

Armenian Elections

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ARMENIAN ELECTIONS

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Introduction by the Special Editor

Parliamentary elections have become the central event in Armenia's political life as the constitutional referendum of 2015 transformed the country into a parliamentary republic. The first parliamentary elections after the referendum were held on April 2, 2017; they were soon followed by municipal elections in Armenia's capital on May 14, 2017. During the national elections several Armenian NGOs organized an unprecedentedly comprehensive observation mission, by jointly having observers in about 87% of the republic's polling stations, while the oppositional Yelk alliance claims to have been able to send proxies to all of Yerevan's polling stations during the municipal elections. However, the public discourse in Armenia holds that the core of violations took place outside the polling stations.

This interdisciplinary issue of the Caucasus Analytical Digest looks at some of the most common pre-election violations, civil society's observation missions, and challenges related to the electoral system of the Republic of Armenia. The first contribution by sociologist and anthropologist Milena Baghdasaryan analyzes the workings of patron-client networks and some of the most pervasive violations that took place prior to the elections, including the abuse of administrative and economic power, putting pressure on voters' free will, vote-buying and pre-election charity. Based on anonymized interviews it also discusses citizens' reasons for collaboration as members of such networks.

The contribution by political analyst Armen Grigoryan examines the development of civil society's observation missions in Armenia since 2010 and their results and effectiveness during the parliamentary elections of 2017. It also covers the abuse of state resources by the ruling political party and its impact on the election results.

Finally, the contribution by lawyer Tigran Yegoryan discusses the activities of the electoral administration bodies, the impact of the law enforcement practice on changes in the electoral law and vice-versa, and some of the problems and risks which have become apparent in the electoral processes. The author discusses the efficiency of the existing legislation in terms of preventing and revealing electoral violations, conducting effective examination, and effectively defending electoral rights.

Milena Baghdasaryan

Before the Voting Day: The Impact of Patron–Client Relations and Related Violations on Elections in Armenia

By Milena Baghdasaryan

Abstract

This article analyses how political forces recruit voters on a large scale using patron–client relations in organizations and residential neighbourhoods in Armenia and outlines the electoral violations often caused by such relations. The contribution also discusses cases of vote-buying not based on long-term ties and outlines citizens' reasons for collaboration. Even if some argue that certain forms of clientelism may have benefits, in this case, authoritarian patron–client relations are detrimental to democracy: citizens who vote from a position of subordination and insecurity or in exchange for particularistic benefits are unable to hold political elites vertically accountable and elect genuine representatives.

*These elections were based on 100 percent confirmed lists
[of votes for specific parties].*

A school teacher referring to parliamentary elections
2017

Introduction

On one afternoon, soon after the parliamentary elections in 2017, as I sat with a teacher for an interview, she

explained why she voted for a party she did not favour. 'A pre-election meeting was held at our school', she began, 'we were told that we are free to make our choice. However, we were reminded that our government is Republican, that it's thanks to the Republican Party that we have jobs today, that we should always remember that, be thankful and that it would be better if we voted for this party'. 'Could you not vote as you preferred?'

I asked, and she responded that a certain number of votes was previously agreed upon in the village and as she entered the polling station she was given a green pen and asked to mark the ballot with it. To my question whether she would be fired in case of non-compliance, she responded that she feared being put on the 'black list' and her life being turned into a nightmare: people in the village depended on maintaining good relationships with their superiors. She added that employees were also approached individually and promised a sum of money per vote, but the money never reached them; 'it was probably appropriated by those who were supposed to distribute it'.

Instances in which people spoke of having been offered bribes or compelled to vote for certain parties/candidates by their superiors at work (with or without material inducements) are countless. Materials published by civil society organisations and the media as well as my fieldwork suggest that the recruitment of voters through patron–client networks was systemic and occurred with the involvement of the state bureaucratic apparatus. In particular, three political forces out of four currently represented in the parliament were referred to in this context: the Republican Party of Armenia (RPA, which gained 49.17% of the vote), the Prosperous Armenia Party (PAP, part of Tsarukyan Alliance, 27.35%), and the Armenian Revolutionary Federation (ARF, 6.58%).

This article investigates the wide-scale recruitment of voters using patron–client relations in organizations and residential neighbourhoods in Armenia and outlines electoral violations often caused by such relations, including pressuring citizens with the threat of negative consequences, promising or distributing rewards, using prohibited forms of propaganda, e.g., by state officials while on duty or in educational institutions during working hours, and so forth. It also discusses cases of vote-buying not based on long-term relations and outlines citizens' reasons for cooperation. Given that the discussed practices bear the legacy of the Soviet past, this article may prove relevant for other post-Soviet countries. It contributes to the literature on the role of patron–client relations for the maintenance of political power in authoritarian settings.

The article is based on a year of ethnographic fieldwork in an urban setting during a former round of parliamentary elections (including such methods as a quantitative survey, semi-structured interviews and participant observation), and on anonymous semi-structured interviews conducted in 2017 in five rural and urban settlements in Armenia. For reasons of anonymity, I conceal my informants' and field sites' names.

Patron–Client Relations and Corruption in Post-Soviet Armenia

The patron–client relationship is classically defined by James Scott (1972, p. 92) as '*a special case of dyadic (two-person) ties involving a largely instrumental friendship in which an individual of higher economic status (patron) uses his own influence and resources to provide protection or benefits, or both, for a person of lower status (client) who, for his part, reciprocates by offering general support and assistance, including personal services, to the patron*'. In the case of large political machines, patrons are typically connected to their clientele via middlemen. As noted by Luis Roniger (1994, p. 4), patron–client relations combine inequality and solidarity, and even if declared to be voluntary they imply potential or actual coercion. Jonathan Fox (1994) proposes that clientelism may take different forms including authoritarian clientelism, which relies predominantly on coercion, and semi-clientelism, which instead threatens with the withdrawal of client benefits. In the case of Armenia, patron–client relations take different forms and usually draw both on distributions of benefits and coercive means.

The prominence of patron–client relations in the internal politics of most post-Soviet states, including Armenia, is a legacy of the Soviet past. As Christoph Stefes (2006, p. 1) notes, corruption in Soviet republics was systemic and centralized, parallel to the formal bureaucratic apparatus there existed a hierarchy of corrupt patron–client networks 'that linked higher to lower officials, officials to citizens, and officials in various party and state units to each other'. The highest party officials controlled these networks (p. 2). Lower officials had to pay bribes to get hired, be loyal to their superiors and share illicit gains with them, while their superiors provided them with protection from prosecution (pp. 67–71). Soviet citizens who regularly dealt with corrupt officials had little choice but to engage in illicit activities, including bribery, themselves (p. 74). As a result of this, they 'developed over time what Simis (1982, p. 289) called "two separate systems of morality." On one hand, citizens trusted their friends and relatives, and usually abstained from betraying or stealing from them. On the other, Soviet citizens gave bribes to state officials with little moral concerns' (Stefes, 2006, p. 74). While in some post-Soviet republics corrupt networks were mostly eradicated or became decentralized, in others, including Armenia, the post-Soviet elites maintained centralized control over the networks (Stefes, 2006). Stefes (2006, pp. 2–5) proposes that centralization helps reduce the extent of corruption; he also notes that control over centralized corrupt networks is not only extremely profitable, but may serve as a means for maintaining political power.

