REPORT

An Assessment of Georgia's National Integrity System:
The GNISA Project

A joint project conducted by:

Tiri (the Governance Access – Learning Network),
London, UK

The Institute of Ethics, Governance and Law,
Australia

Caucasus Institute for Peace, Democracy and Development,
Georgia

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A project carried out by the *Institute for Ethics Governance and Law* (IEGL),
Tiri (the Governance - Access - Learning Network) and
the *Caucasus Institute for Peace, Democracy and Development*,
as partners in this venture, and funded by the *Open Society Institute*.

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EXECUTIVE SUMMARY

Introduction and Background

Georgia's 'National Integrity Systems' are the institutions, laws, procedures, practices and attitudes that encourage and support integrity in the exercise of power in modern Georgian society. Integrity systems function to ensure that power is exercised in a manner that is true to the values, purposes and duties for which that power is entrusted to, or held by, institutions and individual office-holders.

This report presents the results of the Open Society Institute / Open Society – Georgia Foundation funded project *Georgian National Integrity Systems Assessment (GNISA),* conducted in 2005–2006 by Caucasus Institute for Peace, Democracy and Development, Transparency International Georgia, Georgian Young Lawyers Association, in close cooperation with Griffith University Institute for Ethics, Governance and Law (Australia), and Tiri Group (UK), into how different elements of integrity systems interact, which combinations of institutions and reforms make for a strong integrity system, and how Georgia's integrity systems should evolve to ensure coherence, not chaos in the way public integrity is maintained. Nevertheless all participants of the research may not share some conclusions given in the GNISA report.

The term 'National Integrity System' was coined by the foundation managing director of Transparency International, Jeremy Pope, to describe a changing pattern in anti-corruption strategies in which it was recognised that the answer to corruption did not lie in a single institution, let alone a single law, but in a number of agencies, laws, practices and ethical codes (Figure 1).

The GNISA research was based on a range of new methodological issues and a new approach to integrity system assessment that were first elaborated in Australia and applied for the integrity systems study in Georgia. These include: how integrity should be defined; how relevant integrity institutions should be identified (including as 'core' or primary institutions; 'distributed' or dispersed strategies); and how the many institutional and non-institutional elements of an integrity system should be described. The assessment resulted in a useful new, natural metaphor – a bird's nest, in which a multiplicity of small elements make up the system, often individually weak, but clearly interdependent and stronger as a whole (Figure 2).

Fig. 1: Transparency International's NIS Greek Temple (Pope 2000)
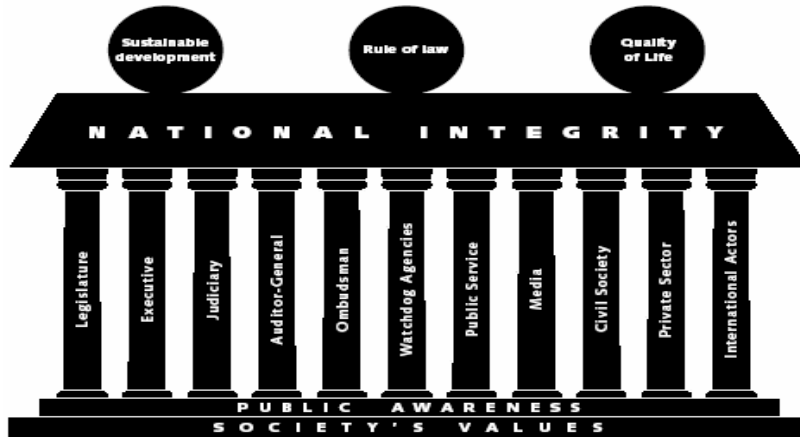
Figure 2:   Bird's Nest (Sampford et al. 2005)
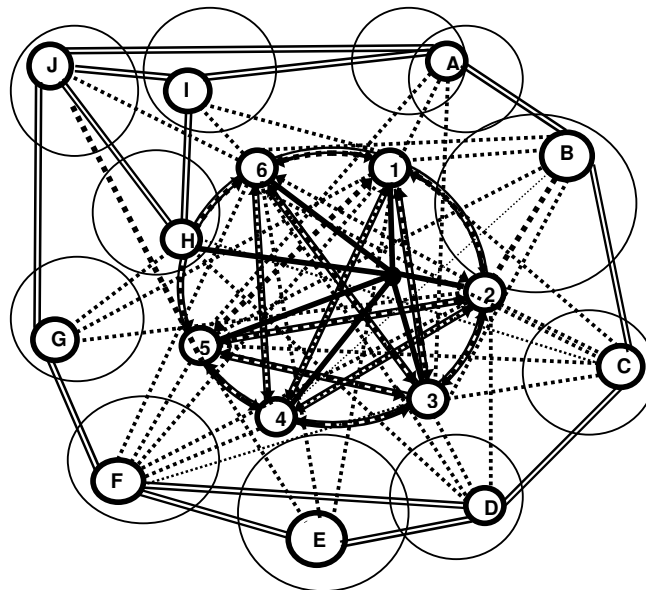
Sectoral Studies

The study had involved political and public institutions which can be structured into eight sectors according to their nature and functions:

- Parliamentary Institutions
- Executive Institutions
- Judiciary and Court Related Institutions
- Special Institutions
- Donor and International Institutions
- Nongovernmental Organizations
- Media
- Local Government.

The Assessment — Consequences, Capacity, Coherence

The new methodological framework developed by Griffith University IEGL and Tiri Group and used by the GNISA project was based around assessing the integrity systems' 'consequences' (or impacts), 'capacity' and 'coherence'. A combination of empirical research, documentary analysis, existing literature and expert workshops under these three themes were used to identify shape, strengths and problems of Georgia's integrity systems:

1. *Consequences*

Current strengths and opportunities

- Use of centralised controlling tools to monitor effectiveness
- Strong commitment of the leadership to combat corruption
- Executive oversight institutions
- Activity and efficiency performance measures
- High social trust to the governmental policies.

Challenges and further action

- Trust in leadership: the ultimate measure?
- Fragmented and uncoordinated data gathering
- Limited cooperation with NGOs
- Centralization of authority
- Weak public relations policies.

2. *Capacity*

Current strengths and opportunities

- Financial accountability systematization and standards implementation
- Law enforcement agencies role enlargement
- Financial and human resources in core investigation agencies
- Technical infrastructure and working environment conditions improvement in public sector

- Expertise and knowledge accumulation in civil society
- Donors and international organizations readiness to assist reform processes.

Challenges and further action

- *Parliamentary leadership and integrity*
- Whistleblower protection
- Civic education, awareness and rights
- Electoral integrity and political parties.

3.　　Coherence

Current strengths and opportunities

- Growing acceptance of mutual accountability
- *Ministers, ministerial advisors and the public service*
- Relations between core and distributed integrity institutions.

Challenges and further action

- Policy and operational coordination between core integrity agencies
- *Parliamentary leadership and integrity*
- *Parliamentary oversight committees*
- Business sector regulatory coordination
- Civil society organizations structural problems.

Summary of Recommendations

The assessment resulted in range of recommendations for government, civil society groups and international organizations concerned to ensure continual improvement in Georgia's integrity systems. All project participants look forward to monitoring progress towards the increasingly effective, capable and coherent integrity systems envisaged by this report.

Capacity

1. The provision of human, financial, material and technical resources to the state agencies need to be improved and distributed to public sector institutions according their actual needs. (Parliamentary, Executive, Special, International and Donor Organizations)

2. Sharing of knowledge, experience and good practices among institutions involved in the reform processes along with the examination of successful anticorruption reform of foreign countries with the aim of introducing these reforms in Georgia is needed (Parliamentary, Judiciary, International and Donor Organizations);

3. The cooperation with international organizations needs to be extended with the aim of developing ethical practices in state agencies (especially

law-enforcement agencies). (Parliamentary, Judiciary, International and Donor Organizations)

4. Partnership of state agencies with Georgian nongovernment organizations should be increased to ensure minimization of deficiencies caused by the shortage of qualified analyst personnel. (Parliamentary, International and Donor Organizations, Nongovernmental Organizations)

5. Shared electronic databases should be created to provide quick information and expertise exchange between individual agencies. (Executives, Judiciary, International and Donor Organizations)

6. Reforms in the education system must ensure preparation of qualified specialists in particular fields and the conduit of civic values to engender high personal integrity in public offices, media and nongovernmental organizations. (Executive, Judiciary, Special, International and Donor Organizations, Media)

7. Enhance the powers of special institutions (Ombudsman Office, Central Elections Commission, Audit Chamber, General Inspections, Financial and Asset Declarations Bureau) from a simply oversight functions to the ability to monitor the implementation of their recommendations by government. (Special Institutions, International and Donor Organizations)

8. The legislative basis for the operation of various integrity institutions should be improved. (Parliamentary, Special institutions, International and Donor Organizations, Nongovernmental Organizations)

9. A proper distribution of roles and functions and instructions within state agencies should be developed to ensure the achievement of uniform operational procedures across institutions. (Local Government, Nongovernmental Organizations, Media)

10. Professional contacts, personnel exchange programmes and collaboration between domestic and foreign institutions should be intensified. (Media, International and Donor Organizations, Nongovernmental Organizations)

Coherence

1. Cooperation between state agencies on public relations policies and planning as well as increased cooperation on common development and implementation mechanisms. (Parliamentary, Executive, Media)

2. Special unit to scrutinize decisions made by the executive should be created. (Parliamentary, Nongovernmental Organizations)

3. Interaction with local government units should be intensified. (Parliamentary, Nongovernmental Organizations)

4. Partnership between NGOs and higher education organizations must be improved in order to heighten public awareness of corruption and promotion of civil values. (Parliamentary, NGOs, Executive, International and Donor Organizations)

5. Proper mechanisms of checks and balances should be developed to avoid overlaps and interference with the responsibilities of a public institution by other institutions (Parliamentary, NGOs, Executive, International and Donor Organizations)

6. Parliamentary oversight of the performance of law-enforcement agencies needs to be improved. (Parliamentary, NGOs, International and Donor Organizations, Media)

7. International organizations and NGOs should intensify their joint efforts in promoting models of good governance. (NGOs, International and Donor Organizations, Local Government)

8. A system of mutual controls should be developed to improve the institutional environment and ensure balance between punitive and preventive anticorruption policies. (Judiciary, NGOs, International and Donor Organizations)

9. Parliamentary ties with public interest groups should be tighter thereby ensuring public interest groups' influence on policy formation and implementation. (Judiciary, NGOs)

10. Tighter cooperation between the Judiciary and Court-Related institutions, on one hand, and with NGOs and media, on the other, is needed to improve the efficiency of the litigation process and increase publicity of court proceedings. (Judiciary, Special institutions, NGOs, International Organizations, Media)

11. Enhancements are needed in the development and application of internal and external control mechanisms for the public sector (with the participation of NGOs through public control mechanisms) to ensure that these controls accord with the goals of institutional effectiveness. (NGOs, Special institutions)

Consequences

1. While the use of investigative-coercive methods is an effective way to combat corruption in the current situation as a short-term solution, public education and preventive anticorruption strategies are very important tools for the longer term. (Parliamentary, Judiciary, NGOs, International and Donor Organizations)

2. The adoption of just, transparent and common vertical mobility policies and procedures (based on qualification, merit, and personal integrity) for public sector employees is needed. (Executive, Judiciary, Special

institutions, International and Donor Organizations, Local Government, NGOs)

3.   Public awareness of corruption, citizen's obedience to the rule of law, and promotion of civil values are essential for strengthening Georgia's national integrity system. (Judiciary, NGOs, International and Donor Organizations, Media)

4.   Common approaches towards reforming the state governance system need to be adopted, based on cooperation between government and non-governmental sector (NGOs);

5.   Legislation must clearly define legal frameworks for central government institutions' intervention into public life (social and economic policies) as well as formulate proper procedures and rules for these activities to occur. (Local Government, NGOs, International and Donor Organizations).

The above represents only a brief summary of this project and its outcomes. For a more complete coverage of this research, interested parties are referred to the complete final report of the GNISA project which explains in detail the background to this project, its methodology and findings in greater detail.

Proposed Process for Handling Recommendations

1. Each organization involved in the Georgian integrity system and each should:
   - Consider their individual response in terms of the content of the report and the action they will take to respond
   - List those organizations with whom they need cooperate and coordinate and publish this list
   - Designate officials to discuss improved cooperation and coordination and publish
   - Monitor the changes they put in place unilaterally and in concert with organizations with which they cooperate and publish these results.
2. International and donor organizations should consider which recommendations that they are in a position to further through financial and or technical assistance
3. The Government of Georgia should seek to provide moral support for the process as a whole as well as addressing issues identified in the report.
4. The Government of Georgia should, with the support of donors, establish a permanent 'Governance Reform Commission' whose composition would put it beyond party politics.
   - The GRC should be permanent. It may be initially a larger body to cope with a backlog of necessary reforms or to deal with a major corruption problem. During its later, mature stage, it would receive new commissions from the government and have the responsibility of reviewing all areas of reforms already introduced. Ideally, it should have an independent board which could provide other briefs.
   - The Governance Reform Commission (GRC) would be served by a secretariat which would assist the GRC to propose alternatives, canvas expert and popular feedback and draft reports for legislative consideration
   - It should not see itself as necessarily, or even primarily, a law reform body. Even if it reports on all its findings to parliament, it should be expected to make proposals about the way that existing institutions operate.

- It should look to the overall coherence of the system and the way that the different reforms interact with each other.

A. Introduction

A.1 National Integrity Systems Assessment: Towards Public Integrity Reform

It is widely accepted that public integrity reform is best pursued and achieved by means of a three-pronged attack on those issues which can stand in the way of reform, namely poor legislation or judicial practices, non-existent or badly designed public institutions not properly enabled or supported to carry out their roles and a lack of established ethical values and standards. In recent times, this trilogy of key requirements for public integrity reform has become known as the 'Sampford Trinity' of legal reform, institutional reform and ethical standard setting.[1]

A.1.1 What is a National Integrity System?

A National Integrity System (NIS) can best be described as:

> … the institutions, laws, procedures, practices and attitudes that encourage and support integrity in the exercise of power' in any given society. Thus Integrity Systems function to ensure that power is exercised in a manner that is true to the values, purposes and duties for which that power is entrusted to, or held by, institutions and individual office-holders. [2]

The term 'National Integrity System' was first used by Jeremy Pope, the foundation Managing Director of Transparency International, who expressed diagrammatically the notion of what has become known as the 'Greek Temple' of integrity reform (Figure 1).

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[1] Sampford, C. and Wood, D. (1992), 'The future of business ethics? Legal regulation, ethical standard setting and institutional design', *Griffith Law Review* 1: 1, 56–72.

[2] Brown et al (2005), *Chaos or Coherence: Strengths, Challenges and Opportunities for Australia's National Integrity System* (Brisbane: KCELJAG/TI), 1.

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Figure 1: Transparency International's NIS Greek Temple (Pope 2000)[3]
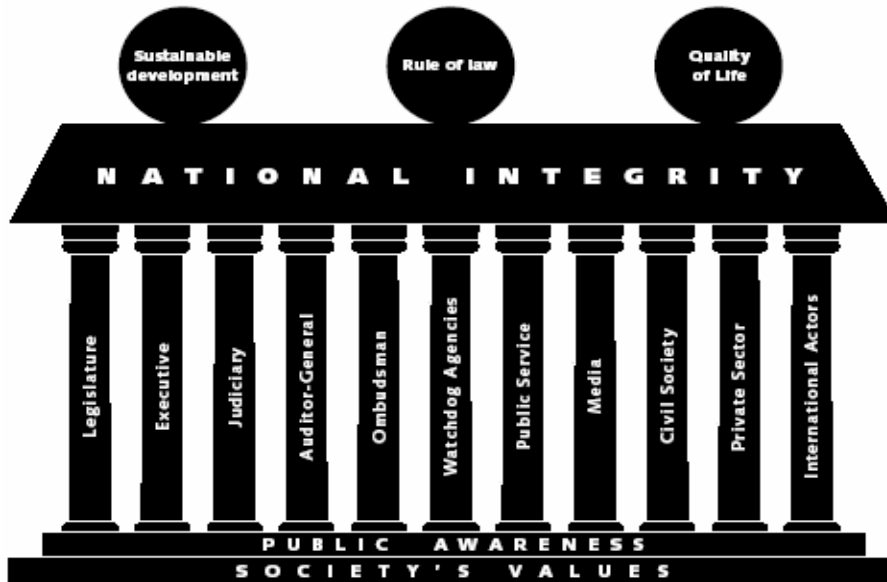
This notion stressed that a system is not stable, nor likely to yield public integrity, unless it is supported by strong institutions (pillars) each effectively carrying out its necessary societal integrity functions (e.g.: an effective and independent judiciary, an Auditor General whose reports are heeded by those in power). Pope stressed that it was important to recognize that integrity reform and the effectiveness of anti-corruption strategies cannot be left to depend upon any single institution, nor any single law, but what was required was a set of strong integrity agencies, an effective package of appropriate laws, proper practices and established ethical standards.

As Pope's diagram suggested, where you have strong pillars supporting public integrity, the country concerned can enjoy the fruits of that situation through the benefits of sustainable development, the predominance of the rule of law and of a decent quality of life for its people. A situation can exist where not all of the necessary pillars operate effectively enough to ensure such stability and integrity and thus there is a risk of the Temple developing a significant lean which can put at risk these key societal benefits, which then may balance precariously and be at the mercy of events or of bad people. One might interpret the worst case scenario as being where, in a so-called 'failed state', the roof of this Temple has tumbled and lies flat on the ground such that the above benefits are non-existent and can only then be regained through massive efforts at integrity reform designed to again prop up the pillars and the Temple.

Since the late 1990s, the focus on finding ways to assist societies to reform their integrity systems has been approached by various research agendas. Two such agendas, in particular, have contributed significantly to this pursuit. Beginning in 2001, a new research agenda was commenced by Transparency International (TI) which sponsored a research methodology to assess national

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[3]   Pope, J. (2000), *Confronting Corruption: The elements of a National Integrity System (TI Source Book)* (Berlin and London: Transparency International).

integrity systems. This approach involved the so-called 'NIS country studies', led by Professor Alan Doig of the Sheffield Business School.[4] These country studies basically utilised a 'checklist' approach that searched to match what was present in the country in question with a standard list of integrity institutions as might be expected within a traditional Western context. These studies were documented by reporting on the presence or otherwise of these various institutions within the country studied and offered a commentary on their general effectiveness. This research was primarily guided by Pope's notions of the requirements of a National Integrity System. At this stage, there have been some 71 such country studies carried out.[5] During 2002, a further 10 country studies were carried out by the Open Society Institute in Eastern Europe, using an adapted version of the TI methodology.[6]

In parallel with the above considerable body of work, an expanded research methodology was being developed by researchers from (and affiliated with) the Key Centre for Ethics Law Justice and Governance at Griffith University in Australia in partnership with Transparency International Australia. The resulting project, spanning some five years of work, was primarily funded by the Australian Research Council with supplementary finding from TI (Australia) and the Office of the Public Service in the Australian state of Queensland. This expanded approach, known as the National Integrity Systems Assessments (NISA) methodology, has been a more extensive and ambitious process of assessment.

A.1.2 Understanding Integrity Systems: from NIS to NISA

Over time the thinking behind the NISA process and its methodology has been refined in various ways. Firstly the apparent 'Western' representation emanating from the 'Greek Temple' model has been seen to be potentially inappropriate in some cultures, so there was a need to find different ways of representing these ideas. Additionally, the 'Greek Temple' model did not emphasise the importance of the inter-relationships between integrity institutions, to show the importance of their working together in mutually supportive ways in order to achieve results. This has been approached more recently by describing the NISA work in terms of a 'Rubik's Cube' model such as that shown in Figure 2 below.

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[4]   See for example: Doig, A., and McIvor, S. (2007 forthcoming), 'Assessing Integrity systems and Honest Government', in A.J. Brown, B. Head and C. Connors *Promoting Integrity* (Aldershot: Ashgate); Doig, A. (2003), 'The Matrix of Integrity: Is it Possible to Shift the Emphasis from Compliance to Responsibility in Changing Contexts? – Lessons form the United Kingdom', in P. Bishop, C. Connors, and C. Sampford (Eds.) *Management, Organisation, and Ethics in the Public Sector* (Aldershot: Ashgate); Doig, A., and McIvor, S. (2003), 'The National Integrity System: Assessing corruption and reform', *Public Administration and Development*, 23:4, 317–332; Doig, A., and Moran, J. (2002), 'Anti-Corruption Agencies: The Importance of Independence for the Effectiveness of National Integrity Systems', in C. Fijnaut, and L. Huberts (eds.) *Corruption, Integrity and Law Enforcement* (The Hague: Kluwer Law International); Doig, A., and Mclvor, S. (1999), 'Corruption and its control in the developmental context: An analysis and selective review of the literature', *Third World Quarterly* 20:3, 657.

[5]   Transparency International (TI) <http://www.transparency.org/index.php/policy_research/nis/regional>. Accessed 16 May 2007.

[6]   Eumap.Org. <http://www.eumap.org/topics/corruption>. Accessed on 16 May 2007.

This model seeks to show the different dimensions of the NISA work by describing the different planes and emphases possible in such research. On one dimension is the sectoral breakdown. On another, is the attention to the three now well-recognised reform foci of legal regulation, institutional design and ethical standard setting. On the third plane is the 'geographic' or scope of coverage from personal behaviours through to global impacts. Even more recently this model has been adapted to apply these ideas to the integrity system within a single organisation.

Another, more complex model, is that described as a 'Bird's Nest' view of NISA, as shown in Figure 3. This has added the analogy of a bird's nest as an 'Integrity System'. Each single twig or entity on its own is weak and unlikely to sustain any resistance, whereas when these twigs are strategically woven together (as in a bird's nest) the strength of the whole very much exceeds the sum of its individual parts (each twig). The same can be said of Integrity systems in countries or in organisations. What is needed is an interwoven network of mutually supportive elements ('twigs') to ensure that integrity is protected and sustained, even under the most severe onslaught against it. [7]

Figure 2: Brown, A.J. et al (2005), *Chaos or Coherence: Strengths, Challenges and Opportunities for Australia's National Integrity Systems.*
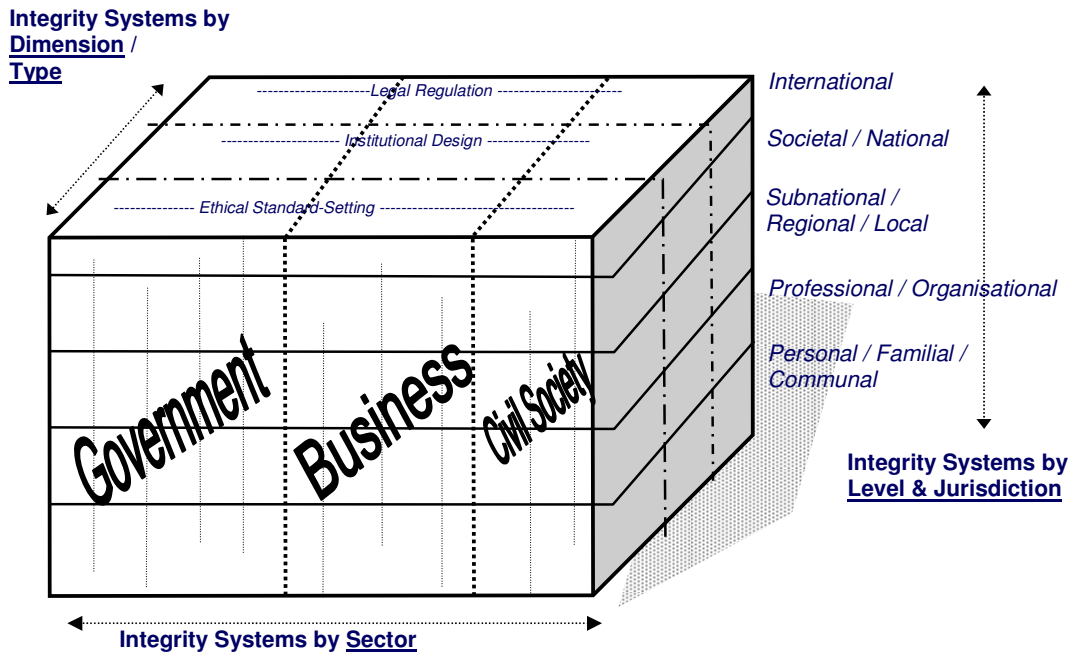
Figure 3:   Integrity Systems represented as a 'Bird's Nest' [8]
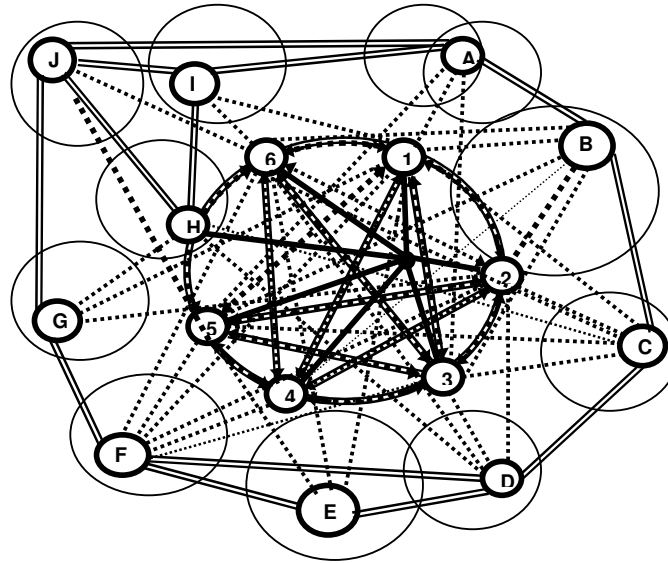
A 1.3   The Australian application of the NISA methodology

While it may be surprising in some quarters that such work has emanated from Australia, in view of its reasonably high reputation in terms of public integrity, in fact Australia certainly does not have an unblemished history in the issue in this regard. It is arguable that the first attempts to try to create a reformed public sector in Australia, in modern times, was those actions emanating from the Coombs' Report (Royal Commission on Australian Government Administration) in 1976 .[9] The influence of the Coombs Report, however, did not extend beyond the Australian Public Sector itself (that is the Federal sphere) and was not focused on ethics. It was not really until the late 1980s that these issues again surfaced and were brought back clearly into focus.

In fact, in two states of Australia (Queensland and Western Australia) the lack of public integrity through the period immediately prior to the 1990s became evident following two major upheavals in those states. In Western Australia and Queensland, these developments brought about two separate Royal Commissions into public integrity. These two major inquiries are commonly referred to as the 1989 'Fitzgerald Inquiry' in Queensland [10] and the 1991 'WA Inc' Royal Commission in Western Australia [11] respectively. These inquiries yielded dramatic

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[8]   Sampford, C., Smith, R. and Brown, A.J. (2005), 'From Greek Temple to Bird's Nest: Towards a Theory of Coherence and Mutual Accountability fro National integrity Systems', *Australian Journal of Public Administration* 64:2, 96–108.

[9]   Coombs, H.C. (1976), *Report of the Royal Commission on Australian Government Administration* (Canberra: AGPS).

[10]   Fitzgerald , G. (1989), *Report of Committee of Inquiry Pursuant to Order in Council* (Brisbane: Government Printer).

[11]   Kennedy, G. (1992), *Report of the WA Inc. Royal Commission* (Perth: Government Printer); Shacklock, A. (1994), 'Ethics Reform in the Western Australia Public

outcomes, resulting in the ousting of the then Queensland Government and the gaoling of the Police Commissioner in that state [12] and in Western Australia the ousting of the Government and the eventual gaoling of both the Premier and Deputy Premier of that state (Shacklock, 1994). These revelations caused a major public outcry out of which have come some significant reforms in these two states.

The Queensland Fitzgerald Commission of Inquiry recommended major reforms to the processes of government and of public sector management in that state and prompted the establishment of the Electoral and Administrative Review Commission [13]. This body, coupled with the work of the concurrent Parliamentary Committee for Electoral and Administrative Review was a cornerstone of later public sector ethics reform Australia wide [14] Commenting on the outcomes of EARC, Wiltshire (1992) argued that EARC was 'one of the most successful innovations introduced into Westminster systems during the twentieth century'[15].

Following this, in the case of Queensland, strong legislation was brought into force represented by means of its *Public Sector Ethics Act 1994* and *Whistleblower Protection Act 1994*, supported since then by significant awareness raising and training in ethical standards. The Fitzgerald Royal Commission and EARC also resulted in the setting up of a central agency to sustain public integrity, the then Criminal Justice Commission (since renamed the Crime and Misconduct Commission) as well as the appointment of an Integrity Commissioner to advice government on these issues at the highest levels. In Western Australia an Office of Public Sector Ethics (OPSE) was established in 1992 within the then WA Public Service Commission to commence major new standard setting and integrity building processes during the period 1992-94. The OPSE later evolved into the current Office of the Commissioner for Public Sector Standards Commissioner (Shacklock 1994; OPSSC, 2007). Both of these states have since established a strong reputation as models of public integrity. In other Australian jurisdictions a variety of similar actions have established effective central integrity building and policing agencies, such as the Independent Commission Against Corruption and the Police Integrity commission in the state of New South Wales. Sector-wide

Sector', in N. Preston (ed.) *Ethics for the Public Sector: Education and Training* (Sydney: Federation Press).

[12] See Fitzgerald, G. (1992), Electoral and Administrative Review Commission, Queensland: *Report on the Review of Codes of Conduct for Public Officials* (Brisbane: Queensland Parliament.); Preston, N. (ed.) (1994), *Ethics for the public sector: Education and training* (Leichhardt: Federation Press); Preston, N. (1995), 'Public sector ethics in Australia: A review', *Australian Journal of Public Administration* 54: 4, 462–470; Preston, N. (1997), 'Institutionalising ethics in the Queensland public sector: Discussion of research into ethics education for public officials', *International Journal of Public Administration* 20:7, 1317–1340; Sampford, C., Preston, N. and Bois, C-A. (eds.) (1998), *Public Sector Ethics*: *Finding and Implementing values* (Leichhardt: Federation Press); Preston, N., Sampford, C, and Connors, C. (2002), *Encouraging Ethics and Challenging Corruption* (Leichhardt: Federation Press).

[13] Prasser, S., Wear, R. and Nethercote, J. (eds.) (1990), *Corruption and Reform: the Fitzgerald Vision* (Brisbane: University of Queensland Press.)

[14] Queensland (1993), *Report of the Parliamentary Committee for Electoral and Administrative Review* (Brisbane: Queensland Parliament).

[15] Wiltshire, K. (1992), 'Reform of the Bureaucracy: An Assessment', in A. Hede, S. Prasser and M. Neylan (eds.) *Keeping Them Honest* (Brisbane: University of Queensland Press).

codes of conduct are now the norm in the Australian context, which are mandatory and carefully monitored for their effectiveness in ensuring public sector integrity.

Perhaps partly as a result of these experiences, the NISA methodology has been tested and refined in the Australian setting. A major study across four Australian jurisdictions(Queensland, New South Wales, Victoria and the Federal sphere), over a five year period from 2000 to 2005, culminated in a major report on Australia's own integrity system. This report entitled: *Chaos or Coherence: Strengths, Challenges and Opportunities for Australia's National Integrity Systems* presented 21 recommendations for reforms to the Australia's integrity system (Brown et al 2005).

This work has also led to further activity to extend the impact of integrity building mechanisms in the Australian setting[16]

A.1.4 The NISA Methodology Explained

The NISA methodology examines in some detail the dynamics of a country's public integrity system and differs in significant ways from the earlier NIS country study methodology. Firstly, NISA recognises that there are very likely to be substantial differences in the ways in which societies achieve integrity and that these may not always be entirely based upon the same set of institutions as we have seen in Western integrity systems. The cultural difference, societal structures, fundamental values and traditions may yield a different set of institutional arrangements which may be effective for that particular society. While this recognition does not suggest the abandonment of basic principles, values or human rights, it does recognise that there will be differences between countries and that it is not enough to simply tick the boxes against a Western model or template.[17]

In this sense, NISA is not primarily based upon searching for integrity institutions that may be found in other societies, rather than looking firstly at what already exists in the country under study, what is working and what is not. In taking this approach, NISA recognises that there may well be institutions that fit the needs of one society but not another and that the mix of integrity institutions that make up the systems may differ.

The NISA process involves 'mapping', describing and assessing the effectiveness of the entire set of integrity institutions which exist in the country. NISA takes a wide view of what constitutes an integrity institution and is, to some extent, guided by local knowledge in this respect, but this term includes all organisations or bodies which can, do, or could play a role in contributing to the

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[16]   See for example: Shacklock, A. and Lewis, M. (2007), 'Leading with Integrity: a fundamental principle of integrity and good governance', in C. Sampford and C. Connors (eds.) *World Ethic Forum 2006 Conference Proceedings* (Brisbane: IEGL); Shacklock A., Connors, C. and Gorta, A. (2007 forthcoming), 'Exploring the public-private divide: an initial comparison of integrity assessment tools', in A.J. Brown, B. Head and C. Connors (eds.) *Promoting Integrity* (Aldershot: Ashgate); Shacklock, A. (2004), 'The Pursuit of integrity', Paper presented to the International Association for Business and Society 15th Annual Conference, Jackson Wyoming, 3–7 March.

[17]   Having said that, it is important to note that these issues were brought into focus due to the major contribution made through the earlier NIS country studies work and owes its birth to that very valuable body of work.

achievement, enhancement and maintenance of public integrity and the reduction of abuses of power, unethical conduct or corruption. In so doing, NISA looks not only at the existence of integrity institutions and their own capacity to do their own job effectively, but also to their inter-relationships with other such institutions within the society. It is this interconnectedness, involving both systemic and non-systemic interactions, that is at the heart of the coherence or otherwise of the system. Such factors as missing integrity functions, overlapping roles, mutual support mechanisms between institutions and conflicts between them are of importance in this analysis. These issues are best unearthed by posing a range of very focused questions which examine the operational interactions between institutions. Finally, NISA seeks to measure the consequences of the arrangements in place, which is the success or otherwise to date of the system in delivering sound and effective integrity measures appropriate for the country under study. All of these considerations, in turn, enable recommendations to be made for strengthening and reinforcing the best elements of the existing National Integrity System and for the removal of those elements which are counter-productive to the integrity goals.

A.1.5   NISA's assessment of Capacity, Coherence and Consequences

The methodological framework developed by NISA is based upon assessing a country's existing national integrity system in terms of its current capacity, coherence and consequences (impacts). This in is done by means of combining substantial desk research and documentary analysis, literature reviews of relevant issues (such as corruption prevention, best practice in ethical standard setting etc.), empirical research and data collection through interviews, and expert workshops. These various strategies are balanced to suit the particular situation and together have the potential to provide a rich information base upon which to make assessments and recommendations for enhancement of the integrity system.

By this means, NISA seeks to determine in some detail the capacity, coherence and consequences of the current integrity system in a country. '*Capacity*' refers to the resources being made available to individual integrity institutions (financial resources, human resources, skills training etc.), plus the legal underpinning that provides the power, sanctions and political will (including freedom from political interference in their activities). '*Coherence*' is the extent to which the integrity institutions work as a system, that is to say the levels of mutual cooperation and support, coordination and integration (or the lack thereof) that exists in the system, the sum total of jurisdictional coverage, overlaps or gaps in jurisdictions or operations and the overall effectiveness of these elements in dealing systemically with corruption and other abuses of power and thus ensuring compliance with the society's integrity rules and regulations. Finally, the notion of '*Consequences*' refers to the functional effectiveness of these integrity institutions, the level of public awareness and trust in the system, the public's experience of the institutions and the experience of management and staff in the institutions .[18]

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[18]   See Brown, A.J. and Connors, C. (2007 forthcoming), 'Consequences, Capacity and Coherence: An overall Approach to Integrity System Assessment', in A.J. Brown, B. Head and C. Connors *Promoting Integrity* (Aldershot: Ashgate.).
Brown et al (2005), *Chaos or Coherence: Strengths, Challenges and Opportunities for Australia's National Integrity System* (Brisbane: KCELJAG/TI).
Brown, A.J., Uhr, J., Sampford, C., Shacklock, A. and Connors, C. (2005), *Public Sector Integrity*: *A Framework for Assessment* (Paris: OECD)

A 1.6   Goals, Aims and Steps in the NISA Process

The broad goals of a NISA project can be summarised as follows:

- Identifying and describing the elements of the national integrity system currently in place;
- Assessing the cooperation and coordination currently in operation across and between institutions as this affects the coherence of the integrity system;
- Considering the limitations of the system as uncovered through the assessment process;
- Identifying areas of potential risk for corruption to develop; and
- Recommending changes to the system, and/or its various elements and institutions, required to address limitations that have been revealed by the study.

The specific aims can be detailed as:

1. To identify the range of institutions and mechanisms which make up a country's current 'integrity system', that is those entities which already exist with roles designed to enhance accountability in public and business governance, raise ethical standards and performance, ensure public and corporate powers are used for the purposes for which they are intended, and make corruption more difficult. (At that stage there is no value judgement made or assessment as to effectiveness.)
2. Through desk research, to describe each of these institutions and mechanisms in their operational context and document the legislation, rules and codes that govern them and the communal values that supports them.
3. To carry out face-to-face interviews with key representatives of each of these entities in order to gain answers to a wide range of questions designed to provide an assessment of the effectiveness of the institutions themselves and the system as a whole.
4. Through the examination of these data, to identify the ways in which the various elements of the current system interrelate and any gaps or overlaps between them, indicating the extent to which the institutions operate truly as a 'system'.
5. To utilise the above data to produce a 'map' of the integrity system.
6. To determine the strengths and weaknesses of the current integrity system in order to assess its capacity, coherence and the consequences of its efforts to date.
7. To identify areas of potential risk from which threats to integrity might develop (e.g. corruption risks).
8. To make suggestions for strengthening the country's integrity system at the national and more local levels whether by strengthening individual existing institutions, strengthening institutional co-operation and/or oversight or the development of new institutions.

In order to achieve these goals and aims, specific steps in the NISA process are followed to ensure results. These are described in some detail, below:

A1.6.1   Initial Meetings of the Research Team

Meetings of the research team to clarify the terms of reference of the NISA study and to determine its specific scope and coverage to guide the application of the methodology in the country involved, in particular determining what needs to be adjusted to meet local needs.

A1.6.2   Preliminary Integrity System Mapping

An initial workshop and meetings schedule is held to help cement political and stakeholder support and commitment and to conduct a limited preliminary 'mapping' exercise to identify as many 'elements' as possible which make up, or bear upon, the current integrity system. Usually workshop participants would include participating researchers, in-country experts, experienced officials from key integrity agencies and NGO representatives.

The mapping process includes the identification of the institutions and mechanisms that constitute the integrity system and their classification in terms of Core Institutions; Distributed Institutions; Contextual Institutions; and Key 'Extra-Institutional' Elements.[19]   It then seeks to describe the roles that these institutions play (or are supposed to play) and the most likely interrelationships that they would need to have in order to create a system of integrity.

A1.6.3   Choice of Integrity Assessment Tools (IATs)

Following the mapping workshop or as part of it, the Research Team devises draft interview questionnaires to be used by interviewers to enable them to gather first-hand evidence of current perceptions and experiences of corruption and integrity. This is done within the national and perhaps provincial integrity institutions as well as with relevant civil society organisations, such as NGOs, the media, religious organisations, development donors, international organisations, unions etc., as these are relevant in the country in question. For this reason usually two different (but overlapping) questionnaires are required, one for use within government and one for external institutions.[20]

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[19]   Core Institutions: established largely or solely for the promotion of integrity, including investigative and public management agencies (e.g. integrity & anti-corruption commissions, governance review councils, independent parliamentary select committees). Distributed Integrity Institutions: the sections or areas of other organisations (public agencies or companies) with primary responsibility for the promotion of integrity within those organisations. Contextual Institutions: political or regulatory actors with direct influence over integrity matters or who occasionally play important roles in integrity issues, including non-government actors. Key 'non-institutional' or 'extra-institutional' elements: important social forces with a direct bearing on the ability of integrity systems to develop and function, including economic factors and sources of social or cultural values such as education systems or religious institutions. (Brown et al 2005).

[20]   This work also serves a direct capacity-building function by helping in-country researchers and officials develop appropriate tools for ongoing monitoring and improved management practices within their own organisations.

A1.6.4 Conduct of Interviews

The interview process will usually involve the following steps:

- A first round interviews with senior personnel in a selection of key integrity institutions (elements);
- An interview summary prepared after each interview showing the broad findings and a reflection by the interviewers regarding the suitability of the interview questions and of the process;
- A review and evaluation of the interviews and processes to ascertain what worked and what did not. From this, it can be assessed whether the questionnaires require revision.
- New questions are finalised, the questionnaires redesigned and, if necessary, new interviewees are determined and added to the initial list.
- The remaining interviews are conducted, summarised and evaluated.

A1.6.5 Assessing the Coherence, Coherence and Consequences of the existing system

The results of the interviews will be subjected to network analysis to establish a more complete picture of how the different institutional elements of the integrity system interrelate through both desktop analysis and direct empirical assessment.

A1.6.6 Research Findings Workshop and Meetings

The culmination of the assessment activity is usually a recommendations workshop and other necessary meetings in which results are presented, reviewed and validated. This process gives researchers and other interested parties an opportunity to provide suggested recommendations through which individual institutions might be improved, inter-institutional cooperation might be enhanced, and/or coordination of the institutions can be more effectively managed. Sometimes a second workshop is arranged to determine the final suggestions for system strengthening that flow from the NISA. Members of integrity institutions would usually be invited to attend this workshop.

A1.6.7 Final Report

The final step is when the Research Team presents its findings and recommendations in a report to the project funding agency and/or Government concerned, which may then or later be supported by a formal public launch of the report.

A.2. The Georgian National Integrity Systems Assessment (GNISA) Project

A.2.1 Origination and Launching of the GNISA Project

The GNISA project originated as a result of discussions between the Open Society Georgia Institute (OFGF) and Mr Jeremy Pope, a principle of 'Tiri', a London NGO which focuses its efforts on integrity building projects.[21]

The GNISA project commenced in May 2005, funded by the Open Society Institute (Soros Foundation) through its Georgian arm, the Open Society Georgia Foundation (OSGF). The first event was a visit by four members of the research team, namely Professor Charles Sampford and Dr Arthur Shacklock from Griffith University in Australia and Messrs Jeremy Pope and Martin Tisne from Tiri. During their 2 week visit they met with numerous key people from government and civil society, particularly NGOs, to determine the right path to take with GNISA. A workshop was then held at the end of this period to bring together experts from within Georgia to guide the research team in several ways, such as the choice of local partners and interviewers, the development of draft questionnaires for use by GNISA and the proposed timing and schedule of activities needed to best achieve the objectives of the project.

At the conclusion of this week, three NGOs were selected to be local partners to work with Griffith University and Tiri on GNISA. These were: the Caucasus Institute for Peace, Development and Democracy (CIPDD), the Georgian Young Lawyers Association (GYLA) and Transparency International (Georgia). Tentative interview teams were established and two draft questionnaires were developed, also during this 2 week period. One questionnaire was designed for interviews with representatives from core government institutions from the Executive, Parliamentary and Judicial arms of government.   The other

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[21]   Tiri is an independent non-governmental organisation that works with governments, business and civil society to find practical solutions to making integrity work. Improvements in integrity offer perhaps the single largest opportunity for sustainable and equitable development worldwide. Tiri's two groundbreaking networks are the Public Integrity Education Network (PIEN) and the Network for Integrity in Reconstruction (NIR). Tiri is working to strengthen existing networks among chief judges and chief election commissioners. In 2007 Tiri launches the Business Integrity Education Network (BIEN). (http://www.tiri.org/) The Open Society Georgia Foundation (OSGF) is committed to programs that respond to political and economic change and contribute to the long-term development of open society in Georgia. To this end, the foundation has cooperated with local and regional partners, focusing on governance, anticorruption, and the rule of law, women's rights, mass media, economic development, education, public health, regional collaboration, and conflict resolution initiatives. More specifically, the foundation's activities have included organizing training programs for new council members; building democratic relationships between representatives and constituents; encouraging transparency and accountability; raising public awareness about human rights; educating young people as leaders; connecting schools and education organizations to the Internet; promoting patients' rights; and supporting small- and medium-sized enterprises through policy, legislation, and training initiatives. (http://www.soros.org/about/foundations/georgia)

questionnaire was for those external to the national government sector which included a wide variety of civil society entities such as NGOs, the Media, the Church and Local Government.

