



Helsinki Citizens' Assembly Vanadzor

REPORT on Adoption Process of Imposed Constitutional Amendments



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Vanadzor



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Imposed Constitutional
Amendments



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Table of Contents

Table of Contents.....	3
Foreword.....	4
Methodology.....	6
Constitutional Amendments Draft Development Process	7
Political Context of Constitutional Amendments Process.....	10
Content Concerns on Draft Constitutional Amendments.....	15
Legislative Regulations of Constitutional Amendments Referendum.....	23
Administration of Constitutional Amendments Referendum	31
Precinct Election Commission	31
Voter lists.....	37
Constitutional Amendments Campaign	45
Awareness-raising on Constitutional Amendments and Debates.....	46
Campaign in favor of Constitutional Amendments	48
Campaign against Constitutional Amendments.....	55
Boycott of Constitutional Amendments.....	57
Delegitimization of Constitutional Amendments	61
Observation of Voting Day in Lori Marz.....	62
Analysis of Voting Results.....	67
Actions undertaken regarding recorded violations	74
Actions undertaken regarding violations recorded during the campaign and preparation of Referendum	74
Actions undertaken in relation to violations recorded on the Voting Day	75
Conclusions and Recommendations.....	78
About HCA Vanadzor	81

Foreword

By the RA Presidential Decree № 207-N dated September 4, 2013, a Specialized Commission for Constitutional Amendments was set up to develop the concept and Draft of Constitutional Amendments. According to the Decree, the process of Constitutional Amendments was brought about by the "necessity to apply the principle of rule of law, improve the constitutional mechanisms guaranteeing fundamental human rights and freedoms, ensure the perfect balance of powers and achieve higher efficiency of public administration."¹

While it took the Commission headed by Gagik Harutyunyan, President of the RA Constitutional Court, 2 years to develop the Constitutional Amendments Draft, the public at large had no more than 2 months to get familiarized with the aforementioned Draft and to discuss it in public debates. The RA National Assembly held only a 1-day public debate on the Draft. As for RA National Assembly deputies, they essentially discussed the Draft for only 4 days; furthermore, the final draft was delivered to them only 1 hour prior to the voting.

The public polls and observations by civil society organizations testify that the Constitutional Amendments were not necessitated by the public interest and in fact failed to address the issues underlying the RA Presidential Decree. Both the process of Constitutional Amendments, and the solutions suggested under the Draft Constitutional Amendments to shift to the parliamentary system of governance were not required by the public, but rather aimed to serve the political interests of a single political party and even of a single person. Therefore, the process of Constitutional Amendments appears to be untimely and troublesome. In the meantime, another concerning issue is the appropriateness of shifting to parliamentary system, given the current level of political and party system development (ideological, internal democracy, etc.) in the RA.

By the way, the approach to shift from the semi-presidential governance system to the parliamentary one was not definitely enshrined in the Concept Paper for Constitutional Amendments. Hence, the shift prescribed in the Draft was driven by political expediency.

¹ RA Presidential Decree, <http://www.president.am/en/decrees/item/947/>

Not only did the Draft Constitutional Amendments fail to tackle a number of controversial human rights issues, but also posed most serious threats, mostly retained in the final Draft. The Constitutional Referendum was scheduled for December 6, 2015 and was held on that day. The findings of the observation by HCA Vanadzor and other local organizations suggest that the Constitutional Referendum was accompanied by electoral frauds of unprecedented scale and impudence, and its official results in no way comply with the reality. The Constitutional Amendments recognized through the referendum should be deemed illegally imposed rather than adopted.

The Report sums up the observations of HCA Vanadzor on the entire process of constitutional reforms and the frauds spotted during the referendum and throughout its preparation.

Methodology

Intending to assess the process of the RA Constitutional Amendments HCA Vanadzor studied the compliance of the envisaged reforms with the international obligations undertaken by the Republic of Armenia and the requirements set forth in the RA Constitution and Legislation of 2005. Within the framework of the European Platform for Democratic Elections and Citizen Observer Initiative as well as the discussions initiated by the Partnership for Open Society Coalition, HCA Vanadzor presented its observations regarding the process and contents of Constitutional Amendments.²

In the preparation phase of the Constitutional Amendments Referendum HCA Vanadzor conducted campaign observation mission via mass media outlets and some of its findings were jointly introduced in the summaries on the Use of Administrative Resources released by the Citizen Observer Initiative.³

On December 6, 2015 HCA Vanadzor carried out its observation mission within the scopes of the Citizen Observer Initiative under joint methodology. The organization conducted its mission in 87 precincts of Lori Marz. The observation findings carried out under common methodology will be jointly released in the Citizen Observer Initiative's report.