Freedom House (2017) defines Armenia as a semi-consolidated authoritarian regime with the electoral process scoring a 6 on a scale from 1 (most democratic) to 7 (least democratic). The branches of government are not independent from each other and political and economic power are tightly intertwined (Stefes 2006, Payaslian 2011). Similar to certain other powerful parties in post-Soviet countries, the ruling Republican Party of Armenia has at times been referred to as a ‘party of power’, ‘mainly comprising senior government officials, civil servants, and wealthy business people dependent on government connections’ (The Economist 2007; also see Isaacs 2011).

Clientelist Recruitment and Propaganda in Organizations and Residential Neighbourhoods

Over the course of the years, many of my interviewees talked of the wide-spread abuse of administrative and economic resources by the political and business elites in order to assure favourable election outcomes. In particular, state, public and private organizations have been utilized as sites for massive voter recruitment, with directors and state officials acting as middlemen between politicians and citizens. Themselves clients of a political force, the middlemen have been using their power to assure the political support of their subordinates during elections.

In a typical scenario, directors or managers held pre-election meetings in their organizations, during which it was made clear to employees or students that they should be voting for the party that their directors supported. Sometimes, subordinates were also requested to join a political party or even assure that their family members and friends also voted for it. In some cases, e.g., in certain private enterprises owned by party candidates, employees were blatantly threatened that they would be fired if they did not cooperate. In other cases, such requests were often represented as ‘asking for a favour’, or asking for assistance or loyalty in response to achievements or good treatment by their directors. However, people often understood that not being loyal to their directors would put their long-term relations at risk and that various negative consequences could ensue. Some employees said that even missing a pre-election meeting or a political rally would result in getting fired.

Such requests were usually accompanied by heavy party propaganda with middlemen speaking of the accomplishments of party leaders and giving promises, trying to convince their subordinates to make this choice willingly. It should be mentioned that according to the law, state and local self-government bodies, state and community servants (except members of parliament),

and workers of educational institutions are prohibited to engage in pre-election party propaganda while fulfilling their duties. However, materials published by civil society organisations suggest that educational institutions in particular became sites for party propaganda. In some organizations, these practices created an ideological atmosphere of fake consensus, somewhat similar to the Soviet past, as some commented: employees were expected to demonstrate loyalty and could hardly express a critical stance towards the respective party.

It should be stressed that for many employees, such propaganda was indeed convincing, and they voted according to their own will. Many did so out of genuine respect for their directors, or influenced by the charisma of certain leaders, e.g., the recently appointed Prime Minister Karen Karapetyan, in the case of the Republican Party. Furthermore, at times, the employees/students were also promised financial rewards or promotion, and some candidates’ campaigns were supported by highly appreciated though illicit pre-election charity. Therefore, many responded to the call to support certain parties with eagerness; since patron–client relationships implied long-term reciprocity, many found it in their own interests to support their superiors and certain powerful parties.

Thus, while conducting fieldwork in the province of Kotayk during a previous cycle of elections, I found myself in the midst of a massive recruitment campaign (Baghdasaryan, 2017). This region is the power base of the Prosperous Armenia party headed by the oligarch Gagik Tsarukyan. Given that the party’s campaigns rely strongly on the oligarch’s image as a benefactor and on long-term charity, including illicit pre-election distributions, many informants who received assets joined and voted for this party eagerly. Many did so both to reciprocate and based on the genuine assumption that the oligarch would be a good leader, since some of his charity benefitted the community and resembled state welfare provisions. At the same time, however, numerous officials and directors of public and private organizations actively engaged in the campaign and the recruitment process. For instance, according to my informants, free lottery tickets for a pre-election concert were distributed to an entire town’s residents with the help of a municipality. Directors and managers invited their subordinates to support the party, and many found themselves unable to refuse such requests.

In the case of the Republican Party, my interviewees considered it common knowledge that people working or serving in state administration, power structures, public institutions or private organizations whose directors are affiliated with the ruling elite are expected/com-pelled to vote for it or its coalition members (particularly

the ARF). Some talked of this in general terms; others spoke of themselves or of their relatives and friends. In conditions where political culture requires conformity (Payaslian, 2011, p. 290), not supporting the ruling party would imply disloyalty to one's government and superior officials. For instance, according to legal adviser Heriknaz Tigranyan (Transparency International Anticorruption Center, personal communication on 30.03.2017), in 2017 approximately 7000 people joined the RPA on the same day, mostly workers of two large organizations in the gas and electrical network industries. Even if it is highly improbable for employees of an organization to unanimously support one party, this case never became subject to investigation since no employee testified that they were compelled to join/support the party by their managers. It goes without saying that some informants identified with or appreciated certain achievements of this party and supported it genuinely.

A record of a pre-election meeting with workers of a supermarket chain, published soon after the parliamentary elections in 2017, provides a vivid illustration of clientelist recruitment. It reveals that in exchange for money, all employees were requested to secure the votes of their relatives and acquaintances for the enterprise owner (a candidate of the RPA). The request is disguised as a 'favour' which employees are asked for 'only once in five years'; a man on the record tells the employees to treat the election of their chief as their personal issue, a matter of pride, rather than a question of which party wins. He appeals to their sense of gratitude by stressing that if they work in this organization they, to a certain extent, make use of its benefits, and finding a job is not an easy matter. 'Do you know that you have to bring votes?' he asks a woman with an intimidating tone while she tries to justify herself. While reading the employees' names, he reprimands those who 'brought' few votes or managers who could not assure massive recruitment in their departments and threatens them with dismissal if they do not improve their performance. He also orders the dismissal of those who missed the meeting. At the same time, he praises those who 'brought' more than a dozen votes and promises promotion, managerial positions or a trip to Paris to the most active ones. He says that supportive employees can approach their superiors and ask for support in the future: 'people who support us forever stay our friends'. The record was made publicly available, and a criminal case was initiated on the 19th of April. However, on the 8th of September, the case was closed with reference to the absence of criminal content; the official representatives did not provide further details concerning the investigation (Azatutyun, 2017).

In 2017, my interviewees also talked of the pervasive compilation of lists of voters who confirmed in

advance that they would be voting for a specific party at specific polling stations. Some said that the organizers only wished to put trusted people on the list and even collected people's passport numbers to make the process seem more formal. 'Could people not vote as they wished anyway?' I asked my interviewees. Some of them expressed fears that party representatives could find out how people voted, for instance through the use of video cameras, mirrors, special pens, and so forth. Interviewees also shared stories of people being punished for not complying. Thus, one informant told a story she heard in which during a former election a senior official checked the ballot of a young soldier, who was later treated worse for not voting as requested. Another interviewee told of a municipal worker being fired for not voting in the election. Furthermore, given that in many cases promised benefits, e.g., jobs, would only be available if a candidate gained a certain number of votes, the clients themselves became genuinely interested in the candidate's victory. Many were unaware of the unprecedented observation mission organized by local NGOs which strived to prevent such violations.

