

# **The Forthcoming Elections of the National Assembly: An Opportunity to Improve the Electoral System of the Nagorno Karabakh Republic (NKR)**

*April, 2010*

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## 1. Executive Summary

The forthcoming regular elections of the Nagorno Karabagh Republic's (NKR) National Assembly (NA) scheduled for May 2010 provide a convenient opportunity to analyze the process of democratization and the development of the electoral system in NKR, as well as to assess current challenges and to suggest solutions for further improvement.

The promotion of national unity to overcome external threats, which is very popular among political leaders of NKR, is a cornerstone of politics in NKR. However, such ideas should not become a pretext for excluding political competition during the elections, isolating candidates that express alternative political ideas and restricting electoral rights of citizens.

Close examination of the electoral system of NKR showed that there are some shortcomings that can be eliminated through amending electoral legislation. Future amendments should include:

- Adoption of fully proportional electoral system for composition of National Assembly;
- Elimination of the educational level requirements for the candidates of local self government body leaders;
- Revision of the process of formation of Oversight and Audit Commission and its scope of work should be clarified
- Further increase the free air time allocation for candidates.

In terms of improving electoral practices in NKR it is crucial to ensure provision of legal and electoral consultations, support of professional development of the electoral commission members through training, providing technical assistance for creative solutions and etc. These kinds of activities can, and should be carried out by interested external organizations, while some core issues can be tackled only by the citizens and political leadership of NKR. Honest commitment to democratic ideals and strong political will to push for further reforms are key factors that will ensure NKR's democratic success.

Author believes that the development of the electoral system and further democratization of NKR will positively impact not only the life of its citizens but also the peaceful resolution of the conflict.<sup>1</sup> In the long term perspective, this will create real possibilities for current institutions to represent the interests of all those who intend to be inhabitants of Nagorno Karabakh.

## 2. Introduction

After the collapse of Soviet Union, some 15 recognized and 4 unrecognized states were created. First among the unrecognized states was NKR, a de-facto self-governing entity that, according to the Max Weber definition of a state “ha[d] the monopoly of the legitimate use of violence<sup>2</sup>”, possessed such attributes of a state as are defined territory, permanent population, constituted effective government, independence, the capacity to interact with other states and organized economy. In short the most important attribute that NKR does not possess is international recognition. During last two decades NKR has developed its electoral system that enables citizens to elect representatives that are responsible for public administration (*History and achievements of NKR electoral system are discussed in section 3.1*).

Improvement of the current electoral system will not only support to further democratize NKR and to effectively overcome internal political, social and economic challenges of NKR but also will contribute to the process of peaceful resolution of Nagorno Karabakh conflict, since a sustainable resolution is only possible by taking into account the position of NKR population. Their position is expressed through elected representatives of NKR who, in fact, possess significant levels of independence from foreign actors.<sup>3</sup> Consequently, the electoral system should be further developed to assure the political rights of the citizens, thereby increasing the internal and external legitimacy of elected officials.

On May 23, 2010, the fifth regular elections of NA will take place in NKR. Free and fair conduct in the elections will play a crucial role in continuing the democratization process of NKR and increasing the effectiveness of public policy. It is very important to conduct the electoral process in strict accordance with the legislation, which will enable the creation of more professionalized and competent parliament. Recent amendments of the Electoral Code (EC) create certain positive preconditions to continue the development of electoral system in NKR (the overview of EC and recommendations for further improvement are presented in section 3.3). Nevertheless, it is important to highlight that the amended EC leaves room for improvement and cannot guarantee free and fair electoral processes. Moreover, progress will not only depend on the performance of relevant institutions (Electoral commissions, courts, police, and media) and the honest behavior of NKR political actors but on a number of external factors (the specifics of NKR electoral process and influence of external factors are discussed in section 3.2).

The overall aim of this paper is to analyze the development process of the electoral system in NKR, identify past achievements and current shortcomings in that area, define the most important obstacles to its further development and provide general recommendations as well as very specific steps that to overcome those challenges. More specifically it is intended to contribute to the renewed public discourse on electoral reform by providing professional legal analysis of current NKR Electoral Code based on good international practices. Nevertheless it is worth emphasizing that the recommendations are based on two general concepts:

- NKR is a very specific polity. The improvement of only formal electoral procedures and mechanisms can hardly contribute to the development of the electoral system; political and socio-cultural context must be taken into consideration as well.
- Ideally short-term, selfish political interests should not prevail over long term accomplishments during the process of conducting public policy. In the context of this work, the long-term accomplishments are (a) increasing the institutional capacity for just and effective governance and (b) development of participatory democratic culture in NKR.

The paper is based on a research carried out in NKR in the period January-March 2010. The research included expert interviews with politicians and officials as well as 6 focus groups with aver 50 citizens in 5 administrative units of NKR and Stepnakert. Another important source of information on electoral practices was local media as well as reports of international observers. The data on electoral participation, number of candidates and outcome of elections are solely based on publications of official results by NKR Central Election Commission<sup>4</sup>.

### **3. Description of the NKR Electoral System**

#### **3.1 History and Achievments of NKR Electoral system**

During the recent history number one issue for Armenian population of Nagorno Karabakh was firstly reunion of the region with Armenia, than starting from 1991, ensuring the security of newly established statehood and its international recognition. Thus establishment of democracy never gained the first position in the political agenda of this polity. Nevertheless, the political movement in Karabakh that started in 1988 was a result of Gorbachev's liberalization policy and the beginning of democratization in the Soviet Union. Moreover, until escalation of full-scale war in the region in 1992, the political struggle of the Armenian population was organized within the legal framework of USSR and included democratic means such as are petitions, strikes, demonstrations and referendums carried out in accordance with existing Soviet legislation.