In addition to the observation over voting process conducted under the joint methodology of the Citizen Observer Initiative, HCA Vanadzor's observers also carried out independent oversight of voter turnout in the aforementioned precincts. The analysis is compiled in the report under "Analysis of voting results" section.

During the Referendum campaign and on the Voting Day HCA Vanadzor received a great number of alerts, a more detailed description of which and measures undertaken in their regard are integrated in the report.

² Pre-Referendum Assessment, EPDE and Citizen Observer Initiative, <http://imc.epde.org/en/newsreader/items/pre-referendum-assessment-by-citizen-observer-initiative-and-european-platform-for-democratic-elections.html>

Constitutional Referendum, Preliminary statement on the conduct of the Constitutional Referendum, EPDE and Citizen Observer Initiative, <http://imc.epde.org/en/newsreader/items/armenia-referendum-assessed-as-illegitimate-by-citizen-observers-and-epde-647.html>

³ Summary Regarding Use of Administrative Resources in Preparation for Referendum, <http://transparency.am/en/news/view/1136>, <http://transparency.am/en/news/view/1170>,

Constitutional Amendments Draft Development Process

The process of Constitutional Amendments was launched by the RA Presidential Decree № 207-N of September 4, 2013, the day following Serzh Sargsyan's unilateral decision whereby the Republic of Armenia joined the the Customs Union and later also the Eurasian Economic Union.

Pursuant to the Decree, the process of Constitutional Amendments was necessitated by improvement of the constitutional mechanisms to ensure the application of the rule of law principle and guarantee fundamental human rights and freedoms, to secure the full balance of powers and improve the efficiency of public administration.”

According to the Decree timeline, the Specialized Commission on Constitutional Amendments adjunct to the RA President, was to submit the Concept Paper for RA Constitutional Amendments by April 20, 2014 and within ten months following the RA President's approval on it, the Commission was to present its Draft Constitutional Amendments to the President.

On October 14, 2014, the Specialized Commission for Constitutional Amendments approved the Concept Paper of Constitutional Amendments⁴, which was published and presented to the RA President on October 15, 2014 (with a delay of 6 months from the scheduled deadline). The Venice Commission subsequently issued an opinion on the Draft Concept Paper.⁵

On July 15, 2015, the Specialized Commission published a draft of Chapters 1-7 and 10 of the constitutional amendments⁶ and on August 4, 2015, a draft of Chapters 8-16⁷ along with the revised draft of Chapters 1-7. On July 17, 2015 the Venice Commission

⁴ The RA Concept Paper of Constitutional Amendments, the Specialized Commission on Constitutional Amendments adjunct to the RA President, [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2014\)033-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2014)033-e)

⁵ Opinion on the Draft Concept Paper on the Constitutional Reforms of the Republic of Armenia adopted by the Venice Commission at its 100th Plenary Session (Rome, 10-11 October 2014), Venice Commission [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)027-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)027-e)

⁶ The preliminary version of Chapters 1-7 of the draft amendments is being published, RA Ministry of Justice, <http://www.moj.am/article/1326>

⁷ The preliminary version of Chapters 1-15 of the draft amendments is being published, RA Ministry of Justice, <http://www.moj.am/article/1353>

released its opinion⁸ regarding the Draft of Chapters 1-7 and 10 of the Constitutional Amendments.

On August 20, 2015 the Specialized Commission approved the complete versions of the Draft Constitutional Amendments⁹ and presented the document to the RA President. The Venice Commission published its opinions^{10,11} on Chapters 1-7 and 10 of the revised draft on September 10, 2015 and its opinion on Chapters 8-16 on September 11.

On August 21, the Draft of constitutional amendments with relevant justifications was submitted to the RA National Assembly. The discussions of the RA Draft Constitutional Amendments were launched in the National Assembly in September of 2015, which lasted 4 days (September 15-18) and only 1 day was given to a public debate.

