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PROMOTING HONEST ELECTIONS IN ARMENIA

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TIGRAN EMINYAN

YEREVAN, ARMENIA

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SIGNATURE PAGE

Faculty Advisor

Date

Dean

Date

American University of Armenia

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LIST OF ABBREVIATIONS

ANM - Armenian National Movement

ARF-D - Armenian Revolutionary Federation - Dashnaktsutiun

CEC - Central Election Commission

IEOM - International Election Observation Mission

NDU - National Democratic Union

NK - Nagorno Karabakh

ODIHR - Office for Democratic Institutions and Human Rights

OSCE - Organization on Security and Cooperation in Europe

PEC - Precinct Election Commission

SOE - State of Emergency

TEC - Territorial Election Commissions

ABSTRACT

A 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) 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; and (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. This study will identify ways in which Armenia’s electoral practices depart from the ideal, explore the various correctives that have been or could be applied, and recommend ways to address current shortcomings in the Armenian electoral system.

Introduction

Free and fair elections are essential for democratic government. The promotion of honest elections is a key issue requiring careful study as part of Armenia's uneasy path toward democratization. Since achieving independence in 1991 Armenia has made numerous efforts in this direction. Yet Armenian elections continue to display numerous shortcomings. Despite some significant progress, Armenian elections receive low marks from international observers, deviate from international standards for democratic elections, and are subject to continuous allegations of fraud and manipulation. It is often easy to cure a disease when one both knows the cause and has an effective treatment available. This master's essay attempts to diagnose the shortcomings in Armenia's electoral practices as well as their causes and possible cures.

Research Questions

In particular, this study addresses the following research questions:

- What are the main demonstrated shortcomings of the Armenian electoral system (both legal framework and election administration)? Specifically, do these shortcomings lie in voter or candidate participation, in the capacity to campaign effectively, in vote secrecy, in ballot handling and counting, in the reporting and certification of election results or elsewhere?
- What lessons can one draw from the history of election reform efforts in Armenia itself and elsewhere? Are certain kinds of shortcomings more readily remedied than others? What international best practices in other developing democracies best fit the Armenian context?

- Given the specific attributes of Armenia’s current election management challenge, what should be done to improve current practice?

Literature Review

Before discussing deviations it is appropriate to identify what kind of elections are considered ideal (honest, free, and fair) and to consider their importance for emerging democracies.

Electoral systems, as Grofman and Lijphart (1994) put it, have great effects on other components of the political system. They consider electoral systems as tools for changing political systems. Given today’s almost universal aspiration for democratic government, electoral systems play an irreplaceable role in democratization. A simple definition of democracy might be found in US President Abraham Lincoln’s Gettysburg Address which famously concludes with a reference to “government of the people, by the people, and for the people.” According to Goodwin-Gill (1994), regular and genuine elections are considered to be the basis of democracy, as only through these kinds of elections the people may choose their representatives freely.

“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”

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

So, the “will of the people” should be counted in a democratic society and they should have the opportunity to express that will. If elections are bribed, imitated, forged, etc than the “will of the people” may not be heard, expressed, and more, transformed into political power and/or public policies.

So, what kind of elections may be considered appropriate for democracy? In other words, what kinds of elections are considered to be honest, free, and fair? What are the criteria that define them as such? Although the answers to these questions may vary, there are some internationally agreed standards that give us the minimum set of criteria for elections that really represent the “will of the people”.

According to the Handbook for Domestic Election Observers (2003), published by the Organization on Security and Cooperation in Europe (OSCE)’s Office for Democratic Institutions and Human Rights (ODIHR), the government of each country is primarily responsible for ensuring that elections in their countries are periodic, genuine, free, fair, have universal and equal suffrage, and conducted by secret ballot. Let’s examine the interpretations of the above criteria according to the handbook.

Periodic elections means elections held at regular intervals (the maximum reasonable period about seven years for the chief executive), as set by law.

Genuine elections reflects the right of the people to change their government, that is, to have credible opposition candidates, to have power to vote incumbents out of office, etc. In short, elections must effectively allocate power to winners, and withdraw it from losers, in accord with the results obtained.

Free elections means that human rights and fundamental freedoms are maintained before, during, and after the election. These rights and freedoms should include and not be limited to the freedom of expression, association, assembly, and movement, enjoyed by the all participants of the election process. The process should be free of from intimidation, violence, administrative manipulation, or fear of retribution. The media and civil society organizations should have free access to the election processes from the very beginning up to the end. In this regard it is

important to mention the roll of both international and domestic observers. In recent years much attention is paid to observer groups as a prerequisite for and requirement of democratic elections. It both limits the possibilities of fraud and gives real chance for improvement, as observer's records serve as a good tool in comparing the current elections to previous ones.

Fair elections mean that competitors should be treated equally by the law and by the authorities. In other words,

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 law should be held accountable (Handbook for Domestic Election Observers, OSCE/ODIHR 2003, 17).

Universal and equal suffrage means that all qualified citizens should have the rights to vote, without discrimination. Voter registration system should be effective and impartial, without poll taxes. All voters, including disabled, internally displaced people, minorities, women, and other groups should be able to vote. Equal suffrage requires that each vote have the same value.

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 number 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 per cent could be cause for concern (Handbook for Domestic Election Observers, OSCE/ODIHR 2003, 18).

Ballot secrecy 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).

According to Goodwin-Gill (1994), elections should be held at reasonable intervals by secret ballot and government should be representative, as it should be accountable to the elected legislature (Goodwin-Gill 1994) which in turn should represent the “will of the people”.

Any departure from the above criteria calls into question the propriety and adequacy of an election. What forms has departure taken? This is a question that has received attention by many scholars. Political scientists have collectively termed most such departures as electoral fraud and manipulation. Restricting the franchise to males only, to members of certain ethnic or racial groups, though not “fraud” in the normal sense of the term, nevertheless constitute deviations from modern democratic standards. Such deviations may be intentional or unintentional, and it is not easy to differentiate between them.

