

POWER, REVOLUTION,
AND BUSINESS
IN POST-REVOLUTIONARY GEORGIA
(Part One)

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There is the opinion that the method by which a political leader is replaced, or his own attitude to his possible loss of power, is part of his political heritage and affects the country's democratic development. If the first leader of a newly formed political system is replaced, this heritage becomes even more important.¹ The point is amply illustrated by fifteen years of Georgia's political independence. It changed its political leaders twice, each time with violence and violations of the Constitution. Each time the change was carried out under democratic banners, and each time authoritarian trends in the country's

political system became more pronounced: after coming to power each of the new leaders wanted to preserve it. To achieve this, they sought for economic domination to get a grip on badly needed material and financial resources. So each of the new leaders tried to place private business under his political control. The Georgian Constitution, however, guarantees protection of private property; the new leaders are also limited by the liberal Constitution in many other respects, the country's financial and political dependence on the West, and its desire to integrate into the European structures. This forces each of the new leaders to use methods which will not damage the country's democratic image. Political pressure on the business community became especially obvious after the Rose Revolution; today it is barely concealed and rather harsh.

¹ See: David C. Brooker, "How They Leave: A Comparison of How the First Presidents of the Soviet Successor States Left Office," *The Journal of Communist Studies and Transition Politics*, Vol. 20, No. 4, December 2004.

The Rose Revolution and the Post-Soviet Expanse

The world noticed Georgia when the Shevardnadze regime toppled and Mikhail Saakashvili came to power. The heads of certain post-Soviet countries watched the developments with apprehension, since they worried about the threat to stability in their countries too. It turned out that the revolutionary vector was aimed at neighboring states: Georgia became the center from which permanent post-Soviet revolutions were expected to spread elsewhere to wipe away, according to the domino principle, other post-Soviet governments. The Tbilisi events were repeated in Ukraine and Kyrgyzstan, where people took to the streets to remove the old leaders. Very soon, however, the tension subsided, yet the present Georgian political leaders still hope that other CIS countries will make use of their experience. President Saakashvili admitted this in so many words at the Unity of Democratic Choice forum:

“We are not against Russia,” said he. “It is very important that dictatorship should be removed, the nation should wake up and deprive the dictator of its support. For this reason the creation of the Unity of Democratic Choice will bring only positive results.”²

It turned out that the Georgian revolution led not so much to democracy as to stronger authoritarian trends in Georgia and across the post-Soviet expanse. It was under its impact that some of the former Soviet republics, Russia and Belarus in particular, introduced stricter legal norms relating to social and political activities and NGOs.³ This is obviously an echo of Eduard Shevardnadze’s sad experience. Indeed, many NGOs financed from abroad (Kmara being one of them) were actively involved in the Rose Revolution, while after its victory some of its members were appointed ministers and elected deputies. While still in power, Shevardnadze, aware of the mounting threat, made several feeble attempts to place NGOs under strict state control, while trying to preserve the democratic image of his country and his own reputation of a democrat and a friend of the West. This forced him to reject a law which would have allowed the state to control the financial sources of the Georgian NGOs.

Change of Leaders in Post-Soviet Georgia

Georgia is a semi-free country; for this reason two opposite trends—democratic and authoritarian—are constantly present on its political scene. The democratic elements—freedom of speech, elections, political pluralism, etc.—are not strong enough to let society control the government and demand that it should become accountable to society. At the same time, the authoritarian trend is curbed by the Georgian leaders’ considerable dependence, political and financial, on the West. The Rose Revolution can be described as a result of the confrontation between these two political trends.

There is an obvious trend toward making such revolutions a regular feature of the political system and a regime-changing tool. Today in Georgia, it is still impossible to replace the country’s leader by means of democratic elections—this is the main stumbling block on the Georgia’s road to democracy. I have already written that the country has changed its political regime twice during the fifteen years of its independence not by means of democratic elections. President Gamsakhurdia was removed by a military coup; President Shevardnadze by the people, who took to the streets and captured the parliament. Only after that did the new leaders hold an election to make their power legal. Georgia’s post-Soviet history, however, began with a democratic election which brought Zviad Gamsakhurdia, its first post-Soviet leader, to power. This was the beginning of the struggle between the democratic and authoritarian trends in the country’s political history; with each change of government, the country moved away from its communist past; the closer the governments were to Soviet times, the less radical and more nationalistic they were. Gamsakhurdia, for example, postponed reforms which might have radically changed the state and economic structure.

The earliest post-communist elite did not hasten to develop the private sector; it was afraid of a new class of private owners who, by controlling the economic resources, might have created problems for the ruling class which had monopolized power. For this reason, the first president and his cabinet did not carry out privatization, leaving the country’s economic structure basically communist. Gamsakhurdia did not adopt a new constitution; he preferred to adjust the Soviet constitution

² *Akhali taoba*, 2 December, 2005 (in Georgian).

