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From a Presidential to a Parliamentary Government in Georgia

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Abstract

Georgia has been undergoing the process of democratization for several decades now. In this process, an important but often overlooked factor is the interplay between formal and informal institutions. The pessimistic view believes that informal institutions are the key to understanding Georgian politics, whereas a more optimistic view focuses on formal institutions and disregards the former's significance. This article juxtaposes both phenomena and analyses how incumbent regimes in Georgia have tried to reform the political system. It is argued in this analysis that one has to consider the incumbent's goal to maintain political power. Consequently, the analysis of two illustrative cases, i.e., moving from a presidential to a parliamentary system and reforming the electoral system, suggests that formal institutions shape the informal practices of political actors and that these informal practices influence what formal rules get adopted or how they are interpreted.

Introduction

Students of democratization have long hypothesized that constitutions can be either perilous for the transition process from authoritarian rule to democracy or conducive to this transformation. Often, parliamentary systems are considered as more favourable for the process of democratization than a presidential government system (Linz, 1990). Therefore, when countries such as Georgia change their constitution and move to a parliamentary government, hopes for democratic consolidation are naturally raised among observers. However, one cannot overlook the context in which such changes occur. In post-Soviet countries, including Georgia, there is always an interplay between formal rules and informal politics, and which one of these two prevails is not always clear. Consequently, constitutional changes cannot be interpreted only as positive steps towards democracy. Rather, the role of new sets of formal rules should be understood within the juxtaposition of formality and informality.

This article explores Georgia's experience of constitutional changes and provides supporting evidence for how informality leads to institutional reforms and how these reforms, in turn, influence the behaviour of actors. For this purpose, two illustrative cases are analysed: Georgia's transition from a presidential system to a parliamentary government—a reform that was initiated under the rule of President Mikheil Saakashvili in 2012—and their electoral system reform, which also requires constitutional amendments, as it is a transition from a mixed electoral system to a fully proportional vote made possible by abolishing the single-mandate majoritarian vote. The Georgian political elite has been discussing the latter reform for the last two decades, but the actual changes have been inhibited due to incumbent regimes' considerations on how to maintain power.

The following sections argue that these considerations are the key to understanding constitutional changes in Georgia. When the formal rules are too rigid to prevent power maintenance, they are loosened, whereas when the rules are favourable for power maintenance, the incumbent ensures avoiding formal changes even if the short-term costs are high.

From Presidents to Parliaments: Why and How the Constitution Matters in Georgia

The power dynamics between the parliament and president in Georgia have been similar to a roller coaster. Following the 2003 Rose Revolution led by Mikheil Saakashvili, the constitutional changes were mostly oriented at consolidating the political power in the hands of the president. For this, President Saakashvili was often criticized and accused of “creating a constitution for himself” (Kuprashvili 2010). However, such changes could not overcome the rigid rule preventing a single person from being elected as a president more than twice. This formal rule is simply so strong and widely upheld that even a charismatic leader such as Saakashvili could not reasonably justify his staying in power after the second term. On the one hand, this indicates that at least some formal rules are untouchable and that they do influence the course of action of the incumbent. However, in the push-and-pull between formality and informality, rules can change to reflect the interests of the powerful. For Saakashvili, such a change would have been to remain in power after his second presidential term by assuming the office of prime minister, made possible by changing the constitution and introducing a dual executive system with the increased power of both the prime minister and the parliament at the expense of the president. Consequently, critics of Saakashvili feared that, similar to Vladimir Putin in Russia, he would still remain

in power after his second presidential term (Kuprashvili 2010). Of course, these fears assumed that he did intend to stay in power, and this assumption was not ungrounded. Even though Saakashvili did not manage to take up the role of prime minister, his political ambitions have not disappeared: he became a politician in Ukraine and to this day remains the chairman of his party, the United National Movement (UNM).

Unfortunately for Saakashvili, the constitutional changes turned out to be insufficient for him to maintain the political steering wheel of Georgia's political system. However, these changes paved the way to another person's informal influence. In 2012, the UNM was defeated by a newly established political party, the Georgian Dream (GD) party, founded and led by Georgia's wealthiest person, billionaire Bidzina Ivanishvili, whose fortune at the time was equal in value to roughly one-third of the country's annual GDP (Forbes 2020).

