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LOCAL GOVERNMENT ELECTIONS IN ARMENIA: GAPS, SHORTCOMINGS AND
PERSPECTIVE FOR IMPROVEMENTS

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LIST OF ABBREVIATIONS

ANM – Armenian National Movement

ARF-D – Armenian Revolutionary Federation - Dashnaktsutiun

CEC – Central Election Commission

EC – Electoral Code

IEOM – International Election Observation Mission

LSG – Local Self-Government

NDU – National Democratic Union

NK – Nagorno Karabakh

ODIHR – Office for Democratic Institution and Human Rights

OSCE – Organization for Security and Cooperation in Europe

PEC – Precinct Election Commission

SOE - State of Emergency

TEC – Territorial Election Commissions

ABSTRACT

A well-known and simple definition of democracy is “government of the people, by the people, and for the people.” For any democracy free and fair elections are vital. Ideally, citizens have confidence that: (1) all kind of elections occur according to specified rules and usually at specific intervals; (2) candidates for office can freely and effectively present their positions and qualifications; (3) each voter’s preference can be expressed freely; (4) each vote counts equally in determining the outcome; (5) only citizens entitled to vote will participate. As a newly emerged and developing democracy Armenia should aim to establish and maintain an electoral system that meets these criteria. So far it has not. Local self-government elections are an essential part of democracy. However, similar to presidential/parliamentary elections they also do not meet universal international standards for democratic, free, fair, and competitive elections. This study identifies the ways presidential/parliamentary elections influence the local ones, analyzes the current system of local government elections, and tries to give recommendations to address current shortcomings in the Armenian local government electoral system.

INTRODUCTION

Free and fair electoral procedures and practice are considered to be among the key factors in the process of shaping democracy. Particularly election candidates and/or nominees should present their aptitudes and positions in a free and effective manner, distinctive rules should form the base for electoral procedures (defining election frequency), results should be determined on equally counted vote, election participants should be completely entitled for voting, and each voter should be able to freely express his/her preference. Development of an electoral system encompassing the above mentioned features is an essential way for a transitional and developing country to pass in its struggle to establish a healthy democratic government and society. Local government elections with their vital role in creation of decentralized and democratic government serve as an essential tool in establishing overall democratic society and atmosphere in a country.

In Armenia both presidential/parliamentary and local government elections significantly fall back from international standards. Presidential/parliamentary and local government elections are closely related to each other and shortcomings and fraud in one of them replicate in others. Especially, local governments in Armenia are politically weak and their elections are highly influenced by the presidential/parliamentary elections. Elections of local self-government bodies often times are a tool for leading political forces of Armenia to win in national elections. Often local government bodies lack legitimacy and do not meet international standards for democratic, free, fair, and competitive elections.

The goal of this paper is to examine local government elections in Armenia on its way to democratization and try to make recommendations for further improvement. To realize this goal I have developed the following research questions.

RESEARCH QUESTIONS

The research questions of the study are:

- What are the most frequently demonstrated shortcomings in Armenian local government elections starting from the legislative base up to the implementation?
- Have the main shortcomings demonstrated in presidential and parliamentary elections affected local government elections in a positive or negative way?
- In case of tangible influence (whether positive or negative) of presidential and parliamentary elections over local government elections, does the influence observed have vital affect on local government elections' final outcome?
- Do the interests of the ruling party to preserve the power extend from presidential and parliamentary elections to the local ones?

LITERATURE REVIEW

In order to answer to the research questions raised in the essay first of all we should consider and discuss the theoretical part, that is, to identify what kind of elections are thought to be ideal, that is, free, fair, honest, and legitimate and consider their importance for emerging democracies. So, let's see how different authors have tried to define those elections.

According to Goodwin-Gill (1994), regular and genuine elections, which give a real chance to people to choose their representatives, are a guarantor and the basis of having democratic country. Through elections the "will of people" is expressed. An internationally accepted definition to what is democracy tried to give the President of the USA Abraham Lincoln saying that "democracy is government of the people, by the people, and for the people." Various factors of the political systems are greatly influenced by electoral systems,

according to Grofman and Lijphart (1994). They call electoral systems means for changing political systems.

“Although other elements of democracy can develop before competitive elections are held, a country cannot be truly democratic until its citizens have the regular opportunity to choose their representatives”

(http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/dg_office/epp.html).

Thus, in a democratic country the “will of the people” should be counted and taken into consideration and they must be given the opportunity to express that will. If elections, whether presidential/parliamentary or local, are forged or bribed than the ‘will of people’ can not be heard and consequently to be transformed into political power and public policies.

So, what kinds of elections are considered to be democratic, that is, free, fair, and legitimate? Answers to the questions are various but there are some internationally accepted standards that give us the minimum amount of norms for democratic elections.

The Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) stressed in its publication called Handbook for Domestic Election Observers (2003) that each country’s government is mainly responsible for ensuring of holding free, fair, and periodic elections in a country, for ensuring that all citizens have equal and universal suffrage, and elections are hold by secret vote. Let’s see how those criteria are interpreted in the handbook.

By saying free elections one means that whether before, during or after elections fundamental freedoms and basic human rights should be maintained. During the election process there should be no violence, pressure, intimidation, or administrative manipulation. Both ordinary citizens and mass media should have free access to the process during the whole election process. In this regards, both international and domestic observers (mostly

NGOs) have a vital role. Their presence in electoral stations is thought to reduce the chances for fraud elections and their regular presence over years and their opinions can give a base to a country for improvements by comparing the current elections to previous ones.

Fair elections mean that competing candidates should be treated equally by the law and by the leading authorities. The Handbook says:

“Laws should be non-discriminatory and implemented fairly. All candidates who wish to run should be able to do so. Public resources should not be used unfairly. Public media should be even-handed. The election administration should act impartially. Voting, counting and tabulation should be free from fraud. Candidates who receive the required votes should be installed in office. Candidates and voters should have access to effective redress for complaints, including through an independent judiciary. Those responsible for violations of the laws should be held accountable” (Handbook for Domestic Election Observers, OSCE/ODIHR, 2003, 17).

Periodic elections mean that elections should be held at regular intervals as set by law.

By universal and equal suffrage all qualified citizens should be given a right to vote without any discrimination. There should be impartial voter registration system and all voters, as well as disabled people, women, and minorities should be able to vote. Each vote should have the same weight.

Under proportional representation, the number of representatives for each district should be proportional to the size of the electorate, and thresholds should not be so high as to effectively disenfranchise large numbers of voters. Under majority voting systems, the population of, or number of voters in, constituencies should be approximately equal; a variance of more than 10 percent could be cause for concern (Handbook for Domestic Election Observers, OSCE/ODIHR, 2003, 18).

Vote by secret ballot means that voters should be able to mark their ballots alone in the voting booth so as the marked ballot cannot be viewed before appearing in the ballot box and that later the marked ballot cannot be tied to a particular voter (Handbook for Domestic Election Observers, OSCE/ODIHR, 2003).

Goodwin-Gill (1994) also mentions that elections should be held by secret ballot at rational intervals and there should be a representative government as it should be accountable to the elected legislature which in its turn should express and represent the “will of the people.”

Any deviation from the above norms raises a question of adequacy of elections.

According to Lehoucq (2003) electoral fraud can have such types as coercion on voters at polling stations to cast ballots for party/candidate X or filling the ballot box with votes for party X; ballot substitution; preventing opposition voters to cast ballots; stuffing ballot boxes with false voters; a polling station opening late and closing early; locating polling stations in inaccessible places; having citizens vote repeatedly or on behalf of deceased, nonexistent, or opposition voters; or during the vote counting, falsely claiming that opponent candidates had withdrawn from competition. Daniel Ziblatt (2008) mentions three groups of electoral fraud:

(a) Coercion and threats from state officials, church officials, or employees to induce voters to vote for a particular party or candidate; (b) vote-buying to inflate or depress votes and turnout; (c) systematic procedural violations, vote-rigging, closing of poll stations early, the manipulation of voter-registration rolls, and the failure to advertise elections or to distribute ballots in certain constituencies (Ziblatt, 2008, 10).

