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Democracy and Governance
Assessment Of Georgia**

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The views expressed in the following assessment are nonetheless those of the authors and do not necessarily reflect the opinions or policies of the US government.

Table of Contents

Acknowledgements	i
Acronyms	iv
Executive Summary	v
Introduction	1
Part One: Assessing Democracy and Governance in Georgia	3
1.1 Independence, Conflict and the (re)Consolidation of Political Order, 1989-1995	3
1.2 Trajectory of Recent Political Developments, 1995-2002	6
Part Two: Principal Governance Dilemmas	12
2.1 Consensus	12
2.2 Competition.....	13
2.3 Inclusion.....	15
2.4 Rule of Law.....	16
2.5 Governance	17
2.6 Summary: Distilling the Assessment	18
Part Three: Key Actors and Arenas	21
3.1 Executive Power	21
3.2 The Competitive Arena.....	25
3.3 The Rule of Law	29
3.4 The Governance Arena	34
3.5 The Civic Arena: Civil Society and the Media	38
Part Four: Recommendations	44
4.1 Electoral Reform	46
4.2 Political Parties	48
4.3 Parliament	49
4.4 Decentralization and Local Government	50
4.5 Rule of Law.....	50
4.6 Civil Society.....	51
4.7 Media	52
4.8 Corruption	53
4.9 Conflict Mitigation.....	54
4.10 Cross-Sectoral Linkages	55
Annexes	
Annex A: List of Contacts	A-1
Annex B: Assessment Scope of Work	B-1

Acronyms

ATUG	Amalgamated Trade Unions of Georgia
CEC	Central Election Commission
CIS	Commonwealth of Independent States
COJ	Council of Justice
CSA	Civil Society Assessment
CUG	Citizen's Union of Georgia
CVA	Conflict Vulnerability Assessment
DCHA	Bureau of Democracy, Conflict and Humanitarian Assistance
DFID	Department for International Development (UK)
DG	Democracy and Governance
EBRD	European Bank for Reconstruction Development
EU	European Union
FOIA	Freedom of Information Act
GoG	Government of Georgia
GYLA	Georgian Young Lawyers Association
IMF	International Monetary Fund
ISFED	International Society for Fair Elections and Democracy
JQE	Judicial Qualifying Exam
LG	Local Governance
LGU	Local Government Unit
LSG	Local Self-Governance
MIA	Ministry of Internal Affairs
MOF	Ministry of Finance
MOJ	Ministry of Justice
MP	Member of Parliament
MPP	Mission Program Plan
MSP	Ministry of State Property
NATO	North American Treaty Organization
NDI	National Democratic Institute
NDP	National Democratic Party
NGO	Nongovernmental Organization
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organization for Security and Cooperation in Europe
PRSP	Poverty Reduction Strategy Paper
PVT	Parallel Vote Tabulation
ROL	Rule of Law
SOW	Statement of Work
TV	television
UI	Urban Institute
USAID	United States Agency for International Development
USD	United States Dollars
WTO	World Trade Organization

Executive Summary

Georgia has a centralized, executive-dominant system of government that is simultaneously weak and maintains a tenuous hold on national territory. The authorities have maintained relative stability compared to the early 1990s when Georgia suffered through three wars, but are incapable of or unwilling to implement reforms. Elected local officials are subordinate to appointed regional officials and depend on central government transfers, which hampers local governments and supports clientelism and pervasive corruption. The executive branch dominates the judicial and legislative branches, limiting judicial independence as well as democratic oversight and representation. Loyalties of the legislature are defined by ties binding members of Parliament (MPs) to the president and the clientelistic web of political-economic interests that surround him. Every Georgian politician, including the president, pays lip service to combating corruption, but no one is capable or willing to attack the problem. The gap between formal institutions and the exercise of real power is wide in Georgia. Formal institutions are abundant, but they have little power separate from the individuals who head them, while groups with no formal authority wield considerable power behind the scenes.

Consensus

- There is formal commitment to constitutional and legal rules and agreement among all major actors that the path to power is through the ballot box. In practice, however, the norms of Georgian politics operate according to a different logic and the behavior of those in power is not subject to the constraints of democracy, yielding widespread cynicism about politics.
- On the territorial identity issue, there appears to be consensus within the territory controlled by the central government, and in Adjara. Consensus is *wholly absent* on the issue of autonomy for South Ossetia and Abkhazia. There is also a pro-separatist current in Javakheti among Armenians residing in the region.

Competition

- The Georgian system is a “contested oligarchy” with robust competition for power among elites through elections and a great deal of behind the scenes bargaining, mostly unfettered by citizen pressure. Although it remains an open institution, Georgia’s Parliament is weak because parties, themselves weak, have difficulty forming stable alliances.
- Competition is confined to elite cliques, which affects the quality of representation. Few links exist between those who compete for state control and citizens. Once elected, MPs are insulated from citizen influence and are left to look for other cues to inform their positions. Strong influences appear to be personal loyalties, personal interest and the predominant power of the executive. Among MPs, interparty mobility is high—and in the wake of the Citizen’s Union of Georgia (CUG) breakup, many MPs no longer belong to the parties they were elected to represent.
- Georgia’s party system remains weak, inchoate and unstable. Parties are personality-based factions rather than programmatic structures with identifiable constituencies, excepting the Labor and Revival parties, leaving voters to differentiate among parties on the basis of their leaders, which undercuts the development of grassroots party organizations.
- There are no formal barriers to participation, but imperfections of the electoral system allow manipulation of procedures that weaken the validity of election outcomes. Changes in

electoral rules have improved the quality of elections. Voting is free (except in Adjara) but problems with the registry and the count undermine the legitimacy of electoral outcomes.

- Local government elections are also viewed as more fair than either parliamentary or presidential elections, though with notable exceptions. In areas where the political stakes are higher (Rustavi, Poti, Zugdidi, Kutaisi, Tbilisi), local government elections were hotly contested and abuses more egregious. Turnout appears to have increased relative to previous elections.

Inclusion

- The degree to which minority nationalities are able to participate in the Georgian political system is related to mastery of the Georgian language and to an extent by communications infrastructures. Language is also linked to identity, and the use of Georgian as a symbol in the effort to differentiate Georgia from Russia, has also as served to raise concerns among minorities.
- Political actors periodically seize upon issues of ethnicity and religion to advance political agendas. A group of nationalists have been trying to introduce a law which would add citizens' ethnicity to the information listed in Georgian passports. This is a significant problem that could result in ethnic discrimination, particularly because the vast majority of the Georgian population is in favor of this law. It is difficult in the present context to openly endorse the rights of religious minorities.

Rule of Law

- The *de jure* separation of powers guaranteed by the Constitution has not prevented executive interference in higher court functioning. Such meddling has intensified over the years. Supreme Court decisions have been subject to political and other undue influences. For the Georgian opposition, egregious interference occurred in July 2002, following the last local election, when the Court rejected moves from the opposition National Movement (associated with Zurab Zhvania) to recognize the powers of the Tbilisi City Council on the grounds that that there had been irregularities in vote counting.
- At the lower court level, the picture is more positive. The public has more confidence in judicial proceedings and more faith in the impartiality of court decisions compared to five years ago, particularly in first instance courts. An indication of this rising trust is an increase in court filings—courts hear perhaps three or four times the number of cases today compared to five years ago. Newly appointed judges are seen as more qualified and honest than their predecessors, with exceptions. Many attribute this image change to the implementation of qualifying exams (JQEs) and the resulting appointment of qualified judges.
- The enforcement of court judgments does not function in Georgia. The Ministry of Justice (MOJ) officials charged with implementing decisions are corrupt, incompetent or in any event short-staffed, with the result that only a fraction of the judgments handed down are enforced. Court bailiffs are not properly trained and are badly compensated. They lack basic infrastructure (i.e., means of transportation) to effectively discharge their duties. The inefficient enforcement system seem to be another factor accounting for the low numbers of civil disputes in courts and has prevented full public acceptance of the court system as a venue for dispute resolution.

- Rule of law progress in Georgia is rather uneven, despite unmistakable improvement in the functioning of courts as the result of reforms implemented over the last decade. In addition to corruption issues (discussed elsewhere in this report) bribery has not been rooted out from judicial proceedings, while the exercise of executive power still interferes with court independence. While lower, regional courts seem to have improved as a result from the reforms, the notoriously corrupt police and prosecutors have not kept pace, with the result that court judgments are seldom enforced, which threatens to undermine the progress made thus far in the courts. Finally, there is the disturbing trend toward religious intolerance which has done little to enhance the public's image of law enforcement and judicial agencies as guarantors of civil rights.

Governance

- There is a pronounced policy implementation gap in Georgia, a country with many liberal laws but a poor record of implementation that is widely interpreted as a failure of political will. The problem seems to be that public pressure on decision makers is not yet strong enough to overcome vested interests that block the implementation of reform policies already enacted.
- There is an imbalance in the allocation of power, authority and resources between central and local authorities. There is some indication that cities have seen their relative power increase (compared with the *rayon*) as a result of recent (June 2002) local elections which featured direct mayoral elections. Conversely, there is an increased vesting of power in appointed rather than elected authorities at the *rayon* level, whose mayor is appointed by the president from the elected council. His position derives from executive appointment, rather than representation.
- Corruption continues to be a major obstacle to democracy and governance in Georgia. Petty corruption is pervasive and annoying, touching every aspect of society, By all accounts this form—typified by the proliferation of “traffic cops” who are essentially uniformed bandits with a license to shake down motorists—has spiraled out of control. Grand corruption, the type suffusing the highest levels of many government ministries, has also proliferated over the last several years, even as the government has convened an “anticorruption commission.” The recommendations of the commission have yet to be executed, and it seems unlikely that this government will implement them.

General Recommendations on Strategy and Tactics

Democracy and governance in Georgia are hindered by a lack of effective checks on the exercise of executive power within the central government. This gross imbalance of power among branches *and* levels of government impedes the functioning of political institutions and relies on as well as reinforces anemic mechanisms of horizontal and vertical accountability. This lack of accountability and of limits on executive power, in turn, has led to undue political intervention in the legislature and judiciary, violations of rights, and weak accountability, all of which has exacerbated a serious corruption problem that undermines the rule of law and virtually every other facet of governance in Georgia.

In this context, the overarching objective of the D/G program should be threefold:

- Support organizations and institutions effective at checking executive power and rendering it accountable to other branches, the law, and the citizenry. Checks and balances on are exercised in five

spheres in a democracy: the Judiciary and the Legislature, local government, the media, and “political society”, including political parties as well as civil society organizations. Measures aimed at boosting oversight functions of judicial or legislative branches of government, at empowering locally *elected* city and *rayon* level authorities, and at strengthening elements of society that serve a watchdog function will serve the broader purpose of helping Georgia past a major reform roadblock.

- Strengthen accountability of elected leaders at the local and national level by supporting issue coalitions that serve an advocacy role, boosting public watchdog organizations, and strengthening legislative entities (committees) that allow for greater citizen input in the legislative process.
- Fortify emerging alternate centers of power in Georgia, mainly the elected city governments, mayors and elected district-level councils. These alternate centers hold the promise of tilting a lopsided balance between central and local authority that serves to undermine local self-governance. An effective local governance strategy must be done cautiously, however, to avoid replicating or multiplying perverse features of the central government (corruption, etc.) at the local level.

Introduction

The purpose of this Democracy and Governance (DG) Assessment is to take stock of the status of democracy in Georgia, given more than a decade of independence. Fieldwork in Georgia was conducted during a three-week period during September 2002. It was timed to coincide with the early stages of a broader reflection process that will culminate in the definition of a new strategic plan to guide USAID's program's in Georgia over the 2003-2008 period and beyond. The report focuses primarily on political dynamics over the last five years (1997-2002). However, because this is the first broad assessment of political dynamics and trends conducted by USAID since the inception of its programs in Georgia, a brief discussion of the 1991-1997 period is also included.

In broad terms, the DG assessment methodology developed by USAID's Center for Democracy and Governance informed the team's approach.¹ This methodology is not intended to produce an exhaustive description of recent political history, but rather to enable small field teams to provide a political-economic "snapshot," and provide strategic recommendations to assist USAID in determining where its interventions may have the greatest impact in supporting democratic transitions or in promoting the consolidation of democracy and good governance where they exist. It highlights five analytic elements (see Figure 1) in examining the interests, objectives and resources of key actors as they interact in at least four institutional arenas—competitive, civil society, rule of law and governance. This analysis is then filtered to generate strategic recommendations of utility in conceiving, designing and implementing DG assistance programs.

Figure 1: Key Analytic Elements

- **Consensus:** To what extent is there consensus on the fundamental rules of the game, and to what extent is the political contest played according to those rules? To what extent is there consensus on national identity, citizenship, borders and the appropriate definition of the political system?
- **Competition:** To what extent does meaningful competition take place in the political system and in other arenas of society? To what extent are there elections, a competition of ideas, a free media, and a vibrant civil society? Are meaningful checks and balances present in government? What are the chief impediments?
- **Inclusion:** Are there problems of inclusion and exclusion? To what extent are parts of the population formally or informally excluded and disenfranchised from meaningful political, social, or economic participation?
- **Rule of Law:** Is there ordered liberty? Is politics; indeed are life, liberty, and property bound by a rule of law? To what extent is there confidence in formal systems of dispute resolution? Alternative systems? Impediments?
- **Governance:** To what extent do social institutions (both in the public and private sectors), demonstrate a capacity to make and meet commitments, deliver reliably a minimum of social services and be held accountable for their performance? Systemic impediments? Constraints to state institutions? Constraints affecting local government?

The assessment is based on upwards of 90 individual key informant interviews and a variety of small group discussions with individuals drawn from a broad cross section of Georgian society—political actors and observers, media and civil society organizations, central and local government officials, MPs and judges. The assessment team also interacted with a cross-section of the international donor community

¹ USAID, Center for Democracy and Governance, *Conducting a DG Assessment: A Framework for Strategy Development* (Washington, DC, November 2000).

and US country team. A list of those consulted can be found in Annex A. A wide range of documentary resources also inform the analysis. Because USAID/Tbilisi invested heavily in numerous sectoral assessments over the past year,² we have sought to take these as a point of departure in the present analysis, and draw heavily on their findings. Where the present analysis differs from earlier work, this is indicated.

While the majority of interviews were conducted in Tbilisi, the assessment team visited a number of additional cities to validate general analytic perspectives gained through interviews at the center with those in the regions. For the regional visits, the team split into two groups. One visited western Georgia, and conducted interviews in Kutaisi, Poti and Ozurgeti. The other visited eastern Georgia, conducting interviews in Telavi, Lagodekhi, Rustavi and Marneuli. These sites were chosen to reflect regional, cultural and economic variation. The team did not visit the areas of “frozen conflict” or Adjara.

² These include CSA, LG, CVA, ROL...

Part One: Assessing Democracy and Governance in Georgia

At independence, Georgia faced two fundamental challenges: that of defining the internal political order, and that of defining an independent identity vis-à-vis Russia. The interplay between the responses to these two challenges has had a fundamental impact on the development of the Georgian political order. During the terminal years of the Soviet system and the first years of Georgian independence under the Gamsakhurdia regime, the adoption of an increasingly strident ethnic-Georgian nationalism in answer to the first challenge provoked internal and external tensions, which resulted in widespread domestic violence and ultimately the effective separation of Abkhazia and South Ossetia. Following the return of Eduard Shevardnadze, internal stability was gradually restored and political authority reconsolidated through a complex process of political maneuvering which involved the negotiation of tactical and strategic alliances with various centers of political and military power, and the gradual co-optation or marginalization of those who appeared to threaten the new order.

Through this process, a set of governing institutions (both formal and informal) has been consolidated that greatly reinforce the power and authority of the presidency at the expense of other state institutions. Although severely constrained by circumstances, Shevardnadze's approach to the re-consolidation of the Georgian State has had profound implications for the evolution of governance in post-Soviet Georgia. Sections 1.1 and 1.2 trace the broad outlines of the evolution of the current system of governance over the last decade. Although we devote greater emphasis to developments during the 1995-2002 period, it is essential to understand current structures and patterns of rule as legacies of the period of initial state consolidation.

1.1 Independence, Conflict and the (re)Consolidation of Political Order, 1989-1995

Georgia's transition from Soviet Republic to independent state has been violent. In the spring of 1989, public demonstrations against the Communist Party and pro-democratic and nationalist appeals under the leadership of dissidents from the 1970s like Zviad Gamsakhurdia became so threatening that the Communist Party called in special Soviet troops (*Spetnaz*) to disperse the crowd. The killing of unarmed demonstrators in Tbilisi by the *Spetnaz* on April 9, 1989 became a turning point for the end of the Soviet Union. Far from ending protest against Soviet rule, the killings had the effect of reinforcing opposition and delegitimizing both the Communist Party and the Soviet Union in the eyes of much of the Georgian public. Unwilling to rely on sustained repression, Moscow removed several senior local party officials, and sought to reduce pressure by shifting the focus of attention. The new Communist Party authorities sought to divide the opposition and provide themselves with a popular base by playing on the ethnic divisions within Georgia and antagonizing the Abkhaz and Ossetian minorities in particular.³ Ultimately unsuccessful in achieving their intended outcome, these efforts nonetheless had a profound effect on Georgian internal politics, as escalating interethnic conflict has continued to be a feature of the political and human rights situation in Georgia.

In contrast to the Baltic republics where relatively moderate Popular Fronts coalesced over a number of years prior to the final breakup of the Soviet Union, opposition in Georgia became increasingly radicalized after the events of April 9, 1989. Divisions, based largely on personality and tactical differences, also proliferated and although attempts were made to create a united front prior to the 1990 elections, its longevity was limited. As Wheatley notes, the general picture was one of a highly fragmented opposition where,

³ In fact, in 1988, the government had already proposed a new language law, which downgraded Ossetian rights.

“parties split regularly and proved virtually impossible to institutionalize...[Because] self-defined social groups sharing a common social identity (e.g., social classes) were almost completely lacking in the former Soviet Union, ... parties had no “natural constituency” around which to coalesce. Moreover, in Georgia civil society was by and large absent, so what [emerged] was a very powerful nationalist social movement with no capacity for internal control. Here, leadership and charisma proved far more valuable qualities than good organization. This situation inevitably spawned a very large number of small opposition parties based around one or other (more or less) charismatic leader.”⁴

The 1990 elections, conducted with little violence during the campaign and no evidence of overt interference with the polls, resulted in an overwhelming majority for Gamsakhurdia’s Roundtable Bloc over both the moderate opposition Freedom Bloc and the Communist Party. The election was significant not only in the degree of Roundtable dominance, but as a vehicle for a sweeping shift in the political class, as the political elite and liberal intelligentsia lost in favor of Roundtable Party-list candidates from the regions. Gamsakhurdia then turned to the task of consolidating his position, first persuading Parliament to make him executive president, and then moving to introduce direct elections for the presidency. In May 1991 he won the first contested direct election for the presidency of any Soviet republic. Gamsakhurdia’s critics complain that his behavior became autocratic *after* his direct election to the executive presidency.

In defining its identity vis-à-vis Russia increasingly in terms of symbols of Georgian ethnic identity—primarily religion and language—the Gamsakhurdia regime displayed an increasing intolerance towards non-Georgian populations, and articulated nationalist slogans (“Georgia for the Georgians”) that generated considerable concern among minority populations regarding their future in the country. The situation in South Ossetia remained unstable, and clashes between supporters of the Ossetian demands for autonomy and links with North Ossetia and official (but weak) Georgian forces were recurrent in 1990-1991. During this period a variety of paramilitary groups emerged to fill the power vacuum, adding to the general insecurity as they competed for control of both territory and resources. Although proclaiming their goal to be the defense of what they regarded as Georgian soil, from the start they were accused of being involved with black market operations. The most significant of the paramilitaries, the *Mkhedrioni* (the Horsemen), led by Dzhaba Ioseliani, would later form the nucleus of the coup that unseated Gamsakhurdia in late 1991. As Wheatley has noted, “the period of time between the 1990 elections and Gamsakhurdia’s eventual downfall in January 1992 was marked by increasingly erratic one-man rule by Gamsakhurdia, a general increase in street violence, and the outbreak of war in South Ossetia. It was also marked by an increasingly powerful opposition, which was originally based around the National Congress but eventually came to include former Gamsakhurdia allies whom the new leader had managed to alienate.”⁵

Gamsakhurdia’s failure to clearly condemn the attempted hardline anti-Yeltsin *coup* in Moscow and other parts of the Soviet Union from August 19-21, 1991 brought open opposition to Gamsakhurdia’s rule among Georgians. His decision to subordinate the National Guard to the Ministry of Internal Affairs (MIA) led to a break with the Guard, which under the leadership of Tengiz Kitovani, subsequently threw its support to anti-government demonstrators. Yet, whatever the flaws of Gamsakhurdia’s government, the inability of his opponents either to detach a majority of deputies from his side or to show clear evidence of widespread popular support through mass strikes or a petition nullifying Gamsakhurdia’s election suggests that by the end of 1991, Gamsakhurdia’s enemies had given up hope of deposing him either constitutionally or peacefully.

⁴ Wheatley, 2002, draft, p. 91.

⁵ Ibid., p. 94.

The military *coup* against President Gamsakhurdia in Georgia that unfolded between December 20, 1991 and January 6, 1992 resulted in the creation of a Military Council dominated by the two principal warlords, Ioselani and Kitovani. The Council immediately faced a legitimization crisis: how, as Wheatley has summed it up, “could two paramilitary leaders such as Ioselani and Kitovani ever gain international recognition for Georgia and show that the country was worthy of vital foreign credit.”⁶ The response to this dilemma had two distinct components and demonstrated considerable strategic insight. First, the Council declared its commitment to democracy, signaled a willingness to negotiate with all parties (save Gamsakhurdia in person), and established a Consultative Council to provide structure to the discussions. Second, the decision was taken to invite former Georgian Communist Party leader and Soviet Foreign Minister Eduard Shevardnadze to participate in the State Council, which was to replace the Military Council. Shevardnadze accepted and returned to Tbilisi on March 9, 1992.

Shevardnadze initially focused on bringing the country under central control and establishing order in Georgia. The absence of a clear hierarchy of authority in Tbilisi during this period both increased the tendency of various powerbrokers to act unilaterally, and emboldened forces pressing for greater autonomy in Abkhazia. The State Council embarked on increasingly chauvinistic policies, imposed strict control over South Ossetia and went to war in Abkhazia to prevent the implementation of separatist demands there. An often almost hysterical appeal to patriotism combined with the reality of civil war in the northwest created an atmosphere incompatible with democracy and public debate.

Having returned to the Georgian political fray in a politically dependent position, Shevardnadze progressively consolidated his position by developing both strategic and tactical alliances with a variety of groups interested in power and access to State (or public) resources. In effect, Shevardnadze used the formal authorities at his disposal—perhaps most importantly, the power to appoint individuals to government positions—to consolidate the position of key support constituencies within the state structure. As his position became increasingly secure, he sought to increasingly marginalize forces he could not fully control (the Mkhedrioni, for example), by playing off the interests of power centers nominally allied with him. He was greatly assisted in this task by successfully forcing a state of emergency through Parliament in September 1993, and in assuming personal control of the MIA. As Hanf and Nodia have noted, “in the police the head of state had a real power base, which he could gradually expand at Ioseliani’s expense.”⁷ He also moved, in late 1993, to consolidate his political base with the creation of the Citizens’ Union of Georgia (CUG), a political party which drew together a variety of preexisting organizations and political factions whose interests converged in supporting Shevardnadze (although they diverged fundamentally on a variety of other issues). As Wheatley has noted in this regard, “ostensibly the party’s philosophy was to promote civic unity irrespective of ethnicity (hence the name Citizens’ Union) and radical economic reforms. However from the outset, the younger members of the Green Party, who favored fast-track economic reform, and the more conservative former nomenklatura and managerial elite... would prove uneasy bedfellows, as regards the second principle.”⁸

The *quid pro quo* for loyalty has been unfettered access to various sectors of the formal and informal economies—reportedly, for example, the energy sector—or the institutions that control access to them, including the MIA. Wheatley notes in this regard that in Georgia, “proximity to state power has always been a guarantee of resources. In 1992-1993, power and resources were dispersed amongst a relatively large number of informal organizations whose influence did not correspond to the distribution of official posts. However, ...[as power became] more centralized and formalized around the Head of State and the

⁶ Ibid., p 103.

⁷ Theodor Hanf and Ghia Nodia, *Georgia Lurching to Democracy: From agnostic tolerance to pious Jacobinism – Societal changes and peoples’ reactions* (Baden-Baden: Nomos Verlag., 2000), p. 36.

⁸ Wheatley, draft, 2002:117.

institutions around him, those groups without access to the formal institutions of the state were finding it much harder to maintain a foothold within the political arena.”⁹

Georgian-Russian relations played a critical role in the shaping of the Georgian internal political order during the process of state re-consolidation. Shevardnadze has often played upon Georgian fears of Russian imperialism, and accused Russian military and other “dark forces” of interfering in Georgia and promoting ethnic unrest. These assertions are widely viewed as plausible by the Georgian population given the ambiguous Russian peacekeeping presence in South Ossetia and Abkhazia, conflicts with Russia over energy issues, and the continued presence of Russian bases within Georgia. At the same time, Georgia agreed to a long-term Russian involvement in the zones of conflict, accepted a continuation of Russian base rights, and made the symbolic gesture of joining the Commonwealth of Independent States (CIS). Hanf and Nodia have characterized Georgian foreign policy in the period immediately following Shevardnadze’s return as a series of “frantic, often contradictory attempts to accommodate Russian interests to some degree while building bridges to the West.”¹⁰ Their argument is essentially that by 1995, when deals with Moscow failed to bring substantial dividends, Georgia began a serious search for alternative sources of support, indicating its shift in orientation through an acceptance of a structural adjustment package and a parallel political process of constitutional reform.