To prove that the RPA abused administrative resources and that state authorities and public organizations were systematically engaged in voter recruitment, members of the Union of Informed Citizens NGO called the directors of 136 organizations (public schools and kindergartens randomly chosen across the entire republic). Pretending to be representatives of the RPA election headquarters, they made enquiries concerning voter lists (Sut.am, 2017a). Indeed, the directors of 84 schools and 30 kindergartens spoke of the lists they compiled, which mainly included pupils' parents; moreover, many directors mentioned that they had handed the lists to the RPA election headquarters or to state executive authorities, including regional governments or municipalities (Sut.am, 2017a). In fact, references were made to all regional governments except where the governor is appointed by the ARF and to all administrative districts of the capital Yerevan and to numerous municipalities (Sut.am, 2017a). On one of the records, a school director talks about having compiled a list of 1700 names, working with people for a month and 'frightening them in the worst ways' in order for them to vote for the RPA (Mkrtchyan, 2017, author's translation). However, after the publication of the records on 24 March 2017, the Prosecutor General's Office 'did not examine [the records] in totality, as a pyramid of administrative resource abuse, but considered them one by one', and announced that only one of the records could potentially indicate a crime (Sut.am 2017b, author's translation). No criminal case was initiated after all: the director explained that she told people she would be offended if they did

not vote for the RPA and the responsible prosecutor found no proof of a crime (Mkrtchyan, 2017).

In addition to organizations, residential neighbourhoods have also been used as sites for voter recruitment on the basis of patron-client ties. In particular, businessmen, oligarchs or officials engaged in local charitable projects, for instance, providing social support for the needy, renovating or constructing infrastructure or promising/providing jobs in return for residents' votes. Such projects, even if illicit during the pre-election campaign, were usually appreciated by residents.

Vote-buying practices not based on interpersonal ties were also typically organized in residential neighbourhoods over the years. For instance, interviewees in several locations spoke of bribe-givers pervasively visiting people's homes and offering them deals; mass distribution of money from parties' pre-election headquarters was also talked about. In 2017, prior to municipal elections in the capital journalists and opposition members made several public reports concerning cases of vote-buying. Thus, on May 11 in the evening, a journalist noticed people gathered at one of the pre-election headquarters of the Republican candidate; she entered and witnessed people's names being called out from a list and money (20,000 AMD, equal to about 40 USD) being distributed to them. On May 12, after the oppositional candidate visited another RPA headquarters due to a report of bribery, his representatives observed a woman walking out of the headquarters and throwing a package into a garbage bin. The package contained various documents, e.g., a list of people responsible for polling stations of the city district with details on money and how many votes were expected at each station; detailed instructions for bribe givers containing the sentence 'nose-up, we stand at your back in all respects'; an un-signed contract for responsible persons with blank spaces for money and number of votes and a statement that they would have to return the money if they secured fewer than a certain number of votes; a list with types of specific community works offered, and a fax with a list of policemen and numbers of votes they could secure. The criminal case based on the latter discovery was also stopped (Azatutyun, 2017).

Citizens' Reasons for Collaboration

It should be mentioned at the outset that although such practices are pervasive, they are not all-encompassing; some of my interviewees were not engaged in them.

According to the interviews, citizens willingly or unwillingly collaborated as part of patron-client networks because they lacked social security and protection of rights as workers, depended on informal connections and hierarchies, feared losing jobs and social security,

in some cases perceived patron-client ties as a source of security and benefits, did not mind being connected to those who have power by reciprocal ties, and so forth (also see Baghdasaryan, 2017).

Many share the conviction that the ruling party holds unchallenged power in the republic based on informal hierarchical connections between officials. They assume that only people loyal to the ruling elite are being appointed to executive positions, much like the *nomenklatura* appointments in the Soviet period (see Stefes, 2006, p. 67), and those affiliated with the elite, e.g., officials and businessmen, control much of the access to sources of social security, including jobs. In organizations, too, people thought it hard to find jobs without acquaintances and bribes; furthermore, after the appointment, political loyalty and support often became an un-written job requirement. As one of my informants said, 'at my workplace, there are only two people who were appointed without connections; everybody else is from [managers'] circle'. Interviewees also spoke of the increasing powers of their directors at work and often felt they were at their mercy. Hence many believed that in order to find and preserve jobs or get promoted they had to be loyal to their superiors. As an informant put it, 'one has to flatter them [the RPA], there is no other way. Had I been flattering them in the past, I would by now have a position in state administration myself'. Some interviewees were convinced that their directors or businessmen were not independent either. A teacher expressed the opinion that 'school directors were also compelled, in the sense that if you don't bring votes, you will lose your position. The directors have to be government supporters by default in order to be appointed as such. They too got their positions through acquaintances and bribes'.

While some informants would have gladly voted for the opposition but felt unable to do so, others distrusted the oppositional forces altogether. According to some, those who did not have control over large economic and political resources and informal networks could not actually assume leadership even if they would be able to receive votes; others distrusted the 'poor' believing that they would start enriching themselves while the current elites have already done that. The lack of trust in the electoral process and fatalistic assumptions such as 'they will anyway retain their power' made the acceptance of money or other benefits justifiable for many.

The lack of moral concern associated with bribery, which was wide-spread in the Soviet period, is still quite prevalent. Some of my informants understand that accepting a television set, a job, or a sum of money in exchange for political support is illicit. However, many certainly do not think it is criminal or immoral but

rather a matter of how things work, especially given that such practices are pervasive and involve major political forces. Instead, not reciprocating the money and ‘cheating’ or reporting to the police concerning one’s acquaintances’ involvement in bribery is seen as immoral. On the other hand, the provision of charity, money, community works or jobs by politicians is often seen as a positive phenomenon, a part of what the government should actually be providing for the people but often fails to. Practical deeds seem to be more appreciated than promises of certain policies. For some, pre-election distributions are a toll that the ruling elites have to pay to the people for maintaining their lucrative positions. Such attitudes are often coupled with a lack of awareness of the law and of one’s own rights.

To conclude, patron–client relations often involved violations of the law and of citizens’ political rights to free and voluntary suffrage and party membership. While in some cases clients voted or joined parties feeling compelled to do so, often they did so eagerly, or at least their lack of choice was combined with a certain degree of genuine appreciation (also see Baghdasaryan, 2017). In some cases their willingness was the result of receiving material inducements or formed in conditions of unequal party propaganda. Even if ideological reasons were not absent from clients’ motivations, those who were engaged in patron–client relations typically voted for reasons other than appreciating parties’ programmes, policies or performance. In fact, many voted in spite of being dissatisfied in many ways. Instead,

considerations concerning insecurity, patrons’ charisma, personal relations with superiors, particularistic personal or communal benefits were dominant. Some of my informants believed that clientelist relations were beneficial since they could receive visible (though illicit) benefits or could request certain support in exchange for votes. However, when I asked if they could jointly negotiate certain policies through patron–client ties, for instance, raise an important issue during a ‘pre-election meeting’ at work, they said this was hardly possible or never crossed their mind. Therefore, clientelist political participation hindered their ability to communicate their political will to the elites, to hold them vertically accountable and to elect genuine representatives. Voting from a position of subordination or in exchange for material rewards, they fell into a vicious circle of perpetuating relations of domination and own insecurity.

My discussions with numerous interviewees showed that the beliefs governing their voting behaviour were deep-seated and difficult to challenge; it would hardly be possible to convince a person not to take a bribe if they decided to, to vote as they preferred anyway or to take political programmes and performance more seriously. Given that such beliefs and practices are pervasive, structural changes and more active civil engagement would be required to initiate transformations, including improving workers’ rights protection, assuring pervasive observer missions, and raising popular awareness concerning citizens’ rights, democratic political participation, vertical accountability, and other topics.