The way in which the power dynamics unfolded in Georgia after the 2012 parliamentary elections is, in fact, more interesting than Saakashvili's failed attempt at retaining political power. The increased political weight of the prime minister's institution led to an unexpected development in terms of what some authors call the oligarchic system (Kononczuk, Cenusa and Kakachia 2017). Ivanishvili only served as the prime minister for approximately 13 months in 2012–2013 and eventually resigned without retaining any formal political or party functions. However, he was still "widely perceived as the most influential political actor in Georgia" (Kononczuk, Cenusa and Kakachia 2017), essentially controlling Georgian politics. His informal method of governance included dictating major political decisions, as well as, in essence, appointing and firing prime ministers. The 2016 elections further increased his influence, as the GD party managed to obtain a supermajority in the parliament, which is necessary for adopting constitutional changes. Although in May 2018, Ivanishvili assumed the formal position of the chairman of the GD party (Agenda.ge 2018), this move should not be seen as formal rules prevailing informal practices. Instead, this development is better understood as a signal for voters that he is not abandoning politics or his own party, even if few would doubt it. With this new position, there is now a stronger link between his figure as an influential and wealthy businessman and the GD party.

What Ivanishvili's experience demonstrates is that in a formal system where the prime minister's institution represents the locus of power, the behind-the-curtain rule is possible. This rule is sufficient to informally control the political party that holds the majority in the parliament and to appoint or remove prime ministers. Had Georgia been a presidential system, it would not have been as easy or, perhaps, even possible to exert

a similar amount of influence over a popularly elected president. The example of President Giorgi Margvelashvili supports this argument. Even though he was picked by Ivanishvili as a candidate, and even if as president he did not have much formal power, Margvelashvili would often find himself in conflict with parliament and, by extension, with Ivanishvili. For example, Margvelashvili would use his veto power to promote public discussions of certain legislative changes, although the parliament could easily overrule them. One such case occurred in 2016, when the president rejected a referendum to define marriage within the constitution as the union of a man and a woman (Agenda.ge 2016). Eventually, the change was adopted by the parliament as part of a package of amendments.

Furthermore, the GD party introduced constitutional amendments in 2017–2018, according to which, from 2024, the general electorate will no longer directly elect the president. Instead, an electoral college of 300 members was set up, including "all members of the Parliament of Georgia and of the supreme representative bodies of the Autonomous Republics of Abkhazia and Ajara," as well as "the representative bodies of local self-governments" nominated by their respective political parties (Constitution of Georgia 2018). As a result, controlling the largest political party by virtue of "the circular flow of power"—a term associated with Stalin's rise to power in the Communist Party of the Soviet Union (Daniels 2007)—implies controlling who will be the president in addition to who will be the prime minister.

Voting Rules: Formal and Informal Bases for Success in Elections

The importance of voting procedures cannot be underestimated even in the debates of presidentialism versus parliamentarism (see Horowitz 1990). How voters elect representatives to the legislature is important even in a setting where informal rules have high significance. In this sense, informality also pervades political party competition. Although normatively, there is no single best electoral system, some voting rules might facilitate informal practices. This is clearly visible in how Georgian voters elect their parliament. The current system includes 77 MPs who are elected through proportional party lists and 73 MPs who are elected in single-mandate constituencies with a majoritarian vote. Similar to Saakashvili, Ivanishvili also seems to operate with the intent of preserving political power by tampering with formal rules.

There is a widespread understanding in Georgia that majoritarian voting in single-mandate districts increases the chances of the incumbent party maintaining power. There are two reasons for this belief. First, this system can lead to a situation where a party that does not have

the support of the majority of voters (in the proportional voting) may nonetheless win a majority in the parliament. In fact, this is exactly what happened in the 2016 parliamentary elections; the GD party received 48.7% of the popular vote, but because their candidates won in 71 out of 73 majoritarian districts (and the two other candidates openly supported the GD party), the GD party gained a supermajority of 115 parliamentary mandates out of 150 total seats. The second reason, however, is arguably more important and intertwined with informal practices. On the one hand, those MPs who gain their mandate through such a vote tend to be less active than those who reach parliament via party lists. On the other hand, all too often, directly elected MPs seek a parliamentary mandate to ensure that their business interests are protected. Furthermore, it appears that they are repeatedly successful, not because of their personal popularity and integrity, but because of their ability to control power networks in their districts. Indeed, they often switch parties, depending on who is in the government, to ensure that their influence is maintained. Such clientelistic practices coupled with personalization of politics are perilous for democracy and inhibit healthy and programmatic party competition (see Kitschelt 1995).

As a result, no political party in power has ever been partial to changing the electoral system and adopting a fully proportional vote. In fact, Saakashvili's UNM, for example, decreased the number of seats in the Georgian parliament from 225 to 150 at the expense of seats allocated to proportional representation. However, following the 2017–2018 constitutional amendments, the GD party agreed that from 2024 onwards, all Georgian MPs will be elected in a single multimember constituency based on party lists. Nevertheless, the opposition and part of the voters would like to see these changes occur earlier in the October 2020 elections. This was one of the main demands of the large-scale protest rallies in June 2019.¹ It seemed that the GD party conceded and promised to amend the constitution again, ensuring that the 2020 elections would also be fully proportional. However, in November 2019, the bill did not receive the necessary two-thirds majority of the MPs. Interestingly, some of the GD party MPs, who had originally supported and even co-initiated the bill, did not vote for it. Consequently, this is where the juxtaposition of formal and informal politics should be considered against the background of the GD party's willingness to hold on its grip on power.

