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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.

REFERENCES

Boritt, G. *The Gettysburg Gospel: The Lincoln Speech That Nobody Knows*. New York: Simon & Schuster, 2005. Pp. ix, 415.

Dahl, R.A., Lindblom, C.E. *Politics, Economics, and Welfare.* Published by New York, Harper & Brothers, 1953.

Diamond, L. 'Is the Third Wave Over?', *Journal of Democracy,* vol. 7, no. 3, 1996, pp. 20-37.

Dicey, A.V. *Introduction to the Study of the Law of the Constitution*, 1885, cited according 8th addition, London 1915 (new addition1982), Part II Chap. IV pp. 120.

Dye, T.R. *Top down Policymaking*, New York, Chatham House Publishers, 2001.

Epstein, D. L. et al., 'Democratic Transition', *American Journal of Political Science,* vol. 50 no.3, 2006, pp. 551-569.

Freedom House, '*Nations in Transit Ratings and Averaged Scores',* 2011, The World Bank, World Development Indicators 1999-2011.

Geonews, 2013 [website], http://geonews.ge/category/12/law/news/186084/shss_registrirebuli_danashauli.html (accessed 12 September 2015), (In Georgian).

Georgian Young Lawyers Association (GYLA) and Democracy Reporting International (DRI), *Report:* E*xtremely High Level of Political Polarization in Georgia and its Impact on Democracy*, January 2017, http://democracy-reporting.org/wp-

content/uploads/2017/02/factfinding_on_political_polarisation_in_Georgia_summary_ge.pdf (accessed 20 September 2017).

Georgian Young Lawyers Association (GYLA), *Mr. Davit Usuipashvili Chairman Parliament of Georgia.* 25 June 2013. https://old.gyla.ge/uploads/25072013-GYLA-eng.pdf (accessed 1 February 2014)

Greenwood, J., Wilson D. Op.cit.; Gregoire R. Op.cit., Roskin M., Cord, R. Johns J. *Introducing Political Science,* N.Y., 1982.

Gregoire, R. *The French Civil Service*. Brussels, 1974. P. 15-22

Hammarberg, T. *Report: Administration of justice and protection of human rights in the justice system in Georgia*, Strasbourg, 30 June 2011. https://rm.coe.int/16806db708 (accessed 1 February 2014).

Humanrights, [website], 19 May 2008, http://www.humanrights.ge/index.php?a=main&pid=11930&lang=geo (accessed 1 February 2014).

Human Rights Watch, interview with Lika Tsiklauri, Tbilisi, June 17, 2011.

Human Rights Watch, *Report: Administrative Error. Georgia's Flawed System for Administrative Detention*, January 2012, https://www.hrw.org/sites/default/files/reports/georgia0112ForUpload.pdf

Ick, [website], 17 July 2013, *Piris Gacherebis shemtxvevashi policies "gonivruli eWvis" dasabuteba mouwevs* (In Georgian), http://www.ick.ge/rubrics/society/15050-i.html?fontstyle=f-smaller; http://primerinfo.ge/?p=4821. (accessed 16 October 2015)

Info9, [website] *'So called "Reasonable doubt" will not exist'*, 17 July 2013, http://www.info9.ge/politika/84208.html?lang=ka-GE (accessed 24 January 2015), (In Georgian).

International Federation for Human Rights (FIDH), *'After the rose, the thorns: political prisoners in post-revolutionary Georgia'*, September 2009.

Kakhidze, O. *Crime and Statistics*, May 14, 2013, http://www.tabula.ge/en/story/71061-crime-and-statistics

Levitsky S., Way, A.L. *Competitive Authoritarianism: Hybrid Regimes after the Cold War (Problems of International Politics)*, Cambridge University Press, 1 edition, August 16, 2010.

Liberali, [website], 2014, http://www.liberali.ge/ge/liberali/news/116382/. (accessed 25 January 2015)

Liberali, 2013 [website], http://www.liberali.ge/ge/liberali/news/119912/ (accessed 12 September 2015)

Loughlin, M. *The Rule of Law in European Jurisprudence,* Strasbourg, 29 May 2009, https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-DEM(2009)006-e, (accessed 25 January 2016)

Magen, A., Morlino, L. 'Hybrid regimes, the rule of law, and external influence on domestic change', *International Actors, Democratization and the Rule of Law, Anchoring Democracy?* London, Taylor & Francis Ltd. 07 Jun 2009.

