

State-building in Georgia: Unfinished and at Risk?

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Preface

This project is part of the Conflict Research Program conducted by the Conflict Research Unit of the Clingendael Institute. The Program is funded by the Netherlands Ministry of Foreign Affairs, specifically the section for Peacebuilding and Good Governance (DMV-VG), for the period of 2003 up to and including 2006. Research topics have been prioritised in close consultation with the Foreign Ministry and with the aim at providing an applied and operational focus.

The objective of the *State-building in Georgia* project has been to assess major challenges to the national state-building process, placing them in context of the frozen conflicts in Abkhazia and South Ossetia and thus providing the Dutch Ministry of Foreign Affairs with analysis and recommendations that can be used to recalibrate its support activities regarding the ongoing process of state-building.

The main data was collected between March and November 2003 on the basis of literature, news, and, most valuably, interviews with experts in state agencies, international organisations, academia and NGOs, conducted mainly during a visit to Tbilisi in September. The paper has been updated various times during the course of the crisis following the parliamentary elections in November 2003 and was finalised in the end of January 2004.

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Acronyms and Glossary

ABA	American Bar Association
BiH	Bosnia and Herzegovina
BP	British Petroleum
BSEC	Black Sea Economic Cooperation
CIS	Commonwealth of Independent States
CIVCOM	Civilian Crisis Management Committee
CoE	Council of Europe
EIDHR	European Initiative for Democracy and Human Rights
EU	European Union
<i>gamgebelis</i>	Heads of local councils, appointed by the President
GDP	Gross Domestic Product (unit for the size of a national economy)
GoG	Government of Georgia
GSP	Generalized System of Preferences regime (WTO)
IC	International Community
ICTD	Information and Communications Technology Development
IDP	Internally Displaced Persons
IFES	International Foundation for Election Systems (USAID)
IFI	International Financial Institution
IMF	International Monetary Fund
INOGATE	Interstate Oil and Gas Transport to Europe
<i>lari</i>	Georgian currency (1 Lari = .42 Euro)
LINKS	London Information Network on Conflicts and State-building
<i>mkharebi</i>	Regions
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
<i>oblast</i>	A province (or state) in the Russian Federation
ODIHR	Office for Democratic Institutions and Human Rights (OSCE)
OECD	Organisation for Economic Cooperation and Development
OSCE	Organization for Security and Co-operation in Europe
PA	Parliamentary Assembly (OSCE)
<i>rayons</i>	Districts
<i>sakrebulo</i>	Local councils
SMEs	Small and Medium-sized Enterprises
SPECA	Special Programme for the Economies of Central Asia (UN)
TACIS	Technical Assistance to the Commonwealth of Independent States
TRACECA	Transport Corridor Europe-Caucasus-Central Asia

UN	United Nations
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
US	United States of America
USAID	US Agency for International Development
WTO	World Trade Organization

Executive Summary

The post-election fiasco at the end of 2003 and the continuing volatility in Georgia mark a crossroads in the country's democratic transition. The change in regime, produced by massive public protest, powerfully exposed major weaknesses of the Georgian state: inefficient and corrupt public institutions, election fraud, restricted access to political processes, and continued economic decline. Corrupt practices, rooted in the Shevardnadze era, have engendered a progressive criminalisation of political structures and rendered formally democratic institutions virtually dysfunctional.

The frozen conflicts in Abkhazia and South Ossetia significantly weaken the state and impair its territorial integrity. These regions have become profitable pockets of illegal trade, where political and economic incentives, resulting from the conflicts' intractability, have helped to entrench criminal networks into state structures. In effect, Abkhazia and South Ossetia have become states within a non-state.

Yet, independent of the frozen conflicts, the weakness of the Georgian state is also largely attributable to the underperformance (bad governance) of three basic state functions:

(i) Security, Law and Order

Criminal activity and weak law enforcement are characteristic of the *entire* country and are manifested in terms of political (instrumentalisation of the law), economic (corruption) and crime-related (gang and traffickers' activities) problems. The police and prison system are notoriously corrupt and main perpetrators of human rights violations. Lagging reform of the various security sectors has further heightened the underperformance of the state in terms of security.

(ii) Representation and Identity-building

Corruption within political, economic and legal spheres has completely destroyed public confidence in the political system, rendered accountability mechanisms ineffective and undermined the legitimacy of its leadership, at least before the change of regime in early 2004. Society remains highly fragmented.

(iii) Welfare and Development

Economic benefits have been monopolised along clan structures and corruption critically reduces state revenue and scope for redistribution. The successful completion and operation of the pipeline projects will be crucial for generating state income and, more importantly, raising the market price of Georgia as a place for investment.

While the frozen conflicts cannot be separated from internal deficiencies they do not account for all of them. Because benefits from the shadow economy and smuggling foster the interest of conflict entrepreneurs to maintain the *status quo*, state-building and conflict resolution can be seen to relate to each other in a competitive way. For the mid- to long-term, better governance and management of state capacities are crucial – though not a guarantee – for resolving the frozen conflicts by decreasing the conflicts' profitability and increasing the value of being part of a more prosperous Georgia.

It is still uncertain whether the new government will achieve such improvements. President Saakashvili momentarily faces a highly politicised society, massive expectations as well as a forming internal opposition that could easily spark into chaos if so provoked. Against this background, a number of specific challenges will need to be tackled in the short-and mid-terms:

1. Parliamentary Elections – March 2004

Logistical challenges will be much greater than for the presidential elections. Competition will be harsher and members of the Central Election Commission, composed of representatives of political parties, may try to influence the outcome of the vote. Profiteers of the Shevardnadze regime may fight to win back their assets in the elections. Given the culture of political violence, this is a risky possibility.

A legislature dominated by supporters of the President may not enable the opposition to check and balance the Executive's political powers. At the same time, differences within the governing team may emerge during the course of elections or parliamentary co-operation. Although Saakashvili would have won the presidential elections without the support of Burjanadze and Zhvania, voters also expressed their support for the Troika team as a whole. Political quarrelling and a possible split between the President and Prime Minister – an objective likely to be pursued by the opposition – would put Georgia's trajectory critically at risk.

2. Disintegration and Renewed Instability

If the new government fails to deliver on election promises, above all that of improving general living standards, it may seek to sustain and mobilise popular support by an increasingly assertive (military) campaign to restore Georgian territorial integrity. This seems to be the case already as certain segments of the leadership (e.g. the Defence Minister) display an offensively integrative and even nationalistic stance *vis-à-vis* the regions. Abkhazia's pursuit of a peace treaty and the non-resumption of hostilities may signal the region's expectation in this respect. A confrontational approach, however, could further tip so far non-secessionist regions like Ajaria into secession. This would set a dangerous example and possibly encourage other regions within Georgia and the Caucasus to follow.

During the post-election crisis, Abkhazia, South Ossetia and Ajaria put their security forces on high alert, South Ossetia has increased its demand to join Russia, and Ajaria sealed its borders with the rest of Georgia preparing to 'reciprocate violence'. Ajarian President Abashidze joined meetings of separatist Abkhazia and South Ossetia and only at the last minute accepted the validity of early presidential elections – the November 2003 elections would have made Abashidze the kingmaker of a pro-Shevardnadze government. The co-operation of his faction in the Parliament to be elected remains uncertain not least given the deep antipathy between the authoritarian ruler and President Saakashvili. Abashidze demonstrated his readiness for boycott and violence and pins hopes on his ally Russia as Russian military stationed in Batumi could possibly be instrumental. This makes a possible transfer of power in Ajaria an even riskier undertaking than was the case for Tbilisi.

3. External Influences

Russian and US purposes partly differ, compete and to a certain extent dangerously coincide. Russia's policy has been ambiguous, but aimed at a stable Georgia. US policy has pursued democracy-building. However, the nearly unqualified support provided to the new leadership suggests that stability remains the overriding priority also for the US agenda to secure pipeline projects and maintain a reliable anti-terrorism alliance with Georgia (e.g. controlling Pankisi-like safe havens, provision of troops to Iraq).

At this point in transition, supporting stability at any price just like divergence in international pressures may mislead progressively-minded political forces while offering scope for partisan groups to exploit such divergence. International standards need to be applied equally strictly to the new government as to the Shevardnadze administration. A continuing deterioration in East-West relations in general would make external pressure unmanageable for the new Georgian leadership.

4. Corruption

Pursuing high-level corruption is a test of credibility for the new government. The (retrospective) fight on corruption was a decisive promise and demand of the 'Rose Revolution'. Losers of an anti-corruption programme, especially from minority-populated regions where their leaders used to sell their loyalties, are likely to instigate tensions with the central government. At the same time, harsh action against corruption may put civic rights at risk. Fighting corruption must not exceed the limits of the law and justify human rights violations as recent allegations of increasing police violence, documented by the acting Human Rights Commissioner, may suggest.

Eliminating corruption and building up public revenue and social redistribution thereof must take place simultaneously, but is economically unfeasible. Much needed reform efforts in public institutions must be advanced, but will continue to be met with resistance. Finally, breaking the culture of corruption will only succeed if circumvention of the law in general is fought, rather than only corrupt behaviour.

5. Financial Destitution

The population is stricken by severe poverty. More than 50 percent live below the poverty line, monthly salaries and pensions officially range between 15 and 23 euro and 7 and 12 euro if actually paid, urban unemployment is above 40 percent, and there is a huge external debt of US\$ 1.7 billion. This leaves little scope for state action. But improvements need to materialise at short notice, i.e. within one year. If primary needs of the population (food, housing, employment) are not met as a priority, corruption will remain a necessity for many to survive and the peaceful revolution may eventually 'eat its own children'. Improvements in the rule of law – as necessary as they are for structural stability and development – will not immediately increase public revenue and scope for redistribution.

Throughout the Eurasian region, states face similar challenges. A regional effort for the South Caucasus would be the most suitable option for international support, even if it requires extensive diplomatic effort. The coming to power of younger leaders in the region – despite its controversies – coincides with a strengthened civil society, wide-spread weariness of violence and willingness to change, fresh international attention and high geopolitical stakes. These factors create an opportunity for change that deserves the benefit of doubt.

Priorities and Recommendations

What can the international community do to facilitate solutions to these challenges and to co-operate with the government of Georgia (GoG) in consolidating state capacities?

Short-term

For the short-term, i.e. before parliamentary elections scheduled for 28 March 2004, international actors should concentrate on mitigating immediate transition risks and secure the continuation of democratic state-building.

1. Assist in *Parliamentary Elections*.

Besides technical and financial assistance to manage urgent logistical challenges (e.g. digitalisation of voter lists), observers should pay special attention to ensure that Central Election Commission members act in the interest of society as a whole and not according to their personal or partisan interests. It should be clear that a fair and democratic election process is closely linked to the donor community's willingness to further invest in Georgia.

Key support agencies are the OSCE/ODIHR/PA, USAID (IFES) and the EU (through the European Initiative for Democracy and Human Rights).

2. *Crisis-manage Relations with Ajaria*.

Elections in Ajaria are especially critical to observe as it is uncertain how authoritarian President Abashidze will react to a loss of (national) power and adapt to the role of opposition in Parliament. Given his unpredictability and readiness to use violence, non-confrontational diplomatic levers should be used to prevent a typical Georgian squabble that could easily escalate.

Thus the GoG should aim at confidence-building, assure that its control over the region will not be implemented forcefully and refrain from openly supporting anti-Abashidze initiatives. A dialogue on maximised autonomy and extensive power-sharing should be launched while insisting on the payment of taxes.

International actors need to convey that democratic elections are a prerequisite for aid that would generate benefits also for Ajaria as part of Georgia. Especially Russia, should encourage Ajaria to espouse free and fair elections and accept international observers. Specifically, Russia should suspend its visa exemption for Ajarians and refrain from any other measures that undermine the authority of the GoG. This could be part of a complementary US-Russian approach (see point 4. below) that could be facilitated within the UN (Group of Friends) or OSCE fora. Also Turkey as a key trading partner of Ajaria could bring useful levers to the table.

3. *Strengthen the Executive (see also part two, section 4.3)*.

The Troika members (Burjanadze, Zhvania, Saakashvili) are seen as qualified, committed, yet inexperienced politicians. This is worrying as major government positions such as ministerial posts

have been assigned to newcomers who are unlikely to possess the capacity to introduce change. The absence of qualified people in Saakashvili's entourage to run the bureaucracy is an acute problem.

Structural changes within the executive such as creating the post of a prime minister, attributing less power to the president, and strengthening the state chancellery, cabinet and bicameral parliament are all pertinent measures requiring constitutional changes. But they also open new terrain for an inexperienced administration. Differences in opinion potentially occurring in this context within the governing Troika – Saakashvili, Burjanadze, and Zhvania have their political careers ahead of them – must not lead to a break-up of the coalition which could have chaotic consequences at this point. A consolidation of the Executive on the basis of constitutional changes must not go at the expense of the legislature, however. This could open a door of drifting towards authoritarianism.

Assistance should not focus exclusively on strengthening institutions but also on developing professional leadership thereof. Good governance should not only be a condition for aid – the criteria set by the World Bank are an example – but also a major objective of assistance. External support could entail expertise and capacity development for administrative issues especially concerning the organisation of government, institution- and coalition-building and extend also to the local level (e.g. exchanges between mayors) (see also point 8. below). The *Rapid Reaction Mechanism* could provide such assistance on short notice. Furthermore, transparent, responsive and participatory governance should be encouraged, e.g. through professionalising Parliament (e.g. training of new parliamentarians), improving transparency and accountability structures within the government and institutionalising civil society dialogue (e.g. awareness-raising on costs of corruption). Also the physical security of the Troika members could be supported as the anti-corruption programme will touch upon powerful interests.

4. Strengthen Russian-US-EU Co-operation for Democratic Stability in Georgia.

The US and Russia are major key holders to preventing progressive disintegration in Georgia. Both have different but not necessarily divergent interests for becoming involved in Georgia.

Russian facilitation efforts during the post-election crisis were mixed. The mission of Foreign Minister Ivanov turned out to be a positive force for stability and supporting political change, but the original intention of his mission and its real impact or significance are unknown. Subsequent discussions with Abkhazia, Ajaria and South Ossetia, as well as the preferential visa arrangements with Ajaria, sent very different signals. Certain military, nationalist-imperial and business-oriented segments of Russian society have an interest in a stable but weak Georgian state. Russia probably will not define its policy towards Georgia before its own presidential elections in March 2004. At the same time, historic, economic and military ties to Georgia's troubled regions provide Russia leverage and reason to get involved and entice independence-minded regions like Ajaria to assume a co-operative stance towards the new government.

US involvement in Georgia has been massive – diplomatically, financially and in terms of development co-operation. This created political leverage that bore fruits in negotiating the peaceful change of regime. Similar to Russian interests, the US is interested primarily in preventing further crisis in order to secure oil pipeline interests and the partnership of Georgia as a key ally in the fight against terrorism. While democratisation has been made a major goal and condition of assistance, it has not been pursued systematically. The almost unconditional support of President Saakashvili despite recent allegations of media intimidation and police violence is an indication of this. A broader strategy in support of reforms and a real functioning democracy would embed also anti-terrorism goals

in development assistance more consistently. This could be achieved, for example, through greater consistency between State and Defence Departments.

The EU could have the most credible interest in and systematic commitment to democratic progress. The EU would be well-placed to work together with Russia and the US towards toning down nationalistic undertones of the new leadership. The EU could also engage Turkey as a moderate influence on Georgian regions where Turkey plays a role (e.g. Ajaria and Javakheti). The next steps in enlarging the European Union may generate momentum for more dynamic EU engagement in the Caucasus as a new EU border with Georgia emerges via the Black Sea (Romania and Bulgaria) and by land (Turkey).

A common roadmap would provide a useful framework of activities and prevent strategies (and related conditions respectively) that work at cross-purposes and disorient politically progressive forces. The rough lines of a joint roadmap could be:

- i. **Stabilising the situation of transition.** Russia and the US would assume moderating roles between the regions and the centre. Russia in particular would aim at encouraging the leaders of the separatist regions as well as pro-Russian forces (business, military) to work together with the new government. The US would carefully follow and caution against confrontationally integrative or nationalistic tones of the central government. Moderate engagement with the regions should be a criterion for continuing US (military) assistance programmes. Together with the EU, the US provides the bulk of political and technical support for the elections.
- ii. **Democratising and jumpstarting the economy.** Foreign aid, in particular from the US and the EU, would give reform processes a positive push. Economic development in general would also benefit Russian investment. In return for Russian support to achieve Georgian democratic development, the IC/USA could offer to pay-off some arrears to Russia for electricity supplies. The EU's experience with transition countries, accumulated during successive enlargement rounds, would guide the democratisation process. Clear membership criteria, to be set-out within the Wider Europe initiative by the Council of Ministers, could provide guidance and incentive given Georgia's aspiration to join the initiative and other European structures. Other EU structures such as the Foreign Affairs Committee of the European Parliament should continue working towards an inclusion of the South Caucasus in the initiative.

As the classical platform for East-West confidence-building, the OSCE should facilitate such a complementary approach emphasising the values of the organisation as a bridge between Russian and US approaches, increasingly so in the run-up to parliamentary elections. The organisation can contribute to both objectives also directly, e.g. by intensifying and extending its observers along the borders, possibly with support of the EU Rapid Reaction Mechanism, regarding i.; and by increased ODIHR support in democratisation, regarding ii.. Russia should welcome a stronger OSCE engagement if it is serious about long-term stability in Georgia.

The UN Group of Friends on Georgia would be another suitable platform combining Russian and US interests complementarily.

5. Boost **Economic and Infrastructure Development**.

Economic growth is probably the most important factor for stabilising Georgia and preventing the new regime from collapsing under public expectations. In the mid-term, economic progress also would create incentives for independent-minded regions to function as an integral part of Georgia. Moreover, anti-corruption measures can be expected to create a great number of losers. In this vein, providing economic alternatives is an essentially preventive measure.

Thus, the GoG needs to consolidate structural conditions for economic growth such as the rule of law including the revision of the legislative framework (e.g. simplifying licensing procedures and the tax code, which is damaging to small businesses). Economic development initiatives should especially target the start-up phase of small businesses, for example with training that is likely to benefit socially vulnerable groups. Furthermore, and with the support of the government, businesses should more proactively explore available options within the World Trade Organization (WTO), especially under the Generalized System of Preferences (GSP) regime, which allow duty-free access to the US market for a number of products.

Due to the financial destitution of the GoG, an external boost to the economy is necessary in the short-term, but should be linked to the implementation of reforms. Under this condition, International Finance Institutions (IFIs) should resume activities and make financial assistance available within the framework of the national Economic Development and Poverty Reduction Program of Georgia. The International Monetary and Financial Committee would additionally be a forum for sharing technical knowledge and expertise in expenditure planning and good governance (Georgia is part of the multi-country constituency led by the Netherlands). The Paris Club should furthermore suspend repayment of the country's international debt for up to five years.

IFIs should provide lending more prominently to vital economic sectors such as agricultural business, construction, telecommunications and wine production. Infrastructure improvements such as restoring the Sochi-Tbilisi railway line would not only create a physical, human link between the capital and the regions, but would also enhance trade, e.g. in agricultural goods with Russia. The United Nations Economic Commission for Europe (UNECE), and possibly and as a track two instrument, the Black Sea Economic Co-operation (BSEC), would be frameworks well-suited for further exploring similar (regional) initiatives. The EU could engage more strongly in infrastructure projects such as the Transport Corridor Europe-Caucasus-Asia (TRACECA).

Mid-term

Mid-term measures (mid-2004 until 2007) to enhance the democratic capacity of the state qualitatively would include the following.

6. Refresh and Sustain **Public Sector Reform** (see part two, section 4.2).

The malfunctioning of the state must be attributed to systemic mistakes that eventually led to the forced ousting of the regime. Reforming the structures and practices of the state are thus a measure for stability. Secondly, reformed national structures will be more professional and reliable partners for future international co-operation.

Reform within the civil service, police and security sector in particular, as well as the judiciary/prosecution (see respective sections in part two), should be a monitored condition for assistance projects and the subject of supportive measures by all donors. Clear conditions will provide

helpful guidance to the new regime and serve as leverage against opponents to reform. In this respect, any involvement by the international community must indicate confidence in the process of change, but there also has to be clear, measurable commitment by the new government.

Reduction of staff, elimination of institutional parallelism, adequate salaries, competitive selection of staff, clearly defined functions of public agencies and merit-based personnel management are challenges common to most agencies. One of the main problems is not the lack of laws but their enforcement and implementation. Especially those tasked with guarding accountability such as the police, prosecutors, the judiciary and law enforcement agents, need to be held accountable transparently and professionalize their work practices. Improving administrative capacity including information infrastructure would crucially support policies for economic recovery by attracting investment.

