

“Non-Childhood” Disease of “Informality” in Georgia: Role of Elites

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ABSTRACT. Based on the neoinstitutional methodology, the logic of informal institutionalization process and its impact on economic and social development is analyzed in the paper. It is accepted that "gap" between the formal institutional model and the real practices of elites causes emergence of "informalism" as "institutional trap". Simultaneous use of formal and informal "codes" of behavior promotes fragmental institutionalization of social order. After gaining independence the process of informal institutionalization in Georgia can be divided into several stages. "Pre-revolutionary informalism" was characterized by "Corruption Pyramid", favourable collaboration of criminals with the government through the institute of quasi-legitimate "Thieves-in-Law", contradictory nature of the formal rules. Manifestations of "Rose informalism" are infringement of property rights, "coercive investments" using "social responsibility of business" formula, exclusive conditions created by elites for their businesses, special "non-budgetary" accounts as a corrupted institution created to combat corruption. The signs of "post-Rose informalism" are: nepotism and cronyism in public service, couloir decision-making, "Revolving Door" and "Old Boy Network", Informal governance (so-called "Solo-cracy"). On the basis of retrospective analysis of the post-Soviet "informalism", hypothesis of "heredity" and "variation" of informal institutions has been put forward. Traditional informal institutions, on the one hand, will be preserved, while experiencing "mutation", being transformed into new forms, on the other hand. Georgian "informality" is chronic, so-called "non-childhood" disease, which is a peculiar symbiosis of "cultural heritage", "post-traumatic syndrome" and "elite" arbitrariness, with diverse manifestations. This scenario of informal institutionalization leads to high level of uncertainty in the economy, formation of negative institutional expectations. © 2018 Bull. Georg. Natl. Acad. Sci.

Key words: elite, formal rules, informal institutionalization, institutional „trap“, “cultural determinism”, institutional transformation

The problem of informal institutions is one of the most popular discussion topics of political and economic science in recent decades. "Informality" is an immanent feature of any society that may have different impacts on the behavior of individuals and

the formal institutions. However, the "competing" informal institutions that do not just change formal rules but also cause negative effects are often more frequently encountered in the focus of the researchers.

The "gap" between the formal institutional model and the actual practices of the elites is characteristic of the majority of post-Soviet states. When the rules of the game are formed for the sake of interests of a small number of political forces, the constellation of formal and informal institutions distorts the principles of democracy, the rule of law and the effective political and economic governance [1]. According to the institutional approach, institutions do not represent neutral mechanism in the political process. Institutions can generate equilibrium or disequilibrium on political markets and influence political consequences.

In literature, different characteristics of informal institutions are discussed, informal restrictions are important and not as an addition to formal rules, despite discrete institutional changes, societies retain old elements [2]. Interaction between formal and informal institutions is determined by two criteria: 1) Effectiveness of formal institutions depending on how well the actors obey their instructions and whether their regular control is performed; 2) Compatibility quality between the goals realized through the informal institutions and the expectations of the results that are eventually attainable under the formal institutions [3]. Four rules of interaction result from these criteria: complementary, accommodating, competitive and substituting. The last two rules are especially interesting for our analysis, as they most characterise post-communist Georgia since the 1990s; - certain part of the informal institutions complement the formal institutions. These informal institutions, together with the formal institutions, create an environment for the legal activity of people, including economic activity. Such informal institutions appear to be rational (4: 18-20); - distributable essence of maintaining vicious informal institutions is the distribution of social resources (money, power, status, etc.) in favor of the elite groups [5: 38]; - formal and informal institutions are mutually interlaced within the same institution. This is

"harmful" symbiosis of a formal "membrane" and informal "core". The reason for the survival and vitality of informal institutions is the difference between governance based on the written rules and the governance based on relationships.

The Logic of Informal Institutionalization: What do Elites Want?