According to Lehoucq (2003) an act is fraudulent if it breaks the law and the originator of it desires/tries to conceal it. The types of fraud vary from violations of electoral law to, at an extreme, violence or the threat of violence, aimed at voters and observers (Lehoucq 2003). While the former may and may not be intentional the latter is always deliberately planned action to manipulate result of elections. Lehoucq (2003) mentions several types of electoral fraud: coercing voters at the polling station to cast ballots for party X or filling the ballot box with votes for party X; a polling station opening late and closing early; polls failing to advertise their locations before election day; stuffing ballot boxes with false votes; ballot substitution; preventing opposition voters from casting ballots; locating polling stations in disagreeable or inaccessible places, such as a hospital’s infectious wards; having citizens vote repeatedly or on behalf of deceased, nonexistent, or opposition voters (this practice when done collectively became known as *escuadrillas volantes* or “flying squads”); and, during the tally of the vote,

falsely claiming that rival candidates had withdrawn from races. Another scholar in this field, Daniel Ziblatt (2008) identifies three main broad categories of electoral fraud:

(1) coercion and threats from state officials, church officials, or employers to induce voters to vote for a particular party or candidate; (2) vote-buying to inflate or depress votes and turnout; (3) systematic procedural violations, including, 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).

As types of electoral fraud differ so may causation. There are also different theories regarding the causes of electoral fraud. As in case with the frauds, the area of the causes of electoral frauds is not studied extensively (Lehoucq 2003) although some of them worth mentioning. One of the common arguments is that incumbent political powers try to maintain and/or attain control over state (Lehoucq 2003). Also economic interests are mentioned in this regard; economic powers that may be directly influenced by the chosen particular representatives try to get them elected anyway, as some public policy choices may have implications to their economies. According to Ziblatt (2008) as one cause of electoral fraud may serve landholding inequality.

“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 from oppositional mobilization efforts” (Ziblatt 2008, 33-34).

According to him: “Electoral fraud and manipulation is the result when democracy bumps up against economic inequality” (Ziblatt 2008, 36). To sum up, it may be said that the ultimate aim of the electoral fraud is the political/economic power of a particular group of people.

What are the consequences of electoral fraud? It is obvious that, if free and fair elections open a path to democratization, fraud and manipulation of elections hinder and block that path (Ziblatt 2008). Election manipulation alters results. But even when it does not alter them decisively there is nevertheless a cost. As Lehoucq (2003) puts it “The handful of surveys

suggests that parties offer an array of promises, gifts, and even cash for votes, but that does not mean that vote buying always works... .. regardless of whether fraud is decisive, it encourages incumbents and opponents to discredit elections and their outcomes” (Lehoucq 2003, 248-249).

Armenian practice displays various types of electoral fraud and manipulation. Varieties of evidence exist in this regard. For example, by the Opinion of Council of Europe Observers, the latest 2008 local elections in Yerevan lack transparency in both voting and counting procedures. They think that much attention should be paid to the strengthening of local democracy in Armenia (<http://www.hra.am/eng/?page=issue&id=18739>).

According to “Partnership for Open Society”, launched in November 2003, an open coalition of a number of interested civil society actors in Armenia that strive towards promotion of democratic reform process in Armenia, Armenian elections, in particular, the presidential elections on February 19, 2008 have numerous instances of violations (<http://www.hra.am/eng/?page=issue&id=18415>). “Partnership for Open Society” states that unless the violators are punished and publicized there will be no trust in the electoral process and legal and judicial systems. The government should act in accordance with law and serve as an example for the Armenian people in large to behave the same way (<http://www.hra.am/eng/?page=issue&id=18415>). Among other violations of the 2008 elections are media censorship, intimidation of voters, vote buying, etc. “Partnership for Open Society” is composed of such organizations as *Arena of Education NGO*, *“Asparez” Journalists’ Club*, *Civil Society Institute*, *Collaboration for Democracy*, *Committee to Protect Freedom of Expression*, *Helsinki Committee of Armenia*, *Helsinki Citizens Assembly Vanadzor Branch*, *“Internews-Armenia”*, *Media Support NGO*, *Media Diversity Institute*, *Menq Plus NGO*, *Open Society*

Institute, Assistance Foundation-Armenia, Transparency International Anti-corruption Center, Yerevan Press Club (<http://www.hra.am/eng/?page=issue&id=18415>).

According to the Gallup Polls conducted in 2007 and 2008 across 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.asp>). 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.asp>). In other words, countries that have 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.

Another survey in Kenya highlights the importance of public trust in the Electoral Commission. According to the commission trust may serve as a prerequisite for honest elections (<http://www.gallup.com/poll/111622/Kenya-Most-Ethnic-Groups-Distrust-2007-Election.aspx>).

The importance of public trust in the electoral machine also is highly emphasized by the OSCE/ODHIR observation mission. (<http://www.hra.am/eng/?page=issue&id=18415>).

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:

1) the old habit of tampering with all elections, even when fake ballots were unnecessary for a successful outcome; 2) 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 3) 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 votes 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).

He says 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).

The parliamentary elections of 2007 also have been challenged by international observers (Election Observation Mission Report. Republic of Armenia Parliamentary Elections 12 May 2007). They concluded that despite tangible advances, those elections still displayed shortcomings. International observers also criticized the conduct of presidential elections the following year. (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008). Many observers believe that Armenia's formal legal framework is essentially strong (after numerous amendments to our electoral code, recommended by OSCE/ODIHR). Administration and implementation, however, are severely lacking.