A.2.2 Specific Aims of the GNISA Project

The aims of GNISA included the following:

- To map and evaluate the performance of Georgia's integrity institutions and practices, identify their strengths and weaknesses and to provide the basis for recommendations for further reforms, aimed at making existing laws, mechanisms and institutions function more effectively rather than creating new ones.
- To assess the performance of the existing institutions against a standard set of established 'good practice' functions, examining why a particular institution was established, what its mandate is, how effective its performance has been in providing outputs for other parts of the system and the performance of other parts of the system in providing that institution with the inputs envisaged by a coherent system. (Such analysis can then lead to conclusions about whether the current institutions and practices cover all functions adequately, and thus inform and stimulate further reforms as well as highlighting progress (strengths and weaknesses) in performance made to date).
- To identify conflicts of interest (e.g. where one institution is responsible for two distinct and ethically-contradictory functions), duplication (e.g. when one function is carried out by several institutions) or omissions (if certain functions are not covered at all or covered inadequately). Most importantly, tracking the performance credits (what the institutions are providing to others within the system) as well as the deficits (the extent to which they are failing to do so). These credits and deficits provide clear signals as to where problems lie, and the extent or otherwise of the success of a reform programme.
- Through these actions, to significantly assist the leaders of reform efforts in Georgia and provide a means for tracking the successes of present reforms by repeating the mapping exercise from time to time, with international institutions and donors being involved in constructively assisting those institutions that are closest to their economic and developmental mandates.

While the GNISA project has been a stand-alone activity with finite and specifically targeted funding, it was always envisaged that it would be ideal if this NISA process could be repeated every 3 to 5 years to provide both a re-assessment and evaluation of progress over time as well as serving as a continuing stimulus for current and future reformers.

The final stage of the GNISA has been the preparation of this report for submission to the government and to the institutions that have been included in the assessment process, for comment, prior its finalisation, publication and release.

A.2.3 **Steps Taken in the GNISA Project**

While the project originally was tasked to be finished in 2006, it soon became evident that this was a highly ambitious goal. This was largely brought about by the difficulty in getting some very senior and very busy interviewees to the interview table. These difficulties were exacerbated by the unavoidable need to change team members and reduce the team numbers in Georgia in unexpected ways during the process. *As a result, the interviews were not concluded until very late in 2006. At the same time it is very important to note that the report suggested to the reader reflects situation of 2006 and does not include analysis of institutional reforms that took place late 2006 or in 2007. For instance structural changes occurred in the Ministry of Finance, when its major units Customs Department, Taxation Department and Financial Police were merged are not reflected in the document. Consequently assessment of the process or its consequences is not given in the report.*

However, the results of this work were most encouraging in other ways. Altogether 83 interviews were conducted within the various sectors as follows:

Executive Institutions:	28
Parliamentary Institutions:	9
Judiciary and Court Related Institutions:	8
NGOs:	14
International and Donor Institutions:	10
Media:	4
Local Government:	3
Special Others:	7

This substantial body of data emanating from these interviews was dealt with firstly by translation into English to facilitate discussion between the Georgian Research Team and other GNISA researchers. An initial batch of 26 interviews was analysed by the Griffith researchers in early 2006 (primarily by Ms Carmel Connors) in order to determine the quality of responses and to suggest any variations to the interview process or write-ups and in order to set up a suitable process for this purpose to be used by the Georgian Team as other interviews progressed. In this way, interviews were being written-up and analysed continuously, while new interviews were being conducted. This proved to be a very time-consuming and resource-intensive process, which took several months to complete, far longer than had originally been anticipated.

In order to canvas the findings and review the content emanating from interviews, three focus groups were organised by the Georgian NISA team, one of which focused particularly on Local Government issues. In the latter case, some of the recommendations regarding that sector emanated from this focus group process. All three of these focus groups were comprised of representatives from governmental institutions (Audit Chamber, Public Service Bureau, Office of State Minister for Reforms Coordination issues, Ombudsman's Office, and the High Council of Justice) as well as representatives from NGOs (Caucasus Institute for Peace, Democracy and Development, International Center for Civil Culture, Georgian Young Economists Association, Georgian Young Lawyers Association, United Nations Association, Urban Institute and the Local Government

Association). This process was then helped by a further unscheduled visit by Mr Martin Tisne in 2006, to assist the Georgian Team in furthering this process.

Following the completion and initial analysis of the 83 interviews and their outcomes, a second workshop was help in Tbilisi, in November 2006 to analyse the data with local researchers and experts in order to synthesise the GNISA findings into draft recommendations. This workshop was conducted by Dr Arthur Shacklock and Mr Martin Tisne, with the valuable assistance of OSGF staff as the local partners and members of the Georgian Research Team.

As a result of this work and subsequent work from afar between the various team members, a draft report was completed in May 2007 which outlined the broad findings of the GNISA project and summarised recommendations made by the various people interviewed as regards the actions needed in Georgia to enhance the integrity system. This resulted in 26 overall recommendations being made, for consideration by the Georgian Government for future action to enhance the integrity system.

The report which this introductory chapter now prefaces covers the sum total of the work on the GNISA project. Its findings and recommendations are submitted and commended for consideration.

A.3   Summary of GNISA Recommendations

Recommendations are given in full under each sector in Part C of this report. Provided here is a brief summary of those recommendations. Where a number appears in brackets, eg: (3), this indicates that this recommendation emanated from more than one sector of the current integrity system. The recommendations are not listed in any particular order of priority.

Useful Anti-corruption Websites and Publications

Georgian Young Lawyers' Association (GYLA) Website: <http://www.gyla.ge/>.

ICAC Hong Kong *Independent Commission Against Corruption* Website:
<http://www.icac.org.hk/eng/main/>.

Independent Commission Against Corruption (NSW) (1994), *Unravelling corruption* (Sydney: ICAC).

Independent Commission Against Corruption (NSW), (2000), *What is an ethical culture: Key issues in building an ethical organisation*. (Sydney: ICAC).

Key Centre for Ethics Law Justice and Governance and Transparency International (2005), *Australian National Integrity Systems Assessment: Queensland Handbook* (Brisbane: Griffith University). Available at <http://www.griffith.edu.au/kceljag>.

Office of the Commissioner for Public Sector Standards (OPSSC) (2001),. *Public Sector Standards in Human Resource Management* (Perth; Office of the Public Sector Standards Commissioner). Available <http://www.wa.gov.au/opssc/>.

Office of the Commissioner for Public Sector Standards (OPSSC) (2007), Website <http://www.opssc.wa.gov.au/>. Accessed 16 May 2007.

Open Society Georgia Foundation (OSGF) Website: <http://osgf.ge/>. Accessed 16 May 2007.

Sampford, C., Shacklock, A., Connors, C. and Galtung, F. (2006), *Measuring Corruption*
        (Aldershot: Ashgate).
Transparency International (Georgia) Website**: <**http://www.transparency.ge/**>**. Accessed
        16 May 2007.
Transparency International (TI) Website:
        <http://www.transparency.org/index.php/policy_research/nis/regional> Accessed
        16 May 2007.

B: Historical and Cultural Background

B.1.   Introduction

This section provides a background to the National Integrity System Assessment of Georgia. It deals with some on the theoretical and empirical issues regarding both the public and private sectors and their relationships in the pursuit of integrity and anti-corruption activities.

Georgia's struggle for independence in late 1980s led by nationalist dissidents was supported by the majority of Georgian society not only because of the strength of nationalistic ideas, but also because of the inefficiency and corruption of Soviet state institutions. The situation, which had not improved much since Perestroika began, encouraged lower and middle layers of the Georgian society (as in other societies of the Soviet Union) to look for ways out of the Soviet deadlock. The 'Trinity' of 'Independence', 'Democracy' and 'Fair State' that emerged in the public mind was conceived by society as the only way to end the abuse of social and economic benefits by the Communist Party elite.

Nevertheless, the state building process did not develop in a way imagined by Georgian society. The first decade of independence with citizens tormented by a military coup and civil wars was at the very beginning of Georgian Statehood and showed that the system built by the country's political elite was not 'Just', 'Fair' and 'Democratic'. This gap between societal demands and aspirations on one hand and the existing political system on the other hand – existing for more than a decade – resulted in a strong social upheaval at the beginning of the millennium and ended with the Rose Revolution in November 2003.

In trying to explain these defects of the Georgian and, generally, Postsoviet development, experts began to pay more attention to the role of past governing elites. Professor Charles Fairbanks points out that processes went wrong because changes were driven by groups, which represented the corrupt decision maker class of the previous Soviet system. Such groups included those pragmatic 'Aparatchiki' [22] who adapted themselves to the new political and economic conditions while maintaining their political power and continuing to use formal State institutions to fulfil their private needs and goals.[23] Fairbanks argues that the State and its functions had been remoulded into the patron-client relationship network that permitted minority access to political, economic and social benefits that were closed for the majority of the society.

Such a situation raises the following questions:

1. What type of state and government had emerged in Georgia since its independence? What was the pattern of the political system and state administrative system coherence? How was the 'Public Sphere' structured? Was the 'Public Sphere' provided by a set of the formal institutions that would regulate relations between political, economic and social dimensions?

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[22]   Soviet definition of the managerial class.

[23]   Fairbanks Ch. 'The Feudal Analogy' // *Journal of Democracy*. №3, July, 2000, p. 34.

2. What had happened to the State in terms of the corrupted 'trinity' of 'Political Power' – 'Governance' – 'Property'? How was this 'trinity' to determine the process of social and economic systems development? What was the pattern of 'State-Society' relationship: was it based political, economic and social demands of equal transfer into the society's formal institutional system by social groups; or was it tied to the private interests of groups formally representing the functions of state institutions, and aimed at maintaining and strengthening their political influence and control over economic resources and benefits provided through the State system?

3. What kind of inclusion/exclusion mechanisms had evolved in this system? Who could access formal institutional services and to what extent? And, considering all these issues was there any 'Public Sphere' in Georgia at all?

B.2. Public Space and State Functions: Theoretical-Normative View and Its Relationship to the Georgian Situation in 1990s

Institutionalization and formalization of the interests of private citizens ensure that all citizens have equal access to public services. Formalization of these private interests are based on written norms and rules and occur across vertical and hierarchical dimensions of society. Hence, there emerges an environment in which private roles are structured and separated from institutional functions. There are producers, consumers and distributors of the public good (material, social or cultural) in this system of social exchange. Based on affirmation of a fair and just system, citizen support for this system of social interaction provides legitimacy for the social and political structures, and builds trust and social capital across the system. The society's ability to secure formal institutional functions from being usurped by private interests provides an appropriate environment for individual and group inclusion in the system of production and distribution of social and economic goods. In this sense, the State, as one of the functionaries of the 'Social System', plays a significant role.

The State as a political organization is justified on the basis that it emerged from an imaginary social contract. It comprises a set of formal institutions with delegated power to execute societal demands. The State as a construct is justified on the basis that it meets the public needs of society. The function of the State is widely seen as fulfilling societal needs and promoting the public good (and in constitutional democracies the nature of the public good being contested and subject to popular determination through constitutional means). In this sense, state institutions may be seen as emerging from social demand and represent its continuance into the political dimension. The institutionalization of the relationship should not allow the needs of the social groups served to be neglected or ignored. In this public sphere, formalized practices are represented as field of activities in which one acts not in terms of the personal monopolized power, but in terms of the institutionalized functions which delegate certain levels of power to its agent. Therefore, the State is the institution that organizes the delegation of power to the agency level. Organizational roles determine the various hierarchical and horizontal relationships. Consequently, the State is the institution that provides security within the public space. Equal access to services for private citizens and their inclusion in the institutional environment are regulated by the State. In this

way, through inclusion of broad social layers, the State should provide depth to the public space. This connection between State and 'Public Space' ensures citizens' compliance with state institutional processes, improves legitimacy of the system, and provides stability to State operations: citizens belief in the capacity of state institutions to provide efficient allocation of social, political, economic and cultural demands improves identity with and loyalty to the State.[24] Otherwise loyalty and identity are counter productive and undermine stable functioning of the intertwined social and political-administrative institutions.

The question arises: given the high minded functions of the state, how is it that States can be remoulded into a threat to citizen, society and the public good? To put it another way: how is state power, created and justified to further the public good and entrusted to public officials abused for the purposes of the officials or their parties (i.e. corrupted)? Or is the problem not the State as such, but the effects of State elimination from the 'Public Space'? What happened with Georgia in this sense?

In the twentieth century, Georgia's political institutions, as generally with the USSR political institutions (Communist Party apparatus), were not formally separated from the administrative body of the State. Formally, party and executive bodies on each level of the administrative division[25] existed separately from each other, but this separation was conventional, as executive bodies recruitment rules were regulated and the Communist Party determined governance policies. This situation provided real administrative power to high and middle rank members of the Party apparatus, thus creating a basis for the personification of administrative institutions. This kind of personification was not just soviet 'know how', but a type of private power inherited by the Soviet state from the Russian Empire. In this sense, the privatization of state functions had quite a long historical background as Georgia was a part of Russian Empire and (with a brief post-revolutionary hiatus) of the Soviet Union for 200 years.

In the Soviet Union, the extent to which this private power could perform was stronger at the peripheries and at the lower levels of the administrative machine where central government control was less. Consequently, in Georgia, the degree of privatization of power was high and mostly at those state administrative levels which were closely tied to the daily needs of society. Privatized power displaced the State more and more and subordinated the 'Public Space', thus destroying it. 'Public Space' in the Soviet system was artificial and has not emerged through evolutionary processes. It was designed and constructed by a Communist Party ideology based elite. Even though this type of 'Public Space' guaranteed citizens inclusion in the social and economic systems of the Soviet State (through State regulated social projects and economic activities), this kind of 'Public Space' was easily destroyed, as it was not opened to societal processes at the lower levels of public participation. Consequently, the institutional environment functioned independently from society and allowed governing elites to abuse power and to isolate state institutions from citizens needs. This situation assumes that within the Soviet system the 'Public Space' was easily constricted.

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[24]   *State-Society Synergy: Government and Social Capital in Development* / Ed. P. Evans. Berkley: University of California.

[25]   For instance, there were District Party Committee and District Executive Committee; City Party Committee and City Executive Committee; Regional (Oblast) Party Committee and Regional (Oblast) Executive Committee and so on, making-up the administrative-territorial division of the Soviet State.

Formal rules lost their universal character allowing private interest based power structures to enter into the public space. Citizens needing institutional services dealt not with the State but with certain groups of people involved in public institutions with completely privatized functions. That is why the only way for citizens to satisfy requests for public services was either to buy the service (i.e. bribery) or to be involved in private relationship networks with those who represented privatized institutional functions (through friendship, kinship or shared interests groups).

The dynamics of privatized institutional functions in Georgia, exhibited through corruption, nepotism and patronage, reached its heights in 1970-1980s. At this stage, the social welfare services of the country were relatively stable and strong. The society was divided into those included in clientele networks and those who did not fit the criteria (wealth, kinship, friendship etc.) for inclusion in established relationship networks.

At the beginning of the 1980s, strong support for the National Independence Movement by Georgian society can be explained by changes in social relations and attitudes towards the State, which were generated by the effects of the privatization of state institutions. The worsening economic situation, in which most parts of the society found itself, resulted in citizens being unable to benefit from state services and the growing social differentiation caused corruption to flourish and lessened the emotional ties of society with the State. Identification with and loyalty to the Soviet State was weak. Citizens supported an independent Georgia. This support was partly due to the reasons already discussed and evidenced by meetings and demonstrations organized by nationalist leaders who frequently expounded the dissatisfaction of those who suffered the effects of corruption by universities, labour unions[26] or other institutions from which citizens did not receive proper/expected service. This support for the National Independence Movement was so broad and Communist regime was so discredited, that the election of October 1990 ended 70 years of rule by the Communist Party.

A new national government led by the political group of the Round Table – Independent Georgia and its leader Zviad Gamsakhurdia – began to discharge its commitment of building a just and fair state supporting an 'ideal social justice' system and the rule of law by excluding vast segments of the former communist nomenclatura and apparatus officials from the 'Public Space'. These kind of 'soft' repressions were aimed at lessening corruption in state institutions but really had no effect, as people appointed to perform institutional functions by the new government were incompetent. They lacked an understanding of procedural routine and methods of institutional role execution. The process, which was aimed at combating state corruption and institutional inefficiency, ended in a chaotic process of redistribution of control over economic resources and property. Thus, new government anticorruption policy resulted in new waves of corruption, as it was based on exclusion from society of certain segments and undermined principles of the declared 'Social Justice' project.

Meanwhile, it is very important to note that activities begun in the early 1990s during Gamsakhurdia's brief period was not determined just by 'ill will' or incompetence of the new political elite. Mostly, the processes were determined by an already existing situation in the administrative institutional system and its

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[26]   In Soviet Union these organizations also were controlled and run by state and Communist Party apparatus.

connections with the economic system. For instance, the government attempted to separate private business activities from the role of state institutions (especially in industry sector which was run by the State). In the Perestroika period, many so called 'Cooperative' organizations emerged under coverage of different administrative and communist nomenclature clans and resulted in the collapse of this sector. Consequently, a vast segment of the society (newly formed class of property owners) was marginalized from the system and was transformed into its enemy. The weakness of the emerging institutional system was that it was to create a structured sets of norms and formal rules for state-business relationship regulation, [27] but it crudely cut already existing ties between state institutions and private business that, of course, were corrupted but represented effective mechanisms for servicing the needs of citizens. This mass of property owners, which emerged as a result of the economic policy of the Perestroika period, was totally dependent upon the private material interests of the governing communist elite. Economic infrastructure of the 'Cooperative' sector was built on the basis of the existing 'State Economy Sector' using and abusing its material-technical asserts (buildings and even raw materials). In most cases, 'Cooperatives' sold production made by State enterprises as their own. It permitted businessman 'Cooperators' (clans) in the state administration to use state property and material-financial resources for personal enrichment through non-transparent economic activities.

Growing dissatisfaction of society with Gamsakhurdia's state building policy (defined not only by the above mentioned aspects, but also his intolerance towards political opponents) was the ostensible reason for the military coup in 1991–1992.

In 1992, a new era in Georgia's development began when the former Soviet minister of foreign affairs Eduard Shevardnadze was invited to lead a new government. Shevardnadze was a leader who emerged from a deal between different political groups involved in 1991–1992 coup. As he did not belong to any of these groups, he represented the *status quo* in the power distribution system. Shevardnadze did not have his own clan that would claim absolute power over the benefits provided by control over privatized institutions. A parliamentary republic declared by a new Georgian political elite was a guarantee that a single political group would not monopolize power. Nevertheless, it did not mean that the situation regarding the private character of public institutions would be changed. Groups based on diverse material interests controlled the parliamentary system. The government leader and head of parliament (in this case Eduard Shevardnadze) had symbolic power without the ability to interfere or regulate. Thus, different state institutions, from the customs office and including the communication sector, ministries of industry, the grain corporation and the banking sector, provided certain material benefits to groups that controlled them. In this system, chaos and anarchy resulted. The 'Public Space' was completely undermined by corrupted and privatized institutions and no public services were provided to ordinary citizens.

Within this environment, totally corrupted and discredited political clans and public institutions deprived of their public character and isolated from public needs existed. At the same time, however, dissatisfaction with the existing situation by ordinary citizens was growing along with public awareness of the need for a stable and transparent State. This situation created the basis for the emergence of a

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[27]   At least, nothing occurred in this sense during brief period of Gamsakhuridia regime.

new wave of political groups working for State reformation. Shevardnadze disbanded his old political alliances.[28] He created a new political party — Citizens Union of Georgia (CUG) — and gathered young political leaders such as Zurab Jvania and later Mikheil Saakashvili around him. This political action consolidated public approval for Shevardnadze's efforts of state building. In August 1995, a new Constitution was adopted which transformed Georgia into a presidential republic. The popular acceptance of the reformation policy manifested itself in the 1995 presidential election in which he received 72 per cent of the votes. In fact, these changes led to the monopolization of power around Shevardnadze and his group and the young reformatory flank remained as a front for the governing elite's activities. In this environment, this group became marginalized inside the CUG party and became a basis for the party crisis and its split two years before the revolutionary upheaval in 2003.

B.3.   State   Roles   and   its   Place   in   Public-Private Relationships: Theoretical-Normative View and its Correspondence to the Georgian Situation in 1990s

Establishment of a monopolized power relationship system, which was aimed at satisfying the particularistic economic interests of agents involved in this system, caused consequent changes in the 'Public Space' and 'Private Space' relationship, thereby altering State functions.

    The idea of 'Public Space' is based upon and emerged from an imagined 'Social Contract' that is, from the field of activities, interrelationship and interdependencies of people who consider and recognize each other as equal members of the certain social, economic and cultural systems. The set of universal rules regulating the actions of agents provides for the exclusion of a single subjective will that emerges from outside the norms and rules established through mutual agreement. The role of state institutions in providing formal communication processes and enabling the efficient operation of the State in the public space is immense. The State functions of legislation, law enforcement, and administration/governance regulate the communication process amongst various social, economic and political agents inside the public space. The State provides the basis for broad individual inclusion within the public sphere. In such a context, the State performs social, economic and political stabilization functions. It provides equal access to the various societal agents for involvement and participation in the social, economic and political systems through interpersonal relationships with the systems of production and distribution/consumption of various benefits. [29] Realization of this type of stabilization function is greatly dependent on the State's ability/flexibility to be in touch with social demands and to resolve societal conflicts. If the State is unable to carry-out its stabilizing function when the public space is constricted, the universal character of formal laws is violated and the stabilizing function of the State is minimized as private personal or group interests

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[28]   Some of the old allies had been isolated from the political scene and some, who were blamed for different crimes, were arrested.

[29]   *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World.* / Princeton: Princeton University Press, 1988.

find satisfaction in informal networks of power and resource control that usurp the role of formal State institutions.[30]

In these circumstances, separation of the private sphere of interpersonal relationships and networks is provided by a set of formal and universal norms which are shared by all parts of society. This set of norms, rules and principles regulates private activities in accordance with the functions of formal institutions. This separation formalizes individual and group relationships into interactions of a public nature. It remoulds the relationship into societal agents/agencies that are characterized by certain duties and functions. The definition and articulation of emerging interests in a private space are aggregated and satisfied in a public space. Consequently, the private interests of societal agents/agencies are regulated by and directed into a set of formal public institutions thus defining and constructing a system of formal horizontal and vertical relationships between a variety of societal agents/agencies which seek ways of achieving their private interests.[31] Each of these agents/agencies is subordinated to the same service procedures defined by universal norms and rules of the formal institutional environment. In this case, institutionalization and formalization of relationships minimize the possibility of exclusion or elimination of some individual or group needs based on private assumptions or preferences of persons involved in the formal institutional environment. In a given context, private interests have to deal and interact with institutional functions not with certain individuals representing these functions.

The State has a significant role (through its administrative functions) to play in the separation of the public and private sphere. It is supposed to organize and regulates economic and social interaction through guaranteeing the universality of principles and norms which evolved in the public space. The State provides an environment of equality in a society's economic, political and social systems. 'Private Space' is not immanent to the State. 'Private Space' retains the role of institutional care and concern, as the State provides a public space function and is the main institutional setting in which private interests are served. A 'Just State' guarantees access for the realization of demands and needs which emerge in a private space without differentiation between groups and while satisfying the interests of elements of the society without denying requests or excluding certain societal agents/agencies. Equality of access to the formal institutional environment of the public space as a guaranteed principle is provided through state regulation of just laws/rules that do not allow private (personal or group) stimuli to usurp state functions and destroy the formal institutional framework of public space.

This theoretical overview shows that in the1990s the Georgian state was distant from a normative assessment of public space and its institutional framework. In the Georgian case, the State carried out its functions and brought certain benefits to a small part of society while excluding the majority of citizens. Destruction of the institutionalized environment of economic and social interaction and relationships was followed by an expansion of private, particularistic interests into the public space. The administrative-managerial state functions which served the demands of society were usurped by the particularistic interests of individuals to whom these functions were delegated. Privatization of state institutions allowed the leading political elite and associated clans to isolate most parts of Georgian society

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[30]   Durkheim E. *Professional Ethics and Civic Morals*. / L.; N.Y.: Routledge, 1992.
[31]   Arendt H. *The Human Condition* / Chicago: University of Chicago Press, 1993.

from the economic and social systems, thereby remoulding state mechanisms and resources to achieve the private material interests of the Georgian elite.

In this sense, it is worth discussing some aspects of the Georgian government's economic policy, especially aspects of state property management and privatization of the mid 1990s under Shevardnadze that illustrate incidents of corruption and state institutional collapse. The beginning of the economic sector liberalization process and the building of a free market economy in Georgia resulted in the emergence of a closed system of economic relationships open to a very small part of the Georgian society. Instead of a state controlled economic infrastructure, clans emerged which were strongly tied to political groups and administrative officials whose economic activities and wealth were built on speculative and sometimes criminal dealings with the State in property or trade transactions. The beginning of 1990s was characterized by a fierce economic crisis in Georgia as a result of the soviet economic system collapse and the economic actions of the Georgian political and economic elites. Industry production fell 27 per cent in 1992 compared with 1991, and 32 per cent compared with 1989 production.[32] In this critical situation, control of the administrative institutions and access to state property management offered high profits to the political elite and the old soviet upper economic class which had financial resources and still controlled the existing economic infrastructure that allowed them to become a new property owner class in Georgia. Bankrupting state enterprises and then privatizing them at undervalued prices was very beneficial to this group. In this sense, the state property upper managerial class under Shevardnadze really determined the character of the economic liberalization process and corrupted the state administrative system.

For instance, in 1992, before the state property privatization process began, the Council of Ministers of the Republic of Georgia adopted a new rule for financing of industry sector ministries. By Order N4 'About the Rules of Ministerial Apparatus Expenditures Financing', all state enterprises were obliged to pay 1.5 percent of the balance income per month. For example, it meant that if a factory or plant had 1,000,000 roubles[33] of balance income, it had to pay 15,000 roubles per month to the budget; when the pure income was 1,000,000 roubles, the balance income was 10,000 roubles and 5,000 roubles was required to be paid from the basic capital of the enterprise. In that period, part of the Georgian state property infrastructure owned tens of millions in balance incomes. It is very difficult to imagine what amount of money was paid by 1,365 large and medium industrial units (not to mention smaller enterprises); how these flows of money were managed; and, who controlled it. One thing is obvious: this action helped to bankrupt state owned enterprises and created a basis for their undervalued privatization.

Additionally, 'Branch Industrial Concerns', in which the old soviet upper managerial class and new political groups were involved, were created. The formal aim of the 'Concerns' was to optimize existing economic infrastructure, reform them and create a basis for the profitable privatization of the state owned industrial units — that is, profitable for the State. In fact, these 'Concerns' served the private material interests of the people involved in the operation. The only achievement of this group was the investment of government funds in state industries without any

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[32]   *Georgia's Statistical Year-Book*, Tbilisi, 2000.
[33]   That time Georgia still was in Ruble zone.

positive effects for the country. The result of their actions was the confiscation of the development funds of the industrial units and the requisition of 60 per cent of the circulation funds that enabled state owned industrial units managers to sell raw materials and even the means of production. In this situation, the collapse of the economic infrastructure and the subsequent bankruptcy of the 'Concerns' was the only result. Consequently, on the eve of state property privatization in 1994, Georgia's industry production capacity was 15 per cent of its 1989 size.[34]

In this situation, the fiscal policy of the government also helped clans and their political lobbyists to strengthen control over the economic sector privatization processes. In 1992, instead of soviet Roubles, the Georgian government issued coupons.[35] The economic crisis exacerbated coupon hyperinflation and assisted those who — in alliance with corrupted public officials — were involved in non-transparent economic activities. The Georgian National Bank was allowed to issue long-term multi-million credits. In these circumstances, inflation rapidly depreciated the value of the coupon. Thus, it was possible to speculate with fiscal policy. It is very important to note that these kinds of activities were open only to the certain groups of people involved in corrupt networks. It is worth noting that the aim of the newly emerged class of property owners (former soviet industry managerial class and state political/administrative elite) was not to maintain the profile of the purchased industries, but to remould the property into a financial capital asset. According to the statistics, 135 privatized industrial units out of the 672 established did not function at all in 1997, and others functioned with only 8–12 per cent of their potential production outputs.[36] Most parts of the privatized factories and plants were deconstructed and sold as building materials or scrap metal.

The above-mentioned processes of merging state administrative tools with the economic activities of certain groups remoulded the state administrative system into a system of material benefits circulation with horizontal and vertical offshoots serving the economic interests of agents/agencies at the top level. Middle and lower layers of this system were allowed to serve their own interests because of the pyramidal structure of the patron-client relationship. For instance, someone who was a regional governor or taxation system official, and who was bounded by corrupted ties of nepotism with business people, could create their own clientele, thus strengthening influence and increasing wealth. But even in this case, a person on the middle or lower layers of the system remained as someone's client on the top level thus increasing the wealth of the patron. If there was any deviation in this pyramidal structure of patron-client relations, it was followed by the exclusion of the deviant agents — whether that be state officials or businesses under their protection.

A consequence of these actions was a loss of public faith and trust in state institutions. Social surveys provide data showing that the society's prior concerns were based on economic problems that were caused by a corrupt state administrative system. According to the results of the sociological survey conducted in October 2001,[37] answers to the question: 'What are the most important problems of Georgia nowadays?' reveals the following:

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[34]   *Georgia's Statistical Year-Book*, Tbilisi, 2000.
[35]   Temporary monetary unit.
[36]   *Georgia's Statistical Year-Book*, Tbilisi, 2000.
[37]   Public Education Project, Exit Survey Results // GORBI, Tbilisi, Oct. 2001.

Economic problems	59.3 %
Unemployment problems	42.5 %
Problem of territorial integrity	33.4 %
Problem of corruption	16.5 %
Political problems	14 %
Peace problem	12 %

The data shows that the public mind was led to assume that problems connected to the well being of the society were more than a problem of corruption. Though, in this case, we should take into account how corruption is understood by society. Is it understood in its narrow definition as bribery, or generally as different types of particularistic activities connected with the abuse of delegated power? The above-mentioned survey does not reflect on this issue. However, if we take into account that economic stagnation and mass unemployment were caused by the corruption of state institutions and their ties with criminal entrepreneurship, thus causing state inability to create an environment for free market economic relations and the encouragement of individual economic initiatives, it becomes obvious, then, that economic problems in the public mind are related to corruption problems. Consequently, this interconnection can be shown by data illustrating who benefits from this situation. A survey conducted by the Georgian Opinion Research Business International (GORBI) sociological group in 2002[38] shows the question, 'How did the economic situation in Georgia change during last two years?' to reveal the following answers:

Economic situation got better	1.3 %
Economic situation got slightly better	16.4 %
Economic situation remains being as it was	27 %
Economic situation got worse	32 %
Economic situation worsened too much	22.9 %

As shown, an absolute minority of the respondents expressed their contentment with the existing economic situation while 54.9 per cent (if the responses are aggregated for those who thought that situation 'got worse' and 'got much worse') felt disappointment with the established processes. More perplexing are answers to the same question for a six months period: only 0.9 per cent expressed an opinion that the situation 'got better', and 9.6 per cent that the situation 'got slightly better'.[39]

Such attitudes towards the existing situation that was assumed to be unjust should destabilize a regime. Nevertheless, the system built by Shaverdnadze and his political-economic group functioned until November 2003 and easily survived a political crisis in 2001 when the young reformatory flank of the CGU opposed the regime because of the existing economic situation and state system corruption. Why did the regime not collapse in 2001?

The state administrative system functioned under monopolized private control. Stability was provided through the harmonization and satisfaction of the mutual interests all the agents/agencies involved in the system. In this sense, the

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[38]   Corruption, Exit Survey Results // GORBI, June, 2002.
[39]   Corruption, Exit Survey Results // GORBI, June, 2002.

ability of the system to realize these needs was engendered through the loyalty of agents to the system itself.

The monopolization of private control over the state administrative system was based on client relationships as the universal form of interest achievement. It gave a clan-informal character to the relationships inside the system based on group loyalties (kinship, friendship, regionalism/tribalism etc.). In this situation, some groups were allowed to participate in the production and distribution of benefits while some were not; or some groups were allowed to control most of the beneficial economic activities and sectors, while others, because of their group associations, loyalties and consequent ties with their patrons on middle or lower levels of the power/control distribution, participated in more minor economic activities. For instance, President Shevardnadze family members could control or possess energy sector businesses (fuel or gas import), communication sector businesses (cellular phone communication, transportation), mining or raw material businesses; while clans built by governors or other regional officials were allowed to control/possess less strategic but also very beneficial economic sectors such as tourism, trade, customs. On the lower level of the state administrative system, the main activity was bribery and centred on the acquisition of financial or material benefits. The stable functioning of the Shevardnadze period clan system was dependent upon its feudal character. Loyalty of the agents/agencies involved in gaining and distributing material benefits was guaranteed by granting them the right to usurp the state administrative system from the top in accordance with their ability to serve the economic interests of the top political-economic class. This situation was mutually beneficial for all sides. The exclusion/isolation of a large part of society from access to state administrative services deprived them of the ability to control the functions of the state administrative system and ensured stability for the existing system. But such actions only deal with stability inside the system. Corrupted political-administrative-economic ties between agents/agencies (a minority of the society) involved in the system vertical-horizontal structures provided stability from inside, but isolation of broad society from the state institutions created an environment of instability in which system had to function. In this sense, the system had no internal crisis. Spontaneous social upheavals did not undermine its ability to maintain stability even in the autumn of 2001. It survived although there were popular protests against it as it was supported from within the system itself. The CUG young reformatory group led by Zurab Jvania and Mikheil Saakashvili voiced concerns of existing problems of corruption and the consequent inefficiency of the state administrative system. As mentioned previously, at that time, the system survived, as the new leaders did not risk leading a social upheaval. But events that took place at that time (the CUG split and the emergence of powerful opposition movement against the regime) created a basis for the Rose Revolution in November 2003.

B.4.   State and Society in 1990s Georgia: Interest Fulfilment Mechanisms and its Patterns — Problems of Corruption

As previously argued, public space is a sphere of societal agents/agencies relationships in vertical and horizontal dimensions. These interactions provide

formality and institutionalization of activities in which societal actions are legitimized by a common understanding of the public good that is achieved through individual interest realization in an institutional environment based on universal and general norms and principles. These processes provide equal access to and inclusion in this institutional network. When this institutional environment of public space merges with the private sphere of societal activities and particular private interests dominate the functioning of public institutions, public space institutions become part of the private sphere of certain societal agents/agencies. In this sense, as public institutions are remoulded into the tools of certain groups, private interests satisfaction and the private interests of other societal groups become excluded as they are deprived of access to the institutional environment of problems solving and interests realization. To satisfy their interests, excluded societal agents/agencies are forced to find other means to realize needs from the existing institutional environment.

In terms of the privatized institutional environment, the private interests of a variety of societal agents/agencies — not included in the vertical-horizontal systems of benefits calculation and distribution — were perceived in accordance with their ability to benefit those involved in and representing this system. The conditions under which the externals would participate in the calculation and distribution of benefits were decided at a later stage. The patterns of this kind of interaction between those who did not represent administrative-political clans of different levels and those who needed their services were dependent upon the nature of the service. For instance, if the private interest was in business or property ownership, the profits should be shared with those who would serve this interest; if the private interest was for some daily needs or public services such as education, health care, civic register etc., bribes should be paid or personal contacts used.

This process carried out in the public space causes exhaustion of trust and social capital. It increases the vulnerability of the public space to corruption. Trust loses its universal character and becomes a tool for the regulation of interpersonal relations inside informal social groups. Interactions are remoulded into the prescriptive characteristic of the groups based on private relationships (kinship, friendship, and other prescriptive allegiances). The effects of such interaction on societal development in Georgia had occurred in a society with a strongly fragmented horizontal structure and clan based power structure distributed vertically in the public space. Destruction of public space as a sphere of formalized communication among a variety of private interests made individuals seek ways to realize needs in informal relationships.[40]

The domination of the informal networks of communication over formal avenues targeted at interest accomplishment is shown by data gathered through sociological research in 2000 of the trust level measurement of formal social and political-administrative institutions. The research data provides material for comparing the situation in 1998 and 2000. The level of trust is measured by an index ranging from 1 ('do not trust') to 4 ('strongly trust'):

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[40]   B. Kapustin, 'Postcommunism as a Postmodernity'. *Polis* (Russian Political Science magazine) N5, 2001.

	1998	2000
Trust family and friends	3.8	3.86
Trust the Church	3.24	3.45
Trust the private media	2.57	2.84
Trust state owned media	2.52	2.34
Trust lawyers	2,51	2.17
Trust the President	2.47	2.28
Trust security services	2.28	2.09
Trust courts	2.22	1.93
Trust Parliament	2.14	1.98
Trust the prosecutors office	2.14	1.89
Trust Ministries	2.05	1.88
Trust the police	2.0	1.78

It is obvious from the response to the survey that, in Georgian society, trust was diminishing for all formal institutions, especially state-administrative and political institutions.

In this situation, the only way to realize a request was either through criminal activity in a direct sense or through bribery of the public officials, which formally is a crime. But during that period, dishonesty was the universal principle connecting citizens with the State. Corruption was not seen as an anomaly or against the law, rather it was perceived as the only basis upon which state administration and economic relations were built. According to the transnational research conducted in 2002 in Georgia, the acceptability of corruption to Georgians was amongst the highest of the eight countries surveyed.[42]

Countries	*Corruption Acceptability Index in 2002*[43]
Albania	3
Georgia	3
Croatia	2.5
Bosnia-Herzegovina	2.8
Bulgaria	1.7
Macedonia	2.5
Monte Negro	1.9
Romania	1.9
Serbia	2

The research shows that the respondents interacting with public officers were forced to pay bribes or give some services in return to: customs officers (70 per cent of cases); taxation officials (70 per cent of cases); police (70 per cent of cases); prosecutors (65 per cent of cases); courts (63 per cent of cases); ministries' officials (54 per cent of cases); chamber of control officials (52 per cent of cases); local government officials (49 per cent of cases); health care system workers (34 per cent of cases); university teachers (16 per cent of cases); journalists (11 per

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[41]   'Judicial Reform in Georgia: A Study of Public Opinion'. *Final Report*. GORBI, Tbilisi, 2000.

[42]   Georgia, Albania, Bosnia-Herzegovina, Bulgaria, Macedonia, Monte Negro, Romania, Serbia and Croatia were chosen according to the similarities in state building processes.

[43]   Corruption: Exit Survey Results // GORBI, Tbilisi, June 2002.

cent of cases). [44] Thus, it is clear why Georgia was leading the list of surveyed countries measuring the prevalence of corruption.

Countries	Corruption Prevalence Index in 2002[45]
Albania	7
Georgia	7.4
Croatia	5,3
Bosnia-Herzegovina	6
Bulgaria	6.4
Macedonia	6,8
Monte Negro	6
Romania	6.9
Serbia	6

Though Georgia led the surveyed countries for corruption acceptability and prevalence, nevertheless, from a moral viewpoint, most people interviewed during this research expressed negative attitudes towards corruption as a way of achieving personal interests. In response to the question: 'How admissible is it to receive money for solving one's problem?' the answers were: admissible (5 per cent); rather admissible (9 per cent); not admissible by any means (9 per cent); not admissible (70 per cent); could not answer (7 per cent). In response to the question: 'How admissible is it to receive a present in return for the provided service?' 7 per cent answered positively; rather admissible (16 per cent); not admissible by any means (16 per cent); not admissible (53 per cent); could not answer (8 per cent). In response to the question: 'How acceptable or admissible is it to receive services in return for solving a problem?' 5 per cent answered positively; rather admissible (10 per cent); not admissible by any means (17 per cent); not admissible (48 per cent); could not answer (10 per cent).[46] The index of corruption sensibility showed that the Georgian people's readiness to deny certain moral principles remained high but it was not the highest amongst the surveyed countries.

Countries	Corruption Sensibility Index in 2002[47]
Albania	4.5
Georgia	3.5
Croatia	2.6
Bosnia-Herzegovina	2.9
Bulgaria	2.5
Macedonia	3
Monte Negro	2.6
Romania	3.7
Serbia	2.7

By comparing data gathered through public opinion surveys of citizens attitudes towards corruption and their personal participation in corrupted networks, it can be noticed that corruption was not an immanent phenomenon of the social

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[44]   Corruption: Exit Survey Results // GORBI, Tbilisi, June 2002.
[45]   ibid.
[46]   ibid.
[47]   ibid.

mentality; rather, it was the tool for interest realization determined by the existing social situation and imposed by a privatized state-administrative institutional environment.

B.5. Conclusion

On comparing the actual shape of public space described in this report with its ideal shape in terms of normative-theoretical aspects of how public institutional environments and their social functions should be realized, it is obvious that, in 1990s Georgia, formal institutions of public space did not function for the public good; rather, these institutions served the economic and political interests of a minority. In this sense, the situation shows that the operation of the State was based on the total corruption of political-administrative institutions. The society's awareness of a fair system of social and economic relations created a destabilizing environment for a privatized and corrupted system. In November 2003, the discredited and illegitimate regime fell because of the Rose Revolution. Public approval towards the new political elite's state building policy allowed the new government to implement an aggressive anticorruption policy. Even violations of procedural laws on the detainment of corrupt public officials, politicians and businessmen (associated with them through corrupt and non-transparent networks) were not challenged by Georgian society.

What should be done to overcome the situation established in 1990s? Firstly, mechanisms should be developed to separate private from public space:

- Civic unions and NGO sector-leading organizations should be developed to undertake watchdog functions.
- As it is difficult to determine whether there are any social resources remaining after the society had been stripped by a corrupt political system, social agencies generating civic virtues and norms should be strengthened (possibly through NGO activism).
- The institutional environment should be enhanced through the separation of political and administrative state functions. Such an action would deprive political groups of the necessary mechanisms to intervene in economic activities through a privatized state administrative system. Also, the administrative system would not be allowed to intervene in economic affairs because of its separation from the political system. The political institutions, in this case, would carryout a watchdog role over the administrative system. Thus, as mentioned in the introduction, the 'trinity' of political power-administration-property would be destroyed.
- In above-mentioned sense, it is obvious that interests generated in a private space should be secured through fair laws and an independent judiciary which is a guarantee that the political and administrative institutional structure will carry out their functions as designated by law, thus providing universality to the formal rules regulating institutional and societal group relationships.

The achievement of these goals, which partly were declared by the post revolutionary Georgian government, should help Georgia to overcome its 1990s situation of a failed state and progress from the public space design established from the very beginning of the soviet times.

