

# STAFF ANALYSIS

Vol. 4 No. 4 | September 2015

---

## Armenia's Constitutional Reforms: Forward Movement or Momentous Fallacy?

*Kathleen C. Weinberger*

---

In March 2015, current Armenian President Serzh Sargsyan announced his support for amending Armenia's constitution. The main change that has been proposed is to transform Armenia from a semi-presidential to a parliamentary system. These reforms, if approved, would have a significant impact on the way that power is held and exercised in Armenia.

Objections have been raised against various aspects of the proposed changes, both by domestic opposition groups and by the international body assisting with the reform process, the Council of Europe's Venice Commission. Unless these concerns are addressed, it is unlikely that these reforms will succeed in improving the quality of Armenia's democracy.

### **Power to the Premier**

The most widely discussed aspects of the constitutional reforms have to do with the proposed changes to the positions of the president and the prime minister, new procedures suggested for the electoral system, and a number of changes made to the internal rules governing parliamentarians' actions within parliament.

Under the proposed constitution,<sup>1</sup> the powers of the president would be significantly curtailed. Firstly, the president would be designated as a non-partisan

actor whose purpose is to serve the "national interest." Secondly, presidents under the proposed constitution would be elected by an Electoral College composed of equal numbers of members of parliament and local government officials, rather than by popular vote.

Most importantly, the current executive powers of the president would be transferred to the purview of Armenia's government, with the result that both domestic and foreign policy would be decided by the prime minister and ministers. While the president would be entrusted with a number of functions relating to the military, diplomatic relations, and indeed the appointment of the prime minister, the majority of these powers are contingent upon the legal jurisdiction of other bodies. Presidential decisions regarding international agreements and the designation of ministers are done only at the recommendation of the prime minister.

Similarly, while the president is technically entrusted with the power to appoint the prime minister, this choice is made according to the support of the majority in parliament, and is thus a ceremonial endorsement of the already confirmed candidate. Moreover, the president would no longer be able to intervene in legislative matters of parliament, either by calling for extraordinary sessions or contributing an opinion during the approval process of a new law.<sup>2</sup>

---

<sup>1</sup> Based on Chapters 1-15 of the draft Constitution, published online on 4 August 2015 on the website of the Armenian Ministry of Justice. [www.moj.am/article/1353](http://www.moj.am/article/1353)

---

<sup>2</sup> European Commission for Democracy through Law (Venice Commission), (2015). "Preliminary Opinion on

As a result, the president would primarily act as a symbolic figure – impartial and able to act ceremonially within certain realms of policy, but significantly limited in his or her decision-making role. The amended constitution designates the prime minister and other ministers who form the government as the new executive. Legitimacy of this office is derived from a party's majority of seats in parliament, which under the new system would reflect a proportional electoral system.

Besides the changes to the office of the president, the second key reform being proposed concerns the manner in which the Government is formed. Modeled after the Italian System, Armenia's reformed parliament would hold a second round of elections if, during the first round, a single party is not able to gain the 40 percent of votes required to constitute a majority.

The second round, which is limited to the two parties that sustained the most votes in the first round, would award additional seats to the victor in order to constitute a majority of 54 percent. This "stable majority" would therefore be guaranteed under all circumstances, removing the possibility of a minority government or the need for parties to form coalitions in order to form the government.

### **The Perils of Parliamentarism**

According to statements made by President Sargsyan, the above changes are being done to improve Armenian democracy.<sup>3</sup> The prudence of choosing a parliamentary system as a means of ensuring democratic efficiency and stability are well documented: noted political scholars Juan Jose Linz of Harvard (1990, 1994), Mikhail V. Beliaev of Saratov State University (2006) and Sophia Moestrup of the National Democratic Institute (2007), for some examples, each highlight the danger inherent in presidential and semi-presidential regimes, especially for new democracies.

These arguments stipulate that regimes in which too much power is concentrated in the hands of a single executive are at risk of democratic deficit, poor democratic consolidation and abuses of power. Parliamentary systems are viewed as a solution to

these problems, as legitimacy in governance is necessarily derived from continuous support of a legislative majority.

