

Failure at Mutual Emasculation

Notes of a cautious optimist on the results of the November non-revolution

By Ghia Nodia

It is still too early to assess the results of the November 2007 events. The subtitle of this article suggests that I may discern in them a positive side as well. Let's imagine ourselves looking at November 2007 from the more or less distant future, say, a distance of five or ten years. How would this episode look in retrospect? It is quite possible to imagine our future verdict as follows: *It was at this time that the country started down a slippery slope, sliding from a chaotic and imperfect "Democracy Georgian-style" to a "managed democracy" of the CIS variety.* But one can also imagine a different conclusion.

The precedent and the taboo

What criteria can one use for such an assessment? The main thing is to figure out what kind of *precedent* the November events may set for the future. Political development is based on precedents: what happened once tends to become a guideline for subsequent events. Speaking about November 2007, we invariably recall our recent past. Some aspects are compared to the drama of April 9, 1989, some to the "Christmas coup" of 1992, and others to the 2003 "Rose Revolution". For instance, if April 9 stands for "an atrocity", everything that looks more or less similar should also be considered a crime. If the "Rose Revolution" is regarded as something good (this government keeps saying it was a good thing, right?), everything done in its image should also be justified (at least, this government has no moral right to stand in the way of a similar revolution).

Breaking a taboo is another variety of precedent. As a matter of fact, taboo is one of the pillars of democracy: some actions cannot be taken because they have never been taken before or at least this has not happened for a long time. But once the ban is breached, what used to be considered unacceptable in the past acquires a modicum of legitimacy. This is the same logic that a traditional society applies to a less than chaste woman: after she sins once, what is to stop her from becoming a whore? If the government raids an independent TV company and gets away with it, what will prevent it from doing the same in the future?

How much does it cost to jail a political opponent?

Several taboos were broken this fall. Former defence minister Irakli Okruashvili's arrest was the first such episode. By the evening of September 27, Okruashvili was the most popular and up-and-coming opposition leader. Never in the history of Georgia have the authorities arrested an opposition leader of such prominence. Actually, one can remember a similar case: Giorgi Chanturia, [the leader of the National Democratic Party], was arrested in the autumn of 1991, but we also remember what happened to this government soon afterwards. Apparently, it was this recollection that made the opposition so confident when claiming in interviews in September that the authorities would never dare arrest Okruashvili. I have to make a confession as a political analyst – neither did I expect such a turn of events. But the government did dare to do it.

What kind of precedent has Okruashvili's case established? The government has a clear answer: it showed that joining the opposition does not give corrupt politicians immunity from prosecution. The government's main argument is that the public prosecutor's office brought a criminal case against Okruashvili as early as March, following a probe into the activities of the defence ministry carried out by the State Audit Chamber when Okruashvili was still in office. The government believes that its efforts to root out corruption have generated enough moral

capital to apprehend a popular opposition leader on corruption charges. The authorities even expect praise for their tough stand. But the problem looks quite different from the perspective of the opposition, and not only of the opposition. As soon as the government was challenged by a serious opponent (and before Okruashvili emerged, there was nobody who could pose a real threat to it), it gave up methods of political struggle and resorted to repression. And it does not matter what they charge the opponent with: as the Soviet-era saying goes, one may find a proper article in the criminal code for any person. Benazir Bhutto and Nawaz Sharif, the leading opposition figures in Pakistan, where events during the same period overshadowed those in Georgia in the global media, are also accused of corruption from time to time. In this context, few are interested in small details like whether they really did anything wrong. Every time a major political figure is put behind bars on corruption charges, mass perception always suspects a political motive – this can hardly be helped.

So, did Okruashvili's arrest set a precedent for the future? Let's reformulate the question: Did the government get away easily with what it did? On the one hand, Okruashvili did indeed get discredited (though never say "never" in this country: for some people he remains a hero still). But if we recognize that the November 2-7 events were ultimately triggered by what happened on September 27, the government paid a rather high political price for Okruashvili's arrest. Apart from the blow to his international prestige, President Saakashvili was forced to cut his presidential term by almost a year and make other important concessions to the opposition. This is what we already know. After the January elections we will learn whether he will have to pay an even higher price. At present the meaning of this precedent may be summarized as follows: arresting a prominent political opponent, even for apparently legitimate reasons, entails a rather high political cost.

