



Nations in Transit 2005

GEORGIA*

NIT Ratings	1997	1998	1999	2001	2002	2003	2004	2005
Electoral Process	5.00	4.50	4.00	4.50	5.00	5.25	5.25	4.75
Civil Society	4.50	4.25	3.75	4.00	4.00	4.00	3.50	3.50
Independent Media	4.50	4.25	3.75	3.50	3.75	4.00	4.00	4.25
Governance	4.50	5.00	4.50	4.75	5.00	5.50	5.75	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	5.50
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	6.00
Judicial Framework and Independence <i>(formerly Constitutional, Legislative, & Judicial Framework)</i>	5.00	4.75	4.00	4.00	4.25	4.50	4.50	5.00
Corruption	n/a	n/a	5.00	5.25	5.50	5.75	6.00	5.75

EXECUTIVE SUMMARY

Since independence, Georgia has created a hybrid regime haunted by instability. There were no constitutional transitions of power after 1990, while in 1992 and 2003 elected presidents were forced out of office after public protests. In the latter case, however, the change was peaceful and did not lead to a major disruption of the constitutional process. Wars for secession from 1991 to 1993 brought some 15 percent of the country's territory under the control of unrecognized governments in Abkhazia and South Ossetia. Moreover, a local autocratic regime in the Autonomous Republic of Achara openly defied constitutional order without formally opting for secession. The 1995 Constitution conformed to main democratic criteria—this, along with the liberal policies of the government, allowed political parties to compete freely for the most part, independent media and civil society to grow, and the Parliament to develop into a fairly independent institution. However, executive power was ineffective and corrupt, and elections were increasingly rigged. The political system was overcentralized, with almost no democratic institutions on the subnational level. The government of President Eduard Shevardnadze, seen as ineffective and corrupt, lost its public support.

Public protests following the fraudulent parliamentary elections in November 2003 led to the resignation of President Shevardnadze and the cancellation of the election results by the Supreme Court. This seminal event, called “the Rose Revolution,” propelled to power a

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NOTE: Nations in Transit ratings are based on a scale of 1 to 7, with 1 representing the highest level and 7 representing the lowest level of democratic development. The 2005 ratings reflect the period January 1 through December 31, 2004. The ratings reflect the consensus of Freedom House, its academic advisors, and the author of this report. The opinions expressed in this report are those of the author.

group of young Western-oriented politicians led by the charismatic Mikheil Saakashvili and the coalition of the National Movement and the United Democrats parties. The leaders had earlier constituted a reformist faction within the Shevardnadze government. The revolution led to a high level of public enthusiasm and even higher expectations. In early 2004, these political forces united into a single political party, which quickly consolidated its power in free and fair elections and embarked on an ambitious reform program. However, initially the new government focused its energies on effectiveness and the territorial integrity of the state, rather than the development of a democratic system of checks and balances.

A major success was achieved in Achara, where the local autocratic regime was changed as a result of a democratic revolution supported from Tbilisi. The region was effectively reintegrated into Georgia's political space, while formally retaining its autonomous status. An attempt to reintegrate the breakaway South Ossetia, on the other hand, proved ineffective and served only to aggravate the situation. The collection of public revenue was stepped up considerably, and some effective anticorruption measures were carried out.

However, strengthening the state was accompanied by certain setbacks in democratic freedoms and the balance of political power. Supporters of the Shevardnadze government, as well as opposition groups that chose not to support the revolution, were discredited and failed to create credible opposition forces. The opposition presence in the Parliament is almost insignificant. The new government, eager to maintain the momentum of revolutionary change and achieve fast results, has not always respected existing laws and procedures in pursuing its policies. Constitutional changes in February 2004 weakened the Parliament and moved Georgia in the direction of superpresidentialism. Independent media became less critical and pluralistic, prosecutors became less likely to follow due process, and the courts rarely dared to disagree with the prosecution.

National Democratic Governance. The Georgian political system is based on popular sovereignty, and the Constitution provides for all basic political freedoms. February 2004 changes to the Constitution skewed the balance of power in favor of the presidency and weakened the Parliament. The Rose Revolution demonstrated strong popular support for democratic institutions. The government occasionally interacts with civil society, but the level of political participation—save for elections or public protests—is concentrated within a small elite. About 15 percent of Georgian territory is controlled by the secessionist regimes of Abkhazia and South Ossetia, which are backed by Russia. In 2004, the local autocratic regime in the Autonomous Republic of Achara was overthrown in a peaceful revolution and the region was integrated into the Georgian public space. The effectiveness of the executive government increased, especially in attracting public revenue, and civilian leaders were appointed for the first time to lead the Ministries of Defense and Internal Affairs. *As Georgia is a hybrid system with considerable democratic freedoms but still lacking fully consolidated state institutions, as there are insufficient governmental checks and balances, and as the government's authority does not extend over the entire territory, the rating for national democratic governance is at 5.50.*

Electoral Process. In stark contrast with the fraudulent and chaotic parliamentary elections in November 2003, snap presidential and parliamentary elections in 2004 were considered generally free and fair, though voter lists were still not fully complete. There was no harassment of the opposition. However, the level of political pluralism was sharply reduced as the former ruling party completely disbanded and no political group could compete with Mikheil Saakashvili and his National Movement–Democrats. Only one opposition bloc of the New Rights and Industrialists was able narrowly to overcome the 7 percent threshold for

party lists. *Because elections were more free and fair in 2004 as compared with the previous year, the rating for electoral process improves from 5.25 to 4.75.*

