Cases of Law-making in Georgia - the Contradiction of Rule of Law and Rule by Law

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Abstract: Institutionalisation of democratic legislative activities and the law-making process in Georgia is facing a challenge with regards to democratic governance, democratisation of the law-making process, and implementation of principles of 'Bottom-up' democracy, as these processes are exhibiting signs of the so called 'Facade Democracy'.
The Rule of Law is a set of rules that are common and acceptable to everyone. The Rule by Law is the condition, under which rulers create a constitution, laws, and regulations, largely aimed at keeping them in power.

This article proposes the hypothesis that in the law-making process run by the highest legislative body – the Parliament, principles of the Rule by Law prevail over those of the Rule of Law. One of the aims of the highest legislative body is to prioritise and protect the interests of the ruling elite through the so called 'Facade Democracy' law-making process. This hinders institutionalisation and democratisation of the current model of government.

The main aim of this article is to analyse the ways the highest legislative body – the Parliament, implements the Rule of Law and the principles of 'Bottom-up' Democracy in the law-making process. The subject of the study is to reveal the mechanisms civil society institutions use to influence and control the law-making process. In order to assess the efficiency of the State and to analyse the events that took place in Georgia in 2010-2014, it is important to study the ways the legislative body – the Georgian Parliament functions. This is because there have been clear indications of an imbalance in the Parliamentary parties and of political interests obviously affecting the law-making process. All social groups are interested in making the highest legislative body, the Parliament, more affective, active and transparent.

1. Introduction

Abraham Lincoln establishes three main postulates of democratic government and democratic governance. According to him, a democratic government is one which *consists of people, is created by people and works for the people* (Boritt 2005). The formation of a democratic government in countries udergoing a democratic transition encounters numerous obstacles. Creation of a modern, democratic, jural state is often constrained and the idea of institutionalising democratic governance – neglected. In order to address the issues occuring as part of the democratisation and transition process effectively and in a timely manner, it is important to identify and analyse them.

Many scolars have been studying problems associated with the process of democratisation. An analysis of the issues characteristic of the transition process reveals some general patterns. One of the issues relates to the third wave of global democratisation, which created a new phenomenon, a new type of regime, called 'iliberal democracy'.

According to analyst Farid Zakaria, in more and more countries around the world, *'democratically elected regimes … ignore the boundaries of their constitutional power and deprive their citizens of their basic rights and liberties.'* (Zakaria 2000). Generally elected, popular leaders do not hesitate to avoid parliamentary and constitutional frameworks and rule the country using presidential decrees, use government machinery against the opposition and the free press, and infringe constitutional human rights. This is the case in many countries in Latin America, as well as in the former Soviet republics. Regular general elections in these countries do not guarantee the supremacy of law, restriction of corruption and good leadership within constitutional limits. All this, limits the independence of state institutions and puts them under the influence of government authorities. In this article, we argue that Georgia should be considered as one of these countries.

The work of researchers from post-communist states indicates that in the majority of post-Soviet states, including Georgia, the so-called ***'hybrid regimes'*** are being formed, which are neither fully totalitarian nor fully democratic. The hybrid regimes are referred to in different terms by different authors: 'semi consolidated authoritarian regimes' (Freedom House 2011), 'partial democracies' (Epstein et al. 2006), 'electoral democracies' (Diamond 1996), 'illiberal democracies' (Zakaria 1997), 'defective democracies' (Merkel, Croissant 2000), 'competitive authoritarianisms' (Levitsky, Way 2010), 'semi-authoritarianisms' (Ottaway 2009), and 'electoral authoritarianisms' (Schedler 2006).

In a transitional society, weakening of various systems is followed by the need to transform social practices and institutions. One of the most important components of democratic transformation is introduction of an effective, institutional law-making system. The formation of a strong legislative authority will provide a framework for the Executive and Judicial branches. This will facilitate planned development of democratic processes in the society, enabling the society to control and regulate the processes.

