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Electoral System Reform: A challenge for the 2016 Parliamentary Elections

POLICY BRIEF

Executive Summary

Fair elections are one of the key criteria for measuring the level of democracy in a country. The electoral system, in turn, is a critical component of elections. The electoral system for the parliamentary elections determines how the representative body should be formed and how the votes should be transferred into mandates. It is crucial that the will of the voters expressed at the ballot boxes is proportionally reflected in the mandates within parliament. A fair result of the elections is very much dependent on the electoral system.

The main shortcoming of the electoral system in Georgia is that it does not ensure a fair outcome of the elections. In particular, the majoritarian component of the existing parallel electoral system results in disproportion between votes and mandates received by the parties. Though the reform of this system is always on the government agenda, none to date have carried out this fundamental reform.

This policy brief considers the problems related with the electoral system in Georgia and makes recommendations to improve it. The abolishment of the majoritarian part of the system is recommended as the best and the most acceptable solution. Because the current ruling party is unwilling to take this up, the policy brief provides an alternative model of electoral system as a temporary solution for the parliamentary elections in 2016.

Introduction

Under the 2016 National Action Plan, which guides the implementation of the Association Agreement and the Association Agenda, the Georgian Government has a commitment to conducting democratic elections. The electoral system is a challenge to this commitment: If the system cannot guarantee that the election results will reflect the will of the constituents, the fairness and democratic conduct of the elections could be called into question.

Elections are an important cornerstone of every democratic state as they enable citizens to elect representatives who will take decisions about the economic, social and cultural development of the country, its foreign policy and other issues. The electoral system should ensure that the will of voters is adequately transferred into mandates in the representative body.

Georgia has a parallel electoral system in which both the proportional and majoritarian systems co-exist. Out of 150 MPs, 77 are elected through the proportional system (candidates nominated through party lists) and 73 members are elected in single-mandate majoritarian constituencies.¹

This parallel system has long been criticised by civil society organisations (CSOs) and political parties for a number of reasons. The most important deficiency of the system is that it does not guarantee that the number of votes for a party proportionally translates into the number of seats allocated to the parties. This has a negative impact on the fair outcome of the elections.

Because of this, changes in the electoral system have long been discussed and demanded by CSOs and political parties (ISFED, GYLA and TI initiated a request to consider the issue as early as 2013 in the Inter-Factional Task Force (IFTF), created in parliament in order to prepare all the relevant amendments to the electoral code and other legal acts). Regardless, no meaningful changes were made in 2013 or later in 2014 within the format of the IFTF. Besides local stakeholders, the Venice Commission and OSCE/ODIHR have also recommended that the electoral system for both parliamentary and local self-government elections be reviewed.²

The current ruling Georgian Dream Coalition also pointed out the problems in the electoral system in its 2012 electoral programme, where it described the system as unfair and said that “it is necessary to introduce such an electoral system which would enable us to obtain results that are commensurate with the voters’ will, and thus create the opportunity to have all the main political parties in the country represented in Parliament.”³ The reform of the system was also discussed during the previous government, but without any result.

¹ Constitution of Georgia, Article 50, para.2. Available at: http://www.parliament.ge/files/68_1944_951190_CONSTITUT_27_12.06.pdf

² European Commission for Democracy through law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) draft joint opinion on draft Election Code of Georgia, 1 December 2011, p. 8. Available at: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=C-DL\(2011\)094-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=C-DL(2011)094-e)

³ Electoral Block “Bidzina Ivanishvili-Georgian Dream”, Electoral Program, Parliamentary Elections, 2012, p. 4, p.6. Available at: <http://bit.ly/1zkn0xG>

Analysis

Why the parallel system does not work?

