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Tavkhelidze, Tatia

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ANALYSIS

The Rationale for Reintroducing the Foreign Agent Bill in Georgia before the 2024 Parliamentary Elections

Tatia Tavkhelidze (University of Leipzig)

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Abstract

The reintroduction of the foreign agents bill, particularly targeting nongovernmental organizations (NGOs) and independent media outlets, which occurred only months before the 2024 parliamentary election in Georgia, engendered inquiries into the underlying motivations of the governing party. Although it encountered significant resistance in March 2023, the government exhibited a readiness to risk civil discord by revisiting this contentious legislative agenda. This discourse suggests that the governing party perceives NGOs and independent media as formidable purveyors of social capital capable of mobilizing dissent against its authority. Consequently, the proposed constriction of NGO and media activities is ostensibly aimed at mitigating electoral turnover and fortifying the governing party's hegemony in the imminent parliamentary election.

Introduction

The October 2024 parliamentary election in Georgia holds significant weight for the ruling party, Georgian Dream, as it will determine its continued tenure in power. Several months earlier, in April 2024, the gov-

ernment revisited the contentious "foreign agent bill," which mandates that NGOs and independent media entities that receive over 20% of their funding from foreign sources must register as organizations with foreign affiliations. Since these entities are unwilling to declare

themselves as working for foreign interests, they are compelled to reject funding primarily originating from the EU and USA, leaving them struggling to maintain their operations or face closure.¹

This situation is particularly noteworthy because the government previously and unsuccessfully attempted to introduce the bill in March 2023. This initiative sparked large-scale protests outside the parliament, compelling the ruling party to withdraw it (Al Jazeera 2023). Despite the social unrest it previously incited, the government chose to reintroduce the bill. This decision not only provoked substantial social mobilization against it but also attracted criticism from European Union institutions, which deemed it an obstacle to Georgia's European aspirations (Politica 2024). Consequently, some EU member states have called for the restriction of Georgia's visa-free regime (Kyiv Independent 2024), and the United States Senate has prepared legislation to sanction Georgian government officials who promoted the foreign agent bill (New Voice of Ukraine 2024).

Under these circumstances, it is pertinent to question why the Georgian government would jeopardize the country's European future immediately after it acquired EU candidate status, its strategic partnership with the United States, and significant public support to hastily pass this legislation right before parliamentary elections. Considering the previous public outcry against this law and the fact that 82% of Georgians advocate for European integration (CRRRC), any actions perceived as contrary to EU integration could lead to a loss of electoral backing.

Amidst numerous speculations, the predominant rationale appears to stem from the ruling party's fear of electoral loss, which is driven by the influence of NGOs and opposition media in galvanizing social capital and increasing voter turnout against them. Consequently, by implementing this legislation, the government aims to assert control over these entities, curtailing their impact and stifling electoral mobilization against the ruling faction. This strategy serves as a means for the ruling party to consolidate absolute authority after the election, even at the cost of impeding EU integration and harming the country's democratic integrity.

Effects of Regulatory Measures on NGOs and Independent Media and Their Indirect Influence on Democratic Electoral Processes

The effectiveness of NGOs and independent media serves as a critical indicator of civil society's growing influence on policy formation. On the one hand, NGO activities are seen as altering traditional mechanisms

of political authority, prompting governments to relinquish some degree of policy-making autonomy. This shift reflects heightened accountability to an empowered civil society, represented by NGOs capable of mobilizing the public for political reasons (Memoli 2021; Richvalsky et al. 2019; Schoenefeld 2020). On the other hand, the media is viewed as a tool for achieving specific political goals. Robust, independent media in developing and transitional societies can promote the development of democracy and political pluralism, thereby empowering civil society and ensuring governmental accountability (Kumar 2006; Macedo and von Staveren 2014).

The influence of NGOs and independent media poses a significant threat to undemocratic governments, particularly during political elections, since both entities can increase electoral participation and mobilize the electorate against the incumbent administration. This potential for heightened voter engagement and opposition mobilization can lead to electoral turnover, jeopardizing the ruling party's ability to secure sufficient votes for re-election.

