. But the parliamentary balance of power has shifted since Election Day. Fourteen majoritarian parliamentarians, who were elected for the UNM, have since abandoned the party; they have either joined the Georgian Dream (Revaz Shavlokhshvili), a faction called Independent Majoritarians (6 MPs) or belong to no parliamentary faction at all (7 MPs).<sup>62</sup> Two parliamentarians, elected on the Georgian Dream party list, have left the majority and also do not belong to any parliamentary faction (Koba Davitashvili and Giorgi Gachechiladze). The result of these movements, and the balance of power in the Georgian parliament as of March 2014, can be seen in Table 2.

<sup>61</sup> "Saakashvili Says UNM Lost in Party-List Race, Won Majoritarian Contest." *Civil Georgia*. October 1, 2012, at <http://www.civil.ge/eng/article.php?id=25291>, accessed March 16, 2014.

<sup>62</sup> "MP Quits UNM Parliamentary Minority Group." *Civil Georgia*. November 18, 2013, at <http://www.civil.ge/eng/article.php?id=26701>, accessed March 16, 2014.

**Table 2. Parliamentary Factions (as of March 13, 2014)**

<b>Georgian Dream Coalition</b>	<b>84 seats</b>
Georgian Dream (Bidzina Ivanishvili / Irakli Garibashvili)	47 seats
Free Democrats (Irakli Alasania)	10 seats
Republicans (Davit Usupashvili)	9 seats
Conservatives (Zviad Dzidziguri)	6 seats
National Forum (Kakha Shartava)	6 seats
Industrialists (Giorgi Topadze)	6 seats
<b>United National Movement</b>	<b>51 seats</b>
United National Movement	39 seats
National Movement Majoritarians	6 seats
National Movement Regions	6 seats
<b>Independent Majoritarians</b>	<b>6 seats</b>
<b>No faction</b>	<b>9 seats</b>

Source: Parliament of Georgia. 2014. *Factions*, at [http://parliament.ge/index.php?option=com\\_content&view=article&id=2248&Itemid=432&lang=en](http://parliament.ge/index.php?option=com_content&view=article&id=2248&Itemid=432&lang=en), accessed March 16, 2014.

### **Cohabitation in the Form of Feckless Pluralism**

Georgia was thrown into a state of feckless pluralism after the October 2012 elections. While Ivanishvili's coalition had won a majority of parliamentary seats, Saakashvili still remained president, since his mandate did not expire until a year later – in October 2013. For the next year, Ivanishvili and Saakashvili therefore had to go through a period of political cohabitation. However, sharing power was not going to be easy. Not only did frustration linger after the recriminations exchanged during the pre-election period. Despite the election results, it remained unclear whether the GD or UNM, or which mix thereof, would govern Georgia, since the super-presidential constitution, adopted by Saakashvili in 2004, was valid up until the next presidential elections in October 2013.<sup>63</sup>

On the one hand, the GD-controlled parliament needed to approve the nominee for prime minister and his cabinet. And with the support of

<sup>63</sup> GeoWel. 2012. *The Power of the Prime Minister*, at [http://www.geowel.org/index.php?article\\_id=80&clang=0](http://www.geowel.org/index.php?article_id=80&clang=0), accessed March 16, 2014.

the majoritarian MPs who left the UNM, Ivanishvili also gathered the 90 votes needed to overturn presidential vetoes against parliamentary bills. In fact, since the “independent” MPs were independent in name only, the stream of UNM-defectors brought the GD to the brink, but nonetheless just short, of the 100 seats required for changing the constitution. On the other hand, Saakashvili could temporarily reclaim power, should he so desire. The then existing constitution permitted the president to dismiss a sitting government, and to appoint a new one without parliamentary approval. Saakashvili even had the right to dissolve the parliament itself, yet only within a limited time-frame: after 6 months had passed since the last parliamentary elections and not later than 6 months prior to the next presidential elections. Consequently, Saakashvili could at any time sack an incumbent GD cabinet and institute a UNM replacement; and, if so, then this presidentially appointed government would rule until new elections could be held, after the end of the grace period.