However, as the most recent opinion given by the Venice Commission emphasizes, governments of presidential, semi-presidential and parliamentary types all hold the potential to fulfill "democratic standards".<sup>4</sup> The quality of democracy follows from how rights are protected, as well as how check and balances operate within this system, as well as the details of how this system is organized. In these aspects, Armenia's proposed constitutional reforms display a number of noted pitfalls.

### **"Stable Majority" and the Threat of Minority Government**

The first pitfall the second round of voting in the case of a single party being unable to secure a majority. This stipulation reflects a strong fear of minority governments and a desire to achieve stability at all costs. Armenia's desire for stability is not out of the ordinary: the ongoing conflict over Nagorno-Karabakh with Azerbaijan means that the country has little tolerance for internal volatility. When a country perceives a threat by external forces, such as the UK during the Falkland's War and the US in the wake of September 11, 2001, there is great pressure on the population and the legislature to support the executive.

Desire for stability is also based on the fact that Armenia's government experiences a great deal of insecurity regarding political legitimacy. Opposition leaders' criticism of the current government's support for constitutional amendments follows a general trend of condemnation of Armenia's political system.

Stepan Demirchyan, the head of the People's Party of Armenia, claimed that the elections of the last two decades have not been legitimate, and subsequently called for a complete re-working of the political system in order to ensure fairness in elections and governance.<sup>5</sup> It is not surprising that in such a political environment, the ruling party would seek constitutional amendments that would ensure sufficient parliamentary seats to show clear legitimacy.

---

the Draft Amendments to Chapters 1 to 7 and 10 of the Constitution of the Republic of Armenia." *Council of Europe*: Opinion no. 757/2014, Strasbourg.

<sup>3</sup> "Armenia's President OKs Constitutional Reform Concept." Radio Free Europe/Radio Liberty's (RFE/RL) Armenian Service, 13 March 2015. [www.azatutyun.am/content/article/26899299.html](http://www.azatutyun.am/content/article/26899299.html)

<sup>4</sup> Venice Commission, 2015, p. 12.

<sup>5</sup> "Armenia deprived of legitimate elections for 20 years – opposition," Armenian News-NEWS.am, 23 September 2011. <http://news.am/eng/news/75293.html>

Yet the desire to achieve broad support in parliament is not unique, and minority governments are often viewed as potentially problematic. Italy stands as one of the most prominent examples – and indeed offered Armenia its current solution. After years of poor governance due to political stalemates caused by its many small parties, Italy adopted constitutional amendments that included introducing the majority run-off system that is now proposed in Armenia. In this case, Italy did truly suffer from too many small factions and lack of cooperation.

In October 2011, tensions caused Italy’s MPs to have a fistfight during a session. In March 2013, Italy’s parliament met for the first time after a month of deadlocked elections, only to fail to elect speakers for either house. This legacy was sufficient evidence in support of the proposed reforms, which now offer Italy the promise of a more efficient, less volatile system.

The perception of these problems seems to offer an uncomfortable choice between stability and greater competitiveness in Armenia’s democracy. However, beyond Italy’s extreme example, there is little reason to believe that a system that did not ensure a majority without coalition building would necessarily result in instability. The Conservative-Liberal Democrat coalition that was formed in the UK following the 2010 election stands as one of the most recent examples. Firstly, this coalition was not an easy one: David Cameron’s (Conservative) successful rapprochement with Nick Clegg (Liberal Democrat) was achieved in the face of significant differences in ideology and voter-base.

Secondly, despite the fact that this election took place in the midst of two crises – the global financial crisis of 2008 and newly emergent Euro crisis of 2009 – the Conservatives were not only able to form a majority government, but decisively enacted legislation over the next five years that shaped post-crisis Britain in the Conservative image and secured the 2015 election as a clear Conservative victory.