There are two main types of democratic-pluralistic governance principles and law-making: '***Top-Down'*** and ***'Bottom-up'***. The traditional model of law- and policy-making considers the process as a combination of a number of actions: identification of the problem, followed by elaboration of agenda, formulation, approval, implementation and evaluation of the law. These steps are predominantly implemented by the Government and legislative authorities. For this reason, in his assessment of the

process of public policy-making in his book '*Top Down Policymaking*', Thomas Dye argues, that public policy in the United States, as in all nations, reflects values, interests, and preferences of the governing elite (Dye 2001).

According to Thomas Dye, in countries undergoing democratic transformation, representation of the 'demands of the people' in public policy is more a myth than reality. Despite the fact that the myth is widely accepted by the public, as well as researchers, *public policy is actually made from the top down, and not otherwise*. The 'democratic-pluralistic' policy-making model is governed by citizens. The 'Bottom-up' policy-making model implies that, in an open society, individuals and groups can identify any problem. External actors can engage in the policy-making process for discussion, debates and decision-making. It is assumed, that various democratic institutions promote citizens' influence 'bottom-up' (Dye 2001). *One of the most important components and indicators of a Democratic, 'Bottom-up' policy-making model is a democratic law-making process*. ***Institutionalisation of democratic legislative activities and law-making in Georgia is facing a challenge: the democratic law-making processes, and principles of 'Bottom-up' democracy, often exhibit signs of the so called 'Facade Democracy'.***

The analysis of a country's legislative processes is one of the main indicators of the quality of its democracy. It needs to be established to what extent the law-making process serves the interests of common welfare. How far is it based on the principles of 'Bottom-up' democracy (directly or indirectly) and **'the Rule of Law'**, as opposed to **'the Rule by Law'**?

As a rule, hybrid regimes fail to create mechanisms capable of balancing the power 'Top-down' and 'Bottom-up' within the system (Magen, Morlino 2009). According to ***the concepts of pluralism and polyarchy***, the development of state institutions has crucial importance in achieving democracy. Polyarchy, which means 'rule by many', is a concept coined by the American political scientist Robert Dahl. It denotes the development of democratic institutions within a political system, which leads to the participation of a plurality of actors. From this perspective, democracy is not perfect, but real. Transformation of the political system – i.e. transition from a hybrid regime to democracy – in the near future, entails its popularisation and 'polyarchy-sation' (Dahl, Lindblom 1953). Western scholars often refer to European and American political systems not as democracies, but as polyarchies. 'Polyarchy' means pluralism, where the power is not concentrated in the centre. This is a realistic theory of democracy - a ***'real democracy'***.

In order to assess efficiency of the State and the events underway in Georgia in 2010-2014, it is important to analyse the ways the legislative body - the Georgian Parliament functions. This is because there have been clear indications of an imbalance in the Parliamentary parties and of political interests obviously affecting the law-making process. All social groups are interested in making the highest legislative body, the Parliament, more affective, active and transparent. Despite the changes declared after the 2012 parliamentary elections, the highest legislative body still retained, in its form and essence, qualities of autocratic management characteristic of Soviet institutions.

The period of 2010-2014 has been identified as the focus of our research due to its transitional nature: the change of regime in Georgia from old – President Saakashvili government – to new – Georgian Dream government. Despite the fact that pre-election promises of the new government around future

reforms and their criticism of the old ruling party included the very issues discussed in this article, these still remained problematic after the government change.

