

STAFF ANALYSIS

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Parliamentary Democracy or One-Party State: What is behind Armenia's Constitutional Reform

Mikayel Zolyan

This year has proven to be quite eventful for Armenian politics. The year started with the “taming” of Prosperous Armenia, the largest non-governmental political party, which left the opposition field debilitated.¹ In the summer, Yerevan became the scene of mass civil protests: the “Electric Yerevan” protests for several days made Armenia the focus of attention of the entire post-Soviet space, giving way to speculations whether an Armenian “Maidan” was possible. Finally, and more recently, the Armenian government announced its project of initiating constitutional reform, which, if implemented, would mark the most significant change in the political system of Armenia since independence.

The project

The proposed draft of the constitution will effectively transform Armenia's political system from a presidential model into a parliamentary republic. The office of the president will be degraded into a largely ceremonial position, with little authority over the executive. The president would be no longer elected through direct elections: rather, he will be chosen by a group of “electors,” comprised of National Assembly members and representatives of local self-government authorities. The National Assembly will become the most powerful institution, with the power of appointing and dismissing the prime-minister, as well as control over the judiciary.

The proposed constitutional changes have become a subject of heated discussions in Armenia. The draft has become the focus of criticism from various actors, including the political opposition, independent media, civil society organizations, the expert community and civic activists inside Armenia, as well as by the international experts of the Council of Europe's Venice Commission.

The proponents of the constitutional reform have argued that the parliamentary system of government, suggested by the reforms is in general more democratic and helps to ensure pluralism. The critics, however, express skepticism as to whether the reform would actually lead to more democracy and pluralism.

Moreover, certain provisions of the draft have given ground to accusations that the real aim of the constitutional reform is to secure one-party rule for the governing Republican Party, as well as to allow the incumbent president, Serzh Sargsyan, to stay at the helm after his second presidential term expires.² The most outlandish provision of the suggested new constitution is the one providing for a second round of parliamentary elections to be held in case the voting fails to produce a clear majority for a political party. Only two parties, which would receive the most votes in the first round, would then take part in the runoff, and the one to win a simple majority would form the government.

¹ For more, see: www.regional-studies.org/en/blog/24-topics/442-170315

² According to the Armenian constitution, President Sargsyan is limited to two consecutive terms as president.

This is quite an innovative approach, to say the least. To our knowledge, the only state in the world that has a similar system of elections is the tiny statelet of San Marino. A law providing the opportunity of a second tour was recently adopted in Italy. However, this law, adopted several months ago, will come into force only in 2016, so it has yet to be seen how it would work in practice. Besides, in the Italian case it is a law, rather than a constitutional provision. And it is quite telling that the electoral reform has given ground to strong controversy in Italy. Some critics have accused the Italian prime-minister Matteo Renzi of wanting a one-party state, and even compared him to the Spanish dictator Franco.³

In our view, the idea of the runoff contradicts the very logic of parliamentary rule. The necessity for compromise and negotiations between various political parties, which comes as a consequence of forming a coalition, is often considered as one of the advantages of the parliamentary system. It helps to ensure more pluralism than the “winner-takes-all” logic of a presidential system, which may lead to what some political scientists have called “an elective autocracy.”

It is true that in certain situations the task of forming a coalition may complicate things, as it has repeatedly done in Italy, to name one example. However, it is precisely this feature, which, according to proponents of parliamentarism, makes the parliamentary system more democratic than a strong presidential system.

Therefore, it seems illogical that the authors of Armenia’s constitutional amendments are trying to guarantee that one party should be able to form a government on its own. Why then, one could wonder, should Armenia opt for a parliamentary system, if the “winner-takes-all” logic of a strong presidential system is preserved? In order to answer this question, we need to examine the political context, in which the proposal of constitutional reform has been put forward.

The Context

When Armenia became an independent republic after the break-up of the USSR it did not have a constitution until 1995. On 5 July 1995, a

referendum on the country’s new constitution took place. It was carried out parallel to the first parliamentary election in the history of modern independent Armenia. According to the official results proclaimed by the Central Election Committee, the majority of voters approved the constitution, just as they had voted for the pro-government coalition. The official results, however, were rejected by the opposition, as the election and referendum were marred by numerous reports of violations and fraud.

