

2012 and 2016 Parliamentary Elections in Georgia: Paralles, Challenges and Outcomes

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Abstract

The paper provides an overview on the political and electoral aspects of the pre-election campaigns of the 2012 and 2016 parliamentary elections in Georgia. The author compares the pre-election atmospheres and draws a parallels between the pre-election campaigns for the 2012 and 2016 parliamentary elections.

Author provides a critical analyses of the legislative amendments made in 2012. He argues that these amendments mostly stipulated political situation and the pre-election environment even tenser and inflicted serious harm to free and competitive pre-election environment in 2012. In this regards, the paper refers in particular to the examples of these particular amendments. The author analyses the nature of the 2016 election campaign and argues that is was held in a peaceful environment, was competitive and largely calm and in comparison with the 2012 elections, the trend towards improvement is obvious. In this context, he provides the international observer organizations' reports and statements about the 2016 elections. In the conclusion, the author provides some recommendations on how the pre-election environment and the election legislation might be improved and harmonized in accordance with international standards.

Keywords: Pre-election campaign, elections, legislations, amendments

Introduction

It is an obvious assertion that government obtains its legitimacy through the elections. Therefore, great importance is attached to whether elections are held in a fair and competitive environment in the country or not.

Normally, a country is considered to be democratic if at least two of political parties compete regularly and a sound competition among political parties is fully guaranteed and stipulated by government in general.

The elections of October 1, 2012, marked an important page in the modern political history of Georgia, and it's justly considered a turning point on the country's extremely difficult path to democratic development.

Through these elections, the first peaceful transfer of power in Georgia's statehood recent history happened.

As for the 8 October 2016 elections, they have created a more solid basis for the way toward democracy and has defined inconvertible grounds for the development of the country.

Before going through my statements, we shall agree on the point, that any assessment is necessarily relative. However, if we draw a parallel between the pre-election campaign for 2016 parliamentary election and the 2012 pre-election environment, we will see a substantial difference.

Let us review the pre-election environment for both elections.

In spite of the fact, that the government change was smooth and peaceful after the 2012 elections, in general terms, we cannot really define the pre-election period as peaceful in 2012. In comparison with 2016 elections, it was characterized by considerable political tension, rough violence, altercation and even physical confrontation. Unfortunately, these incidents have become some sort of synonym for the 2012 election.

It should be mentioned separately, that the legislative amendments that were adopted unilaterally, made the political situation and the pre-election environment even tenser in 2012. Unfortunately, instead of improving the election environment, the aforementioned amendments were mostly directed against the new political coalition - "Georgian Dream" and its leader, Bidzina Ivanishvili, and, due to this, they were obviously politically motivated.

What I mean by this statement. Several months before the 2012 elections, the ruling party/united national movement introduced strict mechanisms of control on political party funding. For instance, important amendments were made to the Organic Law of Georgia on Political Unions of Citizens, which changed the rules of financing, financial reporting, and transparency of political parties in an essential manner. The amendments provided for a ban on donations by organizations and established various restrictions on donations by physical persons. What is most important, the need for such initiatives was devoid of arguments and legally unsubstantiated. Therefore, the society, media, and political parties have linked together an adoption of the abovementioned legislative package and a new political leader, Bidzina Ivanishvili's appearance into politics. Presumably, such a decision was taken to deprive a multi-millionaire - Bidzina Ivanishvili of the opportunity to fund political parties.

In addition, the legal side of amendments to the Chamber of Control of Georgia, should be mentioned separately. The amendments gave the Chamber of Control of Georgia previously non-existent functions regarding the monitoring of donations and issues of funding of political party in general. For this reason, the Chamber of Control was soon transformed into

the State Audit Office which, in addition to monitor the legality and transparency of the financial activities of parties, was supposed to regulate a number of other issues related to donations in pre-election campaign. What is most important, it was given the authority to apply relevant sanctions (in the form of a fine) against political parties for the violation of the requirements.

A clear evidence of this is the fine in the amount of GEL 2.86 million imposed on the member parties of the „Georgian Dream coalition” which inflicted serious damage to the financial interests of the opposition coalition and, by doing so, to the principle of equality of political actors in elections.

All this, last analysis, inflicted serious harm to free and competitive pre-election environment in 2012.

Now, let me draw your attention to the pre-election campaign of 2016 Parliamentary election.

It should be noted that the 2016 pre-election atmosphere substantively differed from the one in 2012. The election campaign, instead of bipolar electoral environment, as it was in 2012, was held in a multi-party configuration. For instance, twenty-five parties and blocs were registered for the proportional ballot and 816 candidates in majoritarian contests.

It should be noted that in 2012 parliamentary election, the competition practically was between two political bodies - the ruling party – “National Movement” and the opposition coalition “Georgian Dream”.

The 2016 elections presented a large spectrum of political parties. All political parties had an opportunity to conduct the campaign in orderly manner and send their political messages to voters. The campaign showed that fundamental rights were generally respected during a competitive campaign. Mostly, it was conducted in the media and through billboards, posters, door-to-door canvassing. The overall pluralism of the media landscape has also improved.

It should be noted, that amendments in 2013, 2014 and 2016 to legislation regulating campaign finances introduced new provisions that lowered sanctions for violations, adjusted the types of permitted donations, allocated public funds to cover TV advertising expenses for qualified contestants and added regulations related to independent candidates. In comparison with the 2012 elections, these amendments improved the regulations of the election campaign and of the donations as well.