C. Integrity Institutions

C.1. Parliamentary Institutions

C.1.1 Roles and Functions in Ensuring Integrity

The Parliament, representing the legislative body of the State/Nation as a Polity, is the key institution within Georgia's National Integrity System. Its functions in providing and ensuring integrity are defined by its roles, as follows:

- To represent various societal and economic group interests through the political participation of formalized political agents (political parties, party coalitions and social-political movements);
- To provide political stability through the provision of an environment whereby political actors have equal access to and are included in the decision making and law-making processes;
- To devise general strategies for the state's political development, based upon the general political will determined by consensual politics among various actors within the political process;
- To embed its political will and vision of developmental strategies into the legislation that regulates the operations of the executive and judiciary branches of the government and provides benefits for society in general; and
- To monitor the efficiency of the legislative function in state and public life and receive feedback through the various channels of political interaction in order to modify legislation.

The above parliamentary roles particularly those relating to the parliament's anti-corruption capacity are determined by broader goals of the parliament as an institution. These goals are:

- Representation of diverse social and economic interests through political participation, which reflect the full range of interests across the social-political spectrum;
- Provision of an inclusive political environment through consensual politics that allows the inclusion of, and respect for, a variety of interests and prevents monopolization of decision-making and law-making by certain political actors;
- Provision of a political environment which facilitates equal access and inclusiveness in decision making and legislative processes and allows enhanced transparency (as various conflicting interest groups participate in decision making) and minimizes the risk of non-transparent/unilateral decision-making which can be corrupted by leading/major political actors;
- As political decision-making involves all sides of the political process, the strategies/legislation derived through consensus places responsibility on all the participants, thus strengthening general political will and enabling a politically stable environment in which these strategies will be implemented;
- Ensuring the involvement of competing political and social groups in the decision-making and legislative process also allows monitoring of the efficiency of the policies implemented. Criticism or complaints raised by

participants who represent certain social groups in the decision-making process is the most effective way to receive feedback from the public and to modify adopted strategies.

The areas of Parliamentary responsibilities in which these integrity functions and roles are demonstrated and fulfilled include:

- Law-making;
- Definition of foreign and internal policies (ratification of international agreements, formulation of fiscal policies and policies for improving transparency); and
- Oversight of government functions in accordance with the legislation and policies defined by the Parliament.

The various actors involved in Parliament participate in its operations, either directly or indirectly. Political Parties elected by Georgian citizens to represent their interests are involved in the Legislative process directly. Other actors who provide certain services are involved indirectly, for example information/analysis support, financial-technical support, or human resources development *via* aid programs targeted at Parliamentary staff and departments. Such aid program providers include the various international donor organizations, Georgian or international non-government organizations, and the mass media (which provides publicity and reflects public opinion).

The indirect involvement of the above-mentioned actors is also aimed at influencing parliament to adopt certain strategies and policies, or to provide feedback from the public and the international community, as follows:

- International Organization feedback is provided through–
  ~ Analysis and recommendations for designing and implementing certain programs or drafting laws;
  ~ Monitoring and analysis of international agreements and recommendations and their implementation, through law making and harmonization of Georgian legislation with international standards, and through the design of suggested action plans to aid implementation or improve current legislation.
- Public feedback, mainly by NGOs and social organizations, is through–
  ~ Supplying research and analysis to parliamentary institutions;
  ~ Criticism of certain legislative policies and relaying public complaints; and
  ~ Lobbying by citizens and various economic interest groups.

Individual citizens or groups of citizens (without mediation of NGOs and other social organizations) provide public feedback through personal meetings with MPs or through representatives of political parties delivering citizens complaints and petitions to parliament.

C.1.1.1   *Grouping of Parliamentary Institutions by Roles and Functions*

The Parliamentary institutions involved in Georgia's Integrity System may be divided into the following groups:

- Those developing policies and overseeing the work of executive agencies in their respective fields such as parliamentary committees;
- Those facilitating the work of the Parliament, such as certain administrative departments and offices of the Parliament.

The role of Parliamentary committees within Georgia's Integrity System is well defined by their functions, as follows:

- To create the legislative base for the various aspects of public life;
- To provide an oversight role for policy implementation by executive institutions within the areas of their responsibility;
- To monitor the execution of decisions made by Parliament; and
- To advance specific political initiatives.

There are various means and procedures by which parliamentary committees fulfil these roles:

- Through committee hearings on a range of matters mainly to clarify important issues at a given time;
- Through meeting with private citizens and representatives of social groups;
- Through performing short-term research tasks within their area of responsibility;
- Through organizing committee hearings with the participation of executive government officials, as requested by the committees;
- Through setting up temporary investigative commissions composed of parliament members; and
- Through collaboration with various international organizations and Georgian NGOs.

The roles and functions of the parliamentary institutions, which are not involved in law-making processes, but which facilitate the operations of parliamentary committees and the parliament as a whole, are to:

- Provide technical and analytical support to the parliamentary committees;
- Carry out administrative functions;
- Manage staff and undertake human resources development; and
- Undertake budgetary planning and manage finances in accordance with committee requests.

The means and procedures for accomplishing these roles are through:

- Providing, at the request of parliamentary committees, analysis and recommendations on issues;
- Solving technical problems through infrastructure planning and service provision; and
- Undertaking staff recruitment and training.

C.1.1.2 *Specific Functions of Each Institution*

The following details the current roles and functions of each of the key parliamentary institutions examined by the Georgia NISA.

Budget and Finance Committee The main function of this Committee is consideration of draft laws in the areas where this particular committee exercises oversight, as follows:

- State Budget;
- Monetary Policy;
- Tax and Customs' Codes; and
- Various laws related to these areas.

This Committee monitors the execution of laws and decisions adopted by the Parliament by various state institutions such as, the Ministry of Finance (Taxation Department, Financial Police, and Customs Department), National Bank of Georgia, and the Chamber of Control. Monitoring can be conducted through establishing special commissions and working groups in order to study a particular issue.

Human Rights and Civil Integration Committee This Committee's role is to draft laws within its area of responsibility and to monitor the existing situation in that field. This function is aimed at two main goals: to improve human rights protection and to facilitate the civil integration process (especially as regards ethnic and religious minorities). These goals are achieved through improving the legislative base by initiating amendments to existing laws after committee hearings and discussions of the parliamentary plenary sessions; political assessment of the situations of human rights violation (through information collection in Georgian regions); and, providing law enforcement agencies and the Ombudsman's office with analysis and recommendations regarding human rights issues.

Defense and Security Committee This Committee's role is to draft laws within its area of responsibility and to analyse draft laws submitted by the Government; to oversight functioning of institutions within the defence and security domain (Ministry of Defense, Ministry of Internal Affairs and their subordinated bodies). These roles are achieved through: Committee hearings and the invitation of relevant officials and experts to clarify issues of interest to the Committee; initiating recommendations (especially regarding the Georgian Army reform and NATO standards achievement, Abkhazian and South Ossetian conflict resolution problems and Defense expenditures); gathering and analysing information on military service conditions (social and human rights issues in the Georgian army) and, through investigations and meetings with private citizens.

Regional Policy, Self Government and Mountainous Regions Committee This Committee's role is: lawmaking within its sphere of responsibility; supervising execution of laws passed by Parliament regarding self-governance; and, monitoring the operations of local authorities in Georgia's regions. These functions are achieved through:

- Information gathering and analysis;
- Committee hearings and definition of actual problems;
- Devising recommendations for the national government and local authorities; and
- Designing priority areas for self-governance reform and drafting laws in accordance with these aims.

Legal Issues Committee This Committee's role is to review draft laws presented to and discussed by the Parliament and to prepare its conclusions in accord with the overall legal system and constitution of Georgia. It also prepares draft laws, especially those laws on ongoing institutional reforms. The Committee also monitors and evaluates the justice system: Ministry of Justice (including its subordinate penitentiary system), Ministry of Internal Affairs, General Prosecutors Office and the Court System. The Committee also oversees the execution of laws adopted by Parliament for these institutions.

Procedural Issues and Rules Committee This Committee's role is to supervise the execution of decisions adopted by the Parliament from the inputs of executive bodies into the legislative process. There are certain obligations on the ministries to arrive at conclusions and recommendations regarding laws that should be passed by the Parliament. The Procedural Issues and Rules Committee ensures that ministries provide parliament with their recommendations and amendments to the adopted or discussed laws. Another major function of the Committee is to oversee the functioning of Parliament in accordance with the requirements of Parliamentary Rules and Procedures. To this end, the Committee monitors the observance of procedures for passing laws, and the compliance of individual MPs actions with the law. These functions are achieved through:

- Information collection and analysis of ongoing procedural issues;
- Committee hearings and consultations with various ministries;
- Monthly reports to the Parliament Chairman and committees; and
- Cooperation with the Parliamentary Bureau.

The committee is also responsible for overseeing submission of financial and asset declarations by MPs and also for tracking MPs' attendance records.

Parliament Staff Office The main function of the Parliament Staff Office is to provide material-technical support for to the Parliamentary Bureau, Committees, factions, commissions and other parliamentary bodies. The office prepares plenary sessions, provides MPs with information and draft laws for discussion, drafts memos and publicizes documents adopted by parliamentary bodies.

Parliament Legal Department   The Department is a subordinate body of the Parliament Staff Office with the following main functions:

- Carries out legal analysis of the draft laws to be submitted to the plenary session for voting;
- Provides legal consultancy to the parliamentary entities (committees, factions, individual MPs);
- Represent the Parliament and its apparatus in courts; and
- Edits draft legal acts.

Parliament Budget Office   The Parliament Budget Office is a Parliament Staff Office subordinate body and its role and functions are to:

- Provide Parliament with analysis of the budget and legal documents related to the budget;
- Analyse budget-related and financial reports submitted to the Parliament by the executive and auditing institutions;

- Conduct long-term and short-term research into problems of the budgetary system; and
- Comments and make recommendations for parliamentary entities (committees, factions, individual MPs) interested in these issues (particularly, the Budget and Finance Committee).

C.1.1.3   *Scope of Institutional Authority*

The roles and responsibilities of Parliamentary Institutions are regulated by the Constitution of Georgia and by the Parliamentary Rules of Procedures. A variety of laws, by-laws and charters, specific to individual committees and temporary investigative commissions, underpin the functioning of the various parliamentary institutions. Examples of these include:

- Law on Conflict of Interest and Corruption in the Civil Service;
- Law on Public Service;
- Labour laws;
- Electoral Code;
- Law on Referenda;
- Committee charters.[48]

Individual Members of Parliament (MPs) representing various political parties and factions are allowed to be members of several parliamentary committees and investigative commissions simultaneously. According to the Parliamentary Rules of Procedures, MPs are obliged to be involved in at least one Committee. The Committee composition and number of members is defined according to the proportion of the political factions represented in Parliament. However, the Parliamentary Bureau should defer decision on the composition of these committees and commissions [49] until the Parliamentary Committee on Procedural Issues and Rules defines the number of seats to be held by particular political factions.

In the case of the Temporary Investigative Commissions, their creation has to be recommended and justified by the Speaker of the Parliament, the individual Political Faction or Committee, and at least by one quarter of the total number of MPs, and approved by a majority in the Parliament. The supporting background information for the creation of the Temporary Investigative Commissions can include:

- Violation of the law by State Agencies or their representatives that undermines state security and its political and economic interests;
- Misuse of public funds accumulated in state or local budgets; and

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[48]   These laws define the activities of individual Parliamentary staff members and MPs and are determined by the positions that they hold. Individual MPs participate in committees, temporary investigative commissions and political factions formed by political parties.

[49]   The Parliamentary Bureau consists of the Speaker of the Parliament and his/her deputies, political factions and Committees heads. The Bureau function is to prepare agendas for plenary sessions and approve the charters of Committees and Temporary Commissions, and register Political Factions.

- Issues the investigation of which are regarded as important by the state or the public — these issues, in certain cases, can be identified by those MPs who initiate setting up a commission.

Prescribed activities undertaken by the Committees and Commissions in accordance with their responsibilities include:

- Commencing an investigation;
- Undertaking research, discussing and analysing issues of concern (regarding oversight and supervision of the execution of decisions taken by Parliament within the sphere of responsibility of the particular Committee/Commission);
- Performing short-term research tasks; and
- Reporting to the Parliament on activities undertaken and their results and making recommendations for improvement.

Where Parliamentary institutions do not perform functions based on political issues and agendas, their charter –The Parliament Staff Office Charter – as approved by the Parliament defines their authority. The Parliament Staff Office coordinates and oversees the work of the committees, commissions, factions, the chairperson and his/her deputies, and the staff of the Parliament's Bureau. It also oversees the activities and monitors the efficiency of its own subordinate units and in the case of the violation of procedural norms, negligence in exercising statutory responsibilities or lack of professionalism that causes defects in the operations of Parliament, the Office commences investigation and implements measures for improvement. Measures undertaken in this sense include:

- Determining reasons for misconduct and devising an action plan for correction;
- Determining the seriousness of the misdemeanour; and
- On basis of this, devising the form of penalty (either reprimand or discharge).

Usually the Parliament Staff Office carries out these activities on the Parliamentary Bureau instructions.

C.1.1.4   Accountability and Reporting Arrangements

Similarly to the Committees and Commissions Parliamentary Institutions, Parliament Staff Office units are obliged to report to the Parliamentary Bureau on ongoing processes within the areas of their responsibility and activities undertaken by them. Parliamentary committees and commissions are first and foremost accountable to the Parliament as a whole, while the Parliamentary Bureau has an intermediate role. The Bureau receives reports from the Committees and Commissions on various issues from session to session, thus organizing the reporting process that takes place in Parliament's Plenary Sessions. The Parliament Staff Office Units facilitate the Committees and Commissions reporting processes through provision of support, such as:

- Material support: providing clerical/administrative support (including record-keeping);

- Expertise support: providing information (including information exchange with other government agencies) and providing analytic material (on legal, economic or criminal issues) needed for particular cases; and
- Organizational support: providing services for the reporting processes, including delivering hardcopies and other materials, informing MPs and experts invited to Plenary Sessions, providing facilities etc.

According to Georgia's Constitution, MPs are accountable to the people of Georgia for activities undertaken by them. Symbolically, this accountability is expressed through the Parliament's self-evaluation reports. However, there are other closer and more effective means through which Parliament as an institution and individual MPs report to their electorate. These include:

- Visits of Parliamentary working groups and Committees to the regions;
- Regular reports by individual MPs on their electorates;
- Meetings of Parliamentary factions and party representatives with citizens' groups and individuals;
- New political initiatives and agenda campaigns aimed at gaining public support, when Parliament also reports to society at large through the mass-media and Civil Society sector on policies implemented; and
- Live broadcasting of plenary sessions thereby rendering parliamentary operations more transparent and publicized.

Some of the reporting mechanisms mentioned above, especially those involving direct interaction with society, do not occur regularly; for example, live broadcasting of plenary sessions take place rarely and are usually related to special issues under discussion in Parliament. These live broadcasts more frequently take place ahead of elections.

The responsibilities of individual MPs include accountability not only to the Parliament as a whole (through participation in Committees and Commissions) but also to the party and political faction s/he represents.

Staff appointment mechanisms also define the forms of accountability and reporting. In the case of the election and approval of Committee and Commission heads and their deputies, there are several-mechanisms:

- A faction, the parliamentary majority, or the minority names a candidate for head of a committee or a commission after the parliamentary approval by two thirds of the total number of members of the particular committee or commission;
- The Committee or Commission head is elected by a majority vote; and
- The Committee or Commission head deputies — there are 2 deputy positions in each committee and 1 in commissions — are nominated and elected by the Committee or Commission.

According to these mechanisms, MPs holding various positions in Committees/Commissions are accountable to parliament through these units. Consequently, there is also a gradation in penalties. The Committee or Commission heads can be dismissed by a vote of Parliament and deputies through a vote within Committees or Commissions.

C.1.2 **Assessment of Capacity**

C.1.2.1 *Adequacy of Institutional Resources*

In terms of the capacity of Parliamentary institutions, the situation varies widely among Parliamentary committees and Commissions. There is also a difference in terms of types of available resources. While some Parliamentary institutions expressed their satisfaction with staffing levels, there was a common complaint of insufficient financial resources, and that, in this sense, Parliament is not sufficiently well resourced.

There is a need for HR issues to be addressed so as to enable an efficient organizational environment for the Parliament Staff Office, Parliamentary Committees and Commissions. The problems identified were:

- Shortage of personnel–
  ~ Most MPs do not have assistants due to inadequate resourcing;
  ~ Inadequate technical staff for the Parliament Staff IT and Economic Supplies department; and
  ~ There is a scarcity of experts that could assist parliamentary committees and individual MPs to undertake their roles.
- Qualifications and professional skills–
  ~ Low competency levels and technical skills among most of the support personnel;
  ~ Training opportunities are not available for most of the personnel involved in the operations of parliamentary institutions again due to insufficient financial resources;
  ~ A general lack of clerical experience and consequently the skills required are not in keeping with modern clerical/administrative standards.
- Problems related to staff recruitment–
  ~ It is difficult to maintain experienced staff (again due to insufficient financial resources);
  ~ It is difficult to attract experienced professionals (again due to insufficient financial resources); and
  ~ The existence of informal mechanisms (nepotism), which interfere in staff recruitment processes.

The issues relate primarily to the provision of adequate funding for the efficient and effective functioning of Parliamentary institutions. The Parliamentary institutions responsible for solving this problem are:

- The Finance Department of the Parliament's Staff Office, which is responsible for financial accounting and the calculation of annual expenditures, estimates the Parliament's annual budget; and
- The Economic Department of the Parliament's Staff Office is responsible for the proper functioning of parliamentary institutional processes by estimating needs and supplying resources.

Cooperation between these two institutions cannot solve all problems related to technical infrastructure development and financial supplies improvement. Parliamentary expenditures depend upon the annual state budget in which the government defines the rules and means of financing parliament's expenditures.

Material-technical problems are solved by international organizations that finance parliamentary IT and technical infrastructure development through targeted direct aid.   Various projects led by NGOs and International organizations support individual MPs in improving their office facilities. These kinds of projects are sometimes intended to support experts, in this case MPs, through work environment improvement (e.g. lending or granting computers, printers, copy-machines). At the same time, there are some problems that are not assisted either by state financing improvements or on international aid; for example, a serious problem is the supply of office space that restricts Parliament's ability to hire and accommodate adequate numbers of personnel.

As noted above, the provision of adequate financial resources to enable Parliamentary institutions to function is dependent upon the State Budget capacity to re-allocate sufficient finances for Parliament. Though the Parliament Staff Office and the Finance Supplies Department calculate what financing should be requested, the amounts required and recommended are restricted by the annual State Budget. The most critical resources for the parliamentary units are:

- Funding to hire external specialists (i.e. legislative drafters, foreign experts to carry out legislative analysis);
- Funding to allow Committee members to travel to regions to communicate with constituents or outside Georgia to study international practices;
- Training funds especially for research and committee support staff.

One issue that needs to be especially noted relates to salaries. MPs salaries were increased but still present a problem. Most MPs regard salaries as inadequate. Parliamentary staff salaries have been slightly increased recently, but middle and lower level personnel salaries still remain very low, and because of staff shortages the workload of these personnel is heavy.

C.1.3.   Assessment of Coherence

The efficiency of interagency interaction of parliamentary units varies according to the types and levels of interaction.   There are different types of institutional interactions: normative-procedural and policy-operational, that occur in the following sectors: parliamentary; general government and public sector; international organizations, civil society and the media.

C.1.3.1   Interaction between Parliamentary Institutions

Institutional interaction between parliamentary institutions is based on information exchange and the provision of expertise and technical assistance. Within the normative-procedural framework, the activities of parliamentary units do not undermine the policy-operational capacities (efficiency and quality of output) of the parliament. However, certain inadequacies are cause by a lack of cooperation between parliamentary policy-making and administrative units. These shortcomings can be explained by the lack of institutional resources (discussed above). Nevertheless, these gaps are filled, more or less effectively, through the cooperation of Parliamentary institutions with international organizations and local NGOs.

C.1.3.2 Interaction between Parliamentary and Other State Agencies

Institutional interaction in this sector indicates some variations depending on the variety and levels of responsibilities. Individual parliamentary institutions report different levels of support received and provided by state agencies. The types of interactions include: expertise and information exchange on the oversight of the implementation of government policies in accordance with standards defined by the parliament; joint discussions on strategies to be designed; monitoring the functioning of the judiciary through information exchange with courts and court related institutions; the involvement of public officials in discussions and hearings on issues within their areas of responsibility. These types of interactions are mutual and imply reciprocity in that as support is received so assistance is provided.

There are differences in the assessment of the adequacy of the existing interaction networks. Generally, Parliamentary institutions express satisfaction with the assistance provided and received. However, some committees pointed out that it would be desirable to create special ministries coordinating the interaction of executive and parliamentary institutions in order to fill gaps caused by the shortage of resources. [50]

Budget and Finance Committee This committee has direct and fixed interactions as defined by the normative procedural frameworks, these being:

- Ministry of Finance Customs and Taxation Departments: exchange of information, analysis and recommendations;
- Chamber of Control: exchange of information, analysis and recommendations; and
- The National Bank of Georgia (Financial Monitoring Service): exchange of information, analysis and recommendations for mutual exchange.

Interaction defined by policy-operational needs involves the following institutions:

- President's Development and Reform Fund: information exchange;
- Financial Declaration Bureau: submitting declarations;
- President's Office: information exchange and making recommendations within its area of responsibility;
- Prime Minister's Office: information exchange and making recommendations within its in area of responsibility; and
- Ombudsman Office: information exchange.

Human Rights and Civil Integration Committee The committee has direct and fixed interaction defined by a normative-procedural framework as follows:

- Ombudsman's Office: exchange of information, analysis and recommendations, also coordination of activities;
- Ministry of Justice (Penitentiary Department): exchange of information, analysis and recommendations; and

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[50] These problems are not perceived to be one sided, and it is recognized that parliamentary institutions also can provide efficient support to government agencies through similar reciprocal mechanisms.

- Judiciary System: exchange of information, analysis and recommendations.

Interaction, defined by policy-operational needs, involves the following institutions:

- Ministry of Internal Affairs: exchange of information and recommendations;
- General Prosecutor's Office: exchange of information and recommendations;
- State Minister's Office on Refugees and Settlement Issues: exchange of information and recommendations; and
- President's Office: information provision.

Defense and Security Committee   The committee has direct interaction defined by normative procedural framework with the:

- Ministry of Defense: exchange of information, analysis and recommendations;
- Ministry of Internal Affairs: exchange of information, analysis and recommendations;
- General Prosecutor's Office: information provision; and
- President's Office: information provision.

Interaction defined by policy-operational needs involves the following institutions:

- Prime Minister's Office: information exchange;
- Chamber of Control: information exchange.

Regional Policy, Self Government and Mountainous Regions Committee   The committee has direct interaction defined by the normative procedural framework with:

- The President's Office: exchange of information, analysis and recommendations;
- The Public Service Bureau: exchange of information, analysis and recommendations.

Interaction defined by policy-operational needs involves the following institutions:

- Prime Minister's Office: information exchange;
- Governors' offices: mutual exchange of information, analysis, recommendations.

Legal Issues Committee   The Legal Issues Committee assists all executive institutions and provides legal expertise for drafting of legislative standard.

Procedural Issues and Rules Committee   The committee has direct and fixed interactions defined by the normative procedural framework with:

- Ministry of Justice: exchange of information and analysis;

- Ministry of Finance: exchange of information and analysis;
- State Minister on Reform Coordination Issues Office: exchange of information and analysis.

The Committee also assists and receives support from the Prime Minister's and the President's Offices (information and provision of expertise).

Parliament Staff Office The committee has direct and fixed interaction defined by the normative procedural framework with:

- The Public Service Bureau: provides information and receives analysis and recommendations;
- The Ministry of Economic Development Procurement Service: procurements of parliament's material-technical infrastructure requirements; and
- Chamber of Control: reporting.

Interaction defined by policy-operational needs involves the following institutions:

- Prime Minister's Office: information and expertise exchange;
- Financial Declaration Bureau: reporting.

Parliament Staff Office Legal Department   The department cooperates with the President's Parliamentary Secretary and the Government's Parliamentary Secretary by providing legal expertise. These secretaries are responsible for cooperating with the parliament on behalf of the President/Government. The Department's functions also include representing parliament at the Judiciary, thus it has a close relationships with the courts.

Parliament Staff Office Budget Office The Department has a direct and fixed interaction defined by the normative procedural framework with the Ministry of Finance and the Chamber of Control (on a daily basis from the Taxation Department) and receives and exchanges information on state expenditures.
Interaction defined by policy-operational needs involves the following institutions:

- Ministry of Finance Financial Police: Information exchange;
- Ministry of Economic Development Procurement Service Agency: information exchange;
- The State Commission on Efficient Governance and Territorial Arrangement: exchange of expertise and recommendations for the management of local expenditure.

C.1.3.3   Interaction between Parliamentary and International Organizations, Civil Society Agencies and Media

Types of interaction between Parliamentary agencies and these institutions are provision of direct targeted aid, oversight of joint projects and exchange of information/analysis.
Direct targeted aid is provided by international and donor organizations such as the World Bank, UNDP, OSCE, European Commission and is aimed at:

- The provision of expert advice by invited foreign experts on legislative improvement or the implementation of western standards for harmonizing Georgian legislation with Euro-Atlantic requirements;
- Technical infrastructure development: IT development (especially digital databases creation and service) and improvement of administrative and clerical services;
- Human resources development through improvement of parliamentary personnel training modelled on modern Western procedures and professional skills improvement based on similar Western values and standards; and
- Supporting the Parliament in its involvement with International Organizations through the provision of expertise, advice and exchange of information.

Great support is provided to the Parliament through joint projects and programs in which certain committees and individual MPs participate in cooperation with international organizations and local NGOs. These projects and programs designed for studying situations in certain areas of public life or for designing certain policies to be implemented, to some extent, coincide with the aims of the direct targeted aid provided by the International Donor Organizations. The difference is that, in the latter case, the scope of the strategies and actions undertaken are more specific and narrower than those previously mentioned. At the same time, it should be noted that interaction between these organizations and the parliamentary institutions is not always undertaken within the framework of the joint projects and programs. Networks established through joint projects and programs between parliamentary institutions and international and local NGOs remain active in the long-term (through institutional or personal ties and information exchange), thus allowing regularly provision and mutual exchanges of certain services (e.g. information and expertise). However, there are issues with this relationship. Parliamentary institutions consider some NGOs to be unreliable, overly critical, highly biased, and to run their own political agendas. In this sense, parliamentary institutions prefer to categorize civil society sector institutions on the basis of reliability and to deal with them on a priority basis.

Relationships with the media differ widely as regards the types and quality of interaction. Most media organizations, especially amongst the print media outlets, lack professional ethics, which can partly explain their bias in favour of certain political groups. This lack of a professional ethic is demonstrated by unbalanced criticism of some parliamentary institutions by the media. Nevertheless, a supportive relationship between the media and parliamentary institutions generally exists for government publicity. However, there are certain issues (especially those issues regarding corruption scandals in which individual MPs are accused or suspected) when parliamentary institutions display cautiousness and prefer to deal with the media in a selective way.

C.1.4.   Assessment of Consequences

C.1.4.1   *The Efficiency of Institutional Functions*

Respondents, in general, assessed the efficiency of parliamentary functions positively. In this sense, efficiency is understood to mean the ability of

parliamentary institutions to carry out duties and obligations prescribed in the normative-procedural sense (i.e. legislative functions). The legislative process was also assessed by the executive branch institutions to be effective. It was pointed out that the operations of parliament provide adequate support for the ongoing institutional reform processes with the pace of legislation fitting the timelines for reforms. However, respondents pointed out that speedy legislation could create difficulties; officials not familiar with new laws slow the implementation process and government agencies may sometimes exercise broad discretion in policy implementation. Consequently, new laws are not always adopted in the policy implementation process.

Most experts considered the implementation of policy to be inefficient and parliamentary oversight to be unsatisfactory. They identified a lack of parliamentary independence to commence oversight activities and weak mechanisms of policy implementation and monitoring at the local level.

Another issue raised regarding gaps in the functioning of parliamentary institutions was their unwillingness to participate in certain projects suggested by Georgian NGOs and International Organizations (e.g. projects aimed at increasing public awareness through informing the public of the roles of parliamentary institutions in the ongoing reform processes.) The lack of a proper public relations strategy for Parliamentary institutions was generally identified as problematic in all government agencies.

C.1.4.2   *Risks of Corruption within Fields of Competence*

As the functioning of parliamentary institutions is based on multi-agent interaction and collegial principles of decision-making, the corruption risks are minimized. However, the representation of specific interests in the parliamentary group can create an environment for corruption through illegal lobbying which was identified as one of the main corruption risks in the operations of Parliament.

Another risk of corruption is not related to the institutional design of the parliament and is caused by the personal characteristics of the officials. A lack of personal integrity is a risk that can encourage corruption. Effective legislative tools to address corrupt behaviour in parliament have not yet been designed. Frequent changes to legislation create an environment in which certain officials have the ability to manoeuvre and interpret their actions, relying on old laws not yet abolished or legitimising their actions through gaps not filled by new legislation. Frequent change and some ambiguities of the legislation can encourage corruption and cause officials to abuse their authority.

Another risk is related to parliamentary weakness to control state procurement processes, especially in the military and national security areas. These sectors are among the most expensive parts of the national budget. Apart from the Defense and Security Committee that is responsible for monitoring in this area, there is a special Parliamentary Trust Group (PTG) created for controlling military and security expenditures, and to whom the ministries of Defense and Internal Affairs are obliged to report. However, a number of MPs and experts pointed out that the ability of the PTG to provide transparency in this sphere is weak, as it consists only of governing National Movement Party representatives. This situation exists because opposition MPs boycotted the sessions and refused to take over the post of deputy head of the Defense and Security Committee.

C.1.4.3 Anticorruption Capacities: Impediments and Assisting Factors

The institutional environment in which they function determines the anti-corruption capacities of Parliamentary Institutions. The success or otherwise of anticorruption policies is determined by factors that inhibit or support their operations.

At the internal level, no institutional factor has been identified that would impede the operations of the parliamentary institutions. Some defects identified are related to the shortage of institutional resources, especially those dealing with material-technical and clerical support.

At the external level, the factors that impede institutional operations are related to institutional weaknesses that are transient as reforms are ongoing. Institutional weaknesses are related to parliament's operations in this revolutionary regime, as it tries to create a reform-oriented legislative base within a short time frame (e.g. in 2005 parliament adopted 453 new laws) to speed up institutional reforms. Consequently, there are some normative-procedural gaps in the role execution of government agencies and in their interaction mechanisms. Agencies have either not designed routine mechanisms of institutional cooperation therefore, interaction is conducted according to immediate policy operational needs — accordingly interrelationship is spontaneous and not systematic — or there is a shortage of institutional resources (e.g. qualified professionals) for determining ways to implement policies adopted by parliament. Impediments created by this problem are expressed by a lack of cooperation on any issues that are not related to day-to-day standard reporting processes.

The ruling National Movement Party serves as a facilitator of external level interagency relations. The party holds the majority of seats in the Parliament and holds leading decision-making positions, according to the rules defining committees and commissions formation. This party runs the government and undertakes roles and solves issues along party lines. In this sense, it is difficult to differentiate party and state agencies. For instance, the General Secretary of the National Movement Party heads the President's Office that is responsible for overseeing the outputs of parliamentary committees. This situation assists the speediness of the decision-making process, as the possibility of conflict regarding general strategies and policies between Parliament and Government are minimized due to the high level of the party consolidation and discipline. However, there are some observable risks related to this issue especially regarding the transparency of decision-making processes, as opposition parties represented in Parliament have minimal influence.

International organizations and local NGOs as external participants do not create any impediments for parliament. The efficiency of their support can only be judged on a case-by-case basis.

C.1.4.4   Impact on the Efficiency of Anticorruption Policies

The Parliamentary role in anticorruption policies is one of the most interesting issues. None of the respondents interviewed named Parliament as an institution that deals with the eradication of corruption. This anomaly can be explained through a widely held point of view amongst the civil service sector and public in general that the overall effect of anticorruption activities depends on the diligence of executive agencies, especially law-enforcement institutions. At the same time, it is

obvious that without parliamentary support much less could be done regarding corruption minimization. By passing anticorruption legislation, the parliament legitimises the anticorruption activities of executive institutions. It also undertakes regular monitoring and assessments of the efficiency of the relevant legislation and makes changes to it, if necessary. Through these actions, the parliament designs a strict procedural framework for the implementation of anticorruption policies to ensure the minimization of possibilities for abuse of authority by agencies implementing these policies. However, the application of laws regulating government agencies anticorruption activities, in practice, depends upon those institutions, particularly special/controlling institutions and the judiciary, who oversight existing policy implementation practices and their conformance with the legislation.

Parliamentary institutions are in charge of monitoring the application of laws by the executive. However, as mentioned above, these institutions have little capacity to undertake these functions. Though Committees are authorized to commence independent investigation without special permission, they rarely practice it. The reason for this according to the MPs is either the shortage of resources (technical and human resources) or that MPs are overly busy with law-making process (most of the MPs do not have assistants to ease their workloads). One effective mechanism for the parliament to fulfil its oversight functions is the establishment of temporary investigative commissions. Unlike the committees, these units deal with specific problems in certain areas of institutional operations during a set timeframe (defined by the Parliamentary Bureau) and do not conduct oversight activities regularly. The efficiency in addressing corruption by these temporary commissions is enhanced by the fact that political parties (both the parties represented in parliament, and those outside it) pay particular attention to their work (as commissions usually are created on specific issues of public interest). Public organizations and the media also monitor and publicize their work and by doing so influence public opinion and guarantee that the work of commissions is transparent and non-biased.

Procedural tools available to parliament to influence anticorruption policies also include:

- Reporting on execution by various state agencies of parliamentary and government institutions decisions;
- Petition mechanisms allowing individual citizens and groups of citizens to address parliament on certain law violations and seeking assistance for parliament to mediate with various state agencies on issues of violated rights restitution: thus, parliament receives information on violations of the law and can initiate investigation if it is needed;
- Requirement of ministries to commence investigation in certain areas of responsibility if requested and needed; and
- In case parliament does not assess the government as functioning satisfactorily, the ability to demand dismissal of individual minister or the entire cabinet;
- Integrity institutions accountable to the parliament, such as Audit Chamber and Ombudsman's Office.

Usually these tools do not have a critical influence on implementation of anticorruption policies but they remain as mechanisms that can be used for enhancing the effectiveness of anticorruption policies. To date, only the first two

mechanisms have been used in practice, while the other two have not been applied, though the law provides for their use.

C.1.4.5   *Ethical Impact of Parliamentary Institutions*

The Parliament's role to advance integrity is defined by its general function to provide the opportunity for political interaction in which consensual politics are generated. Consensus-based policies express the general political will of the nation through participants' approval of the political process (the mandate). Consequently, these policies must be adequate to meet the social, economic and political needs of the society in general. The correlation of policies with public values and expectations ensures the creation of a stable environment in which these policies can be implemented by state agencies. Accordingly, the question is whether this concordance is framed and imbedded in the institutional design of the legislative body of the nation, and if so, to what extent? Institutions designed for these purposes exist and function according to the normative basis defined by the constitution and legislation. However, the manner in which these formal institutions and laws operate in society and their relevance to the ethical substantive purposes for which they were designed is assessed as inadequate by most of the respondents interviewed.

Firstly, criticism is related to the political parties' representation and participation in the operations of parliament. The Law on Elections which defines the fundamental principles under which the Central Electoral Commission is formed and operates is considered to represent a major problem for the involvement of political parties in the legislative decision making process. Representation of the parties other than the National Movement in parliament is very weak. The ruling National Movement party holds the majority of seats while opposition parties are represented as an absolute minority and are not able to influence the decision-making process. The principles regulating party representatives' involvement in Committees and their composition are based on the proportion of their representation in Parliament. Consequently, the minor party MPs' ability to drive through their initiatives is minimal. This situation determines the nature of political interaction in the sense that political groups try to find other less institutionalised channels to transmit their initiatives. These activities are mostly undertaken outside of the parliamentary framework and include, boycotting parliament, appeals to the public through protest activities and advocating civil disobedience towards certain segments of the political elite. These actions influence the stability of parliament and affect its ability to provide a stable environment to implement its reform and modernisation agenda.

Most of the respondents pointed out the lack of parliamentary independence to initiate and develop policies. Generally, Parliament is simply transmitting and adopting strategies suggested by Georgia's post revolutionary government through the governing National Movement Party. In this sense, Parliament acts not so much as an institution expressing a variety of interests and agendas, but rather as a body expressing a particular political group's vision of state development. This situation is underpinned by a strong party organization, discipline and the indivisible political will of the National Movement Party.

The question is whether the alleged divergence between parliament's ethical substantive purposes and the actual mechanisms for its operations counters the overall aim of state building. According to the opinions retrieved through this

research, none of the arguments deny that the governing National Movement Party possesses resources (intellectual and skilled specialists) for fulfilling the afore-mentioned goals. As for the divergence between the policy-operational and the ethical-substantive aspects of parliament's operations, this anomaly can be explained by a speedy reformation processes conducted by a leading political elite.

C.1.4.6 *Specific Contributions of Core and Distributed Institutions*

Several key parliamentary institutions are worth examining in terms of interagency interaction. Among parliamentary internal administrative institutions, the Parliament Staff Office leadership is the core institution managing the efficient handling and development of human and material-technical resources. It oversights subordinate departments in the operations of the Parliament Staff Office and ensures that probity issues are addressed when dealing with procurement, property and distribution of financial resources. The Parliament Staff Office leadership monitors and controls the operations of subordinate departments through minutes received from other parliamentary institutions in relation to any violation of procedural or operational norms by any of the agencies.

The Procedural Issues and Rules Committee as a core institution undertake the role of coordinating accountability processes among parliamentary institutions (the Parliament Bureau and Committees) and providing oversight of their operations. This undertaking is a major role. The Committee's function is assessed as very important as it provides a favourable environment for the Parliament to function effectively. A new rule introduced by the Procedural Issues and Rules Committee requires Parliamentary Committees to present their reports to the Parliamentary Plenary Session. This report includes information about:

- The number of sessions conducted by the Committee;
- The number of draft laws initiated by the particular Committee;
- The number of laws passed by the Parliament that were initiated by the particular Committee; and
- The work the Committee oversighting the operations of executive institutions.

The Procedural Issues and Rules Committee ensure that committee hearings and plenary sessions are conducted in accordance with the norms defined through legislature. It also implements codes of conduct and behaviour in parliament, through the personal commitment and integrity provisions, thus improving the formal operational environment of parliamentary institutions (though, until recently, problems related to discipline have been very sensitive for the Parliament to address).

At the external level of Parliamentary institutions operations, the core institutions identified as providing integrity support are the Legal Issues Committee and the Budget and Finance Committee. Their functions are as follows:

- The Legal Issues Committee is one of the major initiators of the reform process through supporting legislation and anticorruption strategies. Its role in creating a proper normative-procedural legal framework for anticorruption activities by government agencies is crucial and was identified as a primary role by law-enforcement institutions representatives interviewed. The importance of the Committee's role in

> this area is strengthened by the fact that some of its members are leading politicians who define reform strategies; and
>
> - The Budget and Finance Committee's role is fulfilled not only through observation of state budget projects delivered to Parliament by the executive branch of the government, but also through oversight on their delivery. Special attention is paid to budget expenditure at the state budget drafting stage, as the Committee ensures that just principles of state benefits distribution are applied. Nevertheless, the Committee's ability to oversight the operations of state agencies is very weak, as it lacks institutional mechanisms to conduct research in problematic areas and is totally dependent upon self reporting from government agencies.

C.1.4.7   *Emerging Issues*

Most of the respondents interviewed stressed several issues that reduce the efficiency of the parliament as an integrity system. Among the problems identified, the most important were:

> - The absence of databases allowing information sharing and use of information technology to monitor and control agency operations and execution of parliamentary decisions;
> - The absence of budgetary controls (State budget and local budgets) between parliamentary and executive institutions;
> - The need to create a parliamentary 'shadow cabinet' to scrutinize decisions made by ministers and their staff;
> - NGO activities and their involvement in supporting parliamentary institutions operations is considered weak;
> - Parliament's work in attracting public support and in soliciting public input into the legal-drafting process is lacking;
> - Drawn from above, another issue raised is related to the involvement of ethnic minorities in public life. The lack of a state language knowledge among Armenian and Azerbaijan ethnic groups located within two regions of Georgia (Samtskhe-Javakheti and Qvemo Qartli) creates a fertile environment for corruption at the local administrative level (public oversight is weak). For this reason, policy implementation agencies are able to abuse the authority delegated to them by central government. Parliament's role regarding a solution to this issue is identified as the necessity to oversight the design and implementation of education programs, as well as to provide political support for the protection of minorities by ensuring rights through the promotion of legitimate policies; and
> - Parliamentary links with local government units are considered to be very weak.

C.1.4.8   *Main Findings and Recommendations*

The general assessment of the situation is that thee have been positive changes since Rose Revolution. However, responses differed among respondents. Two main views were evident:

> - The situation has changed in the sense that corruption has become less visible (i.e. there has been a change in type of corruption); and

- The situation has changed in that corruption has disappeared from certain levels of the State Administrative system and moved to other levels (i.e. a level shift).

Opinions regarding problematic areas also varied and in some cases it was said that corruption has now accumulated in the lower levels of government agencies. In other cases, it was said that higher-level officials are more corrupt. A reason for these varied assessments is the scarcity of official information provided by government agencies on the effects of anticorruption activities. As well as a lack of transparency in the operations of anticorruption institutions, there are difficulties in obtaining official data on the type and prevalence of corruption. On the one hand, poor knowledge or lack of a common assessment framework/methodology among Parliamentary institutions regarding this particular issue can be explained by the pace of anticorruption policy development as well as the collateral effects of gaps in coordination (especially information exchange) between executive and parliamentary institutions. On the other hand, these problems may be explained by the weakness of parliamentary institutions in adequately oversighting the implementation process (especially considering shortage of material-technical and human resources).

The issue mentioned that gained general agreement and acknowledgement among respondents was that, in order to eradicate corruption, the efficient and effective implementation of anticorruption policies are totally dependent upon the commitment and support of the post-revolutionary political elite. Such a commitment at the highest level of the state administrative system can serve as an explanation of an argument that the corruption has shifted to lower levels of the public administration system. At the same time, the willingness of the political elite to combat corruption encourages the same commitment at the lower levels of the state agencies through education-prevention or through investigation-coercion. According to the arguments expressed regarding efficiency of these anti-corruption tools, most MPs assume that, at this stage of state development, public awareness is not able to challenge corruption as Georgian society, through its historical experience, coexisted with corrupt governments. It is also argued that using coercive methods will have side effects expressed in adverse norms and procedures or by human rights violations. To minimise these negative effects, it is vital to strengthen parliamentary institutions in order to improve Parliament's ability to fulfil its oversight functions efficiently and effectively.

In relation to these issues, the recommendations identified by MPs interviewed were:

- To improve information technologies and create electronic shared databases that would allow speedy information exchange with other institutions;
- To share foreign countries' successful anticorruption experience and implement their practices in parliamentary operations–
  - ~ To involve international organizations and local NGO experts in law drafting and adopting 'world's best practices' in Georgian anticorruption legislature and strategies;
  - ~ To receive assistance for improving parliamentary oversight mechanisms;
- To improve the provision of resources (first of all, to acquire sufficient numbers of professional personnel adequate to the needs of Parliament);

- To extend cooperation with international organizations especially those focussed on human rights protection in order to provide for the development of ethical standards in law-enforcement agencies activities thereby lessening the possible effects of anticorruption coercion policies;
- Parliament's public relations strategic planning processes and implementation mechanisms should be improved;
- There is a need to create a parliamentary 'shadow cabinet' to scrutinize decisions made by the executive;
- The parliament's ties with local governments should be strengthened;
- The parliament needs to support local NGO efforts to participate in local level policy implementation processes. It would be mutually beneficial if NGOs could carry out watch-dog roles and provide parliament with much-needed information, thus minimizing the defects caused by the shortage of qualified analysts;
- The use of investigative-coercive methods may be an effective way to combat corruption as a short-term solution; and
- In the long-term, public education and a range of preventative measures are very important tools for combating corruption.