Causes of electoral fraud also vary. According to Lehoucq (2003) one cause can be the wish of incumbent/leading political powers to preserve or achieve control over state.

Economic interests can also have a role. Ziblatt (2008) mentions:

“Even in the presence of uniform rules of universal male suffrage, in such settings landed elites were more likely to ‘capture’ the key local institutions of the state, providing them with the coercive and material resources to disrupt fair and free elections in order to defend the countryside oppositional mobilization efforts” (Ziblatt, 2008, 33-34).

In other words, the main goal of electoral fraud is to preserve the political/economic power of particular people.

In Armenia elections were used as formal tools to further legitimize the power of incumbents, instead of providing the citizenry with a free and fair choice of policy

alternatives. All elections in Armenia have been marked by numerous electoral violations (Wheatley and Zürcher, 2008). Almost all the formal and financial resources of the state, as well as other state assets used by the ruling party and incumbent political elite with the purpose of ensuring the victory of either the party or the president during elections (Wheatley and Zürcher, 2008).

During twenty years of independence of Armenia the country has had three presidents (Levon Ter-Petrossian, Robert Kocharyan and Serzh Sargsyan), and due to the informal networks “radiating” from the incumbent presidents, state power has been concentrated in the executive, leaving no room for “checks and balances” (Wheatley and Zürcher, 2008, 6). All the victories these people/the parties they directly/indirectly represent to power were gained and solidified by means of fraud and manipulation.

Levitsky and Way (2002) mention:

Although elections are regularly held and are generally free of massive fraud, incumbents routinely abuse state resources, deny the opposition adequate media coverage for the opposition, harass opposition candidates and their supporters, and in some cases manipulate electoral results. Journalists, opposition politicians, and other government critics may be spied on, threatened, harassed, or arrested. Members of the opposition may be jailed, exiled, or—less frequently—even assaulted or murdered. Regimes characterized by such abuses cannot be called democratic (Levitsky and Way, 2002, 53).

To preserve the power for so long time president or leading parties use an “institutionalized system of rewards and punishments” (Wheatley and Zürcher, 2008, 23).

Loyalty is rewarded by what can be described as a ‘license to be corrupt’ (i.e., to avoid the formal rules and to tap into the lucrative shadow economy). On the other hand, disloyalty is punished, often by selectively and arbitrarily applying the law against the culprit... ..within this system, corruption, far from being a sign of regime weakness, is actually an instrument to ensure regime stability, as the state leadership is able to control its clients and strengthen hierarchical authority (Wheatley and Zürcher, 2008, 23-24).

In such a way strong political networks are created, at the top of which has been always the president. Whenever public intervention in political matters is possible, society has been threatened, bribed, and repressed. This has brought to the separation of political and economic elites from the rest of society.

Manipulation of elections, however, is not an easy process as incumbents have to spend large amounts of money for bribing the people. Besides, these flaws and manipulations can bring to instability and political crisis in the country. Despite all this manipulations, violations, and electoral fraud, elections are regular and competitive. The existence of representatives of various NGOs and international observers reduce the possibility of fraud.

In the beginning of the discussion, we have mentioned that free and fair elections contribute to democratization of a country, so fraudulent elections hinder and obstruct it. Though electoral fraud and manipulation can have non decisive influence and outcome for elections, it will reduce public trust in elections and in political powers and processes overall. “...regardless of whether fraud is decisive, it encourages incumbents and opponents to discredit elections and their outcomes.” (Lehoucq, 2003, 248-249).

The practice records show that since the declaration of independence all Armenian elections had various types of electoral manipulations and fraud. Range of facts exists in this regard. For example, by the Opinion of Council of Europe Observers, local elections in Yerevan in 2008 lacked transparency in both voting and counting procedures. They said that more attention should be paid to the strengthening of local democracy in the Republic of Armenia (<http://www.hra.am/eng/?page=issue&id=18739>).

According to “Partnership for Open Society”, an open coalition of a number of interested civil society actors in Armenia that strive for promotion of democratization of Armenia, Armenian elections have numerous instances of violations (<http://www.hra.am/eng/?page=issue&id=18415>).

According to the Gallup Polls conducted in 2007 and 2008 among 134 countries worldwide Armenia ranks as a country that has the lowest trust in the honesty of its own elections (<http://www.gallup.com/poll/111691/Worldwide-Views-Diverge-About-Honesty-Elections.aspx>). The polls also found out that: corruption level (as rated by Transparency

International) is positively related to the level of mistrust in electoral honesty; and well-being (according to results from 97 countries collected by Gallup) is positively related to the trust in honest elections (<http://www.gallup.com/poll/111691/Worldwide-Views-Diverge-About-Honesty-Elections.aspx>). So, countries having higher corruption level are ranked low in the trust in the honest elections and countries with higher well-being index scores are ranked high in the trust in the honest elections.

In 2005 comments by Harut Sassounian on the referendum on proposed constitutional changes in Armenia three factors were critical in driving allegations of serious abuse and fraud by foreign observers and opposition politicians (http://www.armeniapedia.org/index.php?title=No_One_Should_Have_Been_Surprised_By_the_Latest_Questionable_Election) (Harut Sassounian is the President of the United Armenian Fund, which has sent \$460 million worth of humanitarian assistance to Armenia since 1989 and the Vice Chairman of the Lincy Foundation, which has funded \$230 million worth of infrastructure projects in Armenia and Artsakh). These three factors are:

(a) The old habit of tampering with all elections, even when fake ballots were unnecessary for a successful outcome; (b) the inclination of local government officials to help win the election by all possible means in order to preserve their current positions or to be rewarded with more lucrative jobs after the election; and (c) given the mandatory one-third threshold, local officials' intent to go overboard in order to ensure that they do not fail again to garner the minimum number of voters as they did in the referendum two years ago (http://www.armeniapedia.org/index.php?title=No_One_Should_Have_Been_Surprised_By_the_Latest_Questionable_Election).

The author mentioned that it is not the “transparent ballot boxes and international observers” that may make Armenian elections better. Rather the public at-large should abide by the rule of law which, in turn, will lead to uncorrupted “cops, judges, and government officials” and consequently to honest elections (http://www.armeniapedia.org/index.php?title=No_One_Should_Have_Been_Surprised_By_the_Latest_Questionable_Election).

Many observers think that after numerous amendments, recommended especially by OSCE/ODIHR, Armenia's formal legal framework is really strong. However, administration and implementation are severely lacking. International observers said that the parliamentary elections of 2007 despite tangible advances still displayed shortcomings (Election Observation mission Report, Republic of Armenia Parliamentary Elections 12 May 2007). They criticized also presidential elections held during the following year (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008).

Taking into consideration all deviations and the existence of what seems to be an appropriate legal framework, Armenia would appear to be an example of the "competitive authoritarian" style of governance which is widespread among former republics of the Soviet Union (Howar and Roessler, 2006, Diamond 2002). Competitive authoritarianism is characterized as a political system which has regular and competitive elections but those are always violated and manipulated by the incumbent political powers (Howar and Roessler, 2006).

All these viewpoints of intellectual people relates to all kind of elections, whether presidential/parliamentary or local self-government (LSG) bodies.

Electoral systems or political regimes of different countries reasonably vary based on the culture, traditions, etc. However, there are some universal international standards which are accepted as basic factors for having democracy, such as that election must be free, held by secret ballot at rational intervals, guarantee universal suffrage to the adults, and so on. Through periodic and genuine elections people convert their will into having its representations in the government. For the countries in transition, like Armenia, often times both political powers and people do not consider elections either free or legitimate as they do not accept the results of elections.

METHODOLOGY

For the purpose of addressing the above mentioned questions and hypothesis the following methods have been used: analysis of laws and relevant documents, primary and secondary data analysis in the field, in-depth interviews with representatives of the ruling and two opposition party representatives, as well as the president of “It’s Your Choice” NGO. I have chosen this NGO as it is one of the largest domestic election monitoring organizations in Armenia with a mission:

“...to promote transparent elections and democratic processes in Armenia, establishment of government accountable to its constituency and provide objective, reliable and timely information to Armenian voters.” (ICY, 2007)

Interviews have been conducted according to pre-designed questionnaire with open-ended questions (see Appendix).