Hence, it took the Commission 2 years to develop the Draft Constitutional Amendments and the public at large had no more than 2 months to get familiarized with the Draft above. The initiators failed to hold public discussions on the Draft Constitutional Amendments. Nor did they participate in the debates set up by civil society members until the moment of Draft's final approval. Only after it the authorities commenced participating in some discussions by virtually conducting the campaign of recently adopted Draft. Moreover, the civil society representatives were denied the chance to pose their concerns and dispositions to the Venice Commission. According to the civil society representatives, the latter displayed inconsistency in terms of eliminating its concerns previously brought to light by merely accepting the introduced problematic reforms and issuing a positive assessment over the final draft.

The RA National Assembly passed the final Draft without holding a discussion on it. As for the RA National Assembly deputies, the Draft was brought to them only 1 hour prior to the voting. The aforementioned comes to testify that the Constitutional Amendments were pushed forward hurriedly, which had its negative impact on the quality of Draft Constitutional Amendments as a legal act. Not only did the Draft norms fail to ensure

⁸ Preliminary Opinion on the draft amendments to Chapters 1 to 7 and 10 of the Constitution of the Republic of Armenia, Venice Commission, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2015\)015-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2015)015-e)

⁹ RA Constitutional Draft, Professional Commission on Constitutional Amendments adjunct to the RA President, [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2015\)034-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2015)034-e)

¹⁰ See 7

¹¹ Second Preliminary Opinion on the Draft Amendments, in particular Chapters 8, 9, 11 to 16, of the Constitution of Armenia, Venice Commission, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2015\)019-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2015)019-e)

contextual and structural analogy or consistency, but also some of them even contained too detailed regulations,¹² while others had too general and declarative definitions.¹³

The public participation and interest in the process of Constitutional Amendments was too low which also proves that it was not necessitated by public demand. Pursuant to the findings of the public opinion poll conducted by “Advanced Public Research Group” NGO, almost one year after the official launching of the Constitutional Amendments process (August, 2014) 46,8% of the respondents were aware that the Constitutional Amendments had been pushed forward by the authorities and only 25,4% shared the opinion that amending the RA Constitution had been a necessity. 83,3% respondents of 2015 were informed of the upcoming reforms and 39,5% of them considered the amendments were necessitated.¹⁴ Nonetheless, the Constitutional Amendments were not associated with tackling the country’s problems, thus, only 2,8% of the respondents thought the country’s problems would be substantially reduced by the RA Constitutional Amendments. In the meanwhile, public trust in relation to the Constitutional Amendments process has dropped among the respondents.

During the campaign period, in November of 2015, only 2% of the respondents were overall familiar with the proposed amendments, while 19% noted to be rather familiar. Moreover, only 14,5% of the respondents mentioned that the proposed Draft had significant privileges over the current Constitution.

¹² For instance: Article 47 of Draft

¹³ For instance: Article 23 of Draft

¹⁴ Findings of public opinion poll on the Constitutional Amendments, Armenia 2014-2015, APR Group http://aprgroup.org/images/Library/Constitution/Constitution_survey_ppt_2015-25-11-Q-Eng.pdf

Political Context of Constitutional Amendments Process

The Constitutional Amendments, being initiated and carried out in parallel with the given political developments, outlined the apparent contradiction between the actual and declared goals of the amendments. Thus, the lack of trust and public interest towards the process had objective grounds.

The RA Parliamentary Elections held in May of 2012 entailed the formation of the following political parties: the Republican Party of Armenia with 69 deputies, the Prosperous Armenia Party with 37 deputies, the Armenian National Congress (7 deputies), the Rule of Law, Faction (6 deputies), the Armenian Revolutionary Federation Faction (5 deputies), the Heritage (5 deputies). Two deputies remained nonpartisan.

Four of the political forces represented in the RA National Assembly, including also the second largest Prosperous Armenia Party¹⁵, simply refused to take part in the Presidential Elections back in 2013 and refrained from nominating their candidates. As a result, incumbent President Serzh Sargsyan, nominated by the Republican Party of Armenia, and self-nominated Raffi Hovhannisian, chairman of the National Assembly Heritage Fraction, took the lead.