C.2.   Executive Institutions

C.2.1   Roles and Functions in Ensuring Integrity

The executive branch of the government is a key unit in the integrity process. Its role in the Integrity System is defined by its decision-making and policy implementation functions. The executive's role in the Integrity System is as follows:

- To design strategies as well as specific policies reflecting the general political will and the legal framework set by the parliament while respecting the diverse interests expressed through the parliamentary process;
- To design mechanisms for the development of policies that allow transparency and participation among agencies (including non-government watchdog organizations) so as to prevent the monopolization of the policy-making process by individual political groups (state capture) and ensure adherence to the rule of law;
- To design mechanisms for the development of policies which would ensure that the ethical principles imbedded in strategies and policies reflect the general political will generated through participatory consensual politics, and that such principles are not forsaken for the purposes of efficiency;
- To design mechanisms to develop policies that provide for the fair distribution of services and benefits to the entire social spectrum of the nation. Such policies are likely to build citizens' trust in the government and raise the government's legitimacy and improve political stability;
- To develop a system of monitoring the outcomes of implemented policies using an evaluation process which incorporates centralized control/accountability mechanisms and/or public feedback, and which allows for the modification of policies, or makes recommendations to parliament for the modification of legislative standards that may lower the effectiveness of policy implementation.

The executive's role in strengthening the state's anti-corruption capacity is as follows:

- Performing its functions through procedures that are compliant with the laws passed by the parliament, thus ensuring adherence to the rule of law;
- Ensuring the effectiveness of anti-corruption policies by overseeing compliance of state controlling organizations with ethical standards imbedded in strategies devised by parliament and the executive;
- Creating a favourable environment (material-technical and human resources improvement) for the efficient functioning of public services and developing control systems by improving anti-corruption institutions and accountability mechanisms to achieve a high quality of public services;
- Ensuring regular coordination among institutions performing oversight and regulatory functions so as to validate the outcomes of oversight/monitoring requirements;
- Publicizing the information about individual public institutions so that non-government watchdog organizations and social groups can monitor policy implementation and the quality of services delivered by these

institutions and give feedback to the government, including recommendations on policy change.

The executive carries out the above functions and roles in the following areas of its responsibility:

- Provides for the execution of laws passed by the parliament and secures compliance with these laws by the executive itself in order to ensure the adherence to the rule of law;
- Is responsible for policy making and implementation both inside and outside the country with regard to–
  - ~ Negotiating agreements with international organizations and individual states on cooperation in certain areas of state development;[51]
  - ~ Defining areas of state operations that should be reformed and creating a normative framework for conducting reforms (situation analysis, recommendations, policy making/implementation, coordination of activities by individual institutions);
  - ~ Establishing programs of financial and economic development, drafting the state budget, defining fiscal policies (in terms of anti-corruption policies, the most important are those aimed at ensuring transparency in state budgeting, improving tax collection mechanisms and achieving the efficient management of state funds);
  - ~ Coordinating anti-corruption and effective governance policies at the regional/local levels of state administration.
- Exercises oversight of law-enforcement and state controlling organizations to ensure their efficiency and the compliance of their operations with the law, including procedural standards.

The functioning of the executive — though carried out by institutions that are directly responsible for policy design and implementation — can be influenced to a certain degree by international actors (foreign states, international organizations), civil society and the media. These participants facilitate the process through various types of activities, such as:

- Technical assistance–
  - ~ Sharing 'know-how' and experience of successful administrative tools and management mechanisms;
  - ~ Direct financial aid;
  - ~ Joint programs aimed at developing areas that are part of the process of reform;
  - ~ Provision of expertise through analysis, recommendations and assessment of implemented policies.
- Feedback by the general public–
  - ~ Providing information and analyses: assessment of the performance of the public service and its response to social needs, and public opinion regarding state efficiency;
  - ~ Criticism and complaints of individual policies and government actions.

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[51]   The most important agreements in the area of anti-corruption policies are those relating to the application of 'western' standards in state administrations.

Public feedback is also provided by individual citizens or groups of citizens without mediation of NGOs and other civic organizations through personal meetings and messages (delivering complaints and notes) with/to representatives of various levels of state institutions.

C.2.1.1   Grouping of Executive Institutions by Roles and Functions

Executive institutions involved in the Georgian Integrity System can be divided into following groups according to their functions:[52]

- Those defining policies in general–
  ~ Institutions that develop action plans and strategies;
  ~ Institutions that coordinate the activities of policy-implementing institutions;
  ~ Institutions that provide analysis and develop recommendations for policy planning, implementation and coordination;
  ~ Institutions that establish normative criteria in the area of institutional operations, which are based on the experience of developed states and recommendations given to the Georgian government by international organizations.
- Those defining procedures for policy implementation in the areas of their particular responsibilities–
  ~ Institutions that develop action plans in areas of their individual responsibilities in line with the overarching strategies developed by institutions responsible for defining policies in general (group1);
  ~ Institutions that control policy implementation by other institutions; these bodies also develop operational mechanisms required to undertake their role.
- Those conducting activities at the operational level of policy implementation–
  ~ Subordinate institutions that design specialized and specific policy implementation plans in accordance with the law and the action plans designed by upper-level policy development units;
  ~ Subordinate institutions that deliver services to the public.
- Those assisting policy implementing institutions–
  ~ Institutions (both within institutions and outside them) that provide material-technical resources or human resources;
  ~ Institutions that are involved in monitoring, data analysis and drafting recommendations for policy-implementing institutions in order to improve overall efficiency.
- Those monitoring policy implementation and controlling policy-implementing institutions in terms of their efficiency and their compliance with legal norms and procedures–
  ~ Institutions that monitor whether the coordination among policy-implementing agencies is carried out in accordance with general strategies;
  ~ Institutions that monitor technical aspects of policy implementation, adherence to procedural standards and the level of organizational

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[52]   This grouping is not exact and does not mean that individual institutions are allocated to certain groups. For instance, individual institutions involved in the process of defining policies in general, can also be involved in the policy implementation and control processes.

C.2.1.2   *Specific Functions of each Institution*

The Government of Georgia Chancellery   The main function of the Chancellery is to assist various bodies of the government to fulfil their roles by providing information, and analytical and technical support. It facilitates oversight of the implementation of decisions taken and policies developed by various government institutions. It also:

- Facilitates coordination between different ministries and their subordinate institutions;
- Supports the development of controlling mechanisms;
- Facilitates the achievement of social, economic and other state programs;
- Supports legislative initiatives by the Georgian government;
- Reviews legislation and regulations initiated by senior officials of individual executive institutions;
- Provides research and analysis support to the prime minister;
- Facilitates the prime minister's interaction with the parliament, executive institutions, international organizations, civil organizations and political parties;
- Supports interaction between the central government and local government bodies;
- Represents the prime minister in court; and
- Drafts recommendations on ongoing reforms and various programs developed by government institutions[53].

Office of State Minister for Reform Coordination   The Office is responsible for coordinating reforms in the government. The Office coordinates reform initiatives between different state institutions that do not fall under particular ministries, although it is involved in designing reform initiatives in specific sectors as well. The Office's duty is to design the Georgian government's interim action plan and to develop an approach that would unite policies of individual institutions under one unified general strategy which respond to the public's concerns:

- Mid-term action plans of individual ministries to streamline policy implementation;
- Programs for Georgian government institutions in accordance with EU and NATO member-state standards;
- Recommendations for reform-related draft laws and/or legislative initiatives that are agreed with the government before submission to the parliament.

As part of the above approaches, the office provides expertise and technical assistance to the ministries. In particular, it initiates the establishment of, and participates in, various government commissions (e.g. the government commission on transport, the government commissions on energy etc.) that were established to develop reform strategies for different sectors.

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[53] Though the Government of Georgia Chancellary formally is responsible for facilitating oversight of the implementation of reform policies and for drafting recommendations on ongoing reforms in individual sectors, some respondents question the efficiency of these roles performance.

The Office is also responsible for developing Georgia's national anti-corruption strategy and its implementation action plan, and for overseeing and reporting on its implementation.

Office of State Minister on European and Euro-Atlantic Integration The main responsibility of the agency is to coordinate the activities of individual ministries and other executive bodies in regard to the country's aspiration to integrate with the Euro-Atlantic structures. The office participates in institutional reforms to bring the Georgian political system and legislation closer to EU and NATO standards. In this respect, the office provides expertise and recommendations to various state institutions, such as: the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Internal Affairs; the Ministry of Finance; the Ministry of Economic Development; the Ministry of Justice; the Ministry of Environment and Natural Resources; the Ministry of Healthcare and Labour; the Ministry of Science and Education; and their subordinate bodies. The assistance provided by the office is aimed not only at improving institutional operations and harmonizing Georgian legislation with EU standards but also at strengthening anti-corruption capacity in line with EU and NATO partnership programs. This function is carried out through a commission which oversees the implementation of programs in different areas of government activity. In this regard, the most important program initiated by the office in partnership with the Council of Europe is the Rule of Law Mission program EUJUST THEMIS implemented under the European Security and Defence Policy (ESDP). The aim of the program is to coordinate the government's anti-corruption policies and foster regional cooperation in combating corruption.

Ministry of Internal Affairs The Ministry has a number of diverse functions: it deals with public order (policing functions) and is also responsible for state security and state border protection. The ministry's roles include:

- Oversight of laws related to the public order provision passed by parliament;
- Prevention of the violation of law through investigation and criminal prosecution.

These functions are carried out in the following areas:

- Social order and public security;
- Combating corruption in state institutions;
- Anti-terrorist activities and counter-intelligence; and
- Oversight of the achievement of constitutional norms by state institutions.

The Interior Ministry's specialized units undertake these functions: the Police; the Special Operative Department; the Department on Constitutional Security and Order; and Department on State Border Protection.
The functions are conducted through:

- Analysis and planning;
- Coordination among the ministry's subordinate bodies;
- Investigation and operative work; and
- Coordination with other law enforcement and state controlling institutions.

Ministry of Internal Affairs Analysis Department The Department is a subordinate body of the Ministry of Internal Affairs and its functions include:

- Provision and analysis of information required by the ministry;
- Preparation of analytical reports on the crime situation in Georgia and the assessment of the ministry's efficiency to respond to it;
- Drafting recommendations on the ministry's institutional development; and
- Publicizing statistical and analytical information on the above issues.

The department also provides information to other state institutions.

Ministry of Internal Affairs Special Operative Department The department is a body subordinate to the Ministry of Internal Affairs and its function is to conduct activities (investigation and criminal prosecution) against organized crime and illegal business. In general, the department is authorized to conduct investigations on all issues that are within the ministry's responsibility. Its roles are:

- To fight against organized crime, such as drug dealing and drug trafficking, illegal migration and trafficking in humans, and illegal arms trading;
- To conduct activities against money laundering and illegal incomes; and
- To protect witnesses of the state prosecution.

Ministry of Finance Financial Police The Financial Police is a subordinate body of the Ministry of Finance. Its function is to conduct preventive, operative-investigative and analytical activities in relation to financial and economic crime. One of the main responsibilities of the Financial Police is the prevention of violation of administrative law in relation to, for example:

- Tax evasion;
- Customs regulations, including smuggling.

The Financial Police conducts oversight of government institutions and the Ministry of Finance for the following purposes:

- Information gathering and provision of analysis on corruption issues;
- Prevention, investigation and criminal prosecution in the cases of administrative crime and corrupt dealings in government, in the areas of finances and economy; and
- Ensuring that civil servants and ministerial staff are not engaged in dealings that violate laws.

These functions are achieved through activities, such as:

- Conducting financial inspections of relevant organizations;
- Requesting information from various state institutions operating in the financial-economic field;
- Information analysis and strategic action planning; and

- Carrying out inspections and inventories in private businesses and government organizations suspected of engaging in criminal activities. [54]

Ministry of Finance Customs Department   The Department is a subordinate body of the Ministry of Finance and is responsible for the protection of state economic sovereignty and the provision of economic security. At the same time, its role is to collect customs payments (customs tariff, surplus value, excise, licensing tariff) and to transfer funds to the state budget. The department monitors export-import and transit processes; controls excise procedures on certain imported goods; collects and analyses information on collectable payments; collects customs tariffs; provides information and analysis regarding these fields to the Ministry of Finance and other government institutions involved in the financial-economic sector. It also provides expertise to the government and parliament in relation to state budget drafting.

Ministry of Finance Taxation Department   The Department is a subordinate body of the Ministry of Finance and is responsible for tax collection and its transfer to the State budget. Its role is to monitor and gather information on existing businesses and services, analyse data and define the scope of the taxes that should paid to the state. Accordingly, the Department is obliged to develop a strategic action plan relating to the activities of taxation department units (management, coordination and oversight) and to define mechanisms (methods and programs) for taxation control.

One of the major functions of the Department is to provide expert advice to legislators through:

- Assisting with the drafting of laws;
- Participating in parliamentary hearings on draft laws relevant to the Department's field of expertise; and
- Analysing the impact and efficiency of amendments made to finance related legislation.

The Department's function is also to assist judicial institutions with regard to cases on taxpayers' claims.

Ministry of Justice Information Bureau on Public Officials Property and Financial State   The Bureau is a subordinate body of the Ministry of Justice and its main function is to oversee the implementation of the Law for the Public Service and the law of Georgia on Conflict of Interest and Corruption in Public Service, which is designed to create a public service environment that reduces the opportunity for private economic interests of public officials to interfere with their public functions. This goal is achieved through:

- Creating a list of public officials that should provide information relating to property owned by them and/or their family members and businesses owned in Georgia or abroad;
- Regular gathering of information regarding property ownership by public officials includes–
  ~ 2000 public officials who should provide information annually;

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[54]   The Financial Police are allowed to detain suspects, question witnesses and use force, if necessary.

> ~ Information of property ownership by public officials collected prior to appointment to public office and updated regularly. This includes the period when an individual official is dismissed from his/her office.

The bureau makes the information gathered publicly available. The Bureau's only responsibility, however, is to ensure that the respective government officials submit their financial and asset declarations in time. The Bureau does not scrutinize the submitted declarations.

T*he Ministry of Justice National Agency of Public Registry*   The National Agency of Public Registry is a subordinate body of the Ministry of Justice. Its main function is the registration and recognition of citizens' property rights. Accordingly, it is responsible for:

- Gathering information on properties owned by Georgian citizens and creating and updating registry databases;
- Making this information publicly available;
- In the context of ongoing institutional reform, carry out activities designed to develop a modern unified Public Register system. (There are currently 68 offices of the Public Register National Agency in the Georgian regions, and the Agency is obliged to install standards to coordinate office activities with the aim of achieving greater efficiency.) This coordination role is achieved through–
  - ~ Drafting a general budget for the Agency system: controlling the expenditure of subordinate units; developing operational management mechanisms; establishing unified standard models for quarterly and annual financial accounting processes that are compulsory for all subordinate bodies of the Agency;
  - ~ Organizing centralized material-technical provisions for the Agency system and providing centralized economic management;
  - ~ Overseeing the use of disciplinary processes and carrying out corruption prevention activities using internal control mechanisms (for example, consideration of complaints received from citizens and government institutions).

The Ministry of Justice Civil Registry Agency   The Agency is a subordinate body of the Ministry of Justice and its functions are:

- To form a unified register of Georgian citizens living in the country and abroad, and foreign subjects living in Georgia;
- To gather information and create electronic databases that increase the efficiency of the Agency and other institutions using the data; and
- To measure the efficiency of its own work and to design recommendations for legislative reform.

The Agency's role is to register a range of civil acts, but most important among them are:

- Issue and registration of legal documents confirming identity (as Georgian citizens or foreigners);
- Issue or alteration of passports; and
- Registration and archiving of citizenship, civil acts and migration information

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The Ministry of Justice Legal Aid Commission   The Legal Aid Commission answers to the Ministry of Justice. Its activities are based on rules drafted as part of the reform process. The aim of the reform is to provide legal support to socially unprotected citizens, offering them free legal services at public expense. The availability of the legal personnel to provide this service is one of the main components of the reform.

The Legal Aid Commission has two offices where it offers its free services to citizens[55] in Tbilisi's Gldani-Nadzaladevi district and a western Georgian town of Zestaponi. Lawyers working at these offices provide legal advice and provide a free legal defence to citizens who are not able to pay for lawyers. [56]

The Ministry of Justice National Forensic Bureau   The Bureau is a subordinate body of the Ministry of Justice and its role is to provide expert advice to public institutions (primarily to law enforcement agencies and the judiciary). The Bureau provides information (evidence) to lawyers, prosecutors and judges to assist with the development of investigations/discussions in the appropriate manner. The Bureau controls the provision of expert services through:

- Monitoring of the professional activities of personnel to ensure such actions correspond with prescribed standards;
- Improving forensic examination methodologies and material-technical facilities.

The National Bank of Georgia Financial Monitoring Service   The Financial Monitoring Service is a subordinate body of the National Bank and its main task is to facilitate the prevention of the legalizing of illicit income. The function of the Financial Monitoring Service is:

- To create an information network, systemize and analyse the information obtained, and to ensure the creation and proper functioning of the relevant database;
- To forward at its discretion the information (including confidential information) and relevant materials to the Prosecutor General's Office; and
- To participate in drafting and reviewing acts concerning the economic security of the country.

These goals are achieved through various functions delegated to the Financial Monitoring Service:

- To obtain additional information (of relevance to the cases explored by the Service) from other monitoring entities to avoid legalizing illicit income;

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[55]   The offices were piloted as part of the reform, and the decision on whether or not they would continue their operations would be made after their effectiveness would be assessed. Law on Legal Aid Commission was adopted by the parliament in 2007 and it seems commission offices will be established in most districts of Georgia.

[56]   According to the respondent, selection of the above districts for trial purposes was based on ongoing judicial case levels. In Gldani-Nadzaladevi district, the caseload is high, while in Zestafoni it is low. One of the aims of the experiment is to determine sufficient technical, human and financial resources for the Commission to function efficiently after the law is adopted.

- To provide information to the supervisory and law enforcement agencies;
- To issue acts and regulations on the conditions and procedures for submission, processing and forwarding of information within the scope of its responsibilities;
- To obtain information from all state (including local government) bodies and agencies, as well as from any individual or legal entity, that exercises public legal authority granted by the legislation, for the purpose of implementing the assigned functions.

The Ministry of Defence Legal Department   The Department is an institutional unit of the Ministry of Defence. Its function is to assist the Ministry to implement its policies in accordance with the laws adopted by the parliament. This function is achieved through:

- Analysing civil-military relations and drafting and implementing coherent plans for their improvement;
- Conducting control and analysis of documentary proceedings in the Ministry and to consult ministry decision makers on legal issues; and
- Analysing ongoing reform processes in the Ministry and developing recommendations for legislative improvement.

The Ministry of Economic Development State Procurement Agency   The State Procurement Agency is a Ministry of Economic Development subordinate body and its functions are:

- To create legislation and standards for tender applications and coordinate these Acts and standards with international norms;
- To collect and analyse information from purchaser agencies regarding the country's procurement needs and drafting strategic plans for presentation to the President of Georgia for decision making;
- To create databases on completed procurements and organized tenders;
- To provide expertise and recommendations to the procurement agencies;
- To develop legislation for transparency of the procurement processes; and
- To oversee the legality of procurement processes and to define procurement regulation policies.

Achievement of these functions is accomplished by the State Procurement Agency by the following processes:

- Improving the methodological basis of the procurement and accountability procedures;
- Organising the training of Agency personnel, thus improving their qualifications;
- Coordinating its activities with the financial bodies of the government in order to share information;
- Improving the monitoring of state procurements and coordinating activities with law enforcement agencies for corruption prevention; and
- Improving control of procurement organizations' accountability procedures and developing mechanisms for operational feedback.

The Internal General Inspectorates of Ministries   Organizations interviewed were:

- The Ministry of Economic Development General Inspectorate;
- The Ministry of Finance General Inspectorate;
- The Ministry of Environment and Natural Resources General Inspectorate;
- The Ministry of Labor and Healthcare General Inspectorate;
- The Ministry of Education and Science General Inspectorate;
- The Ministry of Foreign Affairs General Inspectorate; and
- The Ministry of Justice General Inspectorate.

The main function of the General Inspectorates is to oversee the activities of ministerial staff regarding adherence to the Administrative laws of Georgia. The Inspectorates' roles are:

- To control disciplinary and legal issues applicable to ministerial units and public law legal entities subordinated to the ministry;
- To prevent and expose violations of the law;
- To analyse the efficiency of ministerial staff activities and to develop recommendations for achieving ministerial efficiency;
- To provide financial control of the ministerial units;
- To receive complaints about violations of law or disciplinary breaches and report to the minister on these issues;
- To review reports and decisions, relevant to particular areas of expertise, received from the General Prosecutor's office, Judiciary and other institutions on behalf of the minister and making conclusions on these issues. [57]

The Tbilisi Internal General Inspectorate for Law Protection[58]   The   General Inspectorate function is to monitor financial and economic management of municipal resources.

There are two ways in which monitoring is conducted:

- Planned monitoring conducted at the beginning of each year (these activities are led by the inspection group);
- Thematic monitoring occurs either when the inspectorate receives complaints from citizens, members of parliament, media organizations or NGOs about the quality of municipal services, or when major concerns arise, requiring investigation of particular institutions. (These activities are led by the Special Task Department.)[59]

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[57]   Actually roles and responsibilities of general inspectorates of individual ministries differ, but they can be generalised in given way.

[58]   The local government bodies usually do not have their own general inspectorates but Tbilisi government due to its special status (capital city of Georgia) and economic considerations. (Most of the economy actors are concentrated in Tbilisi and the city budget is much bigger than any other local budget and has its own internal control unit.)

[59]   Procedures to monitor the management of municipal resources have not yet been designed, as there has been no previous experience of such an institution operating at the municipal level. It is anticipated that regulations will be developed towards the end of 2006. Meantime, in the absence of these procedural regulations, the role of the inspectorate is determined by the Tbilisi Mayor's office.

C.2.1.3   Scope of Institutional Authority

This section aims to explain the technical, procedural and legal framework and environment within which the executive institutions operate in order to fulfil their various roles.

The Constitution of Georgia and the Law on the Government Structure and Functions are two major documents that define the functions of executive institutions. A number of laws, by-laws and charters/statutes specific to individual executive integrity agencies underpin the operations of various executive institutions. Examples of these include:

Legal documents defining standards and procedures for the functioning of the state administrative system, such as:

- The General Administrative Code;
- Law on the Public Service;
- Customs Code of Georgia;
- Taxation Code of Georgia;
- Law of Georgia on the State Budget;
- Law on Local Governance and Self-Government;
- Law on Civil Acts Registration;
- Law on the Police;
- Law on the Financial Police;
- Law on the Development and Reform Fund; and
- Law on State Procurements.

Legal documents regulating anti-corruption activities of the executive integrity institutions:

- Law of Georgia on Facilitating the Prevention of Illicit Income Legalization;
- Law of Georgia on Conflict of Interest and Corruption in Civil Service;
- Criminal Procedural Code;
- Civil Procedural Code; and
- Law on Organized Crime and Extortion.

These laws define the roles of individual executive institutions and determine procedural frameworks for activities conducted by their representatives in relation to the positions they hold and functions prescribed by these positions. The scope of the authority regarding anti-corruption capacity provisions varies in accordance with the general functions of each executive institution. In this sense, government agencies included in this set of institutional units can be divided into following groups:

a. Those providing strategic definition of the ongoing reforms and anti-corruption policies, as well as coordination of the activities of anti-corruption institutions generally or in the particular sectors of policymaking and implementation. Some of these institutions may also directly affect the efficiency of anti-corruption policies through their capacity to define the ethical norms and values embedded in reform goals. (Government of Georgia Chancellery; Ministry of Internal Affairs; Office of the State Minister for Reform Coordination; Office of the State Minister on European and Euro-Atlantic Integration.)

    b.   Those providing state administration functions, especially in economic and budgetary areas in which oversight by special bodies are most intensive. (Ministry of Finance Customs Department; Ministry of Finance Taxation Department; The Ministry of Economic Development State Procurement Agency.)

    c.   Those providing legal services to society in general, ensuring protection of property rights and other civil rights. The collection and accessibility of information relating to anti-corruption policies enables 'watchdog' organizations to protect civil rights from abuses of authority. (Ministry of Justice Public Register National Agency; Ministry of Justice Civil Register Agency; Ministry of Justice Legal Aid Commission; Ministry of Justice National Forensic Bureau.)

    d.   Those providing for the implementation of anti-corruption policies. (Ministry of Internal Affairs; [60] Ministry of Internal Affairs Special Operative Department; Ministry of Finance Financial Police; The Ministerial Internal General Inspectorates.)

    e.   Those providing support to anti-corruption institutions through the collection of information and provision of analytical services, aimed at improving the operational capacity of the integrity institutions and agencies directly involved in the implementation of anti-corruption policies. In addition to this, several of these institutions are directly involved in anti-corruption activities through monitoring provisions. (Ministry of Internal Affairs Analytic Department; Ministry of Justice Information Bureau on Public Officials Property and Financial State; The Ministry of Defence Legal Department; The National Bank of Georgia Financial Monitoring Service.)

Institutions representing the first group of agencies (a), defining policies in general and coordinating their implementation in particular sectors of state/public life, are not authorized to instigate investigations of violations of procedural standards, or to conduct corruption prevention activities.[61] They are authorized to carry out a general oversight on ongoing reform processes related to anti-corruption policies, and to provide coordination and analytical support to the policy implementation agencies. Assessment of internal systems and personnel activities is carried out through hierarchical reporting mechanisms and accountability processes of subordinate institutions. These organizations make a contribution to the general improvement of integrity through:

- Participation in the development of anti-corruption policies and drafting of action plans in accordance with relevant expertise and analytical capacity;
- Oversight of the adaptation and conversion of defined strategies into specific institutional action plans. This includes analysis of the relevance of these particular strategies in relation to the defined general anti-corruption policy strategies; and
- Providing oversight of the policy implementation process, by reporting to the relevant ministry (as required) and providing recommendations for necessary actions (as required).

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[60]   As the Ministry has as policy defining (including interagency activities coordination), it is logical to include this institution in both groups.

[61]   The Ministry of Internal Affairs is an exception.

The above institutions impact upon other agencies' abilities to meet their reporting obligations within specified timeframes. Data and analysis retrieved through this process is intended to enable the Government, as a whole, to control and plan for the efficient achievement of defined functions. (One of the most important functions of these institutions is to provide operational data/analysis collection and transmission.)

The institutions representing second (b) and third (c) groups of the government agencies are subordinate bodies of the Ministry of Finance, Ministry of Economic Development and Ministry of Justice. Consequently, these organizations are not authorized to commence investigations focused on violations of procedural norms or corruption (committed by their personnel). The activities of these institutions must be undertaken in accordance with the legislation defining their functions. These activities are checked and controlled by general inspectorates of the government institutions to which they are subordinated, and by external controlling bodies.

The institutions representing the fourth group of government agencies (d) are either bodies focused on defining anti-corruption strategies or overseeing the implementation of policies. Consequently, these institutions are responsible for planning and conducting investigations into the activities of government bodies. These investigative activities are not tied exclusively to the area of their own particular ministry (except Internal General Inspectorates that do not commence investigation on disciplinary and procedural norms violation outside the institution to which they are subordinated).

The institutions representing the fifth group of government agencies (e) monitor ongoing processes through data collection and analysis in the particular ministerial units to which they belong (except the National Bank's Financial Monitoring Service[62] and the Ministry of Justice Information Bureau on Public Officials Property and Financial State),[63] for the purposes of assessing the efficiency of the subordinate ministerial bodies.[64] The scope of the authority of these institutions does not include commencing investigation, however the services provided by them support the agencies carrying out anti-corruption prevention policies and investigative activities as information and analysis produced by these units can be of interest to law enforcement agencies.

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[62]   The National Bank of Georgia Financial Monitoring Service function is to monitor all economic subjects' functioning in accordance with legal framework regulating economic activities and to collect information regarding these issues. In this sense, this institution provides analytic service to anti-corruption policy implementing institutions.

[63]   The Ministry of Justice Information Bureau on Public Officials Property and Financial State is not bounded to the Ministry of Justice exclusively; it collects information from various government agencies.

[64]   The Defense Ministry Legal Department is not a solely analytic centre in the sense of information collection and analysis; but due to its responsibilities to provide legal support to the ongoing reform process for the military in relation to military service rules, procurement/provisions organization issues, institutional design improvement and NATO standards implication, it carries out certain oversight and analytic functions for related ministerial units.

C.2.1.4   Accountability and Reporting Arrangements

Accountability and reporting mechanisms and structures are derived from a hierarchical institutional system. Consequently, types of accountability/reporting mechanisms are based on the institutional level and scope of authority, and the operational purposes of individual institutions. The reporting system has a pyramidal structure and is arranged along formal hierarchical lines. Personnel of internal units of Ministries are accountable to their direct heads; the latter are accountable to the Minister and Ministers have responsibility to report to the Prime Minister, Cabinet of Ministers and ultimately to the President. In addition to this structure, there are key institutions responsible for anti-corruption policies in the economic sector of the state and for ensuring that transparency mechanisms are implemented that require direct reporting to the President or dual reporting to the head of the Ministry and the President simultaneously.[65] Some institutions that also deal with economic issues of the state report to the appropriate Minister and the Prime Minister.[66]

This pyramidal structure of accountability mechanisms within the executive branch of the government extends to reporting relationships with the parliamentary and special/controlling institutions, in the following ways:

- Executive agencies report to the appropriate parliamentary committees and temporary commissions (if they are created by parliament for specific investigations) by providing analytical reports on issues of parliamentary interest and participation in committee/commission hearings. Executive agencies report to ministers on an ongoing basis at annual parliamentary plenary sessions (termed the 'government hour'). In some cases, particular Ministers are required to report to the Parliament urgently on special issues concerning the legislative body;
- Executive agencies report to the Ombudsman's Office if the latter requires information on issues within its jurisdiction. These circumstances includes where the Ombudsman has received information (e.g. this may be in the form of a complaint) relating to a particular institution and requests further particulars to clarify whether procedures and activities are being conducted in accordance with constitutional and legislative standards;
- Executive agencies, those providing internal control in Ministries, are obliged to report to the General Prosecutor's Office or the Ministry of Internal Affairs in cases where violations of procedural standards/regulations by ministerial personnel are deemed to be a crime; and
- Executive agencies report to the Audit Chamber as part of the planned complex inspection process conducted by the Audit Chamber. If during the internal reporting process of individual executive agencies violations of procedural norms are discovered, this reporting process allows for the Audit Chamber to conduct a thematic inspection to further clarify the situation.

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[65]   These institutions are: the Ministry of Economic Development State Procurements Agency, Financial Police of the Ministry of Finance, The National Bank of Georgia Financial Monitoring Service.

[66]   These institutions are: the Ministry of Finance Customs and Taxation departments.

Currently, Georgia is reforming its budgetary system in accordance with the Medium Term Expenditure Framework policy. This policy requires all state institutions funded from the state budget to prepare program-based budgets for the Ministry of Finance and Cabinet of Ministers. The budgets sets out information about the state institution, including its goals for the next budget year, required resources, expected outcomes and evaluation criteria. This information is incorporated into the Basic Data Document that is then used as the baseline document for formulating the draft state budget. At the end of each financial year all state institutions are obliged to report on their activities over the past year and their compliance with the original plans and targets. This reporting system ties government institutions to the Ministry of Finance, the Cabinet of Ministers and parliamentary committees through the Medium Term Expenditure Framework policy. This process eases budgetary planning pressures and requires institutions to justify their activities in accordance with the declared goals of the particular institution.

Individual institutions define internal accountability mechanisms within the institutions, as there are no unified procedures applicable for all institutions. There are no strict rules set for internal reporting. (This issue is of most relevance to the ministerial internal inspectorates.) In some institutions, reporting occurs annually or biannually; in others, it takes place on a monthly basis. In some instances, Ministers can require reporting on particular issues on a weekly basis.

In relation to high-level government agencies, reporting occurs on an annual or biannual basis based on legislative requirements. In addition to this, when deemed necessary by the Prime Minister and/or the President, these agencies can be required to report on identified issues.

Apart from the standard procedural framework of accountability/reporting arrangements, there is a regular reporting process related to the operational dimension of agency functions. Reports cover:

- Prescribed obligations of the initial action plans of institutions, details of the activities undertaken, the effects and outcomes of the activities, and expenditure;
- Regular internal/external controls on personnel activities to ensure that they are in accordance with the functions prescribed to them; and
- Issues that emerge during the monitoring of institutional functions, which are deemed to require external attention.

On the basis of these types of accountability processes, vertical and horizontal mechanisms used in the Georgian system can be understood. A vertical reporting structure prevails in this system and generally it coincides with normatively designed accountability mechanisms. (This does not take into account the hierarchical accountability system to the parliament found at the highest levels of the state system.) The accountability process is a system of information exchange that is based on regulating control and monitoring by high-level decision-making units of agencies to the subordinate bodies.

Even in relation to horizontal accountability mechanisms, the vertical structure of reporting remains crucial. When external institutions require reporting or clarification on particular issues, they deal with the decision-making units at the ministerial level (Minister or his/her deputies). Consequently, the minister/deputy minister accomplishes the task by addressing directives on particular issues across the vertical hierarchical structure of the institution. Horizontal accountability is

practiced only at the top level of the institutional system and can be explained either through specific institutional design or through the government's 'team principle'.

The accountability/reporting mechanisms are also evident in the staff appointment/replacement mechanisms. The Ministers appoint heads of the subordinated ministerial units while the Prime Minister, with presidential consent, appoints the Ministers. Ministers are responsible for ministerial staff appointment and dismissal. According to Georgian law, dismissal of an individual Minister does not result in ministerial staff replacement.

C.2.2   Assessment of Capacity

C.2.2.1   Adequacy of Institutional Resources

The adequacy of resources differs among institutions. Generally, the majority of respondents expressed satisfaction with the existing provision of resources in human, material-technical and financial areas. Nevertheless, there are some institutions, especially among ministerial internal control units, in which the shortage of resources is a major concern. For instance, the Ministry of Economic Development is one of the largest Ministries; it unites twelve sub-sectors, a large number of sub-entities, fifteen legal entities of public law, as well as a large number of regional and district departments. However, four people operate its internal general inspectorate and the inspectorate sometimes has to inspect ministerial units within a week-long period. The same situation is evident in other Ministerial general inspectorates.[67] This situation affects the ability of internal auditing bodies to fulfil their tasks.

A vastly different situation exists with regard to the resources of external controlling and investigative institutions of the State. The Ministry of Internal Affairs and its subordinate units, and the Ministry of Finance Financial Police reported that they are sufficiently well resourced with material-technical, financial and human resources.

The difference in resource allocation between these two types of institutional control bodies (internal and external) highlights the government approach to the problem of corruption and the means for combating it. The government apparently takes the view that strong investigative and coercive policies are more efficient. This approach may be justified by the overall effectiveness of the operations of these institutions, compared with those adopting internal checking and monitoring controls.

Agencies that are designed to collect and analyse information in areas of particular institutional responsibilities (that is: the Ministry of Internal Affairs Analytic Department; Ministry of Justice Information Bureau on Public Officials Property and Financial State; the Ministry of Defence Legal Department; the National Bank of Georgia Financial Monitoring Service) are also sufficiently well resourced. The support to enhance institutional efficiency is provided not only through the national government but also through International Donor Organization

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[67]   The Ministry of Foreign Affairs General Inspectorate is run by five people while the ministry's subordinate bodies have 62 staff. The Ministry of Education and Science (which has a large number of educational and scientific centres in its administration) General Inspectorate has 15 employees. For comparison, only Tbilisi city municipal General Inspectorate has 30 employees.

programs targeted at the improvement of personnel qualifications and material infrastructure development of these institutions, within the framework of overall technical assistance to the Georgian government.

Agencies operating under the Ministry of Justice and providing legal services to the public (that is: the National Agency of Public Registry, Civil Registry Agency, Legal Aid Commission, National Forensic Bureau) also report that they are sufficiently well to efficiently carryout their roles. These institutions also receive support from international donor organizations through personnel training, IT infrastructure and data analysis technology development.

Agencies providing strategic support for ongoing reforms and anti-corruption policies, coordination the activities of anti-corruption institutions generally, or drafting and implementing policy (The Government of Georgia Chancellery, Office of State Minister for Reform Coordination, Office of State Minister on European and Euro-Atlantic Integration) are not well in comparison with other state agencies. The number of employees in the offices of the state ministers is small but respondents did stress that this number is sufficient to undertake the functions of the office.

The institutions providing state administration functions, especially in the economic and budgetary sector (Ministry of Finance Customs Department, Ministry of Finance Taxation Department, Ministry of Economic Development State Procurement Agency) are not sufficiently well resourced. A shortage of qualified personnel in the Ministry of Finance and limited development of the IT infrastructure in the Ministry of Economic Development State Procurement Agency were identified as major problems. To overcome the human resource problem, the Ministry of Finance has implemented a policy for the creation of Staff Reserve databases in which information on potential applicants will be gathered. The Ministry of Economic Development State Procurement Service is negotiating with the World Bank regarding IT development (technical infrastructure and personnel training).

C.2.3　　　　Assessment of Coherence

The anti-corruption roles of executive institutions are widely dependent on the types of institutional interactions and their quality and accordance with the procedural frameworks as defined by Georgian administrative legislation and the internal administrative regulations of the particular agencies. There are several types of interagency interactions including, administering/coordinating, controlling/investigative, analytical/supportive and those providing technical assistance. These interactions exist either through legislative/regulatory frameworks or through operational needs that exist beyond the scope of the initial normative framework. The sectors of institutional interaction include: among executive institutions; between executive institutions and parliamentary institutions; between executive and judiciary institutions; among executive institutions and international organizations, NGOs and media.

C.2.3.1　　　　*Administering and/or Coordinating Interactions*

Administering/coordinating interagency interaction mainly occurs through the activities of Cabinet Ministers. Institutions involved in the interactions include:

- The Government of Georgia Chancellery interacts with–
  - ~ All Ministries and Ministerial departments and internal controlling bodies, to obtain information on issues that the Ministries would like raised with the Government for further consideration. This interaction supports the coordinated implementation of policies, an approach which is carried out by the Cabinet and particularly by the Prime Minister;
  - ~ The President's Office, in order to coordinate the Cabinet agenda regarding future policy making and to define general strategies for the implementation of anti-corruption policies;
  - ~ The Audit Chamber, in order to obtain information on the budget and the performance of associated institutions (this interaction is mutual — the Chamber also obtains information about the fulfilment of legal and regulatory acts by the State Chancellery);
  - ~ The parliamentary institutions (committees and Speaker's office), to coordinate general approaches and determine the common position regarding parliamentary support for legislative government activities;
  - ~ International Donor Organizations (World Bank, USAID) regarding technical assistance for the promotion of ongoing institutional reform and to gain additional international support (including financial).
- The Ministry of Internal Affairs interacts with–

Internally
  - ~ The Department of Constitutional Security and Order and Special Operative Department, in order to coordinate its activities with the policies and action plans of other internal and external investigative/law enforcement units (Ministry of Finance Financial Police; General Prosecutor's Office). This interaction also assists with defining areas of the departments' activities and further actions regarding the avoidance of institutional overlap, as well as carrying out general oversight activities as to their efficiency;
  - ~ Internal General Inspectorate, in order to ensure Ministerial departments function in accordance with the legislative-regulatory framework and to monitor performance.

Externally
  - ~ The Government of Georgia Chancellery and the President's Office, in order to inform the government of the general situation and activities in the ministries and to coordinate the agenda for future policy making and general strategies for the implementation of anti-corruption policies;
  - ~ The General Prosecutor's Office, in order to exchange information on situations and cases where areas of expertise/interest overlap for the purposes of coordinating joint anti-corruption policies;
  - ~ The Ministry of Economic Development Procurement Service, regarding material/technical infrastructure development as a means to support institutional performance;
  - ~ The Audit Chamber, regarding information on Ministerial expenditures;
  - ~ The Ministry of Justice Information Bureau on Public Officials Property and Financial State, regarding the timely submission of financial statements from high-ranked public servants in the ministries;
  - ~ The Judiciary institutions, regarding investigative and procedural support for the state prosecution;

~ The Parliamentary institutions, regarding information exchange and reporting on issues related to parliamentary committees (committee on legal issues, committee on human rights and civil integration issues, budget and finance committee);

~ The Ombudsman's Office, regarding the provision of information on human and civil rights protection to the Ombudsman's Office;

~ International Donor Organizations and NGOs, regarding analytical support for the development of policy making tools and public relations strategies and the design of ethical codes of conduct.[68]

• Office of the State Minister for Reform Coordination interacts with–

~ The President's Office, the Government of Georgia Chancellery, and all Ministries regarding the provision of policy and legislative recommendations for the drafting of official action plans and policy strategies. The Ministries provide the Office of the State Minister with background information and analytical data within their respective fields to support the office's functions;

~ The Parliamentary institutions, in order to promote suggestions of the Office of the State Minister and obtain parliamentary support for the action plans designed by the Cabinet of Ministers and individual ministries on the basis of the Office's recommendations. This interaction is designed to promote legislative initiatives intended to support the reform process;

~ International organizations and local NGOs, through mutual exchange of information and analysis regarding problem areas of the reform process. The Office also provides assistance to international organizations in co-ordinating projects based on cooperation with various government agencies.

• Office of State Minister on European and Euro-Atlantic Integration interacts with–

~ The President's Office, the Government of Georgia Chancellery, and all Ministries (most intensively with the Ministry of Foreign Affairs, Ministry of Defence, Ministry of Internal Affairs and Ministry of Justice), in order to provide suggestions and recommendations on institutional reforms that meet western standards and to promote policy strategies aimed at institutional procedures in line with those practiced by analogous institutions in the West;

~ The Parliamentary institutions (Committee on Foreign Affairs, Committee on European Integration Issues and Defence and Security Committee), regarding the provision of expertise for legislative improvements aimed at implementing standards recommended by NATO and the European Union;

~ International Organizations and local NGOs that are undertaking projects and programs within the expertise of the Office of the State Minister. Cooperation is expressed through information and analysis exchange as well as through the joint promotion of ideas to facilitate the ongoing institutional reform process.

• The Ministry of Finance Taxation and Customs Departments interact with–

Internally

~ The finance minister, regarding the coordination and definition of policies aimed at developing action plans that are based on strategies

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[68]   The Ministry of Internal Affairs drafted Ethical Code in cooperation with the Liberty Institute.

agreed to with the Cabinet of Ministers, the Government of Georgia Chancellery and the President's Office by the Ministry (including the implementation of anti-corruption strategies);

~ The Ministry of Finance Financial Police and Internal General Inspectorate, regarding control in these agencies over personnel activities and their adherence to the legislative framework; (In the case of the Financial Police, it also includes investigation and enforcement in situations of violations of the law related to abuses of positions of authority.)

Externally

~ The Government of Georgia State Chancellery and President's Office, regarding reporting on the achievement of action plans and the provision of information and analysis on budgetary incomes/expenditures;

~ The Audit Chamber, in relation to institutional state budget plans;

~ The Ministry of Internal Affairs, regarding the control of institutional performance so that it corresponds with the normative-procedural rules (in relation to investigation and enforcement following violations of the law by individual public servants);

~ International Donor Organizations, regarding technical assistance in relation to human resources and IT infrastructure development.