Civil Society. Legislation regulating the activities of nongovernmental organizations (NGOs) is quite liberal. Not-for-profit organizations are easy to register, and they can operate freely. The number of NGOs is growing and civil society is vibrant and politically influential, though in 2004 its visibility diminished somewhat as compared with previous years. NGOs have accumulated important intellectual and institutional capacity, though in 2004 the sector was somewhat weakened after many leading activists joined the government. There are organizations with illiberal extreme right agendas, but in 2004 their influence diminished. The social base of NGOs is rather narrow, and organizations in most regions outside the capital are less developed. They are dependent mainly on foreign funding for their support, though the new 2004 tax code instituted tax breaks for charitable activities. Trade unions exist but have little influence. *The rating for civil society remains unchanged at 3.50.*

Independent Media. The Georgian Constitution and legislation ensure a liberal environment for the development of independent media. The 2004 Law on Freedom of Speech and Expression took libel off the criminal code and relieved journalists of legal criminal responsibility for revealing state secrets. However, in the first half of 2004 independent TV stations became less daring in criticizing the government, a development that may be based on a combination of alleged behind-the-scenes government pressure and self-censorship. The economic base of the media is weak: independent TV companies are usually unprofitable and serve to promote the agendas of their owners. The professional quality of journalists is insufficient, and there are no strong formal associations to set professional and ethical standards for the industry. *Owing to diminished pluralism in the media, the rating for independent media worsens from 4.00 to 4.25.*

Local Democratic Governance. Democratic institutions are least developed at the local level in Georgia. The Constitution does not define the territorial arrangement of the country or the competences of subnational institutions of state power. There are three levels of subnational government—regional, district, and local—with elected representatives at only the district and local levels. Local elections are usually competitive, with the opposition able to win, but elected mayors and councils do not have resources to play a decisive role in managing local affairs. Real power is concentrated in the centrally appointed administrators and local branches of central agencies. Legislation adopted in 2004 regarding the Autonomous Republic of Acharan left very little power to the regional council. In November 2004, Georgia's Parliament ratified the European Charter of Local Self-Government, but no further steps were made to decentralize governance. *Since the existence of freely elected local authorities creates some ground for local democracy but governance is not effectively decentralized, the rating is at 6.00.*

Judicial Framework and Independence. The Georgian Constitution provides important safeguards for the protection of human rights and the independence of the judiciary. However, in 2004 the judiciary was less likely to withstand political pressure, and courts rarely disagreed with the prosecution's demands. Against the backdrop of a more active fight against organized crime, reports on torture in preliminary detention facilities increased. The prosecution often violated due process in politically sensitive cases related to allegations of corruption. On the positive side, there was important progress in curbing violence against religious minorities. *Owing to violations of due process by the prosecutor's office and a decrease in the independence of the judiciary, the rating drops from 4.50 to 5.00.*

Corruption. While a high rate of corruption has been typical for Georgia, the new government undertook resolute anticorruption measures. A number of corrupt officials were arrested, including some appointed by the new government. Changes were made to legislation to facilitate the prosecution of corruption cases. Salaries of about 10,000 public servants and law enforcement officers were dramatically increased as an incentive to limit corruption. Certain official procedures have been simplified. There is evidence of improvement in key areas such as the tax and customs offices and the police. *Owing to the resolute anticorruption measures of the new government, the rating in this category improves from 6.00 to 5.75.*

Outlook for 2005. In 2005, the new Georgian government is expected to take steps to stabilize and consolidate its power and carry out policy reforms in several key areas. Stabilizing the executive will depend on whether the frequent reshuffling of the cabinet and of regional administrations (typical of the first year in power) can be brought to an end and whether different informal networks within the ruling party will continue to work together; some analysts predict that new groups will defect from the United National Movement. The new government is expected to reform the system of local and regional government and to amend the territorial arrangement of the country, a process that should be completed by the fall of 2005 in order to create a new base for the local elections in the spring of 2006. However, by the end of 2004 the government had not put forward any specific outline for this reform. Important reforms in the areas of the judiciary and education are also expected. Equally important, the government is likely to take active steps toward resolving the “frozen” conflicts in Abkhazia and South Ossetia. There is concern that unless a settlement is achieved by peaceful means, which appears unlikely in the short run, the government may consider using force, specifically to resolve the conflict in South Ossetia.

MAIN REPORT

National Democratic Governance

The 1995 Constitution defines Georgia’s political system as a democratic republic. It stipulates that the people are the source of the state's authority, which shall be exercised through the separation of powers. Chapter 2 of the Constitution asserts all basic rights and freedoms of the individual. In practice, however, Georgia's record of democratic governance is mixed. As a rule, people can exercise their right to political participation by creating and joining political parties, taking part in elections, and creating and taking part in public associations or demonstrations. Government, even at the highest level, interacts with and takes advice from the civil society, and in 2004 this interaction generally increased. The 1999 administrative code includes the equivalent of the U.S. Freedom of Information Act, which makes accessible all public information. In actuality, public participation in politics—save for the relatively rare election or mass protest—is restricted to a small elite.

The Georgian Constitution calls for the separation of powers among the executive, legislative, and judicial branches of government. Both president and Parliament are elected by direct popular vote. Until 2004, the design of the central government generally followed the model of the U.S. Constitution. The president could not dissolve the Parliament and needed to secure parliamentary approval when appointing ministers and adopting the budget. On February 6, 2004, the Parliament introduced changes into the Constitution that unraveled the republican balance of power in favor of the president. A new position of prime minister and the Cabinet of Ministers were established. The president must secure approval from Parliament to appoint the prime minister but can dismiss him at will. Most important, the

president has acquired powers to dismiss the Parliament in specific circumstances, such as in the event of three consecutive no-confidence votes delivered to the cabinet by Parliament.

During 2004, the large majority of legislative initiatives in the Parliament came from the executive. Parliament rarely took the lead in initiating legislation. Despite a strong pro-government majority, the Parliament displayed its independence in a few important cases and successfully pushed for serious changes in draft legislation coming from the government. The Parliament is quite open to the public—interested parties may take part in discussing draft legislation in parliamentary committees and often take advantage of this opportunity. In 2004, presumably under pressure from the executive, the Parliament hastily adopted legislation without due deliberation, openly violating due procedures. This included important constitutional changes in February and October amendments to the electoral code, which removed minimal turnout requirements in by-elections for the Parliament. The government justified these changes by stressing its own political urgencies, such as the need to consolidate the new government based on a more effective design of national power.