FINDINGS AND ANALYSIS

Overview of the Armenian Elections

On 21st September of 1991 Armenia declared its independence from the Soviet Union and became a democratic republic. With this collapse the old Soviet regime was replaced by the new one.

The first elections taken place in independent Armenia were parliamentary elections held in October 1991(Policy Forum Armenia, 2008). Ironically, many people consider the first elections - both presidential and local - as the most free and fair elections in the newly independent Armenia. Subsequent elections (parliamentary elections in 1995, 1999, 2003, 2007, presidential elections in 1991, 1996, 1998, 2003, 2008, and local elections in 1996, 1999, 2002, 2005, and 2008, including extraordinary elections taken place in the years between) were reported to have numerous shortcomings and inconsistent with the

international standards for democratic elections, according to the OSCE/ODIHR international observers, who has observed Armenian elections since 1996 (Policy Forum Armenia, 2008).

In the first presidential elections, which took place in 1991, Levon Ter-Petrossian (who represented the Armenian National Movement (ANM)) was declared a winner having 83 percent of votes against six other candidates.

In June 1995 parliamentary elections were held along with the first Constitutional Referendum that adopted Armenia's new Constitution. "Free but not fair" was the mark that these elections received from OSCE observers (policy Forum Armenia 2008). In September 1996 Ter-Petrossian was re-elected as president with official results giving him 51.75 percent of vote. However, the existence of extensive fraud was undeniable. The oppositional candidate Vazgen Manukyan who headed the National Democratic Union (NDU) claimed that the election was dominated by fraud and the results were not legitimate. At that time the situation escalated in the country and a State of Emergency (SOE) was declared by the president (Policy Forum Armenia 2008). Unfortunately we can see that these events served as a bad precedent for later elections in Armenia. These fraudulent elections as well as compromising policy of Ter-Petrossian regarding the Nagorno-Karabakh (NK) issue brought to the resignation of the president in 1998 and the Prime Minister Robert Kocharyan assumed the duties of acting president (Policy Forum Armenia 2008).

On 10th of November 1996 first local elections took place and the system of *local self-government* has been established in the Republic of Armenia. As we look into the reports of international organizations and various NGOs it becomes obvious that all local elections have always been full of electoral manipulations, such as vote buying, ballot stuffing, etc, in other words, phenomena common also in Armenian presidential and parliamentary elections.

In 1998 an extraordinary presidential election took place when Robert Kocharyan became a president of Armenia (Policy Forum Armenia 2008). However, fraud and

manipulation were once again the inseparable part of the election. In this election OSCE observers noticed many cases of ballot box stuffing, discrepancies in vote counting, and fraud perpetrated by local authorities inflating the number of votes for Kocharyan (Policy Forum Armenia 2008).

The next presidential election was held in 2003 when Kocharyan was reelected and the new five-year period of his presidency began. The election was marked as fraudulent by the OSCE observers too (Policy Forum Armenia 2008).

The latest parliamentary election, that is, on May 12, 2007, were marked by OSCE observers as “largely democratic” and with “significant improvements”. Armenian public television also declared that the election could be considered the best since independence (Policy Forum Armenia 2008). Signs of improvements were shadowed by the latest presidential election of February 19, 2008. Both election and post-election developments were marred by the use of force, deaths, and arrests (Human Rights Watch 2008). OSCE reports on this election were different as the preliminary findings indicated that the election was “mostly in line” with international standards while the final report spoke about the reverse (Election Observation Mission Report, Republic of Armenia Presidential Election).

As one can see from the historical developments of the Armenian elections, they cannot be called democratic. It is not a secret that elections and political regimes are tightly interlinked (Grofman and Lijphart 1994). In Armenia, unfortunately, there were even cases of assassinations and murders, which accompanied both electoral developments and political intercourse. Fraud and manipulation were the tools exercised during and after elections. Later, we will examine the types of frauds that took place in the recent two elections, parliamentary and presidential, from both legislative and administrative implementation perspectives.

The Main Shortcomings in Local Government Elections

Legal framework

The two main documents that constitute the legislative framework for all kind of Armenian elections are the Constitution and Electoral Code of the Republic of Armenia. The first one, the Constitution, guarantees civil and political rights, and fundamental freedoms and the second one, the Electoral Code, is the primary legislation regulating elections (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008).

Since its adoption in 1999 the first Electoral Code of Armenia has witnessed fourteen amendments originating in the need to address practical problems encountered during elections. In 2011, while this study was in progress, National Assembly adopted a new Electoral Code. The main external role in commenting on the election processes and suggesting improvements to the electoral code has been undertaken by the OSCE/ODIHR and the European Commission for Democracy through law the Venice Commission (an advisory body of the Council of Europe).

The Electoral Code governs all Armenian elections: presidential, parliamentary, and local. The preparation of it took place consulting with the Venice Commission of the Council of Europe and the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE).

Many important improvements have been made to the first Electoral Code of Armenia. The positive outcomes of these improvements are evident in the reports on elections by OSCE/ODIHR, compared to the previous ones.

Although “the Electoral Code provided a sound basis for the conduct of democratic elections” still there is a little room for perfection and need for reconsideration of some

aspects in the Electoral Code (Election Observation Mission Report, Republic of Armenia Parliamentary Election 12 May 2007, 5).

As the practice shows, even with having a sound legal base of electoral procedure, in Armenia both presidential/parliamentary and local self-government elections demonstrate wide range of implementation shortcomings. In case of local government elections the legal basis for regulating elections are the Constitution, the Electoral Code of the Republic of Armenia, and the Law on Local Self-Government.

As our research questions have the goal to observe connections and correlations of presidential/parliamentary and local government election, we will look at all points from those two perspectives.

First legal shortcoming in LSG elections is that there is no limitation in law regarding number of times that the Mayor can be re-elected. A tryout occurred to do an improvement in this regards in 2005 when an amendment has been made in the previous Electoral Code that the same person could not be re-elected two times consequently as a head of community (Article 123.9, the Electoral Code with amendments of 19.05.2005). However, after one and a half year the article was removed by another amendment in the Electoral Code on 22 December, 2006. Newly adopted Electoral Code does not contain this limitation, too. This means that a mayor can run for an office as many times as he/she wants. This provision does not restrict corrupt incumbent to be continuously re-elected. Besides, in Armenian reality it reduces chances to have representative local democracy. In a sound democracy this type of limitation is less important because the constituents would simply do not re-elect a poorly performing mayor and on the contrary, a brilliant mayor would have a chance to be re-elected as many times as he/she is still better than other competing candidates. However, we consider this kind of restriction important because no matter how good is the person in office, chances should be given to his/her opponent to run for that post when next elections come. In

Armenian context, absence of such restriction is beneficial to the person in office because he/she typically has a lot of administrative resources, which gives him/her an advantage in the elections.

Second the official compensation amount of the Mayors and especially staff defined by the law is too small to meet decent living standards. This factor positively impacts the probability of corruption. As to council members, they are not paid for their services at all, except a monthly pecuniary compensation of expenses at the maximum rate of 30 % of the monthly salary of a member of the National Assembly of the Republic of Armenia (Article 23 of the Law on LSG). In practice very few council members receive this compensation.

Third, as the defined amount of money/deposit required for a candidate to be registered is hardly affordable for an average rural resident (with high poverty rate in rural areas), electoral competition rate and opportunity for alternative choice fall down breeding misrepresentation (the minimal deposit for nomination as a head of community is fifty times the minimal monthly salary). In the case of presidential and parliamentary elections this amount is much bigger (respectively five thousand times the minimal monthly salary and 2500 times the minimal monthly salary), however, one should take into consideration that those who nominate their candidacy for a presidency can afford to pay this money.

Requirement for a candidate to make a deposit for registration raises some questions. The size of deposit is in fact the problem. For now, there is a possibility that some people who enjoy public support may be excluded from the contest if they are unable to pay the deposit. The problem exacerbated with provision of the new Electoral Code (2011) as the amount of deposits obviously grew bigger. If in the past a candidate for the Mayor in a community with up to 5000 population paid 50 times of the minimum salary and candidates for community council with the same population – 10 times, now, for example, in a

community with 2000-4000 population they have to pay respectively 150 and 20 times of the minimum salary (<http://www.hraparak.am/2011/06/27/tim/>).