Rustaveli Avenue Realpolitik

Just like in April 1989, the autumn and winter of 1991, October-November 2001 and November 2003, it was on Rustaveli Avenue, the geopolitical heartland of Georgian democracy, that the main battle was fought. What has been the main message of the precedent-based law of Georgian politics? The idea was quite clear: if a critical mass of demonstrators (let's put it at, say, 100,000 people, though I know well enough how reliable and impartial headcounts of rally participants usually are) gathered on Rustaveli Avenue, the government either has to step down immediately, or it gets emasculated while it struggles on for some time – the latter effectively amounts to establishing a dual government system. As a matter of fact, power is then shared between those who remain in control of the government buildings and those in charge of the street. The tenure of Givi Gumbaridze [the last communist leader of Georgia] from April 1989 to October 1991 is a classic example of such an emasculated government. Zviad Gamsakhurdia in the autumn of 1991 and Eduard Shevardnadze after November 2001 would not recognize their defeat easily – but Rustaveli Avenue turned both into lame ducks.

These precedents create the principal story of the Georgian democratic narrative. Democracy is personified by masses of demonstrators on the Rustaveli Avenue. Repeatedly victorious public rallies stand for democratic "happy endings". People gathered on the Rustaveli Avenue overcome, while wicked autocrats are last seen running away from the "Devil's Tower" [as people call the building where the state administration is headquartered] to the rubbish heap of history.

However, in a good narrative, defeating the bad guys is not enough for a happy ending. This should be complemented by a happy marriage: in this case, one between the (new) government and the people. But in fact, holy matrimony between those returning home from Rustaveli Avenue and their former leaders who move from the democratic heartland to the governmental

offices is never consummated. If our serial oppositionists are to be trusted, there is some evil aura in the “Devil’s Tower” that turns any democrat into a bloodthirsty criminal. As for the people, they stay quiet and nice for some time, but then their indignation flares up again and... See above.

Precedent-based laws provide a strong basis for legitimacy, whether they are put into writing or not. Since 100,000 demonstrators standing shoulder to shoulder on Rustaveli Avenue have become an embodiment of *effective* democratic power several times in the past, many Georgian citizens – those who claim to be “genuine democrats” – have come to view them as representing *legitimate* power as well. The protesters and their supporters believe that as a large crowd of people gets together physically, it constitutes a no less legitimate body of power than an elected president or parliament. Moreover, the rallying people are often considered even more legitimate, since people stand on the Rustaveli Avenue right now, while the elections were long ago. The crowd at a rally acquires a superior power to interpret the Constitution, amend national legislation, and even put pressure on the judiciary (“if the incumbent government does this, why shouldn’t we?”), i. e. decide who should be considered “political prisoners” and set free, and which governmental officials should go to jail instead.

What turns a protest rally into a legitimate component of the democratic process? Both in its form and the substance of its demands, the November 2 rally was a completely rightful democratic action. Moreover, it is only healthy for any government (presumably, ours needed it even more than some others) to be occasionally ambushed by such eruptions of “people power”. It goes beyond justifiable democratic practices (by standards of democracy but not by that of Georgia’s precedent-based law) once it is presumed that as soon as enough people have taken to the streets, the government is *obliged* to comply. This presumption turns a protest rally into an attempted revolution: If the government refuses to obey the “people”, it must be subdued.

A protest rally is legitimate as long as it gives a part of the public the chance to make its voice heard. The government has a (moral) obligation to listen to the people. If this is a rational government, it simply cannot afford to ignore demands coming from the street. However, as soon as the protesters claim the right to unilaterally dictate their will to the government, i. e. once they set themselves above the constitutionally elected authority, their protest loses legitimacy. There is nothing wrong in raising rather radical demands, such as, for instance, resignation of the president or parliament. However, the protest turns into a coup attempt the moment opposition leaders declare that they are going to oust the government immediately. We may debate whether, from the viewpoint of public interest, the government was right or wrong when it decided on November 7 to use force to break up the opposition rallies first on Rustaveli Avenue and later on Rike Square. Concerns about the disproportionate use of force by the police are also quite legitimate. But the protesters themselves (both the leaders and their lay followers) have not much to complain about: If you call for an immediate overthrow of government, you may get some tear gas and police batons in response. How else?