Many legislative amendments made in 2010-2014 have been criticised by political and non-political, international and local organisations (including the Venice Commission), as well as academic circles and even the President of Georgia (presidential vetoes). The fact that not only the former President Mikheil Saakashvili, who was in opposition to the new ruling party, but even the new President – Giorgi Margvelashvili, exercised the right to veto several times, reveals that there was no general consensus on the adoption of the laws. This applies to such important legislative amendments as: the Constitution of Georgia (indirect election of the President); the so called Law on Secret Surveillance; the change of the electoral system (repeal of majoritarian mandates), etc. Many international and local actors observe shortcomings in these changes in terms of democratisation, and argue 'misappropriation of power', 'misuse of power' and 'abuse of power' (See for example: TI Georgia et al., 2015; Freedom House 2011; The World Bank 1999-2011; GYLA, DRI 2017).

According to some experts, 'Despite the fact that the 'body' of democratic government in Georgia developed in the form of state institutions, the way in which the state institutions regard themselves is still problematic. The fault with the Georgian government system lies with the unrestricted nature of its legilative power, reflected in the lack of 'Check and Balance' in Judicial and Executive institutions.' (Freedom House 2011)

1.1 Goals and Methodology of the Research

In modern theoretical sociology and polytology there is broad consensus on the following: in countries undergoing a democratic transition, the government strives towards maintaining power employing a variety of methods, some of them non-democratic. Legislative regulations and 'loyal' bureaucratic offices created by the government confront representative bodies in order to retain power through any means available to them, such as falsifying information, among many others (Gregoire 1974; Greenwood, Wilson 1982).

The concept of 'Jural state' was developed in German legal literature in the beginning of the 19th century (in the writings of K. T. Welcker (1813), R. Mohl (1833) and others). Subsequently this term has become widespread. In English literature, the term **'Supremacy of Law'** or **'Rule of Law'** (Loughlin 2009) is used to denote the same phenomenon.

In his work *'Introduction to the Study of the Law of the Constitution', Albert Venn Dicey* states, that the Rule of Law, first of all, entails absolute supremacy of regular law over arbitrary power. It also implies equality before the law (Dicey 1915). **The Rule of Law is a set of rules that are common and acceptable to everyone. The Rule by Law is the condition, under which rulers create a constitution, laws, and regulations, largely aimed at keeping them in power.** (Dicey 1915).

In Georgia the issue of establishing '***the Rule of Law'***, one of the cornerstones of modern democracy, is especially acute. It is directly connected with the process of establishing principles of 'the Rule of Law' in a democratic system, as opposed to those of 'Rule by Law'. Legitimacy of the supreme legislative body is

not complete solely through the body being elected. The legislative process also has to embrace principles of 'bottom-up democracy'. This is conditional on the ability of various social institutions to consistently demonstrate that their proceedings are reasonable, justified, public, objective, transparent and efficient.

Therefore, we need to analyse the extentent to which other interested acotrs, becides the ruling elite, are involved in the legislative process. These actors include high rank officals, like the President's Administration, the Public Defender, the opposition (parliamentary and non-parliamentary), the civil society, civic actors and representatives of academic circles. We need to establish how far their recommendations, ideas and arguments are taken into consideration in the law-making process. It is important to asertain whether the law-making process is legitimate and how 'bottom-up' democracy is exercised in Georgia. ***The main aim of this article is to analyse the ways the highest legislative body – the Parliament, implements the Rule of Law and principles of 'Bottom-up' Democracy in the law-making process. The subject of the study is to reveal the mechanisms civil society institutions use to influence and control the law-making process.***

As part of the sociological study of institutionalisation of democratic law-making principles and the legislative system, this article focuses on the analysis of institutions involved in the process, in the context of the transforming Georgian Sate and society in 2010-2014. The article analyses specific examples (cases) of Georgian law-making, wich mostly aid law-enforcement agencies in increasing their power and influence. We have created a general picture of legal practices and general trends demonstrating the response of the legislative body to various initiatives by the civil sector and the opposition (parliamentary and non-parliamentary). We have looked at the folowing cases: secret surveillance, reasonable doubt, suppression of political opponents and registration of crime statistics.