In the last month of 1991, when the USSR ceased to exist and Soviet troops began to leave the region, the first Armenian-Azerbaijani military clashes took place. In the same month, a referendum for independence was conducted in the Nagorno Karabakh Autonomous Region (December 10) and regular elections for Supreme Council of the region were held (first round on December 28, additional voting on January 11, 1992). In both cases, the voting process was organized during an increasingly intensifying war<sup>5</sup> and the Azerbaijani population of the region, 20-25% of entire population, mostly boycotted the process.<sup>6</sup> Both voting processes were monitored by more than 40 foreign observers, journalists, human right activists and representatives of Soviet state institutions of various levels. Even under the violent

circumstances, the rate of voter participation was surprisingly high<sup>7</sup> (Figure 1), which indicates strong belief among the Armenian population of the importance of elections as a means for reaching its goal of gaining independence.

After establishment of the ceasefire in May 1994, regular works of representative body (at that time still called Supreme Council) were reestablished and a new law on elections of National Assembly (NA) was adopted. In April 1995, elections of the NA were held. In 1996, the NA adopted laws on Presidential elections and established new institution of popularly elected President in NKR. The first President was subsequently elected in November 1996. By September 1997, snap presidential elections were conducted, and for the first time in the history of NKR, there was a peaceful transition of presidential power to the winner of national elections.<sup>8</sup>

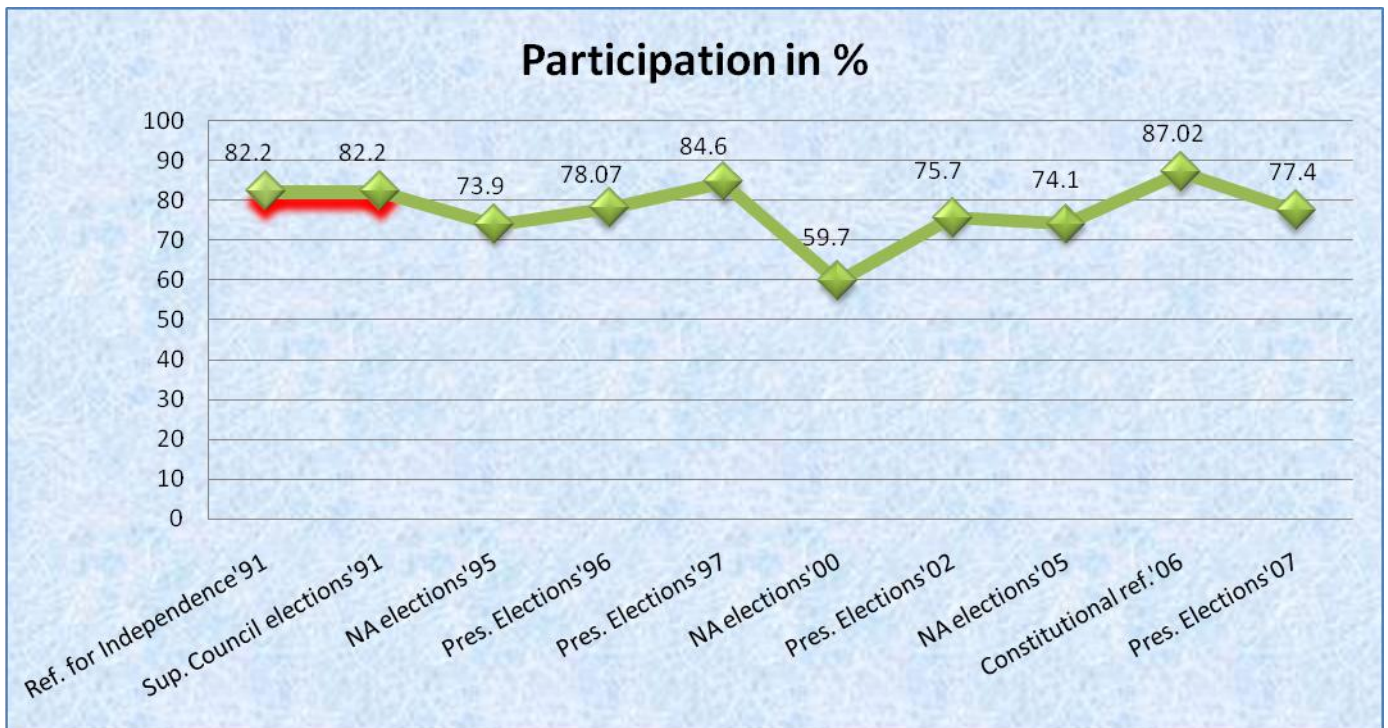


Figure 1: Electoral participation percentage in NKR

The next important achievement in developing NKR's electoral system was the creation of a Local Self Governance (LSG) system. The law on elections of LSG bodies was adopted by NA and in 1998 first LSG elections for all rural and urban communities of unrecognized republic. After the development of relevant legislation for election of different positions, NKR MPs chose to synthesize all electoral laws into unified electoral legislation. The Electoral Code of NKR was adopted in 2004.

In the same year, another round of elections of LSG bodies were held and the oppositional candidate won the position of Mayor of NKR's capital, Stepanakert, the political heartland of the Republic and the location of 1/3 of population. This was, and is still an unprecedented achievement for the states of South

Caucasus. The electoral system was further institutionalized with the adoption of NKR Constitution in 2006. In 2007, for the second time, presidential power was peacefully passed to the winner of national elections. This demonstrates that a tradition of peaceful power transition through elections is growing deep roots in NKR. Based on this, one can argue that NKR is a democratic according to the procedural definition of the term.<sup>9</sup> But it is clear that process of democratization is not limited to improvement of electoral system and number of other factors should be considered.<sup>10</sup> In the framework of this research those factors will be discussed only partially, i. e. from the point of view of their influence on the electoral process.

As an indicator of these democratic achievements, NKR is considered “partly free” by Freedom House’s “Freedom in the World<sup>11</sup>” index (Figure 2).