About the Author

Milena Baghdasaryan specializes in political sociology and anthropology. She holds a PhD in Social Anthropology from Martin-Luther-University Halle-Wittenberg, Germany. She has conducted long-term research on migration, citizenship, political participation and patron–client relations in Armenia. She currently works as an expert on migration from Armenia on the preparation of the Unified Migration Report within the scope of the project “Promotion of labor migrants’ rights protection through strengthening partnerships in Kyrgyzstan, Armenia and Russia” implemented by the PA “Resource Center for Elderly”, Bishkek, Kyrgyzstan.

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References

- Azatutyun, 2017. HQTs-n karjec SAS-i dzaynagrutyanyan pastov harucvats qreakan gortsy [The SIS stopped the criminal case initiated on the basis of the record at SAS]. *Azatutyun*, [online] 8 September. Available at: <<https://www.azatutyun.am/a/28723681.html>> [Accessed 8 September 2017].
- Baghdasaryan, M., 2017. The Practice of Political Rights and Patron–Client Relations: A Case Study of a Party in Armenia, *Citizenship Studies*, [online] Available at: <<http://dx.doi.org/10.1080/13621025.2017.1380603>> [Accessed 28 September 2017].
- Fox, J., 1994. The Difficult Transition from Clientelism to Citizenship: Lessons from Mexico. *World Politics*, 46(2), pp. 151–184.
- Freedom House, 2017. *Armenia Country Profile*. Available at: <<https://freedomhouse.org/report/nations-transit/2017/armenia>> [Accessed 02 September 2017].

- Isaacs, R., 2011. *Party System Formation in Kazakhstan: Between Formal and Informal Politics*. London, New York: Routledge.
- Mkrtchyan, K., 2017. ‘Amenaverjin dzevov vakhecnelov’ HHK-i ogtin ashkhatogh tnoreni u amusnu gortsoghutyunnerum hancakazm chka. qrgorts chi harucvum [There are no components of crime in the actions of the director and husband who work for RPA by ‘frightening people in the worst ways’]. *Galatv.am*, [online] 17 April. Available at: <<http://galatv.am/hy/news/187211/>> [Accessed 07 September 2017].
- Payaslian, S., 2011. *The Political Economy of Human Rights in Armenia: Authoritarianism and Democracy in a Former Soviet Republic*. London: I. B. Tauris.
- Roniger, L., 1994. The Comparative Study of Clientelism and the Changing Nature of Civil Society in the Contemporary World. In: L. Roniger and A. Günes-Ayata, eds. 1994. *Democracy, Clientelism, and Civil Society*. Boulder: Rienner, pp. 1–18.
- Scott, J. C., 1972. Patron–Client Politics and Political Change in Southeast Asia. *The American Political Science Review*, 66(1), pp. 91–113.
- Stefes, C., 2006. *Understanding Post-Soviet Transitions: Corruption, Collusion and Clientelism*. Basingstoke: Palgrave Macmillan.
- Sut.am, 2017a. *HHK-n charashahum e varchakan resursy dprocnerum ev mankaparteznerum (114 dzaymagrutyunner) [RPA abuses the administrative resource in schools and kindergartens (114 voice records)]*. [online] 24 March. Sut.am. Available at: <<https://sut.am/archives/803>> [Accessed 03 September 2017].
- Sut.am, 2017b. *Pashtonyaner, um anunnery bnchecrel en tnorennery [Officials who were named by the directors]*. [online] 29 March. Sut.am Available at: <<https://sut.am/archives/825>> [Accessed 03 September 2017].
- The Economist, 2007. Armenia’s Murky Politics. *The Economist*, [online] 11 April. Available at: <<http://www.economist.com/node/8993685>> [Accessed 02 September 2017].

The Role of Civil Society Observation Missions in Democratization Processes in Armenia

By Armen Grigoryan (Transparency International Anticorruption Center, Armenia)

Abstract

This article aims to explore the impact of civil society observation missions on the transparency of national and local elections in Armenia. Observation missions in transitioning countries are key to developing electoral institutions and increasing public trust in elections. In many post-Soviet countries, civil society observation missions developed earlier than in Armenia, where they mainly started after 2010, but during the short period since then, they have developed rapidly. The article examines how election observation influences the election process and democratization in Armenia. It also examines the abuse of state resources by the ruling political party and its allies as well as its impact on the results of elections.

Organising free and fair elections is more important than the result itself
Fatos Nano (BBC, 2003)

Introduction

Holding free and fair elections is one of the essential elements of democracy, without which it cannot exist and function. That is why the most important precondition for the democratization of any country is the development of a full-fledged democratic electoral system.

Democracy literally means “government by the people; a form of government in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system” (Dictionary.com Unabridged, n.d.).

Today, one of the major challenges facing the states that are in the process of democratizing is manipulated elections. Armenia is also affected by this fundamental issue; moreover, it is one of the main obstacles to the democratization of the country. Starting with Par-

liamentary elections in 1995 the results of all national elections in Armenia have been questioned because of large-scale fraud, albeit varying in degrees and severity. Since those elections, the people have not been able to form a government through free and fair elections.

The democratization of Armenia is a fundamental precondition for the development of the country. Democracy is the most efficient system for solving the issues of security, economic development, and poverty reduction facing Armenia. The free expression of the will of the majority of the citizens is very important for forming a government and it is equally important in economic development and poverty reduction.

Election Observation Missions

Local and international institutions are trying to improve the quality of elections in Armenia. There are a number of factors affecting the electoral system's development in Armenia. Two of them are local and international observation missions. The OSCE Office for Democratic Institutions and Human Rights, which has carried out observation missions in Armenia since the Presidential elections in 1996, plays an important role in the development of Armenia's electoral system (OSCE, 1996).

Although people usually have little trust in the positive impact of international observation missions in the academic field, there are a large number of professionals who believe that international observation missions affect the dynamics of electoral violations by reducing them. At the end of the 20th century, the participation of international observation missions in electoral processes has become an international customary norm. One of the first attempts to invite international observers was instigated by the Cuban dictator, Fulgencio Batista, who, in 1958, invited international observers to legitimize his government, but international organizations refused to participate, and as a result of these elections, Batista resigned and left the country, and Fidel Castro came to power (Hyde, 2011).

In the modern world order, which is centred on internationally recognized standards and norms of democracy, the declared domination of liberal democracy creates incentives for states to present themselves as a democracy. This is the reason why states tend to invite international observers to recognize the legitimacy of the elections by the international community. Even dictators apply such a practice. Approximately three-quarters of all national elections conducted from 1990 to 2006 throughout the world (except in established democracies), and which led to a change in political power, were monitored by international observers (161 of 215). In 70% of the elections, where counting results

led to the opposition's success, international observers were present (258 of 368) (Hyde, 2011).

Observer Missions in Armenia

International observer missions have an important role in the development of the electoral system, but they do not have the same effect in all countries. Recently, local and international observation missions have begun to complement each other. The demands of local observers have also been taken up by international observers and sometimes have been reacted upon. For instance, the requirement to publish signed voters' lists was included into Armenia's electoral regulation (Panorama.am, 2017), and the requirement of the mandatory testing and certification of citizen observers by the Central Election Commission as a prerequisite to carry out election observations was removed from the 2016 Electoral Code (Republic of Armenia, 2016). Both of these achievements are the result of joint demands and cooperation between local and international observation missions.