Conducting and Financing the Campaign

Campaign financing also raises questions of democratic propriety and fairness. Article 79.9 of the old Electoral Code forbids financing promotional campaigns by “other financial means” (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008). However, the law contained no specification concerning donations (i.e. goods or services provided to a candidate free of charge). This provided an all-too convenient means to bypass the expenditure ceiling, intended to create more equal campaign opportunities (Election Observation Mission Report, Republic of Armenia presidential Election 19 February 2008). This Article has been removed from the new Electoral Code at all (Electoral Code, 2011, Article 88). An evident flaw in the legislation, which leads to evasion of the restrictions on campaign financing, is the allowed linkage of some non-profit and commercial organizations with political parties or candidates. This creates indirect support to elections campaigns.

Such a problem exists concerning LSG elections, too. According to the old Electoral Code (2007) (in contrast to the above mentioned point), there is no official limitation for the size of election campaign funds (Article 128 of the EC, 2007, Article 140 of the EC, 2011), which in its turn greatly raises different treatment issues for candidates. For example, paid media interviews and broadcastings sometimes are considered to be luxury means for some rural community candidates. However, the new Electoral Code (2011) is an obvious step forward. Though it still lacks strict line for the election campaign funds, it stipulates that only a candidate for a Mayor in a community with more than 10,000 voters can open pre-election

campaign fund (Electoral Code of Republic of Armenia, May 26, 2011, article 140). The amount of money paid to the fund has been clarified according to the population of the community, for example, a candidate of LSG election in a community with up to 10,000 voters can pay to the fund amount equal to 150 times of minimum salary, and a candidate for Mayor or council member in a community with more than 10,000 voters can pay up to 500 times the minimum salary (Electoral Code, 2011, article 140).

Another important issue is the flexibility of the start date of campaign activities. In other words, the Electoral Code does not exactly specify if the nominated candidates are permitted to start their campaigning prior to the official campaign period, both in presidential/parliamentary and LSG elections. The new Electoral Code says:

“Determination (appointment) of the period of pre-election campaign does not limit implementation of the campaign within another period not forbidden by the Code.” (Electoral Code, 2011, chapter 5, article 18.1)

Besides, the Electoral Code does not specify how to differentiate between regular political party activities and campaign activities.

Complaints and Appeals Procedure

Public trust can be a good prerequisite for the conduct of honest elections. So, the efficiency and effectiveness of the complaints and appeals are considered by both the international observers of the OSCE/ODIHR and the Venice Commission as key foundations for public trust in the electoral system.

In many cases territorial election committees (TECs) refuse appeals for a recount with the claim that the need was unsubstantiated. After the appeals go to the CEC it does not exercise its power and the recount often times does not happen. So, the Code should directly

address this issues and clear out “... on what grounds the TEC can refuse to undertake a recount. It should also ensure that the CEC makes a considered decision in the case of an appeal or is requested to forward the case to the Administrative Court” (Joint Opinion on the Electoral Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008, 15).

The ease of submitting and timing for processing of complaints and appeals are additional considerations. The filing of a complaint should not be too formalistic nor should the time allowed for an appropriate response be too long. For example, “appeal deadlines need to be harmonized to ensure that an appeal after the first round can be decided by the Constitutional Court before a second round has been held” (Joint Opinion on the Electoral Code of the republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008, 15). Also, the competencies and roles of the election commissions in the complaints and appeals processes should be clarified.

Additionally, the Electoral Code could still be improved, particularly in the areas of electoral administration and election complaints. Of particular concern for the Commission are the provisions for filing election complaints and appeals, which fail to create a sound legal framework for the adjudication of election disputes and protection of suffrage rights (Final Opinion on the Amendments to the Electoral Code of the Republic of Armenia by the Venice Commission and OSCE/ODIHR (October, 2005)), (Harutyunyan, 2006).

As a final point, there is the question of double voting and the availability of simple ways to reduce or avoid it. The Electoral Code has no requirement for the stamping of voters’ identification documents or inking of fingers, safeguards that have proved to be very effective elsewhere (Joint Opinion on the Electoral Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008).

To conclude, a variety of flaws in the framework erected by statute law leave considerable room for electoral abuse and manipulation.

Implementation of the Electoral Code

However the most important and influential shortcoming in meeting the criteria for free and fair electoral system establishment remains the deficient implementation/administration of elections. A number of diverse cases of the legal framework and its implementation mismatching have been observed.

The ability to implement the law well must be considered inseparable from an effective electoral process. Shortcomings may exist not only within the law but also in the implementation of the law.

The democratic character of elections depends largely on the responsibility of the authorities to properly implement the electoral law, and the commitment of all other election stakeholders (voters, candidates, parties, media, etc.) to conduct democratic elections. Thus, the extent to which possible improvements in the law can have a positive impact on the election process will mainly be determined by both the will and the capacity of the electoral authorities and other election stakeholders to respect and implement the law in an effective and non-partisan manner (Draft report on Electoral Law and Electoral Administration in Europe Strasbourg, 16 May 2006, 13).

As the international observers noted several times the main shortcomings in the implementation of the Electoral Code resulted from the lack of adequate will to execute legal requirements neutrally and effectively. It is not an overstatement to claim that, in Armenia the majority of electoral deficiencies are due to deviations from and circumventions of the law.

Equal Treatment of the Election Contestants

Equal treatment of the election contestants is among the key factors necessary for an election to be called democratic and in line with international standards. There were several violations of this requirement both in local and presidential elections.

One concerns the demonstration of campaign materials. According to the Electoral Code, community leaders have to assign places where the candidates' promotional materials can be displayed (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008) (Electoral Code, 2007, Article 21.2) (Electoral Code, 2011, Article 20.3). However widespread violations of this provision had been observed. For example, some mayors specified locations while others did not; posters were often placed in non-specified areas; many posters and billboards were periodically removed by persons unknown but presumed to be affiliated with the rivals of those candidates the materials promoted. At the same time, campaign materials on behalf of the Prime Minister were placed in unauthorized locations but remained untouched (OSCE, Republic of Armenia, Presidential Election 19 February 2008 Statement of preliminary Findings and Conclusions). The new Electoral Code (2011) addresses the issue stressing that a head of community should determine the building/space for a respective polling station and it is a mandatory responsibility for him/her. If there is no appropriate number of buildings for that, the head of community can rent other ones. LSG bodies can make available free halls and other building to candidates for meeting with voters. And the list of the buildings should be published in the CEC's web-site 20 days prior to the election (Electoral Code, 2011, Article 18.3) (<http://www.parliament.am/drafts.php?sel=showdraft&DraftID=23456>).

Electoral Rights and Freedoms

The Electoral Code of the Republic of Armenia states that all citizens have the right to campaign for or against any candidate (Electoral Code of the Republic of Armenia, 2007). Despite this statement, there were many instances where observers were concerned about freedom of electoral choice and political expression among public sector employees many of whom were pressured to support the Republican Party candidate. Non-compliant employees were threatened with bad consequences including threats of dismissal. There were reported many instances of government employees being forced to attend the Prime Minister's campaign events. Such coercion contradicts the law, blurs the distinction between party and state, undermines equal campaign opportunities, and inhibits the rights of citizens to free electoral choices (Election Observation Mission Report, republic of Armenia Presidential Election 19 February 2008).

Exceeding number of voters

First, it has become a routine practice to see exceeding number of people entitled to be present in voting places, which in its turn pressures a voter to make his/her free choice (Article 54.4 of the EC) (It's Your Choice, LSG elections of 2008; It's Your Choice, Presidential Elections of 2008).

Presence of unauthorized people in polling stations

Illegal (no law or official regulation found legalizing a policeman presence in voting place) presence of police has been greatly observed in and around almost all voting places through time and type of elections that creates strong physiological and physical image of

state force indirectly intimidating voters (Electoral Code, 2007, Article 54.2) (Electoral Code, 2011, Article 63.5).