- Ministry of Economic Development State Procurement Service interacts with–

~ All state agencies including local government units, that require its assistance regarding material/technical infrastructure development;

~ External controlling institutions (Audit Chamber, in the case of law violations, the Ministry of Internal Affairs and the General Prosecutor's Office) that oversee the agency functions to ensure that they comply with the legislative guidelines for institutional performance;

~ The President's Office and the Government of the Georgia State Chancellery, for information exchange to permit the oversight of state procurement planning so as to ensure that this is in accordance with the expenditures prescribed for the individual institutions through the state budget allocation;

~ International donor organizations for technical assistance received related to the computerization of the state procurement system and shared electronic database creation that will increase the transparency and efficiency of the institution.

C.2.3.2 *Analytical and/or Supportive Interactions*

Analytical/supportive interagency interaction is mainly fulfilled through cooperation among subordinate institutions of the Ministries carrying out information collection and data analysis roles and providing information services to those performing administering/coordinating or controlling/investigative functions. These interactions occur in the following ways:

- Ministry of Internal Affairs Analytic Department–

~ All internal inspectorates within the ministries: obtaining statistical information and reports on ongoing processes related to the field of expertise of the particular Ministry;

~ The Ministry of Internal Affairs subordinate law-enforcement departments (the Department of Constitutional Security and Order and

the Special Operative Department) for information exchange and the provision of expert advice;
~ The Ministry of Finance Financial Police: information exchange;
~ The General Prosecutor's Office: information exchange;
~ The Ombudsman Office: providing information about requests made to the Ministry by the Office;
~ NGOs for the provision of data on various issues of interest. For example, the policies implemented through ongoing institutional reform in the ministries and their effects (measured by the particular department involved). This assistance includes the provision of statistical data on crime and corruption rates and other issues that the Ministry is authorized to circulate. The NGOs themselves provide information and expertise on various issues especially related to the improvement of standards for the Ministry's anti-corruption capacities and assisting it with human resource development.
- Ministry of Justice Information Bureau on Public Officials Property and Financial State–
  ~ The Bureau receives support from all institutions that are required to provide financial and property statements of their high-ranked officials;
  ~ The Bureau's database provides information on the property and financial status of public officials to law-enforcement and controlling organizations.

The National Bank of Georgia Financial Monitoring Service has a relationship with various government agencies combating corruption (Ministry of Internal Affairs and its departments; General Prosecutor's Office; the Ministry of Finance and its departments) through information exchange and provision of expert assistance. The Service provides reliable assistance for the implementation of anti-corruption policies regarding economic crime investigation.

One particular issue raised regarding interagency cooperation and interaction is related to the relationships that state agencies have with the media, although attitudes vary among respondents. For the most part, respondents (especially those implementing anti-corruption policies through investigation/enforcement) indicated that interaction with the media is not based on mutual assistance. The problem is expressed in terms of the perceived bias of the media. This perception makes representatives of government agencies suspicious of media coverage of issues, and less open to public scrutiny while implementing policies that arouse the public interest.

C.2.3.3   *Controlling and /or Investigative Interactions*

Controlling/investigative interagency interaction is mainly fulfilled through cooperation among law-enforcement agencies. These interactions are described below:

- Ministry of Internal Affairs interacts with–
  ~ Law-enforcement agencies (General Prosecutor's Office, Financial Police) regarding the conduct of joint activities related to the implementation of anti-corruption policies;
  ~ Ministry of Justice National Forensic Bureau, regarding the provision of evidentiary assistance for investigative activities;

- ~ Local government units, especially mayoral offices, with regard to information exchange and cooperation.
- Ministry of Internal Affairs Special Operative Department interacts with–
  - ~ Other internal units of the Ministry regarding information exchange and joint activities. This interaction also provides control over the activities of ministerial personnel in accordance with the legislative framework (on the basis of information received from the General Inspectorate) through investigations and law enforcement;
  - ~ The General Prosecutor's Office regarding information exchange;
  - ~ Internal General Inspectorates of other ministries regarding information exchange in relation to criminal activities;
  - ~ The Ministry of Finance Financial Police regarding information exchange and joint activities;
  - ~ The Ministry of Finance Taxation and Customs Departments regarding information exchange on the circulation of illegal goods and incomes. This interaction also provides control over the performance of these institutions and assists in ensuring that the activities of their personnel are carried out in accordance with the law;
  - ~ The state administrative institutions (especially at the local-level) regarding information exchange and control over the activities of public officials.
- The Ministry of Finance Financial Police interacts with:
  - ~ The General Prosecutor's Office, regarding information exchange and role division (the first conducts investigation, and the latter's role is law enforcement); [69]
  - ~ The Ministry of Finance Taxation and Customs Departments, regarding information exchange and the control over the activities of their personnel (conducts investigative activities);
  - ~ The Ministry of Internal Affairs regarding information exchange, and the design of joint action plans and their implementation.
- The Ministerial Internal General Inspectorates interact with–
  - ~ The subordinate units of other ministries, providing control over institutional performance and ensuring that the activities of their personnel adhere to the legislative guidelines;
  - ~ External controlling institutions, particularly those providing control over the correspondence of institutional performance with legislation and legal and regulatory acts (Audit Chamber, Ombudsman's Office, General Prosecutor's Office), and those conducting investigative/enforcement activities related to violations of the law (General Prosecutor's Office, Ministry of Internal Affairs and its departments, Ministry of Finance Financial Police). The relationship focuses on information exchange and assistance during investigations.

C.2.4   Assessment of Consequences

C.2.4.1   *The Efficiency of Institutional Functions*

The respondents assessed the capacity of institutions to cooperate and efficiently support anti-corruption functions as satisfactory. Another issue to consider is whether routine and strict procedures exist within the institutions. In this sense, an

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[69]   Though the Financial Police itself is authorized and detains officials suspected of corruption.

absence of procedural restrictions (procedural frameworks are still being developed) creates an environment for reforms to be rapidly adopted, and followed by the implementation of decisive action-plans. This situation mainly relates to law-enforcement bodies implementing anti-corruption policies.

Within this reform context, the strengthening of centralized control is symptomatic of the development process of Georgia's state-administrative system. In comparison with the pre-revolutionary situation, the role of political leadership in the public service is crucial to the sustainability of anti-corruption initiatives. Ongoing reforms in the law-enforcement system are based on the political will of the new elite, and its commitment to combating corruption has become a guarantee for broader integrity provisions. Decision-making and control functions have shifted to, and are concentrated in, the upper-level institutions of the state-administrative system. The locus of these functions appears to be damaging the principle of delegated authority. However, according to the assessments received from government and non-government respondents, as institutional efficiency improves so too will the integrity capacities of the system.

There remains a possibility that some follow-on effects will occur. The concentration of decision-making and control in upper-level agencies of the state-administrative system that is run by one political group with weakly designed institutional restrictions and procedural frameworks is likely to weaken the transparency of policies and implementation methods. This risk is especially high in relation to weaknesses of civil society 'watchdog' organizations and their vulnerability to the influence of political groups, thus causing mutual distrust between government and civil society organizations. This situation makes it difficult for civil society institutions to carry out effective monitoring of the implementation of government policies.

The efficiency of institutional functions can be undermined by the weakness of control mechanisms for policy implementation at the local level. NGO sector respondents stressed that local government procedures remain a problematic area that still needs a more systematic approach to reform in order to improve local self-governance mechanisms. Currently, anti-corruption policies at the local level are mainly achieved through enforcement methods initiated by the Ministry of Finance Financial Police and the Ministry of Internal Affairs investigative/law enforcement divisions.

It is assumed that external actors, especially international donor organizations, provide support to state-administrative institutions in their bid to achieve efficiency. Nevertheless, a number of government agencies believe that international organizations should be more supportive and less critical of government. Apart from this, cooperation between NGOs and state agencies is considered to assist the overall improvement and strengthening of the efficiency of institutions through sharing experiences and analytical capacity to improve, in the short term, the technical skills of staff in state agencies.

C.2.4.2   *Risks of Corruption*

Most of the rules governing institutional functioning are in the process of being drafted and those adopted have not yet been measured for efficiency. This raises questions regarding the vulnerability of public sector agencies to corruption and the performance of the state-administrative system in the context of the ongoing reform process. Therefore, the weakness of the procedural frameworks and the

absence of implementation mechanisms support an environment in which corruption risks remain prominent. Respondents involved in the study identified the weaknesses in the public sector system and regarded institutional imperfections as one of the major existing corruption risks. The absence of basic job descriptions, duty statements that detail roles, functions, responsibilities, authority delegations, and ties to appropriate and standardized levels of remuneration across the public sector makes the system chaotic and the execution of duties is dependent upon the discretion of individual public servants.

Another risk of corruption identified during the study is the absence of general rules defining advancement procedures. This aspect hinders institutional development generally. It is difficult to monitor human resource management practices in public institutions to ascertain whether appointments and promotions of personnel are just and based on merit. In this sense, the most problematic issue is the absence of mechanisms to classify staff according to qualifications and skills and to promote qualified personnel according to merit and experience.

Another associated issue relates to the general recruitment rules for selection of candidates. Mechanisms to monitor new staff recruitment are weak. Consequently, it is difficult to check whether new staff members are hired due to their qualifications and professional skills or through nepotism networks (including bribery). The lack of transparency in recruitment processes, resulting from the absence of defined and mandatory principles, policies, practices and standards for public service recruitment, create an opportunity for corrupt practices.

One of the major identified risks of corruption is related to the low level of salaries in public service institutions. However, opinions regarding this issue did vary among the representatives of state institutions and external experts (NGO sector). A number of respondents stressed that low salaries cause corruption (in relation to bribery, state property misuse, illegal lobbying in state property privatisation processes, smuggling and tax evasion support, etc.), while other respondents stressed that in the most problematic areas, where corruption still remains, actual salaries had already increased, but it had produced little effect. It is important to note that this argument cannot be implied across the whole institutional environment as there are areas of the public service and state administration (especially at the local level) that have not yet undergone reforms or are currently undergoing reforms, for example the education system; healthcare and social welfare system; local government).

According to some respondents, areas where the risk of corruption remains due to institutional weaknesses are the Ministry of Economic Development State Procurements Service, the Ministry of Finance Taxation and Customs departments. With regard to the issue of low salaries, it is worthwhile noting that salaries have been increased in these institutions; however, the absence of transparency provisions and adequate control mechanisms results in most of the respondents assessing these institutions as being susceptible to corruption. The Ministry of Finance Financial Police that deal with these agencies also reports that the lack of material/technical (IT infrastructure for example, shared electronic databases, cataloguing and accounting, and information exchange) and human resources (especially qualified personnel to implement tax and customs regulations and the monitor the activities of public servants), does not allow these institutions to perform their duties effectively, thus permitting abuses of authority at the lower tiers of the system.

One of the risks identified relates to the law-enforcement bodies themselves. Although the possibility of corruption (bribery) is not suggested, a number of experts from non-government organizations point out that due to ill-defined procedural guidelines and a lack of parliamentary controls and oversight, a potential exists for abuses of authority and violations of the law to occur when punitive policies are being implemented by law enforcement agencies.

C.2.4.3   Anti-corruption Capacities: Impediments and Assisting Factors

None of the executive institutions involved in this study identified any impediments to the execution of their roles.[70] However, the risks/difficulties that were identified relate to the functions of the internal general inspectorates of the ministries. Ministry units that are under inspection show less commitment to assist the inspectorates.   High-ranked ministry officials (including the Minister personally) often need to intervene to gain the cooperation of these units in relation to matters raised by the internal general inspectorates.

Institutions exerting external control do not identify impediments of this nature. The degree of assistance provided by ministry units that are under inspection/investigation by the Financial Police, Ministry of Internal Affairs law-enforcement Departments, or General Prosecutor's Office is assessed as high. The reason for such a high level of assistance is explained by the desire of agencies not to attract the attention of other controlling or investigative institutions by being seen to impede the investigations conducted by such bodies.[71]

The differences between the efficiency of internal and external controlling bodies require a deeper explanation than just a variance of commitment to assist one or another of the controlling institutions. The reason for impediments to internal control may be explained also by the institutional inability of the General Inspectorates to exert such control. This situation is exacerbated by a shortage of resources as well as a lack of autonomy, since inspections are usually initiated on Ministerial directives.

Another issue deals with law-enforcement agencies (Ministry of Internal Affairs Special Operative Department, Ministry of Internal Affairs Department on Constitutional Order and Security, Ministry of Finance Financial Police) and their capacity to deal with the overlap and diversity of roles and functions caused by legislation, institutional by-laws and charters. For instance, all of these agencies deal with bribery issues in the state administrative system. It is difficult to ascertain whether actions undertaken by one or other institutions fit within their field of responsibility as defined by the legislative-administrative frameworks. The agencies seek to overcome these difficulties through coordinated action plans to efficiently implement anti-corruption policies.

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[70]   It is also important to note that 'impediment' was interpreted by most of the respondents as interference by other institutions with their institutional role.

[71]   These bodies have a high level of government trust and authority in relation to the implementation of anti-corruption policies.

C.2.4.4 *Impact on the Efficiency of Anti-corruption Policies*

The overall improvement to the anti-corruption environment can be traced to two dimensions: agencies that directly combat corruption and symptoms of abuses of authority; and agencies that overcome corruption through institutional reforms and the development of internal management mechanisms. First, efficiency in the implementation of anti-corruption policies is mostly dependent on law enforcement agencies such as the Ministry of Internal Affairs Constitutional Security and Order Department, Special Operative Department, the Ministry of Finance Financial Police, and General Prosecutor's Office. These agencies cooperate through division of roles and by developing joint action plans.[72] Second, ongoing institutional reforms in the Ministry of Justice, Ministry of Internal Affairs, and Ministry of Economic Development allow the development of regulatory frameworks for subordinate units. Strong internal vertical accountability structures and regular external control have been institutionalized to minimize corruption in public service institutions that deal directly with citizens.[73]

Enforcement/prosecution practices are used more frequently than corruption preventions strategies. It is considered that the overall impact of anti-corruption policies is dependent upon strong enforcement/prosecution practices. This approach suits the accelerated reform process and 'revolutionary tactics' used to modernize the state institutional system. The 'revolutionary tactics' of institutional reform strengthens the political leadership role in the adoption and implementation of anti-corruption policies. This approach is seen as desirable for the effective achievement of development goals.[74]

This approach does not mean that preventive practices are absent in the implementation of anti-corruption policies. The government strategies for institutional reform are directed towards the development of a preventive approach and relates to institutional efficiency. The implementation of preventive mechanisms is encouraged in the institutional environment through:

- Development of a system of checks and balances;
- Increased interagency cooperation;
- Improvement of internal management;
- Clarification of the monitoring and educational functions of civil society 'watchdog' organizations; and
- Public feedback mechanisms to allow for measurement of the efficiency and quality of public service delivery by institutions.

While these mechanisms to prevent corruption are currently practiced, the overall anti-corruption effects through such methods will be achieved slowly. The focus on enforcement/prosecution over prevention is a result of the desire for rapid

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[72] Information analysis, certain case solving planning through investigation, the detainment of suspects and the presentation issues related to litigation processes are shared.

[73] Such agencies included Police, Ministry of Justice Public Register National Agency and Civil Register Agency, The Ministry of Economic Development Agency for Free Trade and Competition, State Inspection of Technical Supervision, and others dealing with property privatisation issues.

[74] The political willingness of the post-revolutionary leadership to combat corruption is considered a guarantee of overall success of the anti-corruption policies.

outcomes determined by general societal factors. The political preference favours a priority for prosecution/enforcement methods over preventive ones. Tackling the environment which tolerates corruption across all level of society which tolerates corruption is seen as a high priority. Accordingly, the government has given priority to increasing the capacity of law-enforcement agencies to achieve change quickly rather than waiting for the results of long-term reform strategies targeted at the modernization of macro-economic and social systems required for preventive anti-corruption policies.

C.2.4.5   Ethical Impact of Executive Institutions

Ethical pursuits and goals, which are embedded in the functioning of executive institutions, are based on the general political will developed through parliamentary consensual politics. [75] However, there is a gap created by the inability of parliament to include all of the political groups representing the variety of the social spectrum in the political process designed to generate consensual political outcomes.[76] Weaknesses in the Georgian political party system are caused by the deficient socio-economic structure of society in general because parties have weak socio-economic and ideological foundations. This weakness, in turn, affects political groups at the representational level (one party is politically dominant, while others have less proportional representation) and their ability to influence the policy-making process. Electoral outcomes in Georgia since 1990 show a general trend of public support accumulating around one party, which weakens the capacity for a multiparty political system. Consequently, the National Movement Party's dominance in the political system is not a new political phenomenon and its declared mission to lead the country's political development in a certain direction has been generally approved by mandate of the Georgian society. Other issues related to the institutional environment's susceptibility to social/political pressures are:

- The extent to which policy-making is influenced by the agendas of other political agents (such as political parties or interest groups);
- How flexible the ruling post-revolutionary political leadership's policies are regarding changes in public expectations and attitudes;
- The extent to which the monopoly over political authority is secured through abuses of authority in relation to the division of political and administrative functions, and whether external (public/civil) control mechanisms on state functions are operating effectively to restrict this occurrence.

The policies of the Georgian government are based on highly consolidated political group decisions that tend not to be open to involvement of other internal political actors. Formal institutionalised channels of input from social groups are not accommodated, which is why satisfaction or dissatisfaction with government policies are expressed through extremely informal means such as spontaneous

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[75]   A detailed review of this is given in the section on Executive Institutions' Role in Providing Integrity. These institutions have a partial role to play in the actual system of policy making and implementation.

[76]   National Movement Party dominates parliamentary politics. However, Georgian society expressed its preference to this party through fair and transparent elections held on 28 March 2004.

street protest actions) that have little influence. International organizations strongly influence the development of state institutional strategies and the drafting of reform action plans through the provision of expert advice, recommendations and technical assistance.

The accumulation of scarce, highly qualified and skilled human resources supporting the ruling political leadership has resulted in a high level of self-confidence and self-assurance in the decision-making process. This confidence explains the steadfastness of the government's reform policies. Strong leadership and an uncompromising commitment to reform are also brought about by the specific situation in which state development occurs. For example:

- State institutions are still in the process of being formed: the period from 1990 until the present was not focused on state building but on the creation of corrupt networks that served the private interests of a handful of people representing the political elite of that time at the expense of the public interest;
- Societal development does not correspond with the standards defined by the notion of the 'modern nation': the absence of a Georgian statehood experience has caused a low level of civil consciousness of the law and alienation from principles of the Rule of Law – citizens are accustomed to achieving personal goals through informal interpersonal networks;
- Problems related to state sovereignty: unresolved territorial conflicts, ethno-politic issues, and difficulties regarding the process of integrating ethnic minorities results in the political leadership and government operating in a strained internal and external political environment.

In this post-revolutionary context of uncompromising development strategies, the political leadership appears unwilling to respond to the changing public expectations, as it believes this would jeopardize the modernization reforms.

The same reasons define the political team unity principle, which is reflected in the management processes of government institutions. Although most of the high-ranking decision-making public officials do not belong to political parties, their activities within the institutional framework and decision making processes are grounded in a general commitment to the ruling National Movement Party strategies of state development. As a result, the division between political and administrative functions at the higher levels of the state administrative system is not well defined. The 'team principle' itself is a political principle to raise the commitment of high-ranked public officials to the positions they hold, thus providing a coordinating and responsibility raising tool for policy outcomes that in turn improves the efficiency of the institution.

The concentration of authority in certain ministries based on the unity of political leadership shows some tendency towards the abuse of authority. Some cases of violations by public servants of the procedural framework were identified in particular ministries which have special powers regarding anti-corruption policies. These violations occurred either in relation to abuses of human and civil rights, or in abuse of authority for private interest gains. Both types of misuse of authority are traced, investigated and prosecuted through interagency cooperation and mutual control, and through the oversight provided by the Ombudsman's Office (in cases of rights violations), the Audit Chamber (in cases of public funds mistreatment) and civil society sector 'watchdog' organizations. (The media also plays a significant role based on their ability to raise public awareness.) Based on these relationships, more or less effective 'checks' and 'balances' exist and provide

an environment in which public servants are forced to adhere to legislatively defined rules.

C.2.4.6   Specific Contributions of Core and Distributed Institutions

Core institutions regulating institutional integrity are those that define reform strategies and draft anti-corruption policies: the Cabinet of Ministers as a collegial body, the Government of Georgia State Chancellery, the State Minister's Office on Reforms Coordination Issues and the State Minister's Office on Euro-Atlantic Integration Issues. These bodies are authorized to define policies and recommend implementation tools to individual ministries, initiate legislative changes or draft laws, as well as oversee the implementation of action plans approved by individual ministries/agencies.

Core institutions which provide integrity support for enforcement policies to protect institutions from corruption are those responsible for carrying out investigative/punitive actions: the Ministry of Internal Affairs, its Special Operative Department and Department of Constitutional Order and Security, Ministry of Finance Financial Police and Ministerial Internal General Inspectorates. These institutions monitor the activities of individual public servants and their adherence to legislated functions. The operations of these institutions are regulated by the policies adopted by agencies representing the abovementioned group. However, oversight of the efficiency of their operations in accordance with the procedural framework does not render these agencies subordinate to the policies of regulatory institutions. Links between these two groups are based on monitoring and reporting on activities undertaken and outcomes achieved against defined plans.

For the Georgian Government, efficiency is a priority regardless of procedural restrictions with emphasis placed on the achievement of final goals. The decision to either follow the rules or violate them to achieve quick and decisive results is left to the individual discretion of the public officials. In this sense, the provision of integrity is almost totally dependent upon the personality of the individual public official.

C.2.4.7   Emerging Issues

A number of issues have been identified that restrict executive institutions from operating efficiently as part of the integrity system. The most important of these are:

- Transparency of decision-making and public involvement in policy decision-making is not satisfactory. The government operates in a rigid 'missionary' mode and does not apply the principle of multi-actor politics. The degree of civil society's involvement in policy formulation is quite low. Likewise, the analytical capacity of NGOs and civil-sector watchdog organizations is underutilized in monitoring the efficiency of implemented policies.
- The Government is currently operating as 'one system, one whole'. In other words, it seems that cooperation between government institutions has started to function. However, institutions with analytical and regulatory functions – most of the qualified and skilled human resources are accumulated in such organisations – operate at a policy-making level only and are not authorized to draft actual action plans and monitor their

implementation; nor are they allowed to perform control functions and engage in research.

- There is a lack of long-term development strategies for the development of a structured and systematic institutional environment. Individual institutional roles have not been placed within the context of the entire integrity system.
- Reforms under way in the country's education system have not yet clearly defined how to deal with the need of retraining current civil servants or to train newly qualified personnel for the state-administrative system.
- The technical infrastructure required to support institutional performance is not adequate in most of the institutions studied. Even where agencies are computerized and provided with modern equipment the absence of shared electronic databases that would provide quick information exchange creates impediments for efficient operations. and
- There is a lack of exchange of expertise among agencies and a certain lack of internal research and analysis resources.

C.2.4.8 Conclusions and Recommendations

The general conclusion of the study of executive institutions is that corruption levels in this sector have significantly decreased since the Rose Revolution. At the same time, it is acknowledged that corruption remains a problem in various administrative sectors, especially those providing services to society in general (healthcare and social welfare system, taxation and customs system).

According to respondents from governmental institutions corruption continues to exist in hierarchically lower-level public institutions that deal with the daily needs of society, while the persistent chain of corrupt dealings across the whole institutional structure appears to have been largely eradicated. Higher-level institutional structures are more viable due to strong controlling mechanisms that are in place and the political commitment to the fight against the corruption amongst the high-level decision-making leadership.

Corruption in lower-level institutions occurs in local government bodies and regional and district units of public service institutions. It is obvious that individual central institutions exercise weak control and coordination of their local-level agencies. Violations of the law at this level are dealt with only through external control agencies, for example, law enforcement agencies — given that anti-corruption efforts are confined to punitive rather than preventive measures.

As regards the administration, a regional governor directly appointed by the president administers local government units and local units of public service agencies. The role of the regional governor is again defined by the 'team principle', which allows for weaknesses of the central institutions to be overcome by performing institutional activities at the local level.

While the business sector was not included in this particular study, another issue outlined in the study deals with problems of interaction between the business sector and state institutions. There are two mutually contradicting assertions regarding this issue. One is that the government oppresses the business sector through the use of legislation and policies that limit business development. The other assertion is that the government implements reforms to improve the business environment. Such a contradiction in assessments of government policies is caused by the government's strongly emphasized anti-corruption campaigns to sever the ties between the business sector and corrupt state institutions. Evidence supporting this assertion is the detention of a number of businessmen accused of tax evasion

and the confiscation of property gained through illegal activities and by forcing business entities to abide by the law. The Government's anti-corruption policies for the business sector focus on the legalization and liberalization of the business environment. The Ministry of Economic Development and the State Minister's Office on Reforms Coordination Issues have initiated a number of reforms in this area, such as simplifying licensing and taxation procedures to reduce factors that impede business development and reduce occurrences of bribery.

In terms of the contribution of executive institutions and their role in and impacts upon the integrity system, it is recommended that the following issues be dealt with to increase the effectiveness of the anti-corruption policies in Georgia:

- There is a need for a comprehensive reform of public sector HR management, which would include introducing a standardised system of HRM classifications across the sector; recruitment on merit; training and development based on merit and skill requirements; and advancement and mobility based on merit.
- The provision of human, financial, material and technical resources to the state agencies need to be improved. In particular, there is a need to provide personnel training aimed at improving professional skills and knowledge of ethical codes;
- Rules and regulations relating to institutional functions need to be clearly defined. For example, the mechanism of checks and balance should be developed in order to avoid any overlap of, or interference with, individual institution's responsibilities by other institutions;
- Oversight of the performance of law-enforcement agencies need be improved to ensure that their activities are conducted in accordance with laws protecting human and civil rights;
- Mechanisms for public feedback on the operation of public sector institutions should be developed in order to create tools to measure the performance of these institutions and the adequacy of action plans against public expectations;
- The role of international organizations and local NGOs in terms of sharing international experiences and the provision of information and analysis need to be increased. The government should seek to achieve a greater degree of openness towards initiatives by civil society and international organizations and involve these bodies in policy formulation processes, as well as allowing these organisations to participate in the monitoring of policies and reform activities (through provision of analysis and making recommendations);
- The role of each institution needs to be defined as part of the entire integrity system and the strengths and weaknesses of individual institutions need to be analysed in order to create a viable institutional environment with reduced tendency towards corruption;
- Communication between the agencies can be improved through creating a shared electronic database, which would provide quick information exchange between the agencies. This action will also allow for the exchange of individual agencies' expertise and assist the achievement of best practices.

C.3. Judiciary and Court Related Institutions

C.3.1 Roles and Functions in Ensuring Integrity

In considering the issue of integrity, the judicial system and court related institutions are defined by their special oversight powers. Their roles with regard to the integrity system include the following:

- The provision of oversight for the protection of constitutional norms and rule of law principles. This oversight role ensures protection of the general political will as expressed by the legislative branch of the Government and acknowledged as a tool to guide policy making and implementation.
- The provision of equal access to the justice system for all social, economic and political actors participating in public life, thus improving political stability and acceptance by society of the legitimacy of the state.
- The provision of immunity for public institutions from intervention initiated by private individual and group interests through research, investigation and prosecution (in the case of the General Prosecutor's Office).

The anticorruption capacity of the judiciary and court related institutions is determined by the goals imbedded in their defined role. These goals include:

- Oversight of state institutions to ensure that they operate in accordance with the laws adopted by parliament and to ensure that legislation and policies adopted do not contradict the principles of justice and liberty imbedded in the Constitution.
- Monitoring and conducting investigations regarding the activities of state institutions and public officials to ensure that these activities correspond with the laws preventing abuses of authority, crime and corruption in the state system.
- Designing effective judicial mechanisms in accordance with the legislative basis designed by parliament, thus providing a self-regulated judicial system based on the principle of an independent judiciary which is free from prejudice.
- Designing internal accountability mechanisms to enhance the personal integrity of judicial and court-related officials. This action will improve the efficiency of the institutions and create, in effect, an ethical code of conduct supporting integrity inside this institutional grouping.
- Providing support to other branches of government (executive and legislative institutions) regarding the provision of, and assurance of adherence to, the rule of law through activities that include–
  - ~ Reports on the current situation in identified spheres of the state system;
  - ~ Suggestions to improve the functioning of government institutions;
  - ~ Recommendations for the improvement of the legislative basis, , or providing expert assistance during the drafting of action plans and policy; and
  - ~ Participation in coordinated activities to combat corruption (especially by the General Prosecutor's office).

The roles and functions of the Judiciary and court related institutions include the following:

- Providing justice through the protection of constitutional norms and monitoring of the law (litigation and investigation);
- Providing effective frameworks for law protection through the improvement of judicial institutional capacity (facilitating reforms);
- Providing legal assistance to the ongoing general reform of state institutions (through the provision of expert advice and recommendations); and
- Conducting anticorruption preventive and investigative activities.

The efficiency of the judiciary and court related institutions is provided not only by directly related units but also by external actors that facilitate the achievement of the institutional objectives. International Organizations (Donor Organizations and NGOs), local NGOs and the media provide assistance for:

- The provision of expertise and information databases;
- Sharing successful experiences of analogous institutions from abroad;
- Developing recommendations and suggestions to increase efficiency;
- Technical assistance through financial aid, the improvement of material/technical equipment and human resource development programs; and
- Publicizing the institutions to establish a public image.

External actors also provide public feedback as to the efficiency of the judiciary and court related institutions in terms of their responsibilities under the Constitution. This feedback is provided through assessment, criticism and recommendations based on the analysis of public attitudes. Feedback is also received through individual citizens' complaints and suggestions delivered directly to the judicial system and through monitoring the frequency of cases forwarded from lower level judiciary units to higher ones.

C.3.1.1   *Grouping of Judiciary and Court Related Institutions by Roles and Functions*

The Judiciary and court related institutions involved in the Georgian Integrity System can be divided into the following groups:

- Those institutions that are responsible for constitutional norms and the protection of the law through litigation and input into legislative processes, such as–
  - ~ High level courts that ascertain whether particular Acts (laws and decrees) correspond with the Georgian Constitution;
  - ~ High level courts that determine the efficiency of laws and their correspondence with particular criteria (for example, Western standards adopted *via* international agreements and principles of justice) on the basis of information retrieved from litigation and recommendations for legislative improvement (new draft laws or law amendments) to the parliament;
  - ~ high level courts that control judicial operations in general and determine mechanisms for its improvement (for example, imposing unified standards of litigation and legal interpretation);

> ~ High/middle level courts that judge the competency of government executive branch units and the degree to which their authority corresponds with the Constitution and laws.
>
> - Courts that provide services to society in general (dealing with civil, social and criminal issues);
> - Court related institutions that supervise state institutions according to the law and therefore, protecting rule of law principles; and
> - Court related institutions mediating conflicts related to economic interests among economic actors, and between economic actors and state administrative bodies.

C.3.1.2 *Specific Functions of each Institution*

The Constitutional Court   The Constitutional Court is a judicial body that provides for and ensures the protection of constitutional supremacy. Its main functions are:

> - To determine whether laws and other normative acts, issued by the Georgian government and parliament correspond with the Constitution;
> - To discuss issues relating to competency similarities and overlapping areas of responsibility among government institutions;
> - To determine whether international agreements correspond with the Constitution;
> - To adjudicate cases about violations of constitutional norms by the President, General Prosecutor's Office, Supreme Court, Chamber of Control, National Bank and other government institutions; and
> - To determine whether decisions of the autonomous republics and other local government bodies correspond with the Constitution.

These functions and constitutional controls are generally achieved by the following means:

> - General control: when subjects with special privileges, such as Parliament, the President or the Ombudsman's office, appeal to the Court seeking determination of whether identified documents correspond with the Constitution;
> - Particular control: when citizens or groups of citizens appeal to defend their Constitutional rights where they claim that these have been violated by certain laws or documents. (Usually the cases determined by the Constitutional Court are related to particular areas of responsibility, including: social issues; property issues; labour rights; cases related to elections.)

The Supreme Court   The Supreme Court is the highest court in Georgia. It ensures that the lower level courts function according to the strict procedural norms (by approving decisions, or denying them or sending back decisions for review). Decisions made by the Supreme Court cannot be appealed against. The court fulfills one of its main functions by establishing unified and standardized judicial practices. The Court, through oversight and feedback provides recommendations to the lower level courts on the correct interpretation of the law. Other functions of the Supreme Court are:

- To provide conclusions on impeachment issues (related to public officials) that are raised by Parliament;
- To provide recommendations to the President on international agreements;
- To oversee the judicial system through reporting and accountability required of its units; and
- To oversee the discharge of penalty measures against judicial personnel accused of violating disciplinary norms.

Violation of disciplinary rules includes:

- The misuse of legal interpretation by judges when considering a case;
- Participation in corrupt dealings; and
- The violation of labour principles.

The Supreme Court Chamber on Administrative Issues   The functions of the Supreme Court Chamber on Administrative Issues are:

- To ensure that administrative acts are undertaken in accordance with Georgian legislation;
- To discuss issues related to administrative agreements and their execution; and
- To discuss issues related to the obligation of administrative bodies to issue and implement the payment of damages.

The Appellate Court   The Appellate Court is an upper level court. Its main function is to preside over complaints on decisions made by lower level courts. Its role is to hear appeals on issues related to:

- Civic, entrepreneurship and bankruptcy Acts – accordingly, there is a Chamber on Civic Issues at the Court that deals with these cases;
- Cases related to the violation of the Criminal Code – accordingly there is a Chamber on Criminal Issues at the Court; and
- Cases related to administrative and taxation issues, which are conducted by a Chamber on Administrative Issues.

There is also an Investigative Board (Collegium) at the Court which monitors whether the decisions of lower courts correspond with the norms established by Georgian legislation.

The Court also collects and analyzes information on court functions (data includes judicial practice, citizens' comments and complaints) and drafts recommendations that are delivered to the High Council of Justice.

Tbilisi Arbitration Chamber   The Tbilisi Arbitration Chamber is an independent and permanent institution that determines cases based on the law of Private Arbitration.[77] Disputing parties may mutually agree to have the Arbitration Chamber hear their dispute. The main function of the Arbitration Chamber is to reach an agreement between the two disputing parties. Negotiating with both sides

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[77]   The law on Private Arbitration was adopted in 1997. Its application has been temporarily ceased until the adoption of a new law on Private Arbitration.

separately and then bringing the parties together to reach agreement achieves this end.

General Prosecutor's Office The General Prosecutor's Office is not strictly Judiciary-related institution. According to the amendments to the Constitution, it is not part of the judicial system anymore. But actual capability of this institution to define (sometimes even intertwining) Judiciary functioning made us to identify it as the court related institution. The functions of the General Prosecutors Office are:

- To prosecute criminal activities;
- To provide procedural support for criminal prosecutions at the pre-investigative level;
- To conduct full investigations;
- To oversee the activities of law enforcement agencies to ensure that these activities correspond with the law;
- To participate in judicial processes as a public prosecutor; and
- To coordinate activities on crime reduction.
- These functions are fulfilled through the following activities–
  ~ Oversight of the internal units of the General Prosecutor's Office;
  ~ Provision of statistical accountability of the Office units;
  ~ Analysis of the efficiency of the Office units' processes and to standardize efficient practices;
  ~ Drafting of suggestions and recommendations for government to increase the efficiency of the Office;
  ~ Discussion of citizens' (group of citizens) complaints and comments, thus receiving feedback from the public.

C.3.1.3 Scope of Institutional Authority

The judicial institutions are not authorized to commence investigative activities. Their functions focus on litigation and adjudication of cases at the various levels of the judicial hierarchy. The only activities that may be investigative relate to inquiry into the reliability of proofs and evidence provided by both the State prosecution and the defence.

The control of judicial system personnel and the activities of judges are undertaken by external controlling agencies in various areas of judicial activity. The monitoring of economic and expenditure issues is provided by the Chamber of Control. Judges' activities and their correlation with the functions and procedures defined by law are investigated by the High Council of Justice (on the basis of complaints delivered by individual citizens, organizations and legal entities to the Council's Disciplinary Department), which delivers its findings to the Conference of Judges' Disciplinary Council, which is authorized to apply sanctions for violations of the law.

Any other institution does not restrict investigative activities initiated by the Prosecutor General's Office. The office does not need special permission from other institutions to commence investigations. The Prosecutor General's Office conducts investigations on the basis of information received from other law-enforcement institutions or operative information obtained independently. The only restricting factor is its dependence on the Courts, as the courts may or may not allow the General Prosecutor's Office to commence an investigation.

C.3.1.4   Accountability and Reporting Arrangements

The judicial system is not accountable to any of the government branches. The Supreme Court is accountable to the Parliament for the consequences of judicial functions. There are mechanisms to check the activities and functions of individual judges. As noted above, one of the controlling mechanisms is through the Conference of Judges' Disciplinary Council framework and the High Council of Justice's power to monitor the performance of judicial institutions. Another mechanism is the oversight role of the General Prosecutor's Office, which permits the Office to monitor the activities of individual public officials (including judges) to ensure that public duties are conducted in accordance with the laws defining their functions and scope of authority. The General Prosecutor's Office may conduct investigations based on information received from other law-enforcement institutions or operative information obtained independently. The General Prosecutor's Office is accountable to the Parliament and the President and, in relation to institutional expenditure, to the Chamber of Control.

      The Constitutional Court is a unique judicial institution; formally, it is not accountable to any other institutions, though mechanisms applicable to its staff indicate that a certain kind of accountability, at least informally, to other branches of government exists. This informal accountability is through the proportional representation of candidates nominated by the President, and *via* Parliament and the Supreme Court.

      Internal control and accountability is particularly important for the judicial system. As courts are collegial bodies, the heads of the courts do not possess any more authority than any other individual judge over the outcomes of individual cases; rather their functions are to undertake the organizational/administrative tasks of the courts. Consequently, the Court heads and their deputies are obliged not only to preside over cases, but also to provide an environment for courts to function effectively. Internal accountability and reporting systems related to the activities of individual administrative personnel is arranged, managed and run by the heads of the courts.

C.3.2.   Assessment of Capacity

C.3.2.1   Adequacy of Institutional Resources

The issue of human resources is particularly problematic. Human resources are inadequate in the courts and in the Prosecutor General's Office in terms of both their numbers and their professional skills. According to the EU standards that define adequacy on an index between population to the number of judges, Georgia needs 500 judges while it currently has just 350. Judicial reform is aimed at solving this problem. For example, the number of judges will be increased by 50 this year. This problem causes inefficiency in the courts and slows the pace of litigation. From a qualitative point of view, the problem is a lack of personal integrity among the judges that negatively affects public trust in the judicial system. Some judges have been detained for taking bribes; some are suspected of malpractice or inappropriate behavior. The Supreme Court is attempting to solve these problems in the following ways:

- There is a 'reserve' of potential judges from unsuccessful applicants for previous judicial appointments, or former judges who were made redundant because courts were abolished. These form the basis upon which to select candidates for vacant positions.
- The Supreme Court tries to attract young professionals to the judicial system, especially those who have graduated from Western universities. The selection process is divided into several stages: first, an examination; second, an interview to assess the applicants' personal characteristics and ethical views; and third, preparation and training through courses at the Justice School.

An additional 200 staff will be recruited for Prosecutor General's Office.

As regards financial resources, institutions report that they are supported adequately, for example salaries have increased significantly. The financial means for developing technical infrastructure are being provided through national government programs and aid from international donor organizations. These funds are being directed at the improvement of IT and the renovation and reconstruction of court buildings.

The Tbilisi Arbitration Chamber is not supported by the state. Its human, financial and technical resources are dependent upon the efficiency of its internal management and the profit received from litigation. The arbitrators receive very high fees (arbitrators' fees consist of 50 per cent of the arbitration costs including all the taxes and charges). The arbitrators of the Chamber are respected professionals with excellent reputations and qualifications.

C.3.3. Assessment of Coherence

Interagency cooperation of the Judiciary and court related institutions is defined by their roles in litigation processes. The roles include:

- Prosecution and defence;
- The provision of assistance in checking evidence;
- Obtaining additional evidence, in relation to the General Prosecutor's Office and the Ministry of Justice National Forensic Bureau's cooperation with the courts); and
- Case delivery to the various levels of the judiciary.

Special attention should be paid to court-related institutions with regard to their interactions with other agencies. The General Prosecutor's Office deals with all state-administrative institutions in relation to legal monitoring (including monitoring of the military service, transport infrastructure and the Ministry of Justice's subordinate penitentiary system). The closest and most fruitful cooperation exists between the General Prosecutor's Office and the Ministry of Internal Affairs (the Minister also participates in the work of the General Prosecutor's Office's advisory board). This cooperative relationship involves information and expertise exchange and the conduct of investigations in line with defined institutional roles.[78]

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[78] Some of the Prosecutor's Office and the Ministry departments have the same functions and in order to avoid overlap they undertake cooperative activities.

The external cooperation between judicial and court related institutions and other government and non-government agencies (including international organizations) focus on the following areas:

- Of the parliamentary institutions, the Committees on Legal Issues and Human Rights and Civil Integration Issues are named most frequently along with the Ombudsman's Office for their monitoring work, especially as regards: information exchange on the protection of human and civil rights and violations committed by various law-enforcement agencies and the exchange of expertise regarding law-making and identified amendments needed to improve the procedural framework.
- In respect of law-enforcement agencies, the Ministry of Internal Affairs Department for Constitutional Security and Order and the Ministry of Finance Financial Police were named as key institutions providing information exchange and the provision of evidence to the General Prosecutor's Office and courts dealing with administrative issues (regarding procedural norms violations).
- In respect of NGOs, the media and international organizations were recognized for their technical assistance for the development of human resources and material/technical infrastructure, and publicity to improve public relations. However, the media and NGO cooperation raised some concerns about impartiality and bias.

While the main complaint concerned impartiality and bias, significant improvements have been achieved as a result of NGO participation in programs to reform the judiciary – for example, programs designed to improve judicial appointment processes and the monitoring of case outcomes. Participation from NGOs includes the provision of training and courses designed to improve the qualifications and professional skills of court personnel. The media is also paying more attention to the court system and several television stations broadcast programs to educate the public about the role of the judiciary in upholding the rule of law and the processes involved in litigation. Although problems remain in the judicial system, a number of respondents from the judiciary and NGOs have complained about the negative image of courts created in the media and have attributed this to the absence of journalistic ethics and professionalism. With this in mind, it is difficult to determine whether improved media cooperation can improve the image of the judiciary in the public mind.

C.3.4.   Assessment of Consequences

C.3.4.1   *The Efficiency of Institutional Functions*

Evaluations vary among the representatives of Government and non-government agencies. Government institutions point out that litigation processes have become more transparent and open to oversight by civil society organizations. In addition to this, the procedural framework for litigation has become more structured and the pace at which cases are heard has improved. However, civil society representatives believe that there still remain problems with public oversight of the judiciary. They also contend that the reforms conducted in the judiciary have made this system even less independent than before. They point out that the judiciary is less effective for two reasons. First, speeding up litigation cases often results in incompetent decisions and second, judges have to deal with many cases simultaneously and

cannot afford to spend the significant amount of time required to thoroughly understand each case.

Such contrasting assessments by representatives of government and the non-government sector are actually a result of political debates between the two on the institutional design of the state in general. In this discourse, the government's vision is that the current mode in which the judiciary operates is conducive to the government's rapid reforms. On the other hand, some civil society representatives, allegedly affiliated with certain opposition political parties, argue that the present judicial system is a clear illustration of the negative side effects of the reform process. Such arguments are said to be used to mould public opinion in favour of the government's opponents.