The logic of reformers (elite) at the time of importing (or designing) institutes often does not coincide with the views of "users" of these institutions regarding the order of the *socium*. Conclusions on institutional changes are based on the assumption of how people act in a various systems of rules. An example of the use of such logic is the legal system of Georgia where the laws are partially copied from "foreign samples" and partially specially designed to break patterns of behavior existing in society. However, they often do not consist with at first, actors' normative conceptions on fairness, and secondly, the usual rule for them for conflict resolution. This resistance is more or less overcome within the informal discourse of the institute users. "Gap" between the real practice and formal rules create institutional traps. Actors are forced to use these rules in order to adapt, evade or violate "their" own purposes. In addition, the imported institution has been weaken and can no longer perform normative and socialization function. When rule of law is officially declared value, but in fact, other norms that substitute the laws are more functional, it means that formal rule in human consciousness is perceived not as an orientation or a sample, but as some "distances" that should not be overcome. This perception of the law creates a special reality: staying within the boundaries of the law means manipulating its norms. The objective of the elite is not the unconditional fulfillment of formal rules: the deliberate ambiguities in the formulations will bring laws closer to unwritten norms, shape the thinking style that is focused on intuition and life experience.

One of the elements of the logic behind informal institutionalization is the uncertainty in the interpretation of formal rules. Elites almost always

leave a place for an uncertainty and it is not possible to fill all gaps in legislation, or completely consciously create an area of uncertainty. Monopoly of elite on the interpretation of contents of the law determines the selectiveness of control for the law enforcement. "Elite arbitrariness" creates a different institutional order in the process of replacing formal rules with an informal norms: "playing according to rules" is changed by "playing with rules". Reciprocity norm becomes devaluated: A citizen is forced to turn into a "petitioner". In other words, the interpretation of formal rules depends on rationality of communication - the ability to deal with uncertainty using informal interaction.

Is formedes the institutional compromise, when agents are entitled to violate established formal rules within the certain limits. Simultaneous use of formal and informal "codes" of behavior makes established institutions efficient for „their men” and inefficient "for others", promotes fragmental institutionalization of social order.

Informal Institutionalisation in Georgia: Post-Soviet Retrospective.

What type of Georgian "informalism" is - hereditary or deferred, Chronic or treatable? After gaining independence, the Georgian state fought for the strengthening of the government and actual implementation of political decision. The logical scheme of "pre-revolutionary informalism" can be presented as follows:

- Attempts to balance various power groups resulting in the formation of a "corruption pyramid" organized by the state (this phenomenon was widely spread in the first phase of transformation) [6];
- "Corruption Pyramid" as a significant informal instrument for the distribution of economic privileges between different power groups. The scale of these political practices reflected inplacement of Georgia among the top ten corrupt countries in the Corruption Perception Index;

- Favourable collaboration of criminals with the government and its representatives through the institute of quasi-legitimate "Thieves-in-Law". funding election campaigns, participation in the elections, controlling important economic sectores (hotels, restaurants, retail), "reinforcing" the issue of distribution of economic privilege based on their own power sources [7];
- Multiplicity of the formal (legal) rules and their contradictory nature, the complexity to protect them as institutional prerequisites for corruptive pyramids. As a result - taking bribes by public officials to provide some service [8: 167-184];
- System of economic privileges and protectivism for entrepreneurs related to the governing elite - In 1997-2003, 74 amendments to the Tax Code allowed "privileged businesses" to take advantage of the exceptions. As a result, a large part of Georgian business was shifted to the shadow economy.

Despite the modernization policy of the "Rose Elite", that was reflected in the creation of a "functioning state" and the introduction of a new system of efficient service to the public the practice of informal governance remained as a "cultural heritage" of the previous government.

