

July 16, 2024

## **ADOPTION OF A NUMBER OF CONSTITUTIONAL AMENDMENTS BY THE NATIONAL ASSEMBLY IS AN IMPERATIVE**

The goal of this document is to lay out a number of approaches which may address the issues standing out in Armenia's current political environment and may help mitigate political and social polarization in the country.

This document focuses on two sets of issues: 1. dominance by one political force enabled by the principle of "stable majority" when the parliament is elected; the second round of elections; the bonus system which tilts elections results; 2. issues related to the integrity of the elected body representing the people at the core of which is the lack of a standing ethics committee overseeing the parliamentarians and the lack of personal accountability on their part.

The Constitution of Armenia empowers the National Assembly with a mandate to address these issues. The National Assembly can adopt relevant constitutional amendments in a short period of time and do this by 2026.

### **Issues and Reasons that Breed them**

In December 2015, Armenia's Constitution underwent changes instituted through troublesome procedures whereby a quasi-presidential governance system was replaced by one that looks parliamentary by its form, however in its substance and structure of key political institutes, it does not correspond to the essence of a parliamentary democracy. In 2018, the motives of the ruling political force were clear – to reproduce power by way of establishing a stable political majority in the parliament and establishing a political monopoly; by eliminating the chances of political opposition, eradicating the mechanisms of checks and balances; consolidating the executive power in the government (Prime Minister's) office in order to guarantee a long-term rule without any turmoil. It was evident that this kind of a system had the capacity to be used by any political force for complete consolidation of power and an absolutist and authoritarian rule.

The questionable referendum by which the constitutional amendments were passed paved way for continuous consolidation of power and reproduction both at the national and local levels. Term-based restrictions for tenure of office by the head of the state were removed, accountability mechanisms were weakened, as the number and frequency of local self-government elections was diminished.<sup>1</sup> Other accountability mechanisms established for the presidential governance system were eliminated and not replaced by adequate new ones. More specifically, the National Assembly's current oversight mechanisms are weak, the powers of the president are almost exclusively ceremonial, the role of the parliamentary minority is not safeguarded, its oversight mechanisms over the executive are not effective etc. The 2018 popular revolution in Armenia showed that the stability of absolute governance, as established in the amended constitution, could be shaken.

---

<sup>1</sup> Unlike the previous Constitution, the changed Constitution of 2015 established that only parliamentary elections would be held at a national level and only every five years. Elections of local self government would take place every 5 years too, unlike the three-year frequency on previous years.

In fact, experts contend that an absolute governance model is vulnerable and breeds conflicts. Political crises and instability are more probable in exactly this type of systems where forces left out of governance are deprived of effective levers on public policy-making and of opportunities for meaningful dialogues with the authorities, including opportunities for reaching compromise and partnership. By overcentralizing the entire burden of governance in the hands of a single winning political force and by excluding debate with a governing opposition, the grievances or disagreements with the ruling force will spill off the formal governance platforms and find resolution elsewhere, including by way of insurgence and disobedience. In such a system that does not comply with the requirements set for parliamentary democratic governance, risks for power abuse, corruption, arbitrary and unsubstantiated decision-making, unaccountable governance and embezzlement of public assets are significantly higher.

International best practice and various analyses show that stable and efficient state governance is possible only upon availability of all the requirements and adequate safeguards necessary for parliamentary governance, including checks and balances. Addressing these issues through constitutional reforms requires comprehensive solutions. Hence, there are several key and urgent solutions that are central to the establishment of democratic institutes, political competitiveness, development of a culture of dialogue, enhancement of political accountability and mitigation of social polarization. These are presented below.

1. Abolishing of the stable domineering status of a single political force in the National Assembly and creating a more inclusive system of governance;
2. Establishing a foreground for a code of conduct in the representative body of the citizens of Armenia that is based on democratic values, rule of law, accountability and respect for human rights.

Tackling these issues, as set out by the current Constitution, lies with the National Assembly, and if calling a national referendum is found inappropriate, it is the duty of the National Assembly to give a solution to the above-mentioned core issues in order to prevent the further deterioration of the political culture, proliferation of hate speech, polarization of the society and plunging of public trust towards political institutions.