The 2013 Presidential Elections again failed to meet democratic standards, as they were marred by lack of genuine competition, large-scale use of administrative resources throughout the whole campaign, numerous cases of violations during the voting and ballot count and other negative factors that led to a low level of Armenian public's trust toward the official election result.¹⁶

General dissatisfaction with the falsified results was expressed in mass protests and strikes that broke out across the country. Unlike the 2008 protests, 2013 demonstrations were decentralized and less coordinated. The protests which lasted until the official

¹⁵ NB, according to various mass media outlets, just before the nomination of the RA presidential candidates, RA incumbent President Serzh Sargsyan met with Gagik Tsarukyan, Chairman of the Prosperous Armenia Party, after which the latter announced about his candidacy elimination.

¹⁶ Report on Observation Mission of 2013 RA Presidential Elections, HCA Vanadzor, <http://hcav.am/wp-content/uploads/2013/07/complete-report.pdf>

inauguration day of the RA President were dispersed violently by the police, but fortunately did not result in fatalities.

The second term of Serzh Sargsyan's presidency was marred by numerous negative developments in Armenia's internal and external political life, which systematically instigated civic and political unrests and failed to entail positive reforms.

In order to assess the political context of amendments, the facts below are noteworthy:

- The Constitutional Amendments process was initiated and conducted before the expiration of Serzh Sargsyan's second term as the RA President, while according to the 2005 RA Constitution he was not entitled to be nominated in the President's office.
- Nomination of a new candidate for the scheduled February 2018 presidential elections could newly boost the political processes and developments, which is now being excluded. Hence, the significance of civil and political amendments in the Republic of Armenia is denied by the shift to parliamentary system of governance.
- Hereinafter only one relevant body, it being the RA National Assembly, will be formed through direct elections by the RA citizens. Although due to the current extreme disparity of party resources will predictably be 'monopolized' by the RPA. This in its turn will result in the key judiciary and executive officials being appointed by only one political force.
- So far the electoral system has been solely manipulated to strengthen and generate the positions of the current authorities, while all the national elections were coupled with violations that cast doubt over the legitimacy of Constitutional Amendments Referendum to be held from the very beginning.

Under the Constitutional Amendments, the most crucial amendment covers the shift from the semi-presidential government system to the parliamentary one, which entails changes in the mechanisms and principles for constitutional agencies applied so far.

Although the parliamentary system of government theoretically ensures a greater scope of representative participation, it is essential to assess the realistic chance of applying this principle in the given political setting.

The political factions ruling in the Republic of Armenia enjoy substantially diverse starting opportunities. The Republican Party of Armenia (RPA), which has been ruling for

over 17 years, significantly outdoes all the other parties in terms of both material (table 1) and financial resources (see table 2) owned by the Party.¹⁷

Table 1. Real Estate Owned and/or Used by RA NA Parties

According to declarations submitted to the CEC for Yerevan City Council Elections 2013	Real Estate											
	Building						Land					
	Sole ownership		Free Use		Leasing		Sole ownership		Shared ownership		Leasing	
Parties	Quant	M ²	Quant	M ²	Quant	M ²	Quant.	Hectare	Quant.	Hectare	Quant.	Hectare
RPA	33	14408	.	.	9	1051.9	14	0.87949	1	0.05789	1	0.2
BHK	.	.	52	6113.5	1	132.3	.	.	.	.	.	.
ARFD	35	8794.5	.	.	.	.	.	.	.	.	.	.
ANC	1	297.04	.	.	.	.	.	.	.	.	.	.
OEK	1	765.2	.	.	.	.	.	.	.	.	.	.
HP	.	.	.	.	.	.	.	.	.	.	.	.

Table 2. Financial Capacities of the RA NA Parties

According to declarations submitted to the CEC for Yerevan City Council Elections 2013	Moveable estate	Funds	Incomes			
	Sole ownership		Membership Fees and donations	Rental Fees	Budget Funding	Other incomes
Parties	Quantity	AMD	AMD	AMD	AMD	AMD
RPA	8	39843822	364539760	13004480	29530400	8035077
BHK	=	8933009	14397000	=	17511000	68772
ARFD	=	2091490	=	=	=	=
ANC	=	2162800	5259700	=	=	=
OEK	2	1036000	8650000	=	4633400	=
HP	=	=	25666000	=	4387000	=

It is noteworthy that the second largest political power in the NA, BHK, could have competed with the RPA in terms of resources. Initially appearing as an alternative before the Government and the Opposition, it nonetheless attempted to publicly come up with opposition factions.