Local observation missions in Armenia started to form in the 2000s. Similar to other post-Soviet countries, in Armenia, fake local observation missions meant to rubber-stamp the official result have also been formed, but their impact has decreased over time as the impact of independent observation missions has shattered their activities. Since 2007, many local non-governmental organizations have been conducting observation missions in Armenia. According to the official website of the Central Electoral Commission of the Republic of Armenia, during the Parliamentary elections in 2007, 53 organizations registered 13,798 observers. In the 2012 Parliamentary elections, 53 organizations registered 31,451 observers. During the Parliamentary elections in 2017, 49 organizations registered 28,021 observers. During the Presidential elections in 2008, 39 organizations registered 15,103 observers. During the Presidential elections in 2013, 26 organizations registered 6,251 observers. During the Constitutional referendum in 2015, 18 organizations were accredited with 2,789 observers. However, the public was not properly informed about most of the observation organizations' activities. Many local organizations have conducted fake monitoring without reporting to the public.

The local observation mission phenomenon is a peculiarity of countries that have started the democratization process only late in the 20th century. Western democracies have generally not gone through such a process. Today, in transitional countries, observation missions have an important impact on the formation of the electoral system. The local observation missions cannot solve all the issues of the electoral system, but their involve-

ment has a significant impact on the development of the institution.

For example, the practice of the Citizen Observer Initiative (COI) during the 2015 Constitutional referendum in Armenia shows that the observers had a significant impact on elections day. The COI had representatives in 526 out of 1,998 polling stations distributed in all regions of Armenia. A comparison of polling stations with and without observers shows the impact of the observers. In the polling stations where there were no observers, the turnout was on average 5% higher, at the same time the “yes” votes were 7% higher and “no” votes were 6.5% lower. Accounting for the fact that observed and unobserved polling stations were equally distributed across the country, it can be argued that the difference may be explained exclusively by the actions of the observers (Ghazaryan, 2016). Furthermore, the distributions of “yes” votes for polling stations with and without observers are different (Ghazaryan, 2016). The distribution for polling stations without observers is left-skewed; the number of stations with 80% “yes” votes is the highest (about 300 stations). However, where observers were present, the number of stations with 30% “yes” votes is the highest (more than 90 stations), the next highest number being stations with 60% “yes” votes (about 80 stations) (See Ghazaryan, 2016; the mentioned percentages are approximate). According to Ghazaryan (2016), the fact that the distribution for stations with observers is double-peaked suggests that observers cannot always prevent violations.

Impact

Local observation missions are also important in the sense that the international community and international observation missions usually base their work on local observer organizations. For example, after the Constitutional referendum in 2015, the US embassy and the European Union Delegation in Yerevan issued their statements on the basis of the work of local observers.

The US Embassy in Yerevan in its statement on the Constitutional referendum said: “The credible allegations of electoral irregularities reported by both non-partisan observers as well as Armenian political parties are of concern, however, and need to be fully investigated to ensure that the Armenian people can see the outcome of the referendum as credible and legitimate” (U.S. Embassy in Armenia, 2015). The EU delegation in Yerevan stated: “We also take note of the concerns expressed by independent observers regarding the conduct of the referendum. We urge the Armenian authorities to fully investigate in a transparent manner credible fraud allegations” (Mediamax, 2015). The OSCE Office for Democratic Institutions and Human Rights

(OSCE ODIHR, 2016) has also voiced concerns about the issues raised by the local observation missions.

One of the main results of observation missions and international community activities after the Constitutional referendum in 2015 was that 74 criminal cases were initiated against people who were engaged in election violations. It should be mentioned that nobody was sentenced to prison and those who were convicted of election violations were only fined. At the same time, however, the COI created a website with the profiles of election violators to use public shaming as an alternative way to discredit election violators (TIAC, n.d.).

The successful experience of the observation mission also had an important impact on the changes to the electoral code in 2016. Members of the Citizen Observer Initiative, in particular, have begun to actively participate in the process of Electoral Code formation in Armenia (TIAC, 2016). Members of the Citizen Observer Initiative and other civil society organizations participated in negotiations on law-making with a 4 + 4 + 4 format, where the government, the opposition and civil society organizations (each represented by four members) began to negotiate the provisions of the new Electoral Code.

The 2016 draft electoral code proposed by the government contained a number of regressions. These regressions were mainly conditioned by the Constitutional referendum in 2015, during which observers had much impact because they reported violations to the public. After encountering restrictions posed by the presence of observers in polling stations, the authorities decided to hamper the work of observer missions. For the first time in the history of Armenia, a media accreditation institute has been established by the Electoral Code. The Electoral Code has also restricted the number of observers and media representatives to 15 in each polling station.

However, there was also progress in the Electoral Code related to the tests required by the Central Election Committee (CEC). To be accredited, observers will no longer submit the CEC test. The publication of signed voters’ lists, which had been the main demand of the opposition and civil society, has also become a legislative norm. Thus, both of these new developments came into reality through the support of observation missions.

During Parliamentary elections in 2017, the Citizen Observer Initiative had 3100 observers in 1500 polling stations (i.e. 75% of the total). On elections day observers reported 1619 violations, of which 216 were related to the voting preparation processes, 864 to the voting process, 144 to counting and 394 to general offenses. In total, only 707 were registered in the registry book by the precinct election committee.

The practice of Parliamentary elections in 2017 shows that a strong presence of observers in the polling stations pushed the main violations out of the polling stations. The presence of observers changed the rules of the game and decreased the violations in the polling stations. During Parliamentary elections in 2017 overall, the COI recorded fewer violations compared to the Constitutional referendum in 2015, considering the number of observers and covered polling stations. During the Constitutional referendum, the COI recorded ballot stuffing, turning off the lights of the polling stations, using force against observers, etc. During the parliamentary elections, such violations decreased.

Administrative Resources

At the same time, administrative resources played a major role in manipulating the elections. The most vivid evidence of this is the number of votes. Only two parties, the Republican Party of Armenia (RPA) and the Armenian Revolutionary Federation Party (ARF), which form the governing coalition and have administrative resources, increased their votes compared to the Parliamentary elections in 2012. According to the official CEC webpage, the RPA received 664,000 votes in 2012 and 771,000 votes in 2017, while the ARF received 86,000 votes in 2012 and 103,000 in 2017. Moreover, in 4 electoral districts in Yerevan, the ARF on average received approximately 6,000 votes, while in the Shi-

rak region (the 11th district), where the regional governor is appointed by the ARF it received approximately 12,000 votes.

The Prosperous Armenia Party (PAP), which is led by tycoon Gagik Tsarukyan and is famous for distributing bribes, received approximately 454,000 votes in 2012 while in 2017 it received 428,000 votes. With limited administrative resources, the PAP could not increase the number of votes, even though it bribed voters. These numbers show that even if a party with limited administrative resources distributed bribes, it did not help to increase votes. This indicates that one of the main factors for success in the Parliamentary elections in 2017 was the use of administrative resources.

Conclusion

The last 3–4 years of election observation in Armenia show that observation missions have an important role in the development of the electoral institution. Even though their presence in polling stations has decreased the number of violations in polling stations, outside of polling stations there are still different kinds of violations occurring that need to be detected and counteracted. The increased observation of electoral processes by observation missions can have further impacts on detecting and counteracting those violations and developing the electoral institution in Armenia.