A large part of the Georgian economy is privatized, and in 2004 the government announced an ambitious program to privatize the remaining assets, including industrial facilities and infrastructure such as utilities and ports. During Eduard Shevardnadze's presidency (1995–2003), big business depended on close contacts with the government, and tax evasion was the norm. President Mikheil Saakashvili's government, elected in January 2004, distances itself from big business, but its aggressive anticorruption policy, including strong measures against tax evasion, has made business vulnerable to government pressure. In the last days of 2004, the Parliament adopted a financial amnesty bill that forgave the backlog of tax liabilities accumulated by businesses up to January 1, 2004. As part of the same package, a new and more liberal tax code was adopted to reduce the amount of taxes and number of tax rates (for instance, the flat income tax was reduced from 20 to 12 percent).

The stability of Georgian democratic institutions is an especially challenging problem. In 1992 and 2003, the elected heads of states lost their positions after mass protests. In the November 2003 Rose Revolution, however, the changeover was peaceful, and the exercise of power returned to the constitutional framework as soon as President Shevardnadze resigned. Except for these two large disruptions, national elections have been held within constitutional limits.

Territorial control of Georgia's democratic institutions is also challenged. About 15 percent of the country's territory belongs to the self-proclaimed states of Abkhazia and South Ossetia. These regions became effectively independent following wars for secession from 1991 to 1993, and neither recognizes the sovereignty of the central government. Both regions are strongly influenced by Russia. The government of the Autonomous Republic of Achara did not formally secede and, even in the period before May 2004, continued to take part in Georgia's political life. Yet it openly defied constitutional order and turned the region into the personal fiefdom of Aslan Abashidze, the local strongman. Like other regions with uncertain political control, Achara became the breeding ground for an illicit economy and smuggling. In May 2004, after mass protests in Achara in what can be called Georgia's second Rose Revolution, Abashidze was forced to flee. This outcome has most likely solved the problem of Achara's implicit separatism.

Since May, the new government has also tried to solve the problem of South Ossetia by attempting to win popular support with a series of humanitarian measures, while intimidating the separatist government with military force and a crackdown on smuggling, the region's

economic base. In effect, this has escalated tensions and led to episodes of low-key fighting from July to August, resulting in 17 deaths and the consolidation of the local population behind their hitherto unpopular leader. A full-scale war was avoided, but occasional tensions have persisted. This episode has also led to the deterioration of relations with Russia, which informally supports separatist authorities.

In October, Abkhazia held local presidential elections that were not recognized by the international community. The opposition candidate won, but the refusal of the separatist government to concede defeat led to civil strife, with some casualties. In late December, Russian mediation ended the crisis by compelling the opposing candidates to run on a single ticket as president and vice president for a repeat vote in January 2005. Saakashvili and his ministers reiterated their support for a peaceful resolution to the “frozen” conflicts in Abkhazia and South Ossetia but did not rule out using military force if negotiations failed to work.

Popular support for democracy is linked to a strong orientation toward Western institutions, and the wish to join NATO and the European Union are points of consensus within the national political agenda. There are no influential political parties running on openly antidemocratic and anti-Western tickets, though suspicion about Western influences is crystallized around some religious Eastern Orthodox organizations.

The ineffectiveness of the executive branch has been one of the most notorious features of the Georgian government since independence and the basis for its frequent description as a “weak” or “failing state.” In the past, government agencies were overstuffed and had difficulty attracting qualified personnel because remuneration was well below living wages. Efforts were made to improve this in January 2004 by increasing the salaries of about 10,000 public servants several times through the Development and Reforms Fund under the president of Georgia. The fund is sponsored by international and Georgian donors but is expected to be fully funded by the Georgian state budget in two to three years. In 2004, the government worked to attract qualified public servants from business, civil society, and the Georgian diaspora. The number of ministries was reduced to 15, and the structure of the executive was simplified by abolishing independent departments or merging them with ministries. Staff were reduced drastically in many public agencies; for instance, Ministry of Security personnel were decreased by half. In many agencies, effort was made to improve technical equipment. However, there is still a shortage of qualified personnel at the middle and lower levels of state bureaucracy. Many high-level officials are young (some ministers under the age of 30) and bring new openness and dynamism to government, but there is a lack of experience. There are no general policy standards for public service personnel. Although the law differentiates between political appointees and professional public servants, this distinction is often ignored in practice. By the end of 2004, some ministries (such as the Ministry of Foreign Affairs) were replacing large numbers of their employees through open competition, and other ministries are expected to follow suit.

Reforms made in 2004 brought civilian leaders for the first time to helm the Ministries of Internal Affairs and Defense. Other steps were made to bring the structure of the Ministry of Defense closer to NATO standards. Drastic personnel cuts were implemented in these ministries, but salaries were increased sharply for all military personnel. There have been impressive improvements in the level of training and equipment for the armed forces acquired through foreign assistance (such as the U.S. Train and Equip program) as well as internal resources. Budgetary procedures provide for effective parliamentary oversight over the military and security establishment, but so far these have been insufficiently exercised.

Electoral Process

The Constitution and the electoral code guarantee universal suffrage, equal electoral rights, and the right to direct and secret ballot. However, electoral standards generally declined from 1990 to 2003. During this period, the irregularities most frequently registered by domestic and international observers included ballot stuffing, multiple voting, erroneous voter lists, and rigging of the ballot tabulation process by electoral commissions on various levels. In most regions, political parties were free to campaign and express their views. People were usually free to express their political will, though pressure was exerted on public servants and the military to support government parties.