Voter Lists

The ability to exercise the democratic right to vote is based on the existence of a comprehensive and inclusive voters list, which is maintained to ensure that each eligible citizen is registered to vote once and only once. Inaccuracies in voter lists are among the most frequent types of violations during the election process. Examples of violations presented by the OSCE or IEOM are supported by the number of court cases, and also by the report of “It’s Your Choice” (IYC) - a nonpartisan NGO, which is the largest domestic election monitoring institution. Based on analyses of cases and interviews of the IYC practitioners, the most common issues are voters’ names missing from the list and obsolete voters’ lists in a number of communities. The amendments to the Electoral Code, that created a permanent national register of voters, constitute positive change in this regard. In this respect speaking of the Electoral Code’s shortcomings it is also worth mentioning the Venice Commission’s opinion regarding the amendments, which in summary states that:

“Although the amendments to the Electoral Code constitute overall improvement, good faith implementation of the Code remains crucial for the conduct of genuinely democratic elections. Electoral rules facilitate fair elections and democratic results only if they are not neglected nor abused by the authorities responsible for their implementation. Most international observers have pointed out that the biggest shortcoming in the conduct of elections in Armenia lies in the implementation of the Electoral Code, not in the Electoral Code itself. Among the most important concerns has been the failure by authorities to take measures against those violating the election law. Therefore, the success of the amendments depends on the implementation of them in practice (Tumanyan, 2006).

Violation of the Electoral Procedure

Anonymity of voters is widely violated by different means such as open and vivid voting procedure (installation of observable and controlled voting places/arrangements) and group entry to limited/separated voting place (Articles 48 and 56). According to the new Electoral Code (2011) voting places should be placed so as a voter will stand by face to the committee and back to the wall (Article 56).

Vote Counting

Vote counting process mainly was poor in all the Armenian elections. Major problems of vote counting were manifested in accountability and transparency. The main shortcomings were:

inconsistencies in determining valid votes, unwillingness to show marked ballots, attributing votes for one candidate to another, signing protocols before completing the vote count, signing blank protocols, changing data entered in protocols, and failure to display protocols publicly as required by law (Election Observation Mission Report, 2008, 2).

The law states that all election commissioners must undergo training and receive a certificate of qualification. However as evidence show the PECs often did not have the predetermined level of familiarity with the procedures involved. Many result protocols had been filled out incompletely or incorrectly by the PECs (Election Observation Mission Report, 2007).

The main problems during the vote counting process stemmed from the improper implementation of the Electoral Code. According to the law, the vote counting must be conducted under special supervised circumstances, with only authorized persons present, and the procedure must be continuous, i.e. without interruptions. Despite these provisions, the presence of unauthorized persons and frequent use of cell phones by PEC members reporting

the details of the counting while in progress was observed (Election Observation Mission Report, 2007).

Ballot Staffing and Vote Buying

Both in local government and presidential/parliamentary elections instances of ballot stuffing were witnessed by the IEOM. Decisive cases of vote buying and choice enforcements have continuously taken place in presidential, parliamentary, and self-government electoral reality of Armenia (provision of transportation means, employee intimidation by the politicized management and administration).

It is noteworthy to mention here the discovery of a prominent tool by Armenian ‘political technologists’ called “carousel” that has been extensively exercised for years. The mechanism works in the following way: the voter is secretly given an already marked ballot (marked in favor of the candidate X) by a person campaigning for a candidate. The voter before approaching the ballot box gets a clean ballot and after receiving it she/he casts the marked ballot bringing out the unmarked one that she/he has been passed by the election authorities. Later, before leaving the polling location this unmarked ballot is given to the person who gave her/him the marked one in order to be marked secretly and be given to the next voter. Once the unmarked ballot is turned in, the voter gets his/her promised payment. This mechanism totally eliminates the freedom of choice of those somehow depending on the candidate X and helps assure the victory of that candidate. The vicious cycle continues again and again. For example, the mechanism was used also during LSG elections in Yerevan in 2008 (It’s Your Choice, 2007).

Vote buying is also widespread phenomenon in Armenian electoral practice. Many voters are offered money just at the polling stations to vote for a candidate X or PEC members are offered money in order not to be present at the vote counting.

Significant frequency of ballot stuffing brings to the following statistical observation: ruling party representatives' continuous dominant presence in government (2000- 74.2%, 2002- 65.7%, 2005- 60%).

All Armenian elections since 1991 have fallen well short of truly democratic. Taking into consideration the historical development of Armenian elections, the inadequacies that have been described here tend to persist. As we have already mentioned the electoral framework and political regime are tightly interlinked. So it is important to identify their correlation in order understand why this flaws and shortcomings occur in Armenian elections.

Competitive Authoritarianism and Armenia

After the breakup of the Soviet Union some new states emerged with various types of political regimes. Most newly-emerged post-Soviet regimes fall somewhere in-between authoritarian and democratic. As Diamond (2002) calls them they are “hybrid regimes” which are neither totally authoritarian nor democratic. Rather they have typical features of both. Diamond (2002) says that these regimes can be identified as pseudodemocratic. In pseudodemocratic regimes “the existence of formally democratic political institutions, such as multiparty electoral competition, masks the reality of authoritarian domination” (Diamond, 2002, 24).

Our country, Armenia, is a post-Soviet hybrid regime, too. Particularly, the political regime of Armenia is identified as competitive authoritarian (Levitsky and Way, 2002) having the form but not the substance of democracy. In competitive authoritarian regimes

political authority is gained and exercised via formal democratic institutions but the violations of the rules of those institutions by incumbents are so frequent and excessive that the minimum democratic standards are hardly met (Levitsky and Way, 2002).

The first and foremost democratic institution is the existence of free and fair elections system in a country, accompanied by other factors such as: the existence of equal playing field between government and opposition; existence of independent legislative, executive, and judiciary bodies; existence of free and independent media; civil society; and a political culture supportive of democratic practice (Levitsky and Way, 2002, Wheatley and Zurcher, 2008). Competitive authoritarianism arises when violations of democratic rules and procedures regularly occur in a context that is formally democratic and pluralistic, in the sense of having multiple political power centers, but where winners prevail and try to retain power through manipulation, intimidation and practices that fundamentally violate the spirit of real democracy.

Opposition – Government Relations in Armenia

In Armenia political parties mostly are composed of political and economic elites. Almost always the ruling political party (with majority members in the parliament) represented or supported the president. Thus, legislative and executive bodies of Armenia have been in a tight connection, undermining any checks and balances in the state. So, it may be assumed that the legislature, to some extent, has been always dominated by the president.

Almost all the Armenian political parties, both governmental and opposition, lack a concrete ideological base and a permanent real constituency support. Party members easily float from party to party based on political situation. Most parties depend on their leaders and are leader oriented. Therefore, the party political clout largely depends on the leader's

political career. So, it is not so much the party that receives the votes of constituency but rather the leaders of the party. People vote “without any clear idea of what in terms of policies they are voting for – a state of affairs is hardly conducive to a participatory democracy” (Wheatley and Zürcher, 2008, 7). They vote for charismatic leaders rather than for ideological platforms of parties. The creation of strong and real opposition is very important for the electoral process and outcome of elections. The creation and possible existence of such oppositional coalition influences the behavior of incumbents even before the start of elections as they start to think what will happen to them if the opposition comes to power and to think about costs and benefits of the election manipulations.

Thus, this is the overall picture of shortcomings, which highly impact the outcome of local government elections in Armenia. They emerge both from legal breaches and violations in practice.

In Armenia civil society is very passive and apathetic towards elections and political life. However, if strong and united, civil society may have a huge impact on both electoral outcomes and political life of a country.

The System of Local Self-government in the Republic of Armenia

The problems and needs of the population of Armenia are addressed by two tiers of government: national and local. LSG bodies are closer to the local population know local needs and problems better. The aim of local self-government is to resolve the issues of local population manage local property and provide services according to subsidiarity principle. Local self-government denotes the rights and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of local population (European Charter of Local Self-

Government). Developed and democratic local self-governance is an important precondition for having effective state governance and overall democratic country. The first step of establishing local self-government in Armenia was the adoption of the “Law on local Self-Government” on June 30 1996 after which the first local elections took place in 1996, November 10.