From the beginning of 2014, four non-ruling forces (Armenian National Congress, Prosperous Armenia Party, Heritage Party and Armenian Revolutionary Federation Party) began cooperation by posing united demands over various social issues. The attitude towards the Constitutional Amendments as well as discrepancy of political demands and motives were the major controversy among the forces known as the "Magnificent Four". In June of 2014 the latter released its 12-point list demand-declaration which basically

¹⁷ See details at HCA Vanadzor's opinion on Constitutional Amendments
<http://hcav.am/en/publications/hca-vanadzor-assessment-%D6%85f-ra-constitutional-amendments-2/>

targeted social-economic issues. The agenda was comprised of three political demands, namely:

“10. Make amendments to the Electoral Code, whereby, the next scheduled parliamentary elections should be held with 100% proportional representation; immediately after the elections publish already signed voter lists in the precincts as well as post them on the official CEC website with precinct search and download features.

11. Ensure adoption of legislative package on opposition by endowing it with oversight functions.

12. Refrain from signing any international agreement to establish common economic regime with Nagorno-Karabakh.”¹⁸

The demands set forth in the scopes of the Quartet’s partnership were concessional and did not imply drastic political reforms. While, due to major controversy regarding the Constitutional Amendments, cooperation efforts with the Armenian Revolutionary Federation Party were terminated.

Back in January 2015, Gagik Tsarukyan initiated a campaign to unite non-ruling and non-political forces and to this end, organized a conference for the representatives of non-ruling political forces, nongovernmental organizations, civil initiatives and movements to discuss the complicated political and economic situation in the country.

In February, 2015 at the RPA Executive Board session, Serzh Sargsyan qualified Gagik Tsarukyan, Chairman of the Prosperous Armenia Party, as the evil¹⁹, and informed that the latter was dismissed from the RA National Security Board and demanded investigation into Gagik Tsarukyan’s absences from the RA National Assembly sessions and payment of evaded taxes for his businesses. As a result, within a month, Gagik Tsarukyan announced about leaving his office of Party Chairman and politics in general. He also announced that he would have nothing to do with the Prosperous Armenia Party any more. After this statement of the Party's ex-chairman, some of the NA Prosperous Armenia faction members left the faction. In fact, the Prosperous Armenia Party, being based on one

¹⁸ The Quartet released its 12-point demand-declaration, <http://www.7or.am/am/news/view/69508/>

¹⁹ Serzh Sargsyan criticizes Gagik Tsarukyan, http://civilnet.am/2015/02/12/serzh-sargsyan-slams-gagik-tsarukyan/#.VfvOlt_tIHx

individual's material resources and reputation, lost its political position, while the RA NA Prosperous Armenia faction was divided and consequently weakened.

In other words, Serzh Sargsyan used G. Tsarukyan's vulnerability as the major oligarch to suspend any possible political processes. In fact, no results of the investigation into Gagik Tsarukyan's alleged crimes have been revealed so far.²⁰ Hereby the Republican Party of Armenia inflicted a heavy blow to the NA second largest faction and namely Prosperous Armenia Party. This entailed the strengthening of indisputable and dominant positions of the RPA in the political arena.

As a result of political reshuffles, among the parties acting against Constitutional Amendments were Rule of Law Party, Armenian National Congress and Heritage Party, the two latter acted in "No" front. The Republican Party of Armenia and the Armenian Revolutionary Federation Party were in favor of Constitutional Amendments, which separately established "Yes" headquarters. Individual representatives from Prosperous Armenia Party acted in favor of Constitutional Amendments.

²⁰ No serious violations were recorded in 6 of Tsarukyan's enterprises, <http://www.Iragir.am/index/arm/0/country/view/122686>

Content Concerns on Draft Constitutional Amendments

Although the Constitutional Amendments were coupled with large-scale shifts in almost all of the regulations, except for the articles proclaimed unchangeable under the Constitution (although they underwent digitalization) the focal shift from the semi-presidential government system to the parliamentary one; this entails changes in the mechanisms and principles for constitutional agencies applied so far. Incorporating about 250 reforms, and in fact being a brand new Constitution, the Draft of Constitutional Amendments not only relates to the fundamental human rights and freedoms, but also the safeguards of socio-economic rights.