Indeed, a number of examples from European parliamentary systems illustrate that it is possible to combine multi-party competitiveness with stable governance. Germany has had a string of “grand coalitions” which have been the necessary compromise in a politically diverse system. France has a long history of coalition governments, as have the Netherlands, Belgium, and Austria. In fact, as the University of London: Queen Mary Professor

Françoise Boucek argues, coalition governments are indeed a “European norm” rather than a deviation.<sup>6</sup> As such, despite the understandable aversion to the possibility of minority governance or untenable coalitions, Armenian policymakers should consider the successful examples of power-sharing before declaring the proposed ‘stable majority’ to be the only guarantor of secure governance.

### **Changes to Parliament**

The stipulation of a stable majority becomes even more problematic when one considers further reforms that are suggested for parliamentary procedure. Under the proposed constitution, parties are banned from forming new factions during the course of legislative terms. The Venice Commission identifies this as problematic for two reasons. Firstly, this undermines the performance of parties and members within parliament. Secondly, this puts undue and crucially precarious pressure on the ability of members of parliament to “cross the floor” – to vote against the party line or to join a different party.

As the numbers guaranteed by the stable majority are sufficient to block or guarantee the removal of a prime minister and his or her government from power through a no-confidence vote, the ability of Members of Parliament to change allegiance is a crucial means by which the legitimacy of the ruling party may be challenged. Given that votes of non-confidence are not performed by secret ballot, the proposed system does not provide sufficient guarantees that the ability to dissent will be fully protected. As the ability to remove the prime minister is one of the key checks on power in parliamentary systems, this defect is of significant concern.

The virtually unassailable position of the prime minister is symptomatic of the second major pitfall of Armenia’s proposed reforms: the confidence in the improvement of democracy according to the change in system of governance, rather than the

---

<sup>6</sup> Boucek, Françoise, “Once you recognize that coalition government is a European norm, and is likely to endure in the UK, further changes in British party politics (such as electoral pacts) look quite feasible.” London School of Economics Blog: British Politics and Policy, 14 September 2010. <http://blogs.lse.ac.uk/politicsandpolicy/once-you-recognize-that-coalition-government-is-a-european-norm-and-is-likely-to-endure-in-the-uk-further-changes-in-british-party-politics-such-as-electoral-pacts-look-quite-feasible/>

details of the new model. The specific problem is the transfer of authority between the office of the president and the prime minister as a constraint against abuse of executive power. Unless the prime minister and his or her government are genuinely dependent on the support of an active parliament, this transfer of power is merely symbolic and does not create an executive that is more accountable.

### **The Demotion of the President**

Along with uncertainty about the empowerment of the prime minister, the question of the reduction of the powers of the president that has sparked a large amount of confusion and suspicion. Firstly, the proposed changes create a strange disconnect regarding the legitimacy of the executive. While the prime minister is appointed with the legitimacy garnered by the majority in parliament, the president obtains his office based on a wider mandate of Elector College, which is based on the combined support of members of parliament plus that of local government officials. The paradoxical curtailment of the president's powers yet widening of his or her mandate does not offer an immediate identifiable threat, it opens a strange and seemingly unnecessary ambiguity in the rationale behind the authority with which each office is endowed.

The second point of dissonance concerns the fact that the suggested presidential demotion has been endorsed by President Sargsyan himself. Some, including representatives from Armenia's two leading opposition parties, the Heritage party and Armenian National Congress (ANC), have suggested that the reforms are merely a mechanism by which Sargsyan hopes to extend his rule to an unofficial third presidential term.<sup>7</sup> Under the current law, Armenia's president cannot serve more than two consecutive terms. By transferring many of the executive powers to the position of prime minister, the reforms to Armenia's constitution would offer a short-term means by which to secure Sargsyan's extended term as head of state, rather than the first step in a long-term plan to increase Armenia's democratic function.