Positive results: the failure to emasculate each other

The November 7 events were the first in the Georgian history when 100,000 protesters on Rustaveli Avenue failed to bring the government to its knees. It means that at least for now constitutional democracy has gained the upper hand over the democracy of street protest. This is good, but this can only be good under specific conditions: constitutional authorities should themselves remain democratic. It’s a disaster when every now and then the elected government is brought to surrender by street protests: this is a recipe of “permanent revolution”. But if the government succeeds in disempowering the people, including the opposition, this is no less a debacle for democracy (and, by the way, it becomes a legitimate ground for another revolution).

Do recent processes give enough grounds to conclude that the outcome of the events so far has been the latter (enfeebling the people)? It is obvious that several negative precedents were set. After the nine-day-long emergency rule, one can conclude: If a nine-day dictatorship is no problem, why should the suspension of democracy for a month, a year or an even longer period be a worry? Or let's look at the Imedi TV case. If you ask for my personal opinion, I do not doubt that in recent times, the Imedi TV company has become a tool serving a particular political leader, Badri Patarkatsishvili, to implement a particular political project, a repeat of the "Rose Revolution". Do I like such use of the media? Absolutely not. But is it a valid reason for taking the channel off the air? OK, one can debate whether the broadcasts of Imedi on the night of November 7 posed the imminent danger of a coup [as the government claims]. However, its closure has set a very dangerous precedent. Nowhere in the world are independent media fully neutral. To be sure, Imedi was more than simply "non-neutral". But who has the right to judge where exactly the line should be drawn? The case has set the following precedent: the authorities made an arbitrary decision that the company had broken the rules, and raided and closed down its offices. As of December 1, the broadcasts were still suspended. Is such a precedent beneficial for Georgian democracy? Absolutely not.

This concern is quite legitimate. But how can we address this and other similar concerns? How can the problem (of democracy, not of Imedi) be solved? The opposition has offered a new "magic wand", proposing to replace the presidential system with a parliamentary model (with or without constitutional monarchy). In general, I do think (I tried to prove my point in other discussions) that, all things considered, a parliamentary republic offers a better chance of developing a democratic and more or less stable political system in Georgia than other available options do. Nevertheless, it would be, to put it mildly, extremely naive to believe that electing a man or a woman with no presidential ambitions as president is the best way to avert the appeal of autocracy. Parliamentary systems are inefficient without decisive parliamentary majorities, while in the absence of strong political parties some sort of charismatic leader may be just what such majorities require. Or, conversely, we may end up in such a mess that people may start demanding a good dictatorship.

Having a good constitution is not sufficient for successful democratic development (don't ascribe to me disrespect towards constitutions, please). To be real, it first needs some kind of balance between different social and political groups. From this viewpoint, the results of the November non-revolution may (I only say "may"!) establish a significant positive precedent. It is already a tradition that every political crisis in Georgia is followed by an embarrassing landslide election victory by the triumphant party, while its opponents are simply flushed down the toilet of history. It is the first time that the crisis has ended with both conflicting parties being able to claim some sort of victory. President Saakashvili and his majority have re-captured the political initiative and demonstrated that they are in control. However, the opposition can boast success too: a lot of its demands were satisfied, albeit not in exactly the form they wanted. Neither party is fully satisfied or fully defeated.

It is the accumulation of such precedents, rather than one good revolution or one good constitution, that brings about effective democracy. England had the first such precedent in its history in 1215 when King John and powerful English barons failed to subdue each other and had to sign a formal agreement (known as Magna Carta) to resolve the impasse. It remains to be seen what precedent will be established by the January presidential poll. But one thing is already obvious: this is the first presidential election in Georgia's history when the outcome is not known to everyone beforehand. That is also why the situation is rather tense, and I know quite a few people who are scared by this uncertainty. But democracy is always accompanied by uncertainty and, respectively, danger – it's high time we get used to the idea.