The Concept Paper on the RA Constitutional Reforms covers 11 urgent issues with fundamentally new approaches to constitutional solutions, including:

- consistent shift from the authority-centered constitutional solutions system to human-centered one;
- Exact constitutional guarantees for consistent application of the constitutional principle of social state and clear program- and goal-oriented policies;
- Application of most consistent constitutional principle of separation and balance of powers as a part of system integrity;
- Excluding any performance of state and authority powers by state agencies not authorized to do so by the Constitution;
- Reducing the apparent imbalance between the actual scope of powers vested in various constitutional authorities and their political accountability, etc.

By the way, according to the Presidential Decree, the Constitutional Amendments process was necessitated to improve the constitutional mechanisms guaranteeing fundamental human rights and freedoms²¹ In the first chapters of published Constitutional Amendments there still remained problematic provisions, several of which were further improved considering the recommendations issued by the Venice Commission and other

²¹ It is noteworthy that the aforementioned survey conducted by APR Group in November of 2015 revealed that only 6,3% respondents found that human rights were violated due to their wordings stipulated in the RA Constitution, whereas, 50,8%-considered transgression of rights was caused by failure to apply laws.

institutions. A number of concerning provisions in regard to the protection of human rights and freedoms were also reviewed by the NA's final Draft of Constitutional Amendments dated October 5, 2015. Nonetheless, wordings of safeguards for fundamental human rights and freedoms as well as social-economic-cultural rights and their restrictions, along with issues regarding decline of sufficient and effective means ensuring these rights and their protection remained controversial, including guarantees on transparency and accountability of actions by all state authorities.

Namely, the issue of reducing constitutional guarantees for the restriction and protection of the rights to liberty of person, sufficient living standards, healthcare, access to information, working conditions, social security, confidentiality of correspondence, right to fair justice (use of evidence), presumption of innocence and marriage still remain concerning as compared to the RA 2005 Constitution.

The Constitutional Amendments reduce the weight of the fundamental principles of international law on human rights and freedoms for the Republic of Armenia.

According to Article 5(2), RA Constitutional Amendments, binding regulations of the general international law shall prevail over national laws. This wording provides limited safeguards for fulfillment of its international human rights commitments by the State. Moreover, the Amendment put into circulation the phrase "constitutional laws" system. However, the Amendments fail to stipulate the prevalence of binding international provisions over constitutional laws. Along with the requirement of compliance of constitutional laws with the RA Constitution, it should have been stipulated for certain areas (Electoral Code, Judicial Code, etc.) that constitutional laws shall comply with the binding international law regulations. This provision may not be ignored or remain unregulated. Moreover, given the traditional legal framework formation practices in the Republic of Armenia, there are no guarantees that such constitutional laws will not be used to restrict human rights and freedoms.

Under Article 3(2) of the 2005 Constitution, "The state shall ensure the protection of fundamental human and civil rights in conformity with the principles and norms of the international law". Under Article 81(1) of the Amendments, "Interpretation of the constitutional provisions on fundamental rights and freedoms shall consider the practices of

the agencies functioning in compliance with the international human rights treaties signed by the RA”; this is an apparent setback from the binding requirement in the provision above enshrined by the current Constitution.

Under Article 6, the 2005 Constitution of the Republic of Armenia shall have supreme legal force and the norms thereof shall apply directly. While the Amendments to the RA Constitution stipulate that the RA Constitution shall have supreme legal force (Article 5), they fail to stipulate the direct application principle, which considerably reduces the significance of Constitution as the supreme legal document and its role in public relations.

The Chapter on Foundations of Constitutional Order of the imposed amendments also prescribes the principle of separation of the state and religious organizations (Article 17). At the same time, Article 18 stipulates the unique mission of the Armenian Apostolic Church, as the national church, in the spiritual life of the Armenian people, as well as in the development of national culture and retention of national identity. While the provision repeats the wording in the 2005 Constitution, unlike it, the Draft provides no clear phrase on separation of church and the state. Since relations with the Armenian Apostolic Holy Church are regulated by a separate article and law provision, from the constitutional viewpoint, the Armenian Apostolic Church cannot be deemed a religious organization. The lack of clear regulation might give rise to ambiguous interpretations, since even under the constitutional regulations from 2005, the church performs a special and monopolistic role in key state system structures, namely army, education and other areas, which is contrary to the essence of the freedom of conscience and religion. Under the Draft, the Armenian Apostolic Holy Church receives religious monopoly, which contradicts the notion of a secular state as one of the fundamental principles of human civilization.