2. Law-making and Legal Practices in Law-Enforcement Agencies - Case study

2.1 Case I: Secret surveillance

One of the major pledges of the new government was to end illegal surveillance, allegedly practised by the government of the former President Mikheil Saakshvili in order to suppress his political opponents. Representatives of the civil society and opposition parties have criticised Saakshvili's government for excessive and uncontrolled surveillance, conducted for the purposes of gathering information, not only on criminals, but also on political opponents, mass media, civil activists and alleged agents. The secret surveillance was not controlled or monitored sufficiently by the Parliament or by the Judicial system, and it has been argued that the system was used to gather secret information on any person of interest to the government (TI Georgia 2013).

The basics of Secret Surveillance in Georgia are regulated by 'the Law on Operative Investigative Activity'. According to the law, law-enforcement authorities have the right, among others, to record private phone conversations[1]. Article 8 of this law stipulates, that agencies conducting investigations can monitor private and public internet communications of citizens at their discretion. This means that

[1] *The Law of Georgia on Operative Investigative Activity* Article 7, sub-paragraphs 'h'.

private communications can be monitored without a court warrant, as this is not specified as a requirement. The law does not clearly define private and public communication. The article, and specifically the section on private internet communication, is vague and leaves room for interpretation. The same law states that the surveillance could be conducted openly or secretly. This can be interpreted as, the right to monitor any person's personal communication without a special court order and using clandestine methods.

Another section that caused controversy and criticism by the civil society was Paragraph 2 of Article 8 of the Law on Operative Investigative Activities. The law outlines that: 'If information about a person's criminal activities is incomplete and requires additional data, it is possible to extend the investigation by six months, at the discretion of the head of the investigation agency and with the approval of a prosecutor'[2]. A judge's approval is not specified as a requirement. This means that any type of secret surveillance, including using phone, video, audio, photo, internet and other means, can be undertaken without a judge's approval, thus leaving this activity and the agency implementing it outside judicial control. The law gives a prosecutor the right to extend terms of an investigation, including secret surveillance and eavesdropping, without a court warrant.

According to a special report filed by one of the most active watchdog organisations (Popkhadze, Khutsishvili, Burjanadze 2011; TI Georgia 2013), the law did not specify which categories of crime required judicial approval to use surveillance. According to the law and its interpretation, this method could be used in the investigation of almost all crime categories outlined in the Criminal Code, and for any criminal case that might lead to a two-year sentence. The law did not specify categories of people who could be put under surveillance.

Nor does the law restrict surveillance to extreme circumstances only. This omission provides room for interpretation and leads to an overuse of this method, even in cases where other investigation techniques could be used to obtain information about the suspect.

The role of judges, and the judicial system in general, has also been subject to criticism with regards to the lack of control and monitoring of the system. It has been argued, that if a prosecutor requests a court warrant for surveillance, it is almost never rejected. It is also alleged, that judges are mostly unaware of details of each case, as the information is qualified as state secret, so the judges cannot make informed decisions on whether secret surveillance is absolutely necessary (Popkhadze, Khutsishvili, Burjanadze 2011; TI Georgia 2013).

A set of surveillance-related legislative amendments was submitted to the Parliament in July 2013, however it was not until August 2014 that the first part of the changes was passed. Overall, the amendments provided positive changes and reduced fuzziness in legislation, however, surveys curried out in 2013-2015 show (CRRC 2013-2015) that public perception of surveillance has not changed much in Georgia since 2013. The perception that the Ministry of Internal Affairs (hereinafter – MIA) continues to have access to personal data persists. It is believed, that law-enforcement agencies have the ability to wiretap citizens' private conversations and are using this ability illegally – illegal surveillance still takes place. A review of the Georgian Dream governance performed by non-governmental organisations in 2012-2014, provides a critical assessment of the issue of secret surveillance and wiretapping (TI Georgia

[2] *The Law of Georgia on Operative Investigative Activity* Article 8, paragraph 2.