C.3.4.2 Risks of Corruption within Fields of Competence

Risks of corruption are largely seen as being linked to the alleged deficient personal ethics of judges. Salary and working conditions are seen as not being sufficient incentives for judges to avoid corrupt activities, if they are not honest and people of strong principles. Personal integrity is a very important element to counter the effect of other factors such as weak social guarantees, low social status and institutional weaknesses, which can tempt members of the judiciary to undertake corrupt activities. One additional risk is the existing political context, whereby the judiciary does not have sufficient independence and executive agencies may influence judges to affect court decisions.

C.3.4.3 Anticorruption Capacities: Impediments and Assisting Factors

None of the judicial and court-related institutions reported any serious impediments to their performance created by other institutions. Impediments are mainly caused by internal weaknesses of the courts, such as the shortage of qualified personnel. Violations of the procedural framework occur when unqualified or dishonest judges make unjust decisions. Judges who have little personal integrity find opportunities to take bribes in a system that is currently under reform and that has weak control mechanisms. (The Ministry of Internal Affairs Special Operative Department has detained judges.)

The anticorruption capacities of the General Prosecutor's Office are stronger than any other institution. Reforms in this agency began much earlier than in others and, as a result, the institutional design has been tested, and is not as affected by the current reform processes. This means that the reforms have not created ambiguities in the Office's functions and opportunities for abuses of authority are low. The widely held view is that the strong vertical system of control and accountability implemented by the policies of a strong leadership do not allow lower-level officials to commit actions which violate regulations.

C.3.4.4 Impact on the Efficiency of Anticorruption Policies

Overall, the impact of the judicial and court-related institutions on anticorruption policies is positive. The General Prosecutor's Office undertakes the most important role by cooperating with other law-enforcement agencies through investigation and support in applying punitive measures. The strengthening of the anticorruption capacities of the courts is still progressing. In particular, the establishment and

improvement of internal control mechanisms will have further positive impacts upon the overall efficiency of anticorruption policies. The current reforms are designed to lead to two specific developments. Firstly, judges of the upper-level courts will monitor the activities of the lower-level courts. Secondly, the Supreme Court will establish uniformity in judicial practices. Judges will not be permitted to make decisions that contradict these standardized practices. In cases where judges do contradict the uniform requirements, they will be suspected of corruption or of holding inappropriate qualifications, which will result in the particular judge facing disciplinary measures.

Additionally, corruption prevention policies exist within the judicial system. The High Council controls the activities of judges, and in cases of corruption becoming an issue the Conference of Judges Disciplinary Council discusses the problem. The Disciplinary Council has the right to make a recommendation, reprimand or warning and, in extreme cases, a judge's position can be terminated.[79]

C.3.4.5   *Ethical Impact of Judiciary and Court Related Institutions*

An assessment of the ethical purposes of judicial and court-related institutions – to oversee the adherence to rule of law principles and their supremacy in public life, in the context of the executive and legislative branches of government – raises some reservations regarding the relevance of the actual processes occurring in this system and those essential value-based goals imbedded within it. Investigation and litigation, when conducted within this system are not considered to be generally and universally applied. Instead, some institutional activities are practiced selectively. In this sense, it is evident that the 'team principle', noted above in the sections on Parliamentary and Executive institutions, is also applicable to the judicial system. There are many violations of the law, abuses of authority and corrupt activities committed by public officials, which are subsequently uncovered and punished through judicial procedures. At the same time, political opponents of the government, as well as elements of civil society and media representatives claim that there are similar violations and abuses that are not investigated and litigated, in which high-ranked public officials leading the implementation of anticorruption policies are suspected of involvement in inappropriate activities. Accusations of this kind are not treated by the judicial system in a way which either proves or shatters these assertions. Consequently, questions are raised regarding the judiciary's ability to provide all segments of society with fair and equal access to justice.

C.3.4.6   *Specific Contributions of Core and Distributed Institutions*

Core institutions that define the level of integrity in the judiciary and court-related institutions are those that exert control over the activities of individual judges and those drafting codes of conduct and procedures through which individual officials'

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[79]   Statistics show these mechanisms to be very effective. For example, 15 judges were made redundant on the basis of abusing power or holding insufficient qualifications, and many judges also received reprimands in 2005. During the 15 years period until 2005, the number of judges stood down from their judicial positions was just 11.

actions are taking place. In this sense, the High Council of Justice, the Conference of Judges and the Supreme Court are key institutions contributing to integrity in the following ways:

- The monitoring of litigation through the review of received complaints;
- Discussions and hearings regarding the practices of individual judges (on the basis of the complaints received);
- Oversight of the uniformity of litigation processes in the judiciary generally and oversight of the litigation procedures (in identified cases) to ensure that these are carried out in accordance with the set procedures; and
- Delivering education/training/workshops for judges to expose them to innovations and changes in modern standards of litigation.

Distributed institutions and practices are weak in the judicial system and the improvement of integrity and the application of relevant norms is dependent upon the discretion of individual judges or the fear of punishment for violations of the law. In this context, the tool which is being used most effectively for the improvement of integrity is the feedback received by the High Council of Justice from individual citizens, the government and non-government organizations regarding misconduct and corruption by certain judges.

The General Prosecutor's Office, its leadership and its board (which acts as its consultative body) discharges the strategic planning function to combat crime and corruption, as well as the internal control function that is expressed in the design of internal discipline and executive accountability mechanisms. These institutions are core agencies supporting integrity capacity.

C.3.4.7 *Emerging Issues*

Most of the respondents interviewed stressed several issues affecting the efficiency of judicial and court-related institutions in the integrity system. Among these identified issues the most important were:

- The strong anticorruption commitment of the present government is a step forward in the state-building process and strengthening of the integrity system;
- Recognition that personal anticorruption commitment and integrity is dependent upon the motivation of officials (i.e. existence of a proper working environment, transparent vertical mobility and promotion mechanisms, and a fair bonus system);
- A strongly held awareness that the overall effect of integrity institutions is dependent upon mutually supportive actions;
- Awareness that opportunities for corrupt behavior occurs not only as a result of institutional weakness, but also through low levels of public consciousness; and
- A belief that the government is wary of private arbitration and has attempted to weaken the Arbitration Chambers because businesses can address the Arbitration Chambers and resolve disputes with the government, in their favor.

C.3.4.8   Main Findings and Recommendations

The level of corruption in Georgia has decreased since the Rose Revolution, although some problems continue to exist in various institutional areas, including the judiciary. Most of the government and civil sector representatives expressed their concerns about corruption in the courts. It is important to note that the lack of integrity in the judicial system is not confined to bribery, though bribery in the courts is not excluded. Concerns were raised about the improvement of efficiency through reforms in the judiciary. In this context, the terms 'corruption' and 'inefficiency' seem to merge and overlap. In this context, inefficiency is understood as judicial inability to gain public respect and establish an image of an independent institution.

In order to increase the anticorruption capacity and efficiency of the judiciary, the following steps need to be taken:

- More prominence needs to be given to preventive mechanisms that support anticorruption policies in order to develop a system of mutual controls to improve the institutional environment. (At the same time, it is obvious that strong punitive policies are required to support the preventive policies.);
- Actions need to be taken to ensure that the reformed education system will prepare qualified specialists in particular fields, and become a conduit of civic values in order to cultivate potential public officials with high personal integrity and civic awareness;
- Better use needs to be made of best practices and experiences of 'Western' democracies in the Georgian context; for example, the design and delivery of special training programs for judges and court personnel, and the provision of relevant academic literature;
- The development of legislative mechanisms to allow public interest groups to influence policy formation and implementation, and to participate in the monitoring of the public sector, including the judiciary; and
- Ensuring closer cooperation between the judiciary and court-related institutions on the one hand and NGOs and the media on the other, to publicize the reforms of the judiciary and court-related institutions. This will raise general public awareness, promote civic values and obedience to the law, and improve the reputation of the judiciary in society.

C.4. Special Institutions

C4.1 Roles and functions in ensuring integrity

The role of special institutions in ensuring integrity is defined by their unique functions of either exercising control over the institutional functions of other state institutions in accordance with the Constitution and the norms set by the Parliament; or, facilitating the functions of these institutions. Such institutions have been categorized as 'special' because of their institutional design, particularly their institutional independence (Audit Chamber, Ombudsman's Office and Central Election Commission). These institutions do not belong to any of the government branches. Rather, they provide control over particular areas of institutional and legislative functions of other state institutions to ensure the protection of the basic goals of the state. The role of the special institutions in ensuring integrity is to:

- Ensure that institutional mechanisms function efficiently to allow community groups organized around specific political, economic and social agendas to participate in the political life of the state. (This includes access to and inclusion in the decision-making and legislative process within the parliamentary framework.) Such an arrangement facilitates a multi-actor democracy and strengthens consensus-based political will, which also increases the political stability of the state;
- Protect the public interest by ensuring that state agencies obey the rules and procedures that have been adopted by the Parliament. Such rules and procedures are designed to protect the public interest based on political consensus among the variety of political actors involved in the legislative process; and
- Protect the rights and interests of individuals and groups in accordance with the rights enshrined in the Constitution. This action ensures that the constitutional norms of justice and liberties are applied in institutional processes, which in turn contributes to the development of inclusive policies.

Other institutions considered 'special' are those that are related to the Executive, but do not undertake executive functions. These institutions include the Supreme Council of Justice; the State Commission for Efficient Governance and Territorial Arrangement; the Civil Service Bureau; and the Development and Reform Fund. These bodies facilitate the functions of the executive, legislative and judicial branches of Government either through the provision of expertise and the drafting of institutional coordination policies, or in some cases by defining procedural mechanisms related to institutional roles and oversight of institutional functions (for example, the Supreme Council of Justice).

The anticorruption capacity of special institutions is determined by the goals and mechanisms that determine their institutional roles, which include:

- Provision of equal opportunities for political groups to participate in the decision-making and legislative system of the state. This contributes to the development of political space for debate and negotiation in which state development strategies are established;
- Provision of regular control over the implementation of public interest policies and control over institutions implementing these policies. This

oversight mechanism ensures transparency and effective management of the state-administrative system;

- Ensuring Constitutional human rights and liberties obligations are upheld by state agencies. This role guarantees that institutional functions are checked against the purposes they have been designed to serve, and the procedures and mechanisms defined by the legislation;
- Facilitating the reform of the state-administrative system and increasing efficiency through the provision of an analytical and expert advice service; suggestions regarding material/technical improvement; and activities aimed at developing human resources; and
- Coordinating interagency cooperation in identified areas, providing expertise and participating in the drafting of laws to improve the design of institutional procedural frameworks, and in some cases, to also conduct oversight of the implementation of disciplinary standards.

The achievement of the roles of the special institutions involves external actors such as international organizations and local NGOs. External actors assist special institutions through:

- Technical assistance–
  - ~ Financial aid, expertise and the design of information databases;
  - ~ The improvement of equipment and human resource development programmes;
  - ~ Sharing successful experiences of analogous institutions that function abroad; and
  - ~ Developing recommendations and suggestions to increase institutional efficiency.

Institutions in this category do not receive public feedback from external sources, as these institutions are responsible for providing public feedback to the state-administrative system in general. In this regard, the Audit Chamber is an exception.

C.4.1.1   *Grouping of Special Institutions by Roles and Functions*

Special Institutions do not represent executive, parliamentary, or judicial systems, but are related to these organizations through accountability and legitimacy mechanisms, or function directly under the President of Georgia. These institutions can be divided into the following groups:

- Institutions that control the functioning of public institutions through–
  - ~ Oversight of how state institutions deal with financial and economic issues and carry out their responsibilities in these areas;
  - ~ Oversight of the inclusion of social and political group interests in the state system;
  - ~ Monitoring of the protection of human rights and liberties and the respect afforded to these principles by state agencies.
- Institutions that provide expertise and analytical support to the state agencies and contribute to the improvement of public institutional operations–
  - ~ Oversight of the performance of the judicial institutions and the provision of expertise for the improvement of procedural and ethical norms;

~ Conducting data analysis and providing expert assistance with regard to the efficiency of policy implementation at the local level together with the development of recommendations to improve local governance;

~ Provision of expert assistance to improve the efficiency of the public service, the transparency and adequacy of responses to social demands, and the development of suggested public service reforms;

~ Conducting activities to improve the human resource problems in the public service through the accumulation of extra-budgetary resources (subsidies) and to educate and train public sector employees.

C.4.1.2   Specific Functions of Each Institution

Audit Chamber The Audit Chamber is the highest parliamentary-related auditing institution for economic and financial issues. The Chamber's tasks are to oversee the use of state funds and valuable assets and to ensure their lawful, efficient and purposeful use. The functions of the Audit Chamber are:

- To control the expenditures of the state, autonomous republics and local entities to ensure that respective expenditures are lawful;
- To control issues of state debt and state and foreign loans in accordance with the law, the purpose of the loans and their efficiency;
- To control the use of state property to ensure that the process is lawful and purposeful;
- To study and analyze budgetary violations, including data falsification, and to recommend ways to overcome these problems;
- To evaluate the validity of state budget revenues and expenditures;
- To control the lawfulness of state financial mobility (timely transfers to banks and credit/commercial organizations); and
- To analyze and evaluate draft laws, normative acts and projects that are related to state budget expenditures.

These functions are achieved through the following activities:

- Annual and quarterly inspections of the state institutions according to the preliminarily designed list; [80]
- Regular data collection and analysis of issues related to the state budget (revenues and expenditures);
- Provision of expert advice to the Parliament during the drafting of the state budget and its adoption;
- Reporting to the Parliament.

The Central Election Commission   The Central Election Commission is an independent institution that oversees the preparation and conduct of elections, referendum, and plebiscites. Within the limits of its authority, the Commission monitors the uniform application of election legislation throughout Georgia. Its functions are:

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[80]   There are two types of inspection: general inspection – a full inspection of a given state institution; issue-specific inspection – the study of certain issues in an individual institution.

- Oversight of the implementation of the Law on Elections throughout Georgia;
- Control over the lawfulness of decisions made by district and precinct electoral commissions;
- Consideration of complaints and comments regarding the activities of district electoral commissions; [81]
- Responsibility for the provision of technical and human resources for elections; and
- Consultation regarding legal issues associated with elections and other relevant activities.

The Ombudsman's Office   The Ombudsman's Office is an independent institution that oversees the protection of human rights and freedoms, exposes rights violations and carries out activities for their restitution. The Office's functions are:

- To exert independent control over the protection of human rights, based on complaints and comments received from citizens and through investigations initiated by the office;
- To ensure that human rights and freedoms are maintained in the state penitentiary system;
- To gather information on human rights violations, analyze the legal basis designed to uphold human rights and recommend to Parliament ways to improve the existing legal basis;
- To develop recommendations for institutions that violate particular rights to encourage the restitution of those rights;
- To provide law enforcement agencies with information when a human rights violation is considered a crime under the Criminal Code; and
- To conduct civic education programs to raise civic awareness.

Supreme Council of Justice   The Supreme Council of Justice is an advisory board related to the President.[82] Its main task is to support ongoing reforms in the judicial system and to coordinate the functions of the judicial units. The Council's functions are:

- To develop recommendations designed to increase the efficiency of the judicial system;
- To select and recommend candidates for positions in judicial institutions, and to recommend the dismissal of judges;
- To train judges and develop other mechanisms to improve their professional qualifications;
- To define the specialization of District Court judges;
- To define the staff structure and number of personnel for general courts (except the Supreme Court);
- To define the procedures for general courts; and
- To initiate disciplinary sanctions against individual judges upon receipt of a complaint about a violation of the law or procedural norm, such as–
  ~ Violation of the law during litigation;

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[81]   The Commission decides the final results of the elections and can either confirm or disallow the results.

[82]   The amendment to the law on Supreme Council of Justice made this institution an independent body and increased its functions.

~ Corrupt dealings or abuse of authority;
~ Activities that are incompatible with the judge's duties and responsibilities (conflict of interest);
~ Activities damaging the reputation of the court;
~ Breach of professional/official secrecy.

The State Commission on Efficient Governance and Territorial Arrangement
The Commission is established as a presidential working group in accordance with a presidential decree. Consequently, the President heads the Commission. As the country's territorial arrangement is not regulated by the Constitution (because of the unresolved conflicts in Abkhazia and South Ossetia), the Commission's task is to develop recommendations regarding the laws regulating administrative and territorial governance. The Commission's activities are focused on data collection and analysis and do not include the control of local governments. The Commission's activities focus on:

- Issues related to self-governance;
- Decentralization of the state governance system – defining what functions should be delegated to local governments and what functions should remain under the control of the central government; and
- Defining procedures for funding self-governing units.

The Civil Service Bureau   The Bureau is subordinate to the Civil Service Council, a high-level policy advisory body chaired by the President. The Civil Service Council consists of 12 members: three of them represent the Parliament; three represent the executive; three are from the judiciary; and three are from local government bodies. The Bureau is a technical entity responsible for the development of the state civil service reform policy to be approved by the Council, and for ensuring its implementation. Under the law, the Council and the Bureau are obliged:

- To undertake research and analysis and prepare draft decisions and recommendations for public service reforms;
- To coordinate the planning and implementation of reforms in the public service.

These activities are designed to achieve:

- Uniform standards and approaches to improve the performance of the public service;
- To improve human resource management in the public service; and
- To assist local government bodies with the development and implementation of standards for efficient management.

The Bureau has to be informed about the changes planned and undertaken in the public service system, developments in relation to the selection and management of public service personnel, and adherence to the legal requirements in the system.

Development and Reform Fund   The fund was established by a presidential decree and its purpose is to promote governance reform in Georgia. Initially, its main task was to combat corruption. The President announced this at the *Davos*

World Economic Forum in January 2004, stressing the need to increase salaries of Georgian public officials as this problem was creating an environment conducive to corruption. A special fund was created into which donations from the international community would be accumulated and spent on human resource development as part of the reform process and the strengthening of anticorruption capacity. These goals are achieved by the Fund through the following policies and activities:

- Accumulating financial resources from international donor organizations and individual businesses (both Georgian and foreign);
- Financing increased salaries and salary supplements to high-level public officials;
- Financing programs to improve the qualifications of public officials; and
- Donating grants and fellowships in various fields to assist students (especially law students) travelling abroad for educational purposes.[83]

C.4.1.3   Scope of Institutional Authority

The authority of special institutions to initiate investigations is limited to observation and oversight functions. These organizations are responsible for monitoring and reporting within their area of expertise to Parliament or the President in accordance with their institutional arrangements. External control over the performance of these institutions (with regard to possible corrupt activities and criminal violations of the law) is provided by law enforcement agencies based on operative information received through issue-specific inspections. Internal monitoring of the institutional activities is also undertaken. High-level public officials are responsible for ensuring that their subordinates follow disciplinary rules. Thus, they oversee the activities of individual staff members and ensure that the activities correspond with the duties of the personnel.

There are two categories of controlling agencies:

- Those institutions that carry out monitoring and are authorized to organize research into the implementation of particular public policies and deliver the research findings to other branches of government that are obliged to consider the reports received from these institutions. This process facilitates policy reformulation and amendments to the policies. Institutions representing this category are: the Audit Chamber, the Supreme Council of Justice, the Ombudsman's Office, and the Central Election Commission.
- Those institutions that conduct research and particular state-agency functions, provide advisory functions to the President, and design programs to be submitted to the President. Institutions representing this category are: the State Commission on Efficient Governance and Territorial Arrangement, the Civil Service Bureau, and the Development and Reform Fund.

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[83]   The aim is to involve these people in the government system after graduation from university.

C.4.1.4 Accountability and Reporting Arrangements

The institutional arrangement of special agencies is determined by their affiliation either to the Parliament, or to the President. Accordingly, these institutions are either accountable to the Parliament or the President. Institutions reporting to the Parliament are: the Audit Chamber; the Central Election Commission; and the Ombudsman's Office. The institutions accountable to the President are his advisory and technical assistance agencies: the Supreme Council of Justice, the State Commission on Efficient Governance and Territorial Arrangement, the Civil Service Bureau, and the Development and Reform Fund.

C.4.2 Assessment of Capacity

C.4.2.1. Adequacy of Institutional Resources

Most of the institutions report that human, material and financial resources are sufficient. The key institutions such as the Ombudsman's Office currently do not experience resource problems. Financial resources are mainly provided through the state budget and direct aid from international donor organizations. In relation to human resources, the Office has created a network of civil society institutions (outside its own staff), which provides it with information and analysis in areas relevant to the Office's field of work.

The Audit Chamber is an exception in this regard due to the imbalance between the Chamber's significant workload and the resources apportioned to it by the state. Financial inspection is a difficult task in terms of human resources – an inspector must have an understanding of many different areas. The Chamber addresses this problem by operating a training centre, which was established with support from international donor organizations. The Chamber has also invited foreign experts, and is currently applying international experience in its practice. IT technologies and technical infrastructure are also being upgraded. Inspectors are provided with personal computers. Inspectors will soon have their own laptops, which will enable them to send data from inspected institutions to the Chamber in a timely manner. The Chamber will have a unified information database and all of its information will be transparent.

The Central Election Commission (CEC) has sufficient financial resources and material and technical utilities. In relation to human resources, there are more people in the institution than are required for it to function efficiently. Shortly, the CEC will carry out a certification process of commission members, as required by law. Once completed, the Commission will be able to reduce the number of employed staff on the basis of the certification results. Only those people who pass the certification exams and obtain respective certificates will maintain their positions in this system. Certification exams are mandatory for all district and precinct election commission members and the CEC apparatus.

The Supreme Council of Justice, for the most part, does not have resource problems. The Council has sufficient financial and human resources and experiences no problems with office infrastructure with the exception of the disciplinary department where more staff are required. This department reviews written requests and complaints and performs preliminary checks of the information provided. The Council receives a large number of requests and complaints and it is difficult for the disciplinary department, comprising ten

persons, to deal effectively with the high number of judges and possible complaints against them. The Council employees were selected through a special procedure and they continuously undergo courses to improve their qualifications.

C.4.3 Assessment of Coherence

Given their unique positions, special institutions interact with all public institutions, although there is a difference in the levels and intensiveness of the interaction. For example, the Supreme Council of Justice is an exception as it deals with only the judicial system. The nature of the cooperation between the special institutions and other institutions differ also. The Audit Chamber is obliged to deal with all public institutions due to its function as inspector of activities related to the state budget, while the Ombudsman's Office interacts with public institutions with regard to issues related to violations of human rights and constitutional rights in the various areas of public life. At the same time, a number of institutions cooperate with these agencies in line with their organizational and institutional needs (e.g. parliamentary institutions, the judiciary and the General Prosecutor's Office).

The Central Election Commission cooperates with the Parliament (the Committee on Legal Issues and Budgetary and Financial Committee). The Committee on Legal Issues considers legislative changes and amendments prepared by the Commission while the Financial Committee considers the Central Election Commission's budget. The Commission also works with the Prime Minister's office to draft the budget before submitting it to the Parliament. The Prime Minister and the Government then review the Commission's budget. The Commission occasionally communicates with the President's Office in order to consider election dates and agree on related organizational issues. The Commission has a close relationship with the Supreme Council of Justice as it is involved in training judges on election issues. The Commission's lawyers train the judges in election-related issues and share experiences with them.

Other institutions representing special agencies interact and cooperate with all public institutions within the framework of research/programs/projects that they organize. The extent and range of institutional interactions are defined through need and the goals imbedded in operational action plans. Systematic and regular interaction and cooperation is conducted with the President's Office through their legal and institutional framework. (The institutions are the President's advisory boards.)

Interaction and cooperation with civil society organizations and international donor organizations is also very close. In this context, the importance is defined not only in relation to material and technical assistance but also in relation to the development of human resources.

C.4.4   Assessment of Consequences

C.4.4.1   *The Efficiency of Institutional Functions*

The special institutions function efficiently within the legislative framework set for them. Of significance, are the restricted functions of special institutions such as the Audit Chamber, the Ombudsman's Office and the Supreme Council of Justice to merely oversight and monitor. These institutions fulfil their functions and report on their findings to appropriate institutions, but they have no authority to control how

their conclusions and recommendations will be received and acted upon by the agencies. Thus, the impact of these institutions on state building and reforms designed to improve transparency and combat corruption is dependant upon the discretion of other institutions and the commitment of the latter to follow the recommendations received from these institutions.

The efficiency of other institutions such as those that act as the President's Advisory Boards is not easily measured, as it is difficult to ascertain the extent to which the President and the Government as a whole accept or follow the suggestions and expert advice received from the Boards.

C.4.4.2 Risks of Corruption within Fields of the Competence

It should be noted that as special agencies monitor other institutions, the corruption risk is high, especially in such institutions as the Audit Chamber. Risks are high as Chamber inspectors have direct contact with representatives of those institutions that are under inspection. Corruption risks at the Supreme Council of Justice are lower as its personnel do not have 'face to face' contact with complainants or the judges that they are required to inspect. Consequently, it is very important to understand what mechanisms are in place to reduce the temptation for public officials to engage in corrupt activities. Factors determining why officials may be 'tempted' include: low salaries of the personnel of lower level institutions; general public mentality (protectionism, tribalism and informal relations interfere with performance); institutional weaknesses expressed through lack of transparency and the inability to verify information obtained through monitoring. Consequently, the only guarantee that public servants will not be involved in corrupt dealings is related to their personal integrity.

Other institutions, which either represent advisory boards or do not monitor the economic activities of other institutions, are less likely to be faced with the problem of corruption. Questions on the potential for corrupt activities may arise in relation to the Development and Reform Fund, since this institution is responsible for carrying out activities that require particular financial support. In addition, salaries and supplements of high-ranked officials are accumulated within this institution. However, as the fund is fully dependant on financing from international donors (not public funds), there is multilateral control provided by donors that minimizes the risk of corruption in this institution.

C.4.4.3 Impact on the Efficiency of Anticorruption Policies

The impact of the Audit Chamber on the overall anticorruption situation has been significant, as the institution following the Rose Revolution has not been used to advance the interests of particular political groups. In the pre-revolutionary period, the Chamber was used by the government to gather and consolidate information on violations of the law committed by public officials. The information was collected for use against the officials if they went against the will of the ruling political elite, or if the Government wanted to dismiss particular officials. The Chamber would produce large volumes of documentation about the breaches and crimes committed by state officials, but these documents would not be publicized until the 'right time'. Instead, the information would be stored in the archives of the Chamber. Many of the prosecutions of high-level state officials that were carried out immediately after the November 2003 elections used the documentation produced

and maintained by the Chamber in the previous years. Legal violations and economic crimes uncovered by the Chamber in various public institutions were publicized and submitted to the Parliament, and law-enforcement agencies conducted investigations into the violations and detained wrongdoers. However, the practice of collecting information for blackmailing purposes has not been observed since then.

It is difficult to measure the impact of other special institutions in relation to anti-corruption policies. The Ombudsman's Office regularly publicizes reports on abuses of authority regarding human and civil rights violations and frequently receives responses from law-enforcement agencies. The Central Election Commission and the Supreme Council of Justice detect violations of procedural standards and submit their findings to the appropriate institutions. In both cases, the institutions have an indirect effect on anticorruption policies. As for the advisory boards, such as the State Commission on Efficient Governance and Territorial Arrangement, and the Civil Service Bureau, their impact is not felt at the policy implementation and operational level, rather their role is to influence policy formulation and planning processes. Consequently, preliminary assessment regarding the reduction of corruption concludes that these institutions also have an impact on the implemented anticorruption policies.

C.4.4.4   *Ethical Impact of Special Institutions*

As most special institutions have advisory (the State Commission on Effective Governance and Territorial Arrangement, the Supreme Council of Justice and the Civil Service Bureau) or technical assistance roles (Development and Reform Fund), their functions do not run counter to their ethical purposes.[84] The situation is different with regard to the Audit Chamber and the Ombudsman's Office. Their functions are aimed at recognizing progress or uncovering problems as a part of the transparent state building and democratic consolidation processes. Consequently, it is vital that these institutions are able to perform their institutional activities in accordance with their imbedded ethical purposes. The Audit Chamber is more vulnerable to interference and manipulation from external actors than the Ombudsman Office as the Chamber deals with public funds and the management of valuable assets through control and oversight. The profile of the Ombudsman's Office has increased recently, when it began to publicize legal violations and abuses of authority committed by high-ranking public officials, and led reform policies in law-enforcement agencies. The Ombudsman's Office also assesses the performance of the judicial system. Whether the Central Election Commission functions in accordance with its institutional ethical purposes is also under question, especially regarding the Commission's mandate to provide fair political opportunities for all political groups to participate in the state's decision-making and legislative system. This issue is not caused by institutional weakness and the inability to organize and manage election process – in this sense, the Commission fulfils its duties. Rather, the problem is caused by the electoral legislation, which binds the Commission with the ruling political party (National Movement Party). The selection procedures to appoint Commission members and the quotas set for political parties do not ensure the Commission's ability to fairly monitor electoral

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[84]   They do not deal with policy implementation and have little authority to conduct oversight.

processes. Also, the 7 per cent threshold set for the parties to acquire seats in Parliament in addition to the Commission's inability to ensure control over campaigning expenditures[85] create problems for the development of a multiparty democratic political system.

C.4.4.5 *Specific contributions of Core and Distributed Institutions*

As all special institutions either facilitate the functioning of other institutions through expertise and technical assistance to affect policy formulation, or monitor implemented policies, the special institutions are core institutions. They either define political development strategies (advisory boards), formulate ethical codes for the public service or monitor technical and operational aspects (the Chamber of Control, the Supreme Council of Justice, and the Ombudsman Office) or ethical aspects (the Public Service Bureau, the Supreme Council of Justice, and the Ombudsman Office) of the performance of the public service system. Distributed institutions provide integrity improvement inside these institutions through control over activities and the provision of disciplinary processes for personnel.

C.4.4.6 *Emerging Issues*

Most of the interviewed respondents identified several issues affecting the efficiency of public institutions as an integrity system. Among the issues identified, the most important are:

- Lack of long-term vision or strategy with regard to what a Georgian integrity system should be;
- Lack of transparency and citizen involvement in the decision-making processes;
- Alienation of political parties and NGOs;
- Low level of trust in public institutions;
- Lack of human resources;
- Low professionalism of public sector employees; and
- Unsound balance between preventive and punitive measures to combat corruption — as a result the environment remains susceptible to corruption.

C.4.4.7 *Evaluation of the Current Situation and Recommendations Identified*

The general decrease in corruption in the state administrative system is also reflected in special institutions. The Ombudsman's Office, the State Commission on Efficient Governance and Territorial Arrangement, and the Civil Service Bureau have never been problematic agencies; however, the Audit Chamber and the Central Election Commission remain problematic areas.

In the case of the Audit Chamber, the lack of human and financial resources and institutional weaknesses (inability to provide scrupulous control over

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[85] Governing political elites always have additional resources expressed in finances, including public funds, and also nonmaterial means called 'administrative resources' – local governance units are involved in campaigning through use of force on voters, fraud of voters lists, etc.

personnel activities and verify information obtained through inspections) create an environment conducive to corrupt activities. For example, inspectors check public procurements carried out by individual ministries. Annual procurements in certain cases amount to between 140 and 200 million Georgian Laris, which means that a five-member group of Chamber inspectors who have low salaries deal with tasks involving 140-200 million Laris. If, for example, a Ministry has a 20 million Laris discrepancy in its financial records the inspectors may negotiate a deal with Ministry officials, receive a payment and draft an inspection report in which they will show the discrepancy to be 2 to 3 million Laris or less. The Chamber's leadership does not have the mechanisms to verify the information. At times, the Chamber will be suspicious and conduct a repeat inspection, but this is very rare. The Chamber does not have any effective levers to control inspectors.

Problems regarding corruption and abuse of office in the Central Election Commission are not of the same economic nature as found in the Audit Chamber. Rather, they are largely related to procedural violations and abuses of authority during the elections. There are two major problems here:

- Election officials take bribes and manipulate votes in favour of a party that pays;
- Election officials receive instructions from a particular political party (for example, the ruling party) and influence voters accordingly at district levels.

Other problems that occur in the Central Election Commission are related to the complexity of the electoral legislation. Vote counting is a complex procedure and leaves room for making errors and manipulating votes. An additional problem is related to the electoral rolls, which are inaccurate. Apart from these issues, the Central Election Commission has limited authority to oversee pre-election campaign expenditures. The Commission is only responsible for ensuring that financial statements on expenditures are submitted in a timely manner and in a format corresponding with legal requirements, but it cannot check the reliability of the data provided by the parties.

Recommendations identified to increase anticorruption capacity include:

- To increase the powers of special institutions (especially the Ombudsman's Office, the Chamber of Control, and the Central Election Commission) from a mere oversight function to the ability to monitor the implementation of recommendations and conclusions;
- To improve the legislative basis for the operations of these institutions; (e.g. in order to avoid future manipulation, it is necessary to simplify election procedures; to establish and implement internal control standards; to design a procedural framework for regulating interaction with external institutions to avoid overlap and interference; to optimize intra-structural cooperation, as well as inter-institutional relations with the Parliament, State Chancellery, and other state institutions; [86]
- To implement policies to develop the resources of these institutions (especially human resources) through increased funding; to involve international organizations and NGOs in developing training programs; to

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[86]   The problem of voter lists can be solved through establishing tight cooperation between the Commission and the Justice Ministry's Civil Registry Bureau.

develop the IT infrastructure and raise the professionalism of IT personnel; [87].

- To develop long-term strategies for improving the integrity system; an in-depth analysis should be undertaken to examine particular institutional roles to identify the strengths and weaknesses of particular institutions, to define their goals and to place them within the integrity system;

- To capitalize on the capacity of civil society, plan appropriate public relations policies for public institutions to encourage improve communication channels. Political parties should also be permitted to monitor the state-administrative system through improved transparency and the dissemination of information through the policy formulation process; and

- To introduce preventive mechanisms to combat corruption; although punitive policies are important at this stage of the state-building process, preventive mechanisms must be introduced to prevent anticorruption policies from transforming into repressive tools.

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[87] The role of universities in this sense should be increased through the introduction of new educational programs and projects.

C.5.   Non Government Organizations

C.5.1   Roles and Functions in Ensuring Integrity

The roles and functions of non-government organizations (NGO) in providing integrity are through this sector's analytical, lobbying and advocacy mission. Types of NGO activities include:

- Provision of assistance for civil integration and political participation;
- Raising public awareness;
- Assistance to strengthen the rule of law;
- Assistance for the development of public accountability mechanisms;
- Assistance to improve the professional skills of public officials;
- Facilitate reform of state administrative institutions;
- Assistance to strengthen the capacity of civil society to oversight public institutions;
- Development assistance for state budget monitoring systems;
- Development assistance for the reform of the social welfare system; and
- Assistance to formulate state policy against organized crime and corruption through the use of intellectual resources.

Various NGOs working on these issues can be divided into two groups: those conducting research and analysis (think tanks) and those lobbying and advocating for various social and political agendas. However research and advocacy are frequently merged in the activities of most Georgian NGOs.

Those NGOs involved in researching social and political life in Georgia provide government, non-government and international organizations with valuable background information against which specific policies and programmes are implemented.

NGOs involved with advocacy or in lobbying for specific social-political agendas contribute to the effective functioning of the national integrity system by ensuring that the interests of social groups are represented in policy development processes. Such NGOs also assist the Georgian government with modern policy implementation instruments/methods based on the experience of Western states and which reflect liberal democratic principles of citizen involvement in the State.

C.5.2   Assessment of Capacity

The capacity of Georgian NGOs to support an integrity regime is variable. Firstly, the political context following the Rose revolution has changed and the role of NGOs is being revised. Secondly, though NGO staff have professional skills and are Western educated, it is difficult for them to retain this expertise in the changing environment in Georgia. State organizations and private business organizations attract western educated people. Thirdly, the financial capacity of NGOs is dependant on international and donor organizations continuing to operate in Georgia and consequently on any financial aid. Issues affecting the capacity of NGOs to promote integrity are described below.

Following the Rose Revolution on 23 November 2003 a crisis began in the Georgian civil sector, which impacted on further development of the political system and the national integrity system in Georgia. The crisis was manifested in the following way:

- During the Revolution parts of the civil sector were involved in the revolutionary processes while others refused to take part, which politicized the various organizations. The political events that took place later intensified the politicization and polarization of those organizations according to their political beliefs. This polarization even took place among the organizations that were supporting the Revolution.
- The 'leakage' of staff became a serious challenge for the non-government organizations. The civil sector became the main source for providing the new political elite with staff as NGOs employed Western-educated young people with some experience in governance.
- The priorities of international donor organizations changed. Prior to the Rose Revolution the international donor organizations mainly focused on NGOs that specialized in human rights and the protection of liberal values. Currently, more attention is paid to the development of state institutions and the activities of those NGOs that can provide analytical and consulting services in that field. Therefore, many organizations now have to redefine their roles and find a new niche.

C.5.3 Assessment of Coherence

In relation to institutions that are not part of the state structure, it may be asked: what role do these institutions play in the operation of the Georgian national integrity system? Are they part of national integrity system? Do they participate in that system?

NGOs support the national integrity system by providing government institutions with the following technical assistance:

- Consultancy services (provision of analysis and expert advice);
- Financial and technical support for staff development and infrastructure provision; and
- Facilitate cooperation with international organizations through the exchange of information and the provision of expert-consultancy services.

Based on such activities, these organizations play a significant role in the Georgian national integrity system; however, it is difficult to determine whether NGOs are an inherent part of the system. NGOs can assist the Georgian government with advice and with the creation of an environment necessary for this process to occur.

The non-government sector is not an active player in the policy making process. Given the sector's resources and specific charters, NGOs generally limit their work to the provision of specific expert consultations and monitoring of government activities. The capacity of the non-government sector to influence policies and other government activities is further hampered by a weak civil society. The majority of NGOs focus on the protection of human rights and the development of general liberal values. A smaller proportion direct their attention to democratic governance mechanisms and local self-government issues, with public policy planning and analysis a lesser priority for these organizations. This weakness of civil society is a result of the narrow focus of donor organizations. The focus of financial assistance from donor organization influenced the composition of the NGO sector. Another weakness of the NGO sector in Georgia is its weak connection with citizens, which impacts on the sector's ability to influence

public opinion and conduct public discussions. This weakness increases the likelihood of the authorities overlooking the potential of the sector and disregarding their advice.

C.5.4 Assessment of Consequences

The crisis in the NGO sector impacted on the effectiveness of the Georgian national integrity system in the following ways:

- The NGOs that played an active role in the Revolution garnered the trust of the post-revolutionary political elite and as a result the authorities are more willing to cooperate with these organizations than with the NGOs that opposed the Rose Revolution. At the same time, increased politicization brought about by the Revolution further divided the NGO sector according to their affiliations with political parties. [88] Such allegiances also hindered the cooperation between leading NGOs and the authorities as they failed to find a common language with the new political elite. Currently, only a very small portion of the civil sector can cooperate with the government in public policy making;
- The aforementioned issues undoubtedly have a negative impact on the ability of the civil sector to generate discussions and mobilize public opinion. The politicization of NGOs also means that the public regards them as either 'government' or 'antigovernment' organizations and therefore public trust towards such NGOs has decreased;
- The exodus of specialists from the civil sector to the government offices also reduces the level of expertise in NGOs. Consequently, the authorities have acquired more confidence in decision-making and require less external assistance. Even in situations where cooperation between the NGOs and government exists, it is always necessary for the government to completely trust the NGO. As a result, only a select number of NGOs are able to take part in the public policy making process; and
- Given that international donor organizations pay significant attention to the development of state institutions and regularly employ NGOs to facilitate this process, only NGOs that have this expertise are involved in the process. Due to the shift in priorities of international donor organizations, the civil sector, generally, has to reconsider its priorities and change its profile. This process may further exacerbate the politicization of NGOs, and convince the authorities that cooperation with NGOs that they can trust is an effective collaborative tool.

NGO perceptions as to the effectiveness of the Georgian national integrity system as a way to evaluate the anti-corruption activities of the Georgian government vary considerably and are often contradictory. The majority of civil sector respondents consider the functions of the integrity institutions to be satisfactory; however, survey responses indicate that some NGOs do not agree with this assessment.

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38   Despite the fact that the Ethic Code for Non-government Organizations that was drawn up by Caucasian Institute of War and Peace, Democracy and Development, Young Economists' Association and *Civitas Georgica* was hoped to be an instrument that would promote unity among non-government organizations and stop their farther politicization, it turned out that this document was not acceptable to all.

According to the respondents, the institutions representing law enforcement agencies, especially those related to the Ministry of Internal Affairs and the Prosecutor's Office are the most successful institutions. The most problematic in the eyes of the respondents are the Customs and Tax Departments[89] under the control of the Ministry of Finance. Most respondents also indicate that the operation of the judicial system is problematic. The reasons given by respondents for the ineffectiveness of the judicial system vary. A number of respondents believe that the problems relate to a lack of human resources, while other respondents consider that the problems are linked to legislation, which prevents the judicial system from becoming truly independent. Other problematic areas include social security, public health and agriculture systems, where corruption and ineffective administration are still considered to be significant problems. Almost all respondents believe the lack of human resources to be the main cause of ineffective administration.

The identification of corruption as one of the main problems in particular areas does not indicate that corruption is not evident elsewhere. According to the respondents, despite decreases in corruption in areas where the government and public most frequently interact (for example, police and public and civil registers), there are a wide variety of reasons that cause the types and levels of corruption to vary. Some respondents believe that reduced corruption is a result of the anti-corruption drive led by the ruling political elite and the series of punitive measures adopted, which intimidated public officials and made them refrain from participating in illegal activities. As a result, there is an apparent sharp reduction of corrupt behavior at the lower and medium levels of state administration. According to some respondents, the situation is vastly different in the highest decision making circles where 'elite corruption' exists. However, not all representatives of the civil sector agree with the assessment that 'elite corruption' exists. Some respondents believe that the concentration of power at the higher levels of the state system caused frustration and doubts about the government anti-corruption activities among those skeptical of government motives, and that these problems were further exacerbated by ineffective public relations between various government offices.

The above response regarding ineffective public relations is one of the most interesting issues raise in the context of evaluating state integrity institutions and their cooperation with the NGO sector. Despite the fact that the exchange of information between some government offices is quite effective, public relations activities with the broad range of NGOs are quite weak. There are public relations services and press centers in government offices. However, these units do not function effectively. As a rule, Information flow is restricted and these units are bypassed with information flowing directly from high-ranking officials representing various ministries or departments. The ineffectiveness of public relations divisions may be linked to the absence of such services in those agencies prior to the Revolution and that the people employed in these services are not

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[89]   One of the recent initiatives directed at solving the problems in that sphere that was voiced by the authorities in summer of 2006 is to unite the various divisions currently subordinated to the Ministry of Finance (financial police – one more agency that is considered to be a result of successful reforms, tax and customs departments) and make this newly formed body a separate agency that will not be subordinated to the Ministry of Finance. That initiative is being discussed and no further decisions have been made so far.

qualified. Some respondents also think that the agencies have centralized control over the way the information is disseminated.