Saakashvili thus retained significant powers, which made it difficult to instantly dismiss him as a lame-duck. Since both the outgoing UNM president and the incoming GD prime minister had a strong hand to play, executive power was in effect divided as cohabitation began. And in line with Hale’s hypothesis on divided-power constitutions, politicians could now find protection and strike up alliances with two patrons, resulting in a transition away from dominant-power politics and towards feckless pluralism.<sup>64</sup> Georgia hence experienced a political opening. But the contestation between the UNM and GD did not revolve around dire societal needs – it was a matter of elite infighting.<sup>65</sup>

Saakashvili did adopt a cooperative stance after the elections. He offered to reinstate Ivanishvili’s citizenship, nominated him as prime minister, and allowed his opponent to form a cabinet, which included the important task of selecting ministers of interior, defense and justice.<sup>66</sup> Yet Ivanishvili’s initial position was that Saakashvili should resign before the end of his presidential term. While Ivanishvili soon dropped this demand, he proceeded to curtail the UNM’s power wherever possible, whilst Saakashvili tried to carve out sectors of influence, in spite of the change of government.

For instance, Saakashvili shored up his control over the Special State Protection Service, which he empowered with strategic responsibilities that earlier had fallen under the interior ministry’s domain.<sup>67</sup> UNM-figure

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<sup>64</sup> Hale, “Formal Constitutions in Informal Politics.”

<sup>65</sup> Svante Cornell. 2013. *Getting Georgia Right*. Brussels: Centre for European Studies, 43.

<sup>66</sup> “Ivanishvili Confirmed as Prime Minister.” *Civil Georgia*. October 25, 2012, at <http://www.civil.ge/eng/article.php?id=25389>, accessed March 16, 2014.

<sup>67</sup> “Saakashvili strengthens his personal security.” *Democracy & Freedom Watch*. October 19, 2012, at <http://dfwatch.net/saakashvili-strengthens-his-personal-security-20451>, accessed

Gigi Ugulava likewise established a security force under his command as mayor of Tbilisi.<sup>68</sup> The UNM also managed to retain control over prominent media outlets, including the TV channel Rustavi-2 and the magazine *Tabula*.<sup>69</sup> On top of this, Saakashvili controlled the country's regional administrations via presidentially appointed governors. Some high-ranking UNM members, such as the minister of justice Zurab Adeishvili nevertheless opted to flee, which Saakashvili facilitated by granting diplomatic passports to his top aides.<sup>70</sup> However, an ideologically driven party core remained, with solid experience in government and considerable resources, which Saakashvili pledged to use to organize a comeback. Although the UNM was in a precarious state, it was not yet a spent force.

But Ivanishvili did take steps to push the UNM into oblivion. Instead of waiting for the 2014 local elections, GD-activists mounted pressure on self-government bodies. By the end of 2012, the UNM had lost control of more than half of Georgia's municipal administrations.<sup>71</sup> Ivanishvili also cut financing to bodies controlled by UNM, including the presidential administration, the National Security Council, and the Tbilisi Mayor's Office.<sup>72</sup> The military chief of staff, who was seen as loyal to Saakashvili, was arrested so as to force a reappointment.<sup>73</sup> Control over the intelligence services and the Special State Protection Service was also a sensitive issue, and the GD proposed to transfer jurisdiction over them from the president to the prime minister.<sup>74</sup> To the weighty post of minister of internal affairs, Ivanishvili appointed his right-hand man Irakli Garibashvili, who replaced regional police chiefs throughout Georgia.<sup>75</sup> The job of chief prosecutor

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March 16, 2014.

<sup>68</sup> "Tbilisi Mayor Creates New Security Force." *Democracy & Freedom Watch*. October 10, 2012, at <http://dfwatch.net/tbilisi-mayor-creates-new-security-force-45660>, accessed March 16, 2014.

<sup>69</sup> The UNM did, however, relinquish control of the TV channel Imedi soon after Election Day (see Giorgi Lomsadze. "Georgia: Saakashvili Loses Control Over TV Remote." *Eurasianet*. November 2, 2012, at [www.eurasianet.org/node/66138](http://www.eurasianet.org/node/66138), accessed March 16, 2014).