Despite the mosaic diversity of "Rose informalism", it is possible to single out its essential characteristics:

- Infringement of property rights, expressed in as "voluntary grant" with the cover of deprivatization, when privatized objects, with the pretext of correcting the mistakes made in the initial privatization process, were deprived using pressure by law enforcement agencies and for the purpose of re-privatization (At the beginning of 2011 there were 1563 facts observed of leaving property on behalf of the state, 9860 cases of property granting to the government in 2004-2012 and the value of granted property amounted to 163,175,118.86 GEL, 11,568,836.73 dollars and 10,100 euros).

- "Coercive Investments" using formula - "social responsibility of business". In the privatization of hospitals, insurance companies were asked to make significant investments in the hospitals market. This symbiotic relationship between the state and the business is also clear by the fact that the state tried to compensate for the involuntary investments by the distribution of the market between insurance companies;
- Special "non-budgetary accounts", which were created with the ministries in 2003 for the "Freedom Fee" payments by the previous authorities. Part of these funds were transferred to the state budget. Later, it received a form of unofficial taxation. Since non-transparency of non-budgetary accounts is a source of corruption, the case clearly indicates how elite can create and use a corrupted institution to combat corruption;
- Exclusive conditions created by elites for their businesses with the principle: "Grace to our friends, Law for others" (from Latin: Bonitas in suos, justitia in omnes). The proof of favouritism and internal arrangements with business representatives, is for example, the use of tax pressure over the media business: the 2010 tax amnesty of the state wrote up to 36 mln. GEL in overall to three TV companies - Rustavi 2, Imedi and Public broadcaster. The TV company "Kavkasia" paid 30 000 GEL tax debt in the spring of 2007 through the sequestration [9].

The "post-Rose informalism" is, on the one hand, characterized by "traditional", "hereditary" patterns of "pre-revolution" and "rose informalism" and on the other hand, has certain uniqueness. The new elite eliminated the harmful practice of state pressure on businesses [10: 4], but could not make itself free from the vicious practice of "informalism":

- Nepotism and cronyism in public service - despite the improvement of the legislative framework of the civil service (e.g. a new rule

for vacancies in public service), the government has not been able to establish free public service independent from political influence;

- Decision-making in couloirs - in the document prepared bu NGOs – joint assessment of work of Georgia's constitutional commission" - to the Venice Commission it is noted that: "...the criteria according to which experts were selected, is vague, leaving the impression that some of the selected independent experts were either affiliated with the governing team or had similar opinions to the governing team..." [11];
- "Revolving Door" (movement of individuals between positions in the public and the private sectors) and "Old Boy Network" (an informal exclusive network that connects members of the social class, profession or organization to ensure distribution of communication, information and goodwill/influence). "The Old Boy Network" is considered the way of doing business by elite. In addition, this phenomenon has acquired legal-organizational forms in certain cases in Georgia. Various investor companies and experts associated with them actively started establishing NGOs [12: 11];
- Informal governance, so called "Solo-cracy", the essence of which is gathering informal and full power in the hands of a person who has no state responsibility or obligation [13]. When unauthorized persons are involved in resolving specific state issues, this reinforces the system of "patron-client networks", while weakening the "signaling" function of legal institutions.

Such a scenario of informal institutionalization and institutional volunteerism of the elits causes, on the one hand, "the high uncertainty level of the economy and on the other hand, formation of negative institutional expectations", when economic agents do not trust legitimate system of rules and try to replace it with informal rules (especially when an example of such replacement is shown by the elites). In the case of developed civil society, state decisions are the prerogative of

the elites, but not their "internal affairs", because they are under the control of the masses. The mode, in this case, becomes less "elitocentric". Transformation to the "open access order" takes place gradually along with the fulfillment of certain conditions, one of which is to strengthen the rule of law, first of all for the elites themselves [14]. Throughout the history of independence in Georgia, the process of electing the institutions was not controlled by the society, but by the elites. Almost thirty years of experience makes us suspicious of the possibility of "modernization from above" of the Georgian institutions and the economy, regardless of how this approach is explained: by the tradition, passiveness of the masses or political preferences.

Georgian Informalism: „Cultural Heritage“, „Transformational Syndrom“ or „Arbitrariness of Elites“?