The constitution that was later amended and adopted in 1995 had been criticized not only for the irregularities that accompanied the referendum, but also because it handed too much power to the president. Critics called the political system created by the constitution “super-presidential,” since it allowed the president to exercise control not only over the executive, but also over the legislative and judiciary.

Proponents of 1995 constitution argued that the critics were exaggerating the scope of the presidential power provided by it, and contended that in reality it did not exceed the power of the president in developed democratic countries like the United States and France (in fact, the French Constitution was actually used as a guiding blueprint by the authors). Both sides of the argument have their merits: while the constitution indeed awarded quite disproportionate power to the president, it would be wrong to blame it entirely for the emergence of authoritarian tendencies that became obvious by mid-1990s.

The authoritarian trend probably had to do less with the constitutional provisions, than with the informal practices like voter intimidation and election fraud, for some examples. In any case, the supposedly “super-presidential” constitution of 1995 did not protect then-President Levon Ter-Petrosyan from a rebellion within his own camp: in 1998, he was forced to resign under pressure from a coalition of his former associates including then-Prime Minister Robert Kocharyan, Defense Minister Vazgen Sargsyan and National Security Minister Serzh Sargsyan.

After 2001, when Armenia became a member of Council of Europe, it formally assumed commitments which were in conflict with some of the provisions of the constitution. Thus, constitutional amendments had to be made. However, there was no question of altering the model of government. The first constitutional referendum on these amendments took place in

³ “Italy’s constitutional reforms. Swapping places with Britain,” *Economist*, 9 May 2015. www.economist.com/news/europe/21650572-matteo-renzis-electoral-reform-will-hugely-strengthen-prime-minister-swapping-places

2003, when it was coupled with the presidential elections. While incumbent President Robert Kocharyan won the election, the proposed amendments failed. The failure of the constitutional referendum was not perceived as major blow for the incumbent, since the proposed changes were going to curb the president's powers, and the defeat of the motion was even helpful for the government as it helped to assert Armenia's democratic credentials.

The issue of amendments remained in place, however, and in 2005 a new constitutional referendum was organized. The opposition, which claimed that the 2003 presidential elections were "stolen," called for a boycott, rather to show the voters' attitude to the government than to reject the specific amendments. Although the opposition and many independent observers maintained that the turnout fell short of the required minimum, the CEC announced that the constitutional amendments passed.

With the 2005 amendments, some limitations on the power of the president were introduced and the prerogatives of the parliament were enhanced. However, in case the incumbent president held the support of the majority in the parliament, he would still enjoy virtually unlimited power, not in any way inferior to the powers which the president had before 2005. Since the political forces supporting the president have received a majority in all parliamentary elections since then, in practice it meant that the constitutional amendments did not bring any significant changes to the political system.

It is true that there had been some discussions in Armenia about which form of government is preferential, but these discussions had largely remained theoretical and never became a top subject in the political debate. Neither pro-government forces, nor the influential opposition forces advocated a constitutional reform in favor of the parliamentary republic. The only notable exception was the Armenian Revolutionary Federation "Dashnaktsutyun" (ARF). The ARF's historical role, as well as its peculiar structure, meant that the ARF was popular as a party, but lacked strong leaders who could be viable as presidential candidates, hence, the ARF's preference for a parliamentary form of government.

However, this preference remained largely a matter of theory than actual politics: the ARF, being a member of the government coalition from 1998-2009, including 2003 and 2005, when the two constitutional referendums took place, hardly ever used its position to take any practical steps in favor

of transition to parliamentary republic. And when it finally left the government coalition in 2009, it was over disagreements regarding Armenia-Turkey relations, and had nothing to do the form of government.