The perceived (and at times real) threat of Russian intervention in Georgia’s internal affairs coupled with the regime’s expressed commitment to increasingly democratic governance served to ensure the flow of external resources from Western donors and to generate diplomatic support which served to bolster Shevardnadze’s internal legitimacy.¹¹

1.2 Trajectory of Recent Political Developments, 1995-2002

As Hanf and Nodia have argued, the consolidation of Shevardnadze’s power base, the re-consolidation of *de jure* state institutions controlled by civilian government, and the initiation of reforms aimed at macroeconomic stabilization ran parallel, with marked changes taking place over the course of 1995. A new Constitution—one that granted unprecedented power to an executive president—was adopted in August of that year, paving the way for parliamentary and presidential elections in October. Shevardnadze and the CUG prevailed with an overwhelming majority, and CUG Secretary General, Zurab Zhvania (former leader of the “Green Party”) was elected as Speaker of Parliament. Zhvania proved to be a talented politician capable of managing affairs on the backstage and publicly as well. Having taken great pains to recruit and promote a variety of young, educated and pro-Western reformers within the CUG, Zhvania was able to ensure their dominance on the party list and thus brought them with him into government. At the same time, however, Wheatley has argued that the 1995 elections represented the triumph of elite parties over those with deeper social roots (i.e., the Zviadists and Communists), and marked the effective exclusion of the Georgian public from the political arena *per se*.¹² Certainly, the immediate impact of economic liberalization measures on the Georgian public was harsh, with prices for electricity, petrol and food increasing precipitously in a context of rising unemployment.

⁹ Jonathan Wheatley, draft, 2002:124.

¹⁰ Op. Cit.

¹¹ Ironically, while many Western observers and diplomats in Tbilisi emphasized Shevardnadze’s opposition to Russification under the Soviet regime, his domestic critics remember his policy differently. During his period as Communist Party First Secretary, Shevardnadze’s stance was far from undiluted promotion of Georgian culture. Although Shevardnadze protected some abstract sculptors and experimental theater and cinema directors, his popularity with the Georgian intelligentsia (as opposed to the employees of official cultural and educational institutions) was not great before 1985. Symbolically, at the last preparatory meeting of the Georgian Party’s Central Committee in preparation for the 25th Congress of the Soviet Communist Party, Shevardnadze delivered his report to his Georgian comrades in Russian.

¹² Wheatley, 2002:128-129.

During Zhvania's tenure as Speaker, Georgia appeared to many observers to have begun democratic consolidation, and indeed there was reason for optimism. As Hanf and Nodia have summed it up, Georgia enjoyed, "two and a half years of relative stability. There were no armed hostilities in any part of the country. Parliament established itself as a fairly effective and reform-minded body that pushed for faster and more radical democratic and economic reforms. Georgia established good relations with all of its neighbors (despite tensions with Russia). There were notable developments in the sphere of civil society. Printed media and nongovernmental organizations were not only free, but increasingly assertive in their relations with the government."¹³

Between November 1995 and the parliamentary elections of November 1999, there was positive movement along a number of dimensions. Legal and judicial reform emerged as priorities, and the introduction of a transparent and merit method of selecting judges coupled with improvements in their conditions of service, contributed to increased judicial independence. In parallel, with the introduction of a uniform administrative code, the reformers established a legal basis for holding executive agencies accountable to standards of performance and probity, largely absent under previous regimes. Shevardnadze also moved to dismiss a number of ministers for economic malfeasance, a symbolically important move that underscored his apparent commitment to addressing governmental corruption.

The success of the "young reformers" was in part due to their energy, technical capacity, and ability to work as a team, but also in part to the fact that those whose interests were most directly affected were slow to understand the relevance of the reforms. It was also facilitated by the good relations that initially existed between Zhvania and Shevardnadze, whose standing with the international community was enhanced by the appearance of serious political reform. Momentum for reform was, however, difficult to sustain, particularly in the face of increasingly coherent opposition and continued economic decline.¹⁴ Problems of corruption, low tax and customs collection became more evident, and the pace of reform slowed.

Several factors contributed to the loss of momentum. One was Shevardnadze's style of political management, predicated on undercutting the emergence of autonomous political forces. As Zhvania sought to extend his control over an executive branch and state chancellery dominated by the former nomenklatura, Shevardnadze countered by appointing Niko Lekishvili, the former chief of the Communist Party of Tbilisi, as state minister. The following years were marked with continuous and increasing tension between Zhvania and Lekishvili, both trying to maintain the power within his own branch and expand it into the other. Zhvania was in control of the Parliament and the bulk of CUG, while Lekishvili controlled the ministers. This placed Shevardnadze in the position of arbiter, a role he reinforced with a variety of appointments. Additionally, Shevardnadze's internal security strategy remained dependent on alliances with a variety of actors with deeply vested interests in the existing (informal) systems of resource allocation. As the effects of early reform began to be felt, opposition both within Parliament and outside became increasingly coherent. More importantly perhaps, faced with tradeoffs between clan and family interests integrally linked to his internal security strategy, and those of liberal reformers, Shevardnadze's willingness to support serious reforms declined.

Over time, some of those who had supported Zhvania's reform agenda turned against him, driven to a large extent by personal ambitions encouraged from the chancellery. One such person was Levan Mamaladze, who after his appointment as Governor of Kvemo Kartli, acquired control over key businesses in the region, then used these as a base for expanding his political influence. Although

¹³ Hanf & Nodia, 2000: 39.

¹⁴ The Russian financial crisis of 1998, which further undermined Georgia's economy, also highlighted a variety of continuing internal problems.

committed to ensuring that the CUG prevailed in Kvemo Kartli, Mamaladze actively courted potential allies in support of a leadership challenge to Zhvania within the party during the lead up to the 1999 parliamentary elections. He was later instrumental in frustrating Zhvania's attempt to use the CUG as an electoral vehicle following Shevardnadze's resignation from the party.

The CUG emerged from the 1999 parliamentary elections with a solid majority, but its reformist credentials were increasingly suspect. Because the party remained largely a vehicle for Shevardnadze, its identity shifted as the coalition of interests around the president evolved. Zhvania was unable to control the composition of the party lists, which were split between his supporters and those aligned with the Lekishvili faction of the party. The 1999 elections brought a diverse mix of political actors into the Parliament, many of whom were ambivalent about reform and reluctant to support Zhvania. This served to intensify tension within the party over leadership and the legislative agenda, and to intensify the latent struggle for power between Zhvania and Shevardnadze.

The present leaders of the New Rights Party of Georgia, David Gamkrelidze and Levan Gachechiladze, were elected through the CUG party lists and effectively marketed as the new face of the CUG. Shevardnadze then promoted the former Georgian Ambassador to Russia, Vazha Lordkipanidze (who retained close ties to Moscow) to the position of state minister. Zhvania moved to block the appointment, forming an alliance with the New Rights faction which wanted Gamkrelidze in the position. However, having succeeded in blocking Lordkipanidze, Zhvania shifted his support to the less influential Governor of Kakheti, Gia Arsenishvili, and recommended him to Shevardnadze. The tension between Zhvani and the New Rights Party began at this point. Arsenishvili's tenure was not particularly eventful. He tried, with Shevardnadze's tacit support, to institute new reforms, and the president expanded his rights and responsibilities further, but there was no major improvement in the fiscal deficit, the timely payment of wages, or the adequacy of funding for major public services like education and healthcare.

On issues of foreign policy, Georgia's generally Western alignment, and a theoretical vision of a polity organized along democratic lines, Zhvania and those around him fully backed Shevardnadze. Yet over time, concerns grew over the stalling of key reforms and the significant influence of criminal elements in government, including those surrounding the notorious Minister of Internal Affairs, Kakha Targamadze. Although reformers were able to make some progress at the margins, they were increasingly pessimistic that Georgia would effect the necessary reforms to achieve greater economic and political integration with Europe. Liberal ministers, including Saakashvili and Machavariani, were able to initiate some reforms in their respective institutions but later resigned in protest of widespread corruption in government and what they perceived as the unwillingness of the president to combat it.

The government's inability to curb corruption increasingly emerged as a principal focus internally and concerned the West. Widespread corruption in law enforcement and other structures damaged state interests and the image of the president significantly. A Washington Post article, "Hero Abroad, Villain At Home," in Spring 2001 and then two months later, "the Potemkin Democracy" article worried the young reformers. They were concerned about the country's future and about being too associated with the corrupt regime, and they decided to start criticizing the government. Zhvania published an open letter to Shevardnadze asking him to take decisive steps to curb corruption.

With growing criticism, Shevardnadze left party leadership in September 2001 and tried to establish a vice presidential system. But following the September 11 attacks, and Russian aggression against Georgia, the country united behind Shevardnadze, and subjects like constitutional change or restructuring of the government were left to a later date. In fact, for more than a year, the persistent Russian pressure over Georgia, including occasional bombings of Georgian territory, made it impossible to challenge Shevardnadze's regime and push for serious reforms—Russian aggression has in a way kept the pro-reformist forces silent.

Shevardnadze came close to resignation in the fall of 2001 when a private Rustavi 2 TV station ran stories about Targamadze's involvement in smuggling Chechen fighters to Abkhazia, and Targamadze and his forces tried to threaten the station into silence. Georgians poured into streets in defense of free media and forced Shevardnadze to get rid of the Interior and State Security ministers. Realizing that the masses of people in the streets of Tbilisi posed a threat to his rule and that some response was necessary, on November 1 Shevardnadze dismissed the entire government instead of taking action against his key allies.

Zvania and Saakashvili then left their government positions and moved into overt opposition, using popular discontent with Shevardnadze's rule and rampant high-level corruption as focal points for consolidating independent political bases. The CUG was already dissolving with the creation of the New Rights, and following Zvania's resignation, other groups left the party too. CUG initially fragmented in to a variety of groupings, which included New Rights; Zhvania's team; Saakashvili's team; Together Again, which completely supports the president; and Alliance for New Georgia). Despite his attempts to distance himself from Shevardnadze, many considered Zhvania part of the problem because he had also allied with corrupt characters when necessary and these forces now took over Georgia. Some, like the Kvemo Kartli Governor, Mamaladze, later became opponents, including to the CUG leadership, and prevented Zhvania from consolidating his power and achieving decisive success in the local elections of June 2002. For his part, Mamaladze and his CUG faction received a devastating local election loss, resulting in a major blow to the incumbent party and the image of the highest authorities, including Shevardnadze.

The Present Balance of Forces

Tension between government and opposition has grown substantially since the CUG's breakup, and the opposition itself has become increasingly complicated. The opposition can be delineated into the following:

- What might be termed a "radical opposition," which includes groups advocating a fundamental overhaul of the existing system. This category is heterogeneous, including both Saakashvili's New Movement, which promotes the establishment of a liberal democratic political order as well as Natelashvili Labor Party, which largely supports a return to an order similar to that of the Soviet period. Both view collaboration with the existing regime as futile or impossible.
- What might be termed a "moderate opposition," which avoids discussion of structural changes, emphasizing instead the need to replace the individuals in positions of power within government, including Shevardnadze. This category is also heterogeneous, and includes both New Rights and Zhvania's United Democrats. These parties are more acceptable to and capable of bargaining with the existing government, since they do not advocate fundamental changes of existing institutions and structures. They are, as a consequence, also more subject to co-optation.
- What is probably best termed the "opportunistic opposition," composed of parties which are distinct from the ruling coalition in name only, and are increasingly aligned with government. This category includes such parties as Vakhtang Rcheulishvili's Socialist Party, which has recently agreed to form a coalition with the CUG in anticipation of the forthcoming parliamentary elections.

With its territorial integrity violated, its economy lurching from crisis to crisis, and Shevardnadze's initial backing of a team of young reformers ending with their denunciation of his unwillingness to address corruption, Georgia is facing a tense pre-election period. With the field more open than ever before and the outcome less predictable, all parties and factions are preparing for the 2003 parliamentary elections (slated for November) with an eye on the 2005 presidential contest—when Shevardnadze, who has traded on his indispensability for years, will not be running.

The division and fragmentation of political forces that occurred during 2001 and 2002 has resulted in a new and unstable balance of power both in Tbilisi and throughout the country. Despite the fact that they head different political movements and have adopted different strategies for promoting longer-term political change, Zhvania and Saakashvili have cooperated closely following their resignations from CUG. Zhvania's United Democrats Party and Saakashvili's New Movement Party share many of the same principles and a common strategic vision of Georgia as a Western-oriented state with a clean, efficient government and market economy. Zhvania is generally regarded as more statesman-like, experienced and pragmatic, and therefore not likely to push for radical changes that could inadvertently destabilize the country. While Zhvania is often considered to be elitist and too compromising, Saakashvili is much more charismatic and populist, and viewed as committed to the wholesale replacement of a political system permeated by corruption. As a consequence, Saakashvili has broad appeal to the average Georgian, and his passionate and often unpredictable actions remind many of former President Gamsakhurdia. An alliance between Zhvania and Saakashvili has not been formalized—indeed both have resisted this, and external attempts to foster the formation of a coalition between the two have, so far, failed.

A broader “reformist” coalition may be coalescing. Following the events during the summer of 2002, a number of political parties decided to unite over one common agenda: resist the criminalization of politics. Former Chairman of the Parliament, Zurab Zvania, proposed to formalize the union into one umbrella entity that would coordinate their activities against this trend, and a number of small parties (People's Party, Traditionalists, National Democratic Party [NDP]) met in September (with the help of NDI) to coordinate a pro-democratic opposition policy.

In addition to the strong opposition to the Shevardnadze government from Zhvania and Saakashvili, the Labor Party and its leader, Shalva Natelashvili, also oppose the government. Natelashvili managed to seize the control of the City Council of Tbilisi following local elections. The party enjoys support amongst various groups of the population. Natelashvili is a lawyer by education and former chairman of the parliamentary Legal Issues Committee. He is regarded as the leader of the mainstream left wing in Georgia. He enjoys support from the rural population, the elderly as well as young people. He is not affiliated with any government group or influential official and seems to be effectively exploiting the existing economic and social situation in his favor.

A newer force in Georgian politics is the New Right Party, formed by Georgian businessmen who were elected in the Parliament through the election lists of the CUG. They enjoy significant support from the executive branch and now hold the majority of parliamentary commission offices. Levan Gachechiladze, former director of the Georgian Wines and Spirits Company and David Gamkrelidze, former president of TBC Bank manage the party. Both represent companies that are among the most successful businesses in Georgia. Both enjoy support from Shevardnadze and former State Minister, Niko Lekishvili.

A more problematic supporter of the New Rights Party is former Interior Minister, Kakha Targamadze, who during his ministerial years funneled a lot of business to the party-associated businessmen. Targamadze is allegedly in business with Gamkrelidze through the insurance company Aldagi. While no longer head of the ministry, Targamadze is still fairly influential with Shevardnadze and within the ministry. He allegedly heads Georgia's main drug, weapons smuggling and money laundering organization. With these kinds of ties, New Rights shows little interest in significant reform.

With the dissolution of the CUG, the parliamentary majority also fragmented. Nevertheless, a new majority has been created, although it has not yet been formalized through the formation of a faction. The remaining CUG faction and a variety of other parties have allied during several key votes, especially during the chairmen of the parliamentary commissions election that replaced all of Zhvania's supporters

with a significant number of representatives from the New Rights Party. The remaining faction of the Citizens Union and the Alliance for New Georgia (led by Irakly Gogava, a young MP), are strongly backed by Mamaladze. These groups now constitute the new majority in the legislature. Because Mamaladze's reputation has been deeply undermined, Shevardnadze has replaced him with the current state minister, Avtandil Jorbenadze, as the chairman of the party.

The unexpected move by the president to release a former member of the paramilitary group, Mkhedrioni (Giga Gelashvili), and a former Minister of Interior (Temur Khachishvili) raised concerns that the government is trying to criminalize politics to maintain power. Gelashvili and Khachishvili were charged with attempting to assassinate President Shevardnadze; planning the assassination of the leader of National Democratic Party of Georgia, Gia Chanturia; and murdering a number of people. Khachishvili made a statement shortly after his release that he would not let Zhvania and Saakashvili rise to power, and this statement exacerbated popular fears that Shevardnadze might again rely on these men to "bring order."

The situation worsened on July 10, 2002, when ten 25 to 30 year olds attacked the Liberty Institute and beat the director and other members. Liberty Institute is recognized for its activism in defending human rights, particularly the freedom of speech and the rights of religious minorities. Its activities, especially its anticorruption campaign, have often stirred angry reaction not only of political extremists and religious fundamentalists, but also of authorities. As criticism of government by civil society groups increased, the authorities began promoting direct violence against religious minorities, independent media and NGOs. The attack followed accusations that the Liberty Institute and other NGOs were undermining the Georgian State, the Orthodox Church and traditional culture, and some MPs and other extremist politicians requested the *punishment* of Liberty Institute leaders. Liberty Institute believes that in using extremists to label civil rights groups as "protectors of anti-national, anti-orthodox sects," the government is trying to divert the public's attention from its failure to carry democratic reform and fight corruption, police brutality and other abuses.

Part Two: Principal Governance Dilemmas

As noted in the introduction, the present assessment uses five principal analytic categories—consensus, inclusion, competition, rule of law and governance—to characterize the Georgian political system and to identify the principal obstacles to the consolidation of an increasingly democratic system of governance. In the paragraphs that follow, we briefly outline the conclusions that emerge relative to each of these dimensions. It should be noted that these dimensions overlap in significant respects, problems in one area tending to compound those in other areas.

2.1 Consensus

Consensus on the rules of the game is weak in Georgia. Although public discourse reflects pro forma commitment to a form of government governed by a constitutional/legal regime, there is also a widely acknowledged tendency to play by what might be termed the rules of power. There is apparently widespread belief in the desirability of a system in which rules outweigh individual discretion, yet this is coupled with a virtually universal recognition that in practice the behavior of those in positions of authority is not generally subject to the constraints of procedural democracy. This appears to have resulted in widespread and growing public cynicism about politics in general, a generalized distrust of government, and a general feeling of disempowerment.

At one level, the disjunction between form and substance is viewed as a function of the uncertain commitment of the Georgian political class to the establishment of a liberal democratic political order. There does appear to be a high degree of consensus regarding the desirability of a progressively greater association with Europe. Yet, as Nodia has suggested, the exclusive legitimacy of the democratic ideal in Georgia following the collapse of the Soviet Union was not so much based on a commitment to democratic values on the part of the public or the new political elite, but rather on the general pro-Western orientation of Georgia. Much of Shevardnadze's appeal as a transitional leader was initially based on the strength of his personal connections to Western leaders and his associated ability to attract diplomatic and monetary support. The continued threat of conflict with Russia is a factor undercutting popular pressure for reform, since "strong" leadership and internal stability are seen as essential to preserving Georgian security and independence.

At another level, many in the political class acknowledge that the formal rules themselves do not support the consolidation of procedural democracy. For example, the bulk of procedural and substantive law dates from the Soviet period and serves to reinforce the prevailing pattern of executive influence. At the same time, because the persistence of weak legislation and abundant loopholes facilitates the pursuit of personal agendas by members of the power elite (broadly defined), there is little incentive for them to support efforts to implement serious reforms. Indeed, the reverse is true, reflected in efforts over the past year to introduce retrogressive amendments to reform laws already in place. It is difficult then to conclude that there is a clear consensus either on the rules of the game or their application.

On the territorial definition of the state there would appear, by and large, to be consensus within the territory controlled by the central government, in areas of Samskhe-Javakheti and Adjara, although there is perhaps less agreement on the degree to which Adjara should be autonomous. At the same time, consensus is wholly absent on the issue of autonomy for South Ossetia and Abkhazia, and these regions are likely to remain beyond the scope of government control for an indefinite period.

2.2 Competition

The Georgian competitive system is best characterized as a “contested oligarchy.”¹⁵ There is robust competition for positions of state power between and among elites, both through elections and through informal bargaining processes. As Wheatley aptly notes, “much of this competition goes on ‘behind the scenes’ and, unlike the sort of competition that goes on in a democracy, Georgian citizens play little or no role in it. Competition in Georgia is about a struggle for power and/or resources between ‘informal centres.’”¹⁶ Struggles for power and control of resources overshadow and largely outweigh policy-based alignments, and the ultimate arbiter of these struggles is the president rather than the electorate. The overall system is a neo-patrimonial one, in which elements of a legal-bureaucratic order exist in uneasy tension with informal institutions in which power is centralized, personalized, and highly discretionary. The consolidation of this system has had profound consequences for the consolidation of functioning democratic institutions, and for market economic development, since—at a minimum - private economic actors require assurances of policy predictability, secure property rights, and effective contracts if they are to invest in productive activities.¹⁷ These basic conditions remain largely unfulfilled under the present system.

Real power remains highly centralized in the presidency (and executive institutions). It can be and has been exercised arbitrarily since effective mechanisms of accountability are largely absent. Institutionalized systems of competition (e.g., elections) are not generally viewed as guaranteeing democratic outcomes, although the outcome of local government elections are viewed as more reflective of voter opinion than are parliamentary elections. Other institutions, including judiciary and Parliament, lack the autonomy and capacity necessary to check the exercise of executive authority. Parliament remains weak, both because of de facto executive interference and because political parties have great difficulty in forming stable or programmatic alliances.

The fact that competition remains largely confined to elite circles affects the quality of representation of citizen interests in government. Few tangible linkages exist between those who compete for control of the state apparatus and Georgian citizens. To those serving in elected office at the national level, “representation” of constituent interests remains a largely foreign concept. Once elected to office, parliamentarians are insulated from citizen influence, and left to look for other cues to inform their positions. The strongest influences on their behavior appear to be personal loyalties, personal interest and the predominant influence of the executive. Among members of Parliament, inter-party mobility is high and in the wake of the breakup of the CUG, a large number of parliamentarians no longer belong to the parties they were elected to represent. As a recent legislative assessment concluded, “the complexity of the current political situation makes it difficult for citizens to follow political developments and fuels the public perception that Parliament is simply a platform for individual politicians to advance their personal interests.”¹⁸

Georgia’s party system remains weak, inchoate and unstable. Parties and parliamentary factions form, transform and quickly disintegrate, and there is a high degree of volatility in support for parties between

¹⁵ The application of this description to contemporary Georgia originates with Jonathan Wheatley, Draft Diss. 2002. This strikes us as a more useful characterization than that of “dominant power politics” favored by Thomas Carothers, though the two bear much in common. See Carothers, “The End of the Transition Paradigm,” *Journal of Democracy*, 13:1 (2002).

¹⁶ Wheatley, draft, 2002: 154.

¹⁷ For an insightful discussion of this issue see, Peter Lewis, “Neopatrimonialism and Economic Growth: Comparative Observations from Indonesia and Nigeria,” paper presented at the Annual Meeting of the African Studies Association, Washington DC, 7 December 2002.

¹⁸ Schulz & Hubli, *USAID/NDI Joint Parliamentary Assessment*, 03-2002.

elections. Individual parties have little coherent programmatic identity, or identifiable social constituency (the exceptions being Labor, Revival, and Javak), leaving voters little option but to differentiate between parties on the basis of individual leaders. This appears to have produced a vicious circle which further undercuts incentives for parties or individual politicians to invest in developing grass roots party structures and a capacity to aggregate voter interests. Georgian citizens appear to be largely irrelevant to the political process, have limited information about its internal workings, and have limited opportunities to voice their opinions. Although there appears to be an increased demand for polling data by parties, this more likely reflects a desire to tailor public statements for the Tbilisi market than a desire to reflect public will. Parties do not appear to have deepened their roots in the regions, and remain identified with individual leaders at all levels. To a large extent this situation serves the interests of and has been encouraged by Shevardnadze, who is as a consequence, in a position to play the role of ultimate arbiter, balancing the interests of various factions against one another.

There do not appear to be significant formal barriers to party formation and electoral participation, although credible reports of harassment during electoral campaigns suggest the presence of informal impediments to party work in select areas. A significant impediment to competition resides in the imperfections of the electoral system, which has remained sufficiently weak to both allow selective manipulation of voter registration and vote counting procedures and, consequently to deprive outcomes of legitimacy in the eyes of both the populace and external observers. In a fragmented party system with a 7% barrier to list representation, relatively minor distortions in electoral outcomes may have relatively a relatively significant impact on the composition of Parliament.

Changes in the legal framework governing elections, have resulted in clarification of procedures, and the capacity of administration systems has improved. Voting has generally been free (with the exception of Adjara) but takes place within a continuum of procedures that has limited the utility of elections as a free and transparent mechanism for selecting representatives. Problems with the voter registry and with the count continue to seriously undermine the perceived legitimacy of electoral outcomes. Some suggest that the trend is increasing violence, ballot stealing and growing worry among the Georgians (NGO and opposition) that the situation will get worse between now and the forthcoming 2003 Parliament elections

Recent local government elections have been viewed as more fair than either parliamentary or presidential elections. Ironically, this is at least in part because outcomes were generally perceived as irrelevant, as local councils and mayors are seen as peripheral players without much political influence. Turnout appears to have increased relative to previous elections. At the same time, there are some significant regional differences. In areas where the political and economic stakes were perceived to be higher (Rustavi, Poti, Zugdidi, Kutaisi, Tbilisi), local government elections were hotly contested and abuses more frequent and egregious.

Where the stakes are lowest, competition is more likely to be fair and, partly as a consequence, citizen involvement is greater at the local level, for example, where elected officials have few resources at their disposal. Because this is where citizens have the greatest contact with institutions of governance, changing the nature of interaction is key to changing attitudes regarding participation, citizen efficacy, and the role of both elected officials and civil servants. At the local level in some areas there now appears to be a somewhat greater linkage between citizens and government, particularly after the June 2002 local government elections which, even where they returned the same individuals to power, appear to have contributed to a change of attitude. At the same time, information on the operation of local government institutions remains limited, partly because people have not developed the habit of demanding it; partly because officials have not developed the habit to provide it; partly because local media are rare; and media in general focused on national political issues. Significantly, decisions regarding the allocation of resources to local government units remain firmly in the domain of executive authorities, ranged in a

vertical hierarchy from the State Chancellery and Ministry of Finance at the center to the *Rayon* Gamgebeli at the subregional level.

