

## Analysis

### Georgia's Fight against Organized Crime: Success or Failure?

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#### Abstract

Hardly anyone in Georgia before the year 2004 would have believed that it would have been possible to curb the influence of professional criminals, so-called *vory-v-zakone* in Russian or *qurdebi* in Georgian. They lived lavish lives, enjoyed almost unlimited influence over the state, controlled the prisons, provided protection for businesses and acted as arbiters between entrepreneurs. However, the government that came to power as a result of the Rose Revolution in 2003 set out to fight against organized crime, and was quite successful in this endeavor. From the viewpoint of democracy and the rule of law, however, the government's fight was not unproblematic. Critics point to the problem of unchecked police and emphasize reports that law enforcement officers engaged in extrajudicial behavior. This contribution looks at the process of fighting organized crime in Georgia's post-revolutionary period, discusses achievements and drawbacks and points out the remaining challenges.

#### Historical and Cultural Background

During Soviet times Georgia was distinctively notorious for its level of graft, corruption and bribery. According to research carried out by Byung-Yeon Kim, before the break-up of the Soviet Union in 1989, Georgia had the largest shadow economy among all Soviet republics.

The strong informal economy certainly helps to explain Georgia's disproportionate contribution to the world of professional criminals. This small nation, comprising two percent of the overall population of the Soviet Union, contributed 31.6 percent of the professional criminals active in the country. In comparison, the much larger Russian population provided 33.1 percent. Georgian criminals gathered extensive resources through what amounted to a tax imposed on the domestic shadow economy. These financial resources ultimately corrupted the institution of professional criminals itself: Georgians are widely represented among the so-called *apelsini*, the professional criminals who bought their title as respected criminal leader rather than earning it through traditional methods, such as serving time in prison.

Georgians' resistance to Russian colonialism and their political and cultural clash with the dominant Russian culture can partially account for the large numbers of Georgians in the Soviet underground economy, as well as in the "thieves" community. As in Sicily, Georgians distrust government and state power due to their history of constant invasions. Under these conditions, a survivalist culture developed as the Georgians learned to rely on informal ties to provide the resources necessary for sustaining life. The *qurdebi* can be viewed as rational actors who used criminality as an alternative channel of social and economic mobility. The institution of *vory-v-zakone*, which is more egalitarian than hierarchi-

cal in structure, allowed non-Russian criminals to circumvent the dominance of the more numerous Slavs and gain access to scarce resources.

A deep understanding of Georgian culture helps to explain the career success of Georgian criminals. The notion of being a *mochaliche* is highly valued in Georgian society. The word signifies someone who is apt, cunning and resilient. He is able to find an easy path to success and for acquiring material or other goods while circumventing the formal rules. The term does not necessarily imply that goals need to be achieved through legal or ethical means. The criminals and bribe-takers in Georgia do not suffer from societal discouragement in contrast to many Western countries where illegally earned money does not bring the same respectability as wealth earned through honest labor. Hence cultural relativism produces different perceptions of corruption. The practices labeled as corruption from a "Western" perspective may be seen as *pativistsema* in Georgian society, a term that literally translates as "respect," but frequently is used to denote giving a gift in exchange for a favor done by a relative or close friend.

#### The Era of Thieves' Dominance

The *qurdebi* were keen to profit from Georgia's post-Soviet transition and hijack its newly-established public institutions. The Georgian state fell to underworld control during the early 1990s, when various paramilitary groups seized power. Chief among them was the influential *Mkhedrioni*, headed by professional criminal Dzhaba Ioseliani. Such groups benefited greatly from the weakness of the new state's incipient institutions, the rampant bribery and the breakdown of the state monopoly on violence due to the three wars that

rocked Georgia at that time (Georgia's civil war, the so-called "Tbilisi war," and the conflicts over Abkhazia and South Ossetia).

The situation began to change in 1994, when the authorities started consolidating their legal power and neutralizing the influence of the criminal gangs. Eduard Shevardnadze used Interior Ministry forces to crack down on various armed groups and reduced criminality to the point that it no longer threatened the political order. Since 1995 the locus of power moved from the underworld to overlapping networks that included representatives of both legitimate and illegitimate spheres. The popular strategy of co-optation frequently led to incorporating individuals with a criminal past into the ruling elite. However, as a consequence, Georgia's public institutions, including the police, increasingly became linked to corruption and organized crime. For instance, the Interior Ministry came to play a role in the cigarette and oil business while also exerting control over retail and wholesale goods markets. This process blurred the lines between licit and illicit, informal and illegal.