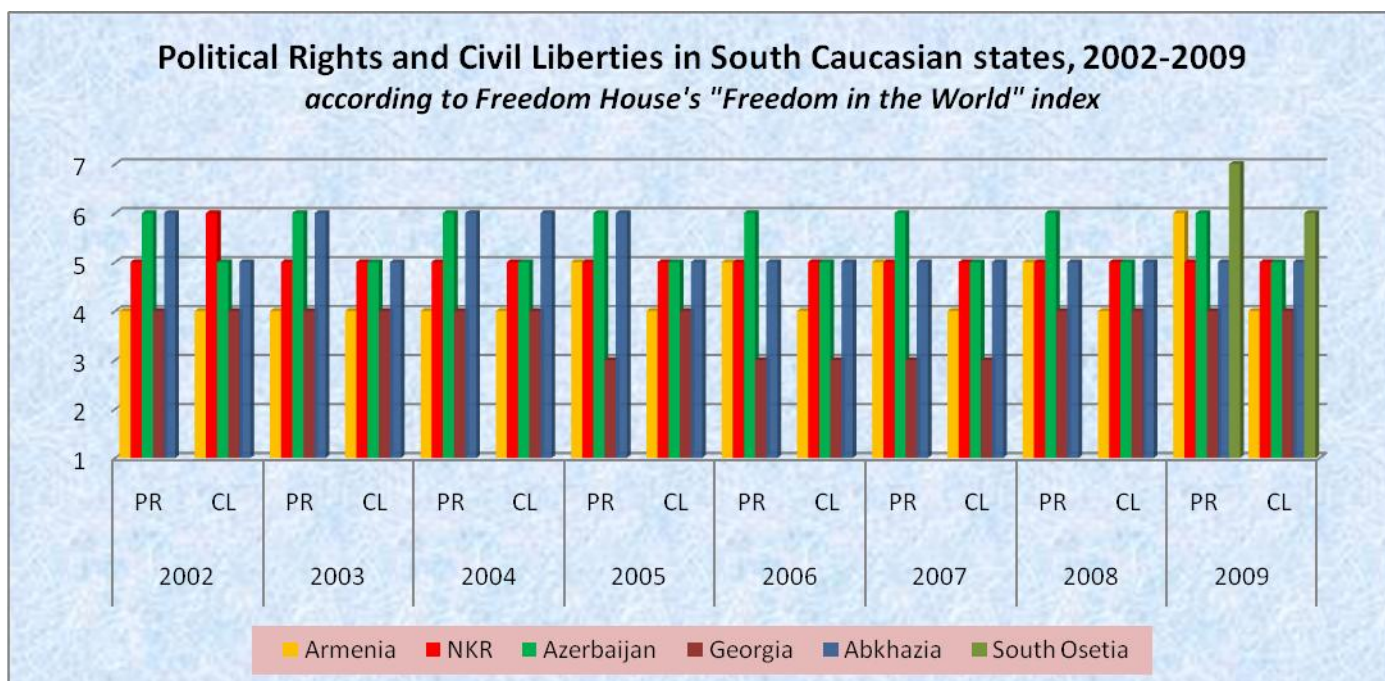


Figure 2. Political Rights and Civil Liberties in South Caucasian states, 2002-2009

It is clearly a notable achievement for this unrecognized state, which has no international obligations to assure human rights and democratic principles, has very limited interaction with the external world, continuously faces a threat of military invasion, and where martial law has remained in place since ceasefire (1994), boasts the same level of freedom of civil liberties’ as Azerbaijan since 2003, a better record on political rights than Azerbaijan (“Not free” country), and Armenia (“Partially Free” country) since from 2009.<sup>12</sup> Moreover, among the recognized and unrecognized states of the South Caucasus, only Georgia has better record than NKR on civil liberties and political rights.<sup>13</sup>

“If Azerbaijan wants NKR population to believe and consider its promises of ensuring Armenians rights under the control of Azerbaijan, it should as a first step respect its citizens’ rights.”  
*Student of Artsakh State University*

### 3.2 Specifics of Politics in NKR and Implications for the Improvement of Electoral System

No matter how paradoxical it may seem that NKR has a better record than its neighboring countries in terms of electoral processes and respect for civil liberties and political rights, there are certain factors that explain this phenomenon. This is interesting not only for pure analytical reasons but because it is valuable in understanding the unique nature of political system in NKR. It also helps to reveal which components of the NKR system are important for advancing democratization process. But as long as the research of this problem is very immersive, here only some tentative conclusions are presented on the specifics of NKR polity and both positive and negative implications to those specifics on the electoral system.

**Historically**, the population and rulers of the region were continuously in a better political position than neighboring regions starting from Middle Ages. This allowed them to possess a certain level of local

“During last NA elections part of our candidates used new “electoral technologies” in their campaigns learned from Armenian counterparts. I am referring to vote buying, paving roads and etc. This is “the contribution” of Armenia in developing electoral system in NKR”  
*Politician participated in NA elections of 2005 as a candidate*

autonomy even within such autocratic and powerful states like Iran during Safavid dynasty. The region was governed by the families of local aristocracy, *Meliqs*, and later by khans. After the annexation of the South Caucasus by the Russian Empire, the region underwent significant political and cultural development and become one of the most important centers of South Caucasus. By the end of 19<sup>th</sup> century, Shushi, a city at the

center of Nagorno Karabakh, was reported to be second largest town (after Tbilisi) in all of the South Caucasus.

After the collapse of Russian Empire and before the establishment of Soviet rule, Nagorno Karabakh was a de facto autonomous political entity, despite many and even violent attempts to change that status. During the Soviet period, autonomous status of NKR within Azerbaijan SSR was de jure recognized. It is worth mentioning that even now, when NKR is dependent on Armenia for security and economic links, its political leaders possess significant independence in conducting domestic and foreign policy.