Merkel, W., Croissant, A. 'Formale Institutionen und informale Regeln in defekten Demokratien', *Politische Vierteljahresschrift*, vol. 41, no. 1, 2000.

Mohl, R. 'Die Polizeiwissenschaft nach den Grundsatzen des Rechtsstaates', *Tubingen*, vol. 1, 1832, vol. 2, 1833.

Newsport, [website], 2014 http://newsport.ge/60165-policiis-shesakheb-kanonproeqtis-mikhedvit-chkhreka-varaudis-safudzvelze-gakhdeba-shesadzlebeli#.VFICh_mUffI (accessed 25 January 2015), (In Georgian).

Ottaway M., *Getting to Pluralism: Political Actors in the Arab World,* Carnegie Endowment for International Peace, July 20, 2009.

Popkhadze, E., Khutsishvili E., Burjanadze, G. *Legal analysis of cases of criminal and administrative offenses with alleged political motive*, Georgian Young Lawyers Association (GYLA), Tbilisi, 2011

Schedler, A. *Electoral Authoritarianism: The Dynamics of Unfree Competition*, Lynne Rienner Pub. May 30, 2006.

Tabula, [website], 25 August. 2013, http://www.tabula.ge/ge/story/73967-policiis-reidebi-tbilisshi-24-25-agvistos-ghames. (accessed 3 September 2015), (In Georgian).

Tabula, [website], 5 September 2014, http://www.tabula.ge/ge/story/87405-ngo-ebi-iqmneba-shtabechdileba-rom-mdzime-danashaulebis-ricxvi-gazrdilia (accessed 3 September 2015), (In Georgian).

The Caucasus Research Resource Centers (CRRC). (2013-2015) *Survey on Public Policies*. Accessed 05 January, 2017. http://caucasusbarometer.org/en/ti2015ge/codebook/

The Law of Georgia on Operative Investigative Activity. (1999).

The Law of Georgia on Police, (2013). https://matsne.gov.ge/en/document/view/2047533 (accessed 3 September 2015).

The World Bank. World Development Indicators 1999-2011.

Transparency International (TI) Georgia et al., *Two years in government performance review. October 2012 – December 2014.* TI Georgia. Tbilisi, May, 2015, http://www.transparency.ge/sites/default/files/post_attachments/two_years_in_government_performance_review_may_2015.pdf (accessed 7 October 2016).

Transparency International (TI) Georgia. *Secret Surveillance and Personal Data Protection, moving forward*. [website] 24 May 2013. http://www.transparency.ge/sites/default/files/post_attachments/Secret%20surveillance%20and%20personal%20data%20protection%20in%20Georgia%20%E2%80%93%2024%20May%202013.pdf (accessed 9 September 2015).

Transparency International – Georgia, *This Affects You – They Are Still Listening: Beselia-Popkhadze-Sesiashvili's draft is a step backwards for protection of civil liberties*, 25 November, 2014, https://www.transparency.ge/en/post/general-announcement/affects-you-beselia-popkhadze-sesiashvilis-draft-step-backwards-protection-civil-liberties

Turashvili, T., Iakobidze, T. *'Regulating Secret Surveillance in Georgia'*, Institute for Development of Freedom of Information (IDFI), January, 2017. https://idfi.ge/public/upload/IDFI_FOTOS_2016/surveillance_regulation/surveillance_regulation_long_eng.pdf (accessed 7 ovember 2017).

Welcker, K. T. *Die Letzten Grunde von Recht, Staat und Strafe*, Giessen, pp. 25,71, 1813.

Zakaria, F. 'The Rise of Illiberal Democracy', *Society and Politics* vol.3. CIPDD, Tbilisi, 2000, p.27. (*Foreign Affairs*, vol. 76, no.6, 1997).