Measures that could be considered include initiatives such as the World Bank incorporating the work of the national Anti-Corruption Commission in its strategies; or UNDP launching programmes for more effective customs administration, drawing on its experience with the State Customs Committee in Azerbaijan. Further extending activities in Information and Communications Technology Development to the regions would help improve access to information at the local level.

The European Commission could revise its Country Strategy for Georgia and maintain administrative reform as a key focal point. In addition, the Rapid Reaction Mechanism could support institution-building and kick-start reforms, e.g. of the police, drawing on OSCE field experience where relevant (police activities by OSCE Missions). The Civilian Crisis Management Committee (CIVCOM) of the EU could further suggest specific support measures to the Political and Security Committee of the Council in the fields of rule of law, police and administration. In the prosecutorial field, the Council of Europe (CoE) structure for (intergovernmental) activities geared towards technical assistance should be involved. Generally, rule of law efforts of the EU, CoE and OSCE/ODIHR should be better coordinated at headquarter levels.

Concerning corruption, best practices could be exchanged among the Utstein Anti-corruption Resource Centre, CoE GRECO requirements, the UN (Convention against Corruption) and Georgia-based organisations such as Transnational Crime and Corruption Center and Transparency International.

In the security sector specifically, it will be crucial to improve equipment, streamline command and structure of the current myriad of security actors, and strengthen civil accountability in accordance with a national security concept. Continuation of the US Train and Equip programme should therefore depend on reform and real improvements in these respects.

7. Support Anti-corruption Efforts through Civil Society.

In order to effectively root out corruption, structural change must be accompanied with addressing societal patterns of corruption, e.g. public awareness on the causes, consequences and costs of corruption, media training, corporate ethics. The post-election crisis has powerfully demonstrated the potential of civil society to keep government in line. This momentum for greater accountability needs to be maintained and extended to the regions, where civil society should be encouraged to influence, review and make political decision-making accountable.

In line with its experience and mandate of democratic institution-building, the OSCE could launch and guide such initiatives and sharing feedback with GRECO evaluation teams. The European Commission should further encourage the participation of national NGOs in the Anti-Corruption Plan.¹ Through the European Initiative for Democracy and Human Rights, the only EU mechanism addressing informal institutions, participatory governance at local levels could be enhanced. In addition, the Commission TACIS projects and other programmes for private sector development could make their support conditional of businesses' support to NGOs promoting good governance by a small percentage of their profit. Guidebooks, public information campaigns and efficient complaint systems would be additional steps of engaging civil society for accountability purposes.

8. Professionalize **Parliament** and Assist **Political Party** Development (see also part two, section 4.1).

The governing Troika has been built upon the tenuous link of an anti-Shevardnadze programme. If the present coalition broke up due to programmatic differences, indicated by previous disagreements, this would entail a risk of large-scale destabilisation. Maintaining the coalition depends on (personal) regime-building skills but also on the ability to implement a public mandate responsibly and democratically.

Given the highly fragmented political landscape (15 parliamentary factions) an interparliamentary commission (European Parliament, CoE and OSCE Parliamentary Assemblies) could facilitate and exchange experience on content-related as well as technical transparency issues, e.g. scope of immunity, parliamentary scrutiny and auditing procedures, legislative process, and coalition-building. The commission could further recommend courses to be provided for new parliamentarians. Activities such as financial management training, the translation of laws, and committee work/management would be modest but highly conducive measures for a more effective legislative process. The South Caucasus Parliamentary Initiative, facilitated by the NGO London Information Network on Conflicts and State-building (LINKS), and specifically its working group on democratic state-building, would be a pertinent partner for parliamentary support activities in the region.

In the mid-term, political parties must improve their programmatic development, strengthen links to the electorate, deliver complete and transparent reports on finances, as required by the Anti-Corruption Bureau. Any political party assistance must extend to all parties. Experiences of OSCE missions (e.g. for Bosnia and Herzegovina [BiH]) could be useful, while organisations like USAID, the National Democratic Institute and the German Friedrich Ebert Foundation are other key actors in this field. Support should be balanced where party affiliations apply, i.e. the latter mentioned organisations.

9. Facilitate Solutions Concerning **Regionalisation**.

The status of local leaders on the *sakrebulo* and *gamgebeli* levels needs to be clarified legally. This will require constitutional changes, i.e. delinking the regional administration from a settlement of the Abkhazia question, as well as coordination with any conflict resolution activities a possible Stability Pact. The changing of regional governors may renew chances of reaching consensus on a regionalisation plan. National experts in this field have elaborated plans of regionalisation already in

¹ The Plan so far involves only three international NGOs (Transparency International, the American Bar Association, and the Soros Foundation) in addition to international organisations such as UNDP, the OECD, EU and CoE.

the past.² Conceptual agreement could be facilitated further through the European Committee of the Regions, CoE (legal expertise) and OSCE (practical experience concerning regional governance, e.g. in BiH).

Given the current instability and politicisation, confrontational discussions of different formulas of autonomy would risk a complete break-up of the country. Power-sharing negotiations should focus on confidence-building in the first place and explore federal solutions only in the long-term.

*10. Professionalise the **Media** (see part two, section 4.8).*

Media are essential for ensuring transparency. By publishing the exit polls of the November 2003 elections, for example, the media created conditions for mobilising public protests in the first place. On the other hand, the media seemed to take only extreme sides and no moderate middle-ground positions. Recent raids of a government-critical TV station by Georgia special police give rise to concern over the genuine freedom of the press. The OSCE Representative on Freedom of the Media could be involved more actively.

*11. Reinvigorate the Idea of a **Stability Pact**.³*

A Russian-US-EU roadmap would ideally be elaborated regionally, principally involving eight actors: the three South Caucasian states, the EU as the lead agency, Russia, the US, and neighbouring Turkey and Iran. This group would set the agenda of the Pact's activities, in line with the objectives mentioned for the joint plan:

- i. **Conflict resolution** – The EU could suggest options regarding the federalisation of Georgia. Power-sharing experience from Northern Ireland or Belgium could serve as examples concerning asymmetric relations with the central state, self-governance, and the distribution and sharing of competencies. Expertise from the CoE regarding constitutional changes would also be vital.
- ii. **Democratic reforms** – The post-election protests point at good governance as a condition for stability. Economic initiatives must depend on the implementation and continuation of reforms as well as progress in conflict resolution. EU (Rapid Reaction Mechanism) trained police, administrative and law enforcement staff should accompany reform efforts and provide immediate support to local structures through consulting and training.
- iii. **Economic co-operation** – Resuming trade and regional economic co-operation could be enhanced through intensified infrastructure programmes, e.g. EU and UN programmes such as TRACECA, INOGATE, and SPECA. Furthermore, BSEC should balance economic, political and security issues, perhaps analogous to the development of the Baltic Sea Co-operation. The US and EU could further support the forum's operation.

² Interview with Alexandre Kukhianidze, Transnational Crime and Corruption Center, American University, Tbilisi, November 2003.

³ For earlier suggestions in this respect see: <http://www.ceps.be/Pubs/2000/Caucasus/ndc/Newdeal.php>.

The *EU Presidency* in consultation with the *EU Special Representative* to the South Caucasus should launch the idea of a Stability Pact for the South Caucasus and make this an example of EU-Russian-US co-operation in crisis management.

Indeed, a Stability Pact would require considerable diplomatic effort in the region and abroad. Previous initiatives failed as the Caucasian states were reluctant to give up elements of sovereignty. Furthermore, geopolitical stakes are more clear-cut in the South Caucasus than in the Balkans and EU accession is neither an immediate option nor a means of instant leverage. On the other hand, and in spite of election fraud in neighbouring countries, the (perception of a) strengthened civil society coincides with the coming to power of a younger generation of leaders in the region and overall war weariness of violence. This may create momentum for change.

12. Directly Assist and Coordinate Conditionalities.

A clear position on conditionalities by all donors is essential for the effectiveness of assistance and for the orientation of the new government. In the past, divergent agendas have confused progressive forces and increased possibilities for donor shopping. All donors therefore must have clear and compatible positions on conditionality. Assistance should be made consistently conditional upon compliance with OSCE standards and in keeping with CoE membership requirements. Contrary indications, exposed e.g. by results of the OSCE Human Dimension Implementation Meeting 2004 or the follow up reports of GRECO monitoring, must entail reliable consequences.

In the short-term, however, conditionalities do not promise to be an effective means of leverage. The massive coordinating effort required is hardly feasible. Secondly, the Troika is the best choice for the IC at this moment with chaos and instability being a very likely alternative. Furthermore, conditionality only works if sufficient rewards are at stake. It is uncertain whether this is the case as NATO and EU memberships seem to be in very distant future.

Introduction and Approach

Following the dramatic post-election crisis and Shevardnadze's resignation, democratic transition in Georgia is at a crossroads. Secessionist wars and a civil war during the late 1980s and early '90s have characterised the transformation and democratisation processes in Georgia and significantly limited the country's capacity for state-building. While the Shevardnadze administration managed to establish a degree of physical security and stability, since his appointment and subsequent election in 1992, it failed to halt a progressive political and cultural fragmentation of the country. Five Georgian regions defy central rule, and two of these are *de facto* independent. While ceasefires are largely adhered to, the conflicts in Abkhazia and South Ossetia remain unresolved and the central state authority has reached little beyond the capital Tbilisi. Corruption and economic stagnation have further undermined political, economic and legal reforms that are essential steps of state-building and a forward-moving and peaceful transition.

As all key components of statehood (territory, people, monopoly of power) have been observed to be disintegrating, this study identifies challenges and weaknesses of state capacity to be addressed by the new government (Part One). Current deficiencies are noted concerning the delivery of security, representation and economic development and are weighed against the impact of the ongoing conflicts. Degrees of failure or underperformance may differ considerably in these functional areas and depend on the scale of the problem.⁴ Underperformance needs to be assessed not only quantitatively (against the proportion of the population and/or territory concerned) but also qualitatively by taking into account mitigating factors and trends, which is difficult given the very dynamic nature of 'transition'. Part Two identifies entry points for external co-operation partners to support the state-building process in general, and more specifically to address corruption as the major source of state weakness.

Working definitions

The terms 'state' and 'government' are often used interchangeably. By international law, the core criterion for *statehood* indeed refers to the "existence of effective *government*, with centralised administrative and legislative organs".⁵ This study understands the state in a broader sense and in line with definitions that commonly carry functional as well as institutional implications.

⁴ An internal political crisis, for example, does not necessarily imply failure of the state. Russia is clearly undergoing a political crisis with respect to the war in Chechnya and fails to ensure – or deliberately compromises – the security of its citizens in the region for the sake of maintaining its territorial integrity. But this crisis does not necessarily point to the failure of the Russian state. This would be more likely in the case of Georgia where such a crisis would pose a proportionally greater problem.

⁵ Brownlie, 1979: 73.

The ‘social contract’ between the state and its citizens generally has been assumed to be the crucial basis of a state. Looking at the primary *functions* of the state entailed in the contract, responsibility lies with the state for the delivery of political goods in three essential areas:

- (i) Security, law and order;
- (ii) Representation and identity-building; and
- (iii) Welfare and development.

Institutional aspects are in many ways instrumental in achieving these functions. These aspects relate to the functioning (*governance*) rather than the functions of the state. Only if institutions and mechanisms operate properly will the public have confidence in and thereby confirm the legitimacy of the state system as a whole.⁶ Institutional implications of statehood essentially refer to:

- (i) Monopoly by the government on the legitimate use of violence and power over territory and citizens;
- (ii) Division of power including checks and balances between executive, legislative and judicial branches;
- (iii) Existence of predictable, impersonal, and recognisable regulatory mechanisms; and
- (iv) Integrity and efficiency of the bureaucracy.

State-building in Georgia: Context and Challenges

It seems safe to say that political realities in Georgia have lived up to neither functional nor institutional requirements inferred by the concept of statehood. The environment and context of state-building, however, need to be considered in order to assess developments and understand ‘real term’ progress in state-building. As well as coming to grips with internal conflicts, Georgia faces international economic and political conditions that have redefined and curtailed room for state manoeuvre in comparison with the conditions and concepts upon which Western European states were once built.

i. Constitutional-Territorial Arrangement

Since gaining independence as a presidential republic, the territorial arrangement of the state is still pending. The Constitution, adopted in 1995, postpones this matter until the restoration of territorial integrity.

Georgia is a highly centralised, unitary state with 53 districts (*rayons*) including the Autonomous Republics of Abkhazia and Ajaria and the Autonomous Region of South Ossetia.⁷ On the district level, local councils (*sakrebulo*s) are elected directly and headed by *gamgebelis*, who are appointed by the President from the local councils. Mayors are elected except for the mayors of Tbilisi and Poti who are

⁶ This study perceives as relevant all institutions whose revenue, expenses and regulations are not grounded in voluntary agreement but rather subject to monopoly of power; this includes all tax-financed institutions such as the military, judiciary, police and social administration.

⁷ Georgian Foundation for Strategic and Security Studies, 2002. Other sources quote different numbers, e.g. 67 districts according to the US State Department’s website.

appointed by the President. The level of governance between district and national levels is made up of nine regions (*mkharebi*) that are headed by a representative (governor) appointed by the President. This intermediary level was introduced by presidential decree in 1994 and, due to its lack of legal basis, remains constitutionally contested.

Within the USSR, Georgia was given the status of a Union Republic (Soviet Socialist Republic) and included Ajaria and Abkhazia as Autonomous Republics.⁸ South Ossetia was an Autonomous Oblast within Georgia. The Soviet ethno-federal construction was based on titular nations, e.g. Abkhaz in Abkhazia, Georgians in Georgia, who enjoyed political privileges and felt entitled to control certain territories. The centralisation of political power within the Communist Party as well as internationalist ideology were seen as providing sufficient guarantees for preventing discrimination against minorities.⁹

ii. History and Formation of the State

Preceding independence which was proclaimed in 1991, Georgia's experience as an independent state was limited to the three years between the collapse of tsarist Russia (1918) and its annexation by the Soviet Union (1921). It is from this period that Georgia derives its legitimacy as a state.

During the Soviet era, Georgian nationalism was suppressed systematically due to fears of separatism. As a result, nationalism merged with an anti-regime component. As Minister of the Interior and Communist party leader between 1972 and 1985, Shevardnadze adopted a course of compromise towards Georgian nationalism and dissent. He also consolidated a network of aides in politically important positions. With his appointment as Foreign Minister, Shevardnadze's successor, Patiashvili, pursued a more confrontational approach forcing progressive and opposition movements in Georgia underground. Though Shevardnadze managed to have Patiashvili removed, he failed, however, to create a stable political climate.

Instead, political life became fundamentally radicalised. The run-up to elections in 1989, for the USSR Congress of People, was marked by violent interventions on part of Soviet troops.¹⁰ Although the nationalist movement was not a united force, Zviad Gamsakhurdia, the most widely recognised leader of the nationalist dissidents, succeeded in winning a clear majority for his party in the first multi-party elections in 1990. Even though the national independence movement did not aggressively question the cultural rights of minorities – at least not openly – the revival of Georgian nationalism under Gamsakhurdia was perceived as a threat to non-Georgian identity and heightened ethnic strife in the regions.

Georgia had been a problematic union state even before the dissolution of the Soviet Union. Asserting Georgian independence, Gamsakhurdia stopped tax transfers to Moscow and economically isolated Georgia. Instead of participating in Soviet Union referendum on the question of preserving a federalist relationship, Gamsakhurdia launched a separate referendum on Georgian independence. Following the positive vote, independence was declared in 1991 and Gamsakhurdia was elected head

⁸ Abkhazia briefly enjoyed the status of Union Republic, which constituted the highest federal status. The next levels were Autonomous Republic, Autonomous Region and eventually Autonomous Oblast.

⁹ Coppieters, 1999 at <http://www.c-r.org>.

¹⁰ Slider (1997: 161) highlights the impact of the April 1989 killings on Georgian politics.

of state. Georgia subsequently refused participation in organisations succeeding the Soviet Union, such as the CIS.

Opposition groups were dissatisfied with the victory of Gamsakhurdia's party since they had boycotted the elections and had held elections of their own – without government approval. The opposition began to serve as a support base for armed groups, such as the Mkhedrioni and the National Guard, which eventually overthrew the young Gamsakhurdia regime. Due to this, Gamsakhurdia became obsessively suspicious of conspiracy and intolerant of any opposition, which further deteriorated the quality of political debate in Georgia.¹¹

Gamsakhurdia's increasingly dictatorial style and the relative inexperience of his team eventually gave rise to a coup by military opposition groups in 1991. At that time, the "monopoly of violence was dissolved for the sake of self-appointed enforcement actors".¹² This resulted in civil war-like conditions, especially in Tbilisi – a situation especially prevalent in Georgians' minds during the November 2003 'Rose Revolution'. The rebellion led by Gamsakhurdia supporters in Mingrelia in 1993 and the conflicts in Abkhazia (1992-1993) and South Ossetia (1992) have almost resulted in the total collapse of the state.

The coup organisers eventually invited Shevardnadze, due to his international status acquired within the Soviet Union, to lead an interim state. Paradoxically, he managed to restore democracy by partly undemocratic means: suppressing rebellions by Gamsakhurdia supporters in Mingrelia and eliminating the leaders of the 1991-92 coup. Maintaining some type of order and stability took priority over democratisation and reform. Returning to Georgia, Shevardnadze brought in a politically loyal entourage while relying on a governance style of 'divide and rule', personal dependencies and intrigues rather than political competition and compromise. To both renew and constructively engage these informal structures will be one of the key challenges for the new political leadership.

iii. Parliamentary Election 2003

The November 2003 parliamentary elections were seen as a barometer for democratisation as they were to set the legislative stage for presidential elections in 2005. Despite great international (especially US) investment in preparation for the elections, the outcome appeared to be predetermined. Due to last-minute changes in voter lists, a combination of different lists was used in polling stations on Election Day.

In Kvemo-Kartli, for example, an unrealistic 90 percent of votes were registered for the pro-government bloc and an enormously high turnout was noted whereas voters were refused entry into polling stations and some regions failed to publish the results. In authoritarian-led Ajaria, the number of votes cast was almost double the number of eligible voters, which helped to secure President Abashidze's party second place at a national level. Despite the arch rivalry between the two leaders, Shevardnadze entered in a functional alliance with Abashidze, which would have secured his party second place nationally.

¹¹ See <http://www.lupinfo.com/country-guide-study/georgia/georgia28.html>.

¹² Czerwick and Rzchiladze, 2003.

In the public eye, Shevardnadze lost *all* trust and credibility.¹³ Public outrage and massive protests, sustained for nearly two weeks by opposition members of the National Movement and Burjanadze-Democrats, forcibly but peacefully prevented Parliament from convening. Eventually, President Shevardnadze resigned, following consultations with Russian Foreign Minister Ivanov, leaving the interim Presidency to Nino Burjanadze, Speaker of the (previous) Parliament, until the scheduling of new parliamentary and early presidential elections after 45 days. Five observations are remarkable in this process and indicate the immediate challenges ahead:

1. The previous opposition parties, thus far joined by the struggle against Shevardnadze, will have to sharpen their programmatic content and profile and consolidate their coalition within a very short time period. This also implies a vision for elaborating an economic reform strategy, which could take months even under the best working conditions.

In the attempted elections, opposition parties – not entirely innocent of fraud themselves during previous elections – fought *around* the power apparatus in competition against each other. This obstructed rather than progressed pluralist political competition. Anti-Shevardnadze slogans were principally a means of securing public support. Hardly any of the parties portrayed an intermediate. Only two opposition players, United Democrats and the National Movement, were credible opposition parties; most of the others would have willingly agreed to enter into any coalition that would ensure their participation in government.¹⁴ Despite the enthusiastic support for the National Movement leader Saakashvili in Tbilisi and regions like Samegrelo, it remains to be seen how this support can be sustained in the mid-term and in minority-populated regions.