**From the social-cultural perspective** it is important to take into the account the small size of the NKR population, which further decreased during the war, as well as the prominence of certain moral rules, such as strong relations based on kinship and communal identity typical for traditional societies. These factors lead the NKR population to be well informed on who is who among politicians and in society in general, what national and local governance is being implemented, who has what interests, by which means those interests are being persued. The NKR populous is also better able to gain access to decision makers and influence their decisions.<sup>14</sup> Politicians, in turn, even if they are representing rival political parties, very often mentioned during the interviews that they have good personal and sometimes even

“We did not win the war and overcame all difficulties to let us to cut each other’s throat for elections, like you are doing (refers to Armenia)” *Veteran of War*

friendly relations with each other. This may explain the fact that, unlike neighboring countries, NKR does not have a record of physical violence during elections. On the other hand, this fact contributes to the impunity of those individuals violating electoral laws.<sup>15</sup>

**The social-physiological context** also has strong implications. The war of Nagorno Karabakh and the continuing threat of its resurgence are essential factors in understanding why national unity is praised among politicians and the public in general. Tragic experiences and the need to cooperate to overcome basic problems in day-to-day life have mobilized the NKR society and have mitigated social conflicts.

Above all, the most unique feature of NKR polity is the fact that it is a not recognized entity for the external world. This feature has both positive and negative effects on the electoral system. The positive impact is that NKR tends to be more sensible and responsive to signals from the external world. In the field of elections, this is apparent through political leaders’ strong appreciation of a relatively better regional standing in democratization, and respect for right and liberties. Political leaders are interested in improving this record or appearing to do so for international community. Though NKR has no international obligation related to elections, NKR sent invitations to various international governmental and nongovernmental organizations to observe all

of national elections held since independence. All governmental organizations (OSCE, Council of Europe and etc.) have refused to carry out observation missions during NKR elections and the results of the elections have been declared

“In neighboring countries, where leaders don’t allow to change anything, foreign governments and organizations are spending millions of dollars to promote democracy, while we ask these organizations to come, watch and help to improve, but these organizations always ignore our willingness ”  
*Public official*

illegitimate. Some international nongovernmental organizations were more responsive to these invitations and, as a result, all national elections in NKR have been observed by different groups of foreigners, including delegations of elected officials at the national and local levels, human rights activists, journalists and etc., mostly from EU member states and former Soviet republics. It should be emphasized that the process of election observation in NKR by foreigners is not institutionalized and, prior to each election, varying numbers of organizations and individuals express interest in monitoring upcoming elections. Nevertheless, these endeavors are important not only for following the actual process and assessing its results but also for indicating the observed shortcomings that should be eliminated in future elections.<sup>16</sup>

However, the negative aspect of NKR’s internationally unrecognized status and continuous threat of full scale military operations’ renewal has a more tangible influence: political pluralism inside the country and open criticism towards public policy is not always welcomed. During the final stage of the war, in 1993-94, and especially after it, different approaches to NKR’s future were put forth. The most popular approach was that NKR should concentrate all its efforts on ensuring its national security and unity, thereby necessitating a strong leader capable of handling all external and internal threats. Given these priorities,



intense political competition and strong opposition was considered intolerable in this polity. Even though this specific approach did not become dominant in overall public discourse, this may explain the fact that during all presidential elections one of candidates receives very big proportion of public vote may (Figure 3). Particularly during the last presidential elections (2007) all 3 political parties supported the same candidate to put up a “united candidate”.<sup>17</sup> Such action is especially dangerous during parliamentary elections: the NA must function as an arena where different political ideas clash and effectively counterbalance executive power. Such a balance is crucial for conducting effective public policy in NKR. Another important area for NKR democratization and effective governance is institutionalization of local self governance system. Local self governances bodies (LSG) become ineffective and overly dependent if the executive branch concentrates too much power in its hand. Though the improvement of LSG in NKR is a far more complex issue and is not only related to policies of the central government, it is safe to say that the executive branch currently has enough power to affect the outcome of LSG elections.<sup>18</sup> Accordingly, the lowest rates of electoral participation are recorded during LSG elections, especially in the capital city Stepanakert.<sup>19</sup> Though relatively low electoral participation at the local level is a usual phenomenon even in established democracies, public disinterest towards LSG elections can be considered as another indicator of lack of trust towards LSG bodies. Political parties are also not very actively engaged in LSG elections.<sup>20</sup> Comparatively, there is more interest in the elected community leader. On average, there are at least two candidates running for this position, while in the case of community council elections there have been less candidates than the number of vacant seats.<sup>21</sup>

### **3.3 Overview of Electoral Legislation and Electoral Practices in NKR**

The Electoral Code of NKR adopted on December 8, 2004, with the latest amendments passed on February 2010, defines the necessary legal provisions to make free and fair elections possible. The Electoral Code contains legal prerequisites empowering the citizens of NKR to exercise their active electoral right based on universal suffrage through equal, direct and secret ballot voting. The process of nomination, registration of candidates and electoral campaigning provisions are clear and simple to follow, which contributes to securing the passive electoral right.

The nomination of presidential and majority-plurality candidates is done either by political parties or, according to the recent amendments, through a process of self-nomination. The electoral deposit for these candidates can be considered reasonable, although recent amendments that increased the deposit sum may be prohibitive for some candidates (100,000 AMD deposit for MP candidates).

These candidates are also required to disclose their annual incomes prior to their registration by the CEC of NKR. The candidate registration process allows the candidates to address the shortcomings of their registration and correct/complete the submitted required documents within 48 hours after the relevant

electoral commission gives such notification. This is an important provision for preventing exclusion of candidates based on purely technical reasons.