Arguably the political elite gave state employees a green light to engage in rent-seeking activities in exchange for their continued loyalty to the regime. In 2001, the amount paid in bribes to state officials was estimated to be somewhere between \$75 million and \$105 million while the state budget revenues in the same year amount only to \$499 million. Hence, bribery was rampant and compromised every level of government, up to the very top. Such a high level of corruption contributed to the formation of a political-criminal nexus.

In fact the professional criminals were ruling the country. They enjoyed a near monopoly over racketeering and extortion, participated in violent crime, and owned stakes in the legal economy. They levied fees from business profits, used violence and intimidation to acquire shares in various businesses, and established their own companies to provide cover for illicit activities.

### **The Rose Revolution and Post-Revolutionary Reforms**

In November 2003, a public uprising, subsequently dubbed the "Rose Revolution", toppled the corrupt Shevardnadze regime and brought US-educated lawyer Mikheil Saakashvili to power. A desire to fight corruption and crime unified members of the movement. Hence, the fight against corruption can be thought of as political good deliverable by the state, or as Robert I. Rotberg points out in his book *When States Fail, Causes and Consequences* (p. 2–3), as an "indigenous expectation, con-

ceivably obligation that gave content to the social contract between ruler and ruled."

Immediately after his election as president in January 2004, Saakashvili made it clear that fighting corruption and crime would be one of his top priorities. Indeed professional criminals had matured to become the main competitors against the legal authorities and were perceived to represent the main threat to the newly pronounced goal of building a strong Georgian state. Importantly, from the very beginning, Saakashvili's focus was state-building rather than democratization. Capitalizing on their popular mandate, the incoming elites sought quickly to implement some much-needed reforms. In order to achieve their goals, they often circumvented time-consuming democratic procedures, such as winning approval from the legislature or courts, or including civic society stakeholders in the decision-making process.

Over a short period of time, the government greatly simplified the regulatory framework for the business sector, implemented a major tax reform, improved the management of public finances and strengthened oversight institutions. The political elites sought to restore the state's legitimacy by prosecuting corrupt representatives of the previous regime. Unfortunately, however, these efforts sometimes violated civil liberties.

These practices produced mixed results. On the one hand, the stronger presidential powers that Saakashvili acquired through constitutional reform allowed the new authorities to increase budgetary revenues and restore financial order. On the other hand, though, their anti-crime and anti-corruption policy was not subject to the supervision of public or non-governmental bodies. As a result, the steps taken were sometimes quasi-legal and demonstrated disrespect for the rule of law. Georgia has endured a process of transformation from "democracy without democrats" to one of "democrats without democracy," as Laurence Broers has aptly put it. The willingness to evade the law for the sake of expediency undermined the establishment of a state based on the rule of law, the key to which "lies not in technical matters but in political processes and the commitment of those in power to legal constraints" (quoted from Katharina Pistor).

The Georgian government's definition of organized crime as a security threat coupled with the practice of disregarding the rule of law legitimized the extrajudicial behavior of law enforcement structures in the name of national security. Human rights watchdogs and other NGOs have documented that the police engaged in the excessive use of force, torture and other legal violations.

According to a 2007 Transparency International report, in 2005–2006 twenty five people were killed during 73 special operations conducted by the Georgian Interior Ministry.

However, the Saakashvili administration deserves credit for creating an efficient and less corrupt police force. The World Economic Forum's police service reliability indicator, as measured in its annual Global Competitiveness Report, has increased from 2.6 points in 2004 (one of the lowest scores among over 130 countries) to 4.9 points in 2008, putting it on par with Slovenia and South Korea and lifting it to the second highest indicator among former Soviet Union countries after Estonia.<sup>1</sup>

The Georgian policemen are much better trained, equipped and funded than they were in the pre-Saakashvili period. However the process of reforming the law enforcement agencies has concentrated power in the Ministry of Interior, which now holds a near-monopoly over all of the state's law enforcement functions. Along with undermining the independent functioning of the court system, the police have acquired nearly unlimited and unchecked power. Georgia remains a heavily policed society. In fact, the so-called process of "optimizing human resources" in the Ministry did not affect the secret police or other key policing units; rather mainly it was the policemen of certain administrative branches (ecology police, traffic police, etc.) who were fired.