In fragile democracies, the government's indecisive power often arises from a passive civil society, wherein citizens frequently overlook their capacity to hold the government accountable and effect change through elections (Sardamov 2005). During such periods, voter apathy is prevalent, driven by the belief that individual votes are inconsequential to collective outcomes. This perception that a single vote cannot influence electoral results discourages individuals from participating in elections (Munier 2021).

In such contexts, governments invest significant resources in mobilizing their supporters to ensure their active participation in elections, thus consolidating their electoral success (Marx et al. 2022). Conversely, individuals who harbour doubts about the efficacy of their votes in effecting political change often abstain from voting, thereby inadvertently bolstering the government's grip on power. However, NGOs and independent media can disrupt this dynamic through various means. NGOs may orchestrate public awareness campaigns to enlighten voters about pertinent campaign issues, giving them factual information to inform their electoral choices (ACE Encyclopaedia). Independent media outlets, in turn, play a pivotal role in educating the electorate about the significance of voting, reinforcing the notion that even a solitary vote holds substantial weight and that collective individual action can precipitate electoral turnover (van Erkel et al. 2018).

Drawing upon their aforementioned capacities, NGOs and independent media have the potential to

1 'Draft Law of Georgia on Transparency of Foreign Influence', International Center for Not-for-profit Law, 22 February 2023, [02.2023-Georgia-Draft-Foreign-Agents-Law-updated.pdf](https://www.icnl.org/draft-foreign-agents-law-updated.pdf) (icnl.org) (accessed 12 May 2024).

shape public opinion in manners congruent with the political agendas of specific opposition factions, thereby amplifying voter backing for these parties. Moreover, NGOs can function as electoral watchdogs, ensuring the integrity of electoral processes by identifying and redressing instances of vote-buying or other forms of electoral malpractice, including voter coercion. In this regard, independent media serves as a crucial conduit for disseminating such information to the public and engaging civil society members. This function becomes particularly important in nations where the democratic order faces existential threats (Civil Society Foundation 2010).

Hence, when restrictive laws are implemented, they constrain NGOs and independent media outlets. Indirectly, the ultimate political outcome is the silencing of civil society and the consolidation of absolute governmental authority. This phenomenon is illustrated by countries in which such restrictive laws have been enacted, such as Russia. In these contexts, the NGO sector and independent media are weakened, voter turnout tends to be low, and free and fair elections are not guaranteed. Over the twelve years since the enactment of Russia's foreign agent law, it has become a tool for repressing independent media and the NGO sector, leading to the expansion of authoritarian control within the country. During this period, the law has been instrumental in causing self-censorship and prompting a mass exodus of domestic and international outlets from Russia, as well as forcing NGOs to operate clandestinely. The targeting of the leading human rights NGO Memorial and its subsidiaries exemplifies the law's abusive nature; 170 organizations were labelled foreign agents and faced closure, as they were required to include in their publications that their content was created to fulfil the functions of a foreign agent (Salaru 2022).

In the aftermath of the bill's enactment, 62 percent of Russians reported having difficulty disentangling the associations between "foreign agents," "spies," and the "fifth column." This confusion played directly into the state's hands, as it allowed authorities to blur the distinction between criminal conduct and legal activities, thereby justifying increased oppression. Consequently, Russian authorities granted the executive branch unlimited power, effectively rendering the rule of law fictitious. This consolidation of power ensured Vladimir Putin's electoral victories, despite allegations of election fraud (Krupskiy 2023).

Another pertinent example involves several African countries. According to Kendra Dupuy and Aseem Prakash (2020), 16 African states that enacted such laws experienced similar outcomes. Utilizing data from Afrobarometer, Dupuy and Prakash observed that these countries had decreased voter turnout and a lack of electoral turnover following the implementation of these

restrictive laws. Specifically, they identified two mechanisms linking these laws to the voting behaviours of African citizens. First, citizens perceived these regulations as indicative of democratic regression, leading them to view voting as futile. Second, these laws weakened NGOs and independent media, thereby diminishing the social capital these institutions help produce, irrespective of the regime type.