The November 2003 parliamentary elections constituted a nadir in this trend, leading to the Rose Revolution. President Shevardnadze resigned under popular pressure, and the Supreme Court of Georgia annulled the results of the party lists vote owing to massive fraud (the election results from most single-mandate constituencies were not annulled). Consequently, the mandate of the Parliament elected in 1999 was prolonged until the next elections.

On January 4, 2004, snap presidential elections were held. Mikheil Saakashvili, the leader of the Rose Revolution, won with 96.27 percent of the vote. The International Election Observation Mission (IEOM) of the Organization for Security and Cooperation in Europe and the Council of Europe (COE) noted "clear improvements, particularly in the conduct of voting, new voters' lists, the legal framework, and overall election administration," stated the COE. Significant progress was also reported by domestic observers. The lack of competition was explained by postrevolutionary euphoria and by the fact that other popular political leaders either supported Saakashvili, or—like Shalva Natelashvili of the Labor Party—chose not to run, since failure to support the Rose Revolution would have seriously undermined their public credibility.

The bloc of the National Movement and United Democrats, which led the revolution, was the clear winner in the March 2004 parliamentary elections (party lists only), receiving 66.24 percent of the vote. Only one other bloc, the New Rights–Industrialists, overcame the 7 percent threshold for political parties, with 7.96 percent. IEOM, as well as domestic observers, noted significant progress in the quality of elections in this case as well, as reported by the COE. There was no significant discrepancy between official results and those from a parallel vote tabulation conducted by the International Society for Fair Elections and Democracy, the domestic election-monitoring organization, operating in cooperation with the U.S.-based National Democratic Institute for International Affairs.

Despite progress, important flaws persist. On all levels, Georgian election commissions are based on the balance among representatives of political parties, with government parties usually calling the shots. A marked imbalance in favor of the newly dominant National Movement–Democrats was preserved in the electoral commissions in the January and March elections. The new government refused to follow recommendations of the COE to change the election code to allow for a more balanced composition of electoral commissions before the March parliamentary elections. After the parliamentary elections, intimidation and physical abuse against opposition supporters and journalists were reported in Achara—but the local autocratic regime responsible for the abuse was ousted soon afterward. Ballot stuffing, multiple voting, and, as a result, unrealistically high turnout figures persisted in Kvemo Kartli, another Georgian province notable for especially low election standards. Since faulty voter lists had been one of the major defects in the November 2003 elections, completely new

voter lists were quickly prepared based on the self-registration of voters. Consequently, full lists of eligible voters were not available on election day.

In November 2004, the Parliament approved in first reading amendments to the election code that would base electoral administration on nonpolitical public servants. According to the new system, members of the Central Electoral Commission would be selected by the president and confirmed by Parliament. However, the new principle raised concerns about further enlarging presidential powers, and a final decision was postponed until spring 2005.

The most substantive deficiency in the Georgian electoral system is the lack of strong and stable political parties competing at different levels. Most influential political parties are seen as machines for ensuring support for their individual leaders, rather than as vehicles for mobilizing citizens around competing interests and policy options. There is a tradition of dominant political parties—the Round Table from 1990 to 1991, the Citizens' Union of Georgia (CUG) from 1995 to 2001, and the Union of Revival of Georgia (URG) in Achara from 1992 to 2004—that tend to merge with government structures.

From 2001 to 2003, Georgia witnessed the strengthening of the opposition and a considerable increase in political pluralism. However, the Rose Revolution led to the re-creation of a single dominant party, the United National Movement, with the merger of the National Movement and the United Democrats finalized in November 2004. On the other hand, the defeats of Eduard Shevardnadze and Aslan Abashidze terminated the activities of their respective political parties, the CUG and URG. Opposition parties that did not side with the revolution (such as the Laborists and the New Rights) lost large segments of their supporters. As a result, the political opposition has low credibility and insufficient opportunities to influence the political process. While the New Rights–Industrialists bloc is the largest opposition group in the Parliament, two other groups, the Conservatives and the Republicans, broke away from the National Movement and contest its policies within the legislative branch.

The 1997 Law on Citizens' Political Associations (as well as the actual practices of government) presents no significant barriers to political organization and registration. The only important restriction is that against the creation of regionally based political parties. This provision was used by the Ministry of Justice to deny registration to Virk, a political party based in the ethnic Armenian–populated province of Samtskhe-Javakheti. Virk supports creating an ethnically based Armenian autonomy in the region, which causes concern in Georgian society.

While election turnout figures are usually considered unreliable owing to faulty or incomplete voter lists, a high level of participation is obvious in most critical elections, including the presidential and parliamentary elections in 2004. However, the lack of viable political parties restricts broad public participation mainly to elections or occasional protest actions. The level of participation of ethnic minorities is especially low—according to a 2002 census, ethnic minorities constitute more than 16 percent of the population (not counting the breakaway regions of Abkhazia and South Ossetia) and are concentrated largely in two provinces, Kvemo Kartli and Samtskhe-Javakheti. Though there is no explicit discrimination against ethnic minorities, the majority do not speak Georgian, which is the country's only official language. This effectively disqualifies them from public and political life on a national level. Ethnic minorities are largely underrepresented in all branches of power on the national and, in some regions where they reside, the local level.

Civil Society

The independent civic sector in Georgia is relatively large, vibrant, and influential, and its rights are for the most part protected. However, the social base for nongovernmental organizations (NGOs) is rather narrow, including mostly young urban professionals. According to research conducted by the Georgian Business Law Center, there were at least 3,948 public associations in Georgia by January 2002 and as many as 1,000 foundations. Numerous organizations are on paper only or were created for implementing one or two projects. However, about 200 are relatively stable, and some 30 groups have permanent staff and boards. The capacity and quality of management of leading organizations are gradually increasing, and growing local expertise on NGO management is available for less developed organizations. Training and handbooks on NGO management, fund-raising, and other resources are largely available. In 2004, a code of conduct for NGOs was created, which civil organizations are free to join.