Zakaria, F. 'The Rise of Illiberal Democracy', *Foreign Affairs*, vol. 76, no. 6, 1997.

The Byzantine-Lazic Phalanx at the Battle of the Hippis River (550 CE)

Nika Khoperia

Abstract: The Battle of the Hippis River[1] represents a major event of the Lazic War (541-562 CE) and one of the key confrontations between the Byzantine and Sasanian Persian armies in the Caucasus region. In the aftermath of the battle, the Persians were forced to retreat from Lazica while the Byzantine and Lazic forces laid siege to the fortress of Petra. Byzantine historian Prokopios' account of the battle offers interesting details and insights on infantry and cavalry tactics of this period and remains important for the study of military history of the Late Antiquity.

Key words: Late Antiquity, Lazic War

Lazica before the battle of the river Hippis

In 548/49, Persian general Mihr-Mihroe campaigned in Lazica where he sought to relief the Persian garrison of Petra, the most important fortress in southwestern Caucasia, that was besieged by the Byzantines and the Lazic forces. Mihr-Mihroe succeeded in his task, forcing his opponent to lift the siege. He then left about 5,000 men under the command of Phabrizos and three other commanders in Lazica and marched with the rest of the army to Persarmenia, where, in the words of Prokopios, he "remained quietly in the country around Dvin"(Prokopios, 2014, p. 142).[2] As the Persian army departed, the Byzantines and the Lazians sought to recover their positions. Their forces, under join command of the Byzantine general Dagisthaeus and the Lazic king Goubazes, routed Phabrizos' detachment and once again besieged Petra. In response, a large Persian force led by general Chorianes, "a man of wide experience in many wars"(Prokopios, 2014, p. 463), invaded Lazica and camped on the banks of the Hippis River. Receiving intelligence on the Persian whereabouts, Giubazes and Dagisthaeus held a council of war and decided to confront the enemy (Prokopios, 2014, p. 476). They marched to the Hippis and encamped on the opposite riverbank, still uncertain, in the words of the Byzantine chronicler, "whether it would be more advantageous to wait there and receive the enemy's attack or whether they should advance upon their enemy" (Prokopios, 2014, p. 476). Goubazes was eager to fight because he was concerned about the impact a prolonged presence of large military forces would have on his realm. He suggested launching first attack with his Lazic forces while the Byzantines were to join the battle at a later stage (Prokopios, 2014, p. 476-477). First charge was considered crucial to the outcome of the battle and the eagerness of the Lazic forces to fight was a factor that the Lazic and Byzantine commanders clearly took into account.[3]

[1] Present-day Tskhenistskali River in north-west Georgia; "tskheni" is a horse in Georgian as the "Hippo" in Greek.

[2] According to Prokopios, main reason why Mihr-Mihroe left Lazica, was the lack of provision for his numerous army. Persians had brought some resources with them but it was not enough to feed the army of thirty thousand man and the garisson of Petra at the same time. Also, "it seemed to him [Mihr-Mihroe] unnecessary to leave more men there, as there was no enemy present at all"(Prokopios, 2014, p. 142).

[3] Discussing battle experiences in ancient Rome and Freece, Polybius noted that "the wars in Greece and Asia were as a rule settled by one battle, or in rare cases by two; and the battles themselves were decided by the result of the first charge and shock of the two armies." (Polybius, 1889)

Opposing armies and their disposition

On the eve of the battle, King Goubazes gave a fervent speech urging his soldiers to fight. The Byzantine and Lazic commanders then deployed their forces, with the Lazic cavalry in the front line and supported by the Byzantine horsemen under the command of "Philegagos, a Gepid by birth and an energetic man, and Ioannes the Armenian, son of Thomas, an exceptionally able warror…" (Prokopios, 2014, p. 477). The third battle line comprised of combined Byzantine-Lazic infantry led by Goubazes and Dagisthaeus, who reasoned that "if the cavalry were routed, they would be saved easily by falling back on them" (Prokopios, 2014, p. 477). Unfortunately Prokopios does not offer any details on the Byzantine-Lazic cavalry but, from his account of the battle, it becomes clear that these horsemen had lighter armor and equipment than their Persian counterparts and were reluctant to battle without infantry support. Prokopios' narrative also shows that the Byzantine and Lazic horsemen had the necessary tactical knowledge and exprerience to fight side by side with an infantry force that was organized a phalanx formation. It must be noted also that Prokopius does describe the arms and armour of the Byzantine-Lazic infantry: foot soldiers were armed with shields, spears and bows and were clearly sufficiently experienced in joint operations with cavalry as well as knowledgable about their Persian opponents tactics.