2.3 Inclusion

The degree to which minority nationalities are able to participate fully in the Georgian political system is closely related to mastery of the Georgian language, and to an extent communications infrastructure. Mastery of Georgian is related both to the degree to which the state invests in education generally, and in minority regions in particular, as well as to individual calculations of utility. There is evidence to suggest that there is considerable demand for effective Georgian language instruction in the minority regions. At the same time, however, language is also closely linked to identity, and the use of the Georgian language as a symbol in the effort to differentiate Georgia from Russia, has raised significant concerns for non-Georgian national minorities. Proposed laws to promote the use of the Georgian language sparked protests in South Ossetia as early as 1988-99, leading to pressure to grant the subregion the status of an autonomous republic.¹⁹ This was especially true during the immediate aftermath of independence, but the issue remains salient.

As USAID's recent assessment of conflict vulnerability in Georgia concluded, "ethnic and religious differences have been sharpened and manipulated by political leaders in the past and continue to be a resource for mobilization by political leaders. Weak, ineffective, and corrupt state institutions have led to a lack of confidence in the political system, cynicism about the rule of law, and a tendency to resolve conflict in extralegal ways. Attitudes toward politics and political engagement have changed dramatically over the decade of independence, from activism, mass demonstrations, and popular support for leaders in the early 1990s to little popular participation, apathy, and disgust towards politicians today. The dysfunctional system maintains oligarchic clan control."²⁰ Interviews conducted during the course of the present assessment largely confirm this conclusion.

Indeed, issues of ethnicity and religion are increasingly being manipulated to advance personal political agendas under the name of nationalism, and the state has done little to discourage such activity. As Khutsishvili notes, "for several years a group of nationalists led by Guram Sharadze... have been trying to introduce a law in Parliament which would add citizens' ethnicity to the information listed in Georgian passports. Open discussions of this issue are periodically held in the mass media, coinciding with the worsening of the economy. The new Parliament, like the former one, is postponing their decision on this legal issue and is clearly avoiding a final decision. This is a significant problem that could result in ethnic discrimination and conflict, particularly because the vast majority of the Georgian population is in favor of adding nationality into Georgian passports. The government periodically returns to this subject to shift public attention from the economic crisis to the issue of ethnicity."²¹

It appears difficult in the present political context for those who would speak openly about the rights of religious minorities to do so, and NGOs that have drawn attention to the issue have faced serious harassment. Discourse on this issue remains dominated by those who would define Georgian identity in religious terms. The quiet introduction of "Georgian" religious instruction in the secondary school curriculum further reinforces the unstated but obvious equation of orthodox and Georgian identities.

The degree to which ethnicity is the basis for inter-communal conflict is uncertain. As the 2002 Conflict Vulnerability Assessment suggested, "the lack of resources and limited access to employment for groups

¹⁹ Wheatley, Draft, 2002:88.

²⁰ USAID/Tbilisi, "Georgia Conflict Assessment", ARD, Inc. January 2002.

²¹ G. Khutsishvili, Ethnic and Religious Conflict, internal displacement, and human rights," Annex A2 of Baseline Assessment for Georgia Local Government Program, Urban Institute, July 2001, pp.4-5.

makes competition for these resources intense with the potential to create tensions. These tensions may become more intense if there is an ethnic or religious component that differs between competing groups... Local corruption also fuels a pervasive distrust in local officials and a growing sense that government is nothing more than a rent-seeking opportunity and a license to break the law with impunity.” At the same time, at least some of what initially appears to be “ethnic” conflict, may be as much related to local conflicts over resources that do not break down strictly along ethnic lines. Conflicts over access to resources and distributional benefits between internally displaced populations and local communities in Samegrelo, for instance, have divided Georgians. Alternatively, in Marneuli, dissatisfaction over land distribution (e.g., the 25km border zone, controlled by the MOD, and allegedly “leased” to Georgian entrepreneurs) appears as much directed at the state, as against “Georgians.” What can perhaps be said is that there are winners and losers in the struggle for access to resource, and that those whose ability to navigate the system is limited by language and geography, tend to lose. Over time, this can certainly begin to be interpreted in ethnic terms. On the other hand, we encountered no one who suggested anything less than a desire for greater, if more equitable, integration within the Georgian context.

2.4 Rule of Law

Performance along this dimension of democratic governance has been decidedly mixed. On one hand, much has been accomplished in establishing the constitutional and legislative foundations for a modern Georgian state. For the first time in Georgia’s history, basic human rights and civic freedoms—*inter alia*, freedoms of speech, religion, and assembly, freedom from arbitrary arrest, and the right to a fair trial in which those accused are presumed innocent until proven guilty, etc.—have a basis in law. During what might be termed the period of reformist ascendancy between the 1995 and 1999, Parliament enacted “approximately 785 new laws, including a Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, Administrative Code and the commercial legislation needed for accession to the World Trade Organization (WTO).”²² In parallel, the with adoption of the General Administrative Code and Administrative Procedure Code, a significant initial step has been taken in the direction of establishing uniform standards for the operation of executive agencies. The passage of such legislation is vital to the process of reform, since it provides a legal basis for greater public access to information and ultimately for holding the behavior of public officials accountable for their actions and performance.

The Ministry of Justice no longer manages courts, a transparent and merit-based system of judicial recruitment has been introduced, and judicial salaries have been increased, although this has not been uniformly implemented. Judicial system reforms have had a salutary impact on public perceptions of the judiciary. Courts seen (especially at lower levels and in the regions) are viewed as increasingly independent, impartial and as less corrupt, and the role of courts is increasingly distinguished from that of prosecutors and other executive authorities. There has thus been considerable improvement in the availability of certain fundamental rights (including in particular, freedom of speech, assembly) in comparison both to the situation that prevailed in Georgia during the Soviet period, and that prevailing in many other former Soviet republics. If sustained, this revised body of law will have a positive long-term impact.

At the same time, it would be hard to argue that the rule of law is entrenched in Georgia, and in the wake of the 1999 parliamentary elections, reform became increasingly difficult. Reversals of already enacted reforms are possible in the absence of a strong constituency for reform in Parliament. Several reform initiatives have been successfully reversed or weakened, with others under threat. Implementation has been neither smooth nor uniform. Officials at all levels deviate from the law with relative impunity, and at the highest level, judicial bodies do not function as an effective check on executive power. Significant

²² USAID/Caucasus, *Legal Assessment*, April 2000: 1.

questions thus remain regarding the separation of power and judicial independence. Furthermore, the central state remains incapable of fully discharging a variety of functions normally associated with sovereignty, including control of national territory, the regulation of borders, the protection of rights, and the collection of taxes. Higher courts continue to be viewed as political bodies, and citizen expectations of justice system remain very low. Exponential increases in case loads and poor case management have resulted in backlogs which have the practical effect of limiting access to justice and increasing the potential for corruption.

Although there have been significant incremental advances in providing both an improved legal basis and institutional infrastructure for the rule of law, the fact remains that only rarely are the actions of the state subject to legal interpretation. Reform thus far has been uneven and partial, and reforms that have been formally adopted have not been uniformly applied (e.g., on increases in judicial salary). There is some evidence that judges are increasingly willing to rule against the state, but court decisions often prove unenforceable. The Chief of the Enforcement Department of the Ministry of Justice which is responsible for implementing court decisions recently attributed a significant part of the problem to the legislative framework, noting that an amendment to the law on enforcement obtained by the Ministry of State Property prohibits the freezing of state assets, preventing judgements from being executed against the state.²³ Corruption remains a serious issue among police and prosecutors

If improvements in the execution of judgements do not keep pace with judicial reform, what limited confidence that exists in the system will be difficult to sustain. Taking the next step in the reform of legal profession (a large proportion of which was trained under the Soviet system) is essential. The fundamental issues are institutional ones: who will regulate standards, and how, and how will discipline be enforced within the profession. The same logic applies to prosecutors.

2.5 Governance

Clearly there is a failure on the part of central government to deliver basic services and to make good on promised reforms. Most Georgians experienced a massive, rapid deterioration in standards of living following the collapse of the Soviet system. Despite gradual improvement in macroeconomic performance, GDP growth rates have been volatile and GDP has not yet reached 40 percent of 1989 levels. Georgia has made little progress in integrating its regions or creating economic security for its citizens. Basic services such as electricity, water and sewage remain problematic. Mounting energy sector debt to Russian companies further compounds relations already strained by conflicts over bases, security issues and Georgia's "Western" alignment. Corruption continues to be a significant issue in the context of a highly centralized state bureaucracy. It is a common grievance among Georgians, though most Georgians are involved in one way or another in rent-seeking opportunities as a supplement to depressed salaries. This cycle of criticism and involvement is reinforced by a perception of the state as an entity to be avoided and taken advantage of rather than supported. Public confidence in government is extraordinarily low, even compared with other countries in similar conditions. Together these factors have served to limit both foreign direct investment and domestic economic activity.

Because most economic activity takes place in the parallel economy, formal returns to the system in the form of taxes are minimal. A combination of high nominal tax rates and limited enforcement capacity provides strong incentives for evasion. This has led to the institutionalization of a system of corruption in which taxes are selectively enforced as a punitive measure, rather than uniformly as a basis for state revenue. As a consequence the state budget remains highly constrained, public services cannot be delivered, and the salaries of public servants remain extremely low. Where the formal system cannot

²³ USAID/Tbilisi, "Building the Rule of Law in Georgia: Lessons learned for the donor community," draft report 30 August, 2002, p. 23.

deliver, “informal”—corrupt—systems emerge to fill demand, and ensure subsistence. Public servants, deprived of a living wage, extract bribes either in return for access to services or the delivery of services at a reduced cost (e.g., electricity) or, as in the case of the omnipresent traffic police, in return for restricting a capacity to impede the normal flow of life. Complicated and multiple regulatory procedures, inflated tax rates and fee structures, and an absence of transparency provide opportunities for the extraction of rents.

Some have suggested that in Georgia the problem is essentially not one of laws but of implementation. In reality, many laws (even new ones) are severely flawed—confusing, ambiguous, establishing conditions in which arbitrary exercise of authority cannot be easily identified or contested, or in which decisions are avoided, often with negative social consequences. Examples are legion, and include criminal code provisions relating to pre-detention time; local elections law that encourage multiple candidacies, etc. Much remains to be done to create an adequate legal framework for effective governance. Much also remains to be done to improve government capacity to discharge core responsibilities, including tax collection, health care provision, education, etc.

Clearly there is a major imbalance in the allocation of power, authority and resources between central and local authorities, and there is no indication that the relative power is changing in the direction of the latter. Local government structures continue to lack budget, capacity and power vis-a-vis central institutions, which remain largely unaccountable to the Georgian electorate. Local government units thus depend heavily on transfers from the central budget. Central government decision making regarding the allocation of revenues between central and local government levels and at the local level between local government units (LGUs) remains opaque and unpredictable, undercutting the capacity of LGUs to plan. Allocations to the *rayon* level appear to be largely determined by bargaining between the *rayon* Gamebeli and Ministry of Finance officials. Further distribution to the village level is then controlled by the (appointed) *rayon* Gamebeli, greatly reinforcing the political control exerted over elected councils. The wide discretion inherent in this process provides ample opportunity for corruption.

Although the balance between central and local government remains unchanged, however, there is some indication of a shifting of balance of power at the local level between city and *rayon*. As a result of local elections, cities may be somewhat more powerful than they were, although given electoral irregularities, this may not necessarily mean that they effectively represent citizen interests. At the *rayon* level, however, there is an increased vesting of power in appointed rather than (indirectly) elected authorities. Indeed, the real distribution of power is not an issue of an executive-legislative division, but of the selection process: appointed positions uniformly carry more weight than elected ones. Thus although the *rayon* Gamebeli is appointed by the president from among members of the (indirectly) elected *sacrebulo*, the legitimacy and power of the position derives from the fact of executive appointment, rather than representation.

2.6 Summary: Distilling the Assessment

Georgia faces the formidable task of creating working democratic institutions in context where quasi-democratic institutional forms have been superimposed on bureaucratic structures designed to facilitate control in context of a centralized authoritarian system. The challenge is further complicated by the salience of strong informal patronage networks, some a legacy of the Soviet period, others reinforced if not created by the process of state decay and re-consolidation which followed the collapse of the Soviet Union.

A pronounced disconnect exists between the operation of formal institutions and rules of governance and the exercise of real power. In practice, formal structures may have little power distinct from the individuals who head them while, in parallel, individuals/networks with no formal authority, exercise

considerable power in practice. Although in many cases this power is ultimately derived through association with the presidency, it is unclear that those who exercise it remain fully under presidential control. What is clear is that the political system remains centralized, hierarchical and relatively unresponsive and unaccountable to citizens, and that although highly inimical to broad scale national development, this system continues, however inefficiently, to serve the private interests of many in the political class.

Over the longer term, a fundamental realignment of power within the Georgian political system appears essential for democratic development. Such a realignment will involve shifts in power and authority between the presidency and other executive institutions (perhaps via the creation of a meaningful Council of Ministers, although this is not the only option), between the executive, legislative and judicial branches of government, and between central and local government. In essence, Georgia must move from a context in which an extensive but weak state lacks the capacity to effectively discharge its functions, to a situation in which a less extensive but increasingly accountable and effective state is able to perform essential functions. Such a realignment will not be achieved quickly or easily, if at all. Such a realignment will also involve the strengthening of intermediary institutions capable of articulating, channeling and representing citizen interests, and of holding the state to greater standards of accountability. In this domain, institutions of civil society, political parties, and representative institutions (at both national and local levels), appear key.

For those interested in reform over the medium-term, it should be noted that although informal networks penetrate and condition the functioning of formal institutions, they are to a degree constrained by these formal structures and by the legal-bureaucratic rules that govern their formal functions. This suggests that *under certain conditions*, incremental reforms may have the capacity to constrain or channel the operation of the informal political economy into less destructive areas. The issue is whether the incentive structures faced by key Georgian political actors favors serious reform, and in what way donor interventions can affect these incentive structures.

A variety of situational factors suggest that powerful incentives for reform can be found outside the Georgian political system. Since the Georgian state (along both formal and informal dimensions) remains heavily dependent on flows of external resources and the maintenance of these flows is in turn dependent on a variety of criteria external to the Georgian environment—e.g., standard conditions for EU or NATO accession, IMF conditionalities, PRSP targets, etc.—the Georgian political class has a strong incentive at least to appear committed to reform. The current consensus on the desirability of a “Western orientation” may therefore provide traction for donor pressure toward meaningful reform.

During the period leading up to the forthcoming presidential elections, it appears unlikely that a coalition capable of successfully championing a major reform effort will emerge. At the same time, it appears vital that the forthcoming elections are conducted in a transparent, equitable, and non-violent manner and produce outcomes seen as legitimate by most Georgians. Following the legislative elections, the balance of political forces in Parliament may shift in ways that present greater opportunities for reform than presently exist, but it appears likely that many of those with a stake in the existing neo-patrimonial system will remain powerful. Given this context, the most appropriate medium term strategy for donors appears to be one of *supporting incremental approaches to establishing binding constraints on formal and informal authority/power*.²⁴ Such a strategy would have several principal dimensions: legal and institutional reforms intended to provide a basis in law for greater accountability and transparency in governance and, where possible, to attenuate the centralization of authority and, in particular, the

²⁴ In many respects, even if not stated in precisely these terms, the current areas of USAID/Georgia program activity—civil society, rule of law, local governance, electoral reform, legislative and political party development—are already focused on this aim, although it is not explicit.

concentration of power in the executive. As we argue in the sections that follow, the centralization of authority in Georgia should be understood as having three related dimensions: the first relating to the predominance of central over local government; the second relating to the predominance of the executive branch of government writ large, over the legislative and judicial branches, and the third relating to the predominance of the presidency over other executive institutions. To those concerned with the democratic reform, each of these should be a focus of concern and programmatic attention.

The incremental approach advocated here is a limited strategy, but it may be the only practical one. Alternative approaches are discussed below in the section dealing with recommendations.

Part Three: Key Actors and Arenas

3.1 Executive Power

Issues related to the extent of executive power (including both formal/institutional and informal aspects) frame and to a large extent define the characteristics of the Georgian political economy reflected in the basic areas highlighted through the assessment methodology (consensus, competition, inclusion, rule of law and governance). In the absence of credible centers of countervailing authority, the Georgian executive—that range of institutions, formal and informal, dependent on and controlled by the presidency—plays an enormously significant role in the shaping of the current Georgian political economy. Consequently, an understanding of the role of the president (as an individual), the State Chancellery (or presidential administration), and a range of other formal and informal executive institutions is essential if we are to make sense of contemporary politics. The centralization of authority should be understood as having three related dimensions: the first relating to the predominance of central over local government; the second relating to the predominance of the executive branch of government writ large, over the legislative and judicial branches, and the third relating to the predominance of the presidency over other executive institutions.

Executive power in Georgia is comprised of both formal and informal institutions, including the State Chancellery, the ministries of Finance, Education, Defense, Interior, State Property, as well as so-called “oligarchs” and economic elites. Constitutionally designated the head of the executive branch, the president submits nominations of ministers to the Parliament and may appoint heads of certain departments directly, without parliamentary approval. Georgia is divided administratively into 65 rayons (districts), the heads of which are appointed by the president. The president also directly appoints governors, who serve as powerful agents of the executive at regional level. Lacking a constitutionally defined mandate, the formal and informal authority of the governors derives from their dependence on the president. The head of the Department of Governors is a member of State Chancellery staff, which thus also plays a key executive role.

Ministers in the Georgian system are appointed (and removed) by and remain individually accountable to the president. The creation of a “cabinet of ministers” has periodically been mooted as a step in the direction of limiting the power of the presidency, but reform has failed to materialize. What coordination among ministries exists is a function of the State Chancellery.

Within their spheres of influence, ministers exercise a great deal of authority and discretion, though the extent of their power varies considerably in nature from ministry to ministry. In general influence is less directly linked to formal spheres of authority and budget levels, than to relationships with the presidency, and the extent of patronage resources. More than twenty ministries and departments constitute executive power in Georgia. While not all are powerful enough to maintain authority in every city or village, the ministries of Finance, the Interior, Defense, Education and State Property have power throughout the national territory. Thus, the Minister of the Interior appoints all chiefs of police, while the Minister of Education picks secondary and upper secondary school directors, and the Minister of Finance chooses heads of financial departments in local and self-government institutions, and ultimately determines the level of budget allocations to local government units.²⁵

Informal systems of authority and power operate beneath formal structures, although they are rarely visible. Beside the ministries, there are oligarchs and members of the president’s family, who play an important *de facto*, if not *de jure*, role in the administration of executive power as well as the distribution

²⁵ Exceptions include Abkhazia, South Ossetia and Adjara, where government is independent.

goods and services, without necessarily holding government positions. In the Georgian context, Jonathan Wheatley has suggested that power is “feudalised” along two dimensions: first, “regionally in that considerable power rests with the regional bosses, primarily with the ‘governors’ or authorized representatives in the regions, and to a lesser extent the *gamgeblebi*. Second, power is feudalised *sectorally* in that certain individual ministries or informal ‘circles of friends’ within the political elite themselves tend to constitute their own power centers. It is important to understand that none of these networks can be taken in isolation, nor are they fixed or immutable.”²⁶

To characterize the distribution of power in the Georgian system as “feudal” may be somewhat misleading, in that it suggests a “traditional” form of rule. Nevertheless, *the prevailing pattern of rule is essentially neo-patrimonial, characterized by the uneasy co-existence of elements of patrimonial and rational-bureaucratic forms of political domination*. As Lewis has noted, such regimes, “maintain formal aspects of constitutional order, bureaucratic organization, and legal procedure...yet beneath this institutional veneer power is personalized and discretionary. The executive constitutes the regime through a web of personal allies and retainers, governing through patron-client ties, loyalist networks, and the disbursal of largess.”²⁷ Put slightly differently, “the patrimonial system penetrates the legal-rational one and deforms the logic of its functions.”²⁸ The resulting deformations, however, are neither random nor the idiosyncratic expressions of particular rulers, and tend to reproduce themselves across leadership transitions. Indeed, as Bratton and van de Walle suggest, where patrimonial logic is internalized in the formal institutions of neo-patrimonial regimes, it provides essential operating codes for politics that are valued, recurring, and reproduced over time.”²⁹

What is useful about this concept in the Georgian case is that it highlights the interaction of formal and informal institutions and suggests that there is both a consistent pattern and political logic to the interaction. Institutions, and players within them, can thus be understood along several dimensions—both in terms of their formal functions and attributes (legal mandates, capacities, budget, etc.) and according to their ever changing position in the informal institutions of power. Several of the central institutions constituting the executive power structure are discussed briefly below.

3.1.1 State Chancellery

The successor of the Communist Party’s Central Committee, the State Chancellery is controlled by the president and remains one of the most opaque state entities. Headed by the State Minister, the Chancellery provides the president with information on different spheres of activities of ministries. It is important to note that structurally the position of State Minister differs fundamentally from that of a Prime Minister, since the former is neither head of government nor responsible for forming a cabinet. If the *de jure* powers of the office are limited, the State Minister’s *de facto* power varies as a function of the holder’s personal relations with the president and his family. Thus, there have been state ministers with no real power and other with *de facto* power equivalent to that of a Prime Minister. The current minister, Avtandil Jorbenadze is also Head of the Citizen Union of Georgia (CUG) and is considered a friend of Shevardnadze and is thus one of the more powerful figures to have served in this role.³⁰ The State

²⁶ Wheatley, Diss. Draft 2002, p.139.

²⁷ Peter Lewis, “Neopatrimonialism and Economic Growth: Comparative Observations from Indonesia and Nigeria,” Presented to Annual Meeting of the African Studies Association, Washington DC, December 7, 2002, p.5.

²⁸ Gero Erdmann, “Neo-Patrimonial Rule: Transition to Democracy has not succeeded,” *D+C Development and Cooperation*, n.1, Jan/Feb 2002, p. 3.

²⁹ Michael Bratton and Nicholas van de Walle, *Democratic Experiments in Africa: Regime transitions in comparative perspective*, Cambridge: CUP, 1997, p.63.

³⁰ By naming him as a possible President, Shevardnadze may have placed him under opposition scrutiny. Shevardnadze also tasked Jorbenadze to revive the CUG and win the parliamentary and presidential

Chancellery is plagued by rumors about the involvement of high-level power ministry officials in abductions, drug and arms trafficking, although these cannot be verified.

3.1.2 Ministry of Internal Affairs (MIA)

With a staff of 30,000 and a budget of 42 million Lari, the MIA is the most powerful and largest of the so called “power ministries.”³¹ Its numbers include a variety of police and armed paramilitary forces. Given the mismatch between personnel and budget, it is likely that Ministry income depends on rents extracted from the gray economy. The Ministry’s structure is centralized and its mandate broad, ranging from crime prevention (policing) to citizen registration to vehicle certification. Salaries are extremely low, a fact used to justify the systemic bribery which Georgians accept as a fact of life; police are in fact considered slow-witted if they don’t engage in bribe-taking. This comports with the public’s perception of the MO—one of corruption saturating every level of government, of structurally well-organized flows of money from the bottom to the top, of involvement in kidnapping, participation in drug and weapon smuggling and the maintenance of close contacts with criminal world. The Ministry’s power spreads throughout the territory except Adjara, whose good relations with the Ministry are thought to be due to their extensive collaboration in smuggling. The MIA maintains an official position of neutrality toward religious extremists, but in practice this position is seen as abetting the persecution of religious minorities.

3.1.3 Ministry of Finance

The Ministry of Finance nominally controls the tax office and all other institutions responsible for the state budget³², approximately \$500 million. The money is always less than requested, and this creates a good basis for both increased influence of this particular ministry and widespread corruption in distribution of the money between rayons and regions: 50 % of the budget of most of rayons is formed by transfers from the central budget. Since the composition of local government budgets is heavily weighted in favor of non-discretionary recurrent expenditures (as opposed to operations and maintenance, for instance, which tend to be deferred) including the salaries of teachers and other social needs, the ability to determine which LGUs receive adequate transfers confers considerable leverage. The budget planning process provides further leverage, since the ministry has the authority (exercised in practice) to reduce or change budget allocations without consultation. Since this applies even to the budgets of other ministries, it confers considerable power, in addition to lessening parliamentary control over expenditure, and undercutting rational planning. Finally, the Ministry of Finance controls military forces (the so called “Special Legion”) for controlling financial issues (e.g., taxes) on the territory of the State. Low salaries and poorly defined responsibilities of Legion’s employees (They are mainly busy with checking trailers on the roads of Georgia) also creates a favorable ground for corruption.

3.1.4 Ministry of Education

Georgia’s system of education is centralized. The Ministry of Education is formally responsible for managing school, high and vocational education systems, but it influences only schools and initial vocational education. Institutions of higher education represent a separate entity; most of are governed by

elections. Jorbanadze is reportedly protective of criminal groups around Shevardnadze. To consolidate his and the CUG’s control over key offices, Jorbenadze replaced key ministers and asked the new State Security Minister and Interior Minister to help the CUG secure votes in the 2002 local elections.

³¹ Ministry of State Security staff number about 4,000, the Border Defense forces about 8,700. By comparison, in 2002 the Ministry of Defense budget was 38.5 million Lari. The most privileged is the Special Service of State Guards, which number about 3,300 and dispose of a budget of 11 million Lari.

³² During the last years, the Ministers of Finance tried to avoid responsibility for the State budget. This is the reason that budget responsibility was shared between two or three agencies in previous years.

the council of Rectors, advisory body to the President of Georgia. There are more than 60 000 school teachers, more than half are over the pension age, and more than 700,000 students. The total number of staff directly engaged in the educational systems (students, teachers, administrative workers, etc.) is more than million. The ability to control appointments, promotions and the flow of resources within this system provides senior managers an enormous pool of patronage resources and the ministry thus constitutes an important power base.

With regard to the centralization of management and curriculum, little if anything has changed since the demise of the Soviet system.³³ Central ministry officials define and approve the curriculum, as well as programs and textbooks/learning materials. By the law, community and local government lack the authority to alter the curriculum to respond to local needs or expectations. The centralization of management coupled with a severe lack of resources (a teacher's average salary is equivalent to 20 USD) provokes corruption from the lowest levels of the educational system upwards, with the result that teachers and principals oblige parents to pay in indirect ways for education. Thus, although there exist some comparatively good schools, education in those schools comes at a price beyond the means of the average Georgian (ranging from the equivalent of 5 USD in the regions, to 1000 USD per year in Tbilisi.). Thus, 70-80 per cent of Georgian population can not afford normal education, and becomes gradually involved in and familiar with corruption issues.