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References

- BBC, 2003. Poor Turnout at Albania Polls. *BBC News*, [online] 12 October. Available at: <<http://news.bbc.co.uk/2/hi/europe/3185976.stm>> [Accessed 17 August 2017].
- Dictionary.com Unabridged, n.d. *Democracy*. [online] Random House, Inc. Available at: <<http://www.dictionary.com/browse/democracy>> [Accessed 17 August 2017].
- Ghazaryan, H., 2016. Ditornderi azdecutyuny qvearkutyany ardyunkneri vra [The impact of observers on election results]. *A1plus.am*, [online] 18 February. Available at: <<http://www.a1plus.am/1435881.html>> [Accessed 15 August 2017].
- Hyde, S.D., 2011. *The Pseudo-Democrat's Dilemma: Why Election Monitoring Became an International Norm*. Ithaca: Cornell University Press.
- Mediamax, 2015. EU Delegation Urges the Armenian Authorities to Fully Investigate Fraud Allegations. *Mediamax*, [Online] 10 December. Available at: <<http://www.mediamax.am/en/news/foreignpolicy/16393/>> [Accessed 15 August 2017].
- OSCE, 1996. *Armenia, Presidential Election, 22 September 1996: Final Report*. [online] Organization for Security and Co-operation in Europe. Available at: <<http://www.osce.org/odihr/elections/armenia/14149>> [Accessed 4 September 2017].

- OSCE ODIHR, 2016. *Republic of Armenia: Constitutional Referendum 6 December 2015*. [online] Warsaw: OSCE ODIHR. Available at: <<http://www.osce.org/odihr/elections/220656?download=true>> [Accessed 15 August 2017].
- Panorama.am, 2017. Storagravats yntnacucaknery khraparakven` hnaravor keghtsikneri kankhargelman hamar. EAHK/ZHHMIG zekuyc [The signed voters' lists will be published in order to prevent potential fraud. An OSCE/ODIHR report]. *Panorama.am*, [online] 14 January. Available at: <<http://www.panorama.am/am/news/2017/01/14/qhlmqg-bu.z4/170884>> [Accessed 13 August 2017].
- Republic of Armenia, 2016. *Hayastani Hanrapetutyayn Yntrakan Orengirk [Electoral Code of the Republic of Armenia]*. [online] Available at: <<http://www.arlis.am/DocumentView.aspx?docid=105967>> [Accessed 7 September 2017].
- TIAC (Transparency International Anticorruption Center), 2016. *Opinion on the Compliance of the Provisions of Draft Electoral Code of the Republic of Armenia with International Standards*. [online] Available at: <<https://transparency.am/en/news/view/1439>> [Accessed 16 August 2017].
- TIAC (Transparency International Anticorruption Center), n.d. *Wall of election falsifiers*. [online] (2017). Available at: <<https://transparency.am/en/elections/falsifiers>> [Accessed: 27 August 2017].
- U.S. Embassy in Armenia, 2015. *U.S. Embassy Statement on Constitutional Referendum*. [online] Available at: <<https://am.usembassy.gov/u-s-embassy-statement-constitutional-referendum/>> [Accessed 15 August 2017].

Some of the Major Challenges of the Electoral System in the Republic of Armenia

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Abstract

This article presents some of the major problems of the electoral legislation and the electoral system of the Republic of Armenia. First, it analyses the electoral system and the activities of the electoral administration bodies. It then discusses the interdependence between the law enforcement practice and changes in the electoral law. Furthermore, the article also discusses the problems and risks observed in electoral processes. As part of these problems, the article scrutinizes the efficiency of the existing legislative solutions in terms of preventing and revealing electoral violations, conducting effective examination, and effectively defending subjective and objective electoral rights.

Electoral Administration Bodies as the Institutes Defending Subjective and Objective Electoral Rights and Their Effectiveness

Drawing on the advice provided by the Venice Commission of the Council of Europe, the Republic of Armenia (RA) created a three-tier structure for electoral commissions, consisting of a permanently operating Central Electoral Commission (hereinafter: the CEC), permanently operating territorial electoral commissions (hereinafter: TEC) and precinct electoral commissions (PEC) formed at the time of the elections. When exercising their powers, the electoral commissions must be independent and autonomous and abide by the principles of legality, collegiality and transparency. Any interference with their actions is prohibited (RA Electoral Code, Article 36). The Electoral Code foresees appeals against the actions and/or inaction of lower-level electoral commissions at upper-level commissions or the Administrative court (RA Electoral Code, Article 48).

The aim of the aforesaid legal regulations is the introduction of checks and balances within the system of electoral commissions, which must ensure effective electoral administration, effective examination of electoral disputes and the right to appeal, which are among the essential components of electoral law. Without these components, if there are no effective remedies, electoral law becomes declarative in nature.

There are innumerable facts demonstrating the lack of independence and autonomy of TECs, as well as their incompetence. In most cases, TEC members cannot differentiate between administrative proceedings and a session convened with the aim of refusing the initiation of such proceedings, which speaks of their lack of competence. For example, TEC members notify the complainants about administrative proceedings instituted on the basis of their complaints; however, when complainants attend the hearings, they often find that the TECs are

pronouncing draft decisions refusing to institute such proceedings. The majority of TEC members are also incapable of answering questions regarding the draft or final decisions, these drafts (with very few exceptions) are never changed following submissions during these hearings, decisions are taken by a unanimous vote, and there are no special opinions or disagreements in the TECs.

There are also many examples demonstrating the lack of TECs' independence. When cases are instituted in the RA Administrative Court following TEC decisions, it is always the CEC—a member or the head of the legal department thereof—that represents the TECs in the court hearings. Another sign of a lack of independence and autonomy in the TECs is the identical style of their decisions, including repetition of mistakes and identical sentences or even paragraphs, which proves that these decisions are all written by one and the same author. Moreover, in the period following the National Assembly (i.e. parliamentary) elections on 2 April 2017, other facts of interference by the CEC in the actions of the TECs were recorded. A number of observers reported that instead of examining the complaints independently and in a timely manner, many TECs would send them to the CEC. Moreover, the CEC distributed templates for decisions to the TECs (the latter fact was also confirmed by Tigran Moukouchyan, President of the CEC at the time of the Q&A in the Constitutional Court) (Citizen Observer Initiative Report, forthcoming). Independent election observers detected templates for decisions to refuse the initiation of administrative proceedings (two decisions adopted by TEC no. 30). This was most likely instituted for all the TECs given that in the decisions of numerous TECs, there was an ellipsis instead of the number of the TEC and the name of the applicant. Apart from this, some of the justifications included the following wording: "In the event the applicant is an NGO ...", which was left in the final text of the adopted decisions. Another sign of the lack of independence and autonomy of the TECs was the synchronization of the dates and hours of hearings selected for the submitted complaints. The presidents of TECs no. 2 and 29 admitted that the dates and hours of hearings had been determined by the CEC and that they could do nothing to change them (Citizen Observer Initiative Report, forthcoming).

In addition to this, for years now, the overwhelming majority of TEC members have been regularly reappointed. The same applies to PEC members. For many years, the ruling Republican Party has been predominantly appointing public servants to electoral commissions, which is a sign of abuse of administrative resources, considering the fact that school principals (with very few exceptions) are members of the Republican Party (Citizen Observer Initiative Report, forthcoming). The

local NGO Union of Informed Citizens detected a practice whereby principals of schools and kindergartens maintained lists of children and their parents and tried to coax the latter into voting for the Republican Party (Independent Observer, 2017). The CEC conducts training for the members of these electoral commissions by its members or experts chosen by them, and the law does not encourage alternative trainings or the involvement of broader expert circles in trainings on electoral matters (RA Electoral Code, Article 41). In addition to this, there are no trainings familiarizing voters with the remedies available to defend their electoral rights (objective or subjective) or helping them to understand the procedures and develop skills for resorting to these remedies.