2. The elections demonstrated a remarkable degree of civic initiative, which has set Georgia positively apart within the region. The turnout was high and voters insisted on their rights at polling stations. The international recognition of the election outcome failed to reward this commitment, which could have tempted opposition parties into radicalism or turned popular cynicism into resignation.¹⁵ The peaceful resignation of the President was a clear signal of the power of civil society as a political determinant in Georgia. Georgians can be expected to insist on their right to an accountable and effective leadership in the future. The level of expectations is high, but corrupt practices cannot be eradicated nor economic decline be reversed over night. At the same time, society is willing to accept changes. Managing expectations and opportunities will be a challenging task for the new leadership.
3. Russian efforts to facilitate a peaceful transition have been recognised and appreciated by the Georgian public at large although it is uncertain how decisive these efforts were. This is a

¹³ Signals of this have already been evident over the past three to four years. Parliamentary elections in 2000 saw a passive boycott of Shevardnadze with the ‘real’ turnout allegedly below 50%. In 2001, the Citizens Union disintegrated and a number of parties evolved that were capable of promoting progressive laws in Parliament. Following the local elections in 2002, Shevardnadze’s party realistically maintained less than 4% of the population’s support.

¹⁴ Ivlian Haindrava, Center for Development and Co-operation, Tbilisi, at a discussion of the Heinrich Böll Foundation in Berlin on 11 November 2003.

¹⁵ *Eurasianet*, 14 November 2003.

positive step given the widely nourished conspiracy theories of Russian attempts to take over Georgia, especially against the backdrop of Russian dominance of the Georgian gas and electricity markets. However, on the basis of various motives, Russia's interest in a stable state and pliant leadership does not necessarily extend to *democratic* development.

4. Even before the elections, indications of Shevardnadze's imminent departure set-off power struggles that put the country's democratic development at risk. In the final stage of his presidency, Shevardnadze appeared to be hostage to reactionary elements among his supporters. In efforts to protect their interests beyond his presidency, they had entered into competition with each other. The new leadership, taking up the cause of anti-corruption as its priority, will have to manoeuvre vested interests of a clannish elite within distinct ministries and/or regions. Most crucial for the short-term will be the co-operation of the separatist regions as well as Ajaria in holding new elections. Abashidze is likely to be the greatest loser of new elections as the 'unholy alliance' between his and Shevardnadze's party would have afforded him a high profile. In the mid- to long-term, the regional administrative structure needs to be redefined.
5. Finally, despite the laudable neutrality displayed by the armed forces and police, the post-election crisis and the potential for escalation that it entailed make an urgent case for security sector reform – including better equipment, streamlined command and structure of the current myriad of security actors, and strengthened civil accountability in accordance with a national security concept.

iv. Role of the Conflict Regions

Any critical assessment of the state and governance must acknowledge that Georgia is still coming to terms with the consequences of inter-ethnic conflicts, a civil war, regular acts of terrorism as well as the difficult socio-economic conditions resulting from the Soviet legacy. Conditions aggravating the task of state-building in Georgia specifically pertain to "ethnic nationalism, insufficient socio-economic cohesion of society, ... parochialism, clientelism and familism, lack of traditions in democracy and strategic (state) thinking, corruption, preference for strong, authoritarian leadership, weak civil society, destabilizing external influence".¹⁶ These conditions engender a self-perpetuating vicious circle that complicates the three functions of the state and reinforces – and is reinforced by – the frozen conflicts on Georgian territory. The conflict regions have turned into criminal and illicit free trade zones and therefore directly complicate the security and development functions of the state.

Abkhazia

During the Soviet era, in the late 1970s, Abkhazia had already tried to secede from Georgia and achieve equal status as a Union Republic. Georgian-Abkhaz relations further deteriorated over cultural

¹⁶ Rondeli, 2000: 49.

rights in the late 1980s. In particular, Abkhazians have been set apart due to the Abkhaz language, which typically differs from other Caucasian languages.¹⁷

During 1992-93, political tension escalated into fierce fighting leaving 20,000 people dead and 200,000 Georgians displaced.¹⁸ Abkhazia won a decisive victory in 1993 with the support of non-Georgian fighters from the North Caucasus and the Russian military. Following a ceasefire agreement in 1994, Russian peace-keepers were deployed under a CIS mandate and UN monitoring. Their mandate mainly pertains to the monitoring of the ceasefire and has been extended to mine-clearance, a security guarantee for international staff and counteracting terrorist formations.

South Ossetia

The principle motivation for South Ossetian secession has been to unite with North Ossetia in Russia. South Ossetians originally are of Iranian descent; their language does not belong to the Caucasian family. Although there are few cultural barriers and differences with Georgians, Georgians have never recognised Ossetians as indigenous.

Civil conflict in South Ossetia began in 1989, partly in response to the rise of nationalist policies in Tbilisi. Intense fighting commenced in January 1991 and lasted until July 1992 when a ceasefire was reached at Russian initiative. South Ossetians, claiming unification with North Ossetia, had been supported during the war by North Ossetia. The war resulted in 100,000 refugees¹⁹ and between 700 to 1000 casualties.²⁰ A peace-keeping force of Ossetians, Georgians and Russians monitors the ceasefire agreement.

The OSCE has taken the lead since 1992 in facilitating a solution to the conflict through political negotiations and a Joint Control Commission. The Commission, which unites Georgians and South Ossetians, addresses security, economic and refugee/IDP matters and operates separately from negotiations on the political status of South Ossetia. A final compromise in this respect remains pending the settlement of the Abkhaz conflict since it can be presumed that South Ossetia will not accept a status inferior to Abkhazia, although in Georgia it is generally considered that it will not be treated on the same level as Abkhazia.²¹

Internally Displaced Persons and Refugees

Some 280,000 mostly ethnic Georgians, displaced due to the wars in Abkhazia and South Ossetia, remain permanently displaced in Georgia proper. Insufficient security guarantees and, from an Abkhaz perspective, the CIS-imposed trade restrictions are immediate obstacles to the return of Internally Displaced Persons (IDPs). At the same time, central authorities reject the integration of IDPs and an agreement on political status, which would be perceived as a quasi recognition of ethnic cleansing. Moreover, integration would mean a loss of political and economic power for the Apkhazeti government in exile, which in Parliament controls the budget and social services allocated to IDPs.

¹⁷ The Abkhazian language belongs to the Abkhazian-Adigean group of Iberian-Caucasian family. Approximately 30% of the Abkhaz population is Muslim.

¹⁸ Baev, 2001: 18. The numbers of casualties and especially IDPs vary according to the source and have become highly politicised. Also IBRD quotes the numbers mentioned. See also: [http://www.reliefweb.int/w/fullMaps_Wd.nsf/luFullMap/F9C486D7920EDABE85256A290051A53A/\\$File/conflicts2000.pdf?OpenElement](http://www.reliefweb.int/w/fullMaps_Wd.nsf/luFullMap/F9C486D7920EDABE85256A290051A53A/$File/conflicts2000.pdf?OpenElement).

¹⁹ Caucasus Foundation, <http://www.kafkas.org>.

²⁰ Baev, 2001: 14.

²¹ Comment by Jonathan Cohen, Conciliation Resources, Caucasus Programme Manager.

The absence of a durable solution for the IDPs' situation has been a persistent stumbling block to strengthening Georgian civic identity.

v. External Determinants: Russia and the US

While the importance of external influence tends to be overstated, Russian and US agendas both play a significant role in shaping transition in Georgia.

Georgia is a geo-strategic ally for the US. The transport of Caspian Sea oil through Georgia promises to diversify energy supplies and to provide access to alternatives for Middle East supply. This coincides with interests of US companies located in Azerbaijan and Kazakhstan. Georgia has also proven its loyalty to US policy on terrorism by weeding out terrorist rebels seeking refuge from Chechnya and by actively supporting US troops in Iraq. Amounting to US\$ 1.3 billion since the country's independence, US assistance has extended beyond the goal of stability and included massive democratisation assistance.

Russian interests in Georgia and the South Caucasus concern energy and other business investments, military presence, affinity with the separatist regions and political influence in Russia's 'near abroad'. Of major concern remains the possibility of Chechen rebels seeking refuge in Georgia. However, Russia so far has pursued an ambiguous policy towards Georgia. Russian leadership has strongly confirmed the principle of territorial sovereignty and has attempted to facilitate negotiations and conflict management efforts. On the other hand, Russia supported the separatist groups during the wars in Abkhazia and South Ossetia²² and to-date uses the conflicts as a means of influence, economically and politically. The exemption of Abkhazians and South Ossetians from the Russian visa regime, for example, was interpreted by many as a quasi-annexation.²³ In the current situation, leaders in the separatist regions, pro-Russian business persons and/or Shevardnadze supporters could turn to Russia for support to undermine the new leadership. It is highly alarming in this context that nationalist Duma members have demanded the annexation of Abkhazia.²⁴

Georgians have long feared that Russian interests and involvement in the energy sector and other economic levers would turn into material demands in the name of maintaining stability that directly impinge Georgian sovereignty: e.g. to maintain the military bases on Georgian territory,²⁵ to deploy "Russian border troops on the CIS's southern border and the Georgian side of the Georgian-Russian border with Chechnya, ..." ²⁶, to intensify Russian-Georgian relations as in the case of Belarus or Kazakhstan, and for Georgia to join the Collective Security Treaty Organisation.

The Russian policy community seems to be split into a confrontational, an imperial, and a more co-operative faction. With the landslide victory of nationalist forces in the recent Duma elections, Russia can be expected to toughen its stance towards Georgia. An unstable Georgia is certainly not in

²² In the case of South Ossetia particularly due to the links to North Ossetia.

²³ IHF Report on Georgia, 2002: 9.

²⁴ Demands for a land corridor to Kaliningrad and the incorporation of northern Kazakh territory where many ethnic Russians live seem to further confirm imperial tendencies. *Eurasianet*, January 2004.

²⁵ In fact, Russian military presence is only half-legal, as the Georgian parliament never ratified the agreement between Shevardnadze and the Russian prime minister that was tied to the condition that Russia helps Georgia to regain Abkhazia.

²⁶ Interview with Aleksandre Rondeli in *24 Hours*, 26 August 2003 at <http://www.gfsis.org>.

the interest of Russia as it could lead to another Chechnya if conflicts in Abkhazia, Ajaria or South Ossetia were renewed and were to spill over into Russia.

The acceleration of Russian troop withdrawal from Ajaria and Javakheti, demanded by the Georgian government, may prove hazardous as it goes against the (power) interests of leaders in the autonomy-minded regions, where this process could easily be used in a destabilizing way. Also leading Russian politicians and Duma representatives have demanded to set up permanent bases in the entire post-Soviet area, including Georgia.

Although Russia will not define its Georgia policy before the presidential elections in Russia in March, rapprochement with and within Georgia is principally in Russian interest. As East-West relations seem to be deteriorating,²⁷ Russia should be engaged as an integrative force on the basis of shared interests.

vi. Corruption and Bad Governance as Major Causes of State Weakness

Pervasive corruption has been a major source of frustration for all Georgians and popularly motivated the collapse of the regime in November 2003. The new leadership faces the double challenge of ridding state structures of corruption and eliminating a widespread culture of corruption affecting all areas of life. The change in regime is an opportunity for transforming corrupt networks and instituting a merit-based system. It is crucial that the new leaders do not resort to corrupt practices or incite suspicions thereof as they face pressures of internal opposition.²⁸

Georgia indeed is one of the most corrupt countries world-wide.²⁹ World Bank rating places Georgia among the leading countries in administrative corruption – a term describing petty bribery in relation to the implementation of laws and regulations.³⁰ Notably, informal distribution networks cut across ethnic groups. Customs, police, tax collection and water and electricity services have been among the most corrupt spheres of public life. Also the education system, once among the best in the Soviet Union, depends financially on the quantity of bribes generated.³¹

Origins and Causes

With state institutions providing even fewer public services than during Soviet Union times, corrupt practices have become more visible, but have long persisted. Corruption cannot be reduced to a cultural phenomenon. It has been actively stimulated, e.g. by overly bureaucratic employment creation, and instrumentalised as a means of maintaining patron-client governance. Public offices were not created on the basis of objective need, nor filled by merit-based selection, but were primarily aimed at creating a politically loyal entourage.

²⁷ Indications include the failure of the Moldovan peace deal; the asylum granted by Britain to Chechen leader, Akhmed Zakayev; the furore over the arrest of Russian oil baron, Mikhail Khodorkovsky; and implicit rivalries over various pipeline projects.

²⁸ Accusations in this respect have referred to the appointment of close friends and family members of the interim leaders to government positions. "Georgia Revolutionaries Face Growing Internal Opposition", *Eurasianet*, 2 December 2003.

²⁹ Georgia ranks 124 of 133 together with Azerbaijan and Angola by the perception-based Transparency International Index in 2003.

³⁰ The World Bank further distinguishes as other types of corruption patronage and nepotism, elite bribes to shape laws/policies, corruption in procurement, budget leakages, stealing of public assets, corrupt privatisation and corrupt leadership.

³¹ An amount of US\$ 15,000 is required merely to enrol in the faculty of law.

Driving forces for corruption include the need to generate additional income due to low or unpaid wages or to remunerate the costs of a position, favouritism, greed and protecting benefits. The institutionalisation of corruption in state and society is facilitated by institutional and societal factors.³² Minimal accountability reduces the costs of corruption. Terms of employment encourage, and sometimes even oblige, self-serving rather than public-serving behaviour. From a societal perspective, corruption has eliminated public trust in objective rules and strengthened personal clannish loyalties, thereby perpetuating its own cause and firmly rooting corruption in all spheres of life.

Local and regional governance systems have facilitated institutionalising of a system in which corruption and the threat of corrupt behaviour have become instrumentalised in maintaining these dependencies. To wit, the mayors of two key republican cities are directly appointed by the President (Poti and Tbilisi). Further, the system of governors (or presidential representatives), which *de jure* is illegal, and *gamgebelis* appointed at *rayon* level, allows for an overpowering central influence in relation to the elected municipal level. The distribution of centrally collected taxes and municipal budgets are usually contingent on personal relations between the mayor/*gamgebeli* at the municipal level and the presidentially-appointed *gamgebeli* at *rayon* level. Finally, the *rayon gamgebelis* answer to two bosses: their appointers (regional policy and management unit of the President) and the governors.

Impact on Functions of the State

Even though at a petty level, corruption has significantly impacted all functions of the state and directly undermined its legitimacy.

The security function of the state is directly impeded by corruption in law enforcement agencies, which is perceived to be notoriously high. The police force in particular is known for extorting bribes and engaging with organised crime. Customs officials and security forces are widely believed to facilitate abductions and illegal trade of all kinds especially in the separatist regions. Such cases are rarely prosecuted.

In terms of the representation function of the state, informal networks have undermined development of democratic institutions. Horizontal corruption, for example, which takes place *between* different state agencies on the same hierarchical level, practically has sealed the Executive from oversight. Furthermore, corruption takes its toll on political culture. State institutions have lost all credibility in the eyes of the public. Parliamentarians have been observed lobbying private interests and avoiding prosecution for corruption as well as other offences. Only when state agencies cease these corrupt practices will citizens be able to renew their loyalty to the state.

Corruption has become a major obstacle to generating welfare. The elimination of corruption is a vital prerequisite for economic progress. Inefficiencies and distortions in the public and private sectors impede development and free entrepreneurship. Examples include the sale of public offices or the system of informal taxation created by bribe-taking, which smaller businesses cannot afford. Additionally, business interests have increasingly permeated the political sphere, while political interest and influence has extended into successful businesses on the basis of family ties, political loyalty or personal connections (clan system). This is the case at the central as well as at regional state levels.

³² Dininio et al., 1999.

Clans and Clientelism

Patron-client relations make up informal networks that are the result and vehicle for vertical corruption, i.e. corruption *within* the branches of the state encompassing various administrative levels. Personal loyalties are the basis for such networks, illustrated, for example, by the preference given to friends and family over competent candidates when allocating professional positions. The general tendency to ascribe power to persons rather than office holders has helped keep a limited number of families/clans in key positions per branch of state (ministry) and region.

An example is Shevardnadze's own clan which has dominated major businesses and political posts. The power of clans is also evident in the regions. President Abashidze appointed his son as mayor of Batumi, the region's capital and major port in Georgia. In South Ossetia, until recently, all security posts were occupied by the Tedeyev clan, which helped President Kokoity come to power.³³

With such networks cutting across state agencies, this can result in sealing off entire branches of the state and eliminating all credible checks and balances. Parliament, for example, provides a reflection of the clannish and fragmented nature of interest groups. Shevardnadze, although weakened, was the main link between these different groups until recently. The new leadership will be put to the test of obtaining a critical mass of leverage necessary for influencing the clans in power.

A worrying trend has been the increasing criminalisation of politics as many clan networks in the state's bureaucracy are linked to organised crime.³⁴ Both Governors and opponents are able to mobilise armed supporters, as evidenced by political killings in Mingrelia and pre-election clashes in Bolnisi. Shooting incidents have even involved Members of Parliament who are entitled to carry weapons and are at the same time protected from prosecution due to immunity.

³³ The support by the Tedeyevs was motivated by the lucrative business ties they had developed previously with Kokoity in Moscow. In July 2003, a looming power struggle was ended by the President by obliging all his security chiefs and armed personnel of security, defence and justice ministries to give up weapons. The clearout was officially explained by the ineffectiveness and implications of law enforcement agencies in the fight against crime.

³⁴ The Mayor of Kutaisi openly maintains relations with the criminal Oriani clan. Interview with Alexandre Kukhianidze, November 2003.

PART ONE: ASSESSMENT OF STATE PERFORMANCE

The following sections examine the conditions challenging the performance (governance) and capacities (structures, institutions) of the state with regard to its primary functions: security, representation, and development. Strengthening the state in these dimensions will be a long-term undertaking. The following analysis focuses on the challenges ahead.

1. Security, Law and Order

This section assesses the level of security provision by the state. National security is understood as referring to the unity of the state, respect for the law and prevalence of order. Aspects pertaining to a broader notion of ‘human security’ are also be addressed.

1.1 Territorial Sovereignty

Despite much talk about Russia’s undermining role, the territorial integrity of Georgia is predominantly impaired by internal rather than external forces. Conflict persists over territorial status and relations with central authorities in Abkhazia, Ajaria, South Ossetia and, to a lesser extent, Javakheti.³⁵ Since 1993, Abkhazia and South Ossetia have functioned as virtually independent states. Together the two regions account for nearly one-fifth of Georgia’s territory. Disillusionment of various groups with the new government, which could intensify if promises remain unmet, and dissatisfaction in relation to renewed distribution of power could further swing the security situation in the country.

Although confrontations between state authorities and supporters of ousted President Gamsakhurdia continue to occur, particularly in the western part of Georgia (Mingrelia), this does not affect the territorial sovereignty of Georgia on a large scale.

Regional Developments and Separatist Tendencies

Territorial subdivisions, nationality policies and the matching of ethnic groups as titular powers to territories during the Soviet era have left a breeding ground for secessionist tendencies and claims for greater autonomy. The Shevardnadze administration sought to abolish state structures in the breakaway republics in a peaceful “evolutionary, multi-stage process”³⁶ and to redefine a devolutionary arrangement. However, the central state actors themselves only have a vague understanding of what sovereignty actually means and entails in terms of responsibilities. It is thus difficult for them therefore to relinquish it to the regions.

Security concerns for the conflict regions entail the possibility of the centre forcibly restoring Georgian territorial integrity under the pretext of anti-crime operations. The recent training provided to the Georgian military by the US further intensifies such concerns and the two breakaway republics have thus signed a mutual defence pact in the event of Georgian aggression.

³⁵ In 1995 Parliament decided *not* to take up the issue of territorial arrangement of state power within the Constitution under the assumption that improved economic and political strength would place Georgia in a better negotiating position at a later stage (Nodia, 2000a: 200).

³⁶ Shevardnadze in State-of-the-Nation address on 11 October 2002.

Abkhazia

Although the security situation has been generally calm, criminally motivated incidents, guerrilla fighting, kidnapping, shootings and robberies continue to take place especially in the Kodori Valley, Gali district and along the border with Georgia proper.³⁷ The secessionist war produced a mass exodus of Georgians who had until then constituted a majority in the region. Security guarantees for their return, which would drastically alter the ethnic structure, could not be agreed upon. Guards patrolling Abkhaz roads cannot be clearly identified as Abkhaz officials.

Joint Abkhaz-Georgian patrols remain a problematic endeavour. The presence of Russian forces, especially in Kodori, an area of shared Abkhaz-Georgian control, is sensitively perceived by Georgians as a compromise of their sovereignty by Russia. This reveals an inter-state dimension of the Abkhaz-Georgian conflict.

Allegations of the presence of Chechen rebels in Pankisi provide another entry point for Russian pressure on the central government to live up to its security role. This has fostered fear among Abkhazians of an offensive launched by Georgia.³⁸ Internally, the political crises between Abkhaz President Ardzinba and the Aitaira and Amsakhara movements might serve as a pretext for an intervention by the central state.³⁹

South Ossetia

The main area of South Ossetia is outside of central state control. Ossetians populate mainly the cities of Tskinali and Java. Many villages in the region are fully Georgian, but only some remain under Georgian jurisdiction.