Taking into consideration numerous deviations as well as the existence of what seems (at least for the present) to be an appropriate legal framework, Armenia would appear to be an example of the “competitive authoritarian” style of governance widely discussed among students

of democracy as having emerged 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 elections are always violated and manipulated by the incumbent political powers (Howar and Roessler 2006).

In this context our study will try to examine thoroughly the methods that Howar and Roessler (2006) claim to be effective to treat the situation, that is, creation of an opposition coalition.

Methodology

The methods applied to answer the research questions include: primary and secondary analysis of laws, regulations, scholarly articles, and other relevant documents – including election observation reports and published research on election fraud. The priority is given to the recent national election observation mission reports and recent scholarly articles concerning “Competitive authoritarianism”. Personal observations of elections and other political activities in Armenia have also found place in a way of developing this essay.

Historical Overview of the Armenian Elections in General

In 1991 on September 21 Armenia held the referendum of independence from the Soviet Union and after two days the Armenian Supreme Council declared its independence (Policy Forum Armenia 2008). So, with the collapse of the old political regime there emerged a new one.

The first elections that took place in independent Armenia were parliamentary elections held in October 1991 (Policy Forum Armenia 2008). According to many political scholars these

elections were ironically the most free and fair elections in the newly independent Armenia. Subsequent elections (parliamentary elections in 1995, 1999, 2003, 2007 and presidential elections in 1991, 1996, 1998, 2003, 2008) had numerous shortcomings and were inconsistent with the international standards for democratic elections according to the OSCE/ODIHR international observers who has observed elections in Armenia since 1996 (Policy Forum Armenia 2008).

In the first presidential election, in 1991, Levon Ter-Petrossian (representing 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). This was mostly due to the fact that the main opposition party ARF-D (Armenian Revolutionary Federation Dashnaktsutium) was excluded from participation, as the president Levon Ter-Petrossian "outlawed" the party claiming its foreign founding and terrorism (Policy Forum Armenia 2008, 9).

In September 1996 Ter-Petrossian won reelection as president with official results giving him 51.75 percent of the vote. However, the existence of extensive fraud was undeniable. The election was followed by numerous demonstrations organized by the opposition candidate, Vazgen Manukyan, head of the National Democratic Union (NDU) party. His central claim was that the election was dominated by fraud and that the results were not legitimate. Thousands of people desperately attacked the National Assembly building in the capital Yerevan on September 25 followed by the attack on legislative speaker and deputy speaker, who were members of

ANM. After putting police into force about 60 people were injured and several of them even beaten and arrested. Parliamentary immunity was withdrawn from opposition MPs in order not to serve as an obstacle to arrest, etc. At the end, a State of Emergency (SOE) was declared by the president and police and armed forces were deployed in Yerevan (Policy Forum Armenia 2008). Unfortunately these events would serve as a precedent for later elections in Armenia. These fraudulent elections as well as Ter-Petrosian's compromising policy regarding the Nagorno Karabakh (NK) conflict after a year brought the resignation of the president on February 3, 1998. It was forced by *Yerkrapah*, a group composed of veterans of the NK conflict, and by the country's defense minister after an intense debate in the National Assembly (Policy Forum Armenia 2008, 10). Then Prime Minister Robert Kocharyan assumed the duties of the acting president as the legislative speaker had resigned (According to the Constitution, speaker of the legislature should have become acting president).

On March 16, 1998 a special presidential election took place. The main candidates for the presidency were Robert Kocharyan, Vazgen Manukyan, and Karen Demirchyan (head of the Armenian Communist Party from 1974 to 1988 (Policy Forum Armenia 2008, 10). The results showed that none of the candidates had won the required simple majority of "50 percent plus one" and a runoff election was held on March 30 following the victory of Robert Kocharyan (Policy Forum Armenia 2008, 10). However, fraud and manipulation were once again the inseparable "escorts" of the election. The OSCE standards that Armenia is committed to were not met again, although there were signs of improvement compared to the 1996 elections. On April 9, 1998 Robert Kocharyan was inaugurated. However, even 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). Karen

Demirchyan and Vazgen Sargsyan (the former defense minister) were appointed as speaker of the national Assembly and prime minister, respectively.

Then came perhaps Armenia's worst political crisis to date. On October 27, 1999 gunmen penetrated the National Assembly and killed eight people: Prime Minister Vazgen Sargsyan, Speaker Karen Demirchyan, and four others, claiming that "they were targeting the prime minister and were launching a coup to "restore democracy and end poverty" (Policy Forum Armenia 2008, 10). Dozens of hostages were released after the Kocharyan's entry to the National Assembly and consequent promises of a fair trial for the gunmen. Robert Kocharyan had lost the only powerful and popular opponents he faced, Vazgen Sargsyan and Karen Demirchyan. These brutal actions and the questionable propriety of the subsequent investigation brought discontent and political instability. The dubious conclusion of the assassination trial was that "there were no organizers and the four people involved collaboration on their own initiative" (Policy Forum Armenia 2008, 10). The second anniversary of the shootings brought demonstrations, with thousands of protesters demanding Kocharyan's resignation.

The next presidential election in Armenia was held in 19, 2003 where in the runoff election on March 5 Kocharyan defeated Stepan Demirchyan (son of the assassinated parliamentary speaker Karen Demirchyan) and the new five-year era of his presidency began. This time again the election did not receive higher marks both from OSCE and, of course, from the opposition (Policy Forum Armenia 2008). The opposition did not recognize the vote claiming the fraud and manipulation of the election and its results respectively. Unfortunately, taking into consideration the frequency of this type of reaction from the Armenian opposition, it may be regarded as a routine that highlights the undemocratic nature of the elections.

On May 12, 2007 parliamentary elections were held in Armenia. “Largely democratic” and “significant improvements” were the marks received from OSCE observers and according to the Armenian public television these elections were the best since independence (Policy Forum Armenia 2008, 11).