These problems inevitably lead to a situation in which the system of electoral commissions rather than consisting of three-tier, autonomous and independent commissions is fully merged with one centre of governance—the CEC—while the lower-level commissions—the TECs and PECs—act as subordinates and do not adopt independent and autonomous decisions. This situation inevitably leads to the absence of effective legal remedies for electoral violations since appeals to higher commissions cannot be considered an effective remedy.

In this regard, the election of the acting CEC staff by the National Assembly on 06.10.2016 (which had formerly been appointed by the President) was indeed worrying, with NGOs expressing serious concerns over this fact in light of the reform of the electoral system and the need to ensure the legality of elections and increase public trust. The NGOs stress the need for a new staff for the CEC, which will be independent and able to administer exemplary and trustworthy elections to ensure adequate protection of electoral rights and will not be tarnished by reasonable doubts of being part of electoral fraud (Citizen Observer, n.d.). This concern was also reiterated by Ambassador Piotr Anthoni Switalski, Head of the EU Delegation in Armenia (Azatutyun, 2017). The low public trust in elections is also conditioned by a lack of trust in electoral commissions, their independence and impartiality.

It should also be noted that the ineffectiveness of electoral commissions in the prevention, detection and effective examination of electoral violations has also been referred to in a number of decisions of the RA Constitutional Court (See decision 1034, 22.06.2012).

The Interdependence Between Law Enforcement Practice and Changes in Electoral Law

With regard to the changes in the electoral legislation, the following regularities have been detected: in the majority of cases the authorities make certain amendments which at first sight seem positive. However, their

positive impact on electoral processes is eliminated by amendments which are latent and in most cases unseen by the public. Some amendments are obviously directed at the concealment of the shortcomings of the commissions' works, legalization of the existing negative law enforcement practices and complication of the process of complaints on electoral matters with a view to preventing the submission of these complaints or limiting the numbers thereof. This is confirmed by the following examples.

In the period following the 2015 constitutional referendum, it was impossible to submit complaints on non-working days, the staff of the CEC simply refused to accept appeals from a number of appellants on the pretext that Sunday was a non-working day. In the meantime, the CEC sat in session. On 25 May 2016, it was determined by the RA Electoral Code that complaints for which the deadline is a non-working day must be submitted to the CEC on the following working day (RA Electoral Code, Article 48 part 5). The CEC revoked the above regulation in order not to accept the complaints submitted following the elections to the National Assembly on 2 April 2017. Revoking this regulation, the CEC did not accept complaints on a non-working day. However, the next working day was the day after the election results were summarized, and the CEC accepted complaints when the results of the election had already been summarized.

In the past, problems arose in connection with the manner of the submission of complaints and whether they had to be considered to be duly submitted to the relevant commission (hand delivered or submitted by post), as well as the determination of the moment of submission (whether this was the moment of its handing over to the postal service or reception by the commission). When examining various election-related disputes, the President of the CEC expressed the position that complaints handed over to the postal service by the set deadline would be considered duly submitted. However, the Electoral Code adopted in 2016 prescribed that complaints must be hand-delivered to electoral commissions, which considerably limits the chances of submitting complaints to all electoral commissions across the country, as a result of which many complaints remain unexamined (Citizen Observer Initiative Report, forthcoming).

Another example is the limitation (essentially the elimination) of the institution of referral. In the past, in conformity with the Electoral Code of 2011, complaints addressed to territorial electoral commissions but submitted to the CEC had to be referred to the relevant electoral commission. This regulation created a possibility to overcome the above mentioned tech-

nical obstacles and errors related to submissions to commissions throughout the country. However, this inspired discontent among some members of the CEC, who accused the complainants of abuse of this institute. Communication among various electoral commissions is maintained through a special means that makes the exchange of documents among commissions quite efficient. However, this avenue is not available to others. Despite the fact that the institute of referral is enshrined in the law, there were incidents at the time of the elections in 2015 and 2016 when, through its arbitrary decisions, the CEC refused to refer the complaints to the relevant commissions (CEC decision N 59-A, 16.09.2015). The aim of the above mentioned change in the Electoral Code was to reduce the number of admissible complaints.

The Electoral Code of 2016 (Article 49 part 3) eliminated the obligation to refer the complaints to other commissions. In a situation where there is no possibility of submitting complaints electronically, it is obvious that the new regulation aims at further reducing the number of complaints by means of maximally limiting the possibility of making them available to the relevant electoral commissions. Nevertheless, during the 2017 election to the National Assembly the CEC again applied double standards. For example, a complaint concerning voting in place of another person was submitted to the CEC later than the set deadline. However, the CEC referred the complaint to TEC no. 33 (Citizen Observer Initiative Report, forthcoming, CEC decision N 162-A, 09.04.2017). Another complaint was submitted to the CEC by the Armenian Revolutionary Federation, which was referred to TEC no. 17 (Citizen Observer Initiative Report, forthcoming, CEC decision N 162-A, 09.04.2017).

Another example of the "fight" by the authorities against complaints is the new requirement of the 2016 Electoral Code (Article 48) to attach original POAs (Powers of Attorney) from observers and copies of observer badges to complaints, while a failure to meet this requirement resulted in non-examination of the complaint (Article 48). The 2011 Electoral Code did not have such a requirement, and submission of a complaint without a POA or its copy was viewed as a formal error, in which case the complainant was given an opportunity to correct it.

The enumerated restrictions in the law enforcement practice considerably limit the possibility to submit complaints, which results in ineffective protection of electoral law and non-examination of detected prima facie violations.

The assumption is that the amendments related to the entry into force of the decisions of the electoral commissions and the obligation to notify the parties

about their adoption were also made with a view to neutralizing the positive amendments by means of procedural obstacles and the reduction and/or exclusion of the number of complaints. The 2011 Electoral Code foresaw that an administrative act adopted by the Central Electoral Commission entered into force following its posting on the CEC website after its pronouncement in the CEC session, while the act of a TEC entered into force following its posting on a site visible to all following its pronouncement in the TEC session. There was an obligation for TECs to notify the participants of proceedings about the adopted decisions (RA Electoral Code, 2011, Article 45). In both cases, the law foresaw an obligation on the part of the commissions to send a message to the complainant by means of electronic communication as indicated in the complaint (RA Electoral Code, 2011, Article 45, parts 5 and 6). As a result, the three-day period for appealing the act adopted by the commission started at the moment the complainant gained access to the decision, and if s/he was notified thereof under more definite circumstances. However, the 2016 Electoral Code prescribed that the acts adopted by the commissions enter into force once they are pronounced in the commission hearing. In the case of the CEC they are posted on the website by the end of the following day (RA Electoral Code 2016, Article 8 part 2), while in case of the TECs they are posted on a site visible to all within 24 hours after the adoption of the act (RA Electoral Code 2016, Article 47 part 6). The new Code removed the obligation to notify the complainant, which results in an artificial reduction of the three-day period of appeal by at least one day. In addition to this, there is uncertainty stemming from the fact that complainants are not notified about the adoption of the act given that holding a session per se does not necessarily result in the adoption of an act because a session may be postponed (Citizen Observer Report, forthcoming). The complicated nature of the complaints procedure and problems related to the issue of legal certainty make it impossible for non-specialists to submit an election-related complaint.