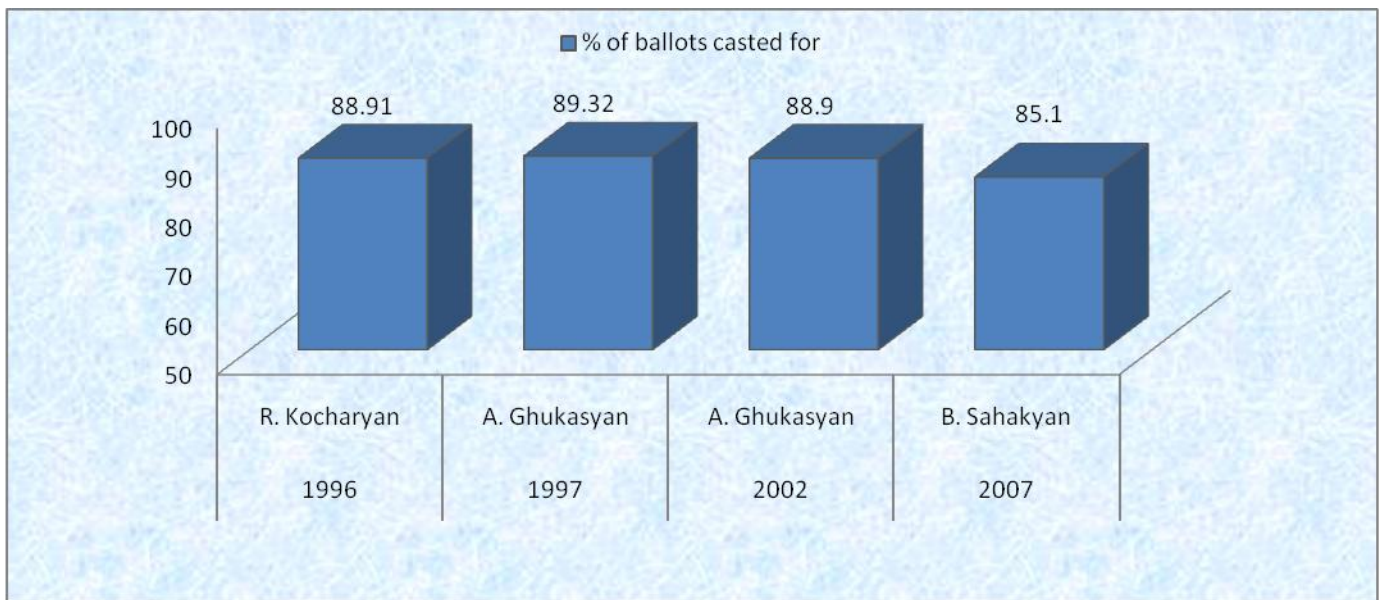
The presidential candidates and parties running through proportional system are given equal free and paid air time on public radio and television thus equalizing the opportunities for campaigning through public media. The EC also imposes certain regulations on the campaigns of incumbent candidates and some state officials in an effort to prevent the misuse of public resources and mitigate administrative influence. The EC strictly bans advocacy of violence, war or changing the constitutional order by force, or propagation of national, racial or religious hatred.

The Code establishes campaign-finance limits for presidential and parliamentary candidates (both proportional representation and majority-plurality). The threshold is arguably sufficient for running an efficient campaign. (The campaign spending limit per voter in NKR is 2,5 times higher than in Armenia,) The same EC section defines those entities which are not allowed to contribute to the electoral fund, such as state and local governments, foreign citizens and businesses, business where the state or foreign entities have shares, charities and religious organizations, and so on.

The three-tiered electoral administration provides a logical structure for organizing and conducting elections. The Code requires the electoral commission candidates to pass tests and acquire certificates of qualification prior to their appointment as commission members.

Despite the fact that the EC lays a solid legal framework for conducting elections according to international standards, the outcomes of elections in NKR reveal certain problematic areas and indications of immaturity of its democratic institutions.

The competitiveness of elections at the national and local levels is questionable. Presidential elections held in 1996, 1997, 2002 and 2007 showed a strong advantage of single candidates who gained over 85% of votes. While this type of disparity among the candidates is reasonably to expect during systemic changes, (e.g. elections after a coup d'état or civil revolt, for instance Sahakashvili's first term after Rose revolution, Levon Ter Petrossian first term after the collapse of the Soviet system) it does not fit within good practices of free and competitive elections in mature democracies, where there must be one important certainty: the outcome is uncertain.



*Figure 3. The percentage of ballots cast for the winner candidate in all presidential elections of NKR*

The situation is quite different during NA elections. During NA elections of 2000 there were only 6 precincts out of total 33 (app. 18%) where single candidate was registered; in NA 2005 elections, all 22 precincts had at least two candidates. Moreover, most of those elections were highly competitive: no candidate got more than 75% of vote and in most cases the difference of votes was insufficient. Therefore, there are some good preconditions to have competitive campaigns for the upcoming NA elections. There are four political parties (2 are ruling parties) nominated to compete for 17 proportional mandates in NA. On the other hand, the number of nominated parties is low since there are only 10 registered political parties in NKR. Forty-six candidates will run for 16 majoritarian mandates and there is only one precinct with single candidate. Nevertheless, it will be possible to ensure the competitiveness of NA elections if electoral process is conducted in accordance with Electoral Code.

The proportional representation in the parliament of NKR is probably the most serious obstacle in fostering political pluralism in public policy making. The number of seats in the parliament is defined by the Rules of Procedure of the National Assembly of NKR. This is an unusual practice. The National Assembly has 33 seats of which, until 2009, 22 were being filled through single mandate constituencies and only 11 were elected through a proportional representation system. Before the recent amendments, the Electoral Code specified a 10 percent threshold for political parties and 15 percent threshold for political party blocs to participate in the distribution of multi-mandate parliamentary seats. Evidently these thresholds were too high by international standards,<sup>22</sup> which eventually led to representation of only 3 political parties in the parliament. This provision of the Code was reviewed in the recent amendments and the bar was lowered to 6 and 8 percents for political party and political party blocs,

respectively. However, given the number of proportional seats in the parliament, these percentages are still prohibitive for stimulating political competition and extremely unrealistic for new and/or small political parties to overcome.