The modern system of local self-government was established after the adoption of the Constitution of the Republic of Armenia (5 June, 1995). The legal basis of the system is the Constitution of the Republic of Armenia (chapter 7), the “Law on Local Self-Government”, which is based on European Charter of Local Self-Government, the “Law about Local Self-Governance in Yerevan”, and other legal acts. Armenia’s membership to the Council of Europe has also played a great role in development and improvement of LSG system. Armenia has ratified European Charter of Local Self-Government in 2002; in the same year the National Assembly has adopted a new “Law on Local Self-Government”, and in 2005 made Constitutional referendum and amendments which had a great impact on the system. The definition given in the Constitution about LSG is close to the definition of the European Charter.

“The local self-government is the right and power of the community to resolve on its own responsibility issues of local significance aimed at the welfare of the inhabitants in accordance with the Constitution of the RA and the RA Law “On Local Self-Government” (<http://www.mta.gov.am/en/the-lsg/>).

Armenia self-government is exercised in communities. Nowadays local self-government is executed in 915 communities which are either in cities or villages. Local self-government is exercised through directly elected mayors and Council of Elders. Till the Constitutional amendment of 2005, marzpets could initiate the process of dismissing a mayor upon a Community Council request or they could himself initiate this process upon their own initiative by submitting a request to the Government (Article 109 of the Constitution before

amendments of 2005). This provision contradicts to decentralization process. Regarding this article the Venice Commission noted:

“The Commission’s Rapporteurs had expressed concern that Article 109, allowing the dismissal of elected mayors and the dissolution of the elected communities’ councils, might lead to situations that could be incompatible with the very essence of democracy. The Commission now notes, with approval, that the new draft expressly provides that the dismissal may only take place for reasons stipulated by law and on the basis of a conclusion by the Constitutional Court. In this respect the Commission recalls that the legislator is bound, when adopting norms on the reasons for revocation of elected mayors and communities’ councils, to respect the essence and the principle of local self-governance.” (Drampian, 2004).

It is noteworthy to mention that the article has been modified by constitutional amendment in 2005, so now the Government may still remove the Head of Community in cases prescribed by the law but only on the basis of the conclusion of the Constitutional Court (Constitution, 2005, Article 109). Detailed provisions of procedure for dismissing mayor by the government are reflected in articles 72-74 of the Law on Local Self-Government.

According to the new Electoral Code the day of holding LSG elections has been made more distinct. According to the old Electoral Code marzpets appointed a day of LSG elections 90 days after the expiration of the term for the respective position, and LSG elections could be held each month in various Armenian communities. Because in the past in many instances extraordinary LSG elections took place therefore the term of the office of the LSG bodies may start any day in the year. According to the new Electoral Code marzpets still appoint the day of elections but not later than 70 days after the term of the office is expired (except the Community Council of Yerevan) but now the elections can be held up to four times in a year. CEC appoints election dates for each year. If by the old Electoral Code it was required that nominated candidate must have at least two years’ registration in the community, now the people who have at least six months registration in citizens register of the community can nominate their candidacy (<http://www.hraparak.am/2011/06/27/tim/>).

Yerevan is the biggest city of Armenia, where approximately 30 percent of population of the country lives. Local self-government in Yerevan is specific and regulated by a special Law on Local Self-Government in Yerevan. Yerevan used to have a status of marz divided into 12 districts which as other communities have directly elected mayors and councils. However, recently with the amendments to Constitution Yerevan has been given a status of city and nowadays population of Yerevan elects the community council which in its turn elects a mayor from its members. The new Electoral Code (2011) has a new chapter 33 called “Calling and Conducting Yerevan’s Council Elections.”

Both the mayor and community councils are elected every four (used to be three according to the old Law on LSG) years through direct and equal elections. The size of the councils depends on the population number and varies between 5 and 15. This mayor-council structure is presumed to ensure checks and balances. However, in practice, this does not work as the councilors have less professionalism, they are often supporters of the mayor and rubber-stamp all the decisions of the Mayor (Drampian, 2004).

The first elections in the RA were held on 10 November, 1996 according to the RA Law “On Elections of Local Self-Government Bodies”. The second elections took place on 24 October, 1999 in accordance with the RA Electoral Code, which was adopted in 17 February, 1999. The next elections took place correspondingly on 20 October, 2002 and in autumn of 2005. 2005 was the last time the LSG elections were held for three year term. The latest LSG elections in most communities were held in 2008 except the communities where according to the legislation of the Republic of Armenia additional extraordinary LSG elections took place earlier. In 2008 715 elections of heads of communities and 773 elections of community councils took place. 48.7 percent of voters participated in election; in Yerevan voter turnover was 33.2%. It is worth to mention that 496 elected heads of communities were re-elected. In 2008 local elections the maximum number of candidates for the Mayor was 4.

The data about party affiliation of candidates for both heads of communities and community councils were non-complete. The data put on the official site of CEC did not cover the whole republic. For example, it was mentioned that 5,544 candidates from 8,656 were non-partisan. The most part of candidates were from the coalition which consists of four political parties: 1,774 candidates were from the Republican Party, 685 candidates from the Prosperous Armenia Party, 313 candidates from the Dashnaktsutyun Party (Armenian Revolutionary Federation, ARF), and 152 candidates from Orinats Yerkir Party. The elected candidates also were mostly from these four parties. The 2008 LSG elections were held with the same scenario as previous LSG elections. Offices of LSG bodies were mostly distributed among candidates from the Coalition. The competition was either too low or was absent totally, and in most cases the change in powers did not take place (Tumanyan, 2009). By the new Electoral Code (2011) great attention has been paid to the part of organization of activities of CEC in order to provide better transparency in its work. All the information (about voter lists, pre-election programs of the candidates, normative decisions of CEC) should be put on the web-site of the CEC within determined deadlines.

During elections of mayors the competition is usually moderate. In 2007 municipal elections in 41 (about 40 percent) out of 106 elections there was only one candidate nominated. The maximum number of candidates was 5 only in three communities. So, the overall interest to local elections and voters' trust to local government is low.

Improvements in the Electoral Code

Before amendment of 2002 the Electoral Code has some problems concerning refugees' right to vote on local elections. It contained no provision allowing refugees to vote while in some communities in Armenia refugees made up about 90 to 100 percent of the

population. In other words, these kinds of communities could not have local self-governance bodies. However, the amended Electoral Code clearly states that refugees may vote only in elections to local self-governance bodies.

Local Government Elections

Free and fair elections and formation of LSG bodies by direct participation of people is an important prerequisite for having local democracy. In local elections candidates used to be nominated by the principle of self-promotion and political parties could not nominate their representatives as a candidate for head of community or member of community council. This provision has changed by the new Electoral Code and now political parties can nominate their candidate on the elections. If only one candidate is nominated a new election will be hold. This was the claim of the Venice Commission in order to provide community people to have alternative choice (<http://www.parliament.am/drafts.php?sel=showdraft&DraftID=23456>).

Party affiliation of candidates is mentioned only in the ballot. So, in local elections is common phenomenon for candidates not to have pre-election programs as it is a case in presidential elections. In 1999-2000 local elections 74.4 percent of elected candidates were non-partisan.

According to the Constitutional amendments adopted in 2005 the process of formation of LSG bodies has changed in some aspects. The Congress of Regional and Local Authorities of the Council of Europe criticized the fact that the Constitution was not flexible enough to make reforms in some spheres especially with regard to three-year terms of elected local officials, the status of Yerevan, and the right of the Armenian government to dismiss from the office heads of communities. Before the amended constitution heads of communities and members of community councils were elected for three-year terms. Community councils

were elected with 5 to 15 members (the Article 105, the Constitution). The marzpets could trigger dismissal of the heads of communities by the government. According to the amendments in the Constitution (Article 107) a community exercises its self-government rights through a head of community and community council which by the form prescribed by the law are elected already not for three but for four-year term. The limitation regarding number of the community council members' was removed. Beside the opportunity to remove a head of community is only possible in the cases prescribed by the law bases on the conclusion of the Constitutional Court. It is also worth to mention that despite the number limitation on a number of community council members were removed from the Constitution, according to the Electoral Code of the Republic of Armenia it still remains in its place. Such contradictions also must be taken into serious consideration and must be removed. Nowadays, the number of the community council members is decided according to the community population number: the community that has till 1000 inhabitants has a community council with five members, community with population from 1001 to 3000 – 7 members; from 3001 to 20000 – 11, and in communities with more than 20001 – 15 members. The decision upon the number of council embers can be given to LSG bodies who better know local capabilities.