3.1.5 Ministry of Defense

Despite significant US assistance in organizing anti-terrorist troops, the Georgian military remains an institution beset by serious problems. It lacks resources and cohesion, is plagued by corruption, discipline and morale problems and divided by the kind of personal loyalties that hinder other institutions. Efforts to unify the command structure, professionalize the military, and strengthen civilian control have not been successful. The coordination issues that have undercut the institution still linger.³⁴ Military experts ridicule the idea that the Georgian military could be entrusted with the defense of Georgia's territorial integrity, and are skeptical that the MOD could be used to put down an internal rebellion. Civilian protesters have prevented the Georgian military from conducting maneuvers or establishing any kind of presence in Javakheti where Russia retains a military base.

On the positive side, few analysts consider the military capable of carrying out a successful coup. Current forces under the Ministry of Defense are supposed to be around 20,000 servicemen, including ground, air force, anti-aircraft, and naval units. These numbers are assumed to be inflated since those interested in avoiding the obligatory call-ups may do so by bribing military commanders and units overstate their numbers to increase any transfers for salaries and provisions. Corruption is a means of survival for the army. The avoidance of call-up, supported, by the police, is a major source of income. Current Defense Minister Davit Tevzadze (educated at West Point) has been struggling to restructure the Georgian army and bring it in line with NATO standards but recent incidents of elite military units abandoning their assignments and organizing press-conferences indicates that the situation is far from stable.

3.1.6 Ministry of State Property

Despite significant movement in the direction of privatization, the Georgian State still controls a huge amount of property, which is managed the Ministry of State Property (MSP). Other ministries (and local

³³ There are some new subjects in some schools, as "declaration of human rights", but these are exceptions. there are not any significant replacement in old, soviet style arranged subjects.

³⁴ Nowhere was this clearer than in the May 2001 rebellion at the Mukhrovani base, when 400 national Guardsmen mutinied to protest unpaid salaries and poor conditions – a rebellion that was viewed by some as a clumsy, abortive attempt to stage a coup.

government units) generally do not hold title to property (with the de facto exception of the ministries of Defense and the Interior, in contravention of law). The MSP has had responsibility for oversight of privatization, the organization of tenders, and final decisions on the re-allocation of property. In reality, the bulk of property managed by MSP is composed of a variety of enterprises, buildings, hotels, and other ventures—some of which no longer function or run at a loss and are subsidized from the state treasury, and some of which are highly profitable. Both remain significant sources of employment (whether productive or not), and therefore of patronage. The MSP's control of the privatization process has also generated concerns relating corruption and criminality. In the eyes of the Georgian public, the Ministry of State Property is closely linked with the oligarchs and non-official power elites, who are believed to “really decide” on privatization issues.

3.1.7 Governors

Several governors play a major part in Georgian Politics, and appear to have the task of delivering votes to the president in critical elections. Governors have an ambiguous constitutional existence since a final decision on the territorial division of Georgia was deferred pending a resolution of the “frozen” conflicts. As a consequence, governors (in effect, “special representatives of the president”) are appointed by the president, and owe their authority (as well as their individual tenure) entirely to him. Whether directly sanctioned by the president or not, governors appear to have used the considerable power at their disposal to secure control of economic resources/assets in both the formal and informal economies. With the fragmentation of the CUG, conflicts have emerged between governors and elected officials representing parties at odds with Shevardnadze though, as the case of Imereti demonstrates, partisan and personal loyalties are sometimes separable..

Of those currently assigned, the Governors of Kvemo Kartli and Imereti are probably the most influential. Many parties have petitioned the president to dismiss the Governor of Kvemo Kartli (Levan Mamaladze) due to the scale of fraud in the region during the most recent local elections. president is reluctant to concede because Mamaladze “controls” a significant portion of votes in the region and provides financial assistance for the party. He also served a valuable function in subverting Zhvania's attempts to assume control of the CUG, and thus in preventing the consolidation of a more effectively reformist bloc in Parliament. In Imereti, Governor Shashiashvili reportedly provided the bulk of support for the “New Rights Party” during the local elections. Shashiashvili is exercising almost full authority in the region transmitting his every working meeting and a speech with central local television. He has been critical to the activities of the government and sometimes even of Shevardnadze, but remains loyal to the president.

3.2 The Competitive Arena

The Georgian system is perhaps best characterized as a “contested oligarchy.” There is robust competition between/among elites, both through elections (of sometimes questionable legitimacy) and through informal bargaining processes, but little linkage between political elites and citizens or constituents. There are not significant barriers to party formation and electoral participation; inter-party mobility is high and parties have little coherent programmatic identity, or identifiable social constituency (exceptions being Labor, Javak and Revival). Parties do not appear to have deepened their roots in the regions, and remain identified with individual leaders at all levels. The fact that competition limited to elites affects quality of representation or citizen interests in government. Once elected to office, parliamentarians are insulated from citizen influence, and left to look for other cues to inform their positions. Strongest influences are personal loyalties, personal interest and the predominant influence of the executive. Representation of constituent interests remains a foreign concept. Although perhaps and increased demand for polling data exists, this does not necessarily reflect desire to reflect public will but to tailor public statements;

3.2.1 Elections

At present, elections present a very murky picture. Changes in the legal framework governing elections, have resulted in clarification of procedures, and the capacity of administration systems has improved. Voting has generally been free (with the exception of Adjara) but takes place within a continuum of procedures that has limited the utility of elections as a free and transparent mechanism for selecting representatives. Problems with the voter registry and with the count continue to seriously undermine the perceived legitimacy of electoral outcomes. There are some significant regional differences. Local government elections also appear to have been viewed as more fair than either Parliamentary or presidential elections. This is at least in part because the outcome has generally been perceived as irrelevant. At the same time, in areas where the political and economic stakes were perceived to be higher (Rustavi, Poti, Zugdidi, Kutaisi, Tbilisi), local government elections were hotly contested and abuses more frequent and egregious. Turnout appears to have increased relative to previous elections.

Georgia's record on elections is mixed, though the trends are not promising. In 1995, Eduard Shevardnadze was elected president and his party, the CUG, won a majority in Parliament. The OSCE's ODIHR and the OSCE Parliamentary Assembly saw the contest as generally fair, despite the arrest of some opposition candidates and other types of chicanery. ODIHR called the election "a major step forward. In the tensely-fought 1999 parliamentary election, there was some intimidation and violence during the campaign and on election day. The CUG dominated election commissions at all levels and enjoyed preferential treatment in the electronic and state-owned newspapers. Charges of fraud dogged the election and only 13 of 19 members of the Central Election Commission [CEC] signed the document announcing the results. The ODIHR saw the election as "a step towards" meeting OSCE commitments.

The most heavily criticized contest was the November 2000 presidential election, in which Shevardnadze, already increasingly unpopular, was reelected with a highly implausible 78 percent of votes cast. Even his closest supporters in Parliament conceded at the time that the figure was substantially inflated, and blamed local officials for trying to curry favor with the president.

By the June 2002 local elections, the political landscape had changed fundamentally: the CUG had split, the contending factions submitted separate lists of candidates, and many of Shevardnadze's former allies were campaigning against him. The CUG was barred from fielding a party list when a Tbilisi court suspended the party's registration. Former Speaker Zurab Zhvania, now in opposition to Shevardnadze, accused the authorities of manipulating the CEC and the judicial system to prevent him from taking part in the elections. The vote itself was marred by irregularities. Balloting was declared invalid in Zugdidi and Khashuri (western Georgia) and in Rustavi, where armed men attacked a van and stole some 40,000 ballots. The head of the Council of Europe's observer delegation concluded: "The democratic process under way in Georgia does not live up to the expectations of its people, who definitely deserve more." The results of the election, even if taken at face value (discounting an inflation of the pro-presidential vote), clearly indicated how far Shevardnadze's star has fallen. The pro-presidential faction of the CUG, eventually allowed to field a party list following a controversial decision of the Supreme Court, did not break the four-percent threshold, whereas the parties in opposition National Movement-Democratic Forum and the Labor Party both did well.

The breakaway statelets of Abkhazia and South Ossetia do not participate in Georgian elections. Ajaria, the Black Sea fiefdom of autocrat Aslan Abashidze, usually does but elections have a Central Asian character. In June 2002, for example, according to official tallies, Abashidze's son was reelected as mayor of Butane with 96%. Abashidze's party Revival won 94 percent and all 35 of the town council seats. Abashidze often does not permit international observers to monitor voting and in June 2002, barred NDI. Parliamentary elections scheduled for November 2003 are widely seen as a barometer of Georgia's future transfer of power when Shevardnadze leaves office in 2005. With the stakes so high, the contending

parties will doubtless do everything possible to improve their chances. The contest will also demonstrate whether Georgia's worsening election record will turn around or become mired in a pattern of manipulation and chicanery.

3.2.2 Political Parties

The present assessment validates an earlier finding that the legal framework regulating political parties “does not constrain political competition either in its letter or application.” Political parties coalesce, form alliances and fragment freely. At the same time, Georgian political parties are plagued by serious internal weaknesses and operate in a broader electoral environment which has consistently produced less than fully democratic outcomes. If there do not appear to be significant formal barriers to electoral participation, credible reports of harassment during electoral campaigns suggest the presence of informal impediments to party work in select areas. A significant impediment to competition resides in the imperfections of the electoral system, which has remained sufficiently weak to both allow selective manipulation of voter registration and vote counting procedures and, consequently to deprive outcomes of legitimacy in the eyes of both the populace and external observers. In a fragmented party system with a 7% barrier to list representation, relatively minor distortions in electoral outcomes may have relatively a relatively significant impact on the composition of Parliament.

In democratic systems, political parties generally function as mechanisms for aggregating citizen interests, which are then expressed in electoral platforms, and provide a basis for choice between contending candidates. In Georgia, few tangible linkages exist between those who compete for control of the state apparatus and Georgian citizens. Competition remains largely confined to elite circles. Despite the fact that the Georgian electoral system provides for both constituency-based and party list candidates, the connections between most parliamentarians and any definable constituency are virtually non-existent. To those serving in elected office at the national level, “representation” remains a largely foreign concept.

Once elected to office, parliamentarians are insulated from citizen influence, and left to look for other cues to inform their positions. The strongest influences on their behavior appear to be personal loyalties, personal interest and the predominant power/influence of the executive. Among members of Parliament, inter-party mobility is high and in the wake of the breakup of the CUG, a large number of MPs no longer belong to the parties they were elected to represent. As a recent legislative assessment concluded, “the complexity of the current political situation makes it difficult for citizens to follow political developments and fuels the public perception that Parliament is simply a platform for individual politicians to advance their personal interests.”³⁵

Georgia's party system remains weak, inchoate and unstable. Parties and parliamentary factions form, transform and quickly disintegrate, and there is a high degree of volatility in support for parties between elections. Individual parties have little coherent programmatic identity, or identifiable social constituency (the exceptions being Labor, Revival, and Javak), leaving voters little option but to differentiate between parties on the basis of individual leaders. This appears to have produced a vicious circle that further undercuts incentives for parties or individual politicians to invest in developing grass roots party structures and a capacity to aggregate voter interests.

Georgian citizens appear to be largely irrelevant to the political process, have limited information about its internal workings, and have limited opportunities to voice their opinions. Although there appears to be an increased demand for polling data by parties, this more likely reflects a desire to tailor public statements to the demands of the Tbilisi market than a desire to assess public interest. Parties do not appear to have deepened their roots in the regions, and remain identified with individual leaders at all

³⁵ Schulz & Hubli, *USAID/NDI Joint Parliamentary Assessment*, 03-2002.

levels. To a large extent this situation serves the interests of and has been encouraged by Shevardnadze, who is as a consequence, in a position to play the role of ultimate arbiter, balancing the interests of various factions against one another.

3.2.3 Parliament

The relative influence of Parliament in the political process has evolved considerably since 1995, as has its internal capacity. Ultimately, however, its effectiveness as a check on executive authority has remained limited. During the 1995-1999 period, with Shevardnadze's tacit support and under Zhvania's leadership, a number of key reform bills were adopted by the CUG majority, and steps were taken (some, like the creation of the Budget Office, with donor support) to increase the institution's capacity to play a significant role in the policy process. With changes in the internal balance of power within the CUG following the 1999 parliamentary elections, Shevardnadze's resignation as Party leader, and the ultimate fragmentation of the party in late 2001, what momentum there was for reform has been lost.

Opposition parties have been consistently represented in Parliament. Shevardnadze's CUG won a majority in the 1995 parliamentary election, and Shevardnadze protege Zurab Zhvania became Speaker, a post he held until late 2001. Other parties to break the five-percent threshold were the opposition All-Georgian Revival Union, headed by Aslan Abashidze, and the National-Democratic Party, which criticized but often cooperated with Shevardnadze. The 1999 parliamentary election was billed as a contest for Georgia's future between the pro-Western CUG and the pro-Russian Revival Union. With the barrier for parties raised from five to seven percent of the vote, the CUG won about 42 percent; Revival and Industry Will Save Georgia also succeeded in passing the threshold. Revival remained in opposition but lacked the strength to effectively block CUG initiatives.

During the 1995-1999 period, the CUG with Shevardnadze's backing, was gradually transformed the CUG gradually turned into a "ruling party" and under Zhvania's leadership, Parliament became an institution to be reckoned with, though Zhvania and his allies generally promoted Shevardnadze's agenda. But the CUG's cohesion was more apparent than real. Uniting pro-Western reformers and Shevardnadze's communist-era cronies who sought to impede systemic reform, the party survived as long as its component parts and individual leaders thought their chances to achieve policy success and/or win popularity were greater by staying in the party than by leaving.

Growing internal conflicts within the CUG led to the resignation of President Shevardnadze from the CUG chairmanship in September 2001, and to the dissolution of the CUG parliamentary faction shortly thereafter.

In fall 2001, after Shevardnadze left the CUG, the party finally sundered, as Zhvania and other erstwhile Shevardnadze allies broke with their mentor and went into open opposition. Mikheil Saakashvili, who had left Parliament to become Minister of Justice, resigned in September, complaining of the impossibility of coping with pervasive corruption. As a result, there is today no ruling or even dominant party in Parliament, which is composed of 14 groups. The correlation of forces within the body and the nature of the relationship between the executive and legislative branches have become difficult to ascertain. The parliamentary elections slated for November 2003, it is hoped, will bring some clarity to the situation. In November 2001, the Parliament elected Nino Burjanadze to replace Zurab Zhvania. Nominated by the Traditionalist Party, Burjanadze is considered an ally of reformers in the CUG, and has the tacit support of President Shevardnadze. At the same time, her ability to move forward a reform agenda is severely hampered by the absence of a reformist majority, and by Shevardnadze's ambiguous commitment to reform.

As Schulz and Hubli have pointed out, “on the positive side, the loss of a parliamentary majority and factionalization of Parliament has increased levels of political competition. However, given the lack of formal rules and norms to effectively channel and regulate this competition, there has also been a reduction in the political accountability of the Parliament. The complexity of the current political situation makes it difficult for citizens to follow political developments and fuels the public perception that Parliament is simply a platform for individual politicians to advance their personal interests. A number of political factions seem to be working against their publicly states positions and all factions are trying to avoid the political accountability that comes with being in the majority. Given this lack of accountability, the potential for corruption in Parliament has increased.”³⁶

3.3 The Rule of Law

The judicial system that Georgia inherited from Soviet times was neither independent nor viewed as a venue for resolving disputes. Courts were subordinate to the executive; judges had little prestige, were poorly paid and selected for their obedience to authorities; court decisions were controlled by the procuracy and Ministry of Justice (MOJ). Reforms introduced during the 1990s faced an uphill battle in this context, but succeeded nevertheless in dismantling many remnants of the old Soviet system and in forging a functional, independent judiciary. If few Georgians considered the courts as arenas for the protection of rights when reforms were enacted, that perception seems to have changed slightly and for the better. Lower courts in particular are viewed in an increasingly favorable light, judges as better qualified and more likely to render impartial decisions.

Serious performance deficits still hamper the rule of law in Georgia, however. Not least of these are the facts that a) laws are poorly or unevenly enforced if indeed they are even implemented, b) criminal activity around contraband smuggling and other economic activity continues to flourish as never before, and c) the corruption that pervades all other spheres of society reaches into the courtrooms as well. Bribery still influences judicial proceedings, while self-interested state agents still direct judicial outcomes behind closed doors. Executive power often interferes with the independence of high courts, unduly influencing key decisions. At the regional level, police and prosecutors have not kept pace with court reform, with the result that court judgments are seldom enforced. Finally, there is the disturbingly rising trend of human rights violations stemming from religious intolerance, in which judicial and law enforcement agencies have been complicit. This section examines the legal reform process and evaluates its impact based on data collected during the DG assessment team’s field research effort in September 2002.

3.3.1 Legal Framework, 1995-Present

Judicial reform has been one of the main priorities in Georgia over the last decade. Although the process began in 1993 with laws aimed at guaranteeing a stable framework for commercial activity and foreign investment, the most significant advance came with the approval of the 1995 Constitution which established the judiciary as an independent branch of government, limiting the powers of Soviet institutions, notably the once omnipotent procuracy and MOJ. The Constitution created a Supreme Court, whose jurisdiction is split among criminal, civil and now administrative law matters. Below the SC are two district courts in Tbilisi and Kutaisi with criminal, civil and administrative chambers, which hear cases on appeal. Below the district are the *rayon* courts, of which there are 70 (175 judges), which are all courts of first instance in criminal and civil matters. Lastly, the Constitution established a separate Constitutional Court—nine justices appointed by Parliament, the president and the Supreme Court for 10-year terms—which rules on the constitutionality of laws, arbitrates constitutional disputes between branches of government and rules on individual claims of human rights violations.

³⁶ USAID/NDI Joint Parliamentary Assessment, March 2002.

The Law on the Judiciary (1997) reinforced judicial independence by defining the authority and jurisdiction of district, regional and appellate courts. It established the Department of Courts as the administrative body of the court system, fulfilling functions formerly discharged by the MOJ, including the budget and financing of the courts. It eliminated the Soviet (Arbitration and Military) courts so that criminal, administrative and civil cases would rest with general jurisdiction courts. It established appellate (to replace cassation) courts, transferring authority over lower courts to the Department of Courts and to a Council of Justice (COJ).

The COJ, an entity which figures prominently in Georgia's reform process, was created to recommending judicial appointments, disciplinary action and dismissals to the president, who also serves as the council's chair and thus retains influence in the judicial selection process. The president also nominates candidates to the Supreme Court to the Parliament. Finally, the judiciary law aimed at reducing judicial corruption by providing "material independence" to judges through reasonable salaries, equivalent to other better-paid public servants. Delays in implementation combined with official corruption, however, have prevented many lower court judges from receiving raises.³⁷

In 1998, the judicial qualifying exam was implemented as a means to replace the communist-era judges and ensure the competence of judges replacing them. Under the JQE system, prospective judges need to pass two written exams and an interview before the COJ can recommend their appointment to the bench by the president. The president then makes a probationary appointment for a year and a half, after which, depending on the judge's performance, he can be re-appointed to a ten-year term. Various international and Georgian monitors have evaluated the judicial exam process and found it to have been impartial and transparent, but the Team nevertheless heard accounts of passing grades being handed out in exchange for bribes. It was difficult to determine the veracity of such allegations, certainly credible in the Georgian context.

Part of the reform process has been improvement of judicial infrastructure. World bank funding has made it possible for Georgia's 12-odd courthouses to be rebuilt and modernized. Because the majority of Soviet-era courthouses shared space with the procuracy and even the police, a thrust of the reform effort was to promote the separation of powers and judicial independence by locating courts in self-standing buildings. That effort has begun in the western and eastern regions, but it is far from complete. In addition, the Law on the Judiciary authorized courthouses for the new venues such as the district court in Kutaisi.

3.3.2 Legal System Performance and the Rule of Law

In evaluating the impact these reforms over the last five years, the picture is murky, but it is possible to discern trends both positive and negative: there are ongoing problems related to the independence of higher courts; improved independence, competence and functioning of the first instance courts; improved competence of judges as a result of new professional standards and a corresponding improvement in the public perception of judges and courts; a severe failure in the execution of court decisions; an overburdening of the lower courts; and the chronic and intractable problem of corruption which still impedes the functioning of the justice sector.

3.3.3 Independence/Separation Issue at Higher Levels

On the independence issue, the picture remains quite complicated with respect to higher courts. Conflicts of powers are by no means unique to Georgia, but it seems that the *de jure* separation of powers

³⁷ Interview with criminal court judge in Kutaisi. September 2002.

guaranteed by the Constitution has not prevented executive interference in higher court functioning. Such meddling has apparently intensified over the years. It is well known, for example, that Supreme Court decisions have been subject to political and other undue influences, even though that contention was denied by the Chief Justice.³⁸ For the Georgian opposition, the most egregious meddling occurred in July 2002, following the last local election, when the Supreme Court rejected moves from the opposition National Movement (EMDP—associated with Zurab Zhvania) to recognize the powers of the Tbilisi City Council on the grounds that there had been irregularities in vote counting. Acting on the allegations, the district court in Tbilisi ordered the Central Election Commission (CEC) to perform a recount. However, before the process could be completed the same district court passed a second motion voiding the powers of the city council pending further investigations. As of this writing, the city council has not been seated. This case is yet another a symptom of Georgia’s main democracy dilemma: the *de facto* subordination of the judiciary to an overpowering executive. Political and economic interests around the president continue to use the bully pulpit to manipulate other institutions to undermine potential political challenges to Shevardnadze.

As for the Constitutional Court, it, too, has run into problems related to delineation of powers, primarily with respect to the Parliament, particularly in its recent decision to nullify the election of four members of Parliament. The legislature has also tried to slash the Courts’ budget, in contravention of the Judiciary Law. For its part, the Constitutional Court’s rulings have demonstrated a high degree of independence, having decided a half dozen cases against the executive. Nevertheless, there has been undeniable movement since independence in the direction of greater separation of authority, and in the. That Georgians consider the president’s meddling in high court decisions as a violation of the separation of powers and an abuse is itself an indication of growing recognition of the right of courts to operate free from such interference.³⁹

3.3.4 Lower Courts: Progress but Uneven reforms

The picture at the lower court level is somewhat more positive. By most accounts, the public has more confidence in judicial proceedings and more faith in the impartiality of court decisions compared to five years ago, particularly it seems in the regional, first-instance city or rayon-level courts. This perception is based on advances in court functioning. An indication of this rising trust is an increase in court filings. The fact that courts hear perhaps three or four times the number of cases today compared with five years ago suggests to many observers that for all of its flaws, the courts have come to be viewed by more citizens as arenas for dispute resolution. This finding contrasts with the democracy trend in Georgia in which the *rayon* has been the most reform-resistant. Respondents conceded, at times grudgingly, that newly appointed judges were more qualified and less corrupt than their predecessors, albeit with exceptions.

Many attribute this image change to the qualifying exams (JQEs) and the appointment of qualified judges, though ours was a sample of elites who tend to pay attention to such reforms and the media attention devoted them. Less than a third of the existing judges were able to pass the exam, which means that the courts have seen a massive turnover in personnel over the last five years from the Soviet-era magistrates. There is no evidence, however, that turnover has had an impact on reducing bribery, a difficult phenomenon to measure.⁴⁰ Part of the image change may also have to do with the significant number of dismissals of judges for engaging in corrupt practices by the COJ—14 to date, a significant number compared to other countries in the region. The judiciary is among the few institutions in which

³⁸ Interview with Lado Chanturia, Chief Justice of the Supreme Court of Georgia.

³⁹ Interview with Lado Chanturia.

⁴⁰ World Bank finds that the public (as opposed to lawyers, judges, etc.) is not impressed with judicial reform efforts to date.

mechanisms in place for disciplinary removals appear to work. Appointed mayors, for example, are almost never removed despite the fact that it is common knowledge that these officials are engaged in corrupt practices.

Although the Law on the Judiciary provides that judges will receive pay at least equal to that of the deputies, the reality is that the reforms have yet to trickle down to the lower court judges, who are underpaid and apparently overworked. The current remuneration of judges in the first and second instance courts (who have not yet received their raises) is notoriously low; they receive 40 to 50 Lari a month (\$32-40) which compares to about 300 Lari a month (\$240) for a deputy in the Parliament. In conjunction with the low judicial salaries is a rising case load combined with poor case management and a lack of efficient and uniformly established case management procedures.

The rising case load, as noted, may be a sign that reforms are working. There are fewer judges as a result of the imposition of JQEs, and a rising number of criminal and civil complaints taxing lower court resources. This low-pay-rising-burden combination may well be a poison pill for the progress made in court reform so far, as, according to at least three of the judges interviewed in this study, it increases the tendency of judges to succumb to corrupt practices in order to deal with the higher caseload.

3.3.5 Poor Enforcement of Court Decisions

A constant refrain in all of the regions studied in this assessment was that the enforcement of court judgments does not function well in Georgia. The MOJ officials charged with implementing court decisions are generally corrupt or incompetent, or in any event short-staffed, with the result that only a fraction of the judgments handed down are enforced. Court bailiffs are not properly trained and badly compensated. They lack basic infrastructure, such as means of transportation, to effectively discharge their duties. The inefficient enforcement system seem to be another factor accounting for the low numbers of civil disputes in courts and has prevented full public acceptance of the court system as a venue for dispute resolution.