---

<sup>7</sup> "Komu v Armenii nuzhna novaya konstitutsiya? (Who in Armenia needs a new constitution?)" *Vestnik Kavkaza*. 16 July 2015. [www.vestnikavkaza.ru/news/Komu-v-Armenii-nuzhna-novaya-konstitutsiya.html](http://www.vestnikavkaza.ru/news/Komu-v-Armenii-nuzhna-novaya-konstitutsiya.html)  
Bedevian, Astghik. "Armenian Opposition Slams Authorities Over Constitutional Reform Provision." Radio Free Europe/Radio Liberty's (RFE/RL) Armenian Service, 4 August 2015. [www.azatutyun.am/content/article/27169191.html](http://www.azatutyun.am/content/article/27169191.html)

These objections have not gone unnoticed, and throughout the discussion of the reform process, opposition resistance to the proposed changes have stood as a major obstacle to across-the-board international approval. In an interview with the Armenian branch of Radio Free Europe/Radio Liberty, Gianni Buquicchio of the Venice Commission stressed in 2014 that constitutional changes must be made with "the broadest possible agreement among political forces."<sup>8</sup>

The most recent opinion of the Venice Commission, published July 20, 2015, echoes this sentiment and encourages Armenia's different political parties to meet and discuss the proposed reforms in order to, "clarify any possible misunderstanding on the aim of the reform and give it a better chance to succeed."<sup>9</sup>

### **Parliamentarism — the European Choice?**

Given the general mistrust of presidential and even semi-presidential systems, Armenia's choice of a parliamentary system reflects a more democratic, European image — perhaps in order to receive greater legitimacy and even tangible rewards from international partners. Esther Seha of the Leuphana University of Lüneburg, Germany argues that the reforms suggested in 1998 by former president Kocharyan were an attempt to appeal to European audiences. According to her view, these changes, which also shifted power from the presidential executive to the parliament, were offered in the wake of Armenia's 1996 application for membership to the Council of Europe, which it joined in 2001.<sup>10</sup>

As mentioned earlier, supporters of reform, particularly President Sargsyan, are adamant that the proposed amendments are for the sake of "democratic development". Sargsyan added that, in the democratic spirit of the reforms, he would not seek further election after his term as president ends in 2018.<sup>11</sup>

---

<sup>8</sup> Lazarian, Tatevik, "European Official Hopes for Opposition Role in Constitutional Reform," Radio Free Europe/Radio Liberty's (RFE/RL) Armenian Service, 25 October 2014.

[www.azatutyun.am/content/article/26654809.html](http://www.azatutyun.am/content/article/26654809.html)

<sup>9</sup> Venice Commission, 2015, p. 12.

<sup>10</sup> Seha, Esther, "Constitutional Reform in Semipresidential Systems: Armenia, Croatia, Russia and Ukraine Compared". Paper presented at the 8th ECPR General Conference, University of Glasgow, 3-6 September 2014.

<sup>11</sup> "Armenia's President OKs Constitutional Reform Concept." Radio Free Europe/Radio Liberty's (RFE/RL)

Regional precedent stands as a reason for doubt. Only a few years ago, Armenia's neighbor Georgia went through a similar process. Between 2010-2013, Georgia passed and then enacted its own constitutional reforms, which transferred many domestic executive powers to the prime minister and established the president as a symbolic figure, rather than the head of state.

At the time, former Georgian President Mikheil Saakashvili was similarly accused by opposition parties of attempting to enact these reforms in order to retain power in the office of the prime minister. In both the Georgian and now the Armenian case, the Venice Commission expressed concern that such reforms must not be tools of "personal power"<sup>12</sup> or "aim to advance the positions of incumbent or future power holders."<sup>13</sup>

There is also the question of how much Armenia would stand to gain from projecting a more European image. Despite similar criticisms of its constitutional amendments, Georgia's strategic alignment is undoubtedly towards Europe. In June 2014, Georgia signed an EU Association Agreement and has made significant progress towards negotiating visa-free travel for Georgian citizens within the EU. Armenia does not seem to be seeking the same path.

By choosing to join the Eurasian Economic Community in September 2013, however, Armenia rejected the formerly proposed Armenia-EU Association Agreement, which would have deepened the country's relations with the EU to a historical extent, Armenia has created significant obstacles on its own path to closer ties with Europe.