<sup>70</sup> Robert Coalson. "After Elections, Many Georgian Officials Disappear, Leave Town." *Radio Free Europe – Radio Liberty*. October 16, 2012, at [www.rferl.org/content/after-elections-many-georgians-officials-leave-town/24741509.html](http://www.rferl.org/content/after-elections-many-georgians-officials-leave-town/24741509.html), accessed March 16, 2014.

<sup>71</sup> Molly Corso. "Georgia: Political Tumult Hits Regions." *Eurasianet*. December 26, 2012, at <http://www.eurasianet.org/node/66341>, accessed March 16, 2014.

<sup>72</sup> "Government Cuts Funding to President, NSC and Mayor's Office." *Georgia Online*. November 3, 2012, at <http://georgiaonline.ge/news/a1/politics/1351928777.php>, accessed March 16, 2014.

<sup>73</sup> "Prosecutors Ask Court to Dismiss Army Chief." *Civil Georgia*. November 11, 2012, at <http://www.civil.ge/eng/article.php?id=25437>, accessed March 16, 2014.

<sup>74</sup> "President Can Be Deprived of Control over Intelligence Service." *Trend News Agency*. December 26, 2012, at <http://en.trend.az/regions/scaucasus/georgia/2103009.html>, accessed March 16, 2014.

<sup>75</sup> Salome Metskhvarishvili. "Changes in the Interior Ministry." *News.ge*. November 6, 2012, at <http://news.ge/ge/news/story/36260-shss-shi-tsvlilebebia>, accessed March 9, 2014.

was given to GD-affiliated Archil Kbilashvili, who purged the cadre of prosecutors he had inherited from the UNM.<sup>76</sup> Having extended his leverage over the administration of justice, Ivanishvili – much like Saakashvili – proceeded to target his political opponents.

A string of key UNM figures came under attack from police and prosecutors.<sup>77</sup> Ivane Merabishvili, the former prime minister, was handed a long jail-sentence. Davit Sakvarelidze, a UNM parliamentarian, and Nika Gvaramia, the head of Rustavi-2, and Tbilisi mayor Gigi Ugulava were likewise hounded. Other targets include ex-interior minister Bachana Akhalaia and his brother Data, who led the ministry's Constitutional Security Department, as well as their father Roland, a former prosecutor from the region of Samegrelo. Charges against these Saakashvili loyalists range from abuse of power to financial crimes. GD sympathizers claim that these arrests prove that no one is above the law, while UNM supporters argue that they are being punished for their political affiliation. Neither side seems to realize that their credibility falters, since they swapped viewpoints with the change of government. It strains credulity to think that no illicit activities occurred under Saakashvili's rule, as he used the police and courts to punish the opposition and shield his allies, and thereby incite loyalty to the ruling party. But it would be just as naïve to ignore that prosecutions against the UNM – in the absence of an independent judiciary and depoliticized police applying the same standards to GD-loyalists – also incite parliamentarians and businessmen to line up behind Ivanishvili.

Herein lies a great threat to the political opening that emerged after the 2012 elections. Local strongmen, whose foremost interest is to curry political favor for their businesses, often appear on those parliamentary seats allotted through elections in single-mandate districts. In Georgia, such majoritarian MPs have always been prone to cooperate with the ruling party, which controls those institutional levers (courts, police, tax authorities, tenders) that can make or break their business projects.<sup>78</sup> Recent defections are no exception. All 14 MPs, who have defected from the UNM to date, were elected on a majoritarian mandate, and their motivation may

<sup>76</sup> "New Chief Prosecutor Appointed." *Civil Georgia*. October 30, 2012, at <http://www.civil.ge/eng/article.php?id=25400>, accessed March 16, 2014.

<sup>77</sup> "Ex-PM Merabishvili Sentenced to Five Years in Prison." *Civil Georgia*. February 17, 2014, at <http://www.civil.ge/eng/article.php?id=26949>, accessed March 16, 2014; "Parliament Moves to Pave Way for Prosecutors to Press Charges Against UNM MP." *Civil Georgia*. April 2, 2014, at <http://www.civil.ge/eng/article.php?id=27101>, accessed April 16, 2014; "Ex-Energy Minister, Rustavi 2 Head Arrested." *Civil Georgia*. December 19, 2012, at <http://www.civil.ge/eng/article.php?id=25564>, accessed March 16, 2014; "Tbilisi Mayor Ugulava Faces Criminal Charges." *Civil Georgia*. February 22, 2013, at <http://www.civil.ge/eng/article.php?id=25780>, accessed March 16, 2014.