3.3.6 Human Rights Issues

Concerns about human rights violations were repeatedly echoed by respondents in this study. One such concern was the confessions extracted from detainees through torture, a disturbing trend observed by other organizations, including Human Rights Watch⁴¹ and the Council of Europe.⁴² A rights issue that indirectly implicates law enforcement and the judicial system in Georgia is that of the growing trend toward religious intolerance, which has increased markedly over the last two years. Non-Orthodox religious communities, particularly Jehovah's Witnesses and the Pentecostal and Baptist Churches have faced mob attacks by Orthodox extremists. According to information from the Jehovah's Witnesses, over 80 violent attacks on their members had taken place between October 1999 and January 2002. The most notorious of the extremist groups was the violent one led by the defrocked Georgian Orthodox priest Vasil Mkalavishvili and his supporters. Police apparently have done little to prevent these attacks in some

⁴¹ In July a court hearing the case of Lasha Kartavelishvili, accused of murdering a policeman, refused to admit testimony from independent forensic examiner Maia Nikoleishvili that Kartavelishvili had been tortured in police detention, on the grounds that she did not hold a forensic practitioner's license. *Human Rights Watch Report*, 2002.

⁴² The Council in 2001 expressed its "concern with regard to allegations of ill-treatment or torture of detainees in police custody and pre-trial detention, cases of arbitrary arrests and detentions, the violation of the rights of persons under police arrest or in pre-trial detention – in particular their right to consult a lawyer and to communicate with their family – complaints on violation of procedural rights, cases of intimidation, violation of the right to privacy, phone tapping, etc." Council of Europe Human Rights report, 2001.

case encouraged them.⁴³ Courts in Georgia have also refused registration rights for certain religious organizations, and prosecutors have cooperated on occasion with police to exonerate religious extremists for perpetrating hooliganism and violent attacks.⁴⁴

3.3.7 Unskilled Lawyers

The availability of legal counsel remains a problem in Georgia. Although technically not required in civil proceedings in Georgia, having a lawyer is a necessity. Legal training thus far has not been up to the demands placed on the legal profession. The 240-odd new private law schools have been established since 1991 have approximately 40,000 students.⁴⁵ The lack of quality legal education in these schools is common knowledge⁴⁶—a result of the poor financing and capacity, outdated teaching methods, and widely reported corruption and mismanagement in the state educational institutions. The proliferation of new private law schools purport to train lawyers but do not have the material or human resources to do so; and the inadequate licensing and curricula setting procedures for law schools.

Most lawyers are thus either inadequately or improperly trained to practice law, a problem that the proposed professional standards for lawyers is aimed at fixing. The implementation of the Law on the Bar (which requires all lawyers to pass a bar exam) being pushed by the Young Lawyer's Association may in fact have roughly an equivalent effect on advocacy that the JQEs had upon judges. The Bar idea has met with determined opposition from the old guard (the Collegium of Advocates—an bar-like organization composed of Soviet lawyers) which has backed “killer amendments” exempting most of its members from taking the exam.

3.3.8 Conclusion

In summary, rule of law progress in Georgia is rather uneven, despite unmistakable improvement in the functioning of courts as the result of reforms implemented over the last decade. In addition to corruption issues (discussed elsewhere in this report) bribery has not been rooted out from judicial proceedings, while the exercise of executive power still interferes with court independence. While lower, regional courts seem to have improved as a result from the reforms, the notoriously corrupt police and prosecutors have not kept pace, with the result that court judgments are seldom enforced, which threatens to undermine the progress made thus far in the courts. Finally, there is the disturbing trend toward religious intolerance which has done little to enhance the public's image of law enforcement and judicial agencies as guarantors of civil rights.

⁴³ On various occasions, police have stood by as mobs armed with clubs kick and beat Jehovah's witnesses. father Vasili himself falsely charged and convicted for “hooliganism”. On 11 October 2001, the Supreme Court in Georgia fully exonerated her. It needed only moments to render its decision after hearing arguments and viewing a video footage of the attack. The case clearly showed how the police and the Prosecutor's Office cooperated with religious extremists.

⁴⁴ Human Rights in the OSCE Region: The Balkans, the Caucasus, Europe, Central Asia and North America" International Helsinki Federation. 2002.

⁴⁵ These large numbers resulted from the lax licensing requirements of the Ministry of Education, which allowed essentially anybody to open a law school. A great majority of these new institutions do not have adequate infrastructure, teaching tools or faculties to provide even simple education.

⁴⁶ The Team heard reports in Kutaisi, where ABA/CEELI program is quite active in legal education, that while the curricula in the state law schools have undergone some transformation from the Soviet style education, they do not adequately reflect the needs of the new legal environment. Most curricula still concentrate mostly on theoretical subjects and graduates of the state schools typically need additional study to be able to assume a legal job. “The things we are taught are worthless” said one law student, “and we are taught by Soviet-trained lawyers who have no experience practicing in the new legal environment.” Interview with ABA/CEELI and partner NGOs in Kutaisi, Georgia. September 2002.

3.4 The Governance Arena

The extreme concentration of power at the center and the predominance of appointed rather than elected positions have combined to create vertically integrated systems of extraction, or corruption. Corruption and improvements in the efficiency of governance are both best approached by introducing elements of transparency and electoral accountability into vertical hierarchies. The goal of more limited government through decentralization can address problems of inefficient as well as corrupt governance by enhancing accountability. Successful decentralization fosters reduction in corruption because it is inseparable from strengthened capacity of the electoral system to ensure that those who are granted power and resources at the local level are increasingly accountable to the local electorate.

3.4.1 Corruption

Corruption in Georgia is rampant and seems steadily to worsen. Western donors often cite this problem as Georgia's main obstacle to progress. Transparency International has consistently ranked Georgia as one of the most corrupt nations in the world. By no means an anomaly, corruption in Georgia is in effect the norm, an entrenched transactional system of doing business. Both government officials and the people themselves accept the reality of this system and either directly pay into it or profit by it. During the past five years, attempts to address this endemic problem have included three government commissions and a variety of civil society efforts. None has resulted in significant progress.

The most critical single issue with regard to corruption in Georgia is the degree to which power and authority are concentrated in the executive and in appointed rather than elected authorities at all levels. This both directly fuels corruption since appointments have themselves become commodities, and in an indirect sense, removes any autonomous institutional checks that might serve to limit or expose corrupt practices in executive agencies. The fact that appointments to theoretically "autonomous" regulatory institutions (including the Chamber of Control, the Public Defender, etc.) are controlled by the president severely undermines their utility in this regard. Some have suggested that the Chamber of Control is not simply weak, but functions as an institution of political punishment rather than as a guarantor of fiscal probity. Stated in the extreme, the logic is that since all are compromised in one way or another, the selective enforcement of rules can be used to facilitate political compliance. Nor is Parliament itself capable of directly exercising a significant role in executive oversight. Schulz and Hubli concluded that, "Parliament's performance in budget review, analysis and oversight has been relatively weak, despite the presence of a well-respected Budget Office within the Parliament."

What appears to exist at present is a form of *deficit economy* in which those who occupy positions of authority make money on restrictions to the functioning of a competitive market rather than on the expansion of productive endeavors—for example, through the pursuit of assigned monopolies or oligopolies, and the use of institutional powers to punish or discourage competitors. The profits are largely consumed, rather than reinvested in the economy. Because most economic activity takes place in the parallel economy, formal returns to the system in the form of taxes are minimal. Taxes are selectively enforced as a punitive measure, rather than uniformly as a basis for state revenue. As a consequence the state budget remains highly constrained, public services cannot be delivered, and the salaries of public servants remain extremely low. Where the formal system cannot deliver, "informal"—corrupt—systems emerge to fill demand, and ensure subsistence. Public servants, deprived of a living wage, extract bribes either in return for access to services or the delivery of services at a reduced cost (e.g., electricity) or, as in the case of the omnipresent traffic police, in return for restricting a capacity to impede the normal flow of life. As Ghia Nodia has suggested, Georgia finds itself in, "in a vicious circle: The state does not pay living wages to policemen, tax collectors, or regulatory bodies, and the only control is through a de facto system of licensing to various corrupt practices. A system of corruption, if properly run, may guarantee

relative stability and even well-being for much of the population.”⁴⁷ Complicated and multiple regulatory procedures, inflated tax rates and fee structures, and an absence of transparency provide a wide range of opportunities for the extraction of rents, and the consolidation of monopolies or oligopolies.

Petty corruption is clearly pervasive, however the more serious systemic problem is that of grand corruption, particularly the involvement of senior government officials in the use of power for personal (writ large) gain, since vested interests at this level have an impact not only on state and economic performance but on the possibilities for reform. On this issue there has been no improvement; if anything the situation has deteriorated as government has consolidated its control.

Perceptions of corruption reflect a dichotomy between two perspectives: a governmental perspective that focuses on the involvement of all citizens (“corrupted mentality”) and prescribes “solutions” related to improved law enforcement capability. In contrast, others (including NGOs, analysts, etc.) identify the problem as one of systemic structure, suggesting that only when legal and institutional structures that facilitate accumulation are eliminated grand corruption be reduced to more manageable levels. This is a more actionable approach and deserves consideration. Because in our view corruption is a structural issue, we believe it will not be solved by a simple change of head of state. The existing legal framework, which defines institutional powers, underpins the current system.

The problem of institutional reform is considerably complicated by the (large) extent to which those in positions of political authority have strong personal vested interests in present structures and distributions of power. As a consequence, a strategy of working with ministries to improve organizational capacity may not be advisable; more appropriate would be a strategy of pressing for the restructuring of ministries. Attempts to strengthen institutional capacity within the present distribution of institutional power/authority risk reinforcing systems of control and extraction. For example, efforts to increase the efficiency of customs administration, MOI, etc. will more likely result in a strengthened institutional capacity to extract resources rather than improve performance in discharging formal responsibilities. To paraphrase Samuel Huntington, the only thing more dangerous than a weak and corrupt institution is a strong and corrupt one. This is the present risk, and it is one that the USG should seriously consider.

The Ministry of Internal Affairs (MIA) is widely considered by Georgians and external observers alike to be closely associated with institutionalized corruption, both large scale and petty. Wheatley has argued that the MIA, “represents what Schmitter would refer to as an ‘unelected veto group’—an unaccountable and unelected body that has considerable influence over policymaking... [T]he police are able to exert pressure both on the executive and legislative branches of power, both by threatening not to ‘deliver’ a favorable outcome in elections and by threatening to reveal compromising material on individual deputies or ministers. Moreover, the fact that the main agency that is supposed to be *fighting* corruption actually depends on it for survival leads to a kind of vicious circle. The MIA allows corruption to flourish, which leads to a lack of revenue in the budget, which in turn makes it impossible to pay police officers from the state budget, thus reinforcing the role of corruption as a functional necessity. The final outcome is that the state is somehow hostage to the MIA.”⁴⁸

Societal pressure for reform has thus far been limited. As the Conflict Assessment notes, “pervasive suffering from a tangible deterioration in the standard of living would appear to be a unifying and galvanizing force, pitting the majority of the population against the few who have done well in post-Soviet Georgia, The picture is more complex, however. The disadvantaged are co-opted into an all-

⁴⁷ Remarks made in Tbilisi, 2001, quoted in Jeffrey Silverman, “Georgia and US face tough reality in fighting corruption”, RFE/RL Crime and Corruption Watch, 23 May 2002, Volume 2, Number 20; (<http://www.rferl.org/corruptionwatch/2002/05/20-230502.asp>)

⁴⁸ Op. Cit., p 141.

encompassing web of grand and petty corruption in order to survive. They identify no institutions or organizations that are interested in or can redress their grievances. Confidence in government, law enforcement, political parties, and leaders is abysmally low. The paucity of reliable information and the profusion of misinformation are debilitating for the few interested in mobilization for constructive change. Economic activity is inextricably linked to political arrangements, thereby effectively excluding that avenue of activity for those who wish to succeed but lack such connections.”⁴⁹

The government has made several tentative attempts to address the issue of corruption, though none has had a serious impact. The most substantial of the efforts thus far, the Anticorruption Commission was established by presidential decree in July 2000, and produced an initial report in the fall of that year. The program of corrective measures outlined by the Commission are far reaching and, if implemented, would likely have a significant impact on the incidence of corruption. The issue, as in other areas of reform, remains that of implementation. On the basis of the ACC report, an Anticorruption Coordinating Council was created in mid-2001 to over see implementation of the recommendations. To date, the current Anticorruption Commission has successfully pressured the Government of Georgia (GoG) to dismiss several officials (both at the national and regional level) alleged to have been involved with particularly egregious instances of corruption. Thus far, these have remained isolated cases, and little of any progress has been made in the direction of establishing meaningful restraints on future corruption.

The common Western assumption that the business class is generally interested in the development of a legal framework to protect market openness/fairness should be questioned in the Georgian context. At present, since much of economic activity follows the logic of the “deficit economy,” a significant element of the economic elite subsists on preferential access to markets and the use of power connections to eliminate competition. For business interests who might be interested in a stronger legal framework protecting market openness, a principal problem is the need to compete with those who occupy the “gray zone” of the illicit economy. Improving the enabling environment for the operation of small and medium enterprises appears critical. At the same time, for the majority of Georgians there is apparently very little distinction between business and government. In their eyes, political and economic elites are largely indistinguishable. In reality, political and economic power are indeed increasingly fused.

There is a pervasive sense that replacing individuals within existing structures will have little impact on the overall performance of the system. On the other, some suggest that reforms of regulations, procedures, laws intended to modernize the system have the potential to make existing systems of informal (corrupt) authority more efficient, if unaccompanied by both changes of personnel and significant increases in transparency and citizen involvement. Institutional systems and structures need to be analyzed from several perspectives (3-dimensionally)—in terms of both formal and informal patterns of authority, and in relation to other institutions, including Georgian civil society. Efforts to increase effective demand for anticorruption measures will likely be key to serious efforts to address this pressing problem. Only if real demand can be sustained, will the incentive structures facing Georgian political class begin to shift in ways that will make reform politically feasible. In parallel with increased domestic demand, sustained pressure from the donor community is likely to be critical.

3.4.2 Decentralization and Self-Governance in Georgia: Legal Framework

The legal basis for local government in Georgia was established with the entry into force of the Organic Law on Local Self-Government and Government (Organic Law) in October 1997. Organic law on local government was amended in September 2001. Even though it better defined the functions and responsibilities between legislature and executive branches as well as the 1st (village, municipality) and the 2nd (*rayon*) levels of the local government system in Georgia it still has room for improvement. A

⁴⁹ USAID/Tbilisi, “Georgia Conflict Assessment”, ARD, Inc., January 2002, p. 11.

number of Georgian experts on LG issues believe there should be two different laws, one on Local Self-Government/Municipalities and another dealing with districts/*rayons*.

Most of the experts claim that there is an urgent need to resolve the issue of whether Georgia will move towards regionalization vs. rayonization (consolidation of 68 Soviet *rayons* into nine historical regions like Kakheti or Samegrelo). There are several strong reasons to bypass the Regional level in favor of the *rayon*: (a) to increase the accountability of local government to citizens; since no elected authority exists at the regional level it is ill-suited to play a role of aggregating interests upward; and (b) to mitigate the potential for regions (as relatively large territorial units) to become the focus of increasing demands for autonomy, following the pattern of South Ossetia, Abkhazia and Adjara. The choice of direction needs to be reflected in the Constitution as a separate chapter on territorial administrative arrangements for Georgia. Under that approach the central government would create a special commission to define a national decentralization strategy to be implemented over the next five to 10 years. That strategy, however, will not be possible until the conflicts with Sukhumi and Tskhinvali are resolved.

It is more than four years since internal discussions began in Parliament and the relevant department on regional policy at the State Chancellery on the need to adopt a whole packet of draft-legislation to support institutional development of local government. The packet includes a:

- Law on demarcation of budgetary responsibilities between *rayon* and local self-government units;
- Law on demarcation of central and municipal property, which should define the mechanism of who and how will conduct inventory and subsequently transfer property to LSG units; and
- Law on formula-based transfers, grants & LSG budget revenues = 100% land & property tax + 21 local fees;).

Conversations about the urgent need to adopt these legislative reforms have resulted in little progress so far. Department on Regional Policy & Local Self-government at the State Chancellery remains the primary body causing delays.

In addition if the above mentioned legislative packet is ever adopted there will be an immediate need to amend approximately 35 other laws (like Tax Code, Laws on education, health, social & economic etc.) to bring them into conformity with the new system of functions & resources allocation in the regions. Notwithstanding the last year autumn amendments to the Organic Law on LG which specifically describes which are exclusive functions of LSG units and how they are different from the ones delegated from Tbilisi to districts/*rayon* there is little change on the ground in real life. In other words the district level executives literally violate the law 24 hours on a day-to-day basis. Gamgebelis, so to say, simply reject to follow the three main principles clearly spelled out in the organic law saying that:

- Sakrebulo and not Gamgebeli exercises control and oversight over budgetary process,
- Sakrebulo and not Gamgebeli makes a decision and defines a strategy on socioeconomic development of the district; and
- Gamgebeli is accountable to Sakrebulo and not vice versa.

In real life all decisions are made by Gamgebeli and in good cases he informs Sakrebulo about his decisions after they are implemented or does not even bother to inform them. In theory the process should work like citizens with their problems go to—elected sakrebulo—which makes decision—to be implemented by gamgebeli—to resolve the problem. In real life citizens go directly to Gamgebeli who is seen to be controlling all local resources and Sakrebulo is perceived to be completely irrelevant and out of this chain.

Capacity and Resources

Level of knowledge and professionalism among sakrebulo members at both village/town and *rayon* level is very low. Since approximately 60 to 65% of Sakrebulo members were replaced in the June 2002 local elections it seems likely that levels of knowledge and experience has further declined. However, based on observations and information coming from AID partners the level of commitment to change and enthusiasm has increased significantly. Local Self-Government units remain to be largely depended on transfers coming from the central budget through *rayon* Gamgebeli.

The process of public funds flowing down from the central into local budgets is extremely nontransparent and basically is done through a back-door deal between *rayon* Gamgebeli and head of the Department on LG Budgets at the Ministry of Finance (MOF). The same degree of corrupt discretion is widely applied at the *rayon* level when Gamgebelis subjectively decide on the amounts to be distributed among villages and towns within the *rayon*. What is even more damaging is the fact that LSG units have no influence on tax collection, which is a totally centralized system under the MOF. Tax collection bodies in the regions have difficulty meeting central budget projected revenue targets and simply don't care to fulfill the local ones.

In addition if the LSG units manage to increase their local revenues through better collecting local fees they will get less funds in transfer. In other words the existing system of transfers provides no incentive to move away from deficit driven budgetary practices. The situation is furthermore aggravated by lack of knowledge in municipal budgeting and modern standards of accounting. All the financial officers in the regions are mostly aged people with Soviet education. Performance measurement is a completely alien concept for LG officials as well. There is no decent statistics forget about accurate data on local businesses or taxpayers available in the regions.

Shift in Balance of Power

Even though the situation described above is true for the most of the *rayons* across the country, it has started to gradually change in some districts, particularly the cities where AID partners like UI and NDI work. This shift became more evident and self-reinforcing after the last local elections when citizens for the first time in Georgia's history were allowed to directly elect not only their president and members of Parliament, but mayors of their small towns. The fact that both executive and legislature were directly elected at the first level and were accountable to their constituency and not to *rayon* Gamgebeli or the State Chancellery increased public confidence and trust toward LSG officials. As a result of indirect elections of *rayon* Sakrebulo, the previously dominant power of *rayon* Gamgebeli versus district council increased even more. The decreasing gap between people and government at the first level provides greater opportunities for donor assistance impact at this level.

3.5 The Civic Arena: Civil Society and the Media

3.5.1 Citizen Participation

Except for the areas targeted by the donor community, there has been little improvement in citizen participation at the local level over the last five years. Levels of education and general civic awareness are generally lower in rural areas, and this translates into less activism. Citizens, particularly the local intelligencia and business elite, are relatively better organized to influence local-level governmental decision-making processes in the so called "*rayon* cities." Civil society is more developed and active in big cities like Kutaisi or Rustavi but, on the other hand, the gap between local government and citizens also increases markedly with the size of towns. There are few examples of genuine citizen participation across the country, even though the number of formally established Advisory Boards to local Sakrebuloes through donor funding has increased dramatically.

The civil society that has evolved in Georgia since independence presents a complicated mix of healthy, anemic, and malignant features. While freedoms of association and expression have afforded it an opportunity for growth, civil society has yet to take full advantage of the environment and remains weak in terms of its ability to channel citizen influence to the State. A handful of donor-reliant NGOs staffed by pro-western professionals has succeeded in using its clout and connections to enact pieces of the liberal legal framework over a relatively short period of time. Based mainly in Tbilisi with few regional networks, these NGOs do not maintain large memberships and thus represent only a tiny stratum of the Georgian population.

Georgian society is also composed of conservative organizations tied to the Orthodox Church, whose *raison d'être* appears to be the defense of Georgian values from outside influences seen as destructive. Unlike their donor-fed NGO counterparts, these groups enjoy broad public support and even sympathy for the episodic violence directed at non-Orthodox religious sects and pro-Western NGOs. These groups may be manipulated by elites and are allegedly backed by police and security forces. Finally, media development in Georgia has seen major successes over the last decade or so, but an increasingly adverse environment caused by political and economic pressures has served to limit the media's effectiveness in providing citizens with objective and accurate information. This section covers these developments in detail.

3.5.2 Nongovernmental Organizations (NGOs) and Trade Unions

As in other post-Soviet countries, citizen participation in autonomous organizations was virtually nonexistent in Georgia until the waning days of Soviet rule. There was some incipient civil society development in 1989, but independent associations did not really proliferate until the mid 1990s in response to two factors. First, the legal environment was reshaped by a 1994 Law on Associations and the 1995 Constitution, which guaranteed expression and association rights, creating an opening for independent groups and media. Second, Georgia succeeded in attracting funds from western donors, a function of the pro-western leanings of its political elite, coupled with the US and European strategic interest in forging alliances with an independent Georgia.

Several countervailing forces have thwarted these fledgling associations, however. First there is the Georgian aversion to public participation in political life inherited from the Soviet period. Combined with the fear of a stirring up another bout of the virulent nationalism that created such havoc during the Gamsakhurdia period, these factors may have undermined the formation of associations. However, there exists a tendency for spontaneous demands for redress focused on demands to central authorities for greater access to resources. The October 2001 attempted crackdown on Rustavi 2 is perhaps the sole instance of mobilization around a political issue, but the momentum up around the incident mostly dissipated after Shevardnadze's subsequent summary dismissal of the cabinet; it has not blossomed into a broad anti-government opposition coalition, despite the fact that Shevardnadze is as unpopular as they have ever been.

Analysts often conflate civil society with NGOs, as the sector is often used as a barometer of the density of a country's associational life. The picture is mixed in this regard. Perhaps 3000-4000 NGOs are registered in Georgia, but only around 500-800 have ever been active to any extent and only a handful, (twenty to fifty) are still strong and active.⁵⁰ Distortions in NGO development that beset other post-Soviet societies are present in Georgia as well. Groups form and donor assistance steered overwhelmingly and understandably to the seat of government and locus of power, Tbilisi, reinforcing the centralization of the

⁵⁰ USAID/Tbilisi, "Georgia Civil Society Assessment", ARD, Inc., June 2001. Conservative estimates closer to 20 organizations.

political system. NGOs are staffed mainly by Tbilisi-based educated professionals with connections in government, but few active members; they can thus be said to represent only a narrow stratum. So lopsided, donor-driven and elite-led has NGO growth been in Georgia, in fact, that many observers are prompted to wonder whether the massive infusions of donor funding in the 1990s has not actually impeded rather than fostered voluntary membership organizations and thus the development of a functioning civil society. As in other fledgling civil societies, Georgian NGOs have a somewhat muddled image. Acknowledged to serve useful advocacy or service delivery functions, NGOs are also seen as organizations that do the bidding of their international sponsors or as grant-seeking entities seeking to sustain themselves rather than advance citizen interests. In a few cases, NGOs are seen as agents of outside influences that threaten to undermine Georgian values.

Even skeptics admit, however, that NGOs have accumulated clout disproportionate to their strength in numbers. The NGOs have on occasion had real impact upon the reform process over the last seven years, focusing public attention on political, social and economic issues, bringing public pressure to bear on decision makers at key junctures, and pushing through the planks that the institutional structure of a democratic state. NGO influence has been unable, however, to generate a critical mass of public pressure to compel the government to enforce laws passed, with the result that formal institutions of democracy are honored more in the breach than the practice.

The most influential Georgian NGOs are the Georgian Young Lawyers Association (GYLA) and the Liberty Institute. These organizations have a foot in government and have used that position to lobby for the passage of liberal legislation, though, again, their ability to mobilize a grass roots membership has been limited. The Liberty Institute has made strides in energizing a volunteer membership base on the issue of ending the Shevardnadze era. The International Society for Fair Elections and Democracy (ISFED), the Caucasian Institute for Peace Democracy and Development are also quite influential in the drafting of laws and the establishment of citizen committees in the regions. Horizonti, an umbrella group that provides small grants to NGOs is also an influential actor on the Georgian political scene. The NGO is also generally associated with the so-called “young reformer” cadre, which has over the last two years subdivided in terms of its relations with the major reformist political actors, including Zurab Zhvania, Mikhail Saakashvili. Frustrated by the Shevardnadze government they once tentatively supported, NGOs have mostly moved into opposition and are now identified with opposition politicians.

Georgia’s trade unions have provided little in terms of channeling citizen interests, though they have occasionally mobilized actions to promote worker demands. The main confederation in Georgia is the Amalgamated Trade Unions of Georgia (ATUG). The successor to the communist confederation under Soviet rule, the ATUG membership exists on paper only and the organization’s leadership is viewed even by its own members as corrupted. Although from time to time the confederation organizes small protests outside government institutions to demand unpaid wages and pensions, the ATUG has been rendered almost completely ineffectual. More active is the Free Trade Union of Teachers, known as *Solidarity*, based in Kutaisi, but with branches first in western and now eastern Georgia. The confederation has a reported membership of 4,000, mostly working teachers that pay dues directly from their salaries. *Solidarity*’s actions have obtained better pay and working conditions for its members and most recently negotiated with the government to increase teacher salaries by 30%. Finally, there are a variety of employee associations and taxpayers unions which have achieved few concrete gains for their members.