2015). The integration of a section on secret investigation procedures in the Criminal Procedural Code by the Parliament was a significant step forward. Through this change, general standards of Procedural Legislation were extended to secret investigation procedures, including secret surveillance and wiretapping. According to the bill, the MIA retains its direct access to telecom operator servers, however, on obtaining a court warrant, the Ministry is now required to seek authorisation from Personal Data Protection Inspector's Office, in order to carry out surveillance (Turashvili, Iakobidze 2017).

Despite long-term campaigns by civil society organisations and expert recommendations, according to non-governmental organisations (Turashvili, Iakobidze 2017), the Parliament has preserved the right of the MIA to carry out surveillance and wiretapping without adequate external control. This considerably undermines the standards of secret investigation procedures adopted by the Parliament in August 2014. The NGOs put forward the following arguments (TI Georgia 2014):

- **Direct access to telecommunication data remains with the MIA. Removing direct involvement** and control by the MIA was the main goal of the legislative reform, the need for which was stressed in all expert reports.

- **The Personal Data Protection Inspector becomes an authority carrying out surveillance/tapping, whereas its duty is to monitor the entire process and eliminate unlawful actions. Such a model is not found in any other country.** The proposed system rules out the possibility of external control. By including what was envisaged to be a personal external control mechanism (the Inspector) in the surveillance system, its role as an external control and oversight mechanism is undermined.

- The offered two 'keys' in cases of urgent necessity, meaning that the **MIA could again carry out surveillance and tapping without involving the Inspector.** The two 'keys' are put into effect only during secret tapping and recording of a telephone conversation, while the metadata (time, place, duration of a call) as well as Internet traffic (including communication content) are gathered by the MIA without any control or the two keys.

According to the NGOs participating in 'This Affects You' campaign, aimed against secret surveillance and interference in private life, the latest legislative initiative by the Parliamentary Majority attempts to undermine 1 August, 2014 laws, and law-enforcement authorities are using this opportunity to include provisions acceptable to them (TI Georgia 2014).

2.2 Case II: Reasonable Doubt

One of the most strongly criticised law amendments was adopted by President Saakashvili government in 2010. Article 9 introduced a new concept – that of 'reasonable doubt'. The police were given the right to stop/detain and frisk citizens on the grounds of 'reasonable doubt'. According to the amendment: 'The police have the right to stop a citizen if there is reasonable doubt that this person might perform a criminal act. The length of time for which the person can be detained, is the time reasonably required for confirming or rejecting the reasonable doubt'[3]. These conditions and the term 'reasonable doubt' itself are very vague. The law did not specify what is implied under 'reasonable doubt'. It did not specify

[3] *The Law of Georgia on Police,* Article 9, norm 1, 2.

how this procedure should be conducted, or how frisking is different from an actual search procedure. There is no procedure for documenting the process and the act of stopping a citizen and frisking them. This, naturally, makes it impossible for a court to determine if a police officer's decision or action was unlawful. It is argued that this fuzziness was used to concentrate power in the MIA, to give more power to the police, and use this power and the law to intimidate citizens. The government was accused of using this law against its political opponents, and to secure its own power.

According to the new Law on the Police, which came into force on 1 January, 2014, 'stopping citizens on the grounds of reasonable doubt' is replaced with 'questioning a person'. If the police stop a citizen on the grounds of 'reasonable doubt', the law-enforcement officers are obliged to prove reasonability of their suspicion, otherwise the actions of the police are considered illegal (Newsport 2014). According to a representative of the new government, the then Deputy Minister of Internal Affairs Levan Izoria, the concept of 'reasonable doubt' in the old Law on the Police was 'an abstract concept' (Info9 2013). Consequently, the current government replaced it with 'reasonable grounds to believe'. He maintains, that this concept is not 'abstract', because the term 'reasonable grounds to believe' is defined as: a fact and/or information that would be sufficient for an impartial observer, a third party, to draw conclusions based on the circumstances (The Law of Georgia on Police 2013). According to Article 19 of the Law, a police officer has the right to question a person if 'there are reasonable grounds to believe that the person has committed or will commit an offence' (Liberali 2014). According to the Deputy Minister, 'The new Law on the Police qualitatively differs from the old one because of this change, as no one knew what 'reasonable doubt' was based on. The concept was opposed to the important governmental principle of certainty, and left a lot of room for interpretation and self-sanctioned actions' (Ick 2013).