NKR has opted for independent electoral commissions, which are formed through political nominations. This model is widely used in Central and East European countries and it poses minimal risk to the integrity of the election. The present formula defined by the Electoral Code of NKR, however, may have adverse effects because the commissions are politically unbalanced. Three Central Election Commission members are nominated by the President of the Republic and each political faction in the parliament nominates one member. If there are less than four factions in the parliament, then each party (or party bloc) nominates two commission members. In practice this means that two political parties are pro-governmental and support the President while one party – Armenian Revolutionary Federation – positions itself as constructive opposition. The same structure is replicated at the level of Territorial and Precinct Electoral Commissions. This means that seven out of nine members in any electoral commission are pro-governmental which distorts the balance in the commission. It is likely that this formula has not had a negative impact on presidential elections in NKR to date because the elections in general are not competitive. However, as democratic traditions develop, the political imbalance of the commissions may affect the integrity of electoral processes.

According to the Code, during the national electoral cycles there is no quorum required for electoral commissions to adopt a decision. Although the Code states that efforts should be made to ensure participation by all members, it fails to define the means of notifying and ensuring participation. While it is understood that this provision is an attempt to solve possible deadlocks in case of political boycott (i.e. some members do not participate in order to jeopardize the legitimacy of electoral commission sessions), this arrangement can be also abused by few commission members.

The Code allows out of country voting of NKR citizens during national elections. Obviously this is in line with internationally accepted norms. However, international practice also suggests that after a certain period of time the citizens residing in other countries are no longer entitled to voting right. In case of NKR, introduction of this type of residency requirement might be advisable because a considerable proportion of its voters are permanently residing abroad.

As mentioned earlier the existing electoral campaigning regulations provide for equal opportunities for different candidates. However, private media is underdeveloped in NKR, there are no private TV channels, and the circulation of newspapers is limited. Under these circumstances, the candidates should be given broader opportunities for conveying their messages to the voters through public media. Although the recent amendments slightly increased free air time allocation, it remains insufficient given the scarcity of local media outlets.

During national elections, an Oversight and Audit Commission is appointed by the CEC Chairman. This Commission overlooks the budget expenditures for elections and monitors the incomes and expenditures of the candidates' electoral funds. There exists a conflict of interest because the Chairman himself appoints the auditor, not even the Commission. Moreover, the Commissions' ability to monitor campaign expenditures is questionable given its scarce human resources. Since oversight of campaign finance is a critical element in democratic elections, the appointment mechanism of this commission should be reconsidered and a clear scope of work with appropriate staffing requirements should be developed.

The Presidential candidates receive reimbursement of 50% of their electoral campaign expenditures if they receive at least 25% of votes. According to international standards, this threshold is highly discriminatory and internationally acceptable minimum fluctuates between 3 and 6 percent of votes.

As discussed earlier, it is important to review proportional representation in NA to strengthen NKR's political system. Several newly established democracies in Eastern Europe abandoned the majoritarian system because it does not promote political pluralism and, more importantly, because it is a very fragile system prone to corruption and abuse. Before the recent amendments of the NKR Code, each of the majoritarian candidates had approximately only 4,500 voters in his/her constituency. This is a relatively small electorate, which is easier to manipulate through kinship ties, vote buying, overall economic influence in that particular area, etc. NKR will benefit considerably from the development of parliamentarism in the Republic by providing a legislative forum for political parties, fostering the dialogue and national consensus building while still considering different development alternatives.

The recent amendments of the Electoral Code introduced educational level requirements for the candidates of local self government body leaders. Candidates are required to have either secondary vocational or higher education. This amendment is against any internationally accepted norms for running for a public office. While it may be a priority in NKR to have more educated candidates elected to a public office, it is absolutely unacceptable to ignore the free expression of voters' will should they choose to elect a candidate without proper education based on other merits. Moreover, no such limitation exists for other candidates, e.g. majoritarian MPs.

#### **4. Conclusion and Recommendations**

Among the public and the politicians of NKR, as well as within other countries of the region, there are very different approaches to democratic reform. These approaches range from "democracy can harm the unity of our public, hence it is dangerous" to the belief that "only in democratic conditions it is possible to raise the vitality of the country."<sup>23</sup> Taking into consideration that NKR is not a recognized state and is vulnerable, the following approach is spread among local politicians echoed by many citizens: "NKR has no right to let the international community criticize it because of internal politics, and it has to uphold

strong citizens' rights in contrast to its rival Azerbaijan"<sup>24</sup>. In ex-Soviet countries, it often said that democratic reforms are possible only "from head to bottom;"<sup>25</sup> this is even more appropriate for NKR, given its small and well-mobilized population, it's dependant on the factor of which approach will dominate among political decision-makers and to which extent it will get the support of external key players. In the medium and long terms, NKR will either regress in its democracy and exhibit authoritarian rule, which would be followed by a distortion of the electoral system, or NKR will deepen its democracy and democratic achievements in elections, which may not only make NKR appear better in comparison with neighbor states, but will also solve internal obstacles by increasing the effectiveness and legitimacy of state and local administration. If the former case dominates in the short term, NKR will likely become another post-Soviet "facade democracy," with problems creating a fair and productive administration and fighting internal challenges, hindering development of state-building, and delay democratization in the Republic for an uncertain period of time.

To avoid these negative developments it is necessary for:

**NKR leaders** to devote themselves to the process of political change in the country, the utmost goal of which should be establishment of a strong but fair democratic regime.