According to the new Electoral Code the number of candidates nominated for the Community Council cannot be less or equal to the number of Council members prescribed by the Code. In villages this will hinder holding of elections as we have already mentioned in the essay in many villages it demands a great effort from heads of villages to ensure appropriate number of candidates for Council, to pay pre-election fees, etc. So nowadays if there is only one candidate registered the head of community should have to find and make another candidate to register in order to have elections to be considered passed. Besides, the existence of names of more than one candidate is required to be before the registration of candidates

[\(http://www.hraparak.am/2011/06/27/tim/\)](http://www.hraparak.am/2011/06/27/tim/). There is a contradiction between first and second parts of the Article 143 as the first part defines that an election of a head of community is considered failed if the only nominated candidate does not receive required (necessary) amount of votes; in contrast, the second point highlights that within the given the period and form for the registration of candidates by the Code there is no registered candidate or the number of registered candidates is less than two, then an elections of a head of community is also considered failed (Electoral Code, 2011, Article 143). Thus, by the first point by the existence of one candidate it is possible to hold elections, and by the second point it is not possible. Besides, the second point can bring to additional problems especially in small communities and villages in case of elections of heads of communities it will be less possible to have two candidates taking into consideration also the raise of election fees (Electoral Code, 2011, Article 143).

Political parties of course have their roles in the formation of the LSG bodies and if not directly, indirectly they always have impact on the electoral processes. However, the problem is that they do not carry any political obligation/responsibility for the efficient or non-efficient activity of the elected candidate. Over the years there is tendency that more members of political parties become elected in LSG bodies. For example, if in 1999-2000 the outcome of LSG elections showed that 74.2 percent and in 2002 65.7 percent of elected heads of communities an members of community councils were non-partisan, then, in 2005 election 60 percent of heads of communities were members of the ruling party, more precisely, 552 from 926 were form the Republican Party.

In 2005 LSG elections there were not enough candidates registered for council members, especially in rural communities. As a consequence heads of communities had to persuade some people to nominate their candidacies and also to pay their state fees. On the contrary in districts of Yerevan in some cases the number of candidates for community

councils exceeded the numbers allowed by the law up to five times. Voters joked that the ballot looked like a decree, while by the law the electoral document cannot consist of more than one page. As long as political parties do not have a right to nominate candidates in local elections and their role in the election of LSG bodies is limited the factor of group (collective) responsibility cannot work (Tumanyan, 2008).

Though a new Electoral Code has been adopted trying to improve the legal framework of holding elections, however, the Heritage Party and Armenian National Congress Party consider the new Electoral Code is not an better version than the old acting Electoral Code but it just will serve leading political powers to have elections more uncontrollable by the society and oppositional political powers; so, the new Electoral Code carries more opportunity for fraudulent elections (<http://www.hraparak.am/2011/02/08/nor-entrakan-orengirq/>).

Interviews with community representatives of Armenian leading political parties

As we have already mentioned political parties used to play a limited role in local elections as, according already with the old Electoral Code, they did not have a right to nominate candidates. However, over time their interest in local elections has grown as having their representative in LSG bodies can serve their political parties interest and be a good precondition for winning in parliamentary or presidential election later. The new point in the new Electoral Code giving a right to political parties to nominate their candidate in LSG elections will raise their interest in LSG elections and will make those elections more competitive. As it was mentioned in methodology part representatives of several leading political parties, two pro-governmental (Republican Party and Prosperous Armenia) and two oppositional (Armenian Revolutionary Federation and Armenian National Congress), were

approached for interview. The outcomes of interviews were not surprising. Each representative answered the questions according to his/her political party perspective and not as an individual.

Representative of the Republican Party in community X said that all latest elections in Armenia, presidential of 2008, parliamentary of 2007, and local of 2008, were free, fair, and competitive. The representative of another coalition party, the Prosperous Armenia, in community X refused to answer any question because he did not receive any instructions from “above”, meaning from the head of the party to respond to questions. Therefore, below we will discuss answers provided only by three political parties. While the representative of the Armenian Revolutionary Federation, which nowadays cannot be regarded either fully oppositional or pro-governmental, answered all the questions, he was still trying to avoid direct answers. The representative said that, of course, none of those three elections – presidential, parliamentary, and LSG - could be regarded absolutely free and fair; in each of them some election fraud and manipulations occurred, however he considered the phenomenon as Armenia is a ‘young’ democratic country, gained its independence only in 1991, and still is on its path to development and democratization. He also added that some improvements and changes will remove the shortcomings in elections. The representative of the opposition party, Armenian National Congress (ANC) answered “oppositionally.” He said that all elections were full of election fraud and manipulations, such as obvious vote buying. He called elections a “well-organized show.”

To the questions which are the main shortcomings and manipulations in the LSG elections the representatives mentioned the followings: vote buying, double-voting of the same person in different polling stations, names of the deceased people in the voting lists, and the failure to publish the voter lists after the elections. The representative of the Republican

Party again excluded the possibility of existence of any electoral manipulation and shortcoming.

The representatives said that in Armenia all elections are interconnected and political parties have their separate interests in winning in LSG elections as thus they can change the balance of powers first at the local level that lately will help them to change the balance of powers and change of powers in the whole republic. Sometimes they want to win in LSG elections to realize their power in order to become richer or to provide jobs to their relatives, etc. This all speaks about mixed motives that impel political parties to promote their candidates into LSG bodies.

The last question was “In your opinion what kind of changes and amendments should be made in the legislation regulating LSG elections?” All respondents gave the following answers: more effective community council with better educated and professional people and all of them agreed that improvements are needed in the Electoral Code without mentioning any particular point.

Thus, from the above given answers, we see that all answers were biased. No one of the representatives clearly knew the essence of LSG elections and the interest and strategy of their parties’ in those elections. Opinions expressed by political party representatives were highly politicized and did not reflect the objective situation.

The Interview with the President of “It’s Your Choice” NGO

The “It’s Your Choice” NGO is one of the leading Armenian NGOs and has various monitoring reports about both presidential/parliamentary and LSG elections in Armenia.

The president of the NGO said that though the last parliamentary elections were freer but neither presidential nor parliamentary elections could be considered free and fair. He

stressed the same also about LSG elections. The respondent mentioned: “The Electoral Code of the Republic of Armenia is one of the best codes among the CIS countries. However, nobody takes it into consideration. The problem is not the Electoral Code but the absence of good will of leading powers.” As main kinds of manipulation in those elections he mentioned ballot stuffing, corruption/vote buying, massive ballot casting, signing voter lists for other persons, choice enforcement, etc. He considered LSG elections as a tool for individuals and political parties to enter the National Assembly. In LSG elections leading political powers use city and other halls for their meetings and advertising, use their connections to win, while the opposition more speaks than acts. He mentioned that nowadays Armenia does not have a healthy opposition which will give people a new leader with new incentive. As a drawback he mentioned the removal of the point “against all” from the ballot. He considered that there was more possibility for electoral manipulations in LSG elections as in big cities local criminal authorities are more interested to be elected in LSG bodies for business plans. The proof for it is the fact that in many rural areas there is no interest whatsoever to be elected to community council. Among the points for improvements he mentioned: a head of community and members of community council should have an educational qualification; the council should be professional and paid for its service in order to be more interested in their work; he suggested to introduce back the limitation concerning number of times for re-election of a head of community. Finally, the respondent gave priority to Yerevan type of LSG elections.