Despite this statement by the Deputy Minister, it was this amended Law that became the basis for police raids in Tbilisi on the night of 24-25 August, 2013. Police officers stopped, searched and checked a great number of citizens (Tabula 2013). This was announced as an act of preventative measures by the government. For raids to be conducted legally, a substantiated assumption is required, as well as a unity of facts indicating that a certain person potentially committed a crime. This would indicate that the police were exercising their right. But searching persons randomly and in large numbers, throughout several days, creates doubts that the purpose of these raids might not have been to detain a certain person or persons. According to the Georgian Young Lawyers Association (hereinafter – GYLA)') (Popkhadze, Khutsishvili, Burjanadze 2011), the norm of 'reasonable grounds to believe' in the amended Law on the Police, is often associated with a restriction of Human Rights. For example, in cases of: frisking, identifying a person, questioning a person, special police control, etc. In the new Law on the Police (as well in the old one), frisking is defined, but the specific grounds and procedures to implement the measure are not written down. Unlike the old law, which left room for interpretation, the new law more specifically explains what frisking means: 'Frisking of a person means patting down his/her clothing with hands or with a special device or instrument'. It is important to properly and reasonably define the term, as observation of the subsequent practices reveals.

Since one of the criticisms of this postulate was that it was vague and allowed for overuse of police power and infringement of human rights, the new government made changes to this section and attempted to bring more clarity to the article. However, according to GYLA lawyers, the clarification is not specific enough, and the risk remains, that the police will use it as they see fit.

2.3 Case III: Suppression of Political Opponents

There are several articles in the Law on the Police and the Administrative Law that arguably provide a lot of room for interpretation by the police, allowing them to use power at their discretion, and resulting in the power being used disproportionately, especially during demonstrations against the opposition.

The police became increasingly political, more so after President Saakashvili's power was challenged in November 2007, and the main function of the police was reported as undermining the political opposition. In the wake of the public protests of 2007-8, reports of mistreatment and blackmail of activists from different political parties by the police have continuously been emerging, and were well documented by several NGOs (Humanrights 2008). After the protests, the authorities extensively used administrative punishment to fine or lock up political activists and protestors that were detained at or following the political opposition protests. This was done with numerous violations of the legal process (FIDH 2009). In 2011, the then Council of Europe Commissioner for Human Rights Thomas Hammarberg warned against the *'serious deficiencies marring the criminal investigation and judicial processes in a number of criminal cases against opposition activists, which cast doubts on the charges and the final convictions of individuals concerned.' (*Hammarberg 2014). However, this did not prevent further occurrence of similar cases.

According to local NGOs, there are certain provisions in Georgian legislation that have been manipulated by the government to suppress political opponents. For example, under **Article 173 of the Code of Administrative Offences of Georgia**, the State has the power to curb resistance to legal orders using law-enforcement authorities. This mechanism is of great importance for the protection of order and rights of others, as well as to ensure high authority of the police. However, law-enforcement authorities have frequently utilized this article as 'effective' means for curtailing the right to assembly and expression, mostly against protesters and rally participants. It was not Article 173 of the Code alone, but also a set of additional procedures (Court's acceptance of a single statement of a police officer, refusal of credible evidence submitted by the defence), that created the basis for possible manipulation.