As previously mentioned, one of the principle deficiencies of the electoral system is that it does not ensure the proportional distribution of mandates according to the votes received by the political parties in the proportional elections of the parliament. The problem is mostly caused by the majoritarian component of the system. The disproportion that can be caused by the system is well illustrated by the results of the parliamentary elections in 2008.⁴

Party	Election Results - % of proportional votes	# of proportional mandates obtained	# of majoritarian mandates obtained	# of total mandates in the Parliament	% of mandates in the Parliament
United National Movement (UNM)	59.18%	48	71	119	79.34%
United Opposition	17.73%	15	2	17	11.34%
Labour Party	7.44%	6	0	6	4%
Christian Democrats	8.66%	6	0	6	4%
Republican Party	3.78%	0	2	2	1.34%
Total		75	75	150	

The table shows that the UNM, which had the support of 59% of voters in the proportional elections, received 79% of the mandates in the Parliament. This is caused by the fact that in the existing parallel system the mandates in the majoritarian and proportional elections are mechanically added. As a result, a party might receive more mandates in the legislative body than the real support received in the elections. Practice proves that the disproportion between the votes and the mandates could amount to almost 20% or even more. This difference works always in favour of big parties and to the disadvantage of smaller parties, since majoritarian mandates are always won by big parties, with very few exceptions. This is the reason why ruling parties always oppose the abolishment of majoritarian system.

Failed Electoral System Reform: recommendations to no avail

On 30 May 2015, eight CSOs, 14 political parties and other experts signed an agreement about the electoral system reform at a conference initiated by the President of Georgia. In order to ensure fair elections, the agreement outlined the abolishment of the majoritarian system and administration of elections through a proportional voting system.⁵ It was proposed to elect 75 MPs according to national proportional representation and 75 MPs according to regional proportional representation. Notably, in its resolution about Georgia dated 1 October 2014, the

⁴ The data in the table are based on the Final Summary Protocol of the Central Election Commission of Georgia about Parliamentary Elections of Georgia on 21 May 2008. Available at: <http://www.cesko.ge/uploads/other/2/2675.pdf>

⁵ CSOs and Political Parties Address the Parliament of Georgia on Election System Reform <http://www.isfed.ge/main/904/eng/>

COE Parliamentary Assembly also invited all stakeholders to consider the regional proportional election system.⁶

In response to these recommendations, the government declared its decision to maintain the parallel system for the 2016 parliamentary elections but with some modifications. Specifically, a 50% threshold was established for the election of majoritarian candidate. Further, to protect the principle of equality of votes and ensure implementation of the ruling of the Constitutional Court,⁷ the boundaries of the majoritarian districts were redrawn. The ruling coalition has also announced that because of the limited time remaining before the upcoming elections, the majoritarian component of the electoral system would be abolished after the elections in 2016 and the next parliamentary elections would be conducted according to the proportional system.

The position of the ruling party to adopt a fully proportional system after the 2016 elections proves once again that the existing parallel system is unacceptable and those amendments adopted for the upcoming parliamentary elections are not enough to ensure a fair electoral environment and solve all the problems related to the electoral system. The ruling coalition's argument that there is not enough time to reform the electoral system is not convincing.⁸ The electoral system reform recommendations were submitted more than a year ahead of the parliamentary elections, meaning that there was indeed sufficient time for holding consultations and adopting the relevant amendments in the constitution and election code. Considering this fact, it can be said that the lack of political will played a larger role rather than the lack of time in refusing to implement this reform.

Besides that, the new electoral boundaries were formed based on unclear and ambiguous criteria. The new boundaries resulted in many electoral districts being artificially merged or split. In addition, the changes were planned and implemented without the participation of interested stakeholders, which is a violation of international standards for redrawing electoral districts. These shortcomings of the process were also indicated in the joint opinion of the Venice Commission.⁹

Taking all these into account and given the consensus among almost all stakeholders (political parties, civil society organisations, expert groups) that the parliament should be elected through a fully proportional system, it is unclear why the government postponed the fundamental reform of the electoral system. It creates the impression that the decision was motivated by narrow political and party interests to the detriment of democratic values and fair elections.

It should be noted that the reform of the electoral system was actively supported by members of Georgian Dream Coalition when they were in opposition.¹⁰ In 2010, they requested from the then ruling party-United National Movement to abolish the majoritarian system and conduct elections only through a proportional electoral system. The system that was advocated by political parties while they were in opposition was not supported by the same parties when they came to power and represented the majority in the parliament.