It can be assumed that if the elections were conducted in a single multimember constituency through proportional party lists, it would be highly unlikely for

any single political party to gain a majority in the parliament. Most likely, a coalition would be necessary to form a government, which has never happened in Georgia's political history (Agenda.ge 2019a). Consequently, it is likely that the GD party made the promise of abolishing the majoritarian vote in midst of the political turmoil but then realized that such changes would lead to its loss of power. In this situation, the GD party used formal and informal practices to break out of the deadlock.

Three MPs voted against the bill on constitutional amendments, and all of them are majoritarian MPs. A total of 37 MPs abstained from voting, and 31 of them are majoritarian MPs. Finally, seven MPs were not present, and five of them are majoritarian MPs. All 47 of these MPs are GD party members. The day after the vote, the speaker of the parliament advised the opposition to prepare for the elections, emphasizing, "Public trust and not an election system wins the race" (Agenda.ge 2019b). Downplaying the importance of the electoral reform was only one part of the GD party's strategy in legitimizing the decisive vote against the promised electoral reform. A more important part was utilizing the formal rules; the GD party claimed that their party has a high degree of internal democracy, and thus, some majoritarian MPs did not feel that the reform was justified. Consequently, although Ivanishvili "tried his best" to convince them, apparently, he was not sufficiently convincing. By emphasizing how widespread majoritarian voting in single-mandate districts is in Western democracies, the GD representatives tried to legitimize such voting procedures and appeal to the closer linkage between voters and their direct representatives.

Furthermore, the GD party has claimed that the solutions with which the opposition parties came up, e.g., a German-style electoral system but with a fixed total number of seats in the parliament, are against the constitution of Georgia. Since the Georgian constitution guarantees the mixed system for 2020, the GD party has drawn heavily on these formal rules and on how constitutional amendments work. However, the GD party's interpretation of the formal rules is undermined by their own proposal to drop the number of majoritarian MPs down to 50 to make the rules fairer, as this proposal is no less contradictory regarding the constitution.

All this resembles a carefully elaborated scheme. No independent observer of Georgian politics would believe the GD party's narrative that Ivanishvili did not manage to convince some of the majoritarian MPs. As a result, the most realistic interpretation of events is that Ivanishvili informally pulled the strings to vote down the bill on the amendments even if this meant a great political

¹ The protests erupted after the unexpected event of a Russian MP from the Communist Party, Sergei Gavrillov, addressing the delegates of the Inter-parliamentary Assembly on Orthodoxy (IAO) in Russian from the seat of the speaker of the Georgian parliament.

cost (over a dozen GD party MPs have quit their factions in the parliament since the vote). Later, however, the formal rules were used to justify why and how further action on ensuring fully proportional elections in 2020 would not be possible.

Conclusion

Overall, Georgia's experience of constitutional changes has focused on the shift to a parliamentary government, and the way that the primary representative body should be elected suggests that the interaction between formal rules and informal practices can be seen as a vicious circle. In this context, it becomes apparent that political actors consider both formal rules and informal practices in their strive to maintain or gain access to power. Therefore, with this goal in mind, political actors try to modify the formal rules to their own advantage and thus avoid any changes that would pose a threat to their goals. Consequently, the initiation of constitutional amendments to increase the parliamentary and prime-ministerial powers was highly likely to be driven by the considerations of President Saakashvili. Although this plan did not work out, the changes

were continued by Ivanishvili's GD party government. In this case, Ivanishvili bent the existing rules and introduced new rules to best guarantee his informal rule from behind the curtain. However, the fact that formal institutions do matter is demonstrated by the fact that these actors cannot completely disregard them in the first place, which was clearly shown in the context of the ongoing electoral reform. For the GD party, the switch to a fully proportional electoral system means losing, if not all, at least a significant portion of their power. Therefore, even though the decision to backtrack on their own promise was a highly unpopular step, they nevertheless had to discard the proposed changes that would have threatened their firm grip on power in the future. As a result, while analysing Georgian politics, neither formal nor informal institutions can be disregarded. Formality and informality are mutually constitutive; formal rules influence how political actors design their strategies to maintain power, while these strategies simultaneously involve the modification of formal rules as well, i.e., what rules could be perilous or conducive to achieving the ultimate goal.

About the Author

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