Signs of improvement were terminated by the recent 2008 presidential election last February 19. Both election and post-election developments were marred by the use of force including ten casualties that took place on March 1 after the police were brutally deployed against the demonstrators (Human Rights Watch 2008). The main contenders for the presidency were Serge Sargsyan, Prime Minister and the leader of the Republican Party; Levon Ter-Petrosian, the first president of Armenia; Artur Bagdasaryan, a former speaker of the National Assembly and the leader of “Rule of Law” party; Vahan Hovannisyan, the deputy speaker of the National Assembly and an executive member of the ARF-D; and Vazgen Manukyan, the chairman of the NDU (Policy Forum Armenia 2008). “Six international and 39 local organizations deployed close to 15,000 observers countrywide, including more than 600 internationals, ostensibly to encourage a process that would secure a legitimate and peaceful result” (Policy Forum Armenia 2008, 13). However as the developments would show their goal was not accomplished. 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 19 February 2008).

As one can see from the historical developments of the Armenian elections, as well as from the political regime in general, both of them may hardly be called democratic. It is not a secret that elections and political regimes are tightly interlinked (Grofman and Lijphart 1994). In

Armenia, unfortunately, assassinations and murders accompanied both electoral developments and political intercourse. Fraud and manipulation were the tools extensively exercised during and after elections. The following sections 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 Demonstrated Shortcomings of the Armenian Electoral System: in Particular Those of the Recent Parliamentary 2007 and Presidential 2008 Elections.

Legislative Framework

The two main documents that constitute the legislative framework for elections in Armenia are the Constitution and Election Code of the Republic of Armenia (Election Observation Mission Report, Republic of Armenia Parliamentary Elections 12 May 2007). The Constitution guarantees civil and political rights, and fundamental freedoms and the Election Code is the primary legislation regulating elections (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008).

Since its establishment a decade ago the first electoral code of Armenia has witnessed several amendments originating in the need to address practical problems encountered during elections. 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 Commission¹. Following requests from the Armenian Ministry of Foreign Affairs, these organizations continuously tried to challenge the country's

¹ The Venice Commission is Council of Europe's advisory body on constitutional matters.

procedures and developments, comparing them to international standards, such as those set forth in the Copenhagen Document², as well as against the best electoral practices worldwide (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE/OSCE 1990).

Many important improvements have been made to the electoral law 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 Election 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 Elections 12 May 2007, 5). The coming paragraphs will try to address some legal issues that create problems and uncertainty.

Should Civil Servants, High State Officials, and Persons Occupying “Political or Discretionary Positions” Continue Their Official Duties While Being Nominated as Presidential Candidates?

Taking into consideration the importance of equal treatment of the election contestants the recent presidential election in 2008 raises a concern, as the Prime Minister of the Republic of Armenia occupied his office at the same time as he was campaigning for president (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008). This fact, according to many critics, granted the Prime Minister with appreciable advantages. The Electoral Code allows registration of nominees who serve as civil servants, high State officials,

² Copenhagen Document is an agreement signed in June 1990 by a number of States aiming to strengthen respect for, and enjoyment of, human rights and fundamental freedoms, to develop and to resolve humanitarian issues.

or occupy “*political or discretionary positions*” (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008). Much confusion arose over the terms and certain articles of the electoral code and the question of the Prime Minister’s continuing to occupy his office while being a presidential candidate. Clarifications provided by the Central Election Commission (CEC), the main election administrative body, stated that nominees who are “*state servants*” had to abandon their duties, but those occupying “*political or discretionary positions*” were not “*state servants*” and accordingly could keep their duties. The International Election Observation Mission concluded that “In deciding this matter, the CEC may have exceeded its authority” (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008, 7).

If the Election Code had concrete provisions regarding not only the nomination of civil servants, high state officials, and people occupying “*political or discretionary positions*” but also whether they could retain or withdraw from their duties there would be less uncertainty and need of hasty interpretation. What the Election Code says in this regards concerns the exact restrictions on the office resources not to be used with campaign purposes (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008).

Dual Citizenship Issues

The recent amendments of November 2007 to the Electoral Code provide that persons with dual citizenship may vote only if they are registered as residents of Armenia (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008). The law here refers to registration according to the place of residence. Yet interpretations by the Speaker of National

Assembly pointed that Armenian citizens with dual citizenship, residing outside Armenia had a right to vote in national elections if “they were registered in Armenia based on owning property or investment” (Election Observation Mission Report, Republic of Armenia Parliamentary Elections 12 May 2007, 5). So, it will be helpful to further clarify what it means dual citizenship and whether there are differences among them concerning electoral rights. The same amendments referring to the rights of candidates with dual citizenship to run for office do not permit candidacy for president of Armenian nationals possessing dual citizenship. This creates uneven opportunities.

A further deficiency concerning this issue of persons with dual citizenship is that the Central Electoral Commission (CEC) did not develop a single procedure that would test for dual citizenship among the nominees for president, while many other qualifications for candidacy were subject to documentation. The explanation provided to the International Election Observation Mission (IEOM) by the CEC chairman contained that it *could have been assumed* that the nominees for president were not dual citizens, if not, they would have broken the Law (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008). An election process based on assumptions rather than evidence is inherently problematic, and it is not surprising that the Armenian people have a very low level of trust in the election process and toward government in general. The impression is that the executive class is busy manipulating the laws to its own advantage.

Campaign Conduct and Financing

Campaign financing also raises numerous questions of democratic propriety and fairness. Article 79.9 of the 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 contains no specification concerning donations (i.e. goods or services provided to a candidate free of charge). This provides 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). 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 election campaigns.