**All the political parties** of NKR to participate in public policy by running for public positions through elections and also by other democratic means of participation in public administration. They should build the institutional capacity, and strengthen the reputation of NKR NA by increasing the competency of the political parties and single MPs involved. This can be achieved by seeking out solutions to public policy issues through open discussion, proactive and creative approaches in the legislative field, and effective monitoring and counterbalancing of the executive branch.

**Civil Society of NKR** to be more actively involved in electoral processes and to monitor pre-election campaigns and voting processes. Those found in violation of electoral laws should be held responsible for their illegal actions. For the upcoming elections, it is crucial to organize professional election observers throughout the Republic. No matter how difficult this may seem, the institutions representing NKR civil society should unite to ensure the presence of at least one observer, well informed of the Electoral Code and holding an unbiased position, in every single precinct of NKR. To achieve this goal, it is possible for civil society institutions to collaborate with parties not participating in the elections and with individuals not supporting any candidate. Ensuring such monitoring will decrease the risk of electoral violations, and will help to identify and resolve electoral shortcomings to some extent.

**Media of NKR and particularly public media**, in accordance with the law, to provide equal opportunities for the political parties and candidates participating in the election to express their positions to NKR voters. The media should abide by the principle of impartial coverage of election campaigns, be proactive in finding electoral shortcomings during the electoral process, and encourage the active participation of citizens in those processes.

**NKR electoral commissions** to ensure proper implementation of their responsibilities as required by law at all levels, including the high level organization of the voting process and fair, transparent counting of election results.

**NKR citizens** must actively prepare and participate in upcoming elections. Citizens must be encouraged to freely express their preferences through voting, and those preferences must be based on the electoral programs set out by the candidates. It is crucial to remember that participation in elections is not a *civil obligation* but it is a *political right* earned in hard struggle.

Several external actors are also important in avoiding negative development:

**Armenia**, which to some extent has direct influence on the political forces of NKR, should not interfere in the NKR election process, it should encourage initiatives to strengthen democracy and it should provide technical and material assistance during the election preparation process. This refers to political parties represented both in the political field of Armenia and NKR.

**Civil society institutions from Armenia** must assist their NKR colleagues by sharing knowledge from their experience. Specifically those **Armenian non-governmental organizations** that have experience in electoral observation should pass on their knowledge and skills and also, if possible, directly observe the NKR elections and publish detailed reports on results to evaluate the process and assist in the improvement of the electoral system.

**Armenian media**, particularly electronic media, can also have a positive impact by providing a forum for publishing the electoral platforms of politicians and actors involved in the electoral campaign. This will help to mitigate the shortcomings of the underdeveloped NKR mass media will help alleviate the negative impact of an information vacuum on the electoral process.

**Azerbaijan**, which has a crucial but indirect influence on political system of NKR, should consider the repercussions of its constant, aggressive rhetoric backed by military buildup. This approach simply deepens the mobilization of NKR citizens around political authorities, makes alternative, peaceful solutions of the conflict seem even more impossible, and weakens the beliefs of NKR leaders who do have faith in peaceful resolution of the conflict.

**International governmental organizations and states** that are interested in peaceful and sustainable development of the region and also have obligations to promote democracy and assure universal human rights should be more actively engaged in NKR. The experience proved that the policy of not dealing with unrecognized states in South Caucasus was effective neither in promoting conflict resolution nor in overcoming the internal issues of unrecognized countries. By refusing to monitor elections in NKR, international organizations are refusing to improve the human rights of the region are seriously harming public trust of international organizations. To date, the attitudes of international actors seem to be gradually shifting. Specifically, the European Union's Political and Security Committee (PSC) recently decided "to carve out political and legal space within which the EU can interact with Abkhazia and South

Ossetia without crossing status red lines, thus emphasizing a strategic interest to engage so as to increase its leverage to move conflict resolution forward.”<sup>26</sup> This decision should, logically, be extended to the other unrecognized states in the region and it should enable interested parties involved in humanitarian endowers to also promoting democratization of NKR, and enhanced by professional consultations and technical assistance.

**The international non-governmental organizations** involved in democracy promotion initiatives in the region should emphasize the peaceful regulation of conflicts and implementation of general human rights, and should be involved and contribute to the NKR democratization process.<sup>27</sup>

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<sup>1</sup> Particular attention should be paid to programs aimed at peaceful regulation of the conflict which, in one or another way, presuppose the existence of the institutions providing representation of Nagorno-Karabagh population and their efficient functioning.

<sup>2</sup> This prevalent definition of the state was introduced by Max Weber during “Politics as a Vocation” lecture. Text can be found <http://www2.selu.edu/Academics/Faculty/jbell/weber.pdf>

<sup>3</sup> Though Armenia as a security guarantee of NKR has significant impact on the political processes occurring in NKR, during the last two decades, the political powers of NKR have shown their capacity to act independently from Yerevan on decisive issues and follow their own approaches. For example, 1992-1994 planning and implementation of military actions and 1997-1998 opposition to the peaceful conditions offered by Yerevan was followed by resignation of RA President Levon Ter-Petrosyan.

<sup>4</sup> The lack of alternative sources on election results (for example exit polls), limited media coverage as well as overwhelmingly positive general observation reports that mostly fail to indicate detailed information on electoral process to some extent limits the possibilities to analyze electoral practice. However personal interviews with oppositional politicians, journalists and ordinary citizens mostly did not indicate significantly different picture in terms of recorded electoral violence. In these terms the only exception was presidential candidate Masis Mayilyan team that indicated 21 violations of Electoral Code during 2007 presidential campaign (<http://www.aravot.am/am/articles/politics/25465/view/27>). It is worth to mention that even this candidate accepted that those violations were not decisive and could not change the final outcome of the elections (<http://www.aravot.am/am/articles/politics/25821/view/28>).

<sup>5</sup> On 10 December 1991 in NKAO (Nagorno Karabakh Autonomous Oblast) 10 people died, while during the war (1992-1994), 10 out of 73 elected MPs were killed.