These observations elucidate the rationale and objectives underlying the Georgian government's pursuit of the foreign agent bill. Nonetheless, a salient inquiry emerges concerning the ruling party "Georgian Dream's" fears regarding the prospect of electoral defeat in the 2024 parliamentary elections, particularly in light of the influential civil society. This raises the following question: what are the apprehensions of Georgian civil society and the overall preelection environment that have compelled the government to employ such measures as a last resort?

Pre-election Concerns and Prospects of the Georgian Ruling Party

It has been asserted that the victory of the Georgian Dream in the 2012 elections represented a response from the Georgian populace to the preceding administration led by the United National Movement, reflecting widespread discontent with the previous regime. The current ruling party was elected to govern with the mandate of the Georgian majority, tasked with guiding the nation towards prosperity while avoiding the errors of their predecessors (Macfarlane 2012).

However, during this period, the government has been implicated in multiple transgressions, including human rights violations, which have been brought to light by nongovernmental organizations and independent media outlets (Amnesty International 2023). Nevertheless, the government has utilized the opposition party, the United National Movement, as a scapegoat to remind the Georgian populace that, in the absence of the Georgian Dream party, the former ruling party might regain power. This strategy has been prominently demonstrated in the context of political polarization within the country. As Stefan Meister (2021) noted, both major parties, Georgian Dream (GD) and the United National Movement (UNM), have a vested interest in this polarization because it helps mobilize their electorates and leaves no room for competitors. The prevailing polarization seems to give the ruling party an advantage in the imminent parliamentary elections, particularly given the 5% electoral threshold. Consequently, it is plausible that only the opposition party of the Georgian National Movement, positioned as the second most supported party following the Georgian Dream, will attain parliamentary representation. Nonetheless,

the prospect of an empowered civil society potentially reshaping electoral dynamics remains a salient concern for the government.

The vulnerability of the ruling party lies in the understanding that Georgian civil society cannot be perpetually manipulated through the demonization of the primary opposition. In the era of Generation Z, young Georgians who have electoral sway are rallying behind Georgian democratic values and the European future of their nation. Current events in the country demonstrate that Generation Z predominantly supports the development of empowered NGOs and independent media outlets for the advancement of European-style democracy within Georgia, highlighting that they do not constitute an electoral support base for the current government (Samkharadze/Lebanidze 2023).

Reflecting on the preceding parliamentary elections of 2020, it becomes evident that although the Georgian Dream secured victory with 48 percent of the vote, the electoral contest was fiercely contested. Notably, in the majoritarian elections, candidates affiliated with the ruling Georgian Dream managed to secure victory in only 14 out of the 30 majoritarian constituencies during the initial round, necessitating runoff elections in the remaining 16 majoritarian constituencies (Jakovljevic 2020). Moreover, asserting that the elections were rigged and consequently did not faithfully represent the political will of Georgian citizens, the opposition called for the immediate nullification of the election results and advocated for the scheduling of snap elections instead. This led to thousands rallying against the election outcomes. Previous experiences have taught the government that relying solely on public discontent towards the main opposition party cannot ensure victory in forthcoming elections.

Another part of the government's quandary is the emergence of a coalition among opposition parties. Despite the recent efforts by the Georgian president to instigate the formation of a coalition comprising all opposition parties to unite against the ruling party (Benson 2024), such a development was arguably foreseeable. Smaller parties, constrained by previous electoral results that render them incapable of surpassing the 5% threshold, have little recourse but to join the coalition.

In light of these considerations, the apprehension of the Georgian government should be directed towards

the potential impact of the enlightening campaigns conducted by NGOs and independent media outlets in Georgia against the government, which could sway the opinions of a substantial portion of the Georgian populace, leading them to refrain from supporting the ruling party. Georgian society grapples with the anguish of a dearth of political alternatives, a sentiment vividly portrayed in the statistical research conducted by the Caucasus Research Center. The findings revealed that 62 percent of Georgians perceive no political party as representing their interests, with only 19 percent viewing the Georgian Dream as closely aligned with their political leanings (CRRC 2023).

