

Electoral System Reform in Georgia

International Society for Fair Elections and Democracy (ISFED)

Electoral System – Reluctant and Delayed Change

Georgia is currently in the last stage of its three-year cycle (2016-2018) of back-to-back parliamentary, local and presidential elections. The 2016 Parliamentary Elections and 2017 Local Self-Government elections resulted in the ruling party's stronger concentration of power across all elected bodies. Georgian Dream (GD) obtained a constitutional majority in the Parliament, largely benefiting from the parallel majoritarian-proportional electoral system, which made it possible for GD to gain 77% of the mandates with 49% of votes. GD's dominance was further cemented during the 2017 local elections, where they secured majority in almost all municipality Sakrebulo (city councils) – also elected through the parallel majoritarian-proportional system; and all but two mayoral seats were won by the ruling party candidates.

Single party dominance has long been a characteristic of Georgian political field and has largely been facilitated by the electoral system, which by the virtue of its majoritarian component often results in disproportional representation of mandates in comparison to the share of votes parties receive. The disproportion is in favor of ruling parties and at a disadvantage of smaller ones. Electoral system therefore has been a significant roadblock for political pluralism in the country. CSOs and political parties have long demanded change of electoral system by discarding the majoritarian component of the system in favor of a more proportional representation. Back in May 2015, 8 CSOs and 14 opposition political parties reached a consensus on a desirable electoral system – a mix of regional and national proportional representation. However, proposals for electoral system reform ahead of the 2016 Parliamentary elections have been rejected by GD. Consequently, change of the electoral system was also the major demand of civil society organizations and opposition parties during the 2017 Constitutional Reform process in hopes to improve the playing field for the 2020 Parliamentary elections.

In the 2017 Constitutional Commission, in response to broad demand for electoral system change, GD initially proposed a move to the proportional system with a caveat of allocation of undistributed mandates as a 'bonus' to the party with the most votes. The proposed version of bonus mandates to a winning party largely undermined the potential benefits of the move to the proportional system given the experience that in the most recent parliamentary elections, such undistributed mandates amounted to 19% of all votes, thus still allowing potential for a significant disproportional representation in favor of a ruling party. The provision was strongly criticized by the civil society and opposition in Georgia, as well as by the Venice Commission. Upon the criticism from the Venice Commission on the proposed mandate allocation rule, GD ditched the proposal to immediately move to the proportional system altogether, opting instead to introduce proportional representation from 2024 while keeping the existing system in place for 2020. The constitutional amendments were single-handedly and hastily adopted by the Georgian Dream without broad consensus and support from the opposition. Maintaining the majoritarian elections for 2020 was largely seen as GD's attempt to maintain power for another term at the expense of the system that puts smaller parties in a disadvantaged position. As a nod to the criticism on the delayed electoral system change, GD took commitment and in follow-up amendments later introduced a one-off 3% threshold for 2020 elections and a possibility for parties to run as a bloc, which will be prohibited from 2024. These follow-up amendments also fully eliminated bonus allocation of undistributed mandates in proportional elections in 2024.

Political Party Finances

Besides the electoral system, equal playing field is challenged by significant disproportion in political party donations and campaign spending in Georgia. During the 2017 elections, GD received over 90% of all party donations. The state funding allocation has been manipulated, including through legislative changes to allow certain GD affiliate parties receive more funding. While no cases of pressure on businessmen or individual donors have been reported recently, most donors seem to exhibit self-censorship to donate opposition parties fearing possible problems in their business.

Election Administration and Dispute Resolution

Election administration while generally transparent and cooperative with various stakeholders, is often criticized by CSOs for political influences, especially in the staffing and recruitment of district and precinct level commissions. Each level commission currently consists of 12 members (previously 13) half of which are appointed as professional members by higher level commissions and half by the parties. Selection process of 6 professional non-partisan members of the commission has been repeatedly flagged with irregularities and concerns over political influences in the recruitment. In addition, the 2017 amendments to the Election Code altered the election administration composition in favor of the ruling party – granting them the right to appoint 3 out of 6 party-appointed commissioners and reducing number of parties eligible to have commission members. Prior to these amendments, seven best performing parties had the right to appoint one commissioner each on the parity principle. Election observation missions also demonstrate the weak qualification of precinct and district level commissioners on Election Day.

Another significant shortcoming of the election administration is their failure to interpret the law adequately and enforce relevant strict sanctions in the cases prescribed by the election code. Turning a blind eye to violations such as illegal campaigning has become a norm and it encourages further violations of the election code. Electoral dispute resolution remains as a weak spot of the election administration. The Central Election Commission (CEC) and district election commissions are repeatedly showing poor performance in handling election complaints. Courts are also poorly prepared to handle electoral disputes, often resulting in inconsistent practice and ill-founded decisions against the spirit of the electoral code.

Pre-Election Environment

ISFED reported 46 cases of intimidation/harassment of political party candidates, activists and supporters during the 2017 local elections. In some districts individuals registered as electoral subjects withdrew their candidacies possibly as a result of pressure. Intimidation cases are on an increasing trend during the four elections conducted under the current government (2013-2017). Misuse of administrative resources still remains as a challenge and mobilization of public servants in support of the ruling party, as well as pumping up local spending on social and infrastructural issues in the election period are regular characteristics of elections. 2017 elections brought new challenges through the use of social media in elections. On one hand, ISFED saw intensive campaigning by civil servants during working hours on social media; on the other hand, the pre-election period was marked by disinformation campaigns against opposition candidates for Tbilisi mayoral elections, particularly targeting the independent candidate.

ISFED Recommendations

- Ruling party should ensure that further steps are taken to improve the electoral system in a way that allows a more pluralistic and fair representation of political parties in the Parliament for 2020, introduction of the proportional system immediately from 2020 instead of 2024 would thus be ideal;
- Party finance legislation should be amended in order not to allow biased manipulation in favor of certain parties;
- In the longer term, election administration should shift to a more professional and neutral body eliminating party affiliated representation, in the meantime, parity principle should be reintroduced to ensure fair access to the election commissions and improve trust towards the election administration;
- To improve qualification of the precinct commissioners, their terms should be shortened, certification of commissioners should be encouraged by granting higher salaries those who opt in to take certification exams;
- Election Code should be amended to define campaigning on social media in order to introduce proper remedies to the challenges associated with increased role and influence of social media in election campaigns;
- Both legislation and practice in the area of electoral dispute resolution should improve in order to ensure that effective legal remedies exist and sanctions are properly imposed to prevent and respond to electoral violations.