³ See: *24 saati*, 3 December, 2005; *Rezonansi*, 3 December, 2005 (in Georgian).

to the new political realities created by the nationalists in power and the Communist Party's loss of its leading role. The president and his inner circle carried out domestic and foreign policies which corresponded to the transition period and state capitalism which excluded shock therapy and deep-cutting changes.

While the opposition closed its ranks, the government tightened its political control over society; it limited the activities of the political parties, sought greater control over the media, TV in particular, and exerted ideological pressure on culture and education. The spiritual sphere of social life, delivered of Soviet and Russian elements, was filled with the ideology of Georgian messianism. The country moved toward totalitarianism, its first shoots clearly seen in the political system which had taken shape and which had already betrayed its bias toward ideological monism and the president's personality cult. Zviad Gamsakhurdia was publicly called the nation's spiritual leader; he himself obviously wanted to subjugate the individual to the national collective and suppress freethinking and political opposition as a component of it.

These efforts stirred up the opposition and split the ruling elite. The military coup which brought Shevardnadze to power was the natural outcome. In an effort to look legitimate, the new leader called the coup a democratic revolution; he introduced fundamental changes into the country's economic, political, and spiritual life. Privatization cut down the public and extended the private sector; the NGOs controlled by the pro-Western elite flourished on Western money; the media became much freer and a liberal Constitution was adopted. Property inequality divided the nation into the few rich and the destitute masses. Spiritual life changed too: Western values, which invaded the country en masse, pushed the old stereotypes and ideas aside. Corruption and smuggling reached huge dimensions; and privatization and private business developed under the ruling elite's political control. After coming to power through not strictly legitimate means, the new ruling class busily set about building up its economic basis to cement its position. The president helped create a class of private owners consisting of his own entourage and political allies. The law was violated, yet for political reasons, the government not only turned a blind eye to the irregularities, but also violated laws itself for the sake of its own stability. The business community, closely associated with the regime, was prepared to protect the president against all attempts to restore the deposed regime of Gamsakhurdia. (After the Rose Revolution, a parliamentary commission carefully studied the process of privatization and found that crimes which undermined the country's economy had been committed. For certain reasons, however, it preferred not to punish the companies guilty of such violations.) At the same time, there appeared a tradition of falsification of election results; corruption and smuggling became rampant, the gap between the nation's majority and the handful of rich widened. The president's prestige rapidly declined. This split the ruling elite once more and ended in a revolution.

The democratic institutions in Georgia had no influence on the government; the cabinet was functioning beyond the framework of public control. The country was ruled by bureaucratic executive structures, the main source of authoritarian trends in the country, which needed a public counterbalance to achieve a balance between the branches of power. The semi-freedom of the Georgian political system became more virulent as the country's political and economic dependence on the West grew. This was when Georgia decided to move toward integration with Western structures. The political elite repeatedly declared its devotion to Western values and standards and spoke about the country's civilizational proximity to Europe. In an effort to preserve his image of a democrat and a friend of the West, the president had to accept considerable freedom of the press and the opposition, as well as the NGOs funded from abroad.

It was under Shevardnadze that methods for indirectly curbing democratic developments were used, yet he failed to eliminate the democratic institutions which later played an important role in undermining his legitimacy, and in preparing for and carrying out the Rose Revolution. The new lead-

ers it brought to power took the sad experience of the deposed leader into account. To strengthen their position, the new rulers exploited the same old methods of indirect pressure on democratic institutions; they did this with more zeal and more openly than their predecessor. The Rose Revolution weakened the democratic institutions and strengthened the authoritarian trends. The power of the president became stronger while the parliament's powers were limited, along with freedom of the press. The media is experiencing much stronger administrative and political pressure; the same applies to business; fear and violence, as well as infringements on the rights of civil society keep the country in check.

The authoritarian trends, in turn, are checked by the elite's financial and political dependence on the West; there are still opportunities to preserve the democratic institutions and their struggle against the creeping authoritarian methods of state administration.

Strengthening of Presidential Power

Under the Constitution amended after the Rose Revolution, the president has the right to disband the parliament. This means that he has acquired more control over the legislative branch than his predecessors. The Constitution does contain all the indispensable checks-and-balances mechanisms; in real life, however, they proved ineffective because most of the deputies (their names are not known to the wide public) depend on the president for their political careers and political future. The right to disband the parliament obviously affects the opposition deputies as well: the deputies of a disbanded parliament lose the privileges due them as deputies, while their political future shows no optimism.