The reasons for the existence of corruption identified by the respondents are listed below:

- The lack of appropriate human resources remains a problem despite the implemented structural changes. There is a clear imbalance between skilled/ethical staff and material/technical resources that these agencies now have. According to the respondents, the government has essentially managed to provide the administrative system with the material and economic means to function effectively, but the problem of human resources remains overlooked. Overcoming the lack of suitable human resources will require a long term commitment as a new generation of specialists needs to be educated and trained. Reliance on Western-educated young people is problematic, because they are offered better opportunities for professional development abroad. As a result, more attention should be given to training young people locally. Educational reform is a positive step in that direction. The crux of the problem is–
  - ~ Despite adequate salaries and the creation of a supportive work environment for public officials, there remains no guarantee that officials will not participate in corrupt transactions. The respondents believe that the cause of that problem is that most officials working in the lower and medium levels of the administrative system were raised during the Soviet period or during Shevardnadze's presidency, and as a result these officials have been exposed to corrupt practices. The potential for corrupt public officials to be punished for corrupt transactions is the most effective preventive strategies.
- Public attitudes substantially define the ethical component of human resources. The success and effectiveness of reforms carried out by government authorities essentially depend upon the social environment in which the reforms are carried out. Most respondents believe that one of the factors hindering the success of anti-corruption policies is that civil awareness is quite low and that citizens often see informal means as the only way to solve problems and conduct transactions. The major risk is that a significant portion of public officials working in state agencies share such attitudes with the general public;
- An unstable socio-economic environment that encourages public officials working in lower administrative levels to participate in corrupt transactions. Some respondents termed these practices 'induced corruption': they believe that the eradication of this kind of corruption through the pursuit of general state policies is impossible until the general socio-economic environment is improved. Therefore, the only effective tool to reduce corruption among public officials is through punitive measures.

The respondents also highlight the following reasons for ineffective integrity institutions in Georgia.

- Sufficient staff lacking professional qualifications and ethical values makes it necessary to concentrate power and control in the hands of the ruling political elite to achieve the desired outcomes from the implemented reforms. The centralization of power often results in hasty decisions because of the need for prompt actions in some circumstances. Appropriate decision-making depend on formal institutional mechanisms as well as effective management. This shortcoming raises the issue of

how to protect institutional functions from the arbitrary behavior of public officials.

- The recruitment mechanisms used to appoint public officials (especially high-ranking public officials) is a very important issue. Currently, leaders make recruitment decisions. To ensure institutional integrity the main task of state personnel policy should be the selection of suitable staff by principled leaders. Some respondents, however, believe that personnel recruitment policy in being undertaken in an acceptable way. These respondents believe that despite staff selection being primarily based on personal trust, which renders the recruiting process less transparent, such an approach is justified as past experience of working with the recruit is the only way to efficiently achieve the required level of teamwork. At the same time, transparent and formal mechanisms of recruitment must be gradually introduced at every level of government, which, in the long run, will institutionalize the desired recruitment processes. The existing recruitment mechanisms, however, encourage nepotism – despite being justified by some respondents – and really damage the quality of integrity institutions and undermine appropriate public values.

- One additional factor noted by the respondents is the absence of comprehensive anti-corruption policies and measures. Leadership-based governance is characterized by hasty and spontaneous action without the underpinning of an anti-corruption strategic plan. The respondents fear that the absence of common processes causes the fragmentation of specific, field oriented anti-corruption strategies. Strong coordination by the government, based on the general anti-corruption drive, does not alleviate fears that the anti-corruption campaign may fail in the future.

The respondents consider the following measures as suitable tools for solving the above-mentioned problems:

- It is necessary to continue implementing punitive measures given the existing public attitude and socio-economic conditions that create a favorable environment for corruption;

- Given public attitudes to corruption, education must be introduced into the education system in order to change attitudes/practices and raise public awareness of the problems. This function could be undertaken by the civil sector;

- To overcome the human resource problems, it is necessary to introduce training programs in national universities to teach the young generation administrative and public service skills as Western-educated young people rarely return to Georgia;

- As a result of the lack of human resources and experience in anti-corruption policymaking and implementation, the sharing of experiences from foreign countries (especially in corruption-prevention strategies and practices) is necessary. NGOs could play a valuable role in this respect;

- To create a balance between punishment and prevention strategies, ethical codes must be developed for public officials. This approach will educate state officials and strengthen the ethical basis for decision making. The role of NGOs is very important in this process;[90]

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[90] It should be noted that a Code of Ethics has been developed and established in the Ministry of Internal Affairs. The code was prepared in cooperation with an NGO (Liberty Institute).

C.5.4.1 Recommendations

In order to ensure the rule of law, to improve the level of institutionalization and consequently promote integrity, it is necessary to:

- Adopt common approaches to reform the state governance system based on cooperation between the government and non-government sectors;
- Refine bureaucratic internal and external (public/civil) control mechanisms to ensure that these measures correspond with the goals of institutional effectiveness;
- Enhance the monitoring role of civil society watch-dog organizations; and
- Build trust between the government and civil society organizations to encourage future cooperation and support.

C.6. Donor and International Organizations

C.6.1 Roles and Functions in Ensuring Integrity

The four largest donors to Georgia are: the World Bank, the United States, The European Bank for Reconstruction and Development (EBRD), and the European Union (EU). Since 1993, U.S. assistance has totaled approximately $441 million. The World Bank has provided approximately $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 strengthen the private sector. USAID works closely with the World Bank and supports its economic reform policies. EBRD provides direct funding for the power and transport sectors and supports private sector development. The EU's technical assistance program has focused on the rehabilitation of transport infrastructure, strengthening the private sector, agriculture and security. Since 1992, Georgia has borrowed about $280 million through annual structural adjustment loans from the IMF. USAID provides technical assistance to the Ministry of Finance and works closely with the IMF to address fiscal policy issues.

Other international and donor organizations working in Georgia and supporting the national integrity system include:

- The UK Department for International Development (DFID) works in partnership with the Georgian government. DFID is committed to international targets, and seeks to work with business, civil society and the research community to encourage the progress required to improve sustainable development;
- The Eurasia Foundation funds programs aimed at building democratic and free market institutions in the new independent states of the former Soviet Union. The main directions of its work include: private sector development assistance; facilitating the reform of public administration and policy making process; and improving the capacity of Civil Society institutions;
- The German Development Cooperation (GTZ) assistance encompasses both financial and technical cooperation with the Georgian government. As part of this two-fold cooperation, the German Development Cooperation focuses on three priority areas: Sustainable Economic Development; Democracy; Civil Society; Public Administration; and Energy.
- The United Nations Development Program (UNDP) identified several areas of targeted assistance for Georgia. Its activities are aimed at capacity building for–
  - ~ Democratic governance in the legislative, executive and judiciary branches of the government;
  - ~ Poverty reduction through policy advice and promotion of employment opportunities, crisis prevention and recovery;
  - ~ Environmental and natural resource management; and
  - ~ Human rights protection and improvement.

Successful capacity building projects undertaken by civil society organizations are mainstreamed into UNDP projects.

The Organization for Security and Co-operation in Europe's (OSCE) Mission to Georgia was established (in 1992) in response to armed conflicts in the

country. However, it assists the Government of Georgia not only in the field of conflict resolution, but also in improving the democratization process, human rights protection and strengthening the rule of law.

An integral part of all program strategies of the international organizations' missions in Georgia is their contribution to improving the efficiency of the national integrity system in the following ways:

- Institutional and policy reform at the national level with local and grassroots capacity building;
- Economic and energy sector restructuring support;
- Strengthening the private sector;
- Strengthening civil society;
- Developing democratic local governance;
- Promoting the rule of law; and
- Fighting corruption.

C.6.2   Assessment of Capacity

There are three main clusters that are impact on the work of international and donor organizations. They are: government institutions; civil society sector; and various other social groups (for example, ethnic minorities, private enterprises and the poor). At the same time, there are international organizations which deliver services and coordinate activities under the auspices of various international aid programs and projects. Consequently, the capacity of international and donor organizations to improve the Georgian national integrity system is based not only on their own organizational resources, but also on human and material-technical resources of the organizations that are involved in joint projects and programs implemented in Georgia.

Key areas targeted by international and donor organizations include:

- Promoting the rule of law, good governance and respect for human rights and democratic institutions, including the strengthening of civil society actors;
- Reducing poverty, targeting assistance to the state's policy formulation as regards the most vulnerable groups issues;
- Supporting reform initiatives in individual sectors; and
- Enhancing stability and security through capacity building of relevant state institutions which creates a complex infrastructure involving state agencies, NGOs and society in general, through mutual and regular cooperation. As a result of the projects implemented so far, vast networks of organizations have emerged with diversified material-technical infrastructures and skilled human resources. In this regard, the role of international and donor organizations has been to mobilize these resources for the achievement of specific goals and to improve their capacity through technical and/or financial aid.

C.6.3   Assessment of Coherence

The opinions expressed by representatives of international and donor organizations about Georgia's national integrity system are largely similar to the conclusions offered by the representatives of non-government organizations. The processes that are now taking place in the state governance system since the Rose Revolution are

considered by international and donor organizations to be satisfactory and they note a clear progress in that sphere. However, a small number of representatives of international and donor organizations interviewed believe that the reforms carried out by the government are superficial, being directed at gaining international support, and consequently not yielding substantial changes. They take the view that it is, therefore, hard to speak about the existence of a national integrity system. However, these views did not predominate and were largely based on some mistrust towards the government on the part of those organizations, and a lack of acceptance by some of the strict measures taken by the government during its implementation of anti-corruption measures. Some international and donor organizations hold the view makes the government only pursues anti-corruption policies in order to gain support from, and be able to be integrated into western international organizations, especially NATO and the European Union. In order to achieve that goal, a country has to adopt certain standards for corruption prevention and reduce its level of corruption. Nevertheless, the representatives of international and donor organizations working in Georgia do offer the Georgian government cooperation and support in strengthening the national system, in the following ways:

- Expert assistance during the public policy making process and exchange of information – especially sharing the experiences of other countries;
- Provision of technical assistance to improve the state governance system, manifested by building technical infrastructure and repairing administrative buildings so that the officials have comfortable working conditions;
- Devising and developing training-retraining programs for specialists and offering these programs to the government; and
- Assisting non-government organizations where their priorities and human resources capacities correspond with public policy planning, analysis and monitoring requirements. (This assistance is apart from supporting civil education programs both for public officials and society at large.)

The issues or field of influence that were named by representatives of international and donor organizations as successful and problematic in terms of anti-corruption activities were largely the same as those identified by non-government organizations. Those institutions that have everyday contact with the public, such as the Ministry of Education, Prosecutor General Office, Ministry of Defense, Financial Police of the Ministry of Finance and the law enforcement agencies, are considered to be successful examples of anti-corruption policy and structural reforms. The judiciary system was seen as the most problematic area, followed by social welfare, the public health system, the agriculture system, and the Tax and Customs Departments of the Ministry of Finance. However, the reason why international and donor organizations see the above-mentioned areas as problematic is that, after the Rose Revolution, the level of corruption sharply decreased in all state agencies, but at the same time some agencies have been more successful in addressing corruption problems than others.

C.6.4 Assessment of Consequences

Respondents representing international and donor organizations indicate that corruption is not seen by them as the main indicator of a problem. Rather,

respondents see the main problem as ineffective administrative systems. Because of imperfect internal control mechanisms and lack of coordination, transgression, negligence or abuse of power (even when it does not involve personal interests) are still possible. The courts are seen as especially problematic, where minor corruption has sharply decreased, but where both non-government and international organizations unanimously identified this sector as problematic in terms of conscientiousness. Most respondents explained that their evaluation was formed by the lack of independence of the judicial system. They believe that high-ranked office holders and politicians pressure and influence the courts.

The overwhelming majority of the respondents interviewed considered that problems relating to integrity are caused by the lack of suitable human resources. Representatives of international and donor organizations predominantly agree with these opinions expressed by representatives of civil society. The primary difference was that non-government organizations believed that the essential condition for ensuring the sustainability of anti-corruption measures within government institutions is that individuals working in them should be conscientious and possess high moral and ethical values; whereas, according to the representatives of international and donor organizations, the main requirement is to ensure that the individuals working in the state agencies adhere to high standards of professional behaviour. Therefore, successful institutions, in the opinion of international and donor organizations, achieved success in fighting corruption because of highly-professional and well-qualified personnel in those agencies. Conversely, problematic institutions did not have professional and well-qualified personnel and failed to achieve the same success despite, in some cases, better material and financial resources.

Representatives of international and donor organizations believe that public attitude is one of the most serious factors hindering institutional reforms and anti-corruption policies being pursued by the Georgian government. The effect of the prevailing public attitude is an adverse socio-cultural environment in which those state agencies which have already been reformed, or are currently undergoing reform must function. This cultural environment is an unsatisfactory environment from which the state has to recruit its personnel. The modernized institutions cannot function to high ethical standards when operating within a society that accept nepotism and public corruption. This attitude becomes more problematic when people employed in public institutions share the prevailing attitudes of the public at large who regard illegal transactions and actions as acceptable.

Most representatives of international and donor organizations believe that under the existing socio-cultural conditions the only guarantee of ensuring integrity is having leadership that pursues a strong anti-corruption agenda. However, this is problematic in a system where nepotism underwrites a principle that strong leadership is best based on the selection of personal acquaintances as leaders. In these circumstances, controlling the system of recruitment is especially difficult at lower and medium levels of the administrative system. According to the respondents, the vast majority of public officials that were ostensibly recruited on the basis of transparent competition actually obtained their present positions through personal connections and other corrupt mechanisms. Respondents argued that these practices could only be changed through the development of comprehensive control mechanisms for recruitment.

C.6.4.1 Recommendations

The representatives of international and donor organizations believe that the following measures have to be taken to achieve the necessary reforms of Georgia's administrative system and to ensure integrity within public institutions in Georgia:

- To strengthen the national system in Georgia and ensure the success of the anti-corruption policies, it is necessary to develop a comprehensive approach that involves all public sector institutions in the reform process. This approach should reform the state governance system through adopting cooperative policies and systems within and between agencies targeted at prevention of corruption;
- Adherence to the 'rule of law' principle through reforms to the judiciary to strengthen its independence and to guarantee preservation of stability between judicial institutions;
- Creation of mechanisms for the distribution of material-technical and financial resources that will ensure that the budget resources are distributed among the state agencies according to the needs of those agencies. Additionally, salary increases should not be limited only to higher level officials. Officials working at the middle and lower levels of the administrative system must also receive appropriate conditions and higher salaries where justified;
- Implement a public cultural change program involving the state educational system, media and non-government sector so that these organizations contribute to and support a whole-of-society reform process;
- Achievement of a deeper level of cooperation between the government and non-government sectors is also necessary for the development and improvement of external control mechanisms for monitoring public service delivery;
- Improving the qualifications and skills of public officials and the introduction of professional training-retraining programs for public servants through the cooperation of international and donor organizations.

C.7. The Media

C.7.1 Roles and Functions in Ensuring Integrity

The role of the media in building the Georgian national integrity system is through its ability to analyze the depth of democratization in Georgia and promote transparency and good governance. In this regard, access to information is crucial for at least two reasons:

- It ensures that citizens make responsible, informed choices rather than acting out of ignorance or misinformation.
- Information serves a 'checking function' by ensuring that elected representatives uphold their oaths of office and carry out the wishes of those who elected them.

The relationship between the media and government can be characterized as antagonistic, but even this kind of interaction is a vital and healthy oversight mechanism to appraise government activities. This antagonism is characteristic of the transitional society in Georgia and is defined by the role the media plays in broadly disseminating information and mediating between the state and all parts of civil society.

While the media is considered to be a part of civil society, it also overlaps with other areas of democracy and good governance:

- The media may yield results in governance activities, particularly those related to decentralization, anti-corruption, and citizen participation in the policy development process;
- The rule of law may be further institutionalized by an independent media that keeps a check on the judiciary, reports on the courts and judicial decisions, and promotes a legal environment that supports freedom of the press; and
- Free and fair elections conducted through transparent processes require a media sector which gives candidates equal access, and reports relevant issues in a timely, objective manner.

Within the context of support for democratic transition, state building and the strengthening of the national integrity system in Georgia, the goal of media is to serve the public interest. The media's role in developing the Georgian national integrity system is to develop a range of diverse mediums and voices that are credible, and to create and strengthen a sector that promotes such outlets. Credible outlets enable citizens to have access to information that they need to make informed decisions and to participate in the social and political life of the country.

C.7.2   **Assessment of Capacity**

C.7.2.1   Economic Basis of the Media

With regard to economic support, there is a sharp difference between media organizations operating in the capital city and those operating in the regions. Tbilisi based media organizations have relatively stable financial incomes due to the level of economic development in the city; however, economic stability is the main problem faced by regional media outlets. The advertising market that would ensure the financial welfare of regional media organizations is underdeveloped. In larger towns and administrative centres, though the economic infrastructure is inadequately developed, the private or state sector supplies some orders to local newspapers, television and radio stations. Media organisations operating in smaller regional centres lack even these limited orders. It appears that independent media organisations can only survive if they are involved in alliances that will bring financial benefit. For example, participation in coalition or media development projects and programmes run by international organisations, or cooperation with the local government or local political and economic groups may increase financial support. In some cases, a newspaper generates its own income from additional business activities, for example, printing facilities or other services.

C.7.2.2   Technical Equipment and infrastructure

Economic support impacts on the level and quality of technical equipment and infrastructure of Georgian media organizations. Those media organizations located in Tbilisi are able to purchase modern technical equipment and upgrade that equipment if necessary, while the situation in the regions is quite different.

The financial and economic prosperity of regional media organisations determines the quality of their technical equipment. Economic prosperity is determined by many factors: geographic location or the involvement of the given organisation in networks of groups with economic interests or in civil society and international organisations. In fact, the latter aspect plays a significant role in solving problems related to the media's technical equipment. An analysis of the situation shows that from a technical viewpoint, organisations which receive assistance from international donor organisations have noticeably better conditions.

A wide range of factors hinder the media in performing its functions:

- There are limited publishing houses for print media in the regions, resulting in the majority printing their newspapers in Tbilisi. This occurrence negatively impacts on the regularity of published newspapers. While there are publishing houses in Kutaisi, Batumi and Poti (although, even Poti newspapers do not use this publishing house), the media in neighbouring towns prefer Tbilisi publishing houses, based on print quality and prices;
- The print media also finds it difficult to deliver its products to the population. The former Sakpress (Georgia Press) network and the Postal Service no longer function. This results in newspaper editorial boards finding their own means for distribution, though this hinders the distribution of newspapers in many districts, especially mountainous ones, where transport and road infrastructure have collapsed;

- The operation of electronic media organisations is facilitated by the infrastructure of masts and transmitters owned by the state-founded company *Tele-Radio Centre of Georgia.* Television and radio companies send out their signals in accordance with agreements with this organisation. Although the amount that the *Tele-Radio Centre of Georgia* charges for its services is defined by how much its partner organisations can afford, many regional media organisations owe money to this organisation. However, the *Tele-Radio Centre of Georgia* has never terminated broadcasting for this reason alone. Some television or radio companies use their own masts and transmitters for broadcasting.

C.7.2.3   *Problem of qualified personnel*

Qualified personnel represent the most important factor for the development of the Georgian media. The issues associated with qualified personnel in media organisations vary considerably in different regions, in different towns within the regions, and also vary according to the form of ownership of each organization. Tbilisi based media organizations are less affected by this problem as there are more opportunities for individuals to gain journalism qualifications than in regional areas.

The outflow of journalists with appropriate qualifications is felt particularly in Samtskhe-Javakheti, Kvemo Kartli, Mtskheta-Mtianeti and Racha-Lechkhumi. Media organisations in these regions experience difficulty in appointing skilled individuals as a result of local economic and social conditions. Young people with educated in journalism prefer to seek employment in the Georgian capital, or alternatively remain in the region but work in various non-government and international organisations.

There is a significant link between qualified personnel and the size of regional municipalities, their infrastructure and the economic stability of the local media. More qualified personnel are employed by media organisations in regional administrative centres and in large industrial towns. In small agricultural district centres, the local media is staffed by people who worked for the old Soviet media organisations.

In the state-owned media, the majority of the journalists are middle-aged and do not adopt modern journalistic standards and new working styles. In the private sector, editorial boards pay much attention to improving the level of professionalism of both their journalists and their technical and administrative personnel. The owners of media organisations emphasise that it is very difficult for them to attract qualified personnel; it is also difficult to retain staff or improve the current standards. The regional media is greatly assisted by representatives of international and local civil society, who hold joint activities and training with representatives of independent media organizations. In comparison to the private media, one of the characteristic of the state-owned media is that the state media employs more administrative and technical personnel than journalists. According to our observations, in private media organisations, which employ staff in a similar manner to the state-owned organizations, there are increased problems related to content and the development of their marketing strategies. In media organisations, where the situation is opposite (journalists prevail over administrative and technical staff) their production is more relevant for the audience, thus sales are higher.

Local markets and regional economic problems restrict the ability of media organisations to develop internal structures within each organisation such as

marketing, advertising and distribution. Very few regional media organisations could manage to introduce innovations in this respect and thus ensure their organisational sustainability.

C.7.2.4   *Journalists Unions*

Regional media organisations and journalists often enter into partnerships with one another. Such cooperation and the establishment of partnership networks mainly takes place within the framework of coalition projects and training provided by Western donor organisations. For example, the *Radio Network of Georgia* union was established under the aegis of *Radio Tavisupleba* (Radio Liberty), which consists of five radio stations in Western and Eastern Georgia. Under the aegis of the Tbilisi-based television company *Rustavi 2*, the *Georgia Association of Independent Broadcasting* was established; this example illustrates how cooperation within the framework of the union enables weaker television companies to fill their airtime with broadcasts from a stronger organisation, and also enables the stronger one to broadcast throughout the whole country without additional expenses.

The Georgian print media has almost no formal networks or unions, if one does not take into account common national unions such as the *Journalists Federation of Georgia,* which consists of many representatives of the regional print media. Such unions aim to share experiences and create a common space for information. Common programs of the local TV companies are joined within the framework of the project *Parallel* of the *Samtskhe-Javakheti Association for Media Development* and these programs are broadcasted by all the organisations involved in the network.

The small number of journalistic unions and the limited number of joint activities within them represents one of the biggest problems for regional media development. If international organisations were involved in establishing and operating such unions, this would greatly contribute to solving this problem.

C.7.3   Assessment of Coherence

C.7.3.1   *The Media and the Authorities*

Relations between the media and the authorities are generally constructive. Nevertheless, there have been instances when this balance has been shattered and the authorities have exerted pressure on the media. However, this scenario actually works in favour of the independent media. Regularly, media organisations readily agree to make deals with local authorities in order to secure improved economic stability. This type of relationship is possible in larger municipalities and in most regional district centres the media is mostly controlled by the state, even if nominally it is independent. Most of the print media in Georgian regional areas is owned by the state, whereas the electronic media is either private or is established by non-government organisations and accordingly, it is the electronic media which comes under most pressure from government authorities. Both the Government and individual political or business groups try to use television and radio companies as an efficient tool to influence public opinion, either by putting pressure on them or by agreeing to 'profitable' cooperation with them.

C.7.3.2 *The Media and Society*

The negative attitudes in society caused by the opaque and corrupt management style of both the local and central governments over the years have laid a solid foundation for the creation of an independent media space. Georgian society has become increasingly politically active in recent years, and its involvement and role in the Rose Revolution in November 2003 is an expression of this active stand. For the reasons discussed above, however, this political activity has not yet proved sufficient to establish a coherent independent media space. Rather, the public focuses its interest on particular media organisations.

The degree of attention the media pays to social problems varies based on the extent to which a given media organisation works to satisfy public demand. Media organisations that are owned by local governments generally disseminate official information, report news in an essay-like fashion, and do not try to depict actual problems within society. The independent media tries to cover the whole spectrum of current social and political problems. The independent media focuses on political and economic issues and related to this, corruption and criminal business activities, social crimes, welfare and health care problems. The independent media works in close cooperation with civil society. The independent media is in an advantageous position in terms of access to information and resistance to pressure.

C.7.4 Assessment of Consequences

Similar to the non-government sector, since the Rose Revolution there has been a tendency within the media towards politicization. This politicization is more prominent in major influential television companies. The level of criticism levelled against the government in the various newspapers also differs; some editions are exceedingly and sometimes unconstructively critical, whereas some express too much support for the government. This situation is not a result of systematic government pressure on the media, although it is difficult to determine whether there is any substantial government pressure on electronic and print media. It is more appropriate to discuss the policies pursued by media outlets and the approaches of the media and media owners in cooperating with the authorities. In most cases, the degree of criticism by media outlets is determined by the extent to which business and political circles influence the television stations and newspapers. As a general rule, this influence on the Georgian media is exerted through ownership of media outlets.

Media outlets owned by individuals who have close relationships with government are more loyal towards the policies pursued by the government and are more 'benevolent' during the coverage of current events than those media outlets without such relationships with the authorities. The attitudes of the authorities and the degree of cooperation offered by them to media outlets are proportional to the attitudes put forth by the various media outlets towards them. Information about especially problematic and serious issues is more readily available to some media outlets than to others. This is particularly relevant with television media coverage rather than print media as the government tends to focus on relationships with television organizations given their broad public appeal.

Similar to the civil sector, evaluations of the effectiveness of integrity institutions made by representatives of the various media organizations vary

considerably.   Some representatives state that the anti-corruption activities conducted by the government have already yielded some results and that the general level of corruption has sharply decreased. Other representatives assert that corruption has been curtailed only at lower levels of the administrative system and that this has been achieved through the fear of punishment rather than by increasing the salaries of public officials (the salaries of the employees working in lower levels of the administrative system remain low). These respondents believe that changes currently occurring are superficial and that corruption is still rife in higher levels of the administrative system.

Media representatives, such as the respondents from the civil sector, (but unlike the representatives of international and donor organizations) believe that the main cause of corruption is not so much a lack of qualifications and professionalism in the public service, but rather, the moral and ethical characteristics of the people working in public office. This does not mean that the media representatives fail to realize that crimes and transgressions are committed due to lack of professionalism and qualification. However, the representatives consider the main driving force compelling a public official to commit a crime and conduct illegal transactions is a rational decision based on economic calculations. One additional interesting factor that the media representatives noted was the way in which institutional imperfections allow unscrupulous high-ranking officials to easily find ways to conduct illegal activities. One of the indications of institutional imperfection that allows this to occur is the lack of transparency in the operations of various state agencies. The most problematic issues related to the lack of transparency are personnel recruitment mechanisms and the absence of defined principles on which public officials receive promotions. According to the respondents, it is difficult to monitor how fairly and transparently public officials are recruited and promoted.

C.7.4.1   *Recommendations*

Main recommendations identified through the study are as follows:

- Separation of media editorial policy from the economic and political interests of business groups through the adoption of a common code of ethics designed to ensure the independent work of journalists;
- Closer cooperation between the non-government sector and the media to establish effective public control over state governance functions through increased transparency in relation to policy making and its implementation;
- Increase horizontal ties among media professionals;
- Expand educational and practical programs in electronic information gathering and dissemination;
- Expand educational and practical programs in business, management, and technical skills;
- Increase professional contacts, personnel exchange and collaboration between domestic and foreign media companies and institutions; and
- Cooperation between the media and the Church for strengthening public civic values.

C.8. Local Government

C.8.1 Roles and Functions in Ensuring Integrity

The roles and functions of local government, which ensure integrity, are imbedded in its combination of civil society and state elements. Local government institutions allow for interaction between local communities and state institutions to take place. As all civic rights, social activities and other various aspects of public life occur and are realized within local communities, local government institutions play an important role in linking civil society and the state. Thus the task of local governance institutions is to ensure the fit of state institutional actions with the interests of individuals and society in general.

Local government has both a political and social character. On one hand local government is an integral part of the state administrative system. It is structured in accordance with the law and administrative procedures and is responsible for budget implementation and fiscal issues. On the other hand, local government provides an avenue for civil society self-organization and the achievement of local interests. It is important to note that those who should be governed are themselves governors. This process occurs through the involvement of local communities in the decision making process – the very principle of local government.

To improve democracy, good governance and integrity, the roles of local government are:

- To ensure democratization of the state system through decentralization;
- To reflect the varied interests of local communities in the formulation and implementation of government policies;
- To ensure that state interests exist in accordance with individual rights and interests.

Decision-making practices of local government institutions in Georgia as they currently exist do not correspond with the above mentioned goals. A new law on local governance that will improve local government practices was adopted by the Georgian parliament in 2006. At the same time, a new draft law on public service designed to institutionalise the administrative process in local government was also submitted to parliament.

The strengthening of self government at the municipality level is a step toward Georgia achieving the above mentioned goals as local financial, material and human resources will be increasingly administered by individual municipalities. A new law on local government redefines the roles of elected councils and mayoral offices. This law increased the responsibilities of elected councils while certain privileges of the 'executive component' of local government have been reduced. Changes to the 'representative component' of the local authorities include:

- The leader of the local council is declared leader of the municipality;
- Council is permitted to approve statutes of all subordinate bodies (procedural regulations and role division);
- Statutory acts may only be adopted by the council;
- Local council bureau that is responsible for facilitating council functions and monitoring the 'executive component' of local government was established; and

- The frequency of council meetings was increased to once a month.

    With regard to the 'executive component' the following changes have occurred:

- Mayoral office as a collegial body was abolished;
- The only task of this office is to implement decisions made by the council.

C.8.2   Assessment of Capacity

Significant problems that hinder the ability of local authorities to function effectively include a lack of qualified human resources and a lack of material and technical resources. At the same time, institutional flaws exist that are having a greater impact on the functioning of local government bodies than those issues of a financial or material/technical nature. One of the major problems is the absence of regulations defining the selection criteria for public service candidates. Problems also exist in relation to instructions given by office holders and ranking regulations. Draft laws aims to eradicate these problems. Problems regarding the selection of candidates are:

- Every citizen over 18 is permitted to hold the highest positions in local government bodies including the position of a mayor. This causes a downgrading of the rank of public office;
- There are no clearly defined instructions for specific public offices;
- There are no special requirements for a person to have qualifications that correspond to the specific position;
- There are no clear criteria set out and procedures adopted for candidate selection;
- There are no state programs designed to improve the qualifications and skills of local government public officials; and
- There are no clear retirement procedures for public officials. According to the law, public officials can be dismissed due to either the closure of an office or its reorganization. The law is unclear as to what the latter means. The absence of appropriate procedures gives grounds for unauthorized dismissals from office.

    There are institutional resources created after the Rose revolution that can be mobilized to solve these problems. Institutions were established to solve public service problems including local government deficiencies. The main goal of these institutions is to create a system of reformed public service structures, and improved education and qualifications of public officials. These institutions are:

- The Public Service Council, established as an advisory board under the President and responsible for–
    ~ Formulation and implementation of general strategy and principles defining public service reforms;
    ~ Development of the local government structures and their coordination with central authorities;
    ~ Facilitation of the development of education programs that are designed to improve the human resources of the public service.
- The Public Service Bureau, established as an advisory board under the President and responsible for–

> ~ Drafting legal Acts to develop the public service and submission of the Acts to the Public Service Council;
> ~ Technical and expert assistance to the Public Service Council and its members;
> ~ Facilitating education and qualification improvement programs for public officials through coordination and support.

- The State Commission on Effective Governance and Territorial Arrangement is the consulting body under the President. Its task is to determine recommendations for the President regarding personnel policy and improvements to the qualification system in local governance structures; and
- The Zurab Zhvania School for Public Administration is established under the Ministry of Education and Science of Georgia. Its task is to develop special educational programs for public servants.

C.8.3   Assessment of Coherence

According to the respondents interviewed, the relationships between the local self-government and central government, in most cases, does not correspond with the reform objectives for the administration system. The local self-government does not exhibit independence and transparency in decision making. The processes within the administrative offices at the regional level are governed by the local elite, and familial relationships are strong in such conditions.

The structures of local government are not defined in the regions. Consequently, the functions of local government bodies are not well distributed. This results in centralized management and control being necessary to ensure that the institutions function effectively. The function of management and control in the regions is performed by the President's representative, although this 'oversight' function is not stipulated by law. Thus management processes at the regional level extend beyond legislative frameworks and are justified by claims that they are a temporary event and represent the only way to avoid failure of administrative processes prior to reforming the system of local self-governance. At the same time, centralized management of the administrative structure at the regional level enables the central government and the ruling political elite to exercise effective control throughout the country. Correspondingly, the President's representative in the region exercises personal political responsibility at the regional level.

Legislative imperfections of local self-governance result in the President's representative in the region being the person responsible for ongoing processes – the same can be applied to other appointed officials. The majority of decisions made by him/her may be unlawful as they may be made independently and be based on personal considerations. The latter does not necessarily imply that a violation of the law will occur as a result of private interests. In many cases, private interests play a part in decisions when the local government acts in accordance with directives received from the central government. Many of the relationships between the central and local governments are characterized by low levels of formal associations and are, in fact, a network of personal relationships.

The degree of personal relationships between the central and local governments results in informal relationships existing within the administrative system in the regions. This is especially evident in the mechanisms used to recruit employees in local government. Human resource policies are mainly determined by the President's representatives in the regions and, as a rule, the issues of staffing

are not solved without agreement from the President's representatives. This approach to recruitment relates not only to appointments of Gamgebelis (heads of the local government), but also to recruitment of officers at the lower levels of the central government (for example, the head of the district division of the road department or the head of the tax inspection department, etc.).

C.8.4   Assessment of Consequences

Due to the informal relationship structures, the situation in the regions with regard to corruption is more severe than in the central government. Corruption in local government has decreased at the lower administration levels similar to the central government, but the intensity of elite corruption has increased. Three factors are considered to have decreased corruption within the lower administrative levels.

- Public officers fearing punishment, which results in them avoiding involvement in corrupt activity;
- Newly appointed employees who are inexperienced in corrupt dealings are cautious about jeopardizing their positions. Such employees also lack experience of how the corruption networks function; and
- Effective barriers also exist for newly appointed public officers that encourage them to avoid being involved in corrupt activities: loyalty to the government and the party is the main principle for new personnel appointments in public service (based on party membership), and the possibility of career development prospects, as a private motivating factor.

Finally, the reduction of corruption at the lower administration levels does not have institutional grounds and there is a possibility that the success so far achieved may be temporary. This possibility is amplified by factors such as public attitudes towards corruption and the harsh socio-economic backgrounds in the regions. The degree of tolerance towards corruption is much higher in the regional areas than in the capital of Georgia. Correspondingly, if strong personalized control is weakened, corruption will become more widely spread at the regional and local levels.

C.8.4.1   *Recommendations*

Recommendations identified through the study include:

- There should be established minimum standards (qualification requirements) for office holders of local government bodies which specify the qualification requirements of the individual positions;
- Special instructions for each position in the public service should be elaborated;
- Rules and procedures for candidate selection should be clearly defined;
- Rules relating to recruitment procedures must be defined and should be mandatory for all local government bodies to avoid misinterpretation of existing rules and procedures in favour of the personal interests of powerful individuals; and
- Legislation must clearly define the meaning of office closure and reorganization and must also formulate appropriate procedures and rules.

D. Main Findings of the Study

D.1   The Nature of the Interactions between Integrity Institutions

This GNISA research clearly shows that the main nucleus of Georgia's national integrity system is represented by the executive power of the government. The functions of the other branches of government are arranged so that, at best, they provide support for the reforms implemented by those in authority who are the recipients of government decisions, or at least, do not normally hinder these reforms. This situation supports arguments about the independence of the legislature and judiciary as well as their positions as independent and passive observers. However, this assertion may be disputed. Another argument is that, in the active reform process, the legislature is forming a foundation to facilitate the very process of reform. It could be said that the legislature has occupied a rightful niche in an accelerated process of modernization and that overall cooperation between the legislative and executive branches is productive, and the one-party system enabled a stable political background for exercise of executive power and rapid implementation of the reforms by Parliament.

As for the non-government institutions such as the media and public sector organizations, it is difficult to determine precisely the immediate impact on the reform process. In some ways, these institutions do help in establishing an environment in which reforms are implemented, but they are less active in monitoring progress across the system. Donors and other international organizations, given their capacities and resources, are more influential than the non-government sector in developing public policy and providing technical assistance for implementation. However, it is difficult to judge international organizations' contributions to improving integrity. Local civil society is in a better position to monitor the process of reform. Nevertheless, cooperation between international organizations and local NGOs strengthen the overall anticorruption environment.

Many experts and public officials working within executive institutions indicate that decision making authority is concentrated in the political elite governing the country, and that the major directions of the anti-corruption policy are decided by the leaders of this group. Strong leadership somewhat damages the principle of decentralization, but at the same time, it minimizes the negative impact caused by the scarcity of human resources. Arriving at decisions by group decision making processes improves the degree of coordination among agencies. Respondents from the NGO sector do not agree and argue that there is a lack of systemic foundations upon which to base reforms. However, the resolution of recent crisis situations (for example, the restoration of constitutional order in Kodori Gorge and processes for establishing stability in the region) tend to indicate effective coordination between the upper echelons of the political elite and senior government officials. NGO respondents observed cases of overlapping functions, negligence and weak control systems at the medium and lower levels of government; although, these were seen by those surveyed as temporary problems that will be solved as reforms progress.

D.2   How Systematic is the System?

The structural reforms directed at combating corruption have been assessed differently by those surveyed during the research from government organizations, and those from international, donor and non-government organizations.

Anti-corruption strategies and their results were positively perceived by the public servants surveyed. Indicators show that the level of corruption has significantly decreased compared to the pre-revolutionary period. Their opinion is that success is related to the approach of the Georgian government towards these reforms. The public servants commented that the government of Georgia does not blindly follow the recommendations and requirements of the international organizations, but rather plans and implements reforms while considering local requirements. The state's approach towards reforms is different from that which existed before the revolution. The process of reform implies the synthesis of two purposes: increasing the effective and efficient functioning of institutions and reducing corruption. The following steps have been taken in this direction:

1. Refinement of the legislative basis and in many cases the rapid approval of a whole range of legal packages for creating the necessary legislative frameworks with the purpose of maintaining the current speed of reform. This approach encounters some difficulties, because it is hard to measure the effects of the changes in legislation as they occur very quickly;
2. Adopting strong preventative action against corruption, the effect of which is not so much to identify and punish all corrupted public officers but to create an strong system of deterrence so that anyone employed in the state administrative system will not violate the law and become engaged in corrupt-dealings;
3. Mobilization of financial resources to provide social benefits and significantly higher salaries for public sector employees. On one hand, from a purely economic viewpoint, this action has decreased the necessity for high-ranking officials to seek illicit payments and, on the other hand, it has increased the personal motivation of public officials to fulfill their public duty obligations; and
4. Based on the mobilization of financial and technical resources, the technical infrastructure has been re-established in many public institutions. For example, buildings were refurbished and a better working atmosphere created necessary for revitalizing the personal motivation of upper, medium and lower-level public officers and for improving work satisfaction. This action has led to increased employee self-awareness of their status and role, which improves motivation and good faith towards the organization.

There are differing assessments of reform implementation and effectiveness by respondents representing international and non-governmental organizations, although their assessments point to an evident decrease in corruption. Moreover, they argue that, with regard to increasing effectiveness and the building of an anti-corruption environment, there are some actions in which the government can be proud of the success it has achieved (for example, the reforms within the Ministry of Internal Affairs, Ministry of Education, Prosecutor's Office, National Bank, Financial Police of the Ministry of Finances, and the Ministry of Energy). However, many respondents consider that the reforms and fight against corruption is often unsystematic and fragmented, and in many cases resembles a 'Fire Brigade' approach. Their opinion is that the government of Georgia has not created

a unified reform strategy. A comparison of the successful structures from the viewpoint of reforms (for example, the ministries and agencies listed above) with those fields still 'untouched' (such as agriculture, social welfare, healthcare, customs and taxation systems) is evidence of the lack of a unified reform strategy. Success was only achieved where strong leaders with relevant managerial qualifications, experience and motivation existed. This approach also indicates that the government has trusted leaders to operationalize reform and anti-corruption activities individually within agencies. Some of the respondents in the donor and international agency community state that the problem is not the unsystematic nature of reforms, but their incoherence and the lack of a unified action plan.

Respondents denote that the lack of transparency in the processes is the logical continuation and accompanying event of all of the issues discussed. The attitude within society is considered the main reason for this, as well as the fact that the government is rather inaccessible. Not only society at large, but also non-government organizations are not active enough; consequently, adequate monitoring of the processes and operations of government bodies is hindered by a lack of skills and weakness of 'watch-dog' organizations, rather than dissuasion by the government. However, this lack of transparency is also accompanied by some apprehensions within the government towards some civil society organizations because of their affiliation with some political parties and their close political involvement.

Despite various viewpoints expressed about the success and effectiveness of the reforms, the almost unanimous assessment of the representatives of government and non-government institutions shows that the main stimulation for the implementation of reform and the improvement of the anti-corruption environment was the anti-corruption disposition of the post-revolutionary political elite, and their desire for integration into Western, and especially, in the first place, into Euro-Atlantic organizations. The advances steps made in this direction necessarily imply the consent of the government of Georgia to undertake the recommendations and requirements of these international and regional organizations. Reform of government institutions through increasing their effectiveness, reducing corruption and, consequently, developing and strengthening the integrity system, will be the necessary pathway for Georgia to join the Western political community.

D.3 Balance between Prosecution and Prevention

The appropriate balance between these two components in ensuring integrity in the public sector is well illustrated in the government's anti-corruption policies and the reforms underway in the country. In the opinion of most of the respondents, these two components are intimately connected with one another. Government officials generally defended the strategic course of the ongoing reforms, which also includes anti-corruption policies. On the other hand, the respondents, while noting some positive developments, point to deficiencies in this process and were, on the whole, critical of the government's actions.

Nevertheless, according to the study, the institutional-structural reforms under way, in all areas of the country, are progressing successfully. A reduction in the amount of corruption is a natural consequence of these reforms. One of the keys to success has been that the Georgian authorities have taken a new approach towards reforms. There are several key aspects of this new approach, including the

fact that the government did not 'blindly imitate international experience' (as noted above) and set out to implement reforms in various systems and agencies which fit the present needs within Georgia.

The fight against corruption has a long history; there was even an attempt under the Shevardnadze administration, when an anti-corruption group 'Shvidkatsa' ('Seven-man team') was created. However, all attempts made at that time were outdated and failed to yield results: there was no coordinated fight against corruption because corruption was not viewed in the context of systemic reforms. In this sense, one of the aspects of the approach was that the state regulated many areas that did not require government oversight. Part of the new approach is deregulation. The premise is that the removal of excessive regulations will reduce possibilities for corruption. This approach has been the case so far in several areas. For example, the procedures of licensing entrepreneurial activities have been simplified; a requirement for technical inspection of transport has been removed, etc.

The anti-corruption strategy within the framework of the new approach involves four occurrences to overcome corruption. These are:

1. An effective legislative base, by which the state does not regulate areas that do not need to be regulated;
2. An efficient enforcement and punitive apparatus reacting quickly and firmly in every case of legal violation;
3. Steps to increase the motivation of public sector employees, for example, paying higher salaries more appropriate to their specific roles and responsibilities;
4. Focus on psychological factors by encouraging public sector employees to understand that they are undertaking an important public duty for their country;
5. Simplification of administrative procedures in order to minimize bureaucracy and promote efficiency of public service delivery by government agencies; and
6. Deregulation – reducing government's involvement in different sectors in order to minimize opportunities for public officials to engage in corrupt activities.

It was taking into account these factors, such as raising salaries for public sector employees and instilling in them a 'sense of mission', that laid the groundwork for the reduction in corruption. This is precisely the reason that corruption has reduced among the higher-ranking officials. In addition, factors such as improved uniforms (in the case of the police), appropriately equipped and refurbished work rooms and better computer access are important and significant in terms of reducing corruption at the lower levels of the bureaucracy. In such conditions, a person feels that he or she is a 'dignified person with a certain responsibility', as one respondent stated. Another important element is the trust factor. A government must trust its employees; for when the system declares trust in its employees, they are far more likely to identify themselves as a part of the system and behave with a greater degree of integrity as a result of that recognition.

Despite the fact that both officials and analysts acknowledge that the process of establishing an anti-corruption policy has a long history, neither category of respondents possessed complete information about anti-corruption institutions or their preventative and enforcement approaches. Assessments of how these institutions function vary not only between the representatives of government

and non-government institutions, but within these groups as well. In other words, respondents hold varying attitudes and possess varying amounts of information about this issue. It is very important to underline the range of institutions responsible for the implementation of anti-corruption policies in order to understand what means are available to these institutions (prevention/prosecution) and which are used more frequently and effectively for the achievement of their goals.