Georgian civil society is rather diverse, with the most active and visible organizations involved in democracy promotion, good governance, human rights protection, and public policy research. Many other groups are involved in environmental, social, and similar humanitarian causes. Women's and minority groups are numerous but weakly related to the mainstream. Community-based organizations have developed in some regions but require donor assistance to survive.

The civic sector played an important role in the Rose Revolution of 2003 by providing authoritative monitoring of the electoral process and mobilizing support for democratic causes. Its influence and visibility dropped off somewhat during the first half of 2004. One of the reasons for this is that a number of leading NGO activists have joined the government. Attitudes in the civic sector have also grown more diverse. In the last period of Shevardnadze's rule, the civic sector was perceived by the wider society as more or less homogeneous and mainly critical of the government. After the Rose Revolution, attitudes of NGOs have become more diverse. Some did not support the revolution, considering it a nonconstitutional transfer of power, and continue to be extremely critical of the government. Most NGOs supported the revolution, welcomed the new government, and are open to cooperating with it, while at the same time they express strong criticism of specific activities. With opposition parties rather weak (except from 2001 to 2003) and not necessarily democratic, NGOs often take the lead in opposing government actions that are seen to be in conflict with democratic standards.

There is no established format for interactions between the government and the civic sector, though relations became more intense in the second half of 2004. There were several meetings between NGO activists and the president. Civil society representatives are routinely included in official commissions and working groups, which define different aspects of the reform agenda, and have an impact on government decisions. This also includes public policy think tanks and representatives of interest groups. However, many activists of the civic sector often express their disappointment with the new government's tendency to make important decisions without leaving enough time for broad consultations and adequate public discussion.

The Georgian civic sector has regular access to the media. Civil society representatives are frequently invited by the media to comment on current political issues and policy reforms. However, only a small number of organizations and civil society personalities sustain high visibility in the media. Since the Shevardnadze era, independent media and NGOs are

considered the driving force to promote democratic causes, and the image of NGOs in democratic-minded media is rather positive. However, when the media express suspicion of Western influences, they also tend to speak negatively of NGOs.

Free access to public information is guaranteed by the administrative code, but in practice there may be resistance by some state agencies to release information. Some NGOs report that after the new government came to power, getting public information became somewhat more difficult in practice.

According to the civil code, not-for-profit organizations have the option of being registered as associations (unions) or foundations. They can also be active without registration, but in this case they cannot conduct financial operations. Until 2004, associations were registered by local courts, while foundations were registered with the Ministry of Justice. Following an amendment to legislation, all not-for-profit organizations are now registered in branches of the Ministry of Justice. In practice, registration is quite easy. The Law on Grants exempts moneys received by not-for-profit organizations from most taxes. The new tax code passed in December 2004 instituted tax exemptions encouraging charitable activities. Businesses can now spend up to 8 percent of their gains on charitable activities to avoid taxes on that amount. Many businesses are involved in charity, but these activities are rarely institutionalized, and only a handful of Georgian businesses have formed charitable foundations. Almost no local moneys go to support civil society causes. Developed organizations usually depend on grant support from Western organizations. Only a small number use volunteer workers, and the role of income-generating activities is generally marginal. Despite some efforts to bridge civil society and business communities, cooperation is weak.

Georgia has its fair share of public associations that pursue illiberal causes. These claim mainly to protect Eastern Orthodox values from the pernicious influence of Western liberal values. Some groups have been involved in violent attacks against religious minorities, civil society, the media, and the political opposition. The new government has been successful in curbing the activities of such groups, so that violence on behalf of "uncivil society" has largely stopped. In 2004, illiberal groups like the Orthodox Parents Association actively attacked reforms proposed by the Ministry of Education from a religious fundamentalist position, but their activism soon petered out. This and other illiberal groups may express their opinions freely but do not have much political influence or seriously disrupt public order.

Georgians are free to organize and join trade unions, but so far only few viable independent trade unions have been created, mainly in health care and education. Those trade unions that are successors to Soviet-era organizations do not play any visible role in defending employees' rights.

During the period of independence, education standards declined and there were numerous reports of widespread corruption, including those released by the American University Transnational Crime and Corruption Center. In 2004, the Ministry of Education launched a large-scale reform program. It made accreditation procedures stricter so that many universities that had served as "diploma mills" lost their licenses. In December 2004, a new Law on Higher Education was passed that aims to decentralize the education system and devolve more power to educational organizations. In the short term, however, the law instituted a transitional period of two years during which president-appointed rectors will implement reforms that are supposed to bring university administration and curriculums closer to European standards. The law instituted for the first time national exams for

obtaining university scholarships and linked government funding of universities to the number of students who chose to use their scholarships in given universities. Opponents criticized the reform as compromising university autonomy.

Independent Media

The Constitution states that "the mass media are free; censorship is impermissible" and that "citizens of the Republic of Georgia have the right to express, distribute, and defend their opinions via any media, and to receive information on questions of social and state life. Censorship of the press and other media is not permitted." Since the mid-1990s, independent media have become relatively developed in Georgia. They are free of censorship and are often strongly critical of the government. The strength of independent media was one of the preconditions for the success of the Rose Revolution in 2003. The chief concerns regard the media's insufficient professional standards and weak economic base, the use of libel and defamation cases against journalists, and the state TV and Radio Corporation, which continued to serve as a propaganda outlet for the government.

Despite this last concern, the media market is dominated by privately owned organizations. Rustavi-2, Imedi, and Mze are the most important independent TV channels. Until the Rose Revolution, Rustavi-2 was considered the obvious leader because of its daring news reporting, investigative programs, and pluralistic talk shows. Newspaper distribution is also mainly in private hands, though the state-owned Sakpresa distribution agency is still in business. The ownership structure of the media is quite diverse.