The Byzantine-Lazic army consisted of about 14,000 men when it had earlier confronted Phabrizos's detachment of 5,000 soldiers. That battle resulted in few casualties because, in the words of the chronicler, "the Romans and Lazoi at early dawn unexpectedly fell upon them… the majority [of the Persians] were caught and killed…"(Prokopios, 2014, p. 143) Prokopios notes that after the battle, Dagisthaeus and Goubazes "left many of the Lazoi in the pass so that it might no longer be possible for the Persians to bring supplies to Petra, and they returned with all the plunder and the captives"(Prokopios, 2014, p. 143). It is safe to assume that after Chorianes' army entered Lazica, Goubazes and Dagisthaeus, who were in dire need of reinforcements, recalled their garrisons from mountain passes in the borderlands of of Iberia and Lazica. As the result, the combined forces of Byzantines and Lazians probably included between 12,000 and 14,000 men.

Much fewer details are available on the Persian side. Chorianes' army must have been of considerable size and good quality since Prokopios mentions that it had at least one thousand cataphracts, "armed and armoured in the best way"(Prokopios, 2014, p. 477). The Persian general dispatched cataphracts (heavy-armored cavalry, *aswaran*) to conduct reconnaissance while he followed them with the remaining troops, most of whom were light horsemen (mainly horse archers) and light infantry.[4] Persian infantry (*paygan*) comprised mostly of archers who served a secondary or supportive role on the battle field. The Byzantine chronicler considered the Persian archers among the best and noted that they were "taught to shoot much more rapidly than any other men"; during the battle, they employed their bows "emboldened by the hope that by a rain of missiles they would easily rout their enemy"(Prokopios, 2014, p. 48, 479). It is important to mention that the army of the Sasanian empire, as the armies of the previous Persian kingdoms, was multinational. Persian *spah* (army) recruited amongst the warrior peoples of northern Persia, including the tough Dailamite fighters, who proved especially valuable to the empire as combat infantry, the Gils of modern day Gilan, and people of Gorgan, who were mainly used as light cavalry. In addition, the Albanians, Armenians and the nomad peoples from Central Asia also

[4] Chorianes' also left small number of soldiers to guard the camp that was built on the bank of River Hippis.

served in the Persian army of this period (Farrokh, 2017, p. 20-21).[5] The army of Chorianes included Allied forces, most notably the Alans from the North Caucasus (Farrokh, 2017, p. 21). According to Prokopios, they were "an autonomous nation, who are for the most part allied with the Persians and march against the Romans and their other enemies"(Prokopios, 2014, p. 467). Alan heavy horsemen and light horse-archers were the formidable warriors of this period.. During the VI century, they were the permanent members of the Persian armies. Warriors from this nomad tribe served under the Byzantine banner as well. Their service was dependent on generous salary or on the possibility to loot the enemy territory (Дмитриев, 2011, p. 30-32).[6]

It's easily predictable that the Persians promptly received an information about the defeat of Phabrizos units and have learned about the strength and numbers of the Lazic-Byzantine army. So we can suppose that Chorianes had much larger and better equipped and supplied army than Phabrizos when he invaded Lazica. We can clearly see in the process of the battle that neither army has great numerical superiority. As we have mentioned above, after the Chorianes entered Lazica, allied forces of the Alans also joined his army. Lazic-Byzantine army swiftly started to move against the Persians to defeat them in open battle. Byzantines and the Lazians had the possibility to retreat in the north-west part of the country and fight the defensive war against the opponent. Fact that they decided to fight pitched battle on the open place can lead us to the conclusion that the armies of Goubazes and Dagisthaeus together and the Persian commander Chorianes had no significant numerical superiority on each other. It seems that Persians also wanted to meet the opposite force in decisive battle and their commander was confident that his army was strong enough to defeat the Lazic-Byzantine forces. So we can conclude that Chorianes had at least 12 but no more than 15 thousand soldiers in his army.