<sup>78</sup> Wheatley, *Georgia from National Awakening to Rose Revolution*, 119-120; Ghia Nodia & Alvaro Pinto Scholtbach. 2006. *The Political Landscape of Georgia*. Delft: Eburon Publishers, 52, 110.

well be to receive protection – rather than punishments – from the GD government.<sup>79</sup> These turncoats aggravate the volatility of Georgian politics, as well as its elitist and patrimonial nature.

Boosted by these defections, Ivanishvili won enough votes to overturn presidential vetoes, but he still lacked the mandate needed to amend the constitution. And without the power to amend the super-presidential constitution, the GD-cabinet remained under “constant threat” of being sacked by Saakashvili.<sup>80</sup> Ivanishvili therefore proposed a compromise in December 2012. He wanted to rob the president of his right to appoint a government without parliamentary consent prior to the holding of new parliamentary elections. In return, Ivanishvili offered to remove time restrictions on Saakashvili’s right to dissolve parliament. Consequently, Saakashvili would retain his right to dismiss the sitting government, but in case parliament did not approve the president’s cabinet, the GD-government – rather than the president’s replacement – would wield power until new elections were held. In exchange for supporting this proposal, the UNM tried to wring additional concessions from the GD.<sup>81</sup> It succeeded in doing so, but the GD later walked away from this deal due to disagreements over the extent to which civil servants and officials should be granted amnesty for transgressions committed under Saakashvili’s rule.<sup>82</sup> In retrospect, it seems that Saakashvili overplayed his hand during the talks, for in March 2013 the UNM agreed to support the initial amendment proposed by Ivanishvili, even without the boon of other concessions the GD had backtracked from.<sup>83</sup>

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<sup>79</sup> A clear-cut contender is Kakhaber Okriashvili, a majoritarian elected in Dmanisi and the owner of the pharmaceutical company PSP Pharma. Shortly after the 2012 elections, he left the UNM and started fawning over the GD (see “UNM complains about pressure in Dmanisi.” *Rustavi-2*. December 11, 2012, at [http://rustavi2.com/news/news\\_text.php?id\\_news=47550](http://rustavi2.com/news/news_text.php?id_news=47550), accessed March 16, 2014).

<sup>80</sup> “GD Offers Constitutional Amendment.” *Civil Georgia*. December 28, 2012, at <http://www.civil.ge/eng/article.php?id=25600>, accessed March 16, 2014.

<sup>81</sup> “UNM Sets Conditions for Its Support to GD’s Constitutional Changes.” *Civil Georgia*. February 4, 2013, at <http://www.civil.ge/eng/article.php?id=25714>, accessed March 16, 2014.

<sup>82</sup> “GD, UNM Talks Fail to Produce Accord.” *Civil Georgia*. February 20, 2013, at <http://www.civil.ge/eng/article.php?id=25771>, accessed March 16, 2014.

<sup>83</sup> “Constitutional Amendment Goes into Force.” *Civil Georgia*. March 27, 2013, at <http://www.civil.ge/eng/article.php?id=25897>, accessed March 16, 2014.

## Democratic Reform or Authoritarian Closure?

Without the right to appoint a new cabinet against the will of the sitting parliament, Saakashvili succumbed to the lame-duck syndrome. His appeal as a presidential patron therefore ended with the constitutional amendments of March 2013. But just how much power Ivanishvili could accrue after the new constitution entered into force, depended on the outcome of the presidential elections in October 2013.<sup>84</sup> Without a loyalist in this office, Ivanishvili would have to be careful not to alienate his coalition partners, since 75 MPs could force the cabinet to resign – if the president gives his consent. But should the prime minister have an ally elected president, who refuses to consent to a vote of no confidence, then 90 parliamentarians would have to join forces to remove him. Since Ivanishvili's government would sit more securely with a loyalist elected president, the next political battle between the UNM and GD centered on the October 2013 elections.