Electoral deposits of presidential and constituency nominees, that a candidate is required to have to be able to get registered as a candidate, raise questions. These amount have been substantially increased lately (before the introduction of electoral deposits these candidates may be nominated having enough signatures of support by citizens). For now, there is a possibility for those people with public support to be excluded from the presidential contest due to the lack of finance to support the deposit. In 2008 presidential election four out of nine candidates received less than 10,000 votes or less than 1 per cent of the total number of votes. This means that these four people fell out of public support at all and the reintroduction of the signatures of support may be reconsidered (Joint Opinion on the Election Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008).

Another important issue in this regard is the flexibility of the start of campaign activities. In other words, the Election Code does not exactly specify if the campaign activities by election participants are permitted prior to the official campaign period.

Materials that explicitly constituted campaigning by Prosperous Armenia, in the form of large street billboards, were observed by the OSCE/ODIHR EOM in Yerevan on 7 April, the day before the election campaign officially started. The absence of regulation and hence the apparently highly permissive conditions for campaigning in the period before the official campaign subvert the intent of restrictions in the legal regulations for the campaign, particularly those related to campaign financing (Election Observation Mission Report, Republic of Armenia Parliamentary Elections 12 May 2007, 10).

An additional important point, worth to be mentioned in this regard, is that the Election Code does not specify how to differentiate between regular political party activities and campaign activities.

CEC Issues

Many suggestions made by the IEOM members directed to the improvement of the legal framework of the Electoral Code of the Republic of Armenia still remain unaddressed.

In rare cases the law creates administrative machinery without giving much thought to how it would actually function?

The Electoral Code so far does not indicate who has the power to appoint members of CEC in case of a coalition or a party alliance breaking apart, or how much power the President has in appointing the vacant CEC and Territorial Electoral Commission (TEC) positions in emergency situations. The role of the president in confirming the composition of the CEC is still vague. After recent amendments to the Code, the article 35 paragraph 3 of it now establishes a ten day period for a decree of the President of the Republic of Armenia to confirm the composition of the

CEC, based on the nominations made by the entities responsible for CEC formation. However, it is not clear whether the approving decree by the President is a mere formality or not. If it is a formality the implication can be made that the President has no authority to veto, negate, or prevent an appointment (Final Joint Opinion on Amendments to the Election Code of the Republic of Armenia, Venice, 16-17 March 2007).

CEC is the highest administrative body responsible for election organization and conduct within the law. According to the Election Code, article 35.1 the CEC shall be made up of: one member from each faction in the National Assembly, one member appointed by the President of Armenia and two members appointed by the Council of Chairmen of the Republic of Armenia Courts from among the judicial servants. The Territorial Election Commissions (TEC) are appointed by the members of the CEC on the basis of one member of the TEC per member of the CEC, and the Precinct Election Commission (PEC) shall again reflect the TEC membership) (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008). However this composition of CEC needs to be reconsidered, as well as the way the management positions of election commissions (chairperson, deputy chairperson and secretary) are elected. The CEC membership may be overloaded by the biggest party coalition as most of the CEC members represent their parties. This may also hinder the political balance in the management positions of election commissions, as they are elected by majority vote of commission members (Joint Opinion on the Election Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008).

Actually, this kind of imbalance happened in the presidential election 2008 as the majority parties in the National Assembly were the formal or informal followers of the Prime Minister and candidate. The leaders of the TEC were dominated by the representatives of a single political

coalition. Significant elements of the TEC leadership (chairperson, deputy chairperson and secretary), though elected by the TEC, had been mainly the representatives of the leading Republican Party, the Prosperous Armenia Party and appointees of the President. So the concerns and doubts that the election administration in general was dominated by the ruling executive elite were not groundless (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008).

Another important issue is the absence of concrete requirements in the Election Code regarding the CEC intervention in cases of suspicious irregularities and not only in cases of formal complaints. For example, an exceptional turnout, a strikingly high margin of victory of a candidate or a very high proportion of invalid ballots may well be indicative of fraud and raise suspicion (Joint Opinion on the Election Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008). “The introduction of an explicit article stating that the CEC and the TECs should review all work of the subordinate commissions and should investigate and act on irregularities should be considered” (Joint Opinion on the Election Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008, 5).

Complaints and Appeals Procedure

The efficiency and effectiveness of the complaints and appeals processes are considered by both the OSCE/ODIHR election reports and the Venice Commission as key foundations for public trust in the electoral system. (As discussed in the “Introduction” public trust may well be a prerequisite for the conduct of honest elections).

“The CEC retains a residual jurisdiction to overturn decisions of the TEC that do not comply with the law” (Joint Opinion on the Election Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008, 14). However, it is not clear under what circumstances this residual jurisdiction should be implemented. In the 2008 presidential elections there were several cases when TECs refused appeals for a recount with the claim that the need was unsubstantiated. After the appeals went to the CEC it did not exercise its judicial power and the recount did not happen. So, the code should directly address this issue 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 Election Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008, 15).

The ease and timing of complaints and appeals procedures 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 Election 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 further clarified. IEOM members reported that appeals and complaints during 2008 presidential election were not responded to in a timely manner and mostly turned out to be ineffective (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008).

Finally there is the question of double voting and the availability of simple ways to reduce or avoid it. The Election 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 Election Code of the Republic of Armenia as amended up to December 2007, Venice, 17-18 October 2008).

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

Administrative Framework (Implementation of the Election Code)

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, 3).

As the international observers noted several times, the main shortcomings in the implementation of the Election 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 ingredients necessary for an election to be called democratic and in line with international standards. There were several violations of this requirement during the 2008 presidential election.

One concerns the demonstration of campaign materials. According to the Election 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). 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).

Electoral Rights and Freedoms

The Election 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 as of November 2007, Strasbourg 1 July 2008). 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 strongly pressured to support the Republican Party candidate. Non-compliant workers 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).