In June 2004, the Parliament enacted a new bill on freedom of speech and expression, sponsored by the Liberty Institute, a Georgian NGO. The law decriminalized libel, moving litigation from criminal to civil law competences. Journalists can no longer be held responsible for revealing state secrets; only relevant public servants can be charged for failing to guard them properly. Experts agree that this law brought Georgian media legislation to high international standards.

In December 2004, the Parliament passed a new Law on Broadcasting. It institutes procedures to transform the existing state TV and Radio Corporation into a public broadcasting facility that must be completed by mid-2005. TV and radio broadcasting is to be made independent from the government, with politically balanced programming. It will be supervised by a nine-member board of trustees appointed by the Parliament, with three candidates for each slot pre-selected by the president from a multiplicity of applicants.

The law entrusts the licensing of broadcasting outlets to the Broadcasting Commission, an independent body whose five members are appointed by the Parliament through the same procedure described for public broadcasting trustees. Earlier, the licensing function was performed by the National Regulatory Commission for Communication, a body of similar status created in 1999. Broadcasting licenses are issued for 10 years and extended automatically for another term unless the broadcaster violates specific requirements defined by law. This provision caused the greatest controversy, since TV and radio companies must now face open competition after 20 years of broadcasting.

In 2004, progress made in media legislation contrasted with concerns about the decreased level of actual freedom of the media. Electronic media became less inclined to report information uncomfortable to the government and less likely to provide a forum for political debate. In early February, two popular talk shows were taken off the air on the same night by Rustavi-2 and Mze. The owners of both channels insisted that this decision was motivated

only by a wish to enhance programming quality, but in the Rustavi-2 case the talk show never reappeared. The most prominent investigative program, *60 Minutes* on Rustavi 2, was also shut down. The reluctance of the media to report sensitive information was especially obvious in the period of escalation in the South Ossetia crisis. Two TV companies, Channel 9 and Iveria, were closed down altogether. In the former case, it was an owner's decision with no grounds to allege any government involvement. Iveria shut down its programming after the offices of its parent company, Omega, were taken over by the police on charges of mass tax evasion; it suffered huge losses. Omega was widely believed to play a leading role in cigarette smuggling in Georgia, but the case was never brought to court.

With the end of the South Ossetia crisis in September 2004, the government switched its primary attention to the problems of reforming governance, and the media again became gradually more diverse and critical in its programming. Debates on TV intensified as different opinions on important public policy issues were expressed, including by members of political opposition groups.

The reasons for negative changes in the media are not fully certain. If there was political pressure, as some journalists and experts allege, it occurred behind the scenes and no specific information has ever been made public. Self-censorship and a lack of editorial independence, as well as a generally weak economic base for free media, are deeper problems. The advertising market in Georgia (assessments vary from US\$7 million to US\$20 million annually) is not large enough to sustain several independent TV channels. The owners of Imedi and Mze subsidize the channels from their other businesses, and they may see these channels as tools to promote their interests in other areas. The owners have been reluctant to spoil their relations with both the old and the new government.

The greatest change was in early 2004, when it was revealed that Rustavi-2 had large tax arrears and its owner, Erosi Kitsmarishvili, had tried to begin bankruptcy proceedings. At the same time, Kitsmarishvili switched his economic interests to other areas, preferring not to upset the new government after the revolution. In fall 2004, Rustavi-2 was bought by Kimer Khalvashi, reputedly a close friend of Irakli Okruashvili, one of the top officials in the new government.

Cases of journalist harassment were rarer than in previous years, if one discounts the last months of Aslan Abashidze's dictatorship in Achara. One standout is the August 2004 case in the town of Gori, where the editor of the local newspaper was arrested on charges of illegally possessing narcotics and arms. Journalists and civil society representatives believe the narcotics were planted and that the real reason behind the arrest was the newspaper's criticism of the regional administration. The journalist pleaded guilty and was released on a plea bargain, but he later contested the decision, declaring he had agreed to the plea under pressure. As has been the case in the past, financial audits may still be used as a method of punishment. *Georgia Times*, a Georgian newspaper, received a visit from the financial police immediately after it published materials critical of the Tbilisi prosecutor.

In Georgia, print media are less influential but also less likely to be the object of political pressure. Newspaper circulation is low—up to 10,000 copies at best for dailies and two to three times more for weeklies (more precise data is unavailable). Several successful newspapers have developed in regions outside Tbilisi over the last few years, which is a significant improvement. There are a number of independent radio stations. Green Wave, and its network of associate stations in different parts of Georgia, has become a major forum for public debate on the radio.

There are several journalist and media associations, but none plays an important role or defines professional and ethnical standards recognized by the media community.

Access to the Internet is not restricted in any way, save for economic reasons: There are still no Internet providers in a number of less developed regions, and many people cannot afford to use the Internet even in larger cities where it is available. According to data from the Institute for Polling and Marketing, in early 2004, 7.7% percent of Tbilisi residents older than 16 years used the Internet, while in other major towns the share was 3.9% of residents.

Local Democratic Governance

Georgia is a strongly centralized state with weak democratic institutions on the subnational level. The 1995 Constitution did not define the structure of subnational levels of government, postponing this move until after the resolution of conflicts in Abkhazia and South Ossetia. The subnational level of governance is regulated mainly by the 1997 Law on Local Self-Government and Government, which has been amended several times. Currently there are three levels of subnational government: community (town/village), *raion* (district), and *mkhare* (province). On the first level, heads of administration are elected locally. At the *raion* level, there are elected councils, but heads of administrations are selected by the president from local elected representatives. There are no elected bodies at the *mkhare* level. Mayors of the two most important cities, Tbilisi and Poti, are appointed by the president. More important, competences of elected offices and councils are very restricted, with no control over reasonable budgetary resources. If local councils fail to approve budgets submitted by the *gamgebeli* (heads of local administrations that are appointed by the president) in the first two months of the year, the president may dismiss them. Local administrations depend mainly on transfers from the central government, while local taxes cover only a small fraction of the budget. Key governance functions such as police, health care, and education are formally part of both local and central government, but the national level dominates.