The process of selecting a presidential candidate differed markedly between the GD and UNM. Ivanishvili discouraged well-recognized politicians within the GD from even discussing the option of running.<sup>85</sup> The unknown Giorgi Margvelashvili was presented as the coalition's candidate, but his prime merit appeared to be his connection to Ivanishvili, who touted Margvelashvili as a "friend" and "confidant."<sup>86</sup> Meanwhile, the UNM arranged a series of primaries involving public debates around the country, which culminated in the selection of David Bakradze, a relatively well-liked UNM-politician, who had served as parliamentary chairman during Saakashvili's latter years.<sup>87</sup> These personalities may have evened out the unpopularity of the UNM-brand and the popularity of the GD-brand somewhat, but polls taken in the run-up to the elections still placed Margvelashvili far ahead of Bakradze, with over twice the support of the latter.<sup>88</sup>

Just as interesting as the electoral contest is therefore its conduct. And the verdicts from watchdog organizations were positive. Local NGOs observed fewer violations compared to the 2012 elections, 60 rather than 300 by one count, and a drastic decline in the use of administrative

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<sup>84</sup> Welt, "Georgia's Constitutional Reform"; Cory Welt. 2012. "Can Georgia Become A Multiparty Democracy?" *Caucasus Analytical Digest* 43: 13–15.

<sup>85</sup> "PM Speaks of Reasons Behind Demoting Alasania." *Civil Georgia*. January 24, 2013, at <http://www.civil.ge/eng/article.php?id=25674>, accessed March 16, 2014.

<sup>86</sup> "Margvelashvili Named as GD's Presidential Candidate." *Civil Georgia*. May 11, 2013, at <http://www.civil.ge/eng/article.php?id=26046>, accessed March 16, 2014.

<sup>87</sup> "Bakradze Becomes UNM Presidential Candidate." *Civil Georgia*. July 27, 2013, at <http://www.civil.ge/eng/article.php?id=26312>, accessed March 16, 2014.

<sup>88</sup> National Democratic Institute. 2013. *Public Attitudes in Georgia: Results of September 2013 Survey, Carried out by the CRRC and funded by SIDA*. Tbilisi: NDI.

resources.<sup>89</sup> The OSCE noted that “voters were able to express their choice freely” thanks to respect for basic freedoms, diverse media coverage, and a transparent election administration.<sup>90</sup> The outcome of the presidential elections was thus uncontroversial, with Giorgi Margvelashvili amassing 62 percent of the vote, whilst David Bakradze scored 22 percent and soon conceded defeat.

At this time, in late October 2013, Ivanishvili held almost all levers of power. His prime ministerial powers were about to grow as the new constitution entered into force, and his loyal nominee for president had won the recent elections. Parliament was also under his firm control, although the GD did not possess the 113 votes necessary to make constitutional changes under the rules of the new constitution. Apart from these political levers, Ivanishvili enjoyed vast economic influence through the recently announced Georgian Co-Investment Fund, wielding USD 6 billion and headed by another loyalist: Giorgi Bachiashvili.<sup>91</sup> Should he have wanted to, Ivanishvili could have pulled these levers to close the political opening that had emerged after the 2012 parliamentary elections, and reinstate a system of dominant-power politics, but now under his control.

Yet Ivanishvili chose not to take that road, or alternatively: went to great lengths to avoid being seen as doing so. Shortly after the presidential elections, he acted on his earlier promises, by voluntarily resigning as prime minister and, ostensibly, quitting politics altogether. This was necessary, Ivanishvili argued, in order to end Georgia’s reliance on “traditional messiah-authoritarianism,” which he feared that he might succumb to.<sup>92</sup> In this spirit, Ivanishvili had Channel 9 closed, thus stopping his outlet in the television sector, and promised to help hold the government accountable by developing civil society, for which purpose he later founded an NGO called Citizen.<sup>93</sup>

While these steps are praiseworthy, other moves inspire apprehension. As his successor, Ivanishvili picked a political novice and long-time personal associate; Irakli Garibashvili, who had been interior minister under Ivanishvili’s short premiership. This raised suspicions that

<sup>89</sup> TI Georgia. 2013. *Assessment of Pre-Election Environment*. Tbilisi: Transparency International, GYLA & ISFED; TI Georgia. 2013. *Final assessment of the October 27, 2013 presidential election*. Tbilisi: Transparency International.