With the logic of cultural determinism, prevalence of the "vicious" informal institutions are conditioned by historically determined arbitrary rule of government, which was accompanied by repressive practices and defensive reactions to the masses. Therefore, in the Soviet period, the clientelism, shadow economy or "thief-in-law" institution, became a fierce resistance of the "weak" individuals. In the post-Soviet times, such situation has further deepened, as these institutes of informal management proved their functionality, becoming a resource for adaptation in the uncertain perspective.

If cultural heritage determines economic and social behavior, we can conclude that the "vicious" informal institutions are almost fatal in Georgia. Because "demand on justice" of consumers of public goods does not exist due to the lack of trust towards the state and the patronage-clientele connections, any attempt to establish the rule of law will be unsuccessful in any short-term perspective. Some research data indicate the attitudes and values of Georgians in favor of this thesis [15]. However,

as evolution of states with "economic miracle" shows, under the rapid economic growth, cultural characteristics can change over two-three decades. Furthermore, as experience demonstrates, "weapons of weaks" are formal norms of legislation in the struggle for socio-economic rights, and not informal institutions: court suits and noisy public campaigns are examples of this in Georgia. This does not mean the lack of "demand for justice", but the inability of formal rules or their abuse. In this case, the attitudes and orientations of the masses are not the cause of informal governance, but its consequence.

With a more optimistic approach, the vicious informalism is a peculiar "post-traumatic syndrome" of "revolutionary" transformation. The transplantation of new institutions in the "old" institutional environment causes the failure of the administrative potential of the state and the inability to comply with formal institutions. Therefore, informal institutes temporarily complement the vacuum created and play the role of minimizing transaction costs. "Informalism" is "similar to stitches or plaster," which allows the tissue to heal, while the injured organism is intensifying its potential for "nurturing" new institutions. From this point of view, "informalism" is like "childhood disease ", which can be delayed but still, can be cured.

In the first years of Georgia's independence, due to the apparent weakness of the State's administrative potential, formal institutions were gradually oppressed and replaced by informal ones and democratization process as seen above, was followed by various types of actors claiming the name of the state. After the Rose Revolution, such events have been either shattered or were easily "built in" in a new institutional environment. At the same time, the formal "rules of the game" became the tool for selective use in the hands of the elites [16: 328-329].

The "Rose" experience of Georgia shows that "post-traumatic syndrome" may grow into "chronic

disease". The forms of domination, which have been successful in practice, can be steadily reproduced and form new types of regimes homologous to the previous types. Such heredity (despite generational changes) is preserved due to the perceptions regarding the principles of the functioning of the government. Therefore, there is always a possibility for complete or partial restoration of the previous order [17].

Our approach to analyzing informal institutions is based on the thesis that Institutions are not necessarily efficient; rather they or at least the formal rules, are created to serve the interests of those with the bargaining power to create new rules. Thus, the formation and strengthening of vicious institutions is the result of deliberate actions.

Conclusion

Throughout the existence of the independent state of Georgia, elites have maintained and reproduced certain types of informal institutionalization, independent of formal institutional frameworks. The retrospective of post-Soviet "informalism" shows that "populations" of informal institutions in Georgia are characterized with "heredity" and

"variation". Traditional informal institutions, on the one hand, will be maintained, while undergoing mutation, transforming into new forms (e.g. horizontal corruption - vertical (elite) corruption; autocracy – solo-cracy etc.); Georgian "informality" is chronic, so called "non-childhood" disease, which is a peculiar symbiosis of "cultural heritage", "post- traumatic syndrome" and "elite" arbitrariness, with diverse manifestations. The current scenario of informal institutionalization leads to: the economy with the high level of uncertainty and the formation of negative institutional expectations; strengthening patron-client networks in the legal system; social animosity and nihilism in the society. Experience makes us suspicious of the possibility of "modernizing from top" of the Georgian institutions and economy, since the uncontrolled institutional choice is stimulating the arbitrariness of the elites and "limited access ordere".