The Autonomous Republic of Achara has a special status, which until 2004 had not been defined by the Constitution. A clause mentioning Achara's autonomous status was added to the Constitution in 2000, but actual distribution of powers was never defined owing to strained relations between the central government and the province. On June 20, snap elections to the Supreme Council of Achara brought a strong victory of 72.1 percent to the National Movement, with only the Republican Party able to overcome the 7 percent threshold. The COE gave the voting a mostly positive assessment but still stated that "the electoral process fell short of international standards in some regards," including accuracy of voter lists, secrecy of the ballot, and low competency of electoral commission staff. On July 1, 2004, the Georgian Parliament enacted a constitutional Law on the Status of the Autonomous Republic of Achara that severely restricted Achara's autonomy. It defined competences of the republic in the areas of education, culture, local infrastructure, and so forth, but at the same time it gave the Georgian president extensive rights. The president appoints the prime minister of Achara and can dismiss its Supreme Council in the event that its activities endanger the sovereignty and territorial integrity of Georgia or that it twice consecutively fails to approve the candidacy of the Achara government's chairman.

At the same time, the new Georgian government pledged to democratize the system of local government. In August 2004, a commission was created under the president to develop a specific project of reform, but no progress followed. In November, Georgia's Parliament ratified the European Charter of Local Self-Government.

Traditionally, the subnational level of government is less open to public participation than the national level, though in 2004 NGOs in some regions reported greater willingness of the local government bodies to cooperate with them.

Judicial Framework and Independence

The Georgian Constitution provides protection for all fundamental human rights and freedoms that are mentioned in the European Convention on Human Rights. Among its provisions, the Constitution creates the post of public defender. The office is nominated by the president and elected by Parliament for a five-year term, but it is not accountable to the president or Parliament. In 2004, this office strongly criticized a variety of government actions. The death penalty was abolished in November 1997.

However, in practice there are considerable violations of human rights in certain areas. In particular, torture in preliminary detention facilities was a major concern throughout the period of independence, and the situation did not improve after the Rose Revolution. In the first 10 months of 2004, more than 550 cases of torture by law enforcement officers were reported, which is higher than in recent years. There is consensus that this represents only a small fraction of actual cases of torture. Some human rights organizations believe that the incidence of torture worsened during the last year, but increased statistics may also indicate that detainees are now more likely to report torture. Planting evidence, such as guns and narcotics, is another typical violation that continued under the current government. According to expert opinion, the number of cases of low-ranking police officers planting evidence for reasons of extortion decreased in 2004. But this method was used more frequently in high-profile cases, where suspects were believed to have committed serious criminal acts yet there was no credible evidence against them.

In the fall of 2004, the government publicly acknowledged the problem and consulted with the human rights community on how to address it. According to some human rights experts, by the end of the year the incidence of torture and planting evidence had diminished. However, there was only one case where the prosecutor's office initiated an investigation into an occurrence of torture.

A number of human rights problems emerged as a result of the new government's crackdown on corruption. Public officials from the previous government who were widely believed to be corrupt were imprisoned in the first months of 2004, but none of the cases reached court during the year. There were numerous complaints that due procedures were not followed in these cases, such as arrests that were made without warrants. In most instances, the suspects detained on corruption charges were quickly released, having paid hefty sums to the state budget, but no provisions in the legislation allowed for such deals at that time. In February 2004, changes to the criminal code instituted the system of procedural agreements or "plea bargains" between suspects and prosecutors, motivated by the need to facilitate the speedy and effective prosecution of cases. However, the provision outlining a financial component was not added to the code until June 2004, while most of the high-profile deals involving payments had been completed by then. According to the new system, the accused are asked to repay a certain sum, which is an approximation of what they have allegedly stolen. In return, the prosecutor agrees to reduce or drop the charges. However, the new legislation does not sufficiently define discretionary powers of the prosecution when such bargains are made, thus allowing room for arbitrary actions. In effect, preliminary detention and payments were used as actual punishment for allegedly corrupt individuals. Political leadership, including the

president, often ignored requirements of the presumption of innocence, publicly describing suspects as “criminals.”

In 2004, there were cases of excessive force used to disperse public demonstrations. This continued a practice favored by the previous government.

Last year brought progress in the area of freedom of religion. During the previous five to six years, there had been a strong trend of violence against minority religious denominations, especially Jehovah's Witnesses and the Baptist-Evangelical Church, and perpetrators of this violence were not punished. The trend broke in 2004: Basil Mkalavishvili, a defrocked Orthodox priest who led the group most active in violent attacks, was arrested. Open disruption of the religious services of minority communities largely came to an end, most dramatically with regard to Jehovah's Witnesses, who now can conduct their services freely. Still, there were some relatively small episodes of harassment of religious minorities. In lieu of any legislation regulating matters of religion, minority religious communities cannot register their property. They also face significant difficulties in securing permits to build new places of worship. The mainstream Georgian Orthodox Church, which since October 2002 has had a constitutional agreement with the state, continues to get preferential treatment.

The Constitution provides for the independence of the judiciary, but in practice it is often compromised. Since a reform in 1998, the Georgian judiciary consists of a system of common-law courts and the separate Constitutional Court. Common-law judges are appointed by the president upon nomination by the Council of Justice. This is a consulting body whose members are appointed or elected, in equal numbers, by the president, the Parliament, and the Supreme Court. Only those who pass exams organized by the Council of Justice can be nominated as judges. By the end of the 1990s, this had led to a marked increase in the professional qualifications of judges. Later on, the passing rate jumped considerably, which indirectly shows that exam standards had declined.