<sup>90</sup> Organization for Security and Cooperation in Europe. 2014. *OSCE/ODIHR Election Observation Mission Final Report*. Warsaw: OSCE/ODIHR, 1.

<sup>91</sup> “USD 6 bln Private Equity Fund Launched.” *Civil Georgia*. September 30, 2013, at <http://www.civil.ge/eng/article.php?id=26503>, accessed March 16, 2014.

<sup>92</sup> “PM on His Intended Pre-Term Resignation.” *Civil Georgia*. September 2, 2013, at <http://www.civil.ge/eng/article.php?id=26408>, accessed March 16, 2014.

<sup>93</sup> “Ivanishvili’s TV Goes Off the Air.” *Civil Georgia*. August 20, 2013, at <http://www.civil.ge/eng/article.php?id=26373>, accessed March 16, 2014; “Ex-PM Ivanishvili Launches NGO.” *Civil Georgia*. February 4, 2014, at <http://www.civil.ge/eng/article.php?id=26914>, accessed March 16, 2014.

Ivanishvili might retain his ability to control the government, but through informal connections and without the accountability that comes with occupying an official post. Neither Margvelashvili nor Garibashvili have soothed these fears, with the president stating that Ivanishvili's opinions have "huge importance" for him and the prime minister saying that he "will always accept Bidzina Ivanishvili's advice."<sup>94</sup> In 2014, Georgia thus entered unchartered political territory. Due to the decline of the UNM and the tradition of using state resources to prop up the ruling party, practiced until recently by the Saakashvili-administration, there were neither strong opposition parties nor any institutional constraints to counterbalance the GD. To a large extent, Georgia's political trajectory therefore hinges on the Georgian Dream and its intentions.

A disclaimer is immediately in order: the GD remains an eclectic coalition. Its most benign parties, Alasania's Free Democrats and Usupashvili's Republican Party, are institutionalized as parliamentary factions, and Alasania is the minister of defense whilst Usupashvili has taken on the important position as speaker of parliament. But reactionary forces also wield power: from nationalists (Dzidziguri's Conservative Party and Shartava's National Forum) to self-interested businessmen (Topadze's Industry Will Save Georgia and some majoritarian MPs) and politicians who were elected to parliament or government solely due to their personal fealty to Ivanishvili.<sup>95</sup> Nevertheless, the coalition's pivot remains the Georgian Dream – Democratic Georgia party, conceived by Ivanishvili, but nowadays headed by Garibashvili. Due to personal animosities it is unlikely that any of these parties would separate from the GD for the purpose of cooperating with the UNM. But if the GD-government refrains from using state resources for partisan purposes, as a tool for maintaining discipline, the day may come when more ideologically driven MPs decide to part with the ruling coalition.

However, in the short-term Georgia's political trajectory – democratic reform or authoritarian closure – depends precisely on whether the GD resorts to this type of tactics. Will the interior ministry cease to function as the loyal shield and sword of the ruling party? Will the rule of law trump the law of the ruler? And will civil servants and businessmen escape the perception that their careers hinge on loyalty to the ruling party? Let us take a closer look at these queries so as to sense where Georgia is heading.

After having been browbeaten by law enforcement ahead of the 2012

<sup>94</sup> "Outgoing PM Plans to Name Successor This Week." *Civil Georgia*. October 29, 2013, at <http://www.civil.ge/eng/article.php?id=26636>, accessed March 16, 2014; "PM-Designate, UNM MPs Spar in Heated Hearing." *Civil Georgia*. November 20, 2013, at <http://www.civil.ge/eng/article.php?id=26703>, accessed March 16, 2014.