In comparison to Abkhazia, South Ossetia enjoys a reasonable degree of security and the level of animosity with Tbilisi is much lower. However, the crime factor has become an acute problem and the situation remains tense, i.e. due to the availability of arms. The borders with Georgia proper are not clear and run through an uncontrolled no-man's land, where organised crime flourishes. The peacekeepers themselves benefit from illegal trade through North Ossetia, e.g. in war materials. The recently approved joint Georgian-South Ossetian police force is a potentially powerful instrument for controlling roads and gradually relieving the peacekeepers from their police substituting functions.

South Ossetia is regularly accused by the Georgian government of accommodating Chechen rebels and other criminals. South Ossetians therefore fear a Georgian offensive that would follow the example of the anti-Chechen sweep in the neighbouring Pankisi Gorge. The South Ossetian government and military have taken steps to forestall a Georgian incursion. South Ossetian authorities themselves undertake pre-emptive arrests of criminals. This also serves as an opportunity for them to do away with internal enemies. Political posturing within South Ossetia is increasingly becoming a security risk in itself.⁴⁰ Revival of Georgian-South Ossetia is rather unlikely and depends on whether good neighbourliness with Russia indeed materialises as set forth by the new GoG.

³⁷ UN Security Council, 2003.

³⁸ Radio Free Europe, 3 July 2003.

³⁹ After repeated presidential vetoes, Parliament could finally adopt a law that defines the circumstances and procedure for amending the republic's constitution.

⁴⁰ Parliamentary opponents of *de facto* President Kokoyev with increasing vehemence object to the fact that the President's allies have monopolised all trade opportunities. These opposition groups maintain their own armed forces and enjoy increasing popular support.

Ajaria

Besides Abkhazia, Ajaria also enjoys the status of an Autonomous Republic within Georgia. The region is populated mainly by ethnic Georgians of Muslim religion. The region remained largely unaffected by the separatist and civil wars in 1991-94 – a fact for which its authoritarian President Abashidze continues to take credit. Despite similar conditions, Ajaria has not taken the route of other separatist conflicts in Georgia.

The political leadership in the republic insists on a degree of autonomy approximating independence. Tax revenue is not transferred to the centre reliably, the establishment of an economic free zone was attempted, and essential state competences, in particular border control, remain in dispute with the central government. Abashidze claims these to be the sole responsibility of Ajarian authorities whereas the central government formally concedes only implementation duties to the republic.

Despite an arch rivalry between Abashidze and Shevardnadze the two leaders depended on a functional alliance in order to mutually consolidate their power. Due to his pro-government support in the 2003 parliamentary elections, Abashidze managed to extend his power base temporarily. Changes in the Ajarian Constitution give it precedence over the Georgian Constitution in the event of conflict and legitimises the existence of an Ajarian army headed by the President.

This is characteristic of Abashidze's general ambition to make Batumi an alternative power centre. As Abashidze even undertook diplomatic trips to Armenia, Azerbaijan and Russia in Shevardnadze's name during the post-election crisis, he may refuse to sell himself short of a national role within the new government.

Javakheti

Javakheti comprises the geographic regions of Akhalkalaki and Ninotsminda.⁴¹ Armenians predominantly populate the province. Political organisations such as Javakh and Virk are the main driving forces for greater autonomy and central representation, but officially pursue no separatist or nationalist ambitions. Their major demands entail cultural and political rights such as achieving Autonomous Republic status, raising Armenian to the level of a regional state language and improving the responsiveness of central Georgian authorities to economic and social needs.⁴² The infrastructural marginalisation of the region is a key problem.⁴³

The presence of the Russian military base constitutes a conflict of interests between the Georgian government and the local Armenian community, which views the base as the key provider of jobs and security. Prospects of closing the base heighten security concerns among the Javakheti population who fear exposure to Turkish influence. Such concerns are probably more of an emotional rather than objective nature, but in any case do not appear to be considered at the central state level.

The influence of Turkey is indeed a sensitive issue for the local population, which holds Turkey responsible for the massacre of their ethnic kin in 1915. Turkish businesses participating in the US-sponsored pipeline projects are feared to potentially 'slave drive' the local population. Georgian plans of repatriating tens of thousands of Meshketians from various former Soviet republics, which is a

⁴¹ After annexing Georgia, Russia settled thousands of Christian Armenians from eastern Anatolia in Akhaltsikhe, which had been populated predominantly by Islamicised Georgians.

⁴² Radio Free Europe, 25 November 2002.

⁴³ Comment by Jonathan Cohen.

condition for membership for the Council of Europe yet to be fulfilled, intensify these fears.⁴⁴ Russia's presence is seen as a vital shield against Turkish influence and as a safeguard of Javakheti identity, which leans towards Armenia rather than Georgia. Georgia, on the other hand, perceives Russia's presence with suspicion in that Javakheti may serve as an avenue for destabilizing the country.

Borders

Georgia shares borders with two competing pairs of states: Turkey and Azerbaijan on the one hand, and Russia and Armenia on the other. Border control and management has become a sensitive issue as war material has been transported through Georgia to the parties of conflicts in the South Caucasus. Illegal trafficking and migration, criminal and terrorist expansion, as well as Caspian oil transport, make border control in Georgia an internationally important issue. In total, one-third of Georgian borders remain in dispute.⁴⁵ Jurisdiction and responsibility for security in these areas remain unclear and ineffective in curtailing terrorism, organized crime and trafficking.

The border with Turkey is the least problematic as it dates back to the former Soviet-Turkish border that was clearly delimited and gradually transferred to Georgia by Russia. Although there are no serious disagreements with Azerbaijan and Armenia concerning borders, roughly 30 percent of the Georgian border with Russia and Azerbaijan is still undefined, and the delimitation of the border with Armenia has not yet been launched.⁴⁶ The most problematic border is that with Russia which has never been demarcated.

The Georgian-Chechen border has been monitored by an OSCE mission as well as by newly US-trained and equipped battalions. General problems in ensuring effective border control include high rates of corruption and criminalisation in the context of dire economic conditions.⁴⁷

1.2 Law Application and Enforcement

Shortcomings in the application and enforcement of the law manifest themselves as political, economic and crime-related problems: Frequent allegations suggest that the law is politically obstructed and can be instrumentalised against political opponents. This is due to the strength of customary laws that often outweigh state laws. Economically, the impact of weak and erratic law enforcement has resulted in the scaling down of donor programmes by the IMF, USAID, the World Bank and the European Commission. According to the American Chamber of Commerce in Georgia, the legal system is broadly considered to be unfair and biased. Finally, the porous borders along the separatist regions provide a conducive environment for criminal gangs and illegal trafficking. These problems are consequences and indications rather than causes of the inherently weak state. They exacerbate popular distrust in security and justice and foster the perversion of society by clientelism.

The new leadership will have to push for reform within the judiciary that was stalled during the Shevardnadze era. Among others, this includes curtailing pressure from the Executive, addressing corruption and inefficiency and their obstruction of impartiality, increasing effectiveness and fair trial.

⁴⁴ A bill preparing such a resettlement is currently pending before the Georgian Parliament.

⁴⁵ Kukhianidze, 2003a: 9 – quoting the chairman of the Delimitation Commission.

⁴⁶ *Eurasianet*, 9 July 2003.

⁴⁷ Kukhianidze, 2003a.

Judicial independence has been tenuous given the delay in payment of salaries and insecure tenure.⁴⁸ The extent of leverage by the government on the judiciary becomes visible in cases involving government interests, e.g. the decision by the Tbilisi district court suspending registration of the Citizen's Union of Georgia in the 2002 local elections. While the creation of a transparent bar examination and independent bar association are relative successes given strong resistances,⁴⁹ the delayed implementation of court decisions, especially in civil cases, remains of concern.⁵⁰

Adjustments in the Prosecutor General's Office and a new Criminal Procedure Code are yet to be undertaken as part of the accession to the Council of Europe. The organisation of the Procuracy is complicated and affords too many posts. This makes the agency susceptible to inefficiency and corruption. Furthermore, the investigative agencies of the Procuracy remain to be abolished.⁵¹ Judicial oversight of the Procurator during the pre-trial period has been weakened due to amendments to the new Criminal Procedure Code, whereas human rights violations have occurred mostly during this period.⁵²

1.3 Security Actors

Territorial defence is the shared responsibility of border troops, the army and interior troops. Responsibility on the political level is shared principally between the Interior Ministry and the Ministry of Defence. The Interior Ministry is the most influential government agency. In comparison with the Ministry of Defence, which was only created after independence, the Interior Ministry comprises ex-Soviet structures and staff. Corruption⁵³ and human rights violations, especially by the police, have been major accusations directed at the Interior Ministry.

The Ministry of State Security is a civil institution tasked with monitoring anti-governmental plots, terrorism and economic crime. The latter opens the door to lucrative extra-official income. The National Security Council is a powerful consultative body that advises the President on the planning and implementation of policies. It comprises the State Minister, the Ministers of Foreign Affairs, Defence, the Interior, State Security, and the Secretary of the National Security Council.

A number of other agencies, departments, and units – partly subjugated, partly independent of the power ministries – are in command of armed forces.⁵⁴ This has created inefficiencies due to overlap in responsibilities. Thus far, relevant reform efforts have gone little beyond statements of intent. Besides the lack of structural reform implementation, major problems include desolate financial conditions, insufficient democratic leverage and the lack of vision.

⁴⁸ IHF Report on Georgia, 2002.

⁴⁹ Interview with Carolyn Campbell, American Bar Association, October 2003.

⁵⁰ Nodia, 2000b: 191.

⁵¹ Supreme Court of Georgia, n.d.

⁵² IHF Report on Georgia, 2002.

⁵³ Especially through the Property Protection Department which is supposed to be delegated to private security agencies.

⁵⁴ The best up-to-date overview is provided by Larsson (2003).

Armed Forces

Interior Ministry and Ministry of Defence are the main supervisory organs of the armed forces. Two units (the National Guards and the Internal troops) are even autonomous.⁵⁵ Constraints on structural reform and elimination of overlapping competences have been partly of an institutional nature. Security actors make up a “mixture of old Soviet police officers, a mixture of voluntary defenders and regular bandits”,⁵⁶ who would lose out on illegal income if reforms were implemented. Corruption is prosecuted but by far not in all cases.⁵⁷ Financially, the minimum percentage of military expenditures in GDP (0.79% in 2003, NATO requirements range toward 2%⁵⁸) makes it difficult to implement reforms. The national defence budget is both desolate and financially opaque.

The military is under-funded, under-equipped, under-manned and generally incapable of defending national security needs.⁵⁹ In 2003, the Ministry of Defence had to downscale its initial demand of 120 million *lari* to 67 million *lari* (50.4 million to 28.1 million euro), of which it has so far received only 40 million *lari* (16.8 million euro).⁶⁰ The adjustments in terms of strategic prioritising this reduction must have required are unclear.

Soldiers continue to face significant social hardship including low wages and malnourishment. Some army units have even taken on farming in order to support themselves.⁶¹ Yearly, between 2000 and 3500 conscripts desert the army. Internal theft regularly takes place in order to sell equipment, fuel, drugs or food on the black market. Most seriously, members of the security forces continue to commit human rights abuses, including torture, in order to extract money or confessions.⁶²

Security forces are ineffectively controlled by the elected civilian authorities. Parliament is not entitled to review the internal budget of the power ministries.⁶³ The Parliamentary Defence Committee almost secretly consults on the defence budget and has never raised critical questions.⁶⁴ Although the role of civil society has been upgraded and NGOs do deal with military issues, their impact remains low. Also internally, the command and control system of the armed forces needs to be further centralized.⁶⁵ Moreover, a legal vacuum remains with respect to the law on defence, which leaves the division of tasks between the President and Parliament in the dark. Crisis management tasks of the Ministry of Defence and armed forces are not clearly regulated by law.⁶⁶

Police and Penitentiary System

The police and prison systems are perceived as notoriously corrupt and as the main perpetrators of human rights abuses. During instances of violence against religious minorities the police have

⁵⁵ Darchiashvili, 2002: 189.

⁵⁶ David Darchiashvili, quoted in Larsson, 2003: 37.

⁵⁷ 200 lower-ranking officials were dismissed in the 1990s. Larsson, 2003: 38.

⁵⁸ Larsson, 2003: 60.

⁵⁹ In protest against poor conditions National Guard veterans even occupied a military base. Allegations of Russia staging these protests could not be substantiated. *Eurasianet*, 28 March 2003.

⁶⁰ Interview with Zviad Chkheidze, Head of Intelligence Department, September 2003.

⁶¹ Larsson, 2003: 77.

⁶² US Department of State, 2003.

⁶³ Larsson, 2003: 23.

⁶⁴ Interviews at the National Security Council and Intelligence Department, September 2003.

⁶⁵ Georgia's Defence and Security Strategy, website of Georgian Ministry of Foreign Affairs.

⁶⁶ “Crisis management maintains features of voluntarism” (Darchiashvili, 2000: 73).

remained passive or have even become implicated.⁶⁷ Despite some victims' attempts to sue perpetrators of these assaults, they were not prosecuted.

Arrests take place arbitrarily, on the basis of questionable charges, and often with the aim of extorting money. The right to legal counsel is often denied in practice, even after the 72 hours of detention that are considered legal – a provision which itself already deserves criticism.⁶⁸ Cases of imprisoned Gamsakhurdia supporters still remain to be reconsidered.⁶⁹ Since most of them remain in prison on criminal charges it is difficult to determine whether or not they are political prisoners. Confessions are forced by physical intimidation or psychological pressure and the number of deaths in detention reported as suicides is indeed suspiciously high.⁷⁰

What makes this type of intimidation effective is the fact that defendants are often not aware of their rights.⁷¹ In addition, structures and the hierarchy of relations within the prison system are reminiscent of Soviet Union times and practically compel officials and inmates to engage in corruption;⁷² the former in order to upgrade their minimal wage, and the latter to slightly improve inhuman or even life-threatening detention conditions. The penal system needs to be upgraded otherwise simultaneous reform efforts in the judiciary are likely to be ineffective.

The new government may hesitate to launch confrontational reform and anti-corruption programmes in law enforcement agencies as it critically depended on the police and security forces to maintain calm in the post-election crisis.

Paramilitaries and Militias

The neutralisation of militias during the mid-1990s, notably the Mkhedrioni, indeed was a major success of the Shevardnadze regime. Nevertheless, following the civil and separatist wars, a variety of new and old armed groups have remained active – partisans, paramilitaries, private militias – that have been facilitated by the broad availability of arms and a gun culture. In some cases these groups are benevolently supported but less so controlled by the central government. For these, the monopoly of violence, a central Weberian criterion of statehood, has been sub-contracted to informal and unofficial actors.⁷³

⁶⁷ US Department of State, 2003: 14.

⁶⁸ Nodia, 2000b: 191.

⁶⁹ IHF Report on Georgia, 2002.

⁷⁰ In 2002, 34 persons died while in the custody of security forces, 31 in prisons (US Department of State, 2003). See also: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), 2002.

⁷¹ A USAID survey suggests that only a small minority of detainees are using their rights, notably the right to legal aid. Whereas most respondents maintained that the police had no right to torture it is worth noting that the percentage of ethnic minorities confirming such a right of the police was much higher than their Georgian counterparts'. An overwhelming majority of respondents in the survey believe that police officials treat members of their own family preferentially (USAID, 2003: 55).

⁷² Corruption traditionally has been part of the code of honour prevalent in Georgian prisons since Soviet times. The 'vory', a professional criminal clan that developed in the prestigious "thieves' world" during the Stalinist period, has been in charge of administering interprisoner relations, settling internal disputes, and managing an 'insurance fund' made up of forced contributions.

⁷³ de Waal, 2003; Gethins, 2002.

South Ossetia and Abkhazia maintain independent armies numbering 2000 and 5000 respectively.⁷⁴ Some key political and economic figures have commanded their own private armies and have not hesitated to use them as an instrument of pressure on the government, which given the desolate state of the Georgian army, is in a relatively weak position. Even if central authorities were informally in control of Georgian guerrillas operating mainly in Abkhazia, these groups might in the long run extend into and destabilize Georgia proper.

1.4 Volatile Political Culture

The non-violent change in regime in November 2003 should not be mistaken as an indication of a peaceful political culture. Violence persists as a feature of everyday life and citizens are insufficiently protected against crime. Further, violence serves a certain desire for risk and adventure.⁷⁵

Interest groups are able and ready to mobilize substantial (armed) backing including among the IDP community. Incidents such as the detention of Kmara activists in Ajaria and the denial of basic rights such as to consult a lawyer point toward political instrumentalisation of law. But further, Abkhaz militants contracting the murders of a Georgian guerrilla leader, assassination plots against Georgian officials in Zugdidi and against President Saakashvili, the killing of an Interior Ministry official and supporter of a movement pursuing the resignation of Abashidze by constitutional means – are all symptomatic of the normalcy of violence and the advanced criminalisation of politics.⁷⁶ At this point in time, it is unclear how circles of organised crime will react to the new government. Furthermore, it is uncertain how free of patronage and corruption the Saakashvili administration will itself be.

Especially in the buffer zones separating Abkhazia (and South Ossetia) from Georgia proper, citizens experience a broad absence of state power and are exposed to crime, insecurity and arbitrariness by local state officials. Blood feuds between families (e.g. the Kvitsiani and Avaliani families in Abkhazia), and political killings are not uncommon. The latter usually involve guerrilla groups such as the White Legion and Forest Brothers who are indirectly supported by the central government and thus to a large extent enjoy impunity.⁷⁷

Discrimination against and violent harassment of refugees, returning IDPs, ethnic and religious minorities indicate an abundance of social vulnerabilities. Should demographic pressures (IDPs, migration, refugees, and birth rates) and social discontent in response to economic grievances or political frustration not be alleviated by the new leaders, propensity towards violence and conflict are likely to arise from *within* Georgian society.

1.5 A Concept for National Security?

To date, the gist of security for Georgia has not been defined within a national security concept. A draft on the previous government's website points to an ideological bankruptcy of the political elite in

⁷⁴ Charles, 2001: 535; and CEE Bankwatch Network <http://www.bankwatch.org/issues/oilclima/baku-ceyhan/downloads/caspianoil-militarization.html>.

⁷⁵ Schmidt (n.d.) describes the Soviet legacy and nostalgia of banditry youth organisation.

⁷⁶ *Eurasianet*, December 2003 and January 2004.

⁷⁷ See Global Security: <http://www.globalsecurity.org/military/world/war/georgia.htm>.

this respect.⁷⁸ The ongoing conflicts as well as popular opposition to the Shevardnadze leadership have been impediments to developing consensus on what the strategic goals of the country should be. A coordinated dialogue on the future of Georgia is needed – involving the new GoG, civil society and possibly actors from the international community.

A national security concept usually defines security, obstacles to security and priority measures to operationalise the concept for security. It is a vital tool for (i) ensuring efficiency, goal-orientation and control of security actors; (ii) informing the public; (iii) allocating scarce resources efficiently; and (iv) facilitating transparent and democratic internal governance.⁷⁹ Security concepts take into account objective aspects such as the endorsement of international agreements and treaties, implementation of legislation, effective enforcement structures, material resources, border control, etc. as well as subjective aspects arising from perceptions in society on the nature of threats, state-society relations, intent and capacity of the political elite.⁸⁰

A current draft concept for Georgia indeed identifies sovereignty and territorial integrity as top security issues as well as ‘non-traditional conceptions of security’.⁸¹ This alludes to Russian violations of Georgian territorial integrity and the need to protect Georgian civil liberties. Integration with European institutions and NATO is also envisaged. However, the choice of issues is not further prioritised let alone operationalised in a way that defines objectives, capabilities and the structure of relevant actors within a mid-term perspective.

On a positive note, the involvement of and proposals by different state agencies lead to the conclusion that consultations are being actively pursued. All proposals go beyond traditional military concerns. However, given the contradictions within and among these drafts, one can hardly speak of an integrated vision of security (policy).⁸² Instead of being informative to the public and effective as a management tool, the drafts in their current form are incomprehensible to citizens and insufficiently confine state action to the public sphere.⁸³ Moreover, no single state agency has been explicitly assigned the task of taking the lead in guiding and consolidating the variety of existing drafts.

1.6 Role of Conflict Regions

The conflict regions impact national security principally in two ways. First, there is no single security space in the state due to the fact that inside the secessionist regions security is provided by different authorities. The lack of central control over Abkhazia and South Ossetia creates essential challenges for security actors in terms of capacity, legitimacy and operability. A potential boycott of

⁷⁸ The draft immediately refers to the importance of pipeline security.