### **The Will of the People**

The decision to amend the constitution will be ultimately passed or rejected by a referendum.<sup>14</sup> This step evokes an appeal to the most basic of democratic processes: a popular vote. However, some research suggests that there is simply neither

---

Armenian Service, 13 March 2015.

[www.azatutyun.am/content/article/26899299.html](http://www.azatutyun.am/content/article/26899299.html)

<sup>12</sup> "Georgian Parliament Approves Controversial Constitutional Amendment." *Radio Free Europe*, 15 October 2010.

[www.rferl.org/content/Georgian-Parliament-Approves-Controversial-Constitutional-Amendment/2191769.html](http://www.rferl.org/content/Georgian-Parliament-Approves-Controversial-Constitutional-Amendment/2191769.html)

<sup>13</sup> Venice Commission, 2015, p. 12.

<sup>14</sup> "Constitutional reforms: referendum to prove decisive – Karine Achemyan." *Tert*, 23 July 2015.

[www.tert.am/en/news/2015/07/23/karine-atshemyan/1742794](http://www.tert.am/en/news/2015/07/23/karine-atshemyan/1742794)

enough public interest nor awareness to bring about the kind of dialogue necessary to ensure an informed decision.

While a frequently cited statistic concerns the fact that a large portion of Armenians do not think that reform is necessary – 46 percent -- other statistics are equally if not more worrisome. The same GALLUP<sup>15</sup> poll noted that nearly a quarter of those surveyed (26%) were not aware of the type of government system currently in place, while more than half of those who claimed to know were in fact unable to correctly identify Armenia's government as semi-presidential. The largest portion in fact identified Armenia's system as presidential – a mistake that gives insight into the current distribution of power in the government.<sup>16</sup>

As such, although the verdict on the implementation of these reforms will ultimately be decided by Armenia's voters, it is unclear to what extent the population has yet been able to engage the details of this decision. As the stated goal of the reform is to increase democracy in the country, it is important that the first step taken towards their implementation involves a genuine, informed democratic process.

A positive addition to the proposed reforms concerns the extension of the popular referendum mechanism to a key area of policy — the decision to accept or reject membership of international organizations. This has the potential to significantly increase democratic input into major national decisions and should be considered as a positive step. However, it further underlines the need for an informed public and fair elections.

### **The Future of Armenian Democracy**

Ultimately, the proposed reforms will not decide the future of Armenian democracy. The Venice Commission's most recent review of the proposed constitution offers words of praise along with criticism, including an expression of gratitude for the invitation to treat the process of reform as an open dialogue. However, simply switching to a parliamentary system from a semi-presidential one is not sufficient to increase democracy.

---

<sup>15</sup> This poll was conducted by the Russian company, GALLUP, which should not be confused with the U.S. company of the same name.

<sup>16</sup> "46% of respondent consider Constitutional amendments necessary." *A1+*, 24 July 2015. <http://en.a1plus.am/1216567.html>.

The second round of elections to ensure a stable majority, lack of sufficient protection of the ability to remove the prime minister through a no-confidence vote, widespread suspicion regarding President Sargsyan's motivations for supporting these reforms, and the general population's lack of engagement with the reform process mean that, at its present stage, Armenia's proposed constitution does not offer the easy step towards greater democracy that its proponents promise. Without a genuine examination of what these reforms will mean for the country's future, both at the elite and societal level, Armenia's constitutional reforms run the risk of doing more harm than good.

The **Regional Studies Center (RSC)** is an independent think tank conducting a wide range of objective research and analysis, and implementing a number of educational and policy-related projects.

As a leading think tank based in Armenia, the RSC conducts research and analysis and develops policy initiatives in support of political and economic reform and conflict resolution in the broader South Caucasus region. Over the longer term, the RSC strives to elevate political discourse, deepen civic activism and broaden engagement in the public policy process.

**Regional Studies Center (RSC)**  
Yerevan, Armenia

[www.regional-studies.org](http://www.regional-studies.org)