Under the Constitution, the president might be deprived of his post through impeachment, yet the process is too complicated to be practical. Indeed, to get the ball rolling the initiators need the signatures of 33 percent of the deputies. At the second stage, the issue is moved to the Supreme or Constitutional courts depending on whether the president is accused of breaching the law or of violating the Constitution. After receiving a court ruling, the parliament should decide whether to put the impeachment issue to the vote or not. If supported by at least 40 percent of the parliament, the impeachment issue is put to the vote. The president is removed from his post by no less than two-thirds of the votes.⁴

Theoretically, this norm placed the parliament above the judicial and presidential power, since it can ignore a court decision and act according to political considerations. I have already written that the power of parliament as a whole is balanced by the individual dependence of most of the deputies (or rather of their political careers) on the president. On top of this, most of them owe their businesses to the president as well, since not infrequently they violate the law in business activities and find themselves under double pressure.

The post-revolutionary Election Code based on the majority system is another pillar of the authoritarian system, under which the winning party gets all the seats in any given constituency.⁵ Since the United National Movement as the ruling party possesses vast administrative resources, the opposition parties stand little chance of getting enough votes to be elected. This leads to a one-party parliament.

⁴ See: Constitution of Georgia, Art 63.

⁵ See: *Rezonansi*, 15 February, 2006.

Struggle for Independent Judicial Power

Under the Constitution, state authority shall be exercised on the basis of the principle of division of powers.⁶ In real life, political leaders and executive power are obviously unwilling to realize this constitutional provision. Without practical implementation of this principle and without mutual control of executive, legislative, and judicial powers, democratization in Georgia cannot be consolidated. The executive branch dominates and controls the two other branches. Today, law is not all-important—the country has already acquired the mechanism of division and mutual control of the power branches. Informal relations have moved to the fore. Senior legal expert Uldis Kinis believes that fear is the main problem of the judicial corps in Georgia. Despite their theoretical freedom, the judges have to take into account what the other power branches think about their cases.⁷ This says that there is a contradiction between democratic legislation and real division of powers, on which the legislative branch depends. This contradiction underlies the edifice of superficial democracy in Georgia. The country's political leadership exploits the shortcomings of the judges' practical activity to better control the judicial branch. The branch is commonly known, unfortunately with good reason, as corrupt, which means that corrupt judges are easily controlled. There are several factors which make it hard for the judiciary to become really independent: the criminal situation is highly complicated; on many occasions, the police and public prosecutors cannot complete cases to enable the court to pass fair judgments.

This allows public prosecutors to put pressure on the courts; the political leaders, who regard anti-criminal activity as a domestic priority, are adding to the pressure. The ruling elite uses control over the courts as a tool for preserving its power. After the Rose Revolution, the contradictions between the judiciary and political power branches developed into a hot political issue. This was the first time in Georgia's recent history that the judges publicly spoke about the pressure exercised by the political leaders. In November 2005, three judges of the Supreme Court—D. Sulakvelidze, N. Gvenetadze, and M. Turava—made an official statement about political pressure. The political leaders retaliated with accusations of lack of professionalism and flagrant violations of law.

The judiciary is gradually becoming an independent and active force able to keep executive power within legal limits and counterbalance its desire to expand its influence. The case of the three judges demonstrated that the Court of Justice and the Disciplinary Collegium were used as an instrument of political control over the judges. Members of the political majority—deputies N. Kalandadze (deputy chairman of the Legal Committee of the parliament) and N. Gvaramia (member of the same committee)—are also members of the Disciplinary Collegium, in which they act as a judge and prosecutor, respectively.⁸ Ms. Mukhashavria, defense lawyer of the disgraced judges, expressed her distrust of both deputies as representatives of the ruling political force. She interpreted this as a violation of Art 5 of the Constitution, under which state power rests on the division of powers, and demanded that N. Kalandadze should be removed from the proceedings. Her protest fell on deaf ears.⁹ The Disciplinary Collegium was caught falsifying the case and firing the judges illegally. According to the defense lawyer, it planned to institute proceedings against one of the judges without any grounds: the file contained no complaints to be used as a pretext for a disciplinary case.¹⁰ Soon

⁶ See: Constitution of Georgia, Art 5.

⁷ See: *24 saati*, 28 September, 2005.

⁸ See: *Akhali taoba*, 20 December, 2005.

⁹ *Ibidem*.

¹⁰ *Ibidem*.

after that, Complaint Number Three miraculously appeared out of nowhere amid the loose unnumbered pages of the file.¹¹ The defense lawyer pointed out that the Disciplinary Collegium might have been ordered by the country's political leadership to bring any of the judges to account. This case, she added, would surely draw protest from the lawyers. The lawyers, indeed, pointed out that complete subjugation of the courts to the political leadership made continued functioning of the defense lawyers pointless and added that justice in Georgia was under attack and that executive power, having "engulfed" the legislature, had come for the judiciary.¹²