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ეკონომიკა

„არაფორმალურობის“ „არასაყმაწვილო სენი“ საქართველოში: ელიტების როლი

ი. ბალარჯიშვილი

ივანე ჯავახიშვილის სახელობის თბილისის სახელმწიფო უნივერსიტეტი, თბილისი, საქართველო
(წარმოდგენილია აკადემიის წევრის ვ. პაპავას მიერ)

სტატიაში, ნეოინსტიტუციონალურ მეთოდოლოგიაზე დაყრდნობით, გაანალიზებულია არაფორმალური ინსტიტუციონალიზაციის პროცესის ლოგიკა და მისი გავლენა ეკონომიკურ და სოციალურ განვითარებაზე. დადგენილია, რომ „გარღვევა“ ფორმალურ ინსტიტუციურ მოდელსა და ელიტების რეალურ პრაქტიკებს შორის განაპირობებს „არაფორმალიზმის“ როგორც „ინსტიტუციური ხაფანგის წარმოშობას“. ქვეით ფორმალური და არაფორმალური „კოდების“ პარალელური გამოყენება ხელს უწყობს სოციალური წესრიგის ფრაგმენტულ ინსტიტუციონალიზაციას. დამოუკიდებლობის მოპოვების შემდეგ, არაფორმალური ინსტიტუციონალიზაციის პროცესი საქართველოში რამდენიმე ეტაპად შეიძლება დავყოთ. „რევოლუციამდელი არაფორმალიზმისთვის“ დამახასიათებელი იყო სხვადასხვა ძალაუფლებრივი ჯგუფების დაბალანსების მცდელობა, „კორუფციული პირამიდა“, კვაზილეგალური „კანონიერი ქურდების“ ინსტიტუტის მეშვეობით კრიმინალების ხელსაყრელი თანამშრომლობა მთავრობასთან, ფორმალური წესების წინააღმდეგობრივი ხასიათი. „ვარდისფერი არაფორმალიზმის“ გამოვლინებებია: საკუთრების უფლებების ხელყოფა, „იძულებითი ინვესტიციები“ ფორმულით - „ბიზნესის საზოგადოებრივი პასუხისმგებლობა“; სპეციალური „არასაბიუჯეტო ანგარიშები“, როგორც კორუფციული ინსტიტუტი კორუფციის წინააღმდეგ საბრძოლველად; „პოსტვარდისფერი არაფორმალიზმის“ ნიშნებია: ნეპოტიზმი და კრონიზმი საჯარო სამსახურში, გადაწყვეტილებათა მიღების კულუარიზაცია, „მბრუნავი კარი“ და „მუკლი ბიჭების ქსელი“, არაფორმალური მმართველობა (ე.წ. „სოლო-კრატია“). პოსტსაბჭოთა „არაფორმალიზმის“ რეტროსპექტული ანალიზის საფუძველზე წამოყენებულია არაფორმალური ინსტიტუტების „მემკვიდრეობითობის“ და „ცვალებადობის“ ჰიპოთეზა. ტრადიციული არაფორმალური ინსტიტუტები, ერთი მხრივ, შენარჩუნდება, მეორე მხრივ, „მუტაციას“ განიცდის, ტრანსფორმირდება ახალ ფორმებში. ქართული „არაფორმალურობა“ ქრონიკული, ე.წ. „არასაყმაწვილო“ სენია, რომელიც ერთდროულად „კულტურული მემკვიდრეობის“, „პოსტ-ტრავმული სინდრომის“ და „ელიტური“ თვითნებობის თავისებული სიმბიოზია. არაფორმალური ინსტიტუციონალიზაციის ამგვარი სცენარი განაპირობებს განუსაზღვრელობის მაღალ დონეს ეკონომიკაში და ნეგატიური ინსტიტუციური მოლოდინების ფორმირებას.

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