⁷⁹ Ball, et al., 2003.

⁸⁰ Darchiashvili, 2000: 66.

⁸¹ See Darchiashvili (2000: 68) for a comprehensive differentiation of official documents as well as an overview of common elements such as separatism, external interference in domestic affairs, ethnic self-determination, corruption, human rights violations, income gaps, transformation from centralised rule to democratically controlled government, unprotected borders, smuggling, and organised crime.

⁸² All drafts perceive democracy, rule of law, democratic and civil society and economic reforms – all cornerstones of Western political culture – as vital safeguards of security. However, contradictions can be identified specifically concerning individualism (necessity in terms of human rights or risk to territorial sovereignty) and the primary object of security (state or citizen).

⁸³ Darchiashvili, 2000: 71.

parliamentary election results in March 2004 by Ajaria could set-off a chain reaction of secessionist claims that could lead to dissolving Georgian territorial integrity completely.

Second, the lack of security in the two secessionist regions spills over into the proximate neighbourhood and makes districts bordering with those regions, such as Mingrelia, much more vulnerable and frequent targets of kidnapping, attacks, shooting exchanges and as much a haven for illicit trade and other criminal activity as Abkhazia and South Ossetia. The situation in Mingrelia, former support base of Gamsakhurdia, especially remains tense and political killings continue to take place.

On the other hand, the impact of the conflict regions alone is insufficient to account for political violence, criminality, and erratic law enforcement that under the Shevardnadze regime extended into areas *within* control of central authorities and where bandits and eminent locals run their affairs free of any legal limits.

2. Representation and Identity-building

Representation and accountability constitute the core of the social contract idea. Government institutions are expected to be representative, effective, respected and adhered to by the public. Under Shevardnadze, Georgia experienced a deepening crisis of governance in context of weak state and strong informal power structures.⁸⁴ Popular cynicism was a powerful indication of this. Formal state structures were unable of completing with informal ones which were covered by a ‘democracy façade’. Laws were passed, but their implementation has thus far contradicted their essence in that they are only observed to the degree that they coincide with the interests of their mostly corrupt implementers.⁸⁵

The post-election crisis illustrated how insufficient accountability and responsiveness to the Georgian people exacerbated the inefficiency of the state and progressively eroded its legitimacy, i.e. the trust in the lawfulness of the political rulers. With the electoral fraud in November 2003, the large-scale crisis of legitimacy extended even further and there was a real risk of popular frustration turning violent despite widespread fears of renewed instability.

2.1 Legitimacy and Efficiency of the Regime

Legitimacy is a major guarantor of internal security. It indicates the loyalty of citizens to the state and their commitment to state-building. This definition assumes a dual responsibility – on part of the state and on part of the citizens.

The legitimacy of the state and the legitimacy of the regime, although distinctively different, are closely intertwined in practice and public perception. The responsibility of the state in terms of representation includes providing respective structures for participation, representation and accountability, e.g. civil liberties and political rights, which ensure the selection of government and maximum public participation and input in the passage of legislation. The responsibility of state leadership, however, goes beyond the availing of structures and extends to enabling the state to function well and adequately according to its objectives, e.g. ensuring that citizens in fact *are* able to participate in political life and that representation mechanisms are appropriate and in line with the concerns of the citizens.

⁸⁴ *State structures* are understood as those institutions and persons that are tasked formally to guide, regulate and coordinate the functions of the state, that do so through a democratic process of opinion-building and decision-making. *Power structures* refer specifically to those (state) structures that avail of enforcement mechanisms and sanctions to execute these decisions. Power structures may extend beyond law-ruled relations and comprise informal hierarchies.

⁸⁵ Interview with Paata Zakareishvili, 27 September 2003.

The legitimacy of the regime can be measured firstly by the extent of compliance with the “basic political laws”⁸⁶ and the ability to impose compliance (legal legitimacy) and, secondly, by the support of the population (political and economic legitimacy).

With regard to the first, the general lawlessness, pervasive organisation of crime, erratic law enforcement and contested sovereignty prevailing in Georgia clearly testify against the *legal* legitimacy of the Shevardnadze regime. The separatist regions do not participate in national political life⁸⁷ and therefore do not comply with political laws issued by the central authorities. Ajaria refuses tax transfers to Tbilisi. In addition, Georgian leadership has failed to impose compliance with the law. This is due partly to restrictions in the awareness of the law⁸⁸ and, more importantly, to the deficits in professional and independent interpretation and the lack of public trust therein.

Secondly, with regard to *political* legitimacy of the regime, the new leadership faces a difficult legacy. According to a world-wide survey conducted in 2002, Georgia was among the top five countries where citizens most distrusted their leaderships.⁸⁹ A clear majority of the population believes that the existing state institutions are not functioning properly, with the Interior Ministry, the police and Parliament being perceived as the worst performing agencies.⁹⁰ The extent to which such perceptions are grounded in reality is not all-decisive in determining the legitimacy of the regime. Popular perceptions in this case *create* reality.

Indeed, these impressions of inefficiency are realistic. State institutions have often failed to live up to their defined responsibilities or to implement political decisions. Their susceptibility to (political) pressures makes them insufficiently capable of balancing diverse and competing interests. Law enforcement and tax collection are especially notorious for corruption. The strength of clientelistic patronage networks further reinforces the inefficiency of public administration. Unsurprisingly, certain branches of the Shevardnadze government were dominated by distinct family clans and even the new leaders have been accused of filling official positions with friends and family. Additionally, low salaries for public officials make it particularly difficult to attract competent personnel.

Corrupt and clientelistic practices (a grab-and-share mentality) also undermine the *economic* legitimacy of the regime, which Knippenberg understands as the ability to cater for the needs of the population.⁹¹ More than half of the Georgian population lives below the poverty line.⁹² Provision of public services is a clearly recognised state responsibility due to the long Soviet tradition, thus pressure on the new regime for delivery, e.g. of regular salaries and reliable provision of electricity, and accountability in this respect will intensify once immediate security and stability are secured.

⁸⁶ Hin, 2003: 24.

⁸⁷ Except for the Tbilisi-based Abkhaz government in exile which is mainly in charge of IDP issues.

⁸⁸ While an overwhelming majority of Georgians asserts in a survey by USAID that all people should be equal before the law, even more respondents believe that certain positions still imply special privileges. The legal system, in general, has been perceived by 76.2% as ineffective – a slight increase compared with 2002. Another striking finding is that a majority of respondents consider the legal system to be irrelevant to their own welfare. Notably, Armenians rated the legal system most negatively compared to Georgian respondents. For specific information on public perception of legal rights, see USAID, 2003.

⁸⁹ Article in *Georgian Times* relating to a survey conducted by “Voice of the People” in conjunction with GALLUP International. See <http://www.georgiantimes.ge/fullview1.php?id=50&cat1=15>.

⁹⁰ USAID, 2003: 62.

⁹¹ Knippenberg, 1998.

⁹² CIA World Factbook 2002 on Georgia.

2.2 Checks and Balances

Accountability is an essential principle of good governance as it legitimises and ensures the effective functioning of the state. Georgia's Constitution and legal framework formally separate and clearly delineate the responsibilities of legislative, judicial and executive branches at the central state level. Ensuring the functioning of these branches in an accountable and effective way will be a crucial task of the new leadership.

Horizontal Accountability

Executive agencies have tried to weaken state bodies or analogous non-state structures that provide essential checks and balances for government activities. Especially the Ministries of Security and the Interior "tend to intervene in political and economic life, including the electoral process".⁹³

Parliament has managed to promote and push for a number of democratic reforms. It is an open and relatively transparent political institution. The main problems relate to its limited leverage over and coordination with the Executive, which lead to delays and shortcomings in the implementation of the laws passed.

Parliamentary surveillance, provided for example by the 1999 administrative code and the Law on Normative Acts, has not worked in practice as the informal influence of former President Shevardnadze and his entourage extended into various parliamentary factions. The Executive therefore could often ignore parliamentary oversight efforts. Contact with Parliament was neglected and tenuous; internal regulations were given preference over laws; and public documents were kept inaccessible.⁹⁴ Not once did Parliament issue an official warning to the government with respect to the failure of compliance with the state budget. Inefficiency is further exacerbated by the lack of governmental coordination: each ministry works separately with Parliament, and the Parliamentary Secretary of the President fails to coordinate the legal drafting.

Other difficulties relate to the multiplicity of political factions (approximately 15 currently) operating in Parliament that split from the three major parties elected in 1999 (Citizens Union of Georgia, Revival, and Industrialists). All factions have separate heads, chairs, deputies, etc., further complicating the legislative process. Inappropriate competition and personal hostilities among these factions have prevented Parliament from growing as a political watchdog.⁹⁵

Moreover, because of the provision of parliamentary immunity, criminal business people are attracted to joining Parliament as a safe haven. Many laws have been obstructed due to personal interests. Changes in laws can be undertaken selectively as the agenda for parliamentary hearings is set secretly,⁹⁶ and public participation has been erratic. This helps to orientate the political system even further towards personal interests and gradually has turned the state into a tool for preserving personal gain.

The exposure to pressure from the government also impairs the judiciary in its function as an independent arbiter. Although major reforms have been completed, "the environment in which the

⁹³ Nodia, 2000b: 189. In the run-up to the 2003 parliamentary elections, for example, Shevardnadze tried to extend the term of parliamentarians adding only one seat thereby blocking reform parties.

⁹⁴ Nodia, 2000b: 189.

⁹⁵ Interview with Kethi Khutsishvili, Eurlasia Foundation, 29 September 2003.

⁹⁶ Interview with Carolyn Campbell, ABA Tbilisi, 1 October 2003.

judiciary operates has reduced any positive effects”.⁹⁷ A number of laws were issued since 1997, aimed at ensuring the independence and effectiveness of the judicial system and, in particular, curtailing the all-encompassing influence of the Procuracy. The confusing structure of the court system widens the scope for interference by the Executive and for corruption. Respectively, Georgians appear to doubt that courts have become more prepared to “uphold individual rights where they conflict with the interests of the state”.⁹⁸

Reform efforts thus far have entailed placing the penitentiary system under the responsibility of the Justice Ministry in January 2000. But informal competition and hard feelings prevail to-date within the Interior Ministry with regard to this loss of leverage. Mass escapes from prisons in September 2003 gave rise to allegations of complicity accusing the Interior Ministry of trying to re-establish its control over the law enforcement agencies.

Vertical Accountability

Georgia’s political system is underscored by a peculiar paradox: the Constitution prescribes a unitary state with maximum centralization of powers, while in reality there is no centralization at all, and in most cases the regions, let alone the two break-away republics, have little if any connections to the centre. In actual fact, Georgia is a very loose federation with the regions having little role in elections. The 1995 Constitution fails to divide responsibilities and define interaction between local, regional and state levels.⁹⁹

Checks and balances at a district-centre level are nearly obsolete as locally elected councils (*sakrebulo*s) are effectively provided little power and remain dependent to a great extent on the President. Heads of the district administrations are selected directly by the President and have no legal basis due to the lack of territorial definition in the Constitution. Their remuneration by the state budget is therefore obscure and indicates overdependence on extra-budgetary financial resources.

The timeliness of transfers from the state budget to the municipal level is usually contingent on “relations with officials in the capital”.¹⁰⁰ This devolutionary arrangement is inefficient and actually consolidates rather than controls and limits political patronage. Improvements in local self-governance are necessary but need to take into account the composition of local populations, i.e. the fact that in some regions, national ethnic minorities constitute local majorities.

Civil Society

Georgia’s civil society has long been seen as a model for the region. NGOs have made active contributions to the legal system and the Constitution and protests were able to achieve political consequences.¹⁰¹ Conditions for registration are relatively easy as the civil code exclusively authorises the judiciary to prohibit violent, extremist organisations and exempts NGO grant revenue from all except income taxes. At the same time, due the economic destitution of the country, many qualified

⁹⁷ Nodia, 2000b: 190.

⁹⁸ USAID, 2003: 13.

⁹⁹ Due to this, in some cases local legislation defies central state legislation, e.g. Ajarian border and tax legislation – an essential state responsibility.

¹⁰⁰ Nodia, 2000b: 190.

¹⁰¹ In 2001, for example, large-scale demonstrations, set-off by the closure of the independent TV channel, Rustavi, contributed to the resignation of the cabinet.

people have been willing to work as activists. This particular factor makes the transfer of the Georgian model to the region unlikely.

Following the regime change, NGOs may face an image crisis as the population is becoming increasingly conservative and tired. Restraints on the effectiveness of the NGO sector as a political counterweight are rooted in history and the present. After the 1991 coup, the political leadership had no other choice but to declare democracy and liberties such as free media. However, these civil liberties emerged in an environment in which the government could not prevent them from emerging. Some organisations have assumed subordinate roles to the leadership or are even financed or run by the government or a political party. Government agencies have remained reluctant to make documents accessible despite their obligation to do so.¹⁰² The lack of reliable public information has prevented NGOs so far from developing into a counterweight to the government.¹⁰³ The public at large needs to have easier access to government information, e.g. through information dissemination, government Internet presence, hotlines, etc., so that people can defend themselves against petty bribery on the local official level.

As a consequence, the public espoused little confidence in NGOs and the civic values they promoted, which initially were seen to challenge prevalent traditional values. Indeed, most NGOs refuse to make their funds public thereby substantiating suspicions that they are in fact linked to political parties or created by government agencies as ‘quasi-NGOs’.¹⁰⁴ A number of NGOs function primarily as service providers to donors who substitute the provision of public services.

The public often has been reluctant and suspicious of adopting positive impulses from the NGO sector. According to a survey by the Institute of Polling and Marketing, a clear majority of Georgians neither participates in nor sees the significance of NGO activities. In some cases, citizens fail to even differentiate government institutions from NGOs.¹⁰⁵ In the regions, civil society activism is even less developed than in Tbilisi and again often cannot be differentiated from government actions by the population.¹⁰⁶ Thus the impact of NGOs in terms of checks and balances remains relatively limited at present. The credit recently taken by NGOs for the peaceful regime change must be qualified by other more decisive factors such as the army and security services withdrawing support from the former President.

Due to financial difficulties, media professionalism and circulation remain underdeveloped, especially in the regions. Language barriers make it difficult for news from the centre reach the regions.

The business sector, on the other hand, has been quite capable of exerting pressure on political decision-making, given its role within the oligarchic power structures. On various occasions, Shevardnadze’s Citizens Union conceded benefits to business persons in return for financial support of his campaigns. Formal avenues for lobbying provided by the 1998 Law Concerning Lobbyist Activities are hardly being used. Informal and less transparent practices of taking influence seem

¹⁰² Government of Georgia, 1999, Chapter 3.

¹⁰³ A pending bill on grant-making foreseeing state control over the utilisation of funds in the non-profit sector would open the door for exerting political pressure especially on those NGOs that are perceived to be undermining government policies.

¹⁰⁴ Nodia, 2000b: 185.

¹⁰⁵ USAID, 2003: 45.

¹⁰⁶ Nodia, 2000b: 185.

preferable to businesses.¹⁰⁷ This will include also the growing Russian business community in Georgia.

2.3 Political Parties

The 2003 elections were an important step in the state consolidation process as they were the first since the election of Gamsakhurdia in which non-government parties played a significant role.¹⁰⁸ Although the concept of multi-party competition has taken firm root since the last Soviet elections, parties have not really consolidated in the past 15 years.

The main problem for political parties has been their own weakness rather than state repression. The system of patronage (generally favoured by presidential systems) enables a certain degree of stability, but has prevented the consolidation of a modern democratic state. The war-time political elite have largely remained, both within the central authorities as well as the separatist regions. Elections have tended to rally around regional or central leaders while political parties are grounded insufficiently in the broader public. Whereas to a certain extent political pluralism was achieved, Shevardnadze monopolised all power and left political parties as empty shells.

The 1997 Law on the Political Association of the Citizens regulates financial contributions to political parties, however, the financing realities of most parties remain opaque and difficult to oversee. In the 2003 parliamentary elections, mainly five parties were opposed to the governmental bloc, For a New Georgia:

- *United Democrats*, a moderate opposition party led by Burdjanadze and by Zhvania in the background, which provides regional party offices and recruit professionals;
- the more radical *National Movement*, comprising three parties led jointly by Saakashvili, which enjoys support especially in villages and among the poor;
- the more conservative *New Rights* party, which introduced a concrete 900-days working programme;
- the leftist *Labourists*, which barely failed to reach the threshold in the 1999 parliamentary elections and which have been supported mainly by one person;
- *Industrialists*, which are perceived to be close to the government; and
- *Revival Party*, led by Abashidze, which positioned itself partly as opposition and partly in collusion with Shevardnadze.¹⁰⁹

The Zviadists, extremist supporters of ousted President Gamsakhurdia, having failed to consolidate into a political movement have become oriented in the direction of terrorism.

The opposition failed to generate genuine alternatives to the government as many opposition parties toyed with the idea of allying with the governmental bloc in the event of electoral victory. Furthermore, blackmail and political provocation indicate increasing violence in and criminalisation of

¹⁰⁷ Nodia, 2000b: 187.

¹⁰⁸ Areshidze, 2003.

¹⁰⁹ Usually and according to electoral law, regional political parties are excluded from participating in national elections unless they are represented nationally.

political life. The run-up to the November 2003 elections witnessed threats and personal intimidation by governors to generate votes for the President. The fight for political territory illustrates how personal rivalries shape Georgian politics and preclude real changes to the current clannish political system – a prerequisite for democratic competition and elections.¹¹⁰ The cynical public may easily perceive the new leaders as merely replacing the old ones.

2.4 Citizenship and Civic Identity

The consolidation of a civic Georgian identity remains a major challenge. Large parts of society continue to strive for autonomy or secession and the interaction between distinct groups in society has not been structured in a way that promotes a common civic identity. That which commonly most qualifies a person to be Georgian is the ability to speak the Georgian language. Ethnic and religious differences are much less important. Differences *among* Georgians (Megrelians, Svans, Ajarians) are not impediments as such to the state-building process. It is rather the low degree of interaction between these groups and the faint connections between the centre and the regions in terms of information and infrastructure that further encourage regional, ethnic and especially sub-ethnic identification.

Approximately 30 percent of the population are non-ethnic Georgians. The largest ethnic minority groups within Georgian territory are Armenian, Russian and Azeri, with Abkhaz and Ossetians notably ranging among the smallest minority communities. Ajarians have not been recognised as a separate group, a fact that has intensified animosity between the region and the centre. Ethnic identity at the sub-state level has been reinforced by Soviet passport registration.

Georgian citizenship is not perceived as a desirable option by most non-ethnic Georgians. This is due to grievances typically confronting minorities such as discriminatory treatment by the military and law enforcement agents and also regarding employment, obstacles to cross-border traffic, lack of fluency in the Georgian language, autonomous status of the region, religion, education and their native languages,¹¹¹ as well as the pronounced nationalism based on ethnic characteristics. The strength of sub-ethnic, family and clan-oriented allegiances may have contributed to reducing mobilisation along ethnic lines.

Although the relationship between citizenship and civic identity remains hazy, Russian visa and citizenship policies are problematic and perceived as undermining the Georgian state- and identity-building project. Given the option, many locals in the separatist regions have chosen Russian citizenship especially as this facilitates travelling to and from Russia, which is vital to their livelihood.¹¹² In South Ossetia, some 60 percent of inhabitants have obtained Russian citizenship and *de facto* President Kokoyev (Kokoity) encourages advancing Russian naturalization of Ossetians and eventual integration with Russia.¹¹³ Ajarians have also recently been granted the option of Russian citizenship, a clearly confrontational message in the face of the new Georgian leadership.

¹¹⁰ Parsons, 2003.

¹¹¹ The Caucasus Institute for Peace, Democracy and Development report (2002), presents a comprehensive insight into the concerns of Azeri, Javakheti Armenian and Muslim Meshketian communities and issues specific policy recommendations.

¹¹² King, 2001: 541.

¹¹³ “Nato gegen Freistil-Ringer”, *Der Spiegel*, 14/2003, <http://www.spiegel.de/spiegel/0,1518,243447,00.html>.