The police became increasingly politicized, especially in November 2007, when the Saakashvili administration faced large opposition protests. Since then numerous sources allege that the main function of the policing structures is to undermine political opposition. Hence the Soviet practice of police safeguarding the security of the ruling regime rather than serving the larger community is being perpetuated.

Reportedly the government uses the law enforcement agencies as tools to silence businessmen who do not support the ruling party and to reward the businesses of "friendly companies" through preferential treatment. Hence, the ruling regime uses anti-corruption policy as an instrument to pressure its political opponents and their sources of financial support. The actions of law enforcement agencies cannot be viewed as nonpartisan. The crackdown on Salford Capital, the business group owned by Badri Patarkatsishvili, and Arti group, owned by a close associate of Irakli Okruashvili, should be viewed through these lenses. Both of these men came into conflict with Saakashvili.

<sup>1</sup> Police services (1 = cannot be relied upon to protect businesses from criminals, 7 = can be relied upon to protect businesses from criminals); see also Diagram 1 on p. 13 for comparison with Armenia and Azerbaijan.

## The Downfall of the *Qurdebi*

Georgia's 2005 legislation, modeled after American RICO (Racketeer Influenced and Corrupt Organizations Act) and Italian Anti-mafia legislation, criminalizes the fact of being a thief-in-law per se and allows for the seizure and sale of property acquired through corruption and organized crime.

As a result of the campaign against organized crime, Tbilisi police alone detained 9 thieves-in-law and 37 criminal authorities in 2005. Reportedly there are more than 50 thieves-in-law held in Georgian prisons at present. The state has initiated a large-scale confiscation of the property owned by Georgian professional criminals. Some of the luxurious houses and apartments previously owned by thieves-in-law have now become the offices of regional and district police stations, for instance in the western Georgian towns of Kutaisi and Tsalenjikha. These efforts have badly damaged the financial base of the criminals as well as the connections they previously enjoyed within the Georgian government. Furthermore, the new legal authorities have become more cooperative with their counterparts in Europe, leading to the successful investigation of large organized crime groups in Spain and Belgium. All *qurdebi* have been transferred to prison No. 7, and are thus isolated from the rest of the inmates and the outside world. Therefore they lost the ability to exert influence within the prisons and to coordinate various criminal activities in the outside world from inside prison.

While the state has successfully curtailed the powers of professional criminals, some of their practices have survived, though they are now monopolized by state authorities. Numerous entrepreneurs have been summoned to the prosecutor's office, where officials extort money for newly created "development funds," the operations of which have never transparent. Additionally, the process of re-privatization has showed some strong signs of redistributing spoils for the benefit of the new elite.

Many sources have corroborated the allegations of mishandling private property. The 2006 GRECO (Group of States against corruption) report observed that it was unclear to whom this property has been transferred or sold and whether anyone apart from the state benefited from it. Georgia has made tremendous progress on Transparency International's corruption perception index and the World Bank control of corruption indices. While a drop in media coverage of bribery can partially explain falling public awareness of corruption, even the government's opponents acknowledge that petty corruption has decreased substantially. However, as the 2008 US Department of State Human Rights Report

states, “high-level corruption remained a persistent concern” and the anti-corruption policy is based on “prosecution as opposed to prevention and is ad hoc rather than systemic and participatory in nature.”

### Concluding Remark

Illegality has developed its own *raison d'être* in Georgia. The state and various related actors are embedded into this illegality and, depending on who dominates, profit from it. This problem is exacerbated by societal acceptance, for instance rule-breaking is frequently encouraged as a display of “courage” or “manhood”.

The above discussion shows that while the Saakashvili government has dealt with the institutional context of corruption and criminality to some extent, it has done little to address cultural facilitators, which is a key component of any anti-corruption policy.

In this regard no revolution took place in Saakashvili's Georgia. The state-building in the post-revolution-

ary setting has proceeded in a traditional political culture that works to water down the overarching efforts of fighting lawlessness and abuse of power. The key informal institutions which knowingly or unknowingly serve the purposes of crime and rent-seeking, including various forms of clientelism and patrimonialism, have survived and prove to be resilient. Even if the state sought to address them, these norms do not change quickly. As Douglass C. North puts it “while formal rules can be changed overnight, the informal norms change gradually... revolutionary change is never as revolutionary as its supporters desire and performance will be different than anticipated.” The European legal-rational bureaucracy is difficult to establish in an environment which lacks a distinction between private and public and where rules are applied with partiality.

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