Battle

The battle started with the initial charge of the Lazic cavalry and the ensuing cavalry melee. According to Procopius: "when they [Lazians] came suddenly upon the advance party of the enemy, they did not bear the sight of them but immediately wheeled their horses around and began to gallop back to the rear in complete disorder. In their rush they joined in with the Romans, not refusing to take refuge with the very men beside whom they had previously been unwilling to array themselves" (Prokopios, 2014, p. 478). This passage suggests that the much-lighter armoured Lazians did not venture to confront the heavily armoured Persian cataphracts and decided to join their forces with Byzantines since together they had better chances of confronting enemy attack. "When the two forces came close to each other, neither side at first opened the attack or joined battle, but each army drew back as their opponents advanced and in turn followed them as they withdrew, and they consumed much time in retreats, counter-pursuits, and swiftly executed changes of front"(Prokopios, 2014, p. 478). Prokopius makes no attempt to descrive cavalry movements and tactics but we may attempt to reconstruct some tactical details based on the early Byzantine military manual "Strategikon". According to this manual, cavalry units were usually deployed no less than five and no more than ten men deep, notwithstanding how strong or weak the tagmas might be. "Strategikon" also observed that "it had formerly been regarded as

[5] For an interesting discussion of the Sassanid military-administrative organization see (Zakeri, 1995, p. 31-90).

[6] Chosroes I went on war against the Alans, who were forced to send the envoys to the Persian king and ask for the peace and friendship. After that they become the allies of Persia. According to V. Dmitriev, battle of the river Hippis is one of the best examples to confirm the fact that the Alans were the allies of the Persians at this time (Дмитриев, 2011, p. 30-32).

sufficient to form the ranks four deep in each tagma, greater depth being viewed as useless and serving no purpose. For there can be no pressure from the rear up through the ranks, as happens with an infantry formation, which may force the men in front to push forward against their will"(Strategikon, 2010, p. 27-28). Prokopius offers only scant details on individual encounters during this initial stage of fighting. He writes, for example, that Byzantine cavalryman Artabanes (from Persarmenia) challenged a Persian horseman, who was "a man of spirited valor and great bodily strength" (Prokopios, 2014, p. 478). Artabanes "killed him immediately with his spear and, throwing him from his horse, brought him down to the ground"(Prokopios, 2014, p. 478) Moments later another Persian wounded Artabanes but he was then, in turn, killed by a Byzantine cavalryman who was Goth by birth. Unable to resist the Byzantine-Lazic charges, the Persian cataphracts fell back to regroup and wait for Chorianes and the rest of the army (Prokopios, 2014, p. 478).

After the Persian withdrawal, Byzantine commanders John and Philegages realized that their cavalry would be unable to cope with a renewed Persian cavalry charge and decided to fall back towards infantry commanded by Goubazes and Dagisthaeus. The Lazic dismounted cavalry also joined them to form the phalanx: "They then arrayed themselves on foot in a phalanx, as deep as possible, and all stood with a front facing the enemy and thrusting out their spears against them" (Prokopios, 2014, p. 478).