## **Proposed Amendments**

### **1. Electoral reform**

**The goal of this reform is to abolish the "stable majority" mechanism enabling a domineering rule and to promote political dialogue and partnership.**

*Article 89, Part 3 of the current Constitution stipulates that: "[t]he National Assembly shall be elected through proportional electoral system. The Electoral Code shall guarantee formation of stable parliamentary majority. Where stable parliamentary majority is not formed as a result of elections or through formation of a political coalition, a second round of election may be held. In case of holding a second round of elections, formation of new alliances shall be permitted. The restrictions on, conditions and procedure for formation of political coalition shall be prescribed by the Electoral Code."*

Article 96 of the Electoral Code of Armenia (constitutional code) sets out certain tilting of election results, i.e. it prescribes a system of additional seats (bonuses) in order for a political force to secure

at least 54%<sup>2</sup> of seats (stable majority) and to secure a minority of at least one third (1/3) in the parliament. It goes on with a similar logic of regulations that are based on norms violating democratic principles and parliamentary governances in Article 98, Part 1, and prescribes that "*[t]wo political parties (alliances of political parties) having received the maximum number of affirmative votes of voters shall run in the second round of election, with the exception of the case prescribed by Part 3 of this Article.*" Part 2 of the same Article prescribes that "*[n]ew alliances — comprised of political parties (alliances of political parties) having passed the thresholds — may be formed with political parties (alliances of political parties) running in the second round of election, where they have come to an agreement as to the candidate for Prime Minister.*" Part 6 of the same Article stipulates that the political force winning the second round of elections will be given additional seats in order to secure a stable majority.

As a matter of fact, Article 98 of the Electoral Code already lays out grounds bringing about divisions in the National Assembly, confrontation and authoritarian rule, as it limits the possibility of forming political coalitions during a second round of elections, reinforces the grounds for governance based on domineering and diminishes the possibility for political dialogue and partnership. This model centralizes power in the hands of a single force – the winning one, and actually deprives the other candidate forces of meaningful leverages of influence on public policy. In the course of time, it may lead to the disintegration and clash of various social groups, a phenomenon posing significant risk to the security of Armenia. Finally, a low political competitiveness may breed political and economic stagnation with all underlying implications, such as low governance quality, corruption, economic decline and social apathy, whereas democratic and economic development require clashes of ideas and visions, adoption of new bold perspectives and delivery of counterbalances.

The Armenian model based on "stable majority" or "dictatorship of the majority" conflicts with the modern conceptualizations of democracy, which are not based on the dominant position of the majority and the legitimization of the will of the majority by all means, instead, they are based on promoting dialogue and political debate between the majority and the minority by all means.

A constitution based on democratic principles and values must open up opportunities for small political parties and must safeguard the political competitiveness and political counterbalances so vital to a democracy. It must direct the political forces to dialogue and negotiation, cooperative relations and compromises and thus it must foster amelioration of the political system and development of the political culture in Armenia.

For the elections in local communities, democratic principles stand on the side of a model where no second rounds of elections are prescribed and allocation of seats directly reflects the results of the elections proportional to the votes cast in favor of political forces<sup>3</sup> and the winner is not ascribed bonuses in violation of the will of the citizens participating in the elections.

Dropping the system of a stable majority implies abolishing the second round of elections and the bonus system, revision of the format by which the government is formed, accurate reflection of public

---

<sup>2</sup> 54 was replaced with 52 by the amendments adopted by the National Assembly on May 7, 2021.

<sup>3</sup> If three and more parties ran in elections and less than three parties received votes above the minimum threshold, then the seats will be allocated among the first three parties with the most votes. According to the same model, if two parties run for the elections, the seats are allocated between these two parties. The exact number of seats is calculated according to the following principle: the number of ballots cast in favor of each party list is multiplied by the number of seats prescribed for them, the result is divided by the total number of the ballots cast in favor of all the party lists participating in the allocation of seats. The whole numbers become the number of seats to be secured by each party list. The rest of the seats are allocated based on the principle of the sequence of differences between the party lists by ascribing one seat to each.

sentiments, formation of government by procedures that are widely comprehensible. All these steps will contribute to laying foundations for a more representative, inclusive and democratic parliament.

## 2. Fostering parliamentary ethics

**The goal is to promote the integrity of MPs, ensure an ethical environment in the parliament that complies with democracy, rule of law and respect for human rights.**