In general, there is no country, where the campaign is not accompanied by tensions, by the competition among political positions and programs. In this regard, it's necessary to have a high political culture in order not go beyond the format of the election campaign and not move into violations and illegal activities.

Notwithstanding isolated cases, including the bombing Of an MP's vehicle, we can say that 2016 election campaign was held in a peaceful

environment, was competitive and largely calm and in comparison with the previous elections, the trend towards improvement is obvious.

This is not only my point of view about the pre-election campaign, but also, the local and international observer organizations' opinion, including Observation Mission of the OSCE parliamentary Assembly.

As stated by the International election observation mission of OSCE parliamentary assembly, the 8 October elections:

- Were competitive, well - administered and fundamental freedoms were generally respected. The calm and open campaign atmosphere was, however, impacted by allegations of unlawful campaigning and some incidents of violence.
- The election administration and the management of voter lists enjoyed confidence.
- The media is pluralistic, but some monitored broadcasters lacked balance in their campaign coverage. Debates offered a useful platform for contestants to present their views.
- Voting proceeded in an orderly manner, but counting was assessed more negatively due to procedural problems and increased tensions.

Let's now see, what does the Council of Europe's statement says: the 8 October parliamentary elections in Georgia were competitive, well-administered and fundamental freedoms were generally respected. The otherwise calm and open campaign atmosphere was, however, impacted by allegations of unlawful campaigning and some incidents of violence. Election Day, generally, proceeded in an orderly manner, but tensions increased during the day and several violent altercations took place near and in polling stations, the observers of the Council of Europe said.

Foreign observers' delegations of the National Democratic Institute (NDI) and International Republican Institute (IRI) actively observed Georgia's October 8 parliamentary elections throughout the country and made their assessments. They said the whole process was mainly calm, but also highlighted some major and minor violations.

For instance, NDI stated that, following a vibrant and competitive campaign, citizens were able to cast their votes freely and, in most places, counting proceeded in a calm and orderly manner. In some electoral precincts, however, counting was disrupted or terminated by unruly and, in some cases, violent crowds.

IRI also noted that, in general, the elections were carried out in a peaceful environment and reflected the will of the Georgian voters.

On behalf of EC, the High Representative/Vice-President Federica Mogherini and Commissioner Johannes Hahn made statement on the parliamentary elections in Georgia. Their statement was based on the preliminary conclusions of the OSCE/ODIHR Election Observation Mission,

which says that the elections were competitive, well-administered and fundamental freedoms were generally respected. The calm and open campaign atmosphere was, however, impacted by allegations of unlawful campaigning and some incidents of violence.

They stressed, that the EU has been closely following the process, including the results of the preliminary official vote count. For the second round of the elections and in the period before this, all parties and candidates should refrain from confrontation and violence and respect democratic principles and the will of the Georgian people. It will be important that all representatives elected to the new Parliament work together in the interest of Georgia.

“Georgia has reaffirmed its status as the leader of democratic transformation in this region,” said Paolo Alli, Head of the NATO PA delegation. “The conduct of this election is greatly encouraging for all those who support Georgia on its path towards Euro-Atlantic integration.”

As you see, all international observer organizations made similar statements about the 2016 Parliamentary election.

At the same time, Georgian government's decision to invite international organizations, including short-term and long-term observers, to observe the pre- election process, we consider it as a very positive decision for the transparency of the election campaign in Georgia. Thus, in my opinion, the level of trust from international organizations’ side toward Georgian government has significantly increased.

What Georgian government should do more in order to improve the pre-election environment and further harmonize the election legislation in accordance with international standards?

Conclusion

We believe that further steps should and can be made to address remaining challenges, both in the laws and in practice. I will bring here only some of the recommendations, particularly:

- Proper amendments should be made in the elections code to further harmonize the election legislation. The code establishes a timely dispute resolution process for appeals of election commission decisions, but limits voters’ right to appeal. In general, complaints are reviewed transparently by commissions and courts in open sessions, but the lack of an expedited deadline for taking administrative action in the case of electoral offenses and insufficient resources for investigations limit the effectiveness of this remedy.
- In addition to this, the role of political parties and the behavior of their candidates or supporters is also important to allow for the election campaign to be held in calm and fair environment. First of all, the

leaderships of the political parties have to reach an agreement with each other about the Code of Conduct on the election campaign. Political Leaders should explain to their activists and candidates how much important is to protect Code of conduct. We need political leaders will be able to condemn any act of violence by supporters and cooperate with authorities within the investigation, in case, if such incidents occur.

- In order to avoid any kind of violations and using of administrative resources from public officials, the Ministry of Justice should set up an inter-agency commission. To ensure the transparency of the commission session, the local and international observer organizations should be actively invited to attend it periodically. This is another step to insure transparency during the pre-election campaign.

- Prime Minister's initiative to sign a memorandum of understanding among political parties during the elections, seems very interesting. It should be noted that the validity period of the memorandum covers the pre-election period and ballot day, including, approval of the summary protocols. As far as I know, the text was sent to the political parties, but unfortunately, only a few parties have responded to the initiative.

We believe that to implement some of above-mentioned recommendations will improve and normalize the pre-election situation. it can be argued that government together with the political parties should be interested in the creation of the peaceful pre-election environment. Otherwise, to achieve a calm and fair pre-election atmosphere will be impossible.

In conclusion, we hope that, independent commission would be set up with the involvement of political parties, civil sector, experts, and scholars which will start working seriously with the aim of making changes to the election legislation and, at the same time, cooperate actively with international organizations, so that to adopt an election code based on the strong compromises among the political parties and fully corresponding to the international standards as well.

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