This passage in Prokopios' chronicle contains important details about infantry tactics of the late antiquity. When infantry was formed in organized units and moved in tight ranks, it well defended from the cavalry, but unorganized and widely formed infantry formation had no ability to withstand the attack of heavy horsemen. Indeed, most common infantry formation in late Roman armies was the defensive phalanx (MacDowall, 1995, p. 30; Harward, 2009, p. 47). According to the Anonymous early medieval Byzantine author phalanx is a formation of armed men designed to hold off the enemy. It may assume a variety of shapes: the circle, the lozenge, the rhomboid, the wedge, the hollow wedge, and many others (Dennis 1985, p. 46; Harward, 2009, p. 47). Phalanx could be formed up in either four, eight or 16 ranks. It was easier to reduce frontage than expand, because of the accordion effect such a manoeuvre would have had on flanking units. In most cases an eight-rank formation was used, striking a balance between increasing staying power through depth and getting as many men as possible into action (MacDowall, 1995, p. 30). In some aspects the Byzantine phalanx was similar to the Old Greek phalanx, but the spears used by the Byzantines were only two meters long, a third of the length of the Old Greek sarissa, and the depth of the phalanx was no more than 16 men deep because the Byzantine commanders had decided that if the phalanx was any deeper it was a less effective use of manpower (Harward, 2009, p. 47).[7] Various ranks in a formation performed different tasks: the first four ranks were expected to do the real fighting were more heavily armed. The file closers in the rear rank had a supervisory role, while the men in the intervening ranks were to provide depth to the formation and throw light javelins over the heads of the front ranks (Harward, 2009, p. 48-49).[8] Attached archers from other units would be drawn up behind and also fire overhead (MacDowall, 1995, p. 30-31). David Nicolle notes that the front two ranks of the byzantine formation would shoot their bows horizontally against the enemy's cavalry, those to the rear shooting high to drop their arrows on the enemy, thus hopefully

[7] The Strategikon says that fewer than four ranks did not have enought staying power and more than 16 added nothing to the unit's strength (Harward, 2009, p. 47).

[8] Some men were armed with franciscii, which were throwing axes. Slingers and Plumbatae (short arrows, or darts) throwers were also often used (Harward, 2009, p. 48-49).

forcing them to raise their shields and thus expose their horses to arrows. The infantrymen would place their spears on the ground and only pick them up if the enemy came close (Nicolle, 2011, p. 21).

According to German military historian Hans Delbrück, there was not any significant difference between the arms and armour of Byzantine soldiers in the late antiquity. Foot soldiers and the horsemen, ranged and melee weapons – all of this things were mixed with each other. Heavily armed horseman used ranged weapons and also had an ability to fight in the infantry ranks. It will be fair to say that the horseman was the universal soldier of this age and the regular infantry almost vanished from the Byzantine armies (Дельбрюк, 1999, p. 294). Partly it's true, because in the late antiquity cavalry had significantly important role on the battlefield than in the past. "But heavily armored, well-trained, and organized infantry remained the mainstay of the Byzantine army, without which the improvements in Byzantine cavalry would have been useless. These infantry formations were capable of effectively defeating mounted nomadic charges but normally unable to annihilate them. However, if properly supported by cavalry, they could shatter enemy cavalry formations, which would then be enveloped and crushed between the combined weight of Byzantine cavalry and infantry" (Harward, 2009, 45). Importance of infantry warfare is well shown in contemporary historical sources, like the Procopius' description of the battle of the river Hippis.

After the Persians faced the enemy phalanx, According to Procopius, they "did not knew what to do, for they were unable to charge their opponents, who were now on foot, nor could they break their phalanx, because the horses, afraid of the spear-points and the clashing of the shields, balked; and so they all resorted to their bows, emboldened by the hope that by a rain of missiles they would easily rout their enemy. The Romans and all the Lazians began to do exactly the same. So from each side the arrows were flying thickly into both armies, and on both sides many men were falling" (Prokopios, 2014, p. 478-479). Grant Harward points out that no intelligent Persian general would send his cavalry against a formed line of Byzantine infantry, property trained, armed, and in good spirits. Instead the classic tactics of a mounted army was to envelope the enemy, avoiding a frontal charge, attacking the flanks and rear, causing panic and routing the enemy (Harward, 2009, p. 50). Supposedly Persian general Chorianes tried to outflank the Lazic-Byzantine Phalanx, but their position was well defended and they were able to protect the flanks and the rear of the army. Also, it is important to mention that the infantry of the Lazians seems to be an experienced and well-trained force, able to fight in the disciplined ranks of the Byzantine phalanx and hold the line against Persian and the Alan heavy cavalry and horse-archers.