3.5.3 Ethno-nationalist Organizations

Georgians take pride in their traditions of tolerance, but the advent of non-traditional, actively proselytizing religions has sparked a xenophobic movement comprising groups linked to Orthodox Christianity. Since 1999, they have engaged in violent assaults against minority religions including Baptists and Catholics but especially Jehovah’s Witnesses. Although Georgian authorities are aware of

the problem, none of the perpetrators of these violent assaults has been brought to justice. In fact, the vilification of certain organizations and religious sects seems to have become as much a part of the public and political discourse in Georgia as the debate over the administrative code or local government law. Leading the charge is the Georgian Writer's Union, which is registered as an NGO but receives substantial government funding. The GWU publishes regular broadsides against the growing westernization of Georgian culture, and routinely criticizes the donor-supported NGOs, in particular, the Liberty Institute, and has sought to impose censorship on various independent media outlets critical of Shevardnadze, whom the GWU supports with unswerving loyalty. Basil Mkalavishvili, a defrocked Georgian Orthodox priest who has led the campaign of assaults, was charged in September 2001 with several crimes, as was his leading accomplice, but seven attempts to try him have failed as hordes of supporters have invaded the courtroom and intimidated witnesses. The Ministry of Internal Affairs, though responsible for maintaining law and order, has done nothing to ensure that the trials can proceed.

Against the background of religious violence, pressure has intensified to pass a law on religion - which Georgia, alone among the former Soviet republics, has not yet adopted. However, the latest drafts have evoked concern among non-Orthodox confessions, which fear restrictions on their ability to preach their faith or engage in charitable activity. Shevardnadze himself condemns religious extremism and has issued a decree to the relevant executive ministries to take measures to ensure the implementation of freedom of thought, conscience, religion and belief, investigate and submit to the court every act of violence committed against religious minorities in order to have the perpetrators punished, but the government's follow-through has been virtually invisible. The campaign against religious minorities has reinforced the idea that lawbreakers can count on immunity from prosecution on human rights charges if they hold the right office or have the right patron. Ultimately, Basil Mkalavishvili's rampages signal the creeping triumph of mob rule in Georgia, where the state has proved incapable of performing basic functions of government. The country's law enforcement agencies' failure to place him in custody and the inability of the legal system to try him indicate a systemic breakdown.

3.5.4 Media

A 2001 USAID assessment concluded that "independent media continue to be pressured by government at all levels; self-censorship is common; threats and violence against journalists occurs; the level of professionalism and ethics is very low; investigative journalism is not widely practiced; and most media, especially at the local level, lack the knowledge and means to become self-sustaining." Our assessment reinforces these findings, though the media environment has deteriorated in some ways and improved in others in the intervening period between June 2001 and November 2002. On the plus side of the balance, broadcast media are more popular, and number of broadcast media sources that espouse a critical, independent line has increased, despite subtle, indirect as well as direct, overt attempts at censorship. On the negative side, the economic environment in which media operate in Georgia is so abysmal that the economic pressures to compromise professional ethics and objective reportage of political information has increased.

There are two sorts of media in Georgia—government (and Adjarian) media and independent media. In last five years, a general opening of the media environment has resulted in an increase in independent media, which now co-exists with state media. For the most part, the state has avoided direct and overt attempts to suppress or control independent media. Yet subtler and less obviously attributable forms of harassment have made clear the consequences of critical reporting on certain issues (generally related to state security, corruption and religion). Direct censorship is not imposed, but a variety of factors impose limits on the freedom of information. Through its capacity to issue licenses and allocate frequencies, the state continues to exert an influence on the sector; because of the weakness of the advertising market, all media remain vulnerable to economic incentives that distort news content. Despite the growth of

independent media, professionalism has improved to only a limited degree (limited number of outlets); the economic pressure on media in the regions is even more intense than in Tbilisi. Despite investments in the development of regional media, media remains Tbilisi focused. Media at all levels remain dependent on sponsors, which in turn compromises the objectivity of the coverage of news. Interest in media ownership has greatly increased and media owners are beginning to diversify their holdings. Just as business people are moving into local government, they are moving into media as well. There is concern that this reflects movement toward the situation that prevails in Russia and Ukraine.

Most Georgians get their political news from television and to a lesser extent radio, not print media, which is held in the lowest regard of all news sources. Low newspaper circulation is directly linked to the low quality of journalism, the lack of confidence in the press⁵¹ and undue influence exacerbated by a feeble advertising market. Underpaid journalists are encouraged (often by editors) to find “sponsors” for their articles, which might include government officials, party leaders, and politically-connected businessmen. In turn the journalists and the newspapers are accountable to their funders, not the readers, creating a vicious cycle that has turned off readers to the press. Corrupt, poor newspapers are also not attractive to well-trained journalists, who increasingly look for other sources of employment. Daily newspaper circulation in Georgia does not exceed 7,000, low for a population of five million.⁵²

As for broadcast media, the number of sources continues to grow, but the quantity of media outlets has so far had a limited effect on public discourse. The most watched television station is Channel One, which state controlled. The independent broadcasting company “Rustavi-2” has a smaller viewing audience but is recognized as a credible and popular source of information and news programs with a national reach. Channel Nine, a moderate, slick and professional independent source is likely gaining acceptance as well as a larger audience share. Up to 1999 the licensing of frequencies and the regulation of telecommunication was under the purview of the Ministry of Communications. A 1999 law created a National Communications Commission whose charge is to allocate frequencies to broadcast media on the basis of free and open competition. Many debates are caused by the requirement legalizing 20 % a minimum of national production. For today this requirement is carried out by all. In the given situation the rule of the independent companies is getting more complicated, since they should compete with the television channels, well equipped and in addition financed by state, which are capable to attract the best journalists, because of length of broadcasting ability to receive the advertising orders.

Media operators have not encountered direct censorship, with one notable exception—the case of Rustavi-2, an independent TV station which features hard-hitting exposes of official corruption.⁵³ When

⁵¹ In Autumn 2001, the International Center of Journalism, conducted a large-scale survey on Georgian Press. The survey touched upon professionalism of journalists, mostly widely published topics, trustworthiness of information, and some other issues. It found that 95% of the people surveyed said that they do not trust any of print media outlets.

⁵² There are about 27 newspapers in the country. Among the better known are 24 Hours, Rezonansi, Alia, Akhali Taoba, Dilis Gazeti, Droni, Kviris Palitra, Akhali Versia, Asaval-Dasavali, Literaturuli Sakatrvlo, Akhali Epoqa, The Georgian Times, Iberia-Spektri, Akhali Meridiani, Akhali 7 Dghe, Tbilisi etc.

⁵³ For example, the station aired stories accusing the head of the Interior Ministry's anti-drugs department of selling drugs in his own office. Another Rustavi-2 broadcast alleged that Georgian security officials accept money from armed Arabs and let them move in and out of the crime-ridden Pankisi Gorge - a particularly explosive charge, considering the sensitivity of Russian-Georgian relations. The station has also reported on financial links between Shevardnadze's family and state institutions. Rustavi-2 and its staff express increasing warnings, official pressure and financial “silencing” incentives. Lead reporter Akaki Gogichaishvili claims he has received anonymous death threats, including one in June 2000 from the Prosecutor General's office. Since the November 2001 events, other senior reporters and management, and investigative journalists have been offered up to \$1 million to simply stop working on sensitive issues. On May 14, 2002, someone fired a shot at the station's building - again.

in November 2001 authorities tried to pressure the station by sending in the tax inspectors, the ploy backfired, prompting thousands of angry protesters to take to the streets in front of the Georgian Parliament and call for the resignation of certain government leaders. Shevardnadze was forced to fire the official who ordered the raid and then sacked the entire Cabinet.

The government is increasingly using more subtle, sophisticated forms of censorship, having learned from the Rustavi incident. It is reportedly now relying on political allies, namely former media magnate Boris Berezovsky and his associate Badri Patarkatsishvili's new media enterprise as a way to buy influence or media outlets directly and thereby reestablish a greater degree of control over potentially damaging or scandalous (to the government) information. A feeble advertising market continues to undermine the limited opportunity for many independent media outlets to survive. Current respectable TV (Rustavi, Channel 9) and newspaper (24 Hours, Rezonansi) management and leading journalists are offered more attractive salaries to switch to TV stations and newspapers under the control of the government and its allies.

A donor-driven program aimed at regional media development has yielded a greater number of independent TV stations across Georgia, though these stations are relatively new, the quality of new coverage still quite poor. Regional stations are dependent on grants and loans from external sources and most cannot survive on advertising revenue alone. The proliferation of regional TV stations seem to have promoted a more plural discourse in the regions. Not surprisingly, it has also rendered local TV more exposed to attacks or threats from local authorities. Broadcasts of Tbilisi based stations (Channel 1, Rustavi -2, Adjara TV) is also now more common outside Tbilisi, and in both western and eastern Georgia. Independent television from Poti can also be viewed in by residents of Adjara, which will in the longer term add an independent voice to a regional media heretofore completely dominated by the government in Batumi. Non-Georgian-speaking ethnic minority populations of regions like Samskhe-Javakheti and Kvemo Kartli are in effect cut off from involvement and inclusion in public life via the mass media, and remain quite isolated. Frequently one sided and preconceived information about so-called hot spots of Georgia causes indignation of the population in the conflict zones.

Part Four: Recommendations

Strategic Filters

The previous analysis suggests that an ideal strategy for strengthening democracy in Georgia would tackle at least four problem areas identified in the assessment framework: centralization, a lopsided balance of power, grand and petty corruption, weak accountability, and the lack of effective competition. USAID cannot feasibly address all problem areas at present, however, given the current structure of opportunities, as well as resource and other limitations. In order to make recommendations for a new USAID/Georgia DG strategy, several “filters” must be taken into account: 1) political opportunity; 2) US foreign policy priorities; 3) time and resource limitations; 4) USAID’s existing program and the costs of changing course; and 5) Other donor programs and priorities. The first section reviews each of these filters briefly. The subsequent sections present recommendations on strategy and tactics, and a final summary of recommended priorities.

Political Opportunities

Donors can do little to advance the democratization process absent a real reform commitment on the part of the government. If the main actors in each arena are more interested in stalling or thwarting rather than advancing reform, then no amount of external funding will have a lasting effect on how the society is governed. That is the case in Georgia, where the democratization process is stalled, key reform legislation is stymied by a government that is at once adept at paying lip service to the need for reform while working behind the scenes to obstruct it. External assistance aimed at yielding tangible results from a partial reform process has been ineffective. It is not likely to yield a major breakthrough in the near term given the current political opportunity structure.

On the other hand, Georgia is witnessing a new stage in the regrouping of political forces and leading political figures in anticipation of the impending “post-Shevardnadze” period, which, for many observers represents a new opportunity to use donor leverage to break the current impasse in Georgia’s stalled reform process. The “post-Shevardnadze” era could begin earlier than anticipated, with the 1993 parliamentary elections. It is the outcome of these elections that sets the stage for the 2005 contest that ultimately determines presidential succession. The jockeying for electoral advantage bound to occur during the run-up to 2003 will divert the focus away from reform to tactical alliances to win parliamentary seats. The campaign may thus hamper reform efforts in the short run, but the change in Parliament and eventually government may indeed represent a reform possibility that the current political leadership has thus far blocked.

Such opportunities should not be exaggerated, however. They are fleeting in a context in which elected leaders are seldom held to account; they are constrained by an arena as suffused by corrupt practices as Georgia’s public sector. Conditions in Georgia are such that there are no guarantees that reformists—once elected to office in an environment that rewards corrupt practices—will pursue the reforms to which they were publicly committed. Steering assistance to self-proclaimed reformers in key positions within the state has not withstood the test of sustainability, moreover, since the ostensible reformers are also vulnerable to the prevailing political winds, are routinely sidelined or forced out of power altogether.

US Foreign Policy Priorities

Democracy is not the sole priority for United States foreign policy in Georgia, and there is an inherent tension in how various foreign policy priorities are managed and funded. Two themes establish the basis for U. S. foreign policy goals in Georgia: (1) the need for a stable Caucasus in a geographic neighborhood that borders states with potential volatility, such as Russia and Iran; and (2) Georgia’s strategic position as

a transit country for energy going from the Caspian Sea to the West. Achieving stability is of paramount importance and is as yet an elusive goal. A continually confounding factor is Georgian statehood and the definition of Georgian national territory. The Georgian state exercises a tenuous control over its national territory, and the weakness of the state stands as a barrier to the maintenance of order and stability, the precondition for any political system, including a democracy.

Tension in the management of foreign policy priorities means that democracy is not the single issue at stake for US foreign policy. Hard-line US public diplomacy on backsliding, for example, may affect relations with the Georgian government on the security issues in which US government entities are also extensively engaged. At the same time, progress is difficult in an undemocratic environment where the lack of checks on the authority of the Executive increases the risk of government impunity. It is precisely for this reason that we believe that it is important to focus on checks and balances to Executive authority.

Time and Resource Limitations

As USAID/Georgia is developing its strategy for the next five years, strategic recommendations are intended to focus on what is feasible in a five-year time frame rather than over the longer term. Its democracy program has been funded at an annual level of around \$6-9 million over the last three years (including civil society, rule of law, and local government activities). For a population of 5 million, this is a significant level compared with USAID programs in other countries. Despite its size, however, the Georgia program's progress has been rather limited, in fostering a participatory government at the national and local level and in delivering satisfactory public goods and services.

The result has been a stagnation in public confidence in institutions that at present is impervious to the efforts of Georgians and their support network of international donor organizations. The problem thus seems not to be a function of resources, but of the strategies used by donor organizations in a political environment that is not particularly hospitable to reform. This assessment therefore does not recommend a greater resources commitment to Georgia, but a more sensible refocusing of existing resources.

USAID's Prior Strategy and Existing Program

USAID/Georgia made sound judgements over the last five years that should be built into strategic recommendations. First, the Mission concluded several years ago that governance and rule of law issues deserved greater attention in the present context. As it became clear over the last few years that the initial optimism about direct support for government institutions (especially following the 1999 parliamentary elections) was unwarranted, since many of the key reformers elected or appointed following this watershed election have left or were forced out of the government, USAID/ Georgia sensibly considered shifting its focus from the national to the local level, where it may be able to parlay resources to increased citizen participation and local government responsiveness. Since many of the Tbilisi-based NGOs are proven and successful partners, however, a move away from the present strategy is likely to disappoint and even potentially alienate these groups. The strategy of direct assistance to local NGOs (through Horizonti) and the proposed Citizens' Advocate! initiative, which is designed to work through the capital-centered, established NGOs therefore may be a sensible compromise that builds upon ongoing activities while addressing the other democracy priorities identified by our analysis.

Activities of Other Donors

Georgia's largest donors are the World Bank, the United States, The European Bank for Reconstruction and Development (EBRD), and the European Union (EU). US assistance to these programs has been about \$441 million. The World Bank has provided \$509 million to Georgia. World Bank assistance includes structural adjustment credits, agricultural development loans, assistance to the health and power

sectors, and technical assistance to the private sector. USAID works closely with the World Bank and supports its economic reform conditionalities. EBRD provides direct funding for the power and transport sectors and in support of private sector development. The EU's technical assistance program for the Commonwealth of Independent States has focused on the rehabilitation of transportation infrastructure, strengthening the private sector and food security. Since joining the IMF in 1992, Georgia has borrowed about \$280 million through annual structural adjustment loans. USAID provides technical assistance to the Ministry of Finance and works closely with the IMF to address fiscal policy issues.

General Recommendations on Strategy and Tactics

Democracy and governance in Georgia are hindered by a lack of effective checks on the exercise of executive power within the central government. This gross imbalance of power among branches *and* levels of government impedes the functioning of political institutions and relies on as well as reinforces anemic mechanisms of horizontal and vertical accountability. This lack of accountability and of limits on executive power, in turn, has led to undue political intervention in the legislature and judiciary, violations of rights, and weak accountability, all of which has exacerbated a serious corruption problem that undermines the rule of law and virtually every other facet of governance in Georgia.

In this context, the overarching objective of the D/G program should be threefold:

- Support organizations and institutions effective at checking executive power and rendering it accountable to other branches, the law, and the citizenry. Checks and balances are exercised in five spheres in a democracy: the Judiciary and the Legislature, local government, the media, and “political society”, including political parties as well as civil society organizations. Measures aimed at boosting oversight functions of judicial or legislative branches of government, at empowering locally *elected* city and *rayon* level authorities, and at strengthening elements of society that serve a watchdog function will serve the broader purpose of helping Georgia past a major reform roadblock.
- Strengthen accountability of elected leaders at the local and national level by supporting issue coalitions that serve an advocacy role, boosting public watchdog organizations, and strengthening legislative entities (committees) that allow for greater citizen input in the legislative process.
- Fortify emerging alternate centers of power in Georgia, mainly the elected city governments, mayors and elected district-level councils. These alternate centers hold the promise of tilting a lopsided balance between central and local authority that serves to undermine local self-governance. An effective local governance strategy must be done cautiously, however, to avoid replicating or multiplying perverse features of the central government (corruption, etc.) at the local level.

4.1 Electoral Reform

USAID should provide electoral assistance focused on electoral process rather than outcomes. USAID should support a robust, nation-wide effort in advance of the 2003 election campaign to monitor the electoral process from voter registration, through the campaign, to the count and reporting of results

Ensuring that upcoming general elections are non-violent, well-administered and produce outcomes seen as legitimate by most Georgians must involve a robust monitoring effort. Efforts to support a coalition of actors or parties around electoral reform and monitoring should thus be explored. Direct efforts to foster reformist electoral coalitions (or political movements and parties), however, involve substantial risks with dubious payoffs. We favor limited efforts to issue-based coalitions in the context of party assistance.

An interim alternative strategy that has been suggested is to attempt to influence the 2005 election outcome in favor of a reformist coalition or party. Based on the election outcome, USAID would then determine the level and nature of subsequent assistance. In the short term, this would entail expanded

party assistance focussing on electoral coalitions, developing grass-roots organizations, campaign and voter mobilization strategies. Given its selective nature, such a strategy would require a waiver of USAID requirements that party assistance efforts remain inclusive. We do not believe that such an approach is justified because it over-states the likely impact of party assistance and because it shifts resources away from more critical areas of program emphasis likely to have a greater impact over the longer term.

Electoral outcomes won't necessarily produce lasting solutions to wider governance issues. Although the balance of political forces may well change after the parliamentary elections, it is likely that many whose interests are served by the present system will remain influential. The newly elected reformers will depend for their success on their ability to build coalitions and on the incentive structures they face. USAID can and should play a role by pushing for the full implementation of legal and institutional reforms intended to increase the transparency and accountability (e.g., FOIA, Administrative Code, regulatory reform, etc.) of executive agencies and government more generally, and to reduce the scope for the arbitrary exercise of authority; by strengthening of alternative centers of power in government (Parliament, judiciary, and autonomous agencies) and in Georgian society at large; and 3) through a progressive devolution of authority (and resources) to elected local government units.

The current USAID/Georgia strategy contains elements that target each of these areas, but the structure is not explicit. The portfolio currently comprises two strategic objectives.⁵⁴ While this structure has thus far proven adaptable, it is less than ideal since much of what falls under SO 2.3 has a significance far beyond the domain of local government.

In the present political environment an incremental approach to supporting key reforms over a wide range of issue areas in response to strategic opportunities may be more likely to produce results over the medium term, than a strategy of increasingly focussed efforts in a limited number of areas. Over the course of the next several years, the Georgian policy reform landscape is likely to be characterized by considerable volatility, as parties and individual politicians negotiate tactical and strategic alliances in preparation for the parliamentary elections and eventual presidential succession. Because it is difficult to predict what opportunities for progress in advancing a reform agenda will present themselves during this period (and alternatively, what threats to reform will materialize), it is in USAID's interest to retain the capacity to respond flexibly across a wide range of issues. There is, of course, a risk in taking this approach that USAID and its implementing partners will interpret the need for proactive opportunism too broadly, with the result that the program will lose focus. Such an approach will require continued active communication between implementing partners and with USAID, and flexibility on the part of the mission with regard to both reporting requirements and work-planning procedures.

A primary objective of the Mission Program Plan (MPP) is to ensure that forthcoming electoral cycles are non-violent, effectively administered and produce outcomes widely accepted by the Georgian electorate as legitimate. Efforts to strengthen independence of election administration, including restructuring of the CEC and local election authorities, increase checks within the system to limit fraud and to pursue redress

⁵⁴ **Strategic Objective 2.2:** Legal Systems that Better Support Implementation of Democratic Processes and Market Reform. This SO encompasses a) increased access to legal remedies; b) more effective, transparent and fair legal sector institutions, and c) the enactment of laws and regulations promoting democratic processes and market reforms. As such, it is substantially consistent with the range of interventions suggested by the current assessment.

Strategic Objective 2.3: More Efficient and Responsive Local Government. This SO encompasses a) improving local government service delivery in key areas defined by constituent needs; b) the active promotion of citizen interests by non-governmental and community-based organizations and by the media; and c) strengthened enabling environment and organizational frameworks for political participation, through elections and political parties. The present intermediate results are consonant with the strategy implied by the present assessment, though the fact that they fall within an SO focussed primarily on local government is somewhat awkward.

in case of violations all appear essential. Continued efforts to reduce procedural irregularities (including, *inter alia*, selective voter registration, inflated or inaccurate voter rolls, ballot stuffing, media bias, lack of effective enforcement mechanisms, lack of transparency in count) are also essential.

Without changes in its mandate and composition, continuing support to the CEC is of limited utility. Georgia, after all, currently possesses the technical capacity to administer elections; that much has been proven by the last election cycle. Effective citizen monitoring of the electoral process is critical, however, and likely to have greater impact than voter or civic education programs. USAID and its partners have a comparative advantage in promoting domestic monitoring, and the capacity to perform parallel vote tabulation (PVT). Networks of domestic election observers over the long term could form the basis for a watchdog organization focussing on monitoring elected officials between elections as well as during elections.⁵⁵ USAID should support a robust, nation-wide effort in advance of the 2003 parliamentary election campaign to monitor the electoral process from voter registration, through the campaign, to the count and reporting of results. Media monitoring is a critical element of such an effort, access to state-controlled media has provided the governing party a lever with which to influence electoral outcomes in the past.

4.2 Political Parties

USAID should reorient its party work away from attempting to build national party organizations to building or sustaining support for specific reforms or to blocking roll-backs of enacted reforms.

Georgia's party system remains weak, inchoate and unstable. Parties and factions form, transform and disintegrate. There is a high degree of volatility in support for parties between elections. Because parties are personal vehicles, they have little coherent programmatic identity or identifiable constituency (exceptions being Labor, Revival, and Javak), and they have not deepened their roots in the regions. Inter-party mobility among MPs is high and in the wake of the CUG's breakup, a large number of MPs no longer belong to the parties they were elected to represent.⁵⁶ The disintegration of the CUG and the impending presidential succession provide both opportunities and impediments to party consolidation. Broad support for President Shevardnadze and his political agenda has disappeared and previously internal divisions have crystallized along partisan lines. There is consequently a wider political "space" in which political actors might seek to coalesce with partners with whom they agree on policy issues. At the same time, the absence of a stable majority and the dynamics of positioning for the transition appear to be encouraging political leaders to explore tactical alliances with parties that have dissonant objectives.

We differentiate between four broad types of party work as follows:

- Assistance intended to contribute to capacity and organizational development;
- Assistance focused on the development/strengthening of regional grassroots party structures;
- Assistance focused on the formation of durable electoral coalitions;
- More ad hoc collaboration with parties as allies in advancing a reform agenda(s);

⁵⁵ The experience of the Committee of Voters of Ukraine (CVU) is instructive in this regard.

⁵⁶ A 2001 USAID Assessment noted that, "...Georgia's political parties have not emerged as leading advocates for reform... Only limited interest exists within the major political parties to transform themselves into well-structured democratic organizations presenting the public with credible, differentiated policy platforms. To the extent reformers within parties exist, they tend to be younger Georgians, rather than those in leadership positions. To date, leaders have taken few concrete actions... towards building effective, modern democratic parties... Few analysts expected this lack of leadership for the democratization agenda to change in the near-term."

The Civil Society Assessment recommended that USAID re-orient political party assistance away from party leadership to regional grassroots party structures, with a focus on youth activists. While the absence of links between national leaders and defined constituencies at the grass roots level does constrain the development of a party system, however, the critical constraints relate to incentives facing party leaders and not their technical expertise or lack thereof.⁵⁷ Since traditional political strengthening activities are unlikely to have much impact in the current situation, we recommend that USAID confine its party work to building or sustaining support for specific reforms or to blocking efforts intended to roll-back enacted reforms. By focusing on issue-based coalitions, USAID can avoid “choosing winners” and the attendant risk of becoming too closely associated with the agenda of any one party or coalition. Support for effective policy and budget analysis might do as much to achieve this goal, by providing reform advocates with accurate and timely ammunition for legislative debates

4.3 Parliament

USAID Should reorient its Parliamentary Assistance strategy to support for issue-based coalitions, strengthening parliamentary committees to afford greater public input, and by helping to fortify an internal and external audit or watchdog capacity.

Donor assistance cannot do much to improve a Parliament as constrained as Georgia’s appears to be in the present environment. Weak party coherence, poor interest representation, a subordinate position vis-à-vis the executive, constraints related to internal organization, resources, and staff capacity—all of these factors serve to weaken what was once a major venue for policy deliberation with real oversight authority. A USAID Parliamentary Assessment (March 2002) recommended that USAID 1) Support formation of coalitions around reform issues prior to the November 2003 parliamentary elections; 2) Develop preconditions for public pressure to ensure accountability of MPs; 3) Strengthen parliamentary committees through better public hearings as a mechanism for channeling public input into the legislative process; 4) Develop fiscal accountability and legislative audit capacity; and 5) Assistance to develop parliamentary watchdog capacity. We concur with all of these recommendations.

Because the usual modalities (e.g., skill-building, coalition formation) are unlikely to achieve much, a viable approach would be to identify areas of agreement, and facilitate communication between parties which may have common tactical interests on particular issues. More effective in stimulating parliamentary coalitions would be to encourage interest aggregation outside Parliament on specific reform issues (“lobbies”). This would contribute to altering the broader incentive structure. Greater transparency is a precondition for public pressure for greater political accountability. Efforts aimed at broadening access to legislative information (voting records, financial information, draft legislation, legislative calendar and hearings schedule, and agendas, etc.) are thus useful. Other activities recommended by the assessment, including an IT consultancy, production of speaker’s web page, efforts to promote procedural changes to increase transparency and public access, are also consonant with the goals identified and will require modest investments.