Consequently, there is an approximately 80 percent segment of the Georgian populace that could be mobilized against the ruling party with the assistance of NGOs and independent media outlets. However, the government's enactment of restrictive laws aimed at stifling the NGO sector and independent media serves to thwart the mobilization of a significant number of civilians in elections, thereby safeguarding its electoral incumbency.

Conclusion

Adopting laws that suppress NGOs and independent media outlets transcends the principles of good governance. Such legislation is typically found in countries with fragile democracies, where authoritarian tendencies are evident. Thus, it is plausible that this law was introduced in Georgia before the parliamentary elections to circumvent an electoral defeat against a coalition of opposition parties within a fair election environment. Election victories are achieved not solely by specific political parties but rather through the mobilization of civil society. NGOs and independent media outlets play a crucial role in this process. The government likely fears that approximately 80 percent of undecided Georgian voters, who could be mobilized by NGOs and independent media against the government, might pose a significant threat. Therefore, the government's decision to adopt the foreign agent bill appears to be a strategic move to silence criticism and weaken civil society, thereby minimizing the possibility of an electoral turnover.

About the Author

Dr *Tatia Tavkheldze* is a Research Fellow at the Faculty of Theology, University of Leipzig, Germany.

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ANALYSIS

The Georgian Ruling Party's Discursive Confrontations with Domestic and Foreign Actors

Lia Tsuladze (Center for Social Sciences and Tbilisi State University)

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Abstract

This paper discusses the Georgian ruling party's discursive confrontations with the country's strategic partners (especially the EU) and domestic actors (political opponents, NGOs, and Georgian youth, especially Gen Z). The author argues that although the ruling party boasts about its achievements on the way to Georgia's Europeanization, its pro-European aspirations have been questioned by domestic actors since 2014 and by the EU since 2021. Furthermore, the ruling party's discursive confrontations with both domestic actors and the EU have intensified since Russia's full-scale invasion of Ukraine, when Georgia refused to join the EU's sanctions against Russia, and peaked in April 2024, after the reintroduction (for the third time) of a draft law targeting civil society and independent media. The latter clearly indicates the ruling party's normative and discursive disengagement from the EU and the shift of its political vector towards Russia.

Discursive Confrontations with the EU and GD's "Pragmatic Politics"

In light of Georgia's ruling party—"Georgian Dream" (GD), which holds constitutional majority—reintroducing the legislative initiative "On Transparency of Foreign Influence" in April 2024, the question of whether the country is faithful to its European trajectory has again been raised. Indeed, this question was first raised a decade ago, in November 2014, when small pro-European parties left the ruling coalition of GD, claiming that the country's Euro-Atlantic course was endangered. The ruling party became defensive and announced that a few minor parties leaving the coalition was not an indicator of the shift in the GD's foreign policy course (Tsuladze et al. 2016). This question was raised again in June 2019, after a member of the Russian Duma occupied the Speaker's seat in the Parliament of Georgia during the interparliamentary Assembly of Orthodoxy, which led to immediate public protest (the so-called "Gavrilov Night") and cost parliamentary speaker Irakli Kobakhidze his position.

In recent years, Georgia, which was considered a leader of the association trio in terms of implement-

ing EU reforms, has demonstrated a visible backslide. Despite their promises, the authorities have failed to introduce judicial and electoral reforms. The more the EU required the implementation of respective reforms, the more the ruling party critiqued its strategic partner. In July 2021, GD withdrew from President of the European Council Charles Michel's document, which aimed to eliminate political polarisation in Georgia, and this was the first time that the EU openly stated that Georgia's ruling party was deviating from the European course (Tsuladze et al. 2023). This discourse became even more prominent in March 2022, after Russia's full-scale invasion of Ukraine, when Georgian authorities refused to join the EU's sanctions against Russia and labelled their domestic political opponents who were openly condemning Russia as "war parties", simultaneously targeting their Western opponents and accusing them of their attempts to "drag Georgia into the war" (ibid.).

In fact, GD started pursuing what the then leader and current prime minister of the ruling party Irakli Kobakhidze calls "pragmatic politics" (Interpressnews 29.01.2023). This term implies "flirting" with both the