At this stage in battle, according to Prokopios, "the Persians and Alans were discharging their missiles in a practically continuous stream and much faster than their opponents. However, the Roman shields blocked most of them" (Prokopios, 2014, p. 479). The Persian superiority in archery is a recurring theme in Prokopios' work. While discussing the battle of Callinicum (531 AD), Procopius also notes the difference between the Roman and the Persian archery: "Persians are almost all archers and are taught to shoot much more rapidly than any other men, still they shoot from bows that are weak and not strung very tightly, so that their missiles, hitting the breastplate, perhaps, or helmet or shield of a Roman soldier, were deflected and had no power to hurt the man who was hit. Roman archers, by contrast, are always slower but inasmuch as their bows are extremely stiff and tightly strung, and one might add that they are handled by stronger men, they easily slay much greater numbers of those they hit than do the Persians, for no armor proves an obstacle to the flight of their arrows (Prokopios, 2014, p. 47-48)". Maurice's *Strategikon* also mentions that the Persians "are more practiced in rapid, although not powerful archery" (Strategikon, 2010, p. 114). Byzantines had improved their archery in V-VI

centuries and adopted heavy and powerful bow from the Huns, which made the Byzantine archers more effective than the Sasanian ones (Bivar, 1972, p. 283-286). According to the VI century Byzantine military manuals, Byzantine archers used Hunnic method to draw the bow; this method is also known as the "Mongolian draw"[9] or "thumb draw", because the archer uses only the thumb, the strongest single digit, to grasp the string. The thumb draw was popular among the Steppe nomads and it was one of the reasons of military success of their archers. Sasanians had different method of drawing the bow, which they did not change even after two centuries of contact with the Chionites and Hephthalites. Persians drew the string with the three lower fingers of the right hand, but the index finger pointed toward the target (Bivar, 1972, p. 283-286). This method was not as effective as "Mongolian draw", so the Byzantines often were the victors in the duel against the Persian archers.

Overall, the battle of the River Hippis resembles the encounter Byzantine infantry and Persian cavalry had had at Callinicum. Describing that engagement, Prokopios wrotes:

"[Belisarios] gave up his horse and commanded all his men to do the same and, on foot with the others, to fight off the oncoming enemy. Those of the Persians who were following the men in flight, after pursuing for only a short distance, immediately returned and charged the infantry and Belisarios with the others. The Romans then turned their backs to the river, so that they might not be surrounded by the enemy, and, as best they could under the circumstances, defended themselves against their assailants. And again the battle became fierce, although the two sides were not evenly matched in strength, for foot soldiers, and few of them at that, were fighting against the whole Persian cavalry. Still, the enemy were unable to rout them or in any other way overpower them. For standing shoulder-to-shoulder, they kept themselves grouped at all times in a small space and barricaded themselves most securely behind their shields, so that they shot at the Persians more conveniently than they were shot at by them. Many a time after giving up, the barbarians would advance against them again determined to break up and destroy their line, but they always withdrew again from the assault unsuccessful. For their horses, frightened by the clashing of the shields, reared up and made confusion for themselves and their riders (Prokopios, 2014, p. 48-49)".

This passage offers good insights into advanced Byzantine infantry tactics of VI century and the firmness of their phalanx formation. Prokopios' descriptions of the battles of Callinicum and on the River Hippis thus provide complimentary information that allows for a fuller reconstruction of infantry and cavalry combat experience in late antiquity.

The battle's decisive moment was the death of the Persian commander Chorianes. According to Procopius: "In the course of this battle Chorianes, the commander of the Persians, happened to be hit. By whom he was wounded was not clear to anyone; some chance guided the shaft as it came out of a crowded mass of men, fastened itself in the man's neck, and killed him outright, and so by one man's death the battle turned and victory fell to the Romans" (Prokopios, 2014, p. 479). Disheartened, the Persians and the Alans retreated disorderedly to their camp, where the Byzantines and the Lazians followed "upon their heels and killed many, hoping to capture the camp of their opponents with one rush" (Prokopios, 2014, p. 479). Here Procopius, once again, offers details on a personal combat: "one of the Alans, who was a man of great courage and bodily strength and who knew unusually well how to shoot rapidly to either side, took his stand at the entrance of the stockade, which was narrow, and