Key institutions responsible for the implementation of anticorruption policies through preventive means are:

- *The Audit Chamber* This agency is charged with the role of ensuring that all necessary conditions are created so that corruption is minimized. The Chamber's main task is to protect public sector property; study the legality of budgetary funds spent; and, prevents corruption. During 2005–2006, the Audit Chamber exposed some 2,000 corrupt deals. The Audit Chamber is the highest government oversight body and it coordinates all state agencies in the financial-economic sector: the Prosecutor's Office, the Interior Ministry, the Financial Police, the Tax and Customs Departments, the Financial Monitoring Service and other oversight bodies. The Chamber regulates how and when oversight bodies can enter state agencies.
- *The Office of the State Minister for Coordinating Reforms* is responsible for coordinating the operations of institutions which have an anti-corruption policy implementation role and ensuring that their activities correspond to the overall aims of the reforms, particularly the country's anticorruption strategy. It is, therefore, not considered necessary to create a separate agency to implement an anti-corruption policy, because a reduction in corruption is a natural consequence of the reform process. It is logical then, that efforts to reduce corruption be coordinated by the same agency that plans and coordinates reforms.

The key institutions responsible for the implementation of anticorruption policies through prosecution are:

- The Ministry of Interior Department of Constitutional Security and Order;
- The Ministry of Interior Special Operative Department;
- The Ministry of Finance Financial Police; and
- Prosecutor General's Office.

These institutions conduct investigative and enforcement activities against crime in the economic sector and abuses of the law relating to expenditure of public funds. Their role is much greater than those mentioned earlier. Consequently, prosecution is seen as a much more important component in policies supporting integrity, rather than prevention. While this imbalance has some positive effects on the outcomes of anti-corruption policies (because the fear of being punished diminishes the likelihood of public officials being involved in corrupt dealings), it also may create some impediments for the overall integrity system. For instance, there are problems with lack of initiative and acceptance of responsibility among mid and lower levels public sector employees.

This fear of being punished (when a public official's initiative might be interpreted as abuses of law or authority) can make them passive and overly dependent on the directions of higher ranking officials. So, the strengthening of repressive measures only, can have the effect of paralyzing the operations of the

bureaucracy. Another possible negative outcome of the strengthening of repressive mechanisms is a situation in which public sector employees in Georgia work according to strict rules of subordination. The supervisor takes the decision and the lower level employee merely executes it — even when his position authorizes him to take his own decision on the issue. In this situation, there is a danger that higher-ranking employees may use their posts to issue illegal directives to promote their own interests. Some analysts consider this tendency itself a form of corruption, while others think it is, at least, a lack of integrity or behaviour which is questionable in legal terms.

There are only weak mechanisms in place to avoid such risks and to monitor how institutions and agencies undertake their functions and whether or not public sector employees carry out their duties in a proper fashion. For instance, the Public Defender's Office is able to provide some oversight over public sector employees and that is an additional means for the state to ensure integrity. This oversight would not normally be a reaction to concrete violations; rather, it would serve to identify legislative problems and to determine which laws or procedures need to be changed.

Both government officials and experts pointed out that it is very important to create a solid legislative base that will create proper balance between prevention and prosecution in order to reduce the possibility of corruption. However, no less important is ensuring that public sector employees understand the essence of the reformed laws. This understanding is important because the law is executed primarily at their level. Education and retraining programmes are also a mechanism for strengthening the balance between prevention and prosecution. If, currently, government employees lack qualifications and are not well-versed in the operations of an efficient and effective bureaucratic culture then, they are not fully aware of their rights and responsibilities. Consequently, it is considered that the only way to ensure that these employees follow the rules is through repression. Education will hopefully reverse this unsatisfactory situation. Reforms in education systems and universities, in particular, as well as the establishment of the High School of Justice will be designed to serve these primary goals.

E. Significant Issues Reported by Respondents

Respondents from government, international and non-government organizations all mentioned the outcomes of the institutional-structural reforms being implemented in Georgia after the Rose Revolution. They also provided qualitative assessments of their successes and failures to date.

The government is trying to create a corruption-free zone and to some extent it has achieved this in some sectors. Many respondents said that the degree of corruption has significantly decreased, but that this has mainly been at the lower levels and has been achieved through building fear of punishment. However, it was also felt that there is a whole range of institutions where poor management of corruption problems is still present.

Some respondents think that corruption has not been reduced, but rather has become more hidden. Their opinion is that corruption has been considerably reduced at the operational levels, but the phenomenon of spending money without proper authority, or purpose, or wastefully in large amounts, is still a significant issue, which is directly related to the decision making elite. Corruption has shifted into the inappropriate use of public money though improper financial actions. This shift means that the higher-ranked echelons of the administration system, who are in charge of handling the expenditures of budgetary funds, are widely seen as still involved in corruption. Public sector respondents supported this opinion to some extent, expressing the view that this problem can be solved through the introduction of proper budgeting and fully accountable financial measures, based on the true values of goods and services provided. However, even when the funding of a particular agency can be planned according to pre-planned and properly scheduled activities, it is still possible for a public sector employee, acting in bad faith, to insert lines in the budget for activities that are not in any plans and which are unnecessary. Concomitant with this, there can be cases when budgetary funds have been spent for satisfying the private interests of particular public officials.

The research identified the following issues as factors which are hindering the strengthening of Georgia's national integrity system:

a. Public attitude, where the forms of nepotism and too close patron-client relationships are still at work and widely adopted. This background does not lend itself to a transparent system;

b. Weaknesses in human resources reflected by the low qualifications and lack of professionalism of most people employed in the public sector. This deficiency is revealed especially through the lack of managerial and organizational skills necessary to bring about proper implementation of the reform process;

c. An imperfect legislative base that is being established faster than institutions can adapt to it, such that violations of the rule of law may take place not because the officer concerned intended it to occur, but because of the general ineffectiveness of the law or their having no real awareness of it;

d. Lagging behind the international standards in financial accounting. None of the agencies interviewed seem to work according to sound international standards of financial accounting, even though, theoretically, Georgia has already adopted such standards. The requirements stipulated

by these standards cannot be performed because the programmes for developing and training people who are supposed to perform these functions have not yet been introduced, and the public sector itself does not have the human resources needed for this purpose;

e. Lack of unified wage standards, which is reflected by a great discrepancies among agencies, or even within an agency, where senior staff salaries may be disproportionately high compared to lower level salaries. This discrepancy adversely affects the personal motivation of the employees in a system that is perceived to be unfair; and

f. A feeling of concern among public sector employees about the stability and security of their jobs. Currently, public sector employees do not have any real guarantees that would provide them with a feeling of confidence in the stability of their workplace. This uncertainty reinforces conditions for corruption.

Apart from the factors mentioned already, some other worrying tendencies have been identified during the recent processes of developing the public sector, which have the potential to reduce the effective functioning of the national integrity system. Group decision making principles mentioned earlier, despite their positive effects, also can bring about certain threats. However, it would seem that with a strictly disciplined leaders group, high-ranking officials, including ministers and their deputies, get a rare chance of making decisions independently. It should be noted that the degree of independence during decision making depends on the nature and significance of an issue. Obviously, there is a whole set of issues of lower importance that high-ranking officials can make decisions on independently. It is clear that the existence of a strong, vertical decision making hierarchy provides some restrictions for public sector employees in the process of decision making even when within their area of expertise. This situation adversely restricts decision making independent of a higher authority. Such situations are not caused so much by any fixed government policy but rather by the lack of a proper decision making structure and culture within the public sector. In many cases, even high-ranking public officials want to avoid administrative responsibilities during the reform implementation process by delegating decisions upwards to the political team that has been the initiator of the reforms.

A small group of the political elite determines the recruitment mechanisms across the public administration system, including lower level recruitment. This action causes significant problems for integrity. Applicants affiliated with the ruling political party can be seen as being from a loyal background, and are sometimes recruited on the basis of nepotism or protectionism for public offices. For this reason, it appears that public officers are often selected based upon which party they support, with selection of candidates based on discriminatory and sometimes corrupt decisions. This issue is especially problematic in the regions, where 'belonging' to a party is one of the guarantees of finding a job at the local level and in many cases the links within a party and between relatives are identical. This means that, in the regions, if there is an influential person in the political party then, s/he is also surrounded by relatives or close acquaintances willing to gain some benefits from supporting their candidacy for a position. This approach is usually justified on the basis of a scarcity of human resources and that personal trust is one of the priority factors for the decision-makers in selecting candidates to be employed in the public service.

The problems and issues given emphasis in the study by the respondents were:

1. **Significant issues outlined by representatives of the executive branch of the government:**

   a. The government operates in a rigid 'missionary' mode and does not apply the principle of multi-actor politics. The degree of civil society's involvement in policy formulation is quite low. Likewise, the analytical capacity of NGOs and civil-sector watchdog organizations is not used sufficiently by government to monitor the efficiency of implemented policies;

   b. The government is currently operating as 'one system, one whole'. In other words, it seems that cooperation between government institutions has started to function, moving towards a 'whole-of-government' mode. However, institutions with analytical and regulatory functions, in which most of the qualified and skilled people are concentrated, operate at a policy-making level only and are not authorized to draft actual action plans and monitor their implementation. These institutions are not allowed to implement control measures or engage in research;

   c. There is no long-term strategic vision for the development of a structured and systematic institutional environment. Therefore, the roles of individual institutions have not been placed in the context of the entire integrity system;

   d. Reforms underway in the country's education system have not yet clearly defined how to deal with the need to retrain current civil servants or to train new qualified personnel for the public sector**;**

   e. The technical infrastructure needed to support the performance and roles of the various integrity institutions is not adequate in most of the institutions studied. Even where agencies are computerized and provided with modern equipment, the absence of shared electronic databases that would provide quick information exchange creates impediments for efficient operations; and

   f. There is a lack of exchange of expertise between institutions and a shortage of internal research and analysis resources.

2. **Significant issues outlined by representatives of the legislative branch of the government:**

   a. There is an absence of databases allowing information sharing and use of information technology to monitor and control the operations of government agencies for the execution of parliamentary decisions;

   b. There are no satisfactory mechanisms for mutual control between parliamentary and executive institutions of either state or municipal budget expenditures;

   c. There is a need to create an entity such as a parliamentary 'shadow cabinet' to scrutinize decisions taken by ministers and their staff;

   d. The activities of NGOs and their involvement in supporting the operations of parliamentary institutions remains weak;

   e. The activities of Parliament to gain public support is weak and ineffective;

   f. Drawn from above, another issue is the involvement of ethnic minorities in public life. A nationally endorsed 'state language' would engender a proper knowledge of Georgian among Armenian and Azerbaijan ethnic groups living in the Samtskhe-Javakheti and Kvemo Kartli regions of Georgia and promote involvement in public life . The lack of involvement of these groups creates a fertile environment for corruption at the local

administrative level where public oversight is weak. Policy implementation agencies are able to abuse the authority delegated by the central government. Parliament has the responsibility for solving this problem and is meant to oversight the design and implementation of education programmes, as well as provide political support for the protection of the rights of minorities through legitimate policies; and

g. The Parliamentary institutions' ties with local government units are very weak.

3. Significant issues outlined by representatives of the judicial system:

a. There is a strong anti-corruption commitment in the present government, which is a step forward in the state-building process and strengthening of the integrity system;

b. Policies that would motivate officials to commit to anti-corruption practices and increase personal integrity (the existence of a proper working environment, transparent vertical mobility and promotion mechanisms, a fair bonus system etc.) are not systemic and do not involve all employees working in judicial institutions, rather these policies affect only high-ranked officials;

c. There is a strong awareness that the overall effect of integrity institutions is dependent upon mutually supportive activities;

d. Opportunities for corrupt behaviour occur not only as a result of institutional weakness, but also through low levels of public awareness; and

e. The government is wary of private arbitration and has attempted to weaken the Arbitration Chambers because businesses can influence the Chambers and resolve disputes with the government in their favour.

4. Significant issues outlined by representatives of the government institutions that have special functions and responsibilities:

a. There is a lack of any long-term vision or strategy as to what an integrity system for Georgia should look like;

b. There is lack of transparency and citizen involvement in decision-making processes, an alienation of political parties and NGOs and a low level of trust in public institutions;

c. There is a lack of skilled human resources, especially evident from the low level of professionalism of public sector employees; and

d. There is an inappropriate balance between preventive and punitive measures to combat corruption resulting in an environment susceptible to corruption.

5. Significant issues outlined by representatives of local government:

a. The corruption problem is significant in institutions that obtain substantial funding from the state budget;

b. Patterns and scope of corruption have been changing and corruption is now more narrowly based and centralized. Corruption now exists primarily in a very thin layer among the top echelons of high ranked public officials and decision makers;

c. The political elite are willing to combat corruption and this factor is very important for the effectiveness of anti-corruption policies. However, government policies and their impact on corruption are very dependent on

scarce intellectual and human resources engaged in the decision making and implementation processes. These resources are insufficient to support more effective anti-corruption campaigns;

d. Corruption is encouraged by the low level of civic awareness and inadequate salaries paid to public sector employees; and

e. The main requirements for strengthening anti-corruption strategies are more decentralization of the budget expenditure processes, ongoing reforms in local government, programmes for efficient management development and improving the qualifications of people working in the public institutions, and a clearer specification of the roles of controlling institutions.

6. **Significant issues outlined by representatives of International and Donor organizations**:

a. Corruption has definitely reduced over the past two years. It has been significantly reduced in the electoral and education systems. The education sector is still corrupt, but it is improving. A significant amount of work remains to be done to reduce corruption in the judiciary and to address the current problem of smuggling;

b. Currently, the government mostly uses fear to fight against corruption. In the areas where there is less corruption, it is the case because people are afraid of prosecution. Such negative reinforcement is understandable when this government is still new; negative reinforcement only works in the short-term, but positive reinforcement is crucial for long-term results. Both preventative and punitive measures are necessary to effectively fight corruption. Punitive measures are important for quick impact, but preventive efforts are absolutely necessary to yield more sustainable results;

c. While the public mindset is one of the biggest impediments to reducing corruption in Georgia, the poor economy is an even greater problem;

d. The authorities are attempting too much reform too quickly, but have neither the capacity nor the experience to handle major reform issues properly. The government lacks policy development and implementation skills. As a consequence, there are very few sectors (if any) that have clearly defined reform policies and are following them;

e. Business does not play an active role in anti-corruption and integrity building and are silent and inactive. Similarly, NGOs are not involved actively either. There is little understanding that concerted actions are needed; and

f. The government has become more aware of human rights issues since it received criticism about its punitive anti-corruption policies, and has moderated its previous harsh methods. (This change is also partly influenced by the actions of the Ombudsman's Office and the Committee of Human Rights in the Parliament.)

7. **Significant issues outlined by representatives of the NGOs:**

a. There are people who, by reputation, are corrupt and who still hold top positions in Georgia. Georgian society is disappointed that such people are not in jail but hold positions in Parliament or are employed in government;

b. The solution to the corruption problem could be a combination of punitive and preventive policies. Punishment is really necessary in some cases, but

sometimes even punishment would not be effective in eliminating corruption;

c. The overall success of anti-corruption policies can best be achieved by increasing the importance of support and coordination between all social and political stake-holders: government, NGOs, media, church, etc.;

d. Corruption is greatly encouraged by the absence of strict procedures and functional separation, as well as weaknesses in external and internal controls;

e. There is less corruption in the lower levels of the public sector due to the punitive actions that have been taken. However, at the higher levels, new clans have replaced the old ones and nepotism is as common as it was previously;

f. The main weakness of the post revolutionary government's institutional reforms strategy is the absence of a social and economic development program;

g. One advantage to the anti-corruption objectives is the governing elite's strong political willingness to fight against corruption and the public support to fight against corruption; and

h. The factors that encourage corruption are frequent violations of the rule of law principles (the personification of authority), the nepotistic mentality in society, and social and economic problems.

8. Significant issues outlined by representatives of the media:

a. Corruption has been reduced significantly in the public sector due to recent prosecutions of corrupt public sector employees as well as increased public sector salaries;

b. The government is using both preventive and punitive measures to strengthen the integrity system and to combat corruption, but appears to be relying more on the latter. Both of these mechanisms are very important, but if the government really wants to reduce corruption and maintain a corruption-free environment, then more preventive measures are necessary; and

c. The main impediments to reducing corruption in Georgia are the lack of transparency of public sector institutions, favoritism towards the 'heroes of the revolution', the frame of mind of the populous and a habit of corruption, economic problems, and a lack of knowledge of specific measures to fight corruption effectively.

F.   Recommendations

Recommendations listed below are based on conclusions and main findings retrieved through the study of Georgia's National Integrity System institutions. They are grouped in accordance with the institutional sets targeted during the research. The recommendations are aimed at setting out clearly possibilities how the Georgian National Integrity System and its institutions can be functionally improved. The recommendations reflect conclusions applicable to the integrity needs in Georgia and show priorities and principles for the development of an efficient institutional environment, achievement of which would be desirable for increasing integrity and the country's anti-corruption capacities.

F.1.   Recommendations from the respondents of parliamentary institutions

a. Improvements are required in information technologies and the creation of shared electronic databases that would allow speedy information exchange between institutions;

b. Greater attention is needed to learning from successful anticorruption experience in foreign countries with the aim of introducing 'best practice' into the operations of Georgia's Parliament. This would include:
   i. involving international organizations and local NGOs who have expertise in drafting laws that represent 'world best practice' to strengthen Georgia's anti-corruption legislation and strategies; and
   ii. receiving assistance to improve the mechanisms of parliamentary oversight.

c. Improvements are needed in the provision of resources — a priority is to acquire sufficient numbers of professional personnel to support Parliament;

d. The cooperation with international organizations needs to be extended (especially those organizations which focus on human rights protection) to assist the development of ethical practices in law-enforcement agencies, thus reducing the likelihood of adverse side effects emanating from coercive anti-corruption policies and practices;

e. The parliamentary public relations strategic planning processes and implementation mechanisms should be improved;

f. There is a need to create a parliamentary 'shadow cabinet' to scrutinize decisions made by the executive;

g. Parliament's ties with local governments should be strengthened;

h. Parliamentary support of local NGO efforts to participate in local level policy implementation processes would prove mutually beneficial. NGOs could carry out watch-dog roles and provide Parliament with much-needed feedback and other information, thus minimizing the deficiencies caused by the shortage of qualified analyst personnel;

i. The use of investigative-coercive methods may be an effective way to combat corruption as a short-term solution; and

j. In the long-term, public education and the preventative anti-corruption strategies are very important tools for combating corruption.

F.2.	**Recommendations from the respondents of executive institutions**

a. The provision of human, financial, material and technical resources to the state agencies need to be improved. In particular, there is a need to provide personnel training to develop the professional skills of public sector employees as well as knowledge of ethical codes;

b. The policies, standards and procedures for institutional functions need to be clearly defined and communicated. For example, a proper mechanism of checks and balances should be developed to avoid overlaps or interference with the responsibilities of an institution by other institutions;

c. The oversight of the performance of law-enforcement agencies needs to be improved to ensure that their activities are conducted in accordance with laws protecting human and civil rights;

d. Mechanisms should be developed to receive public feedback on the operation of public sector institutions in order to create tools to measure the adequacy of action plans and the performance of these institutions against public expectations;

e. The roles of international organizations and local NGOs in sharing international experiences and the provision of information and analysis need to be increased. The government should show more openness towards initiatives by civil society and international organizations. These organizations could be involved in policy formulation, participate in monitoring policies and reform activities, and provide feedback to Government in the form of analysis and recommendations;

f. Just and transparent vertical mobility policies and processes for public sector employees should be established based on merit (i.e. qualifications, professional skills, performance and personal integrity and against uniform, open and job-specific selection criteria);

g. The role of each institution needs to be defined as part of the entire integrity system and the strengths and weaknesses of individual institutions need to be analysed to create a viable institutional environment with reduced tendency towards corruption; and

h. Communication between the agencies can be improved through creating a shared electronic database, which would provide quick information exchange between the agencies. This technology will also allow for the exchange of expertise between individual agencies and the promotion of 'best practice'.

F.3.	**Recommendations from the respondents of the judiciary and court related institutions**

a. More prominence needs to be given to preventive mechanisms that support anti-corruption policies, to develop a system of mutual controls to improve the institutional environment — at the same time, it is obvious that strong punitive policies are required to support preventative policies;

b. Steps must be taken to ensure that the reformed education system will prepare qualified specialists in particular fields, and become a conduit of civic values to cultivate high personal integrity and civic awareness in potential public officials;

c. Use should be made of best practices and experiences of 'Western' democracies as these apply to the Georgian context;

    d. Special training programmes need to be designed for judges and court personnel, as well as the provision of relevant professional and academic literature;

    e. Legislative mechanisms should be developed to allow public interest groups to influence policy formation and implementation, and participate in monitoring all levels of the government and public sector system, including the Judiciary; and

    f. Tighter cooperation is needed between the judiciary and court-related institutions on the one hand, and NGOs and the media on the other, to publicize through an accurately defined public relations strategies, the reforms being carried out by the judiciary and court-related institutions involving personnel training, the development of professional skills and improvements to institutional functions. This approach will raise general public awareness, promote civic values and obedience to the law, and improve the reputation of the judiciary within society.

F.4.   Recommendations from the respondents of 'Special Institutions' charged with very specific responsibilities

    a. Increase the powers of these special institutions (especially the Ombudsman's Office, the Chamber of Control, and the Central Election Commission) from simply oversight functions to the ability to monitor the implementation of their recommendations by the government;

    b. Improve the legislative basis for the operations of these institutions by the following actions:
       i. Simplify election procedures to avoid future manipulation.
      ii. Establish and implement internal control standards;
     iii. Design a procedural framework to regulate interaction with external institutions and avoid overlaps and interference;
     iv. Optimize intra-structural cooperation, as well as inter-institutional relations with the Parliament, State Chancellery, and other state institutions (e.g. the problem of voter lists can be solved through establishing tight cooperation between the Commission and the Justice Ministry's Civil Registry Bureau).

    c. Carry out policies aimed at developing the resources of these institutions, especially human resources, through an increase in funding to:
       i. involve international organizations and NGOs in developing training programmes;
      ii. develop the IT infrastructure and raise the professionalism of IT personnel; and
     iii. increase the role of universities through the introduction of new educational programmes and projects.

    d. Develop long-term strategies for improving the integrity system, part of which should be an in-depth analysis of particular institutional roles to show the strengths and weaknesses of the various institutions, define their goals, and place these institutions correctly within the overall integrity system;

    e. Capitalize on the capacity of civil society to plan appropriate public relations policies for public institutions, which will allow for the establishment of the channels of social influence — political parties also should be allowed to monitor the public sector through improvements to transparency and the provision of information on the policy formulation process.); and

    f. Introduce preventive mechanisms for combating corruption since, although punitive policies are important at this stage of state-building,

preventive mechanisms must be introduced to prevent anti-corruption policies from transforming into repressive tools.

F.5.   Recommendations from the respondents of NGOs

a. Common approaches need to be adopted towards reforming the state governance system, based on cooperation between government and the non-government sector;
b. Enhancements are needed in the internal and external (public/civil) control mechanisms over the public sector to ensure that these accord with the goals of institutional effectiveness;
c. A proper distribution of roles and functions within agencies is necessary, which should improve institutional functioning and the achievement of uniform procedures and operations;
d. The roles of civil society watch-dog organizations in monitoring processes needs to be enhanced; and
e. The level of trust between the government and civil society organizations needs to be strengthened to create opportunities for greater cooperation.

F.6.   Recommendations from the respondents of international and donor organizations

a. To strengthen the national integrity system in Georgia and to ensure the success of the anti-corruption policies, it is necessary to adopt a comprehensive strategy. This strategy involves the reform of the state governance system to increase institutional effectiveness of the system and addresses corruption prevention;
b. The rule of law principle must be observed through reforming the judiciary system and strengthening judicial independence;
c. A mechanism must be implemented for the proper distribution of material-technical and financial resourcing that will ensure that financial resources are distributed to public sector institutions according to their actual needs. Increases in salaries should not be limited to high ranking officials, but extended to officials working at the middle and lower levels of the public sector, who also need guarantees of tenure;
d. As part of this comprehensive approach, respondents highlighted the necessity of changing the publics attitude — with the state educational system, the media and the non-government sector playing an essential role in that process;
e. A deeper cooperation with the non-government sector is also necessary to ensure the creation and refinement of external control mechanisms for the public service; and
f. Improvements are required in the qualifications of public sector employees through the introduction of professional training and retraining programmes with cooperation from international and donor organizations and the media.

F. 7.   Recommendations from the respondents of media organizations

a. There needs to be a proper separation of the editorial policy of media outlets from the economic and political interests of business groups through the adoption of a commonly agreed and understood code of ethics

to ensure the independence of journalists and to avoid influence by media owners;

b. An effective mechanism of public control needs to be established for the functioning of state governance system through close cooperation between the non-government sector and the media to increase the transparency of policymaking and its implementation;

c. Stronger horizontal ties among media professionals are needed as is the development of their professional organizations;

d. A need for an expansion of educational and practical programmes in electronic information gathering and dissemination;

e. Enhanced educational and practical training programmes are needed for media managers to enhance their business, management, and technical skills;

f. Increased professional contacts, personnel exchange programmes, and collaboration between domestic and foreign media companies and institutions are all necessary to improve effectiveness; and

g. Greater cooperation between the media and the Church is required to strengthen civic values in the public's mind.

F.8. Recommendations from the respondents of local government institutions

a. Minimum standards should be established (e.g. qualification requirements) for office holders in local government bodies, adequate for them to meet the specific demands of their particular roles);

b. Special instructions should be developed, such as job specifications and selection and performance criteria, for each position in the entire public service with clear rules and selection processes involving competitive merit-based arrangements for the filling of all government positions — this approach will avoid misinterpretation of rules and procedures which support the personal interests of particular powerful individuals; and

c. Legislation must clearly define the permissible situations for office closures and reorganizations, and formulate proper procedures and rules for these activities.

F.9. Process for handling recommendations

This is a formidable list of recommendations. Thankfully, the recommendations are generally consistent rather than conflicting. There are a number of possible responses to such a long list:

a. The list is too long – where to start.
b. We need to prioritize it.
c. We need to create a reform *supremo* who can put the whole thing in order.

The nature of integrity systems suggests other alternatives. National Integrity Systems work because several institutions operate to deter and detect corruption and raise integrity. Institutions can independently improve their internal operations and can work with other organizations whose cooperation and common action can achieve the above goals.

F. 9.1   **Action by each organization that is a part of the integrity system**

Accordingly, a report such as this should be read by all organizations involved in the Georgian integrity system and each should:

- Consider their individual response in terms of the content of the report and the action they will take to respond
- List those organizations with whom they need cooperate and coordinate and publish this list
- Designate officials to discuss improved cooperation and coordination and publish
- Monitor the changes they put in place unilaterally and in concert with organizations with which they cooperate and publish these results.

International and donor organizations can consider which recommendations that they are in a position to further through financial and or technical assistance.

The national government can provide moral support for the process as a whole as well as addressing issues identified in the report.

F. 9.2   **Governance Reform Commission**

However, there is also a need for a body that can provide system-wide oversight, continue and update mapping of the integrity system, and assist institutions to cooperate with each other to raise integrity. In particular, this body can provide the system wide overview required by recommendations F.1 b, F.2 b, F.2 g; F.3 a, F.4 d above. Ideally, it should take the form of a Governance Reform Commission modelled on the extraordinarily successful Electoral and Administrative Review Commission (EARC) established in Queensland in 1989 that provided the research, public consultation and the recommendations for the reform of various integrity institutions and integrity mechanisms that were presented to the Queensland Parliament. Such a body would need to be seen to be above partisan politics and be designed so as to make manipulation of its recommendations extremely difficult. There are a number of ways to achieve this end. A useful model, however, is one where the government and the leading opposition party each nominate a commissioner with credibility as a supporter of integrity. (It would be politically dangerous to do otherwise.) These two commissioners choose an independent chairperson. Decisions would then be taken by a majority. As in the Queensland model, the Commission would have an agenda – either that one set out above, or one modified by the Commission after public input.

The Governance Reform Commission (GRC) would be served by a secretariat that would follow a process similar to that which EARC pursued in Queensland. For each agenda issue finalized by the commission, the secretariat researched the issue and the means used in other jurisdictions to deal with it. This course of action led to an issues paper, a free two day public conference, public submissions and a report to a bi-partisan Parliamentary Committee which recommended reforms to the Parliament. This process involved some extremely productive exchanges between what 'engaged academics' and 'reflective practitioners' – academics who wanted to 'road test' their theories in the complex problems of modern governance, and practitioners with considerable knowledge of the details of the problems and wanted to stand back and reflect.

There are three variations that the Institute for Ethics Governance and Law (IEGL) suggest to the EARC model that we would recommend to Georgia.

- The GRC should be permanent. It may be initially a larger body to cope with a backlog of necessary reforms or to deal with a major corruption problem. During its later, mature stage, it would receive new commissions from the government and have the responsibility of reviewing all areas of reforms already introduced. Ideally, it should have an independent board which could provide other briefs.
- It should not see itself as necessarily, or even primarily, a law reform body. Even if it reports on all its findings to parliament, it should be expected to make proposals about the way that existing institutions operate.
- It should look to the overall coherence of the system and the way that the different reforms interact with each other.

In five short years, Queensland moved from Australia's governance basket case to become leaders and models of governance reform. We would like to think that progressive members of any country would adopt a similar ambition. In contemplating and pursuing reforms of public institutions, progressive leaders would come forth and set new standards for their region. In some countries, this goal may seem as far away as it seemed to Queenslanders twenty years ago.

APPENDICES

INTERVIEW QUESTIONS FOR GEORGIA:
For those working in Government Integrity Institutions

A: OPENING QUESTION

A1. Before we start, do you have any questions at all about this project?

B: ABOUT YOUR OWN INSTITUTION

B1. What are the key documentary references for your role (the "paperwork" that supports your role, e.g.: legislation, regulation etc.)?

B2. What are the main ways in which your own institution carries out its role?

B3. Is your institution able to commence investigation without seeking authority from other officials?

B4. To whom does your institution report?

B5. Who appoints your institution's senior staff and who can remove them from their jobs?

B6. If there were to be a change in your Minister, would the new Minister have the right to replace you and/or your senior people?

B7. What do you see as the three greatest risks of corruption within your sphere of influence?

B8. Is your institution resourced sufficiently well, in terms of its financial and human resources, to carry out its role effectively?

B9. What non-governmental inputs does your institution currently receive from NGOs, the media, the public at large etc., and how does this occur?

C: COOPERATION BETWEEN INTEGRITY INSTITUTIONS

A list of some of the integrity institutions currently operating in Georgia.

C1. Which of these institutions specifically assist you in fulfilling your role and in what ways?

C2. Which of these institutions could assist you more in fulfilling your role and in what ways?

C3. Why do you think that they may have not yet been able to provide this level of assistance yet?

C4. Of the extra assistance that other institutions might provide for you, which would be the most valuable in assisting you to fulfil your own role more effectively?

C5. (a) Do any of these institutions make it more difficult for you to fulfil your own role? and (b) If so, which ones and in what ways?

C6. Which of these institutions do you assist directly in effectively fulfilling its role and in what ways?

C7. (a) Are there any of these institutions which your institution could be assisting more than at present? (b) If so, in what ways and (c) Why do you think your institution has not yet been able to provide this level of support?

C8. (a) Do any of the other institutions in the system provide a check in the event of your own institution failing to fulfil its role? and (b) In what ways could that checking occur?

C9. Would greater cooperation between the country's integrity institutions be useful in strengthening their overall impact in their fight against corruption?

C10. Are there other untapped resources that could also be effectively harnessed to promote integrity and support (be part of) the integrity system?

D: RECOMMENDATIONS

D1. What would you like to see this project recommending as far as your own institution is concerned?

D2. Do you have any final suggestions as to how Georgia might better address its integrity needs?

D3. Are there any other matters relevant to this project, which you would like to share or express, in order to assist us in our work?

E: THE CURRENT SITUATION *(OPTIONAL – IF TIME PERMITS)*

E1. How serious a corruption problem still exists at present in Georgia? How widespread is it and what areas would you suggest are the most serious?

E2. Do you feel that, over the past 2 years, corruption has been reducing, increasing or staying about the same?

E3. Of the corruption that now still exists, has the type and level of corruption been changing? If so, in what ways?

E4: In what ways is the government currently dealing with integrity issues and the fight against corruption?

E5. What in your view are the impediments / barriers to reducing corruption and achieving integrity in Georgia?

E6. (a) Do you think it is realistic for Georgia to meet EEU standards in this area ? and (b) If , how long do you think this might take?

INTERVIEW QUESTIONS FOR GEORGIA:
For those External to Government

A: OPENING QUESTIONS

A1. Do you have any questions at all about this project?

B: EXISTING INTEGRITY INSTITUTIONS

B1. Of the integrity institutions of which you are aware in Georgia, which would you say are the most important in reducing the level of corruption?

B2. Of the integrity institutions of which you are aware in Georgia, which ones would you say are operating well and are making, or may be able to make, a significant contribution to reducing corruption in Georgia?   In what ways?

B3. Conversely, which integrity institutions here would you see as not operating well yet and therefore may be unlikely to make such a contribution in their present situation? Why not?

B4. From your knowledge of how the system operates in practice, do you feel that the commitment to anti-corruption at the top of these integrity institutions is matched by a similar commitment and ethical behaviour at the operational levels of these institutions?

B5. To what extent are these integrity institutions currently adequately resourced, in terms of human and financial resources, in order to be effective in their roles?

B6. Would extra resources be useful?   If so how should extra resources be used?

B7. To what extent do these integrity institutions have the necessary support from the Government, within the public service and from society in general, in order for them to be effective?

C: COHERENCE OF THE INTEGRITY SYSTEM

C1. Do you feel that the integrity institutions of which you are aware in Georgia, are working cooperatively together, that is acting in mutually supportive ways as part of an integrity "system" or is this not the case?

C2. Who is supporting whom and in what ways?

C3. Which institutions need the support of others and are not currently receiving it ? Why do you think this is not happening?

C6. Do you think that the currently emerging set of integrity institutions will be able to work as a "system" in order to promote higher levels of integrity and lower levels of corruption in Georgia?

C7. Can you think of ways in which some new or existing institutions could help other institutions to perform their tasks better?

C8. Are there other untapped resources that could also be effectively harnessed to promote integrity and support (be part of) the integrity system?

D: CONCLUSIONS / RECOMMENDATIONS

D1. Are you optimistic or pessimistic that satisfactory progress can be made?

D2. If you are optimistic, how long do you perceive it will take for Georgia to meet EU standards in this area?

D3. Do you have any final suggestions as to how Georgia might better address its integrity needs?

D4. Are there any other matters relevant to this project, which you would like to share or express, in order to assist us in our work?

E: THE CURRENT SITUATION *(OPTIONAL–IF TIME PERMITS)*

E1. How serious a problem do you think corruption is at present in Georgia?

E2: If you believe that there is corruption, how widespread is it and what areas would you suggest are the most serious?

E3. Do you feel that, over the past 2 years, corruption has been reducing, increasing or staying about the same?

E4. Of the corruption that now still exists, has the type and level of corruption been changing?   If so, how?

E5. In what ways is the government currently dealing with integrity issues and the fight against corruption? Is this approach likely to be effective? If not, why not?

E6. In your view from where (i.e.: what levels, people) within the system is leadership emanating in the fight against corruption and lack of integrity?

E7. What in your view are the impediments / barriers to reducing corruption and achieving integrity in Georgia?

E8: Should the focus of anti-corruption strategies be more on the punitive side (investigation, coercion, enforcement, creating a fear of prosecution etc.) or on the preventative (using awareness, persuasion, education, training etc.)?

E9. In what other ways might a stronger more effective integrity system be achieved in Georgia?

List of Agencies Surveyed

Parliamentary

1. Budget and Finance Committee
2. Human Rights and Civil Integration Committee
3. Defence and Security Committee
4. Regional Policy, Self Government and Mountainous Regions Committee
5. Legal Issues Committee
6. Procedural Issues and Rules Committee
7. European Integration Committee
8. Parliament Staff Office
9. Parliament Legal Department
10. Parliament Budget Office

Executives

1. The Government of Georgia Chancellery
2. Office of State Minister for Reform Coordination
3. Office of State Minister on European and Euro-Atlantic Integration
4. Ministry of Internal Affairs
   Ministry of Internal Affairs Analysis Department
   Ministry of Internal Affairs Special Operative Department

5. Ministry of Finance
   Ministry of Finance Financial Police
   Ministry of Finance Customs Department
   Ministry of Finance Taxation Department
   The Ministry of Finance General Inspectorate

6. Ministry of Justice
   Ministry of Justice Information Bureau on Public Officials Property and
        Financial State
   The Ministry of Justice Public Register National Agency
   The Ministry of Justice Civil Register Agency
   The Ministry of Justice Legal Aid Commission
   The Ministry of Justice National Forensic Bureau
   The Ministry of Justice General Inspectorate

7. The National Bank of Georgia
   The National Bank of Georgia Financial Monitoring Service

8. The Ministry of Defense
      8.1 The Ministry of Defence Legal Department

9. The Ministry of Economic Development
      9.1 The Ministry of Economic Development State Procurement Agency
      9.2 The Ministry of Economic Development General Inspectorate

10. The Ministry of Labour and Healthcare
    10.1 The Ministry of Labour and Healthcare General Inspectorate

11. The Ministry of Environment and Natural Resources
    11.1 The Ministry of Environment and Natural Resources General Inspectorate

12. The Ministry of Education and Science
    12.1 The Ministry of Education and Science General Inspectorate

13. The Ministry of Foreign Affairs
    13.1 The Ministry of Foreign Affairs General Inspectorate

14. The Tbilisi City Mayor's Office
    14.1 The Tbilisi Internal General Inspectorate for Law Protection

Judiciary and Court Related Institutions

1. The Constitutional Court
2. The Supreme Court
   The Supreme Court Chamber on Administrative Issues

3. The Appellate Court
   The Appellate Court Chamber on Administrative Issues
   The Appellate Court Chamber on Civil issues
   The Appellate Court Chamber on Criminal Issues

4. Tbilisi Arbitration Chamber
5. Prosecutor General's Office

Special/Others

1. The Audit Chamber
2. The Central Election Commission
3. The Ombudsman's Office
4. The Supreme Council of Justice
5. The State Commission on Efficient Governance and Territorial Arrangement
6. The Civil Service Bureau
7. The Development and Reform Fund

International and Donor

1. The World Bank
2. The United Nations Development Program (The UNDP)
3. The European Commission
4. The UK Department for International Development (The DFID)

5. The United States Agency for International Development (The USAID)
6. The Eurasia Foundation
7. The Organization for Security and Cooperation in Europe (The OSCE)
8. The National Democratic Institute (The NDI)
9. The International Republican Institute (The IRI)
10. URBAN INSTITUTE

Nongovernmental Organizations

1. Association of Public and Legal Advice (ALPE)
2. Civil Society Institute
3. Liberty Institute
4. Trans National Crime and Corruption Center
5. Georgian Young Lawyers Association
6. United Nations Association
7. Economic Policies Research Centre
8. National Association of Local Authorities of Georgia (NALAG)
9. Caucasus Research Resource Centre
10. Open Society – Georgia Foundation
11. The Caucasus Institute for Peace, Democracy and Development
12. The Transparency International Georgia
13. Georgian Young Economists Association

Media

1. Georgian Public Broadcasting
2. *Imedi* TV Company
3. Newspaper *24 Saati*
4. Newspaper *Rezonansi*

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Laws and Bylaws

1.   Georgia's Constitution
2.   Organic Law on Constitutional Court
3.   Organic Law on Ombudsman Office
4.   Organic Law on Common Courts
5.   Organic Law on Prosecutor General's Office
6.   Organic Law on Supreme Court
7.   Organic Law on Electoral Code
8.   Organic Law on Local Self Governance
9.   Organic Law on National Bank of Georgia
10. Georgia's Civic Code
11. Georgia's Civic Procedural Code
12. Georgia's General Administrative Code
13. Georgia's Administrative Procedural Code
14. Georgia's Administrative Delinquency Code
15. Georgia's Labor Code
16. Georgia's Tax Code
17. Georgia's Customs Code
18. Law on Referendum
19. Law on Georgia's Budget System
20. Law on Parliamentary Faction
21. Law on Status of Member of Parliament
22. Law on Lobbyism
23. Law on Parliamentary Rules of Procedures
24. Law on Diplomatic Acts
25. Law on Police
26. Law on Operative and Investigative Activities
27. Law on Constitutional Litigation
28. Law on Private Arbitration
29. Law on Rules of Allotment of Cases and Delegation of Authority to Other Judges
30. Law on Disciplinary Responsibility and Disciplinary Litigation of Common Courts' Judges
31. Law on Attorneys
32. Law on Audit Chamber
33. Law on Conflict of Interests and Corruption in Public Service
34. Law on Public Service
35. Law on Reforms and Development Fund
36. Law on Government of Georgia Structure, Responsibilities and Rules of Functioning
37. Law on State Register
38. Law on State Procurements
39. Law on Legal Entity of the Public Law
40. Law on Legal Acts
41. Law on Registration of Civic Acts
42. Law on Operational and Investigative Activities
43. Law on Inhibition of Illegal Incomes
44. Law on Customs Tariff and Payment
45. Law on Customs Collections

46.   Charter of the Human Rights and Civil Integration Parliamentary Committee
47.   Charter of the Regional Policy, Self-Government and Mountainous Regions Parliamentary Committee
48.   Charter of the Parliamentary Committee on European Integration
49.   Charter of the Procedural Issues and Rules Parliamentary Committee
50.   Charter of the Budget and Finance Parliamentary Committee
51.   Charter of the Parliament Staff Office
52.   Regulations of the Parliamentary Budget Office
53.   Regulations of the Parliamentary Legal Department
54.   Charter of the Government of Georgia Chancellery
55.   Charter of the Office of State Minister for Reform Coordination
56.   Charter of the Office of State Minister on European and Euro-Atlantic Integration
57.   Charter of the Ministry of Internal Affairs
58.   Charter of the Analysis Department of the Ministry of Internal Affairs
59.   Charter of the Special Operative Department of the Ministry of Internal Affairs
60.   Charter of the Ministry of Finance
61.   Charter of the Financial Police of the Ministry of Finance
62.   Charter of the Customs Department of the Ministry of Finance
63.   Charter of the Tax Department of the Ministry of Finance
64.   Charter of the General Inspectorate of the Ministry of Finance
65.   Charter of the Ministry of Justice
66.   Charter of the Information Bureau on Public Officials Property and Financial State of the Ministry of Justice
67.   Charter of the Public Register National Agency of the Ministry of Justice
68.   Charter of the Civil Register Agency of the Ministry of Justice
69.   Charter of the Legal Aid Commission of the Ministry of Justice
70.   Charter of the National Forensic Bureau of the Ministry of Justice
71.   Charter of the General Inspectorate of the Ministry of Justice
72.   Charter of the National Bank of Georgia
73.   Charter of the Financial Monitoring Service of the National Bank of Georgia
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84.   Charter of the General Inspectorate of the Ministry of Education and Science
85.   Charter of the Ministry of Foreign Affairs
86.   Charter of the General Inspectorate of the Ministry of Foreign Affairs
87.   Rules of Procedures of the Constitutional Court of Georgia
88.   Rules of Procedures of the Supreme Court of Georgia Staff Office

89.   Charter of the Prosecutor General's Office
90.   Regulations on Permanent Private Arbitration