As for other political forces, certain leaders may have mentioned the preferability of one form of the government over another, but it has never become a central issue of the political debate. Certainly, the Republican Party, being a part of government coalition since the mid-1990s and the main ruling party since 1999, has never voiced a preference for the parliamentary system. Similarly, President Serzh Sargsyan, who has been a key member of the cabinet in various governments since the early 1990s, as well as the prime-minister since 2007 and the president since 2008, has never expressed any reservations about the presidential form of government.

Moreover, neither Sargsyan, nor any other prominent Republican Party politicians, ever raised the issue of a needed transition to a parliamentary republic during the presidential and parliamentary election campaigns. So, why is the Republican Party now advocating a constitutional reform that would turn Armenia into a parliamentary republic?

Why now?

In our view, the most probable motivation for the ruling Republican Party's sudden turn in favor of a parliamentary system is related to the fact that Serzh Sargsyan's second presidential term is coming to an end and he will not be able to stand for reelection in 2018. Currently, given the constitutional ban on his reelection and with no obvious designated "successor," this marks a definite problem for both President Sargsyan and the ruling Republican Party.

The issue of succession is one of the key problems for post-Soviet political elites. Often, this problem is resolved by postponing the succession as long as possible or, in other words, by ensuring that the incumbent leader can stay at the helm indefinitely. In many of these cases, the constitution is changed to allow the leader's re-election. Thus, in Azerbaijan in 2009 the term limit on the president's re-election was removed, allowing President Ilham Aliyev to stand for re-election the third time in 2013. The president of Belarus, Alexander Lukashenko, and several Central Asian leaders, also have a rich experience of amending the constitution in order to avoid legal obstacles for re-election, with some warmly embracing the title of "president for life."

However, for the government of Armenia, maintaining a democratic image is important. Although Armenia is a member of the Eurasian Economic Union, which does not have specifically high demands regarding democratic standards, it is also striving to maintain good relations with the West. Western financial assistance is an important source of cash for the Armenian government. According to research carried out by the “Union of Informed Citizens,” an Armenian non-governmental organization (NGO), the Armenian government has received about \$450 million in assistance and various grants from EU and USA over eight years.⁴

A blatantly non-democratic move, such as the elimination of the term limit on presidential power, would definitely harm Armenia’s democratic credentials and jeopardize relations with the West, including threatening the flow of Western financial aid. So, Armenian political elites need to look for more subtle ways of assuring the regime survival.

Of course, there is also the option of choosing a “successor” from the ranks of the Republican Party and ensuring that he is elected in 2018. This solution could benefit the ruling party on the whole, but it can be risky for President Sargsyan and his inner circle, since it is hard to predict how “the successor” would treat his former boss. Emulating Russian President Vladimir Putin by installing a caretaker president while ruling the country from behind, as Putin did by elevating Dmitri Medvedev as then-president, is also an unlikely option for Sargsyan. Unlike Putin, who enjoyed a high level of genuine support among Russia’s population (though probably lower than the official figures), Sargsyan, arguably, has a quite low level of support among Armenia’s population. This would make him highly vulnerable should he cede the top position to someone else, even to one of his close associates. Therefore, Sargsyan urgently needs a scheme that would allow him to remain at the top of the political hierarchy after the end of his second presidential term.

This is where the suggested constitutional changes come in. The new constitution would delegate power in the country to the party that has emerged as a winner of the elections. The provision of the second round would ensure that this party would not

have to enter in power-sharing agreements with any other political force. It would also ensure that the head of the ruling party would remain the most influential person in the country. There have been statements by President Sargsyan that he would not be seeking the position of the prime minister.

However, as we know from the Soviet experience, the head of the ruling party can be the most influential figure in the government, even if he does not officially hold the post of the head of state or the head of the executive. In other words, with the new constitution, Sargsyan may not remain “the king,” but he would certainly become “the kingmaker.”

What is going to happen?

What are the perspectives for the proposed constitutional reforms? Although criticism of the proposed package was abundant in the media and social networks (an important political platform in Armenia), this criticism has not yet translated into political action. Armenia’s opposition is extremely weakened after the largest non-government party, Prosperous Armenia (PAP), was effectively destroyed as an independent political force in the spring. Representatives of PAP, as well as members of several other parties, took part in meetings with Serzh Sargsyan, where the constitutional reform proposal was discussed. This was perceived as a sign that PAP is not going to be actively opposing the constitutional reform.