[9] This is often called the "Mongolian draw" but it was used by all ethnicities across the Asian steppes not only the Mongols.

unexpectedly blocked the oncoming Romans for a long time. But Ioannes, the son of Thomas, came up to him alone and instantly killed the man with a spear, and so the Romans and Lazoi captured the camp" (Prokopios, 2014, p. 479). This incident slightly resembles the one in the famous battle of Stamford Bridge, where the giant Norse axeman blocked the narrow crossing and single-handedly held up the entire Anglo-Saxon army until the English soldier floated under the bridge in a half-barrel and thrust his spear through the planks in the bridge, mortally wounding him (Swanton, 2000, p. 198).

At the end of the battle there is a mention about the fortified camp of the Persian and the Alan army. According to "Strategikon", the Persians "going to war, they encamp within fortifications. When the time of battle draws near they surround themselves with ad tich and a sharpened palisade" (Strategikon, 2010, p. 114) Unlike the Persians, the Alans, who were the nomad tribes, usually never fortified camps during the military campaigns. "Strategikon" claims that the nomads "do not encamp within entrenchments, as do the Persians and the Romans" (Strategikon, 2010, p. 116-117).

The battle of the river Hippis was the largest battle fought during the Lazic War. The defeat on the Hippis River claimed a larger share of the Persian field army and seriously undermined Persian positions in Lazica. In the aftermath of the battle, the Byzantines and Lazians besieged the fortress of Petra, whose garrison was fully supplied by the retreating Persian forces but was still unable to resist for too long. In 551, the Byzantines and Lazians under the command of famous Byzantine general Bessas finally captured and destroyed Petra. This Byzantine success meant that that,the Persian plan to conquer Lazica and challenge the Byzantine dominance in the Black Sea littoral had failed. The Lazic-Byzantine victory in the battle of the River Hippis marked the beggining of Byzantine predominance in Lazica and the turning point of the Lazic War against the Persians.

References

Bivar A. (1972). Bivar, "Equipment and Tactics on the Euphrates Frontier," *Dumbarton Oaks Papers*, 26.

Dennis G.T. (1985). Anonymous, "Strategy: Anonymi Peri strategias, The Anonymous Byzantine Treatise on Strategy," in *Three Byzantine Military Treatises*, ed. and trans. G. T. Dennis. Washington: Dumbarton Oaks.

Farrokh K. (2017). *The Armies of Ancient Persia: The Sassanians*. Barnsley, South Yorkshire [England]: Pen & Sword Military.

Harward G. (2009). "A Defensive Offense: Infantry Tactics of the Early Byzantine Army,"*Studia Antiqua*, vol. 7, N1.

MacDowall S. (1995). *Late Roman infantryman: 236-565 A. D.* London: Osprey.

Nicolle D. (2011). *European Medieval Tactics, 1, The Fall and Rise of Cavalry: 450 – 1260*. Oxford: Osprey.

Prokopios (2014). *The Wars of Justinian*, translated by H.B. Dewing, revised and modernized with an introduction and notes by Anthony Kaldellis. Indianapolis: Hackett.

Polybius (1889). *Histories.* Translated by Evelyn S. Shuchburgh. London: Macmillan. <http://www.perseus.tufts.edu/hopper/textdoc=Plb.+35.1&fromdoc=Perseus%3Atext%3A1999.01.0234>

Strategikon (2010). *Maurice's Strategikon: Handbook of Byzantine Military Strategy*. Translated by George T. Dennis. Philadelphia: University of Pennsylvania Press.

Swanton M. (2000). *The Anglo-Saxon chronicles*. London: Phoenix.

Zakeri, 1995. *Sasanid Soldiers in Early Muslim Society: The Origins of Ayyaran and Futuwwa*. Wiesbaden: Harrassowitz Verlag.

Дмитриев, 2011. "Аланы на Военной Службе у Сасанидского Ирана," *Вестник Северо-Осетинского ГосударственногоУниверситета*, 4.

Дельбрюк, 1999. *История Военного Искусства в Рамках Политической Истории*, т. II. Санкт-Петербург: Наука, Ювента.

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