<sup>6</sup> It is interesting that the ballots for the referendum were printed in three languages; Armenian, Azeri, and Russian, though it was known, in advance, that Azeris would boycott the referendum.

<sup>7</sup> Here and in the rest of the text data on electoral participation and results are based on official data published by NKR CEC as there are no alternative data available.

<sup>8</sup> Note that at that time such a precedent had not taken place in Armenia, and it has not taken place in Azerbaijan up to now. At that time such precedents among CIS countries occurred only in the Ukraine (1994) and Moldova (1996).

<sup>9</sup> This refers to the minimalistic definition of democratization by the prominent U.S. politician J. Schumpeter, according to whom democracy “is such an institutional framework in the conditions of which individuals get decision making abilities as a result of competitive struggle for the vote of population.” See Joseph Schumpeter: “*Capitalism, Socialism and Democracy*”, George Allen and Unwin, London, 1943, p. 269.

<sup>10</sup> In particular, after the end of the war, the re-establishment of the elected representative body (Supreme Council) can be considered pivotal in terms of NKR democratization. This body stopped its activities during the war on its own accord and handed over its authority to the State Defense Committee. An even more serious challenge to democratization was the two-sidedness of the political power, a result of the very strong reputation and absolute rule of the soldiers who had won the war. At the end of the war Defense Minister Samvel Babayan, who played a crucial role in the political life of the republic as a war hero and the leader of army, was considered to be able to challenge even the elected president. The culmination of the conflict between the elected officials, especially the President, and the military commanders is the attempted murder of the President in 2000 and the subsequent trial which resulted in imprisonment of the Defense Minister Samvel Babayan. This signifies that powers granted to elected officials by the Constitution were proven true, and could not be vetoed by military officials and civic servants.

<sup>11</sup> <http://freedomhouse.org/template.cfm?page=15>



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<sup>12</sup> It will be interesting to follow whether negative dynamics in Armenia would be echoed in NKR. However the available data presented by “Freedom House” shows that the changes registered in Armenia do not impact the indicators of NKR, where no change has been recorded since 2003.

<sup>13</sup> It is also interesting that in contrast to three South Caucasian recognized states, in NKR and Abkhazia it was not possible to find any record proving the existence of political prisoners.

<sup>14</sup> The positive correlation between small electoral districts and citizens’ influence on the decisions of the elected officials, as well as high electoral participation was substantiated by comparison of statistical data of a number of countries. See *Pippa Norris, “Electoral Engennering. Voting Rules and Electoral Behavior”, Cambridge University Press, NY, 2004, p. 163*

<sup>15</sup> For instance, 21 violations of Electoral Code observed by the electoral headquarter of Masis Mayilyan, the main rival of the united presidential candidate in 2007 remained unpunished. Nobody has been brought to legal or administrative accountability, which is a dangerous and concerning tendency. More detailed information about violations can be found at <http://www.aravot.am/am/articles/politics/25465/view/11669>

<sup>16</sup> Example of such a report can be “Public international law and policy group” report of American organization about the Presidential elections of 2007 (Public International Law & Policy Group (PILPG) [http://www.nkrusa.org/hot\\_topic/assets/nagorno-karabakh-presidential-election-2007-07-19-report-of-the-independent-american-monitoring-delegation.pdf](http://www.nkrusa.org/hot_topic/assets/nagorno-karabakh-presidential-election-2007-07-19-report-of-the-independent-american-monitoring-delegation.pdf)

<sup>13</sup> However, it should be mentioned that this idea was not supported by everybody, and a number of representatives of the parties supporting B. Sahakyan openly opposed this decision and supported the rival M. Mayisyan, without whose participation the competitiveness of the election would be suspicious.

<sup>18</sup> The best, however not the most positive example of that impact is Eduard Aghabekyan’s election, who was one of the opposition leaders elected as mayor of Stepanakert in 2004. During his term, continuous conflicts were registered among the state authorities and the mayor. As a result, the opposition candidate who was voted into mayors position not only refused to participate in the next elections but also supported the unanimous candidate of the President, thus splitting the party headed by him.

<sup>19</sup> In 2007 local governmental bodies’ election participation in the republic was 63%, while in Stepanakert only 41,6% of registered voters cast ballots.

<sup>20</sup> During the same elections about 65% of elected community leaders did not belong to any party, and only 25% belonged to the main two parties. The number of the re-elected leaders was also about 65%.

<sup>21</sup> During the same elections in about 30% of the communities only one candidate was nominated for the position of head of community, which is an extremely high number.

<sup>22</sup> The formal threshold ranges in European countries from 0.67% in Netherlands to 7% in Poland. The highest limit (10%) is in Turkey. For more details on this see *Pippa Norris, “Electoral Engennering. Voting Rules and Electoral Behavior”, Cambridge University Press, NY, 2004, p. 53*

<sup>23</sup> For more details on the position of main political parties in NKR see special issue of “Analyticon” monthly journal N 1(13) January

<sup>24</sup> Those positions were repeatedly reported during focus group discussions and personal interviews conducted in January February 2010. Even though the exact statistics are not available on public attitude toward this issue, in the series of focus groups majority of participants were indicating the insurance of national security as number one priority.

<sup>25</sup> *Michael McFaul, “Democracy and Dictatorship. Noncooperative Transitions in the Postcommunist World”, World Politics 54, January 2002, pp. 213–14*

<sup>26</sup> International Crisis Group, “Abkhazia. Deepening Dependence”, Europe Report N°202 – 26 February 2010, p. 12 <http://www.crisisgroup.org/home/index.cfm?id=6550>

<sup>27</sup> In order to clarify the value of this involvement in NKR one should examine following example. Financial support of British “Reconciliation resources” non-governmental organization made possible the continuous publication of the only newspaper “Demo” that provided alternative information. Publication of the newspaper was stopped at the end of 2008, when foreign support was finished.