It is noteworthy that, despite the commitments assumed by the RA, the situation of human rights and freedoms has seen no progress, except in a couple of areas. Instead, it has suffered obvious regress. Some regulations under the Draft are too detailed and specific²², and may therefore limit the further exercising of such a right or the state’s scope of commitments in this area.

²² Preliminary Opinion on the draft amendments to Chapters 1 to 7 and 10 of the Constitution of the Republic of Armenia [http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2015\)015rev-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2015)015rev-e)

According to Article 43 of the RA 2005 Constitution, the fundamental human and civil rights and freedoms set forth in Articles 23-25, 27, 28-30, 30.1, 32(3) may be temporarily restricted only by law if it is necessary in a democratic society in the interests of national security, public order, crime prevention, protection of public health and morality, constitutional rights and freedoms, as well as honor and reputation of others. The phrase "democratic society" is one of the focal concepts of this clause. While the necessary condition of "democratic society" is absent from the articles on rights' restrictions in the Amendments.²³

Article 29 of the Amendments prohibits any discrimination based on sex, race, skin color, ethnic or social origin, genetic features, language, religion, worldview, political or any other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances. Article 77 of the Amendments prohibits abuse of the fundamental rights and freedoms. This Article also prohibits using the fundamental rights and freedoms to incite national, racial and religious hatred. Limiting the prohibition of hatred incitement only to a few areas contradicts the general principle of non-discrimination, considering that preaching hatred is among causes of discrimination and discriminatory treatment. The regulations above will have a negative impact on the protection of the rights (right to life, health, property, etc.) of vulnerable groups.

In terms of human rights restrictions, the lack of any improvement policies for regulating the rights protection of vulnerable groups raises concern. Particularly, the Amendments have retained the legal incapacity recognition institute, which is in conflict with the principle of equality before the law and requirements of UN Convention on Rights of Persons with Disabilities ratified by the RA. The institute of recognizing a person legally incapable may not be acceptable in any democratic and legal state guided by the principles of human dignity and nondiscrimination. At the same time, this institute should be replaced with a mechanism to restrict a certain right on sufficient factual and legal grounds, as necessary²⁴.

²³ See also [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2015\)015-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2015)015-e)

²⁴ HCA Vanadzor's disposition regarding the institute of recognizing an adult person as incapable in the RA <http://hcav.am/events/04-06-2015-5/>

Article 27(1)(6) of the first Draft states that "Everyone shall have the right to liberty of person. No one shall be deprived of the right to liberty of person, except for the persons below and under the procedure prescribed by law: ... persons suffering mental disorders, drug and alcohol users." It should be noted that the sole fact that a person suffers from mental disorders, is a drug or alcohol user may never serve a basis for depriving him/her of liberty. Such an approach is not only discriminatory, but also contrary to the very essence of human rights and Article 29 of the Draft. The final Draft reinstated the restriction of liberty "aiming to prevent the spreading of infectious diseases dangerous for the public, or the danger posed by a drug addict or alcoholic or a person with a mental disorder." However, it is noteworthy that in this case, a person's right to liberty of person might be restricted only on the grounds of his/her posing a threat to his/her own health and safety or those of the others that might be eliminated only by his/her temporary deprivation of liberty that should be stopped immediately after the threat ceases to exist. The final Draft failed to address the issue of that person's safety.

Article 22 of the 2005 Constitution prohibits the use of illegally obtained evidence, while Article 63 of the Draft enshrines, "The use of evidence that is obtained in violation of fundamental rights or undermines the right to a fair trial shall be prohibited."

The provision of Article 35, whereby the right to marriage shall be restricted for the protection of health and morals, is vague. Given the absence of moral criteria, this provision can instigate numerous violations.

Likewise, provisions on possible restriction of the right to information (Article 51), right to strikes (Article 58), freedom of entrepreneurial activity and economic competition safeguards (Article 59) in the name of public interests should also be further clarified. Furthermore, the Draft contains 3 similar phrases: public interest; interest of the public (Article 60 (3) and prevailing (overarching) public interest (Article 60(5)).