<sup>95</sup> Vladimir Socor. "Georgian Dream's Parliamentary Candidates: Personal Loyalties Unite an Eclectic Lot." *Eurasia Daily Monitor*. July 24, 2012, at [www.jamestown.org/single/?no\\_cache=1&tx\\_ttnews\[tt\\_news\]=39664](http://www.jamestown.org/single/?no_cache=1&tx_ttnews[tt_news]=39664), accessed March 16, 2014.

elections, the GD should have been cognizant of the value of a de-politicized police force. Indeed, during his stint as interior minister Garibashvili took some steps in this direction by disbanding murky divisions like the Special Operative Department and Constitutional Security Department. But later developments indicate that this might rather have been part of an effort to weed out UNM-loyal officers and replace them with GD-partisans. In early 2013, Garibashvili suspended regular recruitment rules for high-level police posts. This move opened the door to nepotism, which he has since been accused of after hiring relatives of his father-in-law, Tamaz Tamazishvili.<sup>96</sup> Even Garibashvili's successor as interior minister, Alexander Tchikaidze, appears to be part of this familial web, as Tchikaidze's father used to be a colleague of Tamazishvili.<sup>97</sup> Moreover, key promises have not been realized. While its use has declined, it is still allowed to hold individuals without regular court procedures according to the law on administrative detention.<sup>98</sup> And the police still have unlimited access to the data of telecommunication providers, without oversight mechanisms preventing illegal surveillance.<sup>99</sup> It can therefore not be precluded that the GD plans to use the police as the shield and sword of the government.

More progress has been made in the area of judicial reform. The GD has abolished restrictions on sound and video recording in courtrooms. They have also freed judges from the UNM's control by reforming the rules governing the composition of the High Council of Justice, which handles the appointment and dismissal of judges.<sup>100</sup> Old rules allowed the president to select two members, while four seats were filled from among the MPs, but such political appointments have been abolished. Six members to the High Council of Justice are instead elected from civil society or academia, yet approved by parliament. The remaining eight members were earlier elected among judges, but in a way that gave Konstantin Kublashvili, the brother of a UNM parliamentarian and chairman of the Supreme Court, control over the outcome. New rules have robbed Kublashvili of

<sup>96</sup> Natalia Sarkisashvili. "Nephew of Minister's Father-in-Law Appointed Head of General Inspection at MIA." *Humanrights.ge*. January 11, 2013, at <http://www.humanrights.ge/index.php?a=main&pid=16136>, accessed March 16, 2014; Molly Corso. "Georgia: New Government Struggling to Keep Police Reform Pledge." *Eurasianet*. July 2, 2013, at <http://www.eurasianet.org/node/67205>, accessed March 16, 2014.

<sup>97</sup> "Tchikaidze's father is a friend of Tamaz Tamazashvili, which is the reason he got appointed." *News.ge*. November 9, 2013, at <http://news.ge/ge/news/story/69705-chikaidzis-mama-tamaz-tamazashvilis-megobaria-da-am-nishnit-dainishna>, accessed March 16, 2014.

<sup>98</sup> Thomas Hammarberg. 2013. *Georgia in Transition – Report on the Human Rights Dimension*. Tbilisi: Delegation of the European Union to Georgia, 11-12.

<sup>99</sup> "Campaign to Rein in 'Unrestricted Govt Surveillance'." *Civil Georgia*. March 6, 2014, at <http://www.civil.ge/eng/article.php?id=27013>, accessed March 16, 2014.

<sup>100</sup> "Parliament Confirms Judicial Council Bill." *Civil Georgia*. April 5, 2013, at <http://www.civil.ge/eng/article.php?id=25924>, accessed March 16, 2014.

his exclusive right to nominate candidates for these eight seats, and made the voting process among judges secret. As a result, judges nowadays act with greater independence and demonstrate fewer inclinations to please the prosecutors.<sup>101</sup> On the other hand, the GD has postponed other reforms that could rein in the prosecution's excessive influence and there is no impartial oversight over the Prosecutor's Office.<sup>102</sup> The lack of change is all the more worrisome since the chief prosecutor in practice has been selected singlehandedly by Garibashvili.<sup>103</sup> It therefore remains to be seen if Georgia's judges can safeguard the rule of law against the prosecution's pursuit of the law of the ruler.