Of the opposition parties, the Armenian National Congress (ANC) and the Heritage party have voiced their opposition to the constitutional reform and called for a political campaign of resistance to the reform. These calls have been echoed by civic activists, including a civic initiative, which calls itself “You will not pass [it]” (Cheq Anckacni). Another opposition party, “Civil Contract” has also criticized the proposed reform, but has also expressed skepticism about the opposition’s ability to counter the referendum through street protests.⁵

As the “electric Yerevan” protests this past summer have shown there is a strong potential for protest in Armenia. However, these protests have also shown that large-scale mobilization does not necessarily lead to significant gains or serious change.

⁴ “Government of Armenia Received \$450 Million in Grants from EU and USA in 2007-2014,” *Hetq online*, 31 August 2015. [http://hetq.am/eng/news/62333/government-of-armenia-received-\\$450-million-in-grants-from-eu-and-usain-2007-2014.html](http://hetq.am/eng/news/62333/government-of-armenia-received-$450-million-in-grants-from-eu-and-usain-2007-2014.html)

⁵ Bedevian, Astghik, “Pashinian Warns Fellow Oppositionists against Getting into ‘Constitutional Trap,’” Radio Free Europe/Radio Liberty’s (RFE/RL) Armenian Service, 6 August 2015. www.armenialiberty.org/content/article/27173267.html

Throughout the past several years, the Armenian government's handling of protests has become quite sophisticated and more efficient. After the initial attempt to disperse the protests through violence failed, the government turned to a much more sophisticated strategy, combining partial concessions, the threat of the use of force, and an aggressive but well-calibrated media "spin." As a result, the movement was split and lost momentum.

While "electric Yerevan" was concerned with a pressing social issue of a proposed increase in electricity prices, it may be difficult to attain the same level of mobilization when it comes to the issue of the changes in the constitution, which remain an obscure issue to the majority of the population.

Having said that, however, it is also necessary to take into account that the political and socio-economic situation in both Armenia and the whole region is unstable and that may lead to some difficulties for the government. As the Russian economy is falling deeper into recession, hit by Western sanctions and low oil prices, the shocks are felt throughout the post-Soviet countries. Armenia is especially vulnerable to the instability coming from Russia.

Not only is Armenia a member of the Eurasian Economic Union and the Russian-dominated Collective Security Treaty Organization CSTO, but Russian companies also hold dominant positions in several sectors of the Armenian economy. What is probably even more dangerous, Armenia's economy is highly dependent on remittances from workers and migrants in Russia, which are dwindling because of Russia's economic troubles. Experts also warn that the Armenian currency will most likely follow the devaluation that has occurred for the Russian Ruble and several other currencies in the region.⁶

The influence of these factors will certainly complicate the situation in Armenia and may lead to mass protests on a scale unseen for years. What may further complicate matters for the government is that some groups within the political and business elite, especially those close to former President Robert Kocharyan, as well as some figures within the

Republican Party, are not enthusiastic about the constitutional reform, even though they have so far avoided making their views known publicly.

The real problems, therefore, may begin after the constitutional reform is passed. It is true that if the constitutional reform is enacted, the ruling party will receive a virtual guarantee of electoral success: the new constitution will make the task of displacing the incumbent government highly complicated, if not impossible.

However, it is precisely this feature which could make the new political system unstable and vulnerable to shock. If a government cannot be changed through elections that leave only two options through which governmental change will happen: *coup d'état* or revolution. This is the lesson that many authoritarian rulers have learned the hard way. Let us hope that Armenia's political elites would be wise enough to learn from others' mistakes rather than to repeat them.

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⁶ Wallace, Paul and Srinivasan Sivabalan, "10 Currencies That May Follow Tenge in Tumble Triggered by China," *Bloomberg Business News*, 20 August 2015. www.bloomberg.com/news/articles/2015-08-20/10-currencies-that-may-follow-tenge-in-tumble-triggered-by-china