⁶ Functioning of democratic institutions in Georgia, Parliamentary Assembly, Resolution 2015(2014), p. 2 available at: <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=21275&lang=en>

⁷ Constitutional Court Decision, 28 May 2015, registration #547, available at: <http://www.constcourt.ge/ge/legal-acts/judgments/saqartvelos-moqalaqeebi-ucha-nanuashvili-da-mixeil-sharashidze-saqartvelos-parlamentis-winaagmdg.page>

⁸ Statement by ISFED that the electoral system reform proposed by the Georgian Dream is inadequate available at: <http://www.isfed.ge/main/933/eng/>

⁹ European Commission for Democracy through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) joint opinion on Amendments to the Election Code of Georgia as of 8 January 2016, 14 March 2016, available at: <http://www.osce.org/odihr/elections/georgia/227496?download=true>

¹⁰ Position of Ruling Parties on Electoral System-Before and After Elections, International Society for Fair Elections and Democracy, available at: <http://www.isfed.ge/main/915/eng/>

The main reason for rejecting the fundamental reform of the electoral system was to maintain the majoritarian system. This proves once again that the majoritarian system in combination with the proportional system as it is now in Georgia works to the advantage of the ruling party. That explains why a ruling political force never wants to change the system. This was in case for the UNM when it was in power and the same is true of the Georgian Dream Coalition.

Alternative Model of Electoral System

As it is unlikely that the majoritarian system will be abolished prior to the parliamentary elections in October, the non-parliamentary political parties proposed the so-called 'German model'¹¹ as an alternative. Contrary to the existing parallel system, in the 'German model' the proportional and majoritarian mandates are not automatically added. The mandates received by the party are more proportional in relation to the votes gained by the party list in elections. For example, if the party wins 15 single mandate seats and receives 40 per cent of votes in proportional elections it will get 60 mandates in the parliament (15 majoritarian mandates and the remaining 45 mandates will be filled from the party list). This is different from the parallel system where the party would have received 75 mandates. The difference can be illustrated by looking at the 2008 election results.

Party	Election Results - % of proportional votes	# of total mandates obtained in the Parliament (Current system)	% of mandates in the Parliament (current system)	Would have received mandates # (German Model)	Would have received mandates %
UNM	59.18%	119	79.34%	94	63%
United Opposition	17.73%	17	11.34%	28	19%
Labour Party	7.44%	6	4%	12	8%
Christian Democrats	8.66%	6	4%	14	9%
Republican Party	3.78%	2	1.34%	2	1%
Total		150		150	100%

As demonstrated by this example, the 'German model' ensures a closer proportion of distributed mandates to the final election results. This model can be an optimal solution to the disproportionality produced by the current system. The only difficulty is that, in Georgia, the number of mandates is fixed by the Constitution and cannot be increased in case any party wins more single-mandate districts than votes received by the party list. This situation would still produce some disproportionality.

¹¹ This model is also a combination of the proportional and majoritarian electoral systems. The main characteristic of the model, however, is that proportional seats are awarded to compensate any disproportion caused by the majoritarian system.

Conclusions

A proportional system is the best solution for the problem of disproportionality between votes and mandates received by parties resulting from the existing electoral system. It can better guarantee a fair and democratic outcome of the elections, which is a fundamental requirement for elections in every democratic state.

In order to improve the electoral system and create a free and fair electoral environment, the authorities should have taken into account the common vision of CSOs and political parties and should have conducted the 2016 parliamentary elections using a proportional electoral system. There was an unprecedented agreement among CSOs, political parties and experts on electoral system reform and it was unacceptable that the authorities disregarded their recommendations. The current electoral system jeopardises the fairness of the parliamentary elections.

Recommendations

In order to ensure fair and democratic elections, it is important to:

- ▶ Adopt the 'German model' for the 2016 parliamentary elections in order to guarantee a more fair and competitive election environment;
- ▶ Carry out substantial electoral system reform over the long-term. Particularly, abolish the majoritarian system and conduct parliamentary elections only through a proportional system;
- ▶ Consider the model proposed by CSOs, political parties and experts that envisages electing 75 MPs through a national proportional system and 75 MPs through a regional proportional system;
- ▶ Start working on the reform of the electoral system with the involvement of all interested parties immediately after the 2016 parliamentary elections. This would provide sufficient time for reaching agreements and implementing all necessary amendments in legislation in reasonable time before the next elections.