Example of Javakheti

The local population in Javakheti has developed little sense of Georgian civic identity as their lives are only vaguely affected by affairs in Tbilisi. Georgian is usually not spoken, central information (e.g. via newspapers) hardly reaches the region, and local media are predominantly Russian or Armenian. Likewise, Georgian language education has been boycotted in favour of Russian and Armenian alternatives.¹¹⁴

Central authorities need to provide better opportunities to Akhalkalaki residents to develop an active cultural and civic life *within* the Georgian state, society and economy. On the other hand, the central state bears only part of the responsibility for social cohesion. As the region perceives *any* involvement in and by Tbilisi as a threat to its cultural identity, the population rejects rather than solicits greater ‘central’ attention and generally identifies more with Armenia than with Georgia. The Armenian population in Tbilisi, on the other hand, is more pro-integrationist and largely content with available cultural facilities such as Armenian language schools, media, theatre, etc. Disadvantages for the Armenian population – in Tbilisi and Javakheti alike – may be more the result of the clan-based system of society which induces Georgians to distribute jobs and benefits among family and friends rather than on the basis of merit and qualification.

IDPs

Another factor complicating social cohesion and civic identity-building is the practically permanent displacement of a significant number of IDPs.¹¹⁵ In socio-economic terms, IDPs are subject to high rates of unemployment and below average incomes, they are highly dependent on humanitarian aid, endure inadequate accommodation, and their community ties are broken or damaged.¹¹⁶ It is difficult to assess whether IDPs want to return to their homes at all as they face precarious security conditions, harassment and threat of killings by local militias (often with the support of Russian peacekeeping troops), and cannot expect effective protection by the central state.¹¹⁷

The reluctance to integrate IDPs into Georgia is due to various reasons, including that central authorities would be perceived as *de facto* recognising ethnic cleansing. In order to prevent this, IDPs have been accommodated under special rules which in many ways impair their political and civil rights as Georgian citizens. Secondly, the government needs to accommodate radical factions on the issue, e.g. the Abkhazeti government in exile, in Parliament. Any efforts of resettlement and integration of IDPs would be blocked given the loss of political and economic power this would imply for the Abkhazeti group that controls the budget and social services being allocated to IDPs. Finally, the government faces very practical constraints concerning security and economic implications of

¹¹⁴ Radio Free Europe, 25 November 2002.

¹¹⁵ Numbers on IDPs are disputed and significantly differ due to political motives. UN OCHA refers to some 249,000 persons remaining displaced from Abkhazia and some 12,000 persons from South Ossetia – see: <http://www.db.idpproject.org/Sites/idpSurvey.nsf/wCountries/Georgia>. The wars in Abkhazia and South Ossetia originally displaced approximately 250,000 and 30,000 persons. Furthermore, 37,000 ethnic Ossetians were pushed into Russia, 4000-5000 of whom returned to South Ossetia (IHF Report on Georgia, 2002: 9).

¹¹⁶ Global IDP report, last updated March 2003: <http://www.db.idpproject.org>. A recent report by the UN Office for the Coordination of Humanitarian Affairs (OCHA) analyses in depth the extent to which IDP-related laws have been observed in practice. Available through <http://www.reliefweb.int>.

¹¹⁷ IHF Report on Georgia, 2002: 9.

repatriation, e.g. of Meshketian settlers formerly deported by Stalin, and the tensions this prospect has generated among the Armenian population in Georgia. However, until the conditions in the country make return a feasible option, a clear state policy is needed for IDP, refugee and former deportee issues to become state-building rather than state-destabilising factors.

Separatist Regions

In contrast to the regions striving for autonomy such as Ajaria, the secessionist regions clearly reject Georgian identity. Abkhazia and South Ossetia are both examples of surreptitious state-making by war-mongering. Both regions have striven to join the Russian Federation, won an armed conflict and have become functional but unrecognised states that will be difficult to deconstruct due to entrenched power interests (“Why be a mayor of a small city if you can be president of a country?”).¹¹⁸ Parallel state-building has resulted in the creation of independent armed forces, administrations, local economies and cultural and educational institutions.¹¹⁹ The latter has entailed the creation of separate schools, new national festivals, the rediscovery of local heroes and national cult-building. For South Ossetia, ‘brotherly’ links with North Ossetia were a significant reason for differentiating the region’s identity.

¹¹⁸ King, 2001: 551.

¹¹⁹ King, 2001.

3. Welfare and Development

Major impediments to economic development relate to the frozen conflicts and, as a result, to the losses in state revenue, production and trade as well as the migration crisis. However, all too often the conflict regions are presented as the root of all economic ills. Public mismanagement and the negative effects of the conflicts need to be separated and measured against each other. Structural problems such as the backlog in reform, the influence of interest groups and individuals on law-making, poor infrastructure, pervasive corruption and the shadow economy, as well as regional financial crises all contribute to significant limitations on the welfare and development performance of the state.¹²⁰

3.1 Economic Trajectory

In Soviet Union times, the Georgian economy had been relatively prosperous. After independence in 1991, the country suffered a sharp decline in economic activity due to disruptions in trade and payment operations, sharply increased energy import costs and disruptions resulting from the civil and separatist conflicts. Poor fiscal performance and lax monetary policy fuelled hyperinflation.

Increased political stability allowed the government, in 1994, to successfully launch an IMF-supported reform and stabilisation programme. Hyperinflation was stopped, the exchange rate stabilised due to foreign currency inflows, chronic currency substitution was reversed and government expenditure was kept low. This led to a high GDP growth rate during 1996-97.

The deterioration of the situation in 1998 was caused by the Russian economic crisis, the lack of structural reforms and the immense extent of corruption. Georgia's trade deficit and consumer prices increased, the government's fiscal performance deteriorated and the currency was devalued.

Georgia's business environment has been largely liberalised except for energy and urban electricity transport.¹²¹ An effective price mechanism has been established with the introduction of the *lari* as a currency and stabilised with the support of IMF and other donors. Inflation has been reduced, and key industries privatised. In addition, the pipeline projects as well as laws on banking, land, and to a lesser extent, tax reform are the economic achievements of the Shevardnadze regime.

The Central Bank is independent and in control of monetary mechanisms. It follows anti-inflationary policies and effectively supervises the banking sector. Because of this, public confidence in the banking sector has been increasing, however, credit is difficult to obtain due to harsh and excessively cautious conditions.¹²² Moreover, economic disputes were transferred from the domain of specialised courts to common law courts. While this has improved the speed and transparency of proceedings, the knowledge of judges on economic legislation still needs improvement.

¹²⁰ The late privatisation processes facilitated the plundering of assets of certain industries, the extension of the political *nomenklatura* into the young private sector, as well as ineffectiveness of structural reform.

¹²¹ Nodia, 2000b: 194.

¹²² Interview with Kethi Khutsishvili, Eurasia Foundation, 29 September 2003.

Yet, economic recovery remains uncertain. Economic stagnation has contributed to the lack of resources for state transfers and public services. Because none of the IMF recommendations had been followed-up on,¹²³ the Fund cancelled its three-year strategy, which was part of Georgia's twelve-year Poverty Reduction and Economic Growth Programme, and withdrew its support for re-scheduling Georgia's debt to Paris Club members.

Disillusionment with the Shevardnadze administration's economic policies (e.g. the cut in electricity tariffs or the failure to collect taxes) prompted the IMF to stop its programmes and the World Bank to decline a US\$ 40 million loan.¹²⁴ Cuts in state budget expenditures have been demanded as well as an increase of electricity consumption tariffs in order to reduce the budget deficit (currently at US\$ 52.9 million). IMF activities were only relaunched shortly after the collapse of the corrupt regime in November 2003.

3.2 Legal Framework

The Constitution obliges the state to "foster conditions for the development of free enterprise and competition" and to ensure "equal social and economic development within the whole territory of Georgia".¹²⁵ The Constitution further recognises certain economic rights and freedoms such as the right to property ownership, inheritance and intellectual property. A number of laws (taxation, customs, transactions) were passed with the aim of facilitating entrepreneurial activities.¹²⁶ In practice, however, these provisions have been severely limited due to the "interference by numerous inspection and law enforcement bodies that constitute a web of informal taxation."¹²⁷ Tax legislation needs to be further liberalised and the tax code changed, which the new leaders have promised to simplify. The current tax code is full of loopholes and exceptions that favour certain industries and work to the disadvantage of SMEs.

Free competition is further hampered by endemic corruption and selective law enforcement. Some authorities engage in economic activities under conditions that exempt them from normal legal requirements. Patronage networks effectively prevent competition, and thus distort and hinder economic development.

Weak law enforcement has taken its toll on economic security. Georgia increasingly is perceived as a dangerous place to do business.¹²⁸ Laws and regulations are often misinterpreted, resulting in legal battles between foreign investors and local counterparts, and the legal system is largely considered to be unfair and biased. The government fails to prevent or significantly curtail crime, kidnappings and attacks on businesses. Further, the adversarial relationship with Russia also deters investors.

¹²³ The Georgian government had failed to make its debt payments to the Paris Club on time, had not reached an agreement with Ajaria on the region's transfers to the central budget, and had not adopted a law on money-laundering, nor cut budget expenditures.

¹²⁴ *Eurasianet*, 28 February, 2003.

¹²⁵ Articles 30:2 and 31 respectively of the Constitution of Georgia (Government of Georgia, 1995).

¹²⁶ 1994 Law on Entrepreneurial Activity, 1997 Civil Code, Code of Civil Proceedings.

¹²⁷ Nodia, 2000b: 194.

¹²⁸ *Eurasianet*, 28 February 2003.

Conditional accession to the WTO was achieved in June 2000, but the legislative changes required in this respect are still pending and must be completed before 2005.¹²⁹ However, when pushing for the adoption of Western legislation and standards, an adequate environment and the economic realities need to be considered, otherwise the same standards may actually stimulate “tax evasion practices and a nihilistic attitude.”¹³⁰

3.3 Taxation and Shadow Economies

The magnitude of the shadow economy, and in particular illegal trade with neighbouring countries, has undermined the financial capacity of the state. UNDP estimates the shadow economy at 70 percent of GDP.¹³¹ Public revenue (including foreign grants) accounts for less than 20 percent of GDP,¹³² which is far lower than what is actually needed for the state to fulfill its basic functions.

Legally imported goods cannot compete with the untaxed and unregistered goods that enter and exit through the conflict areas. Shadow revenue originates from trafficking of all kinds, “robbery, seized property, prostitution, fraud”.¹³³ Particular examples include the smuggling of oil (mainly through South Ossetia) and cigarettes (Ergneti market); the illegal cutting and export of timber; and the export of scrap metal, for which factories have been destroyed and cemeteries robbed.¹³⁴

Factors contributing to the vast extent of the shadow economy are related to the “low level of tax payment culture...corrupt practices of fiscal agents” as well as economic policies that make tax rates a heavy burden for businesses.¹³⁵ An adequate system of tracking financial transactions and identifying sources of income has not been put into place. In addition to obvious economic and practical motives, tax evasion can also be perceived as a form of political protests if tax evaders aim at impeding the state from covering its expenditures and limiting its policy scope.

Customs and police officials, as well as peacekeepers in the conflict areas and in Ajaria, depend upon and benefit from allowing and facilitating the illegal trade they are supposed to curb officially. Especially in South Ossetia and Ajaria, customs procedures can be easily circumvented. The salary of an average policeman can hardly sustain a family let alone repay the price of achieving his post.¹³⁶ Corruption is therefore not confined to a specific sector or set of actors, but *becomes* the system itself.

¹²⁹ Essential conditions outstanding at the time of accession relate to the transparency of the privatisation process, keeping with WTO standards regarding price controls, rules of origin, pre-shipment entities, management of subsidy programmes, and the management of economic free zones or special areas; uniform application of WTO provisions throughout the entire customs territory, enforcement and conformity of laws with WTO standards also on sub-national level, right to appeal administrative rulings, fees related to imports and exports, uniform application of all excise taxes, refraining from minimum values for the application of domestic taxes, refraining from quantitative restrictions on imports, refraining from reference price or fixed valuation schedule for the valuation of imports, anti-dumping measures, minimisation of the use of export taxes, consistency with the Trade-Related Investment Measures Agreement.

¹³⁰ Chelidze, n.d.

¹³¹ Nodia, 2000b: 194.

¹³² For most European states, tax revenue accounts for 40-45% of GDP.

¹³³ Broladze, n.d.

¹³⁴ The Georgian government currently fails to tax some 75% of the cigarette business (Gotsiridze, 2003: 29).

¹³⁵ Chelidze, n.d.: 3. Chelidze further explains that the combination of low/depreciated production capacity parameters with the low payment capacity of consumers makes businesses vulnerable to taxes that further decrease their profit level.

¹³⁶ The average cost for a policeman’s posting is estimated at US\$ 10,000. Interviews in Tbilisi, September 2003.

The costs of corruption in terms of investment and economic activity are indicated by a 1998 World Bank survey, according to which 71 percent of enterprises would be willing to pay higher taxes if corruption were eliminated.¹³⁷

3.4 Public Services

As a consequence, the state – although principally tasked with *facilitating* market economic practices – has been unable to remedy deficiencies in the market economy through a social welfare framework (despite its constitutional obligation to do so). The recently launched Poverty Reduction and Economic Growth Program cannot yet be evaluated in terms of its objectives to reduce the increasing polarisation between poor and rich, and to stop the process of social fragmentation in Georgia.

Although Georgia maintains an above-average level of education and literacy the quality of education currently offered has deteriorated.¹³⁸ A similar decline is apparent in the health sector. Healthcare expenditures are marginal and have failed to prevent the spread of contagious diseases such as tuberculosis and sexually transmitted diseases.¹³⁹ Likewise, although the flat rate for pensions is extremely low at approximately US\$ 10 per month, arrears in pension and salary payments have accumulated over the past months.¹⁴⁰

Information on unemployment varies significantly. The CIA World Fact Book indicates a rate of 17 percent for 2002,¹⁴¹ whereas other sources claim rates as high as 48.8 percent for the economically active population.¹⁴² Underemployment has become the main problem in the public sector where jobs are both limited and underpaid.¹⁴³ Self-employment especially in agriculture has become an alternative to unemployment, which is economically undesirable as it reinforces subsistence economies and consolidates the underdevelopment of industry.

The continuous migration crisis and resulting brain drain both reflect and contribute to the economic difficulties of the country. Over the past 13 years, the Georgian population shrunk by one-fifth, accounting for one million people in absolute terms.¹⁴⁴ The remaining population is increasingly aged and female. Government officials operate ‘tourism firms’ and ‘employment mediators’ that are implicated in facilitating illegal migration.¹⁴⁵ The approximately 500,000-700,000 Georgians living in Russia are estimated to generate remittances of US\$ 1.5 billion per year, which amounts to almost one-quarter of the GDP.¹⁴⁶

Russian visa policy essentially complicates the lives of Georgians living in Russia. The exceptions of Abkhazia, South Ossetia and Ajaria from the visa regime illustrate that the primary

¹³⁷ World Bank, 1998.

¹³⁸ The level of education is comparable to Western countries with a 99% literacy rate (100% for men, 98% for women). CIA, World Factbook 2002 – Georgia.

¹³⁹ Cornell, 2002: Social Development, Health, Poverty.

¹⁴⁰ Cornell, 2002: Social Development, Health, Poverty.

¹⁴¹ CIA World Factbook 2002 – Georgia.

¹⁴² Nodia, 2000b.

¹⁴³ Nodia, 2000b: 195.

¹⁴⁴ At the same time, the birthrate has halved since 1993. Institute for War and Peace Reporting, Georgian Exodus, 15 May 2003, at: http://www.iwpr.net/index.pl?archive/cau/cau_200305_179_2_eng.txt.

¹⁴⁵ Institute for War and Peace Reporting, Georgian Exodus, 15 May 2003, at http://www.iwpr.net/index.pl?archive/cau/cau_200305_179_2_eng.txt.

¹⁴⁶ Emerson and Celac, 2004.

objective of Russian policy is not to curb the influx and movement of criminals and terrorists along the border, but rather to exert geopolitical and economic pressure.

3.5 Oil and Natural Gas Pipelines

Georgia almost entirely depends on Russia for energy supplies and has massive debts with Russian companies. Cuts in electricity supplies, which have occurred regularly and were applied as a means of political pressure, have led to increasing protests, public unrest and have contributed to the dissatisfaction with the Shevardnadze regime.¹⁴⁷ Shevardnadze's seemingly secretive deals with Russia further heightened popular fears of being sold-out to Russia. The new leadership has taken a firmly Western-oriented standpoint in this respect.

Given the tense relations between Georgia and Russia, ongoing construction of various pipelines on Georgian territory offer a crucial alternative for energy supply and, to a lesser extent, state income. The significance of the projects is principally of a strategic nature as international interest in Georgia will increase the country's market price.

Specifically, the *Baku-Tbilisi-Ceyhan* pipeline will compensate Georgia with five percent of transported oil and US\$ 62 million per year, which accounts approximately for ten percent of the current state budget.¹⁴⁸ By 2005, the US-backed project will have broken the Russian oil monopoly in the Caucasus.

The BP-financed *Baku-Tbilisi-Erzurum* project, also known as the South Caucasus pipeline, foresees transport of gas through Georgia from the Shah Deniz oil fields in Azerbaijan. Georgia will benefit from five percent of the gas transported, which roughly covers one third of national demand, and the opportunity to purchase further supplies at a preferential rate.¹⁴⁹

Russian influence in the region and efforts to maintain it are obvious. The Russian energy giant Gazprom, for example, has proposed reactivation and upgrading of the depleted *Vladikavkaz-Tbilisi-Yerevan* pipeline – plans that have been eyed warily by the US which fears that such endeavours could interfere with the South Caucasus pipeline. (In the same vein, heavy US backing of the pipeline projects has elicited speculation that Saakashvili's ousting of Shevardnadze may have been manipulated by the US.) Furthermore, Gazprom continues to subsidise energy supplies that have been a crucial resource for the separatist regions. Key positions in the regional economic institutions are even filled by Russian officials. At the same time, the government in Tbilisi has been facing increasing pressure by Russia to pay back its massive debts.¹⁵⁰

The pipeline projects put democracy to test with uncertain results. Challenges will relate to the management of public revenue generated, whether foreign debts are paid back, the overburdening of weak state structures, and social unrest caused by foreign/Western presence and influence. More specifically, workers' rights (safety, health, etc.) are likely to be compromised as the state would have to pay compensation to a consortium of the companies involved. Other critical issues include

¹⁴⁷ US State Department, background notes on Georgia:

http://www.state.gov/www/background_notes/georgia_9811_bgn.html.

¹⁴⁸ "Nato gegen Freistil-Ringer", *Der Spiegel*, 14/2003, <http://www.spiegel.de/spiegel/0,1518,243447,00.html>.

¹⁴⁹ "Georgia fears upcoming agreement could give Gazprom control" at <http://www.gasandoil.com/goc/company/cnr32855.htm> and Georgia: <http://www.cdi.org>.

¹⁵⁰ King, 2001: 539.

environmental protests and governmental response, how social discontent over local hiring practices will be expressed and dealt with, whether preferential recruitment will be (perceived as) based on ethnic bias or nepotism, and if local households affected by the infrastructure construction will be compensated as agreed. Local communities have been bitterly disappointed with the actual level of employment generated which has turned out to be much less than expected. Further, construction sites' operations hardly allow for positive spin-offs for the population because private security firms fence the site off from local access.

3.6 The Russian Bases

The Russian military bases in Batumi and Akhalkalaki and troops stationed in Abkhazia have played an important role in maintaining close ties between these regions and Russia. The bases are perceived as important providers of security and employment. Russian presence has had a financial impact as well. The salaries of Russian soldiers have consolidated the *ruble* as currency in the locations of the military bases.

The Russian base in Javakheti is a major employer for the region, where local unemployment rates currently hover around 80-90 percent.¹⁵¹ Approximately 7000 residents depend on the bases with 2000 directly employed. There are few economic ties and opportunities offered by Tbilisi and the region remains isolated from the centre because of poor infrastructure. Apart from the base, the region sustains itself by agriculture and smuggling to and from Armenia.¹⁵² Some 50 percent of the region's workforce is employed as migrant workers in Russia, which accounts for a crucial share of remittances (75-80 percent of the region's GDP).¹⁵³ Whereas Georgia has pushed for a speedy withdrawal of Russian forces, the Javakh population sees the presence of the troops as vital to their economic (employment, citizenship, remittances) and security (Turkish influence) needs.

As an important lever for Russia, the presence of troops also affects the security performance of the Georgian state, as concerns of Russian military meddling in the post-election crisis demonstrate.