Article 106 of the Armenian Constitution stipulates that: "1. *[t]he National Assembly shall establish standing committees for preliminary discussion of draft laws and other issues falling under its competence and for submission of opinions thereon to the National Assembly, as well as for the exercise of parliamentary supervision. Not more than twelve standing committees may be established within the National Assembly. 2. Seats within standing committees shall be allocated in proportion to the number of parliamentarians included in factions. The positions of chairpersons of standing committees shall be distributed among factions in proportion to the number of parliamentarians included in the faction.*" Article 107 of the Constitution sets out that: "*[a]d hoc committees may be established upon the decision of the National Assembly for the discussion of drafts of individual laws, National Assembly decisions, statements and orations, as well as issues relating to parliamentary ethics, and for submission of opinions thereon to the National Assembly.*" Article 16 of the Law on the Rules of Procedure of the National assembly stipulates that: "4. *[b]y the resolution of the National Assembly on the establishment of an Ad-hoc committee, shall be defined the title of the committee, the term of its activity, as well as the terms for submitting conclusions on the draft, or on an issue related to parliamentary ethics, under the competence of the Ad-hoc committee*" and "7. *[a]n Ad-hoc Committee on Parliamentary Ethics is set up for a term up to two months, which, in the aim of finishing the debate of the issue, may be prolonged for a period of time up to one month by the resolution of the National Assembly upon the committee proposal.*" Article 19 of the same law stipulates conditions under which the powers of an Ad-hoc Committee cease, including the expiration of the term it was established for, its dissolution or adoption or rejection of the draft law under its discussion and other circumstances. It also prescribes that; "3. *[t]he powers of an Ad - hoc Committee on parliamentary ethics also terminate in the following cases; 1) from the moment of the submission to the National Assembly of the conclusion of the committee on parliamentary ethics; 2) in case of cessation or termination of a parliamentarian's powers, the issue of which is being debated by the committee.*"

No initiatives have been taken up since 2018 to set up an ad hoc ethics committee on cases of parliamentary ethics violation, as this would have been a clear political decision which none of the forces represented in the National Assembly wished to pursue neither in relation to the unethical and publicly criticized instances of behavior by their own party fellows, nor in relation to those of opposing factions. The institute of the parliamentary ethics simply does not function in Armenia and numerous cases of unethical behavior demonstrated by parliamentarians (beating, swearing etc.) have never been examined and properly judged upon and in essence, have been covered up, leaving parliamentarians without facing underlying consequences. The result is that such behavior is encouraged, setting a breeding ground for its repetition and proliferation among other social groups. At the same time, these instances have impacted various international reports about Armenia and led to negative evaluation of the country<sup>4</sup> and thereby, have negatively impacted Armenia's

---

<sup>4</sup> Freedom House, Nations in Transit 2024: Armenia, 2024, <https://freedomhouse.org/country/armenia/nations-transit/2024>

international reputation. This has had significant implications on the reputation of the National Assembly and may have contributed to a decline of public trust towards this most important institute.<sup>5</sup>

It is an utter imperative to create grounds for an effective parliamentary ethics committee by taking into consideration the particularities of this body and the current political environment. Establishment of an ethics committee should not be episodic and should not depend on political convenience. Therefore, it should not be established on an ad hoc basis and upon the initiation of parliamentarians themselves. It should be set up on a permanent basis and should have strong foundations. At the same time, the procedure of setting up such a committee should be different from the one related to the other standing committees and should consider the specific powers and functions of this body. The total number of members from a majority faction (factions) should equal the number of member from an oppositional faction (factions) in such a committee. It is recommended to establish a rotation for the chairperson of this committee giving an opportunity to the parliamentarians of both the majority and minority political forces to have a chairperson's seat.

While there are deliberations on creating grounds for establishing a parliamentary ethics committee at each round of parliamentary sessions with the term of that given round as a measure of meeting the recommendations provided by Council of Europe's GRECO group (Group of states against corruption) and a way of overriding the constitutional barrier, this is only an interim measure begging for constitutional changes and establishment of constitutional grounds for creating a parliamentary ethics committee with a more specific and flexible status.

In addition to being empowered with very specific duties, the parliamentary ethics committee of the National Assembly should also allow for receiving reports from citizens, the media and wider circles of the society about violation of parliamentarian codes of conduct and integrity, and in the event such violations are confirmed, it should be empowered to apply sanctions as a means preventing repetition and proliferation of such vicious behaviors.

After revising the constitutional grounds for setting up the ethics committee, the details about its set-up and functioning should be prescribed by the Rules of Procedure of the National Assembly as soon as possible.

*Transparency International Anticorruption Center  
Helsinki Citizen's Assembly Vanadzor  
Law Development and Protection Foundation  
Democracy Development Foundation  
"Asparez" Journalists Club  
For Equal Rights NGO  
Protection of Rights Without Borders NGO  
Public Journalism Club NGO  
Peace Dialogue NGO*

---

<sup>5</sup> International Republican Institute, Public Opinion Survey. Residents of Armenia, December 2023, March 11, 2024, <https://www.iri.org/resources/public-opinion-survey-residents-of-armenia-december-2023>