CONCLUSION

Although there are still minor shortcomings in the Electoral Code of the Republic of Armenia, the major deficiency of the elections in Armenia remains the commitment and the political will of the ruling authorities to properly implement the legal provisions. What is

really lacking in Armenia's quest for better elections is a true democratic culture, including trust and respect for rule of law and widespread appreciation for the potential made possible by developing and adopting that culture. Before claiming and demanding free and fair elections every citizen of our country should try to find out by how much he/she is ready to contribute to honest elections in Armenia; or what is the margin of his/her devotion to the idea of free and fair elections; or what he/she lacks that hinders him/her from increasing that margin. Bearing in mind an ancient Armenian saying which holds that "no spring will come with one blossom" every citizen of our country should realize deeply and with earnestness his/her role in building a democratic society through democratic elections, and how closely these two entities are interrelated. Armenian society should understand that democratic elections will not come to us overnight. Nevertheless the society should be very attentive and persuasive not only in development of free and fair elections but also in simultaneous strengthening of all other democratic institutions that will bring to the establishment of truly democratic culture and healthy political environment. The society and political powers should look beyond the "mask" of the country (prosperous lives of the Yerevan elite), see the real face of the country, and try to challenge the situation by any possible means, involving all kind of actors that can bring benefit to the vital process of political development in a democratic direction. International organizations, Armenian NGOs, and entire society should be involved in the process.

The toughest problem remains the proper implementation of the Electoral Code and the development of strong democratic political culture. However, it is not the OSCE/ODIHR or other international observers who should rate our elections but rather the society itself. To conclude, the study showed that almost all electoral violations taken place in the local government elections have their precedence in the parliamentary and presidential elections. For example, 'carousel' magic technology of pre-marked ballot stuffing has been first

introduced in presidential elections and then replicated in local elections. Lack of political will to ensure free and fair elections, stemming from the interests of the political elite to preserve its power always serves as a huge impediment to bring a positive change in the quality of elections' implementation. This electoral characteristic and violation motivation was deep-rooted in “the head of the fish”, that is, parliamentary and presidential elections.

So, the interest of the ruling elite to preserve its power tooth and nail induces to continuously deploy vicious technologies of fraud and corrupt practices in the elections, which replicate from parliamentary and presidential elections to local ones. We witness the same shortcomings and fraudulent practices during elections, be that presidential/parliamentary or local. The ruling powers and elite want to have guarantee of preserving their leading role and the “right” of decisive and final say in all levels of the government.

However, the establishment and strengthening of democratic institutions will allow to have free and fair electoral procedure in place. It is a matter of time and continuous efforts to transform Armenia into prosperous, developed and democratic country.

RECOMMENDATIONS

- Political parties (either pro-governmental or oppositional) and mass media should pay more attention to LSG elections in order to make people realize that LSG elections have as much importance as presidential/parliamentary elections thus motivating them actively take part in the elections.
- Society should be made aware about costs and risks of cheated and/or bought vote outcomes by all possible information means such as delicately structured media programs.

- All existent democratic institutions of Armenia should be strengthened and new ones formed with support of all the international organizations operating in Armenia, which are aimed to reduce poverty, promote human rights protection, and other.
- A restriction should be put on the number of times that a head of community can be re-elected in order to provide people with an opportunity of alternative choice.
- The Community Council can be given more power and allowed to elect a chair who will preside at the meetings while the head of community and his/her staff will be only attending and responding to inquiries. This will create more effective system of checks and balances and will make elections of the Community Council more competitive.
- The limitation on the number of the members of community council should be removed which will give an opportunity to form councils with appropriate number of members in accordance with the capabilities and need of local government.
- The amount of electoral fees for registration as a candidate in LSG elections should be reduced in order to make nomination for candidates more affordable and attractive especially in rural areas.
- As Yerevan has a status of community now, it should be given an opportunity of self-nomination to candidates for the mayor of the capital like other communities of Armenia, elections of the mayor should be direct.
- By amending the EC clearly separate political activities from pre-election campaign.
- Both by the EC and in practice mandatory attendance of campaign events by public servants, students and schoolchildren should be prohibited.
- Strictly prohibit the long-lasting presence of unknown (unauthorized) persons and illegal campaigning in polling stations.

- For the purpose of excluding cases of double/multiple voting, it will be better to determine a requirement in the EC concerning finger inking.
- Clearly and adequately determine and strictly implement all provisions of the EC during both pre-election and post-election phases, such as assigning places for promotional materials in pre-election phase and vote counting.

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APPENDIX

Questionnaire for interviewing representatives of political parties and the president of “It’s Your Choice” NGO

MAY 2011

ID_____

Local Government Elections in Armenia: Gaps, Shortcomings and Perspectives for Improvement

Interviewer: Lilit Mkhitaryan

Interviewee name: _____

Interviewee position: _____

NGO/political party: _____

Interview date: _____

Բարև Ձեզ: Իմ անունը _____: Ես Հայաստանի ամերիկյան համալսարանի ուսանողուհի եմ: Ավարտական աշխատանքս վերաբերում է տեղական ինքնակառավարման մարմինների ընտրություններին Հայաստանում: Ձեր պատասխանները իմ հարցերին շատ կօգնեն ինձ: Իմացեք խնդրեմ, որ մենք երաշխավորում ենք Ձեր պատասխանների գաղտնիությունը, և որ Ձեր պատասխանները որևէ կերպ չեն առնչվի Ձեր անվան հետ: **(Show the questionnaire to the respondent.)** Կարո՞ղ եմ սկսել: Շնորհակալություն:

1. Ի՞նչ կարծիք ունեք ՀՀ-ում վերջին նախագահական՝ 2008 թվականի ընտրությունների մասին: Ի՞նչ կասեիք՝ արդյո՞ք այդ ընտրությունները անցել են ազատ, արդար և թափանցիկ: Խնդրում եմ պարզաբանեք, թե ինչու եք այդպես կարծում:
2. Ի՞նչ կարծիք ունեք ՀՀ-ում վերջին խորհրդարանական՝ 2007 թվականի ընտրությունների մասին: Ի՞նչ կասեք՝ արդյո՞ք այդ ընտրություններն անցել են ազատ, արդար և թափանցիկ: Խնդրում եմ պարզաբանեք, թե ինչու եք այդպես կարծում:

3. Ինչքանով են ազատ, արդար և թափանցիկ եղել ՏԻՄ-ի վերջին՝ 2008 թվականի ընտրությունները ՀՀ-ում: Խնդրում եմ պարզաբանեք, թե ինչու եք այդպես կարծում:
4. Որո՞նք են այն հիմնական և գլխավոր թերությունները և խախտումները ՏԻՄ ընտրություններում:
5. Ի՞նչպիսի կապ եք տեսնում նախագահական/խորհրդարանական ընտրությունների և ՏԻՄ ընտրությունների միջև: Արդյո՞ք դրանք փոխկապված են: **(Probe for the same methods used, same issues and problems with voting, etc.)**
6. Ձեր կարծիքով, ի՞նչ մարտավարություն են օգտագործում քաղաքական կուսակցությունները ՏԻՄ ընտրություններում: Արդյո՞ք իշխանամետ և ընդդիմադիր կուսակցություններն օգտագործում են տարբեր մարտավարություններ:
7. Ձեր կարծիքով, քաղաքական կուսակցությունների համար ի՞նչ նշանակություն ունի հաղթանակը տեղական ընտրություններում:
8. Որքանով են ՀՀ քաղաքական կուսակցությունները հետաքրքրված ՏԻՄ ընտրություններով:
9. Ի՞նչ եք կարծում, արդյո՞ք ՏԻՄ ընտրությունների ժամանակ ավելի մեծ հնարավորություններ կան ընտրախախտումներ կատարելու համար:
10. Ձեր կարծիքով, առաջնահերթ ի՞նչ բարեփոխումներ են անհրաժեշտ կատարել ՏԻՄ ընտրությունները կարգավորող օրենսդրությունում:

Ուզում եմ կրկին Ձեզ շնորհակալություն հայտնել աջակցության համար: Եթե ունեք որևէ հարց այս հարցազրույցի վերաբերյալ, Դուք կարող եք դիմել իմ ղեկավարին՝ Հայաստանի ամերիկյան համալսարանի դասախոս՝ դոկտոր Արթուր Դրամփյանին: **(Give PSIA number if requested).**