USAID should therefore work to strengthen parliamentary committees through better public hearings as a mechanism for channeling public input into the legislative process. Efforts to develop budget audit and legislative impact analysis capacity in the parliamentary budget office and research services are also useful. Until accountability issues related to Chamber of Control are settled, USAID should not work with this entity. Finally, the emergence of a parliamentary watchdog capacity as positive development, but caution against a donor-initiated effort to foster the creation of a new “NGO” to serve this function.

⁵⁷ The national political leadership actually uses sophisticated techniques (e.g., focus groups and polling) and have been able to coalesce when it served their interests to do so.

4.4 Decentralization and Local Government

USAID should reorient and increase support to regions that have demonstrated a commitment to promoting democratic local governance. It should do this in three ways:

- *Improving local government service delivery*
- *Supporting local NGOs and media that are actively promoting citizen interests*
- *Strengthening enabling local political participation.*

Devolving authority and resources to local government units is fundamental to USAID's effort to address the syndrome of problems fostered by the concentration of power in the executive and at the center. In this regard, we are more sanguine about the possibilities for local government support than were earlier assessments.⁵⁸ We recommend stepping up support for the decentralization process, including efforts to foster greater interaction between citizens and local governments through issue-based coalitions of organizations and locally elected authorities around the resolution of concrete local governance issues. Decentralization and local government support efforts should continue to deal both with the development of improved legislation; the development of LGU capacity; and with the development of stronger linkages between communities and LGUs.

Amendments to the legal framework that further define the roles, responsibilities, rights and resources of local self government bodies (including the financial and budgetary relationships between city and rayon), that increase the transparency, predictability and equity of decisions relative to resource transfers from central to local government units, and promote the clear demarcation of property all appear worthy of consideration. Parallel efforts to strengthen local government in critical areas should continue, as should efforts to promote the citizen participation in local government deliberative and decisional processes. If citizen alienation from government is to be progressively replaced by an increased sense of citizen efficacy and participation, changes at the local level where government is necessarily more accessible appear essential. This is an area in which USAID may have a significant impact over the longer term.

4.5 Rule of Law

USAID should continue promoting structural and procedural reforms in the legal arena, continuing the work begun with the 1997 judicial reforms, the law on the bar, etc.).

USAID should also promoting a much broader reform agenda via laws intended to provide a legal basis for holding government (and its subsidiary units) more accountable

Efforts to increase capacity should follow rather than precede reforms intended to change the operational dynamics of institutions to be assisted (i.e., work to increase judicial capacity would be largely ineffective in the absence of prior reforms of the judicial recruitment and evaluation system.) Further efforts to extend reforms to the legal profession are clearly needed. The fundamental issue is an institutional one: who will regulate standards, and how, and how will discipline be enforced within the profession. The same logic applies to prosecutors. Reform is uneven, and even reforms that are formally adopted will

⁵⁸ We disagree with the Conflict Assessment's (2001) recommendation to adopt a "more cautious, calibrated approach to implementing local governance law to guard against risk of separatist conflict." This is not advisable given our conclusions relating to the distribution of power in the Georgian political system. Only in Samtske-Javakheti is there a risk that a devolution of authority to local government will exacerbate separatist tendencies; second, this potential is lessened to the extent that decentralization strengthens rayon level administration at the expense of regional authorities.

likely not be uniformly applied. If improvements in the execution of judgements do not keep pace with judicial reform, then what limited confidence in the system exists will be hard to sustain.

USAID should also promote a broader agenda via laws intended to provide a legal basis for holding government (and its subsidiary units) more accountable. In this regard, work on legislation related to key areas of public policy appears essential. Potential foci might include further reform of electoral legislation, the local government act, etc. The passage of legislation does not guarantee its implementation; at the same time, in the absence of legislation narrowing the scope official discretion, few tools are available to those who seek to check the arbitrary exercise of power. During the remainder of the period before the next parliamentary elections, opportunities to move forward with positive reforms may be limited. Opportunities to assist relevant Georgian groups in efforts to block the roll-back of already enacted reforms are to be encouraged.

We disagree with the recommendation of the CVA that USAID work to strengthen the Ombudsman's (Public Defender's) office to provide citizens with an additional independent channel to voice concerns and adjudicate disputes. The office is currently captive of the executive and therefore unlikely to serve its intended function. While the Public Defender is among a very few government actors that have spoken in support of religious tolerance, support for interfaith or interethnic reconciliation groups in conflict-prone regions would probably be more useful than support to the PDO on this issue. Such support could be placed in the category of NGO strengthening or advocacy coalitions and might have the added beneficial impact of enhancing civil society while reducing conflict vulnerability.

Legal and regulatory reforms that limit discretion afforded state actors in "regulating" the market are key elements influence how the Georgian economy develops over the medium term. Increasing activity and political influence of business interests (reflected in the recent electoral success of New Rights), may provide opportunities to work with business associations where their interests and other reform interests appear to coincide. USAID should consider working more closely with associations representing small and medium business interests in conjunction with efforts to promote NGO advocacy coalitions with a stronger membership base. Such efforts should, however, focus on policies with a broader impact on democratization, not the narrow economic interests of the associations or the businesses they represent, i.e., legal, regulatory reform, reforms that make business operation more transparent and predictable.

4.6 Civil Society

USAID should concentrate on assisting civil society more narrowly and strategically, by focusing on working with NGOs to make local and national government more transparent and accountable. Targeting a smaller number of advocacy-oriented NGOs, and providing them more substantial funding with greater funding is a viable strategy.

In this recommendation, we concur with the USAID Civil Society Assessment conducted in April-May 2001 concluded that the development of a vibrant civil society is essential for sustained economic and democratic reform in Georgia. In the absence of a civil society, the political-economic interest groups that have the most to gain from the *status quo* (limited transparency, accountability, and competition) will almost certainly continue to resist or block further significant reforms. Following from this conclusion, the assessment recommended that "*USAID/Georgia's civil society strategy should focus on encouraging citizens, media, and CSOs to demand greater transparency and accountability of state and non-state institutions within the framework of the rule of law. More than simply providing grants to advocacy CSOs, the civil society strategy should integrate support for civic organizations, independent media, professional associations, businesses, rights groups, watchdog organizations, legal service and information providers, and politically active citizens with the aim of sustaining economic and democratic reforms through demands for greater transparency and accountability.*"

We agree that targeting a smaller number of advocacy-oriented NGOs, and providing them more substantial funding with greater funding is a viable strategy. Management constraints likely preclude more direct USAID involvement in work with on Tier 2 & Tier 3 NGOs, and therefore support the general thrust of the approach embodied in the “Citizen’s Advocate!” program, which entails working with smaller, member-based organizations through “Tier One” (more mature, established) NGOs on the theory that this strategy will strengthen the sector as a whole by building up local organizations, and by fostering greater linkages between Tbilisi-based and regional NGOs.

We remain concerned that in focusing efforts on the developed NGOs, USAID will inadvertently reinforce the Tbilisi-centric development of the Georgian NGO sector. Tier 1 NGOs have distinct interests and perspectives, and care should be taken to avoid the imposition of these interests on Tier 2 & Tier 3 NGOs, particularly in regions, where the issues may differ. USAID and its partners should avoid the tendency to focus assistance only on those organizations that identify advocacy as their primary mission, since at the community level the most participatory organizations are likely to remain focused on substantive issues of local importance—health, education, sanitation, etc. Increasing the capacity of these organizations to advocate effectively vis-à-vis government at various levels will have the broadest impact.

In pursuing a tiered approach to civil society assistance, USAID should take care to ensure that resources filter down to the regional level organizations. The tendency will likely be for Tier 1 organizations to husband the resources. Care must also be taken to avoid accentuating the tendency for NGO creation and agenda-setting to reflect donor rather than citizen or community demand. This implies choosing to work primarily with organizations that have demonstrated capacity to undertake programs or activities without donor involvement, rather than encouraging the formation of new organizations around themes suggested through grant competitions.

4.7 Media

USAID should continue media programs at current funding levels to consolidate gains made by independent media and/or prevent erosion of freedom of speech.

USAID should consider funding a media watchdog organization, perhaps affiliated with the Association of Independent Broadcasters of Georgia, if that organization emerges a viable partner.

Media support that includes training and technical assistance to journalists should continue, since the cadre of professional journalists remains small, but such efforts should be complemented by management training and training related to financial sustainability and business management. Since financial constraints are related to many current problems of the media sector (e.g., the buying and selling of journalists and “news” coverage, reliance on covert “sponsors” for financial support, the failure of media outlets, etc.), efforts to support the development of an expanded commercial advertising market are to be encouraged as well. Low circulation is not simply a function of the limited purchasing power of the Georgian population, but related to the quality of publications. Many of the professional journalists think that there is demand for qualitatively new media both among politicians and in society at large.

A long-term goal should be to support the restructuring of the media sector to reduce state ownership of broadcast and print media, and to ensure that remaining assets function as “public” rather than “state” media. A *de facto* privatization of lucrative state media may occur of its own accord. But a badly managed, crony privatization of state television (Channel 1) could worsen the situation worse, by fostering a network of television channels dependent on a particular sponsor with ties to the political and economic establishment. Access to both local and national news is of considerable importance in

Georgian regions that are not served by Tbilisi-based media.⁵⁹ At the same time, indirectly financing the operating costs of local TV stations is not sustainable, nor does the approach seem to have developed a viable local news and information disseminating capacity at in the regions. Alternative strategies for sustaining regional media outlets should be seriously explored.

4.8 Corruption

Corruption is integrally related to the main governance problem - the degree to which power and authority are concentrated in the executive and in appointed rather than elected authorities at all levels. This both directly and indirectly fuels corruption.⁶⁰ Georgian perceptions of corruption reflect a dichotomy between two perspectives: a governmental perspective that focuses on the involvement of all citizens (“corrupted mentality”) and prescribes “solutions” related to improved law enforcement capability. Others (including NGOs, analysts, etc.) identify the problem as systemic, suggesting that only when legal and institutional structures that facilitate accumulation are eliminated can grand corruption be reduced to more manageable levels. In our opinion, the latter is a more actionable approach and deserves consideration.

For those interested in reform over the medium-term, it should be noted that although informal networks penetrate and condition the functioning of formal institutions, they are to a degree constrained by these formal structures and by the legal-bureaucratic rules that govern their formal functions. This suggests that *under certain conditions*, incremental reforms may have the capacity to constrain or channel the operation of the informal political economy into less destructive areas. The issue is whether the incentive structures faced by key Georgian political actors favors serious reform, and in what way donor interventions can affect these incentive structures.

Understanding the networks of kinship, personal relationships and economic interests that condition the functioning of the Georgian political system, the interplay of formal and informal institutions, is thus critical to devising effective strategies for promoting political liberalization. The way forward lies through reforms that remove the conditions which allow clan-based politics to thrive, rather than through efforts to reach an accommodation with forces whose interests are largely antithetical to the goals USAID seeks to achieve.⁶¹ Reforms which have the effect of reducing the dominance and reach of executive institutions, of promoting transparency and accountability, of breaking down vertical hierarchies of control, of simplifying regulatory frameworks governing both government processes and private economic activity, will all contribute to reducing the margins and incentives for the operation of clan-based politics. In general, we suggest that measures that support movement in the direction of the overarching institutional goals outlined above—reduction in the concentration of power in the executive, strengthening of countervailing institutions at the center, and increased devolution of authority from central to local government—will contribute greatly to a reduction of systemic corruption. A focus on corruption which combines both supply and demand-side approaches should however, also be considered.

⁵⁹ This sentiment is echoed by the USAID Civil Society Assessment (2000), which concluded that USAID should, “continue assisting independent local TV stations effective at providing local news that informs as well as influences local governance and rule of law.”

⁶⁰ The fact that appointments to theoretically “autonomous” regulatory institutions (including the Chamber of Control, the Public Defender, etc.) are controlled by the president severely undermines their utility in this regard.

⁶¹ The 2002 Conflict Vulnerability Assessment suggest that there is a need for further analysis of “informal institutions, networks and structures of power in Georgia (“clans”) to understand which interventions will likely be effective.” While we agree with this analytic conclusion, we strongly question the suggestion that, “in order to be truly effective, USAID will need to convince the leaders of informal structures that more effective progress can be made in the development of Georgia, through their support. Exclusive concentration on reform of formal structures will not have adequate results.”

Because it is an issue of great public concern, anticorruption efforts might serve as an effective focal point to mobilize public pressure and thereby political support for institutional reforms. Anticorruption might also provide a useful point of convergence within the overall DG program, since an effective anticorruption program would likely involve elements of civil society and media support, legal, regulatory and institutional reforms, and work with targeted institutions at both national and local levels. Anticorruption efforts could either be incorporated as a distinct intermediate result under Strategic Objective 2.2 (Rule of Law), or form the basis for a separate strategic objective which would allow a broader rationalization of activities currently grouped under S.O. 2.3. In considering whether or not (and how) to address corruption in the context of the DG portfolio, it appears essential that the mission consider mechanisms for ensuring coordination of its activities in this domain with those of the Departments of Justice, State, Defense, as well as the US Customs Agency.

It is beyond USAID's to resolve Georgia's corruption problem. However, it is not beyond the power of the USG entities to work toward resolving contradictions in its own policies that serve to weaken the impact of external assistance. For example, it is worth resolving the inherent contradiction between some USG efforts to strengthen central government institutions intimately associated with the excesses of Georgia's political system, and other efforts that seek to develop civil society as a vehicle for greater accountability. USG interventions may have the unintended result of strengthening actors whose interests are fundamentally at odds with both USG and Georgian interests. At a more fundamental level, donor assistance as a major source of financial inputs to the Georgian political economy has clearly helped to sustain clientelist structures.⁶² Greater attention must be paid to analyzing the interests (formal and informal/vested) of potential partner organizations.

Developing a consistent approach to reform issues, through the application of pressure for reform both via public diplomacy and the selective application of conditionality could go a long way toward pushing the Georgian government beyond its present democratization stalemate. Georgia is likely to remain a key partner on regional security issues. To a certain extent, incentives for reform can be found outside the Georgian political system. Since the Georgian state (along both formal and informal dimensions) remains heavily dependent on flows of external resources and the maintenance of these flows is in turn dependent on a variety of criteria external to the Georgian environment—e.g., standard conditions for EU or NATO accession, IMF conditionalities, PRSP targets, etc.—the Georgian political class has a strong incentive at least to appear committed to reform. The current consensus on the desirability of a “Western orientation” could provide traction for donor pressure toward meaningful reform. Such reform is essential for Georgia's long term economic development. It is thus related to longer term internal and regional security interests as well.

4.9 Conflict Mitigation

The January 2002 Conflict Vulnerability Assessment contains recommendations that extend beyond the DG sector, some of these we view as highly relevant but require a mission-wide approach. Other recommendations appear on further reflection to be worthy of reconsideration. The recommendation of the Conflict Vulnerability Assessment that the Mission adopt a calibrated approach to implementing local governance law to guard against risk of separatist conflict should be discounted. We do not view “subsidiarity” as a viable approach given our broader conclusions relating to the skewed distribution of real power in the Georgian political system. We view the devolution of authority and resources to local

⁶² For instance, the findings of a recent parliamentary allege that \$300 million in energy sector resources were diverted over the course of the last decade. It goes on to suggest that although \$400 million in foreign grants and credits were received for energy sector infrastructure rehabilitation over this period, expenditures on rehabilitation remained on the order of \$15 million. See, “Shortcut in the Mains - Energy Minister Holds on Despite Corruption Charges,” Nino Khutsidze, *Civil Georgia*, 17 December 2002.

government units as absolutely fundamental to the success of efforts to break down the complex of problems (including but not limited to corruption) fostered by the concentration of both formal and informal power in the executive and at the center. Two additional points should also be made: first, only in Samtske-Javakheti is there a risk that the progressive devolution of authority to local government will exacerbate separatist tendencies; second, this potential is lessened to the extent that decentralization strengthens *rayon* level administration at the expense of regional authorities. Promoting local self-government is one of primary means of advancing the democratization process in Georgia, and recommend further support for the decentralization process, including efforts to foster greater interaction between citizens and local government.

Communal tensions in Samtske-Javakheti and tensions between the region and Tbilisi are exacerbated by prevailing economic conditions in the region. Support for efforts aimed at improving economic conditions in Samtske-Javakheti would be consistent with the aim of preventing the escalation of conflict, and promoting the greater integration of the region in Georgia. Although it is clearly beyond the scope of the DG program, if the mission is committed to applying a conflict filter to its wider portfolio, we would suggest it work aggressively to strengthen economic and cultural ties between Samtske-Javakheti and the rest of Georgia. This might include concentrated economic and/or infrastructural development projects in this region, perhaps coordinated with other donors. The same case might be made for Kvemo-Kartli. Finally, efforts to ensure the integrity and transparency of the electoral process, and to work with political leaders to avoid violence in what will likely continue to be highly charged and a controversial electoral processes, are also likely to be useful in terms of reducing violent conflict potential associated with electoral competition.

4.10 Cross-Sectoral Linkages

USAID/Caucasus/Georgia has sought to strengthen collaboration across strategic objectives via:

1. Regular regional coordination meetings, attended by all USAID Partners, to exchange information and promote program synergies;
2. A new Community-Based Economic Development Pilot program, undertaken by USAID partners from both SO 3.1 and 2.3, in two cities. This one-year pilot will be followed by a long-term Mission CBED program, supported by all strategic objective teams

The Mission is encouraged to continue along these lines and to think creatively about the fostering of linkages between activities that fall under different strategic objectives but have common or overlapping goals.

DG perspectives should, for example, be considered when undertaking efforts in economic restructuring, since the manner in which these are undertaken will have both economic and social impact. As Carothers has noted, “These programs have major implications for how power is distributed in a society, how ruling political forces can entrench themselves, and how the public participated in major policy decisions. Democracy promoters need to take a serious interest in these reform efforts and learn to make a credible case to economists that they should have a place at the table when such programs are being planned. The same is true for any number of areas of socioeconomic reform that tend to be a major focus of economic aid providers and that have potentially significant effects on the underlying sociopolitical domain, including pension reform, labor law reform, antitrust policy, banking reform, and tax reform. The onus is on democracy-aid providers to develop a broader conception of democracy work and to show that they have something to contribute on the main stage of the development-assistance world.”⁶³

⁶³ Thomas Carothers, “The End of the Transition Paradigm”, *Journal of Democracy*, 13:1, 2002: 19-20.

This is not to suggest that programs should be formally integrated in management terms, only that collaboration should be encouraged. This has management implications for USAID, as well as for partner organizations. Effective collaboration requires effort on the part of partner organizations, which at present appears to take the form of an unfunded mandate. It is useful to distinguish between managing for results at a mission or DG program level and performance based contracting applied to individual partners. The latter may reinforce stove-piping by implementing partner and dampen inter-activity communication, cooperation, and coordination essential to the Mission's overall success, since partner organizations are likely to be hesitant about investing time, energy and resources in cooperative activities which do not figure among their contractual obligations, or in activities in which their performance is dependent on that of other USAID partners.

Annexes

Annex A: List of Contacts

Georgia DGA, 9 September—27 September, 2002

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Annex A: List of Contacts

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Alibala Askerov, Heirat (Integration of Azeris in State Life, NGO), Marneuli (at CUG Office)
Merab Tkeshelasvili, Mayor of Rustavi
Lasha Mindeli, Chairman, Rustavi (City) Sacrebulo (Former Mayor), Rustavi
Revaz Donadze, Head, Div. of Coordination and Analysis of Georgian Regions Foreign Relations,
Ministry of Foreign Affairs (in Mayor's office, Rustavi)
NGO Round Table, Rustavi
Alexander Shalamberidze, Member of Parliament (Traditionals)
Roman Gotsiridze, Head of Budget Office, Parliament of Georgia
Zurab Adeishvili, Member of Parliament (Saakashvili's party)
Akaki Asatiani, Member of Parliament (Traditionals)
Vakhtang Khamaladze, Member of Parliament, (Industrials)
Nana Devdariani, Public Defender of Georgia
Zurab Zhvania, Member of Parliament
Lado Chanturia, Chairman, Supreme Court of Georgia
Tevfik Yaparack, Country Manager, World Bank
Mikhail Chachkhunashvili, Director, OSGF
_____, 24 Hours Newspaper
_____, Rustavi II
Marc Behrendt, Democratization Officer, OSCE Mission to Georgia
Anna Westerholm, Head, Human Dimension Office, OSCE Mission to Georgia
Keti Khutsishvili, Director Eurasia Foundation, Georgia Program
Robert O'Donovan, Regional Director, South Caucasus Cooperation Program, Eurasia Foundation
Sharon Hudson-Dean, Public Affairs Officer, American Embassy, Tbilisi
Alexander (Kakha) Lomaia, Regional Director for Former SU, Democracy Coalition Project
Lali Meskhi, Head of Development Section, DFID (Tbilisi)
Stefan Mniszko, Governance Advisor, S. Caucasus, E. Europe and C. Asia Department, DFID (h.q.)
Allister Moon, Lead Economist, Poverty Reduction and Economic Management Unit, Europe and Central
Asia Region, World Bank (h.q.)
Elene Imnadze, Public Sector Management Specialist, World Bank Resident Mission Georgia.
Gocha Tskitishvili, Director, Institute for Polling & Marketing-Georgia (IPM-Research)
Shalva Natelashvili, Member of Parliament (Chairman, Georgian Labor Party);
Kate Whyte, Team Leader, Georgia Governance and Civil Society Project (DFID funded)
David Smith, Chief of Party, Terra Institute Land Markets Development Program, Terra Institute
(USAID)
Amb Richard Miles
Zviad Bokuchava, founder and president of National Dignity (NGO)
Tedo Japaridze, National Security Advisor
Irakli Alasania, Deputy State Security Minister
Irakli Kakabadze, International Center on Conflict and Negotiation
Niko Melikadze, Strategic Research Center
Mikheil Saakashvili, National Movement
Daniel Kunin, NDI

Eka Kvesitatz, 24 Hours
Kakha Imnadze, Presidential Press Spokesman

Discussions with NDI-led group in Gudauri on September 13, 2002 including
Zurab Zhvania and Gia Baramidze; Irinia Chanturia; People's Party leader and deputy, Asaki Asatiani
and Alexander Shalamberidze (Traditionalist Faction Leader)

Annex B: Assessment Scope of Work

DEMOCRACY AND GOVERNANCE ASSESSMENT IN GEORGIA

SCOPE OF WORK May, 2002

I. PURPOSE

The purpose of this Democracy and Governance Assessment (DG Assessment) is to take stock of the status of democracy in Georgia, given more than a decade of independence. The DG Assessment will help guide a political analysis of the country, incorporate what researchers and practitioners have learned from comparative experience, and set forth recommendations for a DG Strategy. Ultimately, the DG Assessment will provide recommendations for programmatic choices.

This Assessment provides timely assistance in two ways. First, it will review progress in meeting targets from the current DG program, utilizing several key assessments which have been completed over last two years. Second, the Assessment will respond to Mission priorities for crafting a new USAID/Caucasus/Georgia Strategy, given political imperatives for the 2003 Parliamentary elections and 2005 presidential elections.

II. BACKGROUND : OVERARCHING TRENDS

The purpose of this section is to acquaint the Assessment Team with background conditions in Georgia, particularly with regard to the political sector. It is intended to help guide the assessment process. These descriptions should not be interpreted as a requirement for in-depth reporting on these issues, but simply as information on the political context in which the assessment will be conducted.

Georgia's transition to democracy has been marred by internal violent conflict, political upheaval, and dominant-power politics. Despite promising signs of reform (the first Freedom of Information law in the CIS, a budding independent press, and a burgeoning civil society sector), progress is stalled. Recent events in the country indicate the coexistence of polar opposites: on the one hand, a forward-looking Law on the Bar; on the other, an old guard that prefers direct presidential appointment of local government officials. Corruption is rife and undermines even the most promising reforms.

And yet painting a totally negative picture is unwarranted. Georgian NGOs are beginning to work more cohesively and demonstrate political clout. A new generation of reform-minded politicians are making their voices heard throughout Georgia, calling for an end to corruption and greater government accountability. Improved legislation on elections and local governance has been passed, and citizens have turned out en masse to protect a free and independent press.

A. Georgia's Fluid Political Scene⁶⁴

Political events over the last six months have clearly demonstrated Georgia's political fluidity. Internal conflicts within the ruling Citizens' Union of Georgia (CUG) party led to the resignation of President Shevardnadze from the CUG Chairmanship in September 2001 and, eventually, to the dissolution of the CUG-led parliamentary majority faction. In October 2001, attempts to search the most popular independent television station, Rustavi 2, sparked major public protests. Thousands demonstrated to demand the resignation of several ministers and the president, demonstrating the ability of citizen activism to serve as a significant check on threats to political freedoms. The Minister of Interior and the Minister of Security resigned; President Shevardnadze then dissolved the entire government. The Parliamentary Speaker, Zurab Zhvania, also resigned in part to quell rumors that he was orchestrating a take-over of the government. In November 2001, the Parliament elected Nino Burjanadze to replace Zurab Zhvania. Nominated by the Traditionalist Party, Burjanadze is considered an ally of reformers in the CUG, and has the tacit support of President Shevardnadze.

The fallout from these events continued through the time of the assessment, as parties and factions maneuvered for position in the more fluid environment. In late November, the Parliament rejected, by a margin of 119-11, a proposal from President Shevardnadze to reduce the number of ministries. Confirmations of ministers occurred in stages throughout November and December, and debates between reformers and the Shevardnadze administration pressured the president to reconsider certain nominees. After confirmation by the Parliament, the Prosecutor-General appointed Badri Bitsadze, the husband of the new Speaker of Parliament, as his deputy. Despite Bitsadze's 20 years of service with the Prosecutor General's office, the leader of the New Right parliamentary faction argued that the Prosecutor-General should be dismissed for colluding with the Speaker of Parliament, Nino Burjanadze, to name her husband as his deputy. This dispute created a three-month boycott of plenary Parliament sessions by the New Right Faction, which only ended on March 13, 2001, the last day of the assessment mission. Shortly before start of the assessment, the National Security Council Secretary Lieutenant General Nugzar Sajaia, a close ally of President Shevardnadze, was found dead of an apparent suicide. This event has had a degree of political fall-out, with the Chairwoman of the Parliamentary Committee on Human Rights, Elene Tevdoradze, testifying to the Prosecutor General that the death was linked to a defamation campaign by Russian intelligence. This event resulted in some renewed efforts to pass strict criminal libel provisions.