3.7 Conflict Regions and Beneficiaries of State Weakness

The weak functioning of the state with regards to economic development responsibilities has affected all regions. The economies in the two break-away regions, although themselves weak, benefit from not being part of a weak Georgia. The dire economic situation in Georgia proper generates no tangible incentives for the regions to alter the *status quo* and engage in devolutionary relationships with Tbilisi. South Ossetia, for example, is a market for smuggled goods that is lucrative for both Georgians and South Ossetians. This is a key factor hindering progress in settling the conflict. The economic situation is detrimentally Pareto efficient. Resolving the frozen conflicts would be economically irrational as a settlement would not increase the general welfare without making powerful key players worse off.¹⁵⁴

¹⁵¹ Caucasus Institute for Peace, Democracy and Development, 2002.

¹⁵² Radio Free Europe, 25 November 2002.

¹⁵³ According to Ararat Esoian, Center for Promotion of Reforms and Democratic Development in an interview for Radio Free Europe, 25 November 2002.

¹⁵⁴ King, 2001: 525.

Shadow entrepreneurs are most the immediate beneficiaries of weak economic state performance as they evade production taxes and tariffs (e.g. on tangerines, hazelnuts and wood exports from Abkhazia) and import luxury goods tax-free for resale or export. Illegal trade in transit goods constitutes a major source of income for the separatist authorities. The highway police facilitate the very trade it is supposed to control such as for cigarettes, alcohol, wood, fruit, and illicit drugs, especially heroin.

Thus even central authorities manage to benefit from their own weakness. Further, with humanitarian relief agencies constituting a major economic pillar for the separatist regions,¹⁵⁵ organisations have been set up for the purpose of diverting international assistance originally destined for South Ossetia.¹⁵⁶ Profits generated from trade in assistance goods can be divvied-up in silent agreement between separatist and central institutions.

State weakness and the frozen conflicts therefore participate in a vicious circle as losses in wealth-producing potential in the separatist regions continuously reduce the state budget. Improved customs and tax collection from the autonomously-minded regions – in the case of Ajaria an essential IMF condition that remains unfulfilled¹⁵⁷ – therefore has become a top security concern and requires determined international pressure with credible follow-up and assistance (training, equipment).

The ‘business of state weakness’ accounts for the broad-based scepticism and cynicism among Georgians concerning their state institutions.¹⁵⁸ During the Shevardnadze government Georgians increasingly lost faith in the potential of public institutions to fulfill their *raison d’être* in terms of security, representation and development. Improving Georgia’s economic performance state is therefore linked to the credibility and legitimacy of its (new) leadership.

¹⁵⁵ King, 2001: 549.

¹⁵⁶ King, 2001: 546.

¹⁵⁷ Only recently, Ajaria started to contribute to the national state budget: *Eurasianet*, 16 January 2004.

¹⁵⁸ 80% have no confidence in tax collectors and customs: King, 2001: 546.

PART TWO: ENTRY POINTS FOR EXTERNAL COOPERATION PARTNERS

4. Options for Improvement and Entry Points for Support

Bearing in mind the various difficulties facing the country including the frozen conflicts, it is fair to say that corruption has become the more systemic cause of state weakness. In fact, consolidating state structures is a key prerequisite for resolving the conflicts in Georgia. President Saakashvili will be hard-pressed to make improvements in this respect, but also must attempt to do so without confronting the unrecognised entities offensively, which could provoke bloodshed.

Due to the decentralised nature of corruption in Georgia, efforts should specifically target social change, e.g. by training, prevention and enquiry, rather than an exclusive focus on institutional change. Thus donor involvement needs to calculate long time-frames. Quick fixes are unrealistic. The following specific entry points are identified with the aim of specifically improving governance while addressing state capacity in general.

4.1 Parliament

In order to professionalise legislative scrutiny of public spending, parliamentary procedures and practices need to be enhanced. To-date, the national budget of Georgia has not been fulfilled once, and Parliament has lacked the institutional strength required to fully implement its power. The Budget and Finance Committee specifically is responsible for ensuring that public resources are spent effectively and efficiently. There are various ways parliamentarians can hold the Executive and watchdog agencies like the Auditor General accountable, e.g. by question and answer sessions, tabling motions, expert hearings, ad hoc commissions, etc.. Lack of specialised knowledge, competing interests, as well as organisational inability often prevent these control functions from being exercised.

Incoming parliamentarians should be aware of the confinement of their tasks to law-making and holding to account public spending. In expectation of a highly fragmented Parliament in 2004, a clearer definition of parliamentary majority is needed. Parliamentary minority relations could facilitate for cooperation among factions. In order to assist the legal drafting process specifically, coordination by the Parliamentary Secretary should improved.

Accountability could also be enhanced by improving financial management capabilities. In particular incoming parliamentarians may require training, e.g. in the application of 'watchdog tools' and the efficient organisation of sessions (announcements, agenda-setting, definition of quorum, information-sharing, accessibility of hearings). The coming to power of a new generation of leaders promises an opportunity to break-up old networks of political loyalties and to open a window of opportunity for greater accountability. Any new leadership will be more easily replaceable and will require greater credibility in fighting corruption. Strengthening skills in public sector management involving parliamentarians, government officials and possibly civil society organisations would therefore be timely and optimally accompany structural measures of public sector reform.

The 1999 Parliament has changed laws often at last minute and in a rather secretive way without public access to or participation in the legislative process. However, in order to maintain stability in the volatile post-election situation, greater openness and responsiveness particularly to regional

groups, e.g. Azerbaijanis in Kvemo Kartli, is important and could be enhanced by publishing and consulting more broadly on proposed legislation and by translating laws.

The scope of immunity for parliamentarians and public officials in general should be defined more narrowly as a matter of preventing the misuse of office for private purposes. Currently, personal immunity covers preliminary inquiries and does not exempt grave offences. Rules for lifting immunity should be clearly specified, and candidates for Member of Parliament especially should be exempted from immunity. In addition, the terms ‘corruption’ and ‘bribe’ both require legal clarification. The latter should extend also to non-material benefits.

4.2 Civil Service

The Georgian state has been trapped by inefficiency and rapidly decreasing legitimacy. There is an urgent need for institutional professionalisation and optimisation of the civil service if it is to (be perceived to) work according to the legislative framework. Overlapping functions continue to be a major source of inefficiency within the 21 ministries¹⁵⁹, 18 state departments, 15 independent agencies, 200 entities of public law in addition to local governance and self-governance institutions. The Law on Civil Service of Georgia (1997), has become virtually obsolete due to the many exceptions it makes for political appointees.¹⁶⁰ The clientelist network structure prevalent in most ministries guarantees that benefits of bribe-taking are passed down.

Reform efforts have been largely personality-driven, unsystematic and partly reversed due to deep-seated resistances. The reform of the tax inspection offices for example was not sustained and special interests can still be pursued through selective tax inspection. Reduction of staff has taken place predominantly *within* state institutions largely maintaining parallelism of tasks.¹⁶¹ As numbers rather than functions to be rationalised had been prescribed, mainly lower-ranking and technical staff were reduced, which created an excess of decision-makers at middle and senior levels. This environment has engendered an invitation to rather than a restriction on corruption and misuse of office. Intermediate objectives might include the following:¹⁶²

- a unified system of personnel management that keeps track of all civil servants;
- merit- and competition-based selection, recruitment and promotion;
- increased salaries to eliminate the need for extra-legal practices;
- improved social protection;
- transparent financial disclosure; and
- elimination of bonus payments for overtime, which invite favouritism and nepotism.

Additionally, civil servants need to be obliged to make information available to and co-operate with civil society.

¹⁵⁹ In February 2004, the ministries were reduced to 15 and independent agencies such as border control and intelligence services were incorporated into the Ministry of Interior.

¹⁶⁰ GFSIS, 2002.

¹⁶¹ GFSIS, 2002.

¹⁶² GFSIS, 2002.

4.3 Executive Leadership

The leadership has the special responsibility of sustaining and guiding reform efforts, e.g. in form of an overall development strategy. Continued reform and improved governance are preconditions for tackling the problems that sparked the dramatic change in leadership in November 2003.

First of all, the leadership should clearly confine its own remit and consolidate the rule of law. Too often have Georgian executive officials interfered with judicial and prosecutorial independence. Politicians in general need to refrain from making statements on ongoing cases, influencing the assignment of individual cases to judges, and attacking individual judges regarding their handling of particular cases while taking advantage of their own immunity.

The Executive is of crucial importance in role-modelling integrity and good governance. Priorities in improving transparency and accountability within the Executive itself should include:

- developing budgets in a transparent and open manner;
- further defining the coordination role of the state chancellery;
- strengthening the responsibilities and accountability of the cabinet of ministers *as a team* to Parliament. Most political parties participating in the elections have advocated such a collective responsibility of the cabinet, reversing the merger of the Presidential staff and the cabinet and even separating the offices of President and head of government – changes which would need to be introduced by the President as for any measure pertaining to the structure of the Executive.

Furthermore, whistle-blowers should be protected and encouraged to address the Anti-Corruption Council or the Office of the Ombudsman. Granting transparent access to information is one of the most powerful tools in fighting corruption. Government agencies need to be encouraged and instructed to comply with legal obligations to avail information, whether upon or without request.

4.4 Security Sector

The security sector is key to ensuring a functioning state. Although the 2003 post-election crisis ended peacefully it dramatically illustrated the risks of dispersed and ill-equipped security forces, which could have easily been provoked into violence. Given the current volatile stage, this remains a risk as a segment of the military has been frustrated with the change in power and thus may try to interfere in the political process.¹⁶³

Together with the civil service, the security sector has displayed the greatest backlog in reform implementation due to deeply vested interests. Both corruption and the inability to implement reform need to be overcome. Expenditure review needs to become more cooperative, i.e. extending beyond the three to five members of the parliamentary defence committee currently involved and inducing genuine checks and balances through increasing the leverage of the committee. A second priority in this sector is to reduce the number of private security agencies. Such reform steps need to become conditions for continuing support programmes, such as the US Train and Equip Program.

¹⁶³ “Georgia’s Revolutionaries Face Growing Internal Opposition”, *Eurasianet*, 2 December 2003.

4.5 Judiciary

Only when citizens have confidence in the administration of justice will they abstain from corrupt behaviour, insist on their right to refuse bribes, and pursue perpetrators legally. This ‘multiplier effect’ makes the consolidation of an independent, impartial and trusted judiciary a top priority.

Legal reform has indeed produced a number of positive results, e.g. regarding the examination and selection of judges and their salaries. This has up-graded the prestige of the justice system. Such improvements need to be sustained and continued as in practice people still rely on bribes rather than courts.

Corruption within the judiciary itself remains on a petty level and prevails mainly in the lower courts. A revision of the court record handling and introduction of modern tracking methods may be modest but very effective steps in eliminating corruption at this level. This also would help to increase the legal basis (data, statistics) for the prosecution of corruption in general. Especially in cases involving government interests, decisions are perceived to be tainted by political considerations or as resulting from pressure by the Executive.¹⁶⁴

The Supreme Court functions in an independent manner, but could be further strengthened *vis-à-vis* other courts. Structuring of the current court system, including complaints procedures and case management, in a more transparent way would contribute to preventing mismanagement and reduce the scope of interference and bribery by the Executive.

Another vulnerability of the judiciary lies in its immediate surroundings. Lawyers and court clerks should therefore be included in upgrading ethical and professional standards, salaries and status. In addition, judges themselves need to strictly insist on the accountability of their subordinates and the keeping of high ethical standards.

4.6 Law Enforcement

Many international co-operation projects have failed due to the fact that they were linked to legislation that was adopted but not enforced; the reversal of amendments to the criminal procedure code after accession to the CoE is an example.

Reform plans have been to little effect so far. The principles set out by the state commission on reform of the law enforcement agencies have had no meaning in practice.¹⁶⁵ Indeed, measures aimed at preventing corruption merely have made corruption more costly in most cases.

The police are an inflated agency serving forces of power rather than the law and depending fully on the President.¹⁶⁶ This once again became evident during the 2003 elections in which the police took part in containing protests, rigging the elections and carousel voting. Downsizing, reorganising and training of the police are key priorities for reform in order to reduce corrupt and offensive practices. Procedures for continuous monitoring need to be introduced in order to sustain and reward improvements in integrity. Codes of ethics for all professions in law enforcement would also be helpful.

¹⁶⁴ Such influence usually consists in granting or withdrawing benefits, determining the placements of judges, threats of dismissal, etc.

¹⁶⁵ Interview with Tamar Kaldani, Georgian Young Lawyers Association, September 2003.

¹⁶⁶ Interview with Alexandre Kukhianidze on 10 November 2003.

In order to ensure the prosecution of crimes, especially those committed by government agents, urgent reform must take place within the Procuracy. So far, prosecution is perceived as a politicised instrument of intimidation. Clear guidelines should be developed and published to specify precisely which legal infringements are relevant and which are not for decisions to prosecute.

Government efforts to confront corruption within its own ranks are broadly distrusted. This may be justified given the financial and, under Shevardnadze, personal dependence of the prosecution and police on the President and the merely hesitant follow-up given to requests of the Anti-Corruption Bureau to-date. The new government may change this, e.g. through strengthening the independence of public prosecutors, for example along the lines of existing UN guidelines, or even via exploring legal provisions for an independent prosecutor in addition to the public prosecutor.¹⁶⁷ However, hurried changes may fail to ensure the provision of adequate powers of such an office and should only be considered once all measures for ensuring the independence of existing prosecutors have been explored.

Salaries of prosecutors need to be raised and sustained at adequate levels (a respective law is pending in Parliament). Internally, procedures in the Procuracy need to be changed so as to curtail the powers of the superior Prosecutor regarding the overruling of decisions of inferior colleagues and disciplinary issues. Anonymous information should not be excluded categorically from consideration.¹⁶⁸ Moreover, investigation in the Procuracy needs to become proactive and specialised. This should be reflected in the professional examinations for prosecutors, which are partly passed with implausible rates of 100 percent.

4.7 Anti-corruption Agencies

The Guidelines for the National Anti-Corruption Program set out pertinent measures and policies that have not led to systematic implementation. The Anti-Corruption Action Plan, developed by a coalition of international and non-governmental organisations, should be linked to monitoring and, in case of non-compliance, sanctions. So far, there are no clear provisions contained in the Plan. Monitoring agencies, e.g. the Information Agency on Property and Financial Declarations of Public Officials, should not only take delivery of declarations or complaints, but also should initiate investigations into obvious irregularities.

Appointed by the President, the Anti-Corruption Bureau has insufficient authority. Exclusive appointment by the Executive always engenders risk of influence and (self)censorship. In order to avoid this, the Bureau should broaden its institutional legitimacy, e.g. by endorsement by the Parliament. Resistance of public bodies to implement Bureau recommendations could then be confronted more effectively.

¹⁶⁷ Pope, 2000.

¹⁶⁸ GRECO, 2001.

4.8. Media

The media have a two-fold significance in terms of state-building:

- as a watchdog entity, they enhance accountability;
- as a means of information dissemination, they stimulate integration and pluralism.

Economic conditions for independent media in Georgia are merely rudimentary and make professional coverage difficult, especially in the regions. Some regions have very limited or no access at all to Georgian electronic media. In particular the flow of news from the centre to the regions needs to be improved. In addition, media need to be aware of regulations on libel, acquiring licences, and accessibility of information as in many cases public information is obstructed. This would help increase the professionalism of the media. There is also a need for a better understanding of the watchdog function on part of the media, e.g. *vis-à-vis* the judiciary, the executive and parliamentarians. So far, the media have taken extreme sides and hardly any middle-ground media have emerged.

4.9 Civil Society

Institutionalising civil society participation is an essential step in increasing transparency and the degree of representation of the state. Whereas measures to improve transparency in government agencies have been insufficiently or not at all fulfilled, public awareness of corruption has increased steadily. Public frustration with corruption was decisive in mobilising the demonstrations against the falsified November 2003 elections. This force of civil society can contribute to the state-building process by promoting an ethical environment in which addressing inappropriate behaviour is taken for granted. NGO initiatives can raise public awareness regarding actual costs of services and push, for example, for more regular public reporting. Also society at large needs to sustain pressure for reforms.

Private companies indeed have a role to play in this respect, e.g. by introducing whistle-blower programmes, or complaint procedures. Civil society organisations almost entirely depend on donor support. In this context, another sustainable support option is to encourage businesses, in exchange for business development support, to share a small percentage of revenues with NGOs active in the good governance field. In the long run, a more transparent public administration would compensate businesses for their investment.

4.10 Ombudsperson

The office of the Ombudsperson functions independently from the government and is able to investigate complaints about state institutions, e.g. regarding human rights abuses, misadministration, etc.. It is a powerful instrument thus for holding accountable also the highest public offices and strengthening public confidence.

Increasing the number of qualified staff of the office, enhancing the leverage of reports *vis-à-vis* state institutions and extending the outreach of the offices in the region will be important steps in

ensuring the effectiveness of the Ombudsperson Teimuraz Lomsadze, whose successor will be elected by the new Parliament.

5. General Lessons

On the basis of the experience of number donors interviewed in Tbilisi in October 2003, the following general lessons in assisting state-building processes in Georgia can be summarised as follows.

1. *Value-orientation*

Geostrategic agendas have restrained democratic state-building as a political conditionality.¹⁶⁹ The experience of donors in Georgia has shown that political changes are difficult to bring about without real commitment of the leadership and Parliament. The new government should initiate a debate on the ‘project Georgia’ involving civil society and donors.

2. *Equal Standards*

The international assessment of the parliamentary elections points to differences in yardsticks applied in the South Caucasus, e.g. in comparison with reactions to the elections in Azerbaijan. International actors (OSCE in particular) need to apply equal standards to all member countries in order to prevent unqualified tensions and to maintain their own credibility.

3. *Stricter Control*

International pressure for democratisation and reform during the Shevardnadze era was met by counter-pressure or games of falsification. The former government adjusted to the ‘rules of the game’ often only pretending to comply with democratic standards. Insufficient control of funds was the greatest strategic mistake of donors in this respect. Monitoring mechanisms need to be enhanced and consistently coupled to any assistance (reports on the use of funds, information on precise implementation). Transparency conditionalities of assistance once provided to Poland or the Czech Republic could serve as examples for making conditionality more effective in Georgia.

4. *Stringent Follow-up*

Failure of compliance with international commitments must reliably entail adequate and practical consequences. Otherwise, failure in these respects is legitimised and international activities reduced to mere stupor. This may seem logical in terms of efficient money-spending, but it is not part of international practice. At the same time, the withdrawal of support should target more precisely the players responsible, e.g. sources earmarked for the government in the case of mismanagement.

¹⁶⁹ In 1995 or 1998, for example, the US could have used economic leverage regarding the pipeline constructions to push more effectively for political changes.

5. Qualified Counterparts

A problem commonly faced by many donors is the capacity of counterparts, which are financed by the government. Projects are often beyond the competence of governmental counterparts. Outcomes are not recorded, and results are missing, which is not merely due to a lack of knowledge, but also to a lack of will. Reforming the public sector may remedy this in the mid-term. There should also be a feedback function recording the experience of donors with their counterparts. As a general rule and in the light of the above mentioned difficulties, projects should be implemented by locally-based project consultants or organisations that are able to accompany the implementation process. At the same time, the importance of investing in the ‘cultural’ preparation of international staff for their mission in Georgia cannot be overstressed.

6. Subsidiarity

The state must be strengthened from within rather than by merely joining international organisations (e.g. Council of Europe, NATO). But standards can be raised by joining organizations (e.g. regarding the professionalisation of security forces). External support, e.g. for political parties, civil society, and state structures, is indeed important for internal consolidation, but should target initiatives and structures that are rooted in Georgian society and culture. Hence, an approach combining external and internal consolidation is needed.

7. Realism

Full democracy cannot be demanded as a condition for providing assistance. What should be decisive is the ability, willingness and vision of the state’s leadership to stimulate democratic progress and change. This requires clear goals, a strategy of how to get there, a realistic timeframe and clear roles for the various actors to be involved (both national and international).

8. Improve Coordination Among Donors

This is a vital prerequisite for preventing disorientation of the new government and for facilitating real progress in democratisation. As can be seen in the annex to this paper, many organisations and actors coincide in this endeavour.

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Annex

1. Activities of Key Actors Related to Good Governance in Georgia

The following tables provide an overview of some key actors active in assisting good governance. Compiling a complete overview has not been possible within the framework of this project¹⁷⁰.