Amendments to legislation passed in 2004 changed the composition of the Council of Justice so that the president's appointees acquire greater weight within the council. In summer 2004, Kote Kemularia, a close political partner of President Saakashvili, became the new chairman of the Supreme Court. According to credible expert opinion, the actual independence of the judiciary decreased in 2004 owing to more blatant political pressure from the government, although the level of independence had not been high under Shevardnadze, either. This pressure was publicly acknowledged by the new chairman of the Supreme Court. Government representatives informally justified pressure by alleging that the judiciary was corrupt and could be bought by criminals. The system stipulates that court-issued warrants are necessary for arresting the suspected. Contrary to the practice of previous years, however, obtaining arrest warrants through courts has become a mere formality—courts almost never refused such demands from the prosecutor's office. This included cases that had been later dismissed by the prosecutor's office as groundless (presumably owing to a new signal from the political leadership).

On the other hand, February 2004 amendments to the Constitution included a provision stating that “cases shall be considered by juries before the courts”—indicating that Georgia will institute the jury trial. This is supposed to eventually strengthen genuine independence of the judiciary. However, subsequent legislation has yet to be adopted. The low rate of executed court decisions has been a traditional problem in the Georgian judicial system during the last decade, and it has not improved in the last year. Other constitutional amendments took the prosecutor's office out of the system of the judiciary. This was

probably motivated by the desire to create greater distance between the prosecutor's office and the court.

Corruption

Under the previous government, corruption was considered a major obstacle to political and economic development, and Shevardnadze was most often criticized for failing to combat it effectively. The new government declared the fight against corruption as its highest priority. A Department for Coordinating Anticorruption Policies was created in the National Security Council. The prosecutor's office was entrusted with a leading role in investigating corruption-related crimes, while the National Security Council focused on developing policies for preventing corruption. A number of high-ranking officials from the previous government were imprisoned on corruption charges. Some appointees of the new government, as well as a parliamentarian from the ruling National Movement Party, police officers, prosecutors, and judges were also arrested on corruption charges. The February 2004 changes in the criminal code introducing plea bargains were motivated primarily by the wish to increase the effectiveness of anticorruption efforts. Suspects who admit guilt and provide information on grave crimes or crimes perpetrated by public officials may be relieved of criminal responsibility through a simplified procedure in court. February 2004 changes to the Law on the Prosecutor's Office and the administrative code enabled the state to confiscate the property of high-ranking state officials and members of their families if they fail to produce proof that the means for acquiring it were obtained legally. Several confiscations were actually made during the year. In February 2004, the Parliament ratified the 1990 Strasbourg Convention on Money Laundering and made respective changes to national legislation.

As a systemic measure against corruption, some 10,000 public servants, military officers, and law enforcement personnel have been paid substantially higher salaries since January 2004 through a Development and Reforms Fund. While most public sector salaries were previously well below a living wage, and additional income was a matter of survival, current salaries of many (though not all) public servants now provide for at least a modest living. For instance, police officers have a minimum salary of 350 lari, or approximately US\$195 per month, with the official living wage being about 135 lari.

In 2004, an institute of general inspectors was created in government agencies to oversee the use of public funds (a measure resisted by the previous government). The inspectors have established hot lines for the public to report irregularities in given agencies. In November, in an effort to make the process of property registration much simpler and cheaper, the Ministry of Justice created the National Agency on Public Register. The ministry also simplified procedures for getting citizen IDs and passports. The obligatory annual inspection of cars was suspended altogether. All these functions were previously seen as highly corrupt.

There is still no statistical data on how effective the government's anticorruption policies have been overall. Anecdotal evidence suggests that there are important positive changes in at least some areas. A sharp increase in tax collection indirectly indicates reduced corruption in tax and customs offices. The traffic police, which had become an emblem of blatant corruption in the Shevardnadze era, may be the most conspicuous example. In July, the old traffic police (consisting of some 13,000 to 14,000 people) was disbanded altogether and a new patrol police was created in its place. The new police officers were selected on a competitive basis and underwent special training supported by international organizations. So far, they have a much better reputation, and drivers are no longer harassed on the roads.

The main criticism of the government's anticorruption measures is that they are not following a coherent plan. The question is often asked why some officials of the former regime were arrested while others with the same reputation were not. An anticorruption strategy document created in the National Security Council does not include sufficiently specific steps and deadlines. The implementation of anticorruption measures is uneven from one agency to another, and there are reports that in certain regions no serious anticorruption measures have been taken at all. Some government agencies advertise jobs and use transparent competition to fill them, but this has not become an overall rule. Government contracts are usually distributed through competition, but in the recent past this was not a guarantee that the process was uncorrupt. As of yet, there is no credible data demonstrating how the new government has influenced the situation. There is no transparency in party financing (including the new ruling party), although legislation requires it.

Legislation prohibits public officials and politicians from taking part in economic activities. In the Shevardnadze era, this prohibition was often ignored or observed merely as a formality. Although there have been no credible reports of the new government being involved in economic activities, the public desires more transparency about the economic activities of friends of powerful leaders in government.

There are laws requiring financial disclosure and disallowing conflict of interest. The Information Bureau on Property and Financial Condition of Public Officials processes financial declarations. Since February 2004, public officials are required to submit proofs of legality for any acquisitions of property, but the bureau does not have the capacity to check the existing information. Allegations of corruption are widely discussed in the media; however, there has been a noticeable decrease in investigative reporting by broadcast media.

With regard to public attitudes about corruption, many experts note a paradox. While people express strong criticism of official corruption, many of them resort to corrupt practices as an easy solution to their own problems. The unwillingness of many citizens to serve as witnesses in courts to reveal irregularities or cooperate with law enforcement in other ways (for instance, using the above-mentioned hot lines in the ministries) also decreases the effectiveness of law enforcement. Many people consider cooperation with law enforcement to be an immoral act of "denunciation." However, most anticorruption initiatives of the government are generally popular, and people are rather critical of the government for not being consistent enough in this area. In Transparency International's 2004 Corruption Perceptions Index, Georgia was ranked 133rd out of 145 countries surveyed.