The notorious Supreme Judges case showed that political power had the legislature under its thumb and that violations of the Constitution were inevitable. The Georgian Constitution says: "A member of the Government, an official elected, appointed, or approved by the Parliament, shall be entitled and, if requested, be obliged to attend the sittings of the Parliament, its Committee or Commission, to answer the questions raised at the sitting and submit a report of the work carried out. Upon request, such an official shall be heard by the Parliament, Committee or Commission immediately."¹³ However, the judges "appointed or approved by the Parliament" who applied to the parliament for a fair hearing were turned down. According to the Constitution, "the President and the judges of the Supreme Court of Georgia shall be elected for a period of no less than ten years by the Parliament in accordance with the majority on the current nominal list as advised by the President of Georgia."¹⁴ The Disciplinary Collegium banned N. Gvenetadze and M. Turava from the judicial corps; D. Sulakvelidze was warned, while one more judge, M. Isaev, was fired.¹⁵

The diplomatic corps and international organizations helped the judges; M. Turava was offered political asylum in the United States, Germany, and other countries.¹⁶

Struggle for Freedom of the Press

In Georgia, economic, political, and information powers are beginning to merge. Businessmen wishing to gain more political weight are actively investing in the information sphere (Patarkatsishvili, Ivanishvili, Gulashvili, and others have already acquired TV companies and publications). This process, which dates back to the pre-revolutionary period, is designed to create centers of power to challenge the political elite. On the other hand, political power is being transformed into economic and information power: after the revolution, the business community lost some of its influence in the information sphere to the political elite.

The media played an important role in the Rose Revolution by creating a negative image of Shevardnadze and his regime, a lesson the post-revolutionary government has already learned. Today it is busy neutralizing the hazards of the free press, which in the past deprived the country's rulers of public support. This explains the harsh and unceremonious treatment the press received from the powers that be. Today, it has become much harder to obtain reliable information from the government; not infrequently high officials, sure of impunity and the support of their superiors, insult journalists, or even use violence against them. Those in power refuse to respond to such cases; they use secret mechanisms to control the media while creating the impression of absolute freedom of the press. Those

¹¹ See: *Akhali taoba*, 20 December, 2005.

¹² *Ibidem*.

¹³ Constitution of Georgia, Art 60:2.

¹⁴ Constitution of Georgia, Art 90:2.

¹⁵ See: *Akhali taoba*, 27 December, 2005.

¹⁶ *Ibidem*.

who planned this have succeeded: the journalist corps split. Some of the journalists are fighting authoritarian trends in the country's political system, while others have to keep silence to preserve their jobs, even though they disagree with the country's leaders; there are journalists who cooperate with the government of their own free will.

By seeking control, political control in particular, over the media, the government has betrayed its authoritarian intentions. On 8 July, 2005, seventy Georgian journalists sent a letter to the Monitoring Committee of the Council of Europe's Parliamentary Assembly, diplomats accredited in Georgia, the international organizations working in our country, including those that defend journalists' rights, and the republican government.¹⁷ They accused the country's leaders of being involved in closing down several publications and TV companies which, the journalists were convinced, had disappeared under political pressure. According to the *Alia* newspaper, the government has already managed to squeeze the electronic media into the format it needed because, the newspaper wrote, the journalist community was divided. Some members of the journalist community disagreed with those who believe that journalists' rights were being violated and agreed with the president's "improper" statements that the Georgian media let him down. The same newspaper wrote that these members of the journalist community deserved what they got, namely, falsified information. It was their choice: in democratic countries, such people are not considered journalists. There was a certain number of journalists who, while agreeing with those who wrote the letter, refused to sign it under pressure from their superiors. There were others who, though never instructed not to sign the letter, refused to sign it, since they were aware of the position of the company owners and the possible consequences.

Freedom of the press is an indispensable element of the government's democratic image. To turn this element into a democratic exhibit, the press should be rendered harmless in such a way as to leave the public convinced that the media are free from pressure and political control. To achieve this in the absence of censorship and in the presence of constitutional guarantees of freedom of expression and the press, political power exploits the financial problems experienced by many publications; money is an instrument of pressure, including political pressure.

Journalists also depend on those who own the media; the owners, in turn, unwilling to come into conflict with the political leadership, become easy prey for the political leaders. The fact that journalists are absolutely defenseless in the face of the media owners decreases the degree to which the media is prepared to resist the government. Indeed, it is easy to find financial inconsistencies in any sphere of business, the media being no exception. This allows the government to keep the media owners and, through them, the journalists in check. Probably for this reason the authors of the letter said that self-censorship was a myth created by the government to conceal its true attitude toward the media and teach the public to mistrust them.

Despite the ruling elite's firm grip, the fact that the Georgian political regime is still semi-free in nature leaves the media more or less free to use this freedom to oppose the onslaught of authoritarianism. After the Rose Revolution the press lost many of its former possibilities.

(To be concluded)

¹⁷ See: *Alia*, 8 July, 2005 (in Georgian).