1. Multilateral Actors

Name	Programmes and activities (description, timeframe, budget, link)
UNDP	<p>Second Country Cooperation Framework for Georgia (2001-2005) focuses programming activities on:</p> <ol style="list-style-type: none"> 1. Democratic governance 2. Poverty reduction 3. Environmental protection <p>Specific projects are ongoing in support of:</p> <ul style="list-style-type: none"> • Ombudsman office by training of staff and public awareness campaigns • Information systems • Local governance in Imereti region • Office of the Controller • Ministry of Finance (modernising management approaches) • Anti-corruption plan (see EU) <p>http://www.undp.org.ge http://www.anticorruption.ge (in Georgian, English version not yet available)</p>
UN	<p>The United Nations Observer Mission in Georgia (UNOMIG) was established in August 1993 to verify compliance with the ceasefire agreement between the Government of Georgia and the Abkhaz authorities in Georgia and to observe the operations of a CIS peacekeeping force. The activities of the mission aim at resolving the Abkhaz-Georgian conflict and facilitate the return of refugees. A UN civilian police force has been deployed recently in order to train representatives of law-enforcement agencies and local authorities to work with returning refugees and maintain peace and stability. There is an UNOMIG engineering and construction programme in support of the Missions operational needs. The Mission also provides advice, good offices and logistical assistance for projects aimed at building confidence between the Georgian and Abkhaz sides. The mission is headed by the Secretary-General's Special</p>

¹⁷⁰ The table was completed with the help of Marjolijn Pen.

Name	Programmes and activities (description, timeframe, budget, link)
	<p>Representative for Georgia, Heidi Tagliavini.</p> <p>The Secretary-General's Group of Friends on Georgia includes France, Germany, Russia and the US.</p> <p>http://www.un.org/Depts/dpko/missions/unomig/facts.html http://www.unomig.org/</p>
CoE	<p>The Cupertino programme to strengthen the rule of law (2002) focuses programming activities on:</p> <ol style="list-style-type: none"> 1. The legal framework and organisation of the state 2. Legal relations between individuals and with the state 3. Improving the independence and operation of justice 4. The rule of law and public safety 5. Scientific revolution and legal protection of human beings <p>Specific projects are ongoing in support of:</p> <ul style="list-style-type: none"> • Establishing a sound institutional framework for local government • Developing democratic citizenship and responsive leadership at local level • Enhancing local government capabilities and promote effective management at local level • Legal aid and alternatives to legal aid • The role and training of professionals in the justice area • Fight against crime and corruption <p>On GRECO: Evaluation Report on Georgia (16-20 October 2000). Adopted by the GRECO at its 5th Plenary Meeting in Strasbourg, 11-15 June 2001. Next evaluation visit: March-May 2004. http://www.greco.coe.int/evaluations/Default.htm</p> <p>http://www.coe.int/T/E/Legal_Affairs/About_us/Activities/</p>
World Bank	<ol style="list-style-type: none"> 1. Administrative Barriers to Foreign Investment 2. Country Assistance Strategy 3. Country Performance Indicators Assessment (annually) 4. Poverty Reduction Program e.g. focus on governance, state administration, channels of representation 5. Adjustment loans to Ministry of Finance 6. Investment projects 7. Social investment fund to help promote the sustainability of small-scale basic social and economic infrastructure at the local level and alleviate poverty 8. Structural Reform Support Credit (SRS); Private Sector Development and Financial Sector; Public Sector Reform/Public Information 9. Judicial reform; Court Administration and Case Management, Assistance to the

Name	Programmes and activities (description, timeframe, budget, link)
	<p>Ministry of Justice</p> <p>10. Projects oriented at community or policy levels including on health, infrastructure, etc.</p> <p>In addition, the World Bank, GTZ, OSCE and Konrad Adenauer Foundation are engaged in judicial training and courtroom legal research.</p> <p>The withdrawal of IMF support in late 2003 led to a reduction in available World Bank adjustment loans.</p> <p>http://lnweb18.worldbank.org/eca/georgia.nsf</p>
EBRD	<p>The European Bank for Reconstruction and Development focuses programming activities on:</p> <ol style="list-style-type: none"> 1. Improving investment climate 2. Financial sector 3. SMEs 4. Infrastructure 5. Regional projects <p>Specific projects are ongoing in support of:</p> <ul style="list-style-type: none"> • Active political dialogue with the government together with the donor community • Strengthening the Georgian Banking sector • Financing business start-ups • Supporting investments in infrastructure • Support of regional projects, for example oil and gas pipelines • Active cooperation with other IFIs and bilateral donors <p>http://www.ebrd.com/country/country/georgia/index.htm</p>
IMF	<p>As part of the World Bank Group.</p> <p>http://www.imf.org/external/country/GEO/index.htm</p>
OSCE	<p>The Rule of Law unit of the ODIHR focuses on technical assistance projects that are designed to foster the rule of law and the respect for human rights.</p> <p>Timeframe: January-December 2003.</p> <p>Specific projects are ongoing in support of:</p> <ul style="list-style-type: none"> • Criminal Justice Reform Programme • Rule of Law Programme including assistance to legal clinics, civic education initiatives, assistance for National Human Rights Institutions • Basic Skills Training for lawyers under the Fair Trials Programme • Prison Reform based on International Standards for Treatment of Prisoners

Name	Programmes and activities (description, timeframe, budget, link)
	<ul style="list-style-type: none"> • Legislation Alert and Assistance Programme • Monitoring Places of Detention <p>The OSCE Mission aims at facilitating a peaceful settlement in South Ossetia and, in cooperation with the UN, Abkhazia. The mandate of the Mission extends to promoting human rights and democracy in Georgia as a whole and to monitor the border between Georgia and the Chechen Republic of Russia.</p> <p>http://www.osce.org/odihr/projects/index.php?country=0&region=0&thm_area=12&year=2003&keywords=&st=10&pp=5</p>
EU	<ul style="list-style-type: none"> • Financing of rehabilitation projects in the Georgian-Ossetian conflict zone (2,5 million euro), to be carried out by UNDP and UNHCR • Country Strategy Paper (revised in September 2003) for 2003-2006 with a general focus on supporting civil society and public-sector reform • EIDHR projects • EuropeAid: TACIS Projects (TRACECA) • Anti-corruption plan together with UNDP, OECD, ABA, CoE, Transparency International, Soros Foundation • Support through Rapid Reaction Mechanism <p>A mission to develop a comprehensive strategy towards Georgia was undertaken in December 2003 by the EU Special Representative and the Deputy Director of EuropeAid.</p> <p>http://europa.eu.int/comm/external_relations/georgia/csp/02_06_en.pdf</p>
ECHO	<p>Food distribution (15-25% of the Abkhaz population depend on this aid)</p> <p>http://europa.eu.int/comm/echo/index_en.htm</p>

2. National Actors

Name	Programmes and activities
USAID	<ul style="list-style-type: none"> • The Rule of Law programme (ROL) aims to enable legal systems to better support the implementation of democratic processes and market reforms, applies grants training and technical assistance (access, awareness, availability of legal counsel, independence of the judiciary, institutional capacity, enact laws) • Corruption strategy study in 1998 • Anti-Corruption/Protecting Human Rights by supporting enhanced government transparency and accountability and increasing public discussions on corruption and human rights issues. <p>http://www.usaid.gov/pubs/cbj2003/ee/ge/114-0220.html http://www.usaid.org/ge/activities.shtml</p>
US	<p>Train and Equip Programme: equipment for US\$ 64 million (Georgian defence budget for 2002 amounted to US\$ 20 million.), training of four battalions for anti-terror actions. US Government-funded assistance programmes supported economic development, energy-sector reform, democracy building, and regional security, non-proliferation and law enforcement.</p> <p>Specific projects are ongoing in support of:</p> <ul style="list-style-type: none"> • Anti-Corruption Assistance: Anti-corruption efforts continued to be a central element of US Government assistance to Georgia in FY 2002 • Law Enforcement Training • Legal Reform • Civil Society Strengthening • Local Governance Programmes <p>The US will invest US\$ 5 million into post-revolution rehabilitation and an additional US\$ 2 million in emergency aid (food, electricity). Total support to Georgia confirmed for 2004: US\$ 164 million.</p> <p>http://www.state.gov/p/eur/ http://www.state.gov/p/eur/rls/rpt/23621.htm</p>
UK (DFID)	<ul style="list-style-type: none"> • Governance and Civil Society Project in Samtskhe-Javakheti and Shida Kartli • Assistance to the State Department of Statistics • Support to the Preparation of the Poverty Reduction and Economic Growth Programme (PREGP) of Georgia • Support of work facilitating the resolution of the Georgian-Abkhaz conflict

Name	Programmes and activities
Sweden (SIDA)	<p>SIDA focuses programme activities on:</p> <ol style="list-style-type: none"> 1. Democracy and human rights 2. Social sector 3. Economic transition <p>Specific projects are ongoing in support of:</p> <ul style="list-style-type: none"> • Project developing the Georgian Parliament • Strengthen the capacity of the State Chancellery to implement the national action plan for gender equality • Strengthening the position of the Ombudsman • Cooperate with labour market authorities to improve organisation and methods of the employment offices • With the aim of facilitating the privatisation process, SIDA is providing support for land survey and property registration • Facilitate the privatisation process <p>http://www.sida.se/Sida/jsp/polopoly.jsp?d=662</p>
Germany	<p>BMZ Caucasus Initiative focused 2001-2002 programme activities on:</p> <ol style="list-style-type: none"> 1. Developing the Legal System and Strengthening Local Democracy 2. Supporting the Energy Sector 3. Fostering the Private Sector 4. Supporting the fight against tuberculosis 5. Supporting the protection of biosphere reserves <p>Specific projects are ongoing in support of:</p> <ul style="list-style-type: none"> • Legal consultancy to readjust constitutional, private, and commercial law with a view to democracy and a market system • Project involved with providing support to civil society and local democracy • Rehabilitation of transmission lines to be selected • Establishment of a regional credit open to private and commercial banks <p>http://www.bmz.de/en/topics/konzeptkaukasus/ http://www.bmz.de/en/topics/konzeptkaukasus/a2.html#a</p>
Canada/CIDA	<p>The mandate of the Canadian International Development Agency's (CIDA) Central and Eastern Europe (CEE) Branch is to promote security and stability in the region by supporting:</p> <ol style="list-style-type: none"> 1. Good governance, democracy and adherence to international norms 2. Transition to market economies 3. Trade and investment links 4. Nuclear safety <p>Specific projects are ongoing in support of:</p>

Name	Programmes and activities
	<ul style="list-style-type: none"> • Increasing and deepening the competence and capacity of key agencies and individuals in the public administration of Georgia • Leasing and corporate governance to foster the development of corporate governance practices and the leasing sector in Georgia • Trade policy capacity building <p>http://www.acdi-cida.gc.ca/CIDAWEB/webcountry.nsf/VLUDocEn/Georgia-Currentprojects</p> <p>http://www.acdi-cida.gc.ca/CIDAWEB/webcountry.nsf/europe_e.html</p>
Netherlands	<p>The development programme for Georgia (2002-2003) focuses programming activities on:</p> <ol style="list-style-type: none"> 1. Good governance 2. Human rights 3. Peacebuilding <p>There are several ongoing projects via various multilateral organisations. Specific projects are in support of:</p> <ul style="list-style-type: none"> • Institution building (2002: 33,000 euro) • Modernisation of the Financial System at the Ministry of Finance (2002-2003: 648,000 euro) • Population Census at state Department for Statistics (2002-2003: 369,000 euro) • Preparation of Elections (total 2003: 200,000 euro) • Training of journalists (2003: 15,000 euro) • Prevention of trafficking human beings (2003: 117,615 euro) • Confidence building measures in Abchazia (total 2003: 200,000 euro) <p>In collaboration with CILC and GTZ: Comprehensive administrative law reform http://www.cilc.nl/pr_geo_adlaw_III.html</p> <p>Support of the Ombudsman office in establishing offices in the region</p>
Turkey	<p>Training of military elite forces</p> <p>Turkey has been providing economic and political support, humanitarian assistance. The Turkish Agency of Development and Partnership trained Georgian public servants working in the customs, financial, trade and tourism spheres.</p> <p>http://www.mfa.gov.tr/grupa/ae/caucasian.htm#bm4</p>

Name	Programmes and activities
Greece	<p data-bbox="376 311 1402 383">Support of naval defence, humanitarian and development assistance, educational programmes</p> <ol data-bbox="424 389 1410 707" style="list-style-type: none"><li data-bbox="424 389 1410 461">1. Co-operation for the peaceful settlement of disputes and the establishment of peace in the area<li data-bbox="424 468 1410 584">2. Development of an environment fostering trade and investments (the accession of all Southern Caucasus countries to the WTO will play a significant role this direction, and the EU welcomed Armenia's accession)<li data-bbox="424 591 1410 624">3. Democratisation and respect of human rights<li data-bbox="424 631 1410 703">4. Co-operation on the fight against organised crime, in particular regarding drugs and terrorism <p data-bbox="376 752 1278 786">http://www.mfa.gr/english/foreign_policy/eu/eu_relations/nak_georgia.html</p>

3. Non-governmental actors

Name	Programmes and activities
Heinrich Böll Foundation	<p>Regional office opened in Tbilisi in June 2003. Main fields of political activity are democratisation and conflict resolution. Projects aim at supporting</p> <ul style="list-style-type: none"> • Civil diplomacy initiatives • Regular dialogue on civil society level involving societies of the South Caucasus and their neighbouring states including Russia, Turkey and Iran • Caucasian coalitions and social empowerment of women <p>http://www.boell.ge/</p>
National Democratic Institute	<p>US NGO aiming at strengthening and expanding democracy world-wide. In Georgia the organisation has been active in the fields of:</p> <ul style="list-style-type: none"> • Political party development: support in programme development • Parliamentary development: seminars regarding legislative process • Civic development: support of International Society for Fair Elections and Democracy • Local government: Councils Association of Georgia <p>http://www.ndi.org/worldwide/eurasia/georgia/georgia.asp</p>
American Bar Association	<p>The Central European and Eurasian Law Initiative (CEELI) is a public service project of the American Bar Association that advances the rule of law in the world by supporting the legal reform process in Central and Eastern Europe and the Newly Independent States of the former Soviet Union.</p> <p>CEELI's judicial reform programme in Georgia seeks to promote judicial independence by increasing professionalism among judges, by empowering judges to advocate more effectively on be-half of their interests as a group and by increasing public awareness of the role of the judiciary in Georgian society.</p> <p>http://www.abanet.org/ceeli/countries/georgia/program.html</p>
GTZ	<ul style="list-style-type: none"> • Support reform of Georgian legislation and economic law. • Welfare, Law • Foreign Trade and Promotion of the Economy • Advisory Services for Economic Legislation, Tiflis • Assistance in the Health Sector, West Georgia <p>www.gtz.de/laender/ebene3.asp?ProjectId=148&spr=2&Thema=12</p>
Eurasia Foundation	<p>The Eurasia Foundation supports local initiatives to further economic reform, a self-sustained media and development of civil societies</p> <p>Most important programmes:</p>

Name	Programmes and activities
	<ol style="list-style-type: none"> 1. Private Enterprise Development 2. Public Administration and Policy 3. Civil Society <p>http://www.eurasia.org/ http://www.eurasia.org.ge/grant%20programs.htm#Private</p>
HRW	<p>Defends human rights and exposes human rights violations.</p> <p>http://www.hrw.org/europe/georgia.php</p>
TRACC	<p>In 2002-2003, TraCCC – Georgia Office collects, studies and analyses information and conducts research concerning the following problems:</p> <ul style="list-style-type: none"> • Cross-border issues/smuggling through Abkhazia and South Ossetia • Corruption in the Transport Sector (Railways, Ports, Pipelines) • Corruption in the Energy Sector • International Assistance and Corruption • Organised Crime and Corruption in Georgia and in the territory of the former Soviet Union • Transnational Organised Crime • Human trafficking, the sale of human organs, and the narcotics business <p>http://www.tracc.cdn.ge/</p>
Transparency International	<p>Youth Against Corruption project: essay contest on corruption and law or legality issues</p> <p>http://www.transparency.org/</p>
Georgian Young Lawyers Association	<p>Involved in programmes that build both professional capacity among lawyers and the public’s understanding of the law. Provides legal clinics, judicial reform.</p> <p>Current project: a five-year strategic plan that will help it establish independent groups to carry on the legal consulting and training functions of the organisation.</p> <p>http://www.eurasia.org/Sucess%20Stories/Jan2001Success.html http://www.gyla.ge (in Georgian)</p>
International Society for Fair Elections	<p>IFES provides non-partisan technical assistance in the promotion of democracy world-wide and serves as a clearinghouse for information about democratic development and elections. Activities targeted for election administrators, judges, and civic organisations.</p> <p>http://www.ifes.ge/</p>

Name	Programmes and activities
International Security Advisory Board	International panel of experts led by Garry Johnson, British Army (ret.). Invited by former President Shevardnadze, the Board has tried to facilitate the development of a security strategy concept, new security organisational structures, updated defense strategies and democratic links to their governments and citizens. A report has been finalized and serves as a basis for reform efforts in the security sector.
Georgian Foundation for Strategic and International Studies	Research institute, publications on topics such as regional foreign policy in the Caucasus, religion in Georgia and other strategic issues, both domestic and international, facing Georgia and the Caucasus in the 21 st century. Also conducts field research related to political and economic processes in Georgia as well as in the Caucasus at large. http://www.gfsis.org
Center for Strategic Research and Development of Georgia	This NGO promotes building up of civic society in Georgia by increasing the awareness of the population and active involving citizens in decision-making, advocacy of their interests and support of civil society initiatives, practice-oriented research. http://csrdg.gol.ge/
Open Society Foundation	As part of the Soros network the Foundation supports the development of civil society through various national and network programmes, among others a <ul style="list-style-type: none"> • Rule of law programme promoting various initiatives related to the protection of human rights, anti-corruption, administrative reform, legislative improvement and expertise and raising legal awareness of the public • Mass media programme • Economic development programme http://osgf.ge/
National Endowment for Democracy	US NGO providing democratisation assistance and sponsoring civil society programmes. http://www.ned.org
CARE	As a UK-based humanitarian organisation, CARE focuses on emergency relief and humanitarian assistance, but also has launched development initiatives (infrastructure, small businesses, agriculture). Programmes in western and southern Georgia aim at enhancing levels of community participation, local resource mobilisation and economic development. http://www.careinternational.org.uk/cares_work/where/georgia/
America-Georgia Business Council	http://www.agbdc.com/index.html

Name	Programmes and activities
Friedrich Ebert Stiftung	http://www.georgia-gateway.org/FES/
LINKS	<p>The objective of the London-based NGO is to work closely with societies in the South Caucasus in order to bring about the peaceful resolution to conflicts that erupted during the period of transition and to work towards promoting democratic state-building and sustainable economic progress.</p> <ol style="list-style-type: none"> 1. Democratic state-building and European integration 2. South Caucasus Parliamentary Initiative including the following three working groups: <ul style="list-style-type: none"> • Role of parliaments in promoting peaceful resolution of conflicts • Democratic state-building and European integration • Natural resources and environment <p>The initiative has been supported financially mainly by the UK Global Conflict Prevention Pool, the Netherlands and Switzerland, and politically by the CoE, the OSCE and the EU.</p> <ol style="list-style-type: none"> 3. Peaceful resolution of conflicts in the Caucasus 4. Refugees and National Minorities <p>http://www.links-london.org</p>

2. List of Interviewees and Resource Persons

- | | |
|--|---|
| 1. David Bakradze | National Security Council, Department for International Security and Conflict Management |
| 2. Carolyn Campbell | American Bar Association |
| 3. Zviad Chkhaidze | Intelligence agency |
| 4. Magdalena Frichova | OSCE HCNM |
| 5. Archil Gegeshidze | Georgian Foundation for Strategic and International Studies |
| 6. Katuna Giorgadze | Dfid, Development Section |
| 7. Elene Imnadze | World Bank Office, Public Sector Management Specialist |
| 8. Tamar Kaldani and Girorgi Chkheidze | Georgian Young Lawyers Association |
| 9. Kethi Khutsishvili | Eurasia Foundation, country director |
| 10. Alexandre Kukhianidze | Senior Research Fellow, Transnational Crime and Corruption Center, American University, Tbilisi |
| 11. Thomas Legge | European Commission Delegation in Tbilisi |
| 12. Harry Molenaar | RNE, Ambassador |
| 13. Mark Mullen and Nina | National Democratic Initiative |
| 14. Ghia Nodia | Caucasian Institute for Peace, Democracy and Development |
| 15. Christopher Nunn | UK Embassy, defence attaché |
| 16. Louise Nylin | UNDP |
| 17. Alexandre Rondeli | Georgian Foundation for Strategic and International Studies |
| 18. Keti Rostiashvili | TRACC |
| 19. Paata Zakareishvili | Soros Foundation, former head of administration of the Parliamentary Committee on Human Rights and Ethnic Minorities, former head of administration for the Presidential Commission on Corruption |