Neither civil servants nor businessmen are yet in a position to assume that their career no longer requires loyalty to the ruling party. In the wake of the 2012 elections, thousands of civil servants were fired and replacements were hired on non-transparent or partisan grounds.<sup>104</sup> Changes to the labor code have since strengthened employee rights, e.g. by making it impossible to fire someone without stating a reason.<sup>105</sup> But most public servants remain temporary hires, who unlike full-time employees are not – at least not yet – put through open competitions.<sup>106</sup> For their part, entrepreneurs benefit from a freer business climate, with fewer property rights violations. For instance, the monopoly held by UNM proxies in the advertisement sector has collapsed, causing reduced self-censorship among media companies.<sup>107</sup> But the GD has not adopted an anti-monopoly law, and Georgia's antitrust agency remains feeble.<sup>108</sup> Further risks stem from the fact that some politicians, including those MPs who have defected from the UNM, are involved in businesses that are habituated to raking in profit via “simplified” public tenders.<sup>109</sup> While there is no evidence that elite corruption is as egregious as

<sup>101</sup> “Judiciary after parliamentary elections 2012.” *TI Georgia*. July 25, 2013, at <http://transparency.ge/en/blog/judiciary-after-parliamentary-elections-2012>, accessed March 16, 2014.

<sup>102</sup> Hammarberg, *Georgia in Transition*, 14; “New Rule of Witness Questioning Postponed Again.” *Civil Georgia* December 26, 2013, at <http://www.civil.ge/eng/article.php?id=26827>, accessed March 16, 2014.

<sup>103</sup> “Justice Minister Says not Involved in Selecting New Chief Prosecutor.” *Civil Georgia*. January 17: 2014, at <http://www.civil.ge/eng/article.php?id=26865>, accessed March 16, 2014.

<sup>104</sup> TI Georgia. 2013. *Staffing Changes in the Civil Service After the 2012 Parliamentary Elections: 20 October 2012 – 1 March 2013*. Tbilisi: Transparency International.

<sup>105</sup> “Georgia gets new Labor Code.” *Georgia Today*. June 21, 2013, at [http://www.georgiatoday.ge/article\\_details.php?id=11258](http://www.georgiatoday.ge/article_details.php?id=11258), accessed March 16, 2014.

<sup>106</sup> Molly Corso. “Georgia: Meritocracy Poised to Make Gain?” *Eurasianet*. June 4, 2013, at <http://www.eurasianet.org/node/67071>, accessed March 16, 2014.

<sup>107</sup> Cornell, *Getting Georgia Right*, 44; TI Georgia. 2013. *The Georgian Advertising Market: Competition At Last?* Tbilisi: Transparency International.

<sup>108</sup> “Competition Law - A Victim of Politics.” *Georgia News*. December 19, 2013, at <http://www.georgianews.ge/business/25738>, accessed March 16, 2014.

<sup>109</sup> TI Georgia. 2013. *Businessmen in Politics and Politicians in Business – Problem of Revolving Door in Georgia*. Tbilisi: Transparency International; TI Georgia. 2013. *Simplified Procurement – Corruption Risks in Non-Competitive Government Contracts*. Tbilisi: Transparency International.

under the UNM, Garibashvili's cabinet may find it convenient to tolerate such behavior in return for the loyalty of some MPs, and maybe so as to profit from the gravy train for themselves. It thus remains an open question if the GD will fulfill its promise to end the state practice of giving preferential treatment to loyal entrepreneurs.

Judging from developments in these areas, it is only possible to conclude that Georgia is at the crossroads. The 2012 parliamentary elections did result in a much-needed respite from Saakashvili's system of dominant-power politics. This electoral change of government was, however, not sufficient to cause a democratic breakthrough. Since the GD and UNM remained locked in a struggle for control over state institutions, Georgia drifted towards the syndrome of feckless pluralism. After Saakashvili's exit and Margvelashvili's rise to the presidency in the 2013 elections, the Georgian Dream faces few constraints on its power, despite Ivanishvili's departure. It has inherited the UNM's privileged access to state resources, which can be utilized to prop up the ruling party and suppress dissent. Much, therefore, hinges on the Georgian Dream, Prime Minister Garibashvili, and his intentions. He could use the police, prosecutors and his leverage over employment and business opportunities to dole out partisan punishment and protection, leading to authoritarian closure and a return to dominant-power politics. Or he could pursue democratic reforms, driven by the insight that it serves his own interests to ensure that a de-politicized police, independent courts, and alternative career opportunities exist so as to protect himself from retribution after the next – and inevitable – government turnover. Such steps are key if electoral turnovers are to go beyond the swapping of rulers in otherwise similar semi-authoritarian regimes.