Vote Counting

During the 2008 presidential elections vote-counting procedures were assessed either “bad” or “very bad” in 16 percent of polling stations visited by the OSCE/ODIHR Election Observation Mission (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008, 21). Major problems of vote counting were manifested in accountability and transparency. Among the main demonstrated shortcomings in this regards 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, Republic of Armenia Presidential Election 19 February 2008, 2).

The law states that all election commissioners must undergo training and receive a certificate of qualification. However the revealed shortcomings during the vote counting procedures in the parliamentary elections of 2007 suggested that PECs had not acquired 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, Republic of Armenia Parliamentary Elections 12 May 2007).

The main problems during the vote counting process stemmed from the improper implementation of the Electoral Code. According to the law, 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, Republic of Armenia Parliamentary Elections 12 May 2007).

Ballot Staffing and Vote Buying

Both during the presidential 2008 and parliamentary 2007 elections instances of ballot stuffing were witnessed by the IEOM.

It is noteworthy to mention here the discovery of a prominent tool by Armenians called “karusel” that has been extensively exercised for years. This mechanism works in the following way: the voter is secretly given an already marked ballot (marked on behalf of the candidate A) by a person campaigning for a candidate A before approaching the ballot box and after receiving it he/she casts the marked ballot bringing out the untouched one that he/she has been given by the election authorities. Later, before leaving the polling location this unmarked ballot is given to the person who gave him/her the marked one in order to be marked secretly and be given to the next voter. Thus is maintained a “karusel” (or “carousel”) of corruption at the voting location. This mechanism totally eliminates the freedom of choice of those somehow depending on the candidate A and helps assure the victory of that candidate. This vicious circle continues again and again.

Separate cases of vote buying were witnessed by the IEOM members during the last presidential elections as well. In the vicinity of a polling station in Shengavit (Yerevan), a man dispensing money to voters was seen ticking entries in a list of voter names. A PEC member at one of the Pooling Stations in Yerevan informed IEOM members that he was offered money not to be present at the vote counting. There have been formal complaints filed, though (as reported by the IEOM observers) PEC chairs were reluctant to register formal complaints (Election Observation Mission Report. Republic of Armenia Presidential Election 19 February 2008).

The Media

A visible shortcoming regarding election procedures in Armenia remains the situation with media, which in no way meets the standards of the Council of Europe. According to article 20.9 of the Election Code, the compliance of TV and radio companies with pre-election campaign procedures has to be monitored by the National Television and Radio Commission as well as by the CEC (Electoral Code of the Republic of Armenia as of November 2007, Strasbourg 1 July 2008). However, neither institution made efforts to ensure that the media met their obligation and treated the candidates equally (Election Observation Mission Report. Republic of Armenia Parliamentary Elections 12 May 2007). Media bias was apparent, and it was well demonstrated during both presidential and parliamentary elections. Instead of displaying the attitudes of the candidates toward the political perspectives or bases of the political powers they represent, media was focusing mainly on previous achievements of leading political personalities (Election Observation Mission Report. Republic of Armenia Parliamentary Elections 12 May 2007). During 2008 presidential elections “favorable coverage of Prime Minister Sargsyan, including

his official duties, granted him an undue advantage” (Election Observation Mission Report, Republic of Armenia Presidential Election 19 February 2008, 2).

Where Do Armenian Elections Rank in the International Political Arena and What Lessons Can Armenia Learn Both from International Practice and From Its Election History?

As it is described above, 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 in this essay tend to persist. In order to understand these flaws and their persistence it is important to analyze elections together with the political regime that emerged in Armenia after the Soviet domination and its consequent collapse. Also it is significant to understand political regime and election correlations in a broader concept of the analogous cases in order to be able to learn some lessons that may help to save the situation.

Competitive Authoritarianism and Armenia

After the collapse of the Soviet Union several new independent states emerged with different types of political regimes. Most newly-emerged post-Soviet regimes fall somewhere in-between. As Diamond (2002) puts it, they are “hybrid regimes” that are neither totally democratic nor totally authoritarian but having characteristic features of both. According to Diamond (2002), today almost all hybrid regimes may be identified as *pseudodemocratic*. In pseudodemocratic regimes “the existence of formally democratic political institutions, such as multiparty electoral

competition, masks (often, in part, to legitimate) the reality of authoritarian domination” (Diamond 2002, 24).

Armenia is not an exception in this regard and is identified as a post-communist hybrid regime. Specifically, the Armenian political regime 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 through 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, fair, and honest 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 (Wheatley and Zürcher 2008, Levitsky and Way 2002). 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.

Although Wheatley and Zürcher (2008) claim this kind of system (competitive authoritarianism) persists and appears immune to change, Levitsky and Way (2002) propose some areas of serious contestation and ways of dealing with such regimes in order for a country to turn toward a more authentic democracy. Howar and Roessler (2006) also propose some ways

of dealing with competitive authoritarianism relying mostly on precedents of successful changes of incumbents in analogous regimes.

The rest of this essay assesses the condition of democratic institutions in Armenia in the context of competitive authoritarianism and highlights the ways in which Armenia can challenge their various deficiencies.

Elections in Competitive Authoritarian Armenia

As in other competitive authoritarian regimes, Armenia's 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. Perhaps the only exception lies in the parliamentary elections of 1990 when the incumbent Communist Party was finally defeated. All the subsequent elections and transitions of national leadership have been marked by numerous electoral violations (Wheatley and Zürcher 2008). Robert Kocharyan replaced Levon Ter-Petrossian and, after being reelected for a second term, he was replaced by friend and political ally Serge Sargsyan. So elections by themselves, it can be said, do not determine who rules Armenia. Almost all the formal and informal financial resources of the state as well as other state assets were used by the ruling party and incumbent political elite with the purpose of making sure the victory of either the party or the president during elections (Wheatley and Zürcher 2008).