This relatively high degree of political fluidity is likely to continue through the presidential elections scheduled for 2005 when President Shevardnadze is expected to leave office. While his authority and mandate to rule the country seem to be in decline, the president retains control over the tools of government. However, he has not focused on preparing the country for an orderly transition to a successor. To increase the likelihood of an orderly, democratic transition, Parliament and political parties will need to operate more effectively. The elections scheduled over the next three years are likely to be critical in the future development of Georgia's system of governance. There are significant concerns relating to the legal framework and the

⁶⁴ This section is based on Keith Schulz' and K. Scott Hubli's report for the USAID/NDI Joint Parliamentary Assessment, March 6-13, 2002.

administration of these elections. Although constitutional reform issues seem likely to remain in the background in the near term, they may resurface before and after the November 2003 parliamentary elections.

Local government elections, originally scheduled for November 2001, have been slated for June 2, 2001. Tensions are high between pro- and anti-president political groups, especially in Tbilisi, where major parties vie for seats on the powerful Tbilisi City Council. The political climate leading up to elections is equally tense: the CEC has determined that neither faction of the CUG can legally run for office; the Supreme Court has upheld this decision. Political demonstrations are held nearly daily in front of the CEC, protesting what is viewed as a political decision, rather than a decision based on the Rule of Law.

This political fluidity takes place during continuing territorial problems, difficulties with ethnic and religious minorities, growing corruption, and worsening standards of living, which present further challenges to additional democratic reform. Georgia has made little progress in integrating its regions or creating economic security for its citizens. Basic services such as electricity, water and sewage remain problematic. Corruption continues to be a significant issue and the dynamics of political scandal add additional potential instability in the system. It is important that democratic reform programming be able to react quickly to developments in the political system.

The DG Assessment will account for this fluidity in Georgian politics and Parliamentary disarray.

B. Preparing for 2003 and 2005 Elections

Georgia's next Parliamentary elections are slated for the fall of 2003; presidential elections are scheduled for April 2005. These elections are expected to usher in a time of new leadership in a post-Shevardnadze political scene. Per the FY 2004 Mission Performance Plan, the US Embassy has made a peaceful transition in 2005 their highest democratic priority. Building coalitions in Parliament enters into that framework, as does political party strengthening. Election administration also features into this scenario.

The DG Assessment will account for this USG priority in setting forth recommendations in the final strategy report.

C. Corruption

Corruption in Georgia is rampant and seems to steadily worsen—Western donors often cite this problem as Georgia's main obstacle to progress. Transparency International has consistently ranked Georgia as one of the most corrupt nations in the world. The corruption system in Georgia forms an entrenched way of doing business; both government officials and the people themselves accept the system and either directly pay into it or profit by it. During the past five years, attempts to address this endemic problem have included three government commissions and some civil society efforts. To date, the current Anticorruption Commission has successfully pressured the GoG to dismiss several officials (both at the national and regional level) who are perceived to have the most flagrant legal violations. However, real, lasting progress in

ameliorating corruption has yet to be seen; straightforward recommendations of one Commission were never enforced, and political will to stamp out corruption is questioned.

Corruption currently strangles Georgia's development. Any reforms are held hostage to back-room payoffs and deals. A continual "smoke and mirrors" backdrop screens the real political and economic situation: the real business of the day is conducted behind closed doors. Corruption erodes reform efforts and mocks transparency.

The DG Assessment will include corruption as a major point to address.

D. Georgia's Patronage System

Georgia's society operates vis-à-vis patronage regimes. Such regimes could be viewed as incompatible with democratic values, and often create serious constraints to the development of civil society.

Georgian society is traditionally characterized by strong client-patronage relationships. These relationships are not based on the formal structure; rather these are informal connections which are unequal but usually voluntary and mutually beneficial, improving both the client's and patron's positions. Georgian clans were traditionally based on kinship ties and could be viewed as extended families comprised of close and distant relatives. However, clans have now become more and more based on personal relations and mutual acquaintances.

Clans can be found at the local, regional and national levels. Characterized by a combination of at least four features--economic power, political power, links with law enforcement structures and government bureaucracy—they permeate all of Georgian society. Such a system can result in negative consequences for governance: national and local leaders often either represent clans themselves or rely on them to establish and maintain political power.

Georgia is currently witnessing the process of legitimization of clans through the establishment of political parties and movements, representing various political-economic interest groups. Clans often control media organizations through their ownership of media companies and by appointing editorial staff and journalists according to their interests. As a result, media outlets serve as mouthpieces for their "invisible" sponsors.

The DG Assessment should provide insight how democracy programs can be better tailored to work within a clan-based system.

E. Conflict

Georgia's recent history has been fraught with conflict. Three civil wars have wracked the country since independence; two remain unresolved. Recent violent outbreaks have erupted in both the Pankisi and Kodori Gorges, as well as Abkhazia. Events such as an overnight march of Chechen guerrillas from eastern Pankisi to western Kodori Gorge in Abkhazia--allegedly supported by the Ministry of the Interior—have added fuel to the fire of domestic instability and

political chaos. Vast areas of the country—such as Samtskhe-Javakheti—are widely perceived as breakaway regions.

The Conflict Vulnerability Assessment conducted in Georgia cited several root causes for conflict, including:

- ✓ Ethnicity and religion;
- ✓ Economic deterioration;
- ✓ Deteriorating social conditions;
- ✓ Political disaffection;
- ✓ Lack of confidence in institutions;
- ✓ Corruption, history;
- ✓ Fear of instability;
- ✓ Weakness of civil society;
- ✓ Georgian nationalism; and
- ✓ Trade networks.

Violence can easily be triggered either by certain organizations and individuals. USAID currently seeks to systematically integrate conflict prevention throughout its development portfolio, and actively seeks ways in which to promote peaceful reconciliation through its programs.

The DG Assessment will take this backdrop into account throughout its analysis, and in crafting recommendations for a new strategy.

E. Operating with a New Paradigm

In his seminal review of donor-assistance to democracy promoting, Thomas Carothers⁶⁵ highlights the need to move beyond the transition paradigm and base democracy programs on thorough analysis. Carothers writes:

“A whole generation of democracy aid is based on the transition paradigm, above all the typical emphasis on an institutional ‘checklist’ as a basis for creating programs, and the creation of nearly standard portfolios of aid projects consisting of the same diffuse set of efforts all over—some judicial reform, parliamentary strengthening, civil society assistance, media work, political party development, civic education, and electoral programs. Much of the democracy aid based on this paradigm is exhausted. Where the paradigm fits well—in the small number of clearly successful transitions—the aid is not much needed. Where democracy aid is needed most, in many of the gray-zone countries, the paradigm fits poorly.” (p. 18)

Classifying Georgia with the democratic system termed “dominant-power politics,” Carothers notes:

“In dominant-power systems, democracy promoters should devote significant attention to the challenge of helping to encourage the growth of alternative centers of power. Merely helping finance the proliferation of nongovernmental organizations is an inadequate approach to this

⁶⁵ Carothers, Thomas. “The End of the Transition Paradigm.” *Journal of Democracy* 13:1(2002).

challenge. Again, political party development must be a top agenda item, especially through measures aimed at changing the way political parties are financed. It should include efforts to examine how the over-concentration of economic power (a standard feature of dominant-power systems) can be reduced as well as measures that call attention to and work against the blurring of the line between the ruling party and the state.” (p. 19)

Finally, Carothers calls upon donors planning democracy programs to work cross-sectorally, particularly with regard to privatization programs:

“These programs have major implications for how power is distributed in a society, how ruling political forces can entrench themselves, and how the public participated in major policy decisions. Democracy promoters need to take a serious interest in these reform efforts and learn to make a credible case to economists that they should have a place at the table when such programs are being planned. The same is true for any number of areas of socioeconomic reform that tend to be a major focus of economic aid providers and that have potentially significant effects on the underlying sociopolitical domain, including pension reform, labor law reform, antitrust policy, banking reform, and tax reform. The onus is on democracy-aid providers to develop a broader conception of democracy work and to show that they have something to contribute on the main stage of the development-assistance world.” (p. 19-20)

The DG Assessment will take these elements into careful consideration throughout all stages of its work.

F. Integrate with other Mission Strategic Objectives

USAID/Caucasus/Georgia continues to strengthen collaboration across strategic objectives. Two notable ways have recently been launched which herald such collaboration:

3. Regular regional coordination meetings, attended by all USAID Partners, to exchange information and promote program synergies;
4. A new Community-Based Economic Development Pilot program, undertaken by USAID partners from both SO 3.1 and 2.3, in two cities. This one-year pilot will be followed by a long-term Mission CBED program, supported by all strategic objective teams.

The DG Assessment and subsequent strategy will ensure that this collaboration is upheld and strengthened.

III. METHODOLOGY⁶⁶

The Assessment Team will apply the assessment framework (USAID Democracy and Governance Center, November, 2000) referenced below. The assessment portion of that framework is divided into precise steps⁶⁷ and is designed to help devise a democracy strategy,

⁶⁶ The Assessment Methodology detailed in this Statement of Work is largely taken verbatim from Appendix B of USAID’s Center for Democracy and Governance, “Conducting a DG Assessment: A Framework for Strategy Development,” Technical Publication Series, November, 2000.

⁶⁷ The original methodology calls for four analytical steps. In Georgia, these same processes are defined as five steps in order to provide ample emphasis for filtering the strategy with the US Embassy.

make choices for programming, and define results. The steps are analytical; in actual fact, the team conducts a single series of interviews but considers each of the steps as it conducts its interviews.

Step 1: Defining the Problem

In Step 1, the contractor shall analyze the DG problems which need to be tackled using five variables: consensus, rule of law⁶⁸, competition, inclusion, and good governance. The contractor shall examine the character of the regime, political trends, and problems for democracy.

Based on this analysis, the contractor will diagnose critical problems for democratization and prioritize those problems. This analysis will locate Georgia on a continuum of democratic change, as well as the pace and direction of change. The outcome of the Step 1 analysis will be a priority ranking of the problems for the transition to or consolidation of democracy in Georgia.

Step 2: Identify Key Actors and Allies

In Step 2, the contractor shall examine how the game of politics is played in Georgia and define the particular contextual dynamics which a Georgia-specific strategy needs to address. In particular, the forces and key actors which support democratization will be analyzed, as well as those that oppose it; the respective interests, objectives, resources, strategies, alignments and alliances will be considered. Step 2 is intended to help programmers envision possible entry points for addressing the problems identified in Step 1. The contractor shall examine historical, cultural geographic, sectarian and other factors that influence Georgian politics and that need to be taken into account in developing a DG strategy. The outcome of Step 2 will be a reconsideration of the priority problems identified in Step 1 in light of the domestic allies and opponents of democratic reform. The contractor's team will winnow down the possible institutional arenas in which USAID investments might have the greatest impact: namely, those which address the most important problems, adjusted by those in which domestic partners provide at least the prospect of impact.

Step 3: Analyze Key Institutional Arenas

In light of Step 1 and Step 2 (What are the problems in order of importance? And who are the domestic allies and opponents of reforms to resolve those problems?), in Step 3 the contractor shall examine those institutional arenas in which allies are best placed to push important democratic reforms. Step 3 shall focus on:

- ✓ Institutions, Rules, and Incentives
- ✓ Rule of Law Arena
- ✓ Competitive Arena
- ✓ Arenas of Governance
- ✓ Civil Society Arena

⁶⁸ A comprehensive rule of law (ROL) assessment will be conducted in June and July 02. While the DG assessment may look at some ROL issues, ROL will not be a significant component of this DG assessment. For the DG assessment to look at ROL variables would prove duplicative of work already undertaken.

During this stage, the contractor shall identify the nature of these institutional arenas, the rules that define them, the way in which those rules establish incentives favoring democracy, and the way in which the rules can be changed to promote more democratic behavior.

Step 4: Distilling the Strategy

On the basis of the above analysis, the contractor shall develop options and recommendations for a DG strategy in Georgia. The recommended strategy should in the first instance be a rank-ordered optimal strategy: i.e., what changes should USAID support in this environment to bring about a significant deepening of democratization, regardless of bureaucratic or other constraints. The strategy options and recommendations should be formulated as one or more higher-level results, with some notion of the lower-level changes required to reach those outcomes. The strategy should also highlight donor and context opportunities and constraints. In articulating this strategy, it is important for the contractor to explain how the strategy is connected to and does something about the problems defined in the analysis.

Step 5: Strategy Development

Once options are developed and a recommended strategy is articulated (Step 4), the contractor will filter the recommended strategy to ensure that the strategy is not only optimal, but also practical. The screens in Step 5 through which the contractor will filter the strategy are: (a) US Embassy/Georgia preferences and foreign policy concerns; (b) resource availability (staff and money) for democracy programming; (c) USAID policy; (d) the existing USAID/Georgia democracy portfolio and implementing partners; (e) USAID's comparative advantage and the work of other donors; (f) and likely Georgian stakeholder acceptance of US involvement in these issues. Since the US Ambassador and Embassy in Georgia take an active public stance on some important democracy issues in Georgia, it is important that the contractor understands those public diplomacy positions. The contractor will review relevant sections of the Mission Performance Plan (MPP) and discussion documents on democracy and public diplomacy for the assessment purpose. Since the filters in Step 5 are likely to affect the shape of the final strategy and program recommendations, the contractor will clearly identify for the USAID Mission any significant tradeoffs between the optimal strategy and the practical strategy. In the end, the contractor will make suggestions on how much can be done about the primary barriers to and opportunities for democratization given, USAID's limitations and strengths.

IV. LEVEL OF EFFORT

Implementation of this SOW calls for a team of four specialists: two expatriates and two Georgian experts. The contractor shall provide the following team members with the following Level of Effort:

Team Leader	18 work days in country 4 days travel 3 days preparation in the US 6 days follow up and report finalization in US Total LOE: 31 days
Other Ex-Pat Team Member	18 days work in country 4 days travel (if from the US) 3 days preparation in the US (if from the US) 2 days follow up and report finalization Total LOE: 27 days
Georgian Team Members	18 days work in country 2 days follow up and report finalization Total LOE: 20 days

In addition to these experts which the Contractor shall provide, USAID/W will provide one expert to participate in the assessment (see Section IX, “Special Instructions” for detailed responsibility). The Mission will also provide one FSN throughout the assessment.

V. TEAM MEMBER QUALIFICATIONS

Team Leader(ex-patriot): A social scientist or historian with an advanced degree in a relevant discipline. At least five years experience in DG research and/or programming is required. Experience in assessing political change, barriers to democratization, and strategy development is critical. A knowledge of DG transition literature would be useful. Regional experience and/or country knowledge is required. Ability to conduct interviews and discussions in Russian is desired. Excellent English communication skills—both speaking and writing--required. A knowledge of USAID and particularly of DG policy guidance and reengineering principles would be useful.

Team Member (expatriate, Eastern European): A social scientist or historian with an advanced degree in a relevant discipline. At least three years experience in DG research and programming required. Experience in conducting assessments and developing strategies is desirable. Background in conflict resolution would be helpful. Regional experience and/or country knowledge is required. Ability to conduct interviews and discussions in Russian desired. Excellent English communication skills—both speaking and writing--required. A knowledge of USAID and particularly of DG policy guidance and reengineering principles would be useful.

Team Members (Georgian): A social scientist, historian, public sector management specialist, or researcher. Minimum degree BA/BS. Good understanding of political dynamics and political actors in Georgia essential. Links into the research community would be useful. At least five years’ work experience, preferably with Western donors, required.

The combined team should have a broad range of experience encompassing such areas as national politics, parliamentary affairs, local government, elections, rule of law, judicial and electoral reforms, anticorruption, human rights, civil society, and media. At least one ex-pat team member will have direct prior experience in crafting USAID democracy strategies. Since the Mission has launched a major local governance initiative, experience with local government programming outside Georgia is useful.

USAID is an equal opportunity employer. It is expected that a gender and ethnic mix will be included in the team.

VI. TIME LINE

The work called for in this scope will start o/a September 1 and will be completed approximately eight weeks later. The two expatriate team members will stop in Washington for interviews with key USAID officials and other organizations. The team will debrief the Mission at least twice (once midway through the analysis and again prior to departure). The Mission will give oral comments at the debriefing and may submit written comments after the return of the two expatriate team members. Once the team receives all written comments, it has three weeks to finalize and submit the final report. The final report will be submitted to the Mission for its final review and dissemination. The report belongs to USAID, not to the consultants or contractors, and any use of the material in the report shall require the prior written approval of USAID.

VII. DETAILED SCOPE OF WORK

A. Preparatory Phase - Washington, DC and/or Contractor HQ

The expatriate team member will pass through Washington, DC on her/his way to Georgia. S/he will be introduced to the assessment framework by G/DG staff and/or contractor personnel. S/he will interview relevant USAID, multi-lateral donor, and NGO staff on their perceptions of democratization in Georgia. S/he will collect and begin to review key documents, such as the current USAID country strategy, the FY 02 annual report, the ten-year report of USAID assistance in Georgia, and the FY 01 R4, and other relevant materials (Freedom House Nations in Transit, key assessments, Human Rights Watch Reports, Department of State Human Rights Report). S/he will hold a team planning meeting (via telecom) to begin the process of organizing their work.

B. Field Work

The two expatriate team members will meet with the two local experts and will integrate them into the process, briefing them on what they learned in Washington and sharing documents. The Mission will brief the team on their perceptions of political dynamics and will discuss any special parameters for the field work (e.g., there may be concerns about who the team interviews). The team will divide up its work and will submit a work plan on day three in Georgia. The team will meet with a broad array of host-country politicians, activists, reformers, researchers, journalists, community groups, etc. The team will also meet with embassy staff, other donors, and NGOs knowledgeable about political life.

After arrival of the contractor's team of specialists, the Mission DG Team will brief the Team on their perceptions of political dynamics and will discuss any special parameters for the field work.

The contractor team will divide up their work and will submit a work plan on day 3 in country. The team will meet with a broad array of politicians, activists, reformers, researchers, journalists, community groups, NGO leaders etc. The team will also meet with Embassy staff, other donors, NGOs who are implementing the current democracy portfolio of USAID in Georgia, selected Georgian government officials (both in Tbilisi and in regions outside Tbilisi), and civil society organizations. A suggested list of appointments is enclosed with this SOW (annex 1). However, the appointments need not to be restricted to the list. The Mission will assist in arranging appointments, but not provide logistics and transportation for team members.

A very crucial part of this assessment exercise is gathering and processing opinions, impressions, feed-back from individuals, including customers, institutions, and thoughtful persons concerned with democracy and governance issues in the areas outside of Tbilisi. In-country field trips will also provide the opportunity to observe the democracy program currently being implemented with USAID funding, and also similar programs in the regions supported by other donors. At least two field trips to the regions in different locations (each likely of 3 days duration) are to be carried out by the team.

Guided Roundtable Discussion

In addition, the assessment team will guide a roundtable discussion with select DG Partners using Thomas Carothers' article cited in this SOW, and applying its framework to the Georgia context. Notes from this discussion will be included as an annex to the final report.

Draft Report and Debriefings

At the end of the third week in country, the team will deliver six copies of a draft report to the USAID Mission, Democracy and Governance Team. This draft need not include the executive summary. Shortly thereafter, the Team will give three formal oral debriefings/presentations on its findings and recommendations to:

- (a) USAID Mission Director and DG Team, including the Program Office;
- (b) The US Embassy Political Econ section;
- (c) A group including individuals outside USAID for feedback, such as selected USAID partner organizations (NGOs or researchers) who will not necessarily see the draft written report.
- (d) A short debriefing to the US Ambassador.

These meetings will provide oral feedback to the team. After receiving the draft report, the USAID DG Team will give written feedback to incorporate into the final draft. The assessment team will finalize the report within four working days of receiving the DG Team's comments.

C. Final Report

The contractor will finalize the report, which includes two key components:

1. The background assessment (Steps 1-3); and

2. Options and recommendations for a new DG Strategy, including strategic objectives and intermediate results (Step 4).

USAID recognizes that this strategy will not necessarily include indicators, nor will this assessment produce a new Performance Monitoring Plan. However, the final report will provide rank-ordered recommendations for a new DG Strategy, complete with strategic objectives and intermediate results, that uniquely respond to Georgia's political and social context, and include USAID opportunities and constraints.

The final report will incorporate comments from the Mission and other stakeholders. The contractor shall ensure that the final report is complete and reads in a holistic manner. The team leader will give a debriefing in Washington to personnel in G/DG, PPC, the regional bureau upon his/her return.

Before printing and submitting multiple copies of the final report, the contractor shall submit the final draft to the CTO for her approval. If this is done after the team leader returns to the US, the final draft may be submitted by courier, fax, or as an email attachment (using MS Word 6.0 or less). Upon receiving CTO approval of the final draft, the contractor shall submit 25 copies of the report to: Dr. Cate Johnson, Regional Director, Office of Democracy and Governance, USAID, Caucasus.

Organization of the Strategy Assessment Report

The final report should contain the following:

- a) A title page with a disclaimer;
- b) A table of contents;
- c) An executive summary (not exceeding three single spaced pages and which should summarize the purpose of the report and highlight the major findings/observations, conclusions, and recommendations in capsule/bullet form). The executive summary is intended to be sufficiently self contained in order that it can be detached and used as a stand alone document, whenever a briefer document is required.
- d) The body of the report;
- e) Annexes including
 - (1) Rough outlines of several sample alternative SO/IRs results frameworks;
 - (2) Scope of work;
 - (3) Notes from guided discussion with select DG Partners;
 - (4) Capsule biographies of team members; and
 - (5) List of key interviews/meetings.

The contractor will be given considerable leeway in organizing the main body of the report, but the planned organization should be discussed with and approved by the CTO before significant drafting is done. It is expected that the report will follow the general outline of the four analytical steps in the Democracy Center framework as discussed above.

VIII. DELIVERABLES AND TIME LINE

The contractor shall deliver the following within the time line mentioned against each of the deliverables:

Deliverables	Time Line
(1) Work Plan	Within 3 working days of arrival
(2) Progress briefings to USAID/DG Team	Weekly
(3) A facilitated dialogue with key USAID DG Partners using Thomas Carothers' article (cited in the SOW) and its applicability to Georgia. Notes from this dialogue will be included as an annex to the final report.	Within 2 weeks of arrival
(4) A draft report with six copies to USAID	The end of 3rd week in country
(5) Two major oral debriefings - one to USAID and the US Embassy, and one to key USAID partners in the D/G sector	Within 3 days of submission of draft report
(6) A revised draft report in six copies	Within 3 days of receiving USAID Mission written comments
(7) One complete copy of the final draft Assessment Report (along with a diskette with the report in Microsoft Word)	Within 10 days of leaving Georgia
(8) Twenty five hard copies of the final report plus one electronic copy of the final report	Within 10 days after approval by CTO
(9) A debriefing for USAID/Washington to the Pillar Bureau and the E&E Bureau	Prior to the end of contract period.

With the exception of deliverables no. 3, 5, and 9, all deliverables shall be submitted to the CTO at the address shown on the cover page of the delivery order.

Contracting Notes:

- a. A 6 day work week is authorized for the Team;
- b. Contractors must bring lap-top computers.

IX. SPECIAL INSTRUCTIONS: ROLES AND RELATIONSHIPS

The contractor will maintain a close relationship with and consult frequently with the Mission and seek their suggestions for the purpose of this assessment. Any formal notifications to USAID will be made to the CTO, who will be the Democracy and Governance Team Leader or her

designee. Any needed approvals (e.g., of changes in plans, or the organization of the body of the report) will come from her.

USAID/W will provide one democracy expert to the team to assist carrying out the SOW. This expert, who already has experience working with the Office of Democracy and Governance in Georgia, will assist with preparations in Washington, travel to Georgia with the team and conduct interviews, and help draft the final report. S/he will also participate in briefings in Tbilisi and in Washington.

The Mission will depute on a full-time basis a senior FSN from the Democracy and Governance Team to participate in the assessment with the contractor team. This FSN has a good understanding of the political dynamics and democratization process in Georgia, reforms/initiatives toward reforms supported by bilateral and multilateral donor agencies and by the government of Georgia in the DG sector, as well as the current USAID program.

The responsibility for carrying out the proposed DG assessment and drafting the report following this Statement Of Work (SOW) lies with the contractor. The contractor is responsible for the final product, the assessment report and the content therein. The report, however, belongs to USAID, not to the contractors, and any use or distribution of the material in the report by outside USAID shall require the prior written approval of the Mission CTO.

The Mission Democracy and Governance Team will prepare a suggested list of interviewees for the contractor and will schedule the briefing sessions at USAID and US Embassy as mentioned under ‘deliverables’. In general the contractor will arrange the appointments and logistics for the strategy assessment team. However, the USAID DG Team will give assistance as needed and possible. USAID will not provide office space, computers or other logistic support for the contractor team.

X. KEY DOCUMENTS

The Assessment Team shall use the following documents as background for the Assessment. However, additional documents (as stated above), shall also be used:

US Embassy Mission Performance Plan FY 2004
USAID PMP and accompanying PDT (FY 02);
Rule of Law Assessment (June, 2002);
Parliamentary Assessment (March, 2002);
Conflict Vulnerability Assessment (November, 2001);
Civil Society Assessment (April, 2001).
Internews Impact Assessment (2000, and 2001)
ICFJ/Promedia II, Media Marketing Study (2001)
Georgia Rule of Law Baseline Survey Report (IRIS, February, 2002)
Local Governance Baseline Assessment (Urban Institute, July, 2001)
Survey on Social & Healthcare Conditions (Save the Children, May, 2002)