Some Problems and Risks Observed/ Registered in Electoral Processes

The observation missions and observers registered numerous violations and situations comprising such risks during the 2017 elections to the National Assembly (Independent Observer Report, Citizen Observer Report, forthcoming), including abuse of administrative resources (TIAC, 2017), vote buying, making lists of potential voters, transfer of voters to polling stations on the day of voting, directed voting, violation of the procedure of assisted voting, violation of the secrecy of the vote, sig-

ning a voter list in place of others, violation of the principles of impartiality and neutrality/independence by observers representing various organizations (which are not known to the public for any meaningful activity), violation of observer rights (including cases of not registering their observations in the register), violations of procedures during the summary of the votes, electronic equipment failures, inconsistencies between electoral lists and paper-based voter lists, nearly 100% voting of military personnel, voting in penitentiary and psychiatric institutions, as well as inaction by electoral commissions and the law enforcement bodies in the period preceding elections, the pre-election campaign and the voting day. The abovementioned violations and problems remained without a proper response and effective examination by electoral commissions and law enforcement bodies.

Despite the fact that the authorities were broadly advertising the new Electoral Code, and especially given that certain amendments were effected following the expression of concerns by various representatives of the opposition parties and civil society, the new Code nevertheless contained a number of serious problems that remained neglected despite concerns on the part of non-governmental organizations, the professional community and the opposition parties. In particular:

- Nothing was done to adopt effective mechanisms against manifestations of abuse of administrative resources;
- The publication of non-searchable signed voter lists is ineffective for any profound analysis and detection of possible violations given that the absence of a search engine renders their timely and effective use impossible;
- There is no mechanism for comparing the voter register with the population register and no possibility of mutual checks;
- There is no possibility of checking the electronic lists and the data entered during voting produced by the electronic registration equipment;
- The introduction of the legislative requirement whereby, in cases where there is already a (false) signature in front of the name of a voter in the list of voters, the voter signs in the column for “other notes,” which is neither registered in the log nor otherwise examined;
- There is no footage available from the cameras installed in polling stations (it is very expensive and time consuming to obtain all the footage from the relevant company);
- The newly introduced system of a “stable parliamentary majority,” according to which the party or party alliance that has collected the maximum number of votes acquires 54% of the seats in the parliament,

if necessary by provision of bonus seats, which is a serious problem in terms of political competition;

- The mechanism of nomination of candidates from national minorities and distribution of the mandates, which enables acquisition of additional mandates;
- Restrictions on political forces forming coalitions (not more than 3 parties);
- Foreseeing the second round of voting with a view to forming a political majority;
- Introduction of territorial candidate lists (rating lists), which stimulated the vicious practice of abusing administrative and financial resources and essentially excluded political competition and, as a consequence, undermined the political goal of the proportional voting system;
- Restriction of the right to carry out a “public watchdog” function by newly created non-governmental organizations and mass media outlets, as well as limiting the rights to media to only 50 representatives per organisation;
- Restriction of the number of observers and media representatives in the voting room, which does not apply to visitors, international observers and television and radio companies engaged in over-ground broadcasting, which is discriminatory;
- Introducing the power to expel an observer, proxy or media representative from the session of the commission or the voting room;
- Limited scope of subjects having the standing to bring a complaint with a view to protecting objective electoral rights which is contrary to the OSCE/ODIHR recommendations (OSCE ODIHR, 2016);
- The complicated nature of the complaints procedure and problems related to the issue of legal certainty;
- Lack of uniformity in electoral administration (with a view to excluding double standards);
- Lack of real and effective public oversight over electoral commissions at all levels;
- No audit of electoral voter lists and electronic equipment was conducted contrary to what had been envi-

sioned by the agreement concluded between the ruling and the opposition parties;

- The recommendation to check fingerprints of voters registered with electronic equipment, put forward by the ORO Alliance, was not granted. (CEC decision N 157-A, 08.04.2017, Decision of the RA Administrative Court on 14.04.2017, Case N VD/3175/05/17).

In addition to the aforementioned problems related to the RA Electoral Code, liability was envisioned by the RA Criminal Code for making a false report about voting in place of another person or for submitting such a report with a false signature both intentionally and negligently. This obviously limits the possibility of receiving such reports with the aim of detecting this type of electoral fraud and essentially neutralizes the positive impact of the publication of signed voter lists in terms of public oversight.

Conclusion

More in-depth analysis, which this article draws on, demonstrates that there is a need to further amend the electoral legislation with a view to ensuring political competition and equal conditions for such competition (by way of excluding the abuse of administrative resources); ensuring the realization of the free will of the people; increasing the effectiveness of public oversight; and the prevention, detection and effective examination of electoral violations. However, legislative amendments per se cannot ensure the desired results given the fact that in order to ensure adequate application of the law in the law enforcement practice it is of utmost importance to ensure the independence and impartiality of electoral commissions and other responsible state institutions, as well as the transparency of their proceedings. Regulations governing the formation of these commissions, as well as public oversight mechanisms, should be reviewed. To achieve the aforesaid, it is important that all the relevant interested parties demonstrate a consistent and indefatigable policy to ensure real and effective involvement of all the interested parties.

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Tigran Yegoryan is a practicing lawyer in the area of the right to free and fair elections. Starting from 2011, he has been conducting research in the sphere of electoral law. Since 2012, he has been engaged in electoral processes by working on the improvement of electoral legislation, acting as a human rights defender, and through private professional activity in the sphere of the practical protection of electoral rights (provision of legal services to public and political organizations). He is also a member and a senior legal advisor of the human rights NGO “Europe in Law Association”.

References

- Citizen Observer Initiative Report, forthcoming. Available at: <<https://citizenobserver.am/hy/elections/reports>>.
- Citizen Observer, 2016. *Statement on the Formation of the Central Electoral Commission*. [online] Available at: <<https://citizenobserver.am/en/news/view/statement-on-the-formation-of-the-central-electoral-commission2016-10-07-10-58>> [Accessed 14 September 2017].

- Hambardzumyan, A., 2017. EM despann arajarkum e popokhel KYH-i kazmy` ayn dardznelov “arjanahavat” [The EU ambassador proposes to change the staff of CEC by making it more “trustworthy”] Azatutyun, [online] 15 June. Available at: <<https://www.azatutyun.am/a/28554999.html>> [Accessed 14 September 2017].
- Independent Observer, 2017. *RA Parliamentary Elections April 2, 2017, “Independent Observer” Public Alliance, Final Report 2017*. [online] Available at: <<http://hcav.am/wp-content/uploads/2017/07/NA-report-ENG.pdf>> [Accessed 14 September 2017].
- TIAC, 2017. *Monitoring of the Misuse of Administrative Resources and Other Electoral Violations During April 2017 Parliamentary Elections in Armenia*. [online] Yerevan: Transparency International Anticorruption Center. Available at: <<https://transparency.am/files/publications/1499095853-0-442835.pdf>> [Accessed 20 September 2017].
- Venice Commission and OSCE/ODIHR, 2016. *European Commission for Democracy through Law (Venice Commission), OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR). Armenia: Joint Opinion on the Draft Electoral Code as of 18 April 2016*. [online] Available at: <<http://www.osce.org/odihr/elections/armenia/246566?download=true>> [Accessed 14 September 2017].

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