During all three presidencies in Armenia (Ter-Petrossian, Kocharyan, and Sargsyan), 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 that brought these people (or the parties they directly or indirectly

represent) to power were gained and solidified by means of fraud and manipulation, “ranging from more or less legitimate campaigning, supported in most cases by largely favorable media coverage, to the use of “soft” administrative resources, such as providing electricity, fuel, and other public goods shortly before elections, to the sponsoring of “false opposition parties” to capture the votes of discontents, and even to outright falsification and fraud” (Wheatley and Zürcher 2008, 8).

As Levitsky and Way (2002) put it:

although elections are regularly held and are generally free of massive fraud, incumbents routinely abuse state resources, deny the opposition adequate media coverage, 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).

So, what are the causes that have brought many people to act in such a dismal way? How can these people (the presidents and their parties) preserve power for so long and win so many elections? One answer is that all of them used 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).

This was the way of creation of strong political networks at the top of which has been always the president. The permanence of the regime created by the ways mentioned above was conditioned also by the fact of keeping the public, including civil society out. Almost in all instances of possible public intervention in political matters, society has been threatened, bribed, and repressed. This resulted in an enduring separation of political and economic elites from the

rest of society, as well as a hindrance of democratic development and the consolidation of competitive authoritarianism (Wheatley and Zürcher 2008). As one can see from the table below, democratic development of Armenia can hardly be called optimistic.

Table 1 Freedom House Nations in Transit Democracy Scores, since 1999-2007

	1999	2000	2001	2002	2003	2004	2005	2006	2007
Armenia	4.79	-	4.83	4.83	4.92	5.00	5.18	5.14	5.21
Azerbaijan	5.58	-	5.63	5.54	5.46	5.63	5.86	5.93	6.00
Georgia	4.17	-	4.33	4.58	4.83	4.83	4.96	4.86	4.68

This is the way elections function in competitive authoritarian regimes. Elections may also serve as a serious field for power turnover but, in operating the way they do, such regimes incur significant costs and risks (Levitsky and Way 2002).

First, incumbents must spend huge amounts of financial resources on the corruption of people. Second, as the elections are always won through, or at least accompanied by, extensive fraud and manipulation, there is increased risk of instability, political crises, and perhaps even civil war (Howar and Roessler 2006).

As one can see the manipulation of elections is not an easy process either. As opposed to authoritarian regimes, in competitive authoritarian regimes elections are usually badly contested. Despite the fact that elections are always accompanied by major abuses of incumbents' power,

biased media coverage, pestering of opposition representatives, and by numerous other electoral violations, elections are regular³, competitive (as opposition representatives can participate), and usually without massive violations. The presence of international observers as well as double counting procedures significantly reduces the possibility of massive fraud and violations (Levitsky and Way 2002). This in rare cases may result in unexpected outcomes for the incumbents. For example,

Russian president Boris Yeltsin in 1996 and Ukrainian president Leonid Kuchma in 1999 faced strong electoral challenges from former communist parties. Despite concerted efforts to use blackmail and other techniques to secure votes, Kuchma won only 35 percent of the vote in the first round of the 1999 presidential elections and 56 percent in the second round (Levitsky and Way 2002, 55).

Government – Opposition Relations in Competitive Authoritarian Armenia

As mentioned above, Armenian mass society has been excluded from most political matters and political parties were not an exception in this regard. Political parties have been composed of mainly political and economic elites.

Almost always the ruling political party (with majority members in the parliament) represented the president. In other words, 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. During the Ter-Petrosian period (1991-1998), the ANM dominated political life (Wheatley and Zürcher 2008). After the transition of power to Kocharyan, the dominant entity was the Republican Party, sharing power with a number of smaller factions, mostly Dashnaks. “It is not ideology that defines the “party of power,” but proximity to the authorities... ...the rapid collapses of the ANM

³ See page 9 “periodic elections”

following Ter-Petrosian's ouster demonstrate that a "party of power" cannot survive without the patronage of the president" (Wheatley and Zürcher 2008, 7).

Almost all the Armenian parties (both governmental and opposition) lack a concrete ideological base and a permanent real constituency support. Most parties depend on their leaders and are leader oriented. Therefore, the permanence of a party largely depends on the leaders' political lives. For example, ANM may be said, faded away after the ouster of its leader Ter-Petrosian. So, it is not the party that receives the votes of constituency but rather the leaders (the authorities) of that party, be pro governmental or opposition. People vote "without any clear idea of what in terms of policies they are voting for – a state of affairs that is hardly conducive to a participatory democracy" (Wheatley and Zürcher 2008, 7).

However, the formal existence of multiparty legislature may as well arise some questions worth of the incumbents' consideration. "Even where incumbent executives enjoy large legislative majorities, opposition forces may use the legislature as a place for meeting and organizing and (to the extent that an independent media exists) as a public platform from which to denounce the regime" (Levitsky and Way 2002). According to Howar and Roessler (2006), it is only the well organized opposition coalition that can bring to the regime turnover and the termination of deep-rooted incumbents' power. The creation of opposition coalition, "despite significant regional, ethnic, or ideological differences and divisions" is vitally important for the electoral process and its results, as it can have incredible effects on them (Howar and Roessler 2006, 380). The political opportunity offered by elections should be accepted seriously and, by the creation of the above mentioned coalition, the incumbent powers should be effectively challenged.

The result, if successful, might be significant change and improvement in that country over the long run... ...this was certainly what transpired in Kenya's 2002 elections, where the

opposition's ability to organize effectively into a broad-based coalition channeled votes to one candidate and raised the costs and risks of repression, manipulation, and vote-buying on the part of the ruling party (Howar and Roessler 2006, 380).

The creation of this kind of coalition influences the incumbents' behavior even before the elections start, 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.