International organisations have long been discussing this issue as particularly problematic, and the Human Rights Watch prepared a special report on the application of Article 173 of the Code against international human rights standards, entitled 'Administrative Error'. Lawyers interviewed by the Human Rights Watch (Human Rights Watch 2011) confirmed that judges often refuse to consider additional evidence presented by the defence, and decline motions to hear defence witnesses, basing their decisions exclusively on police testimonies and protocols. Also, using pre-trial detention for administrative offenses (by their very nature, minor, non-violent offenses) is inconsistent with human rights standards banning arbitrary detention. Under these standards, pre-trial detention is not the norm and is justifiable only where necessary to ensure proper administration of justice (Human Rights Watch 2012). All this may be considered incompatible with Article 5 (everyone has the right to liberty and security of person) and Article 6 (which protects the right to a fair trial) of the European Convention of Human Rights.

Frequent application of Article 173 of the Code is evidenced by official statistical data. In particular, according to the letter by the Interior Ministry's Main Division for Human Rights Protection and

Monitoring addressed to GYLA, N1288675 dated July 2, 2013, administrative imprisonment was imposed on a total of 1152 people under Article 173 of the Code in 2011, 681 in 2012 and 152 in the first half of 2013 (GYLA 2013).

2.4 Case IV: Registration of Crime Statistics

According to the statements of six non-governmental organisations (IT, OSGF, GDI, SIDA, ISFED, article 42), 'a reasonable impression' ((Liberali 2013) is created, that in the period of the new government being in power, the number of crimes has increased compared to Saakashvili's government. In addition, these organisations believe, that comments and responses of the MIA on this issue are often inconsistent and contradictory (Tabula 2014).

Registration of crime statistics is an important function of the MIA. It is one of the mechanisms for evaluating the effectiveness of MIA's work. In assessing the crime rate, official and non-official sources predominantly refer to the statistics provided by the MIA. The Information and Analytical Department of MIA has presented a new methodology of crime registration, which has been used since January 2013 (Geonews 2013). Mixed discourses on the crime statistics strategy and methodology started appearing directly following MIA's introduction of the new methodology for crime registration. Opinions on the objectivity of this methodology vary, both in the non-governmental sector and in the political space. The MIA claims, that the number of crimes has not increased compared to the same period in previous years. Some politicians and non-governmental institutions express the opposite point of view, namely that there is evidence proving the rise in the crime rate, and that the MIA attempts to conceal this trend through disseminating 'non-objective statistical' data. These sources name this as the real reason to replace old crime statistics methodology with the new.

The MIA claims that non-objective crime statistics were widespread in the period of President Saakashvili's government. The main argument is as follows: during Saakashvili's rule, the registration system did not record cases where no charges were made, in order to prevent an increase in the number of unsolved cases.

The assessment of objectivity of the old and new methodologies for crime registration is not straightforward, as the experts do not provide impartial opinions or analysis. One point is clear, part of the society doubts the necessity of changing the methodology and mistrusts the data based on the new methodology. All of the above raises concerns, that the MIA is changing existing formal rules of crime registration methodology, to serve their own interests. This happens outside the commonly accepted norms and formal order adopted through public discussion.

Also, no measures have been taken by the government to control crime registration. One reason for this is the new government being in competition with its predecessor (Kakhidze 2013). Excessive politicisation of crime statistics is dangerous – the demand in low rates encourages concealment of crime. The police may want to be credited for low crime rates and, since the registration is in their hands, this creates the danger of crime being underreported.

3. Conclusion

The given analysis of all cases/indicators - Secret Surveillance, Reasonable Doubt, Suppression of Political Opponents and Registration of crime statistics, shows that in the law-making process run by the highest legislative body of Georgia – the Parliament, the principles of the Rule by Law prevailed over those of the Rule of Law in the period of 2010-2014. One of the aims of the highest legislative body was to prioritise and protect the interests of the ruling elite through the so called Facade Democracy law-making process. This has hindered institutionalisation and democratisation of the current model of government.

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