Civil Society and Mass Media in Competitive Authoritarian Armenia

The vicious circle of Armenian political life, created by the government leaders, has left very tiny room for what is called Civil Society. The development of the political regime in Armenia has had no connections with civil society. It has been mostly NGOs that compose the civil society. But even they may not be regarded as true carriers of the ordinary citizen's ideologies/preferences because, either they have been government founded (representing the leadership network) or western founded (representing the Western oriented elite). State - Society Bridge has been never created despite the existence of these civil organizations (Wheatley and Zürcher 2008). However, if strong and united, civil society may have a tremendous impact on both electoral outcomes and political life of a State. For example, in Kenya, the civil society created significant linkages between the disparate opposition parties, facilitated different meetings and negotiations, and last but not least it revived the trust between widely divided opposition leaders of different political and even ethnic directions. The result was obvious and the incumbent powers were collectively challenged and consequently defeated (Howar and Roessler 2006).

The Mass Media, generally, has played no valuable role in creating the sense of accountability in the executives. Most television channels have been under the direct or indirect control of the authorities. Non compliance as described above was formally or informally penalized⁴. “Investigative journalism” has almost been absent, although different independent newspapers (both pro-government and pro-opposition) exist (Wheatley and Zürcher 2008).

For example, in April 2002 A1 Plus, the most powerful independent opposition TV station Armenia was refused broadcasting and even its frequency assigned to another channel by the state authorities, claiming its inconsistency with “some standards”. What actually happened was the violation of basic freedom of expression that Armenia is obliged to defend by the numerous binding international agreements it signed with EU. After that the company applied to the European Court of Human Rights. Here is the short description of the case:

Minutes ago the European Court of Human Rights upheld the claim of Meltex Ltd and Mesrop Movsesyan vs. Armenia (application no. 32283/04).

The applicants were Meltex Ltd, an independent broadcasting company established in 1995 with its registered office in Yerevan (Armenia), and its chairman, Mesrop Movsesyan, who was born in 1950 and lives in Yerevan. The case concerned the applicants’ complaint about being refused broadcasting licences following legislative changes in 2000 and 2001. The applicants relied, in particular, on Article 10 (freedom of expression) of the European Convention on Human Rights.

The European Court considered that by refusing broadcasting license to “A1+” Article 10 of the European Convention on Human Rights was violated. The Court decided that the Armenian Government is to pay EUR 30.000 to “Meltex” out of which EUR 10.000 is to be given to the English lawyers (http://khosq.com/hy/article/2008/06/17/%E2%80%9Ca1%E2%80%9D_wins_in_european_court_a1).

However, this should serve as another example to understanding the importance of the formal institutions like media in the competitive authoritarian regimes and the possible costs of harassment, and once again signal a strip of light in the shadow of deep-rooted incumbents’

⁴ see the third paragraph on page 39

power. For example, “when in 1996 Tudjman government in Croatia tried to revoke the license of Radio 101, a popular independent station in the capital, the massive protests that broke out both galvanized the opposition and temporarily split the ruling party (Levitsky and Way 2002, 58).

Not to forget, judiciary body of the State also has been of no use as an offset to the prominent executive power. All members of the Council of Justice (the highest judicial body) in Armenia were appointed by the president. However, after the 2005 amendments to the Constitutions, this power has been somewhat mitigated (Wheatley and Zürcher 2008). Although incumbent powers of the competitive authoritarian regimes usually try to subordinate the judiciary by the means of impeachment, bribery, extortion, and other co-optation mechanisms, “yet the combination of formal judicial independence and incomplete control by the executive can give maverick judges an opening” (Levitsky and Way 2002, 56).

In Russia, when the Constitutional Court declared Yeltsin's 1993 decree disbanding parliament to be unconstitutional, Yeltsin cut off the Court's phone lines and took away its guards... ...in Ukraine, for example, the Constitutional Court stipulated that President Kuchma's referendum to reduce the powers of the legislature was not binding. In Slovakia, the Constitutional Court prevented Vladimír Mečiar's government from denying the opposition seats in parliament in 1994, and in Serbia, the courts legitimized local opposition electoral victories in 1996 (Levitsky and Way 2002, 56).

Although such formally independent “maverick” judges are always under the high risk of losing their lives and being hurt by other different ways, such acts may bear significant costs in terms of domestic and international legitimacy (Levitsky and Way 2002, 56).

Conclusion and Recommendations

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 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 a 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 or 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 the 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. Even in a country like United States are, the way of developing truly democratic elections has been covered with numerous instances of fraud and severe violations (Campbell 2005). Armenian society should understand that having democratic elections is not a matter of one night. Nevertheless the society should be very attentive and persuasive not only in development of free, fair, and honest 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. It should look beyond what is called 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. Armenian NGOs, international organizations, Armenian Diaspora should be involved in this process as well.

As it has been mentioned several times, Armenian electoral problem remains in the implementation of the Election Code and the development of strong democratic political culture. The reasons of circumventing the law by the incumbent powers have been discussed in this essay and the conclusion is that at first the political regime should be changed. Moreover, it is not the OSCE or other international observers who should give the first marks of our elections but rather the society itself.

The recommendations that follow refer mainly to the administrative deficiencies of the Armenian elections and not the legislative ones, as the main problem facing Armenians today is not the electoral legislature but the fair implementation of it.

Recommendations:

- Create strong opposition coalition, raising public trust in each coming election and the costs and risks of fraud and manipulation, that will be composed of opposition parties, independent judiciaries, independent mass media elite, and civil society;
- Strengthen and make a good use of all the formal democratic institutions in the country with the aim and always bearing in mind that this should contribute to the coming elections (either presidential or parliamentary) in a way that will reduce radically electoral fraud and manipulation and again will raise public trust in elections (mainly independent judiciary);
- Conduct further separate researches regarding the role of the Armenian Diaspora, international organizations (such as UNDP, OSCE, etc), and Armenian NGOs in the process of democratization and promotion of honest elections.

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