Comparing issues of rights to social security, healthcare and others foreseen by the Amendments and those stipulated by the current Constitution poses serious concerns. The effective Constitution categorizes the aforementioned rights under Chapter on fundamental rights and freedoms. The Draft Amendments stipulate the chapter on "legislative safeguards in economic, social and cultural areas and focal goals of state policy" by

replacing the term state's obligations with goals. We believe such a wording rather implies avoiding recognition of these rights. This become even apparent by the restriction of the person's right to apply to the Constitutional Court, whereby, the person's or Human Rights Defender's right to apply to the Constitutional Court has been limited only by "cases entailing the violation of their fundamental rights and freedoms" as enshrined in Chapter 2 of the Constitution. This constitutes obvious regress from the 2005 Constitution's regulations.

Moreover, according to the Draft, the Constitution will directly apply on only fundamental rights unlike the effective Constitution, which defines that the principle of constitutional norms shall apply directly.

A number of the President's powers are transferred to the state's Prime Minister as a result of shifting to parliamentary system of governance.

Provision "stable parliamentary majority", defined by the parliamentary system regulations, remains most troublesome. Article 89 implies, "If no stable parliamentary majority is formed by election or a political Coalition, a second round of the elections shall be conducted with the participation of party alliances." Restrictions, conditions and the order of forming political alliances will be determined by the RA Electoral Code. Experts believe that thereof one-party rule is being stipulated, which allows discretionary formation of judiciary and executive powers by extending the scope of its powers. Article 7 of the Amendments defines suffrage principles, whereby, "Elections of the National Assembly and community councils shall be held on the basis of universal, equal, free and direct suffrage, by secret vote." Such negligence in relation to provisions on citizens' voting right and particularly formation of local self-governing agencies is at least unacceptable. It is hardly comprehended what necessitates indirect elections, when direct elections ensure not only public participation in the government formation but also real accountability of elected authorities.

Article 48 of the Amendments envisages that RA citizens that have reached the age of 18 shall have the right to vote at elections of self-governing agencies. Thereof it is implied that minimum defined age for community leaders is being lowered from 25 to 18, or which is more likely, the amendments to the Electoral Code shall virtually determine only

the right to directly elect the city council, whereas, the community leader shall be elected indirectly. Hence, any chance of citizen participation in the state's governance is quite minimized.

Under Article 159 of the Constitutional Amendments, public government system agencies include ministries, as well as other agencies subordinate to the Government, Prime Minister and ministries. While the Amendments to the Constitution regulate the Government's accountability system, the extent and procedures of accountability by the state agencies under the Prime Minister to the RA National Assembly remain vague. This means that there is a potential risk of setting up similar agencies adjunct to the Government almost beyond control of the representative body.

In this context, it is also unclear what the status of investigation agencies will be. Presently, such agencies cover Investigation Committee, Special Investigation Service, National Security Service and investigative agencies under the Ministry of Finance vested with investigative powers. Heads of the Investigative Committee and the Special Investigation Service are appointed by the RA President. The Amendments provide no clear details on the status and formation procedures applicable to investigative agencies and the control powers of the National Assembly to ensure oversight of the activities of such agencies (no requirement on annual reports).

While the Amendments stipulate procedure for assigning the RA Prosecutor General, the key directions of Prosecutor's Office activities remain unchanged. At the same time, no obligations are set out in the Amendments for the Prosecutor's Office to submit annual reports to the RA National Assembly, although such obligations are stipulated for other agencies covered in the Constitution.

An issue of serious concern is the provision under Article 202(2) of the Amendments stating that the National Assembly shall adopt amendments of a number of Constitutional Articles. While the authors of the Draft mentioned that provisions of crucial significance shall be amended in a referendum, it is not clear what principle shall be applied to determine the articles of focal significance. The National Assembly shall be entitled to amend key provisions ensuring the democratic component of the parliamentary system

regarding the deputy powers, local government activities, Government accountability, state budget control, etc.

At the same time, out of independent constitutional agencies only provisions on the Human Rights Defender may be amended through referendum; as for regulations of the grounds for other state agency (Central Election Commission, Television and Radio Board, Control Chamber, Prosecutor's Office) activities, they also may be amended by the RA National Assembly. The National Assembly's authority to amend the constitutional provisions above will result in the situation below: the ruling party making a stable parliamentary majority will remove the state agencies' duties responsible for the exercise of human rights and freedoms, and the clauses on human rights and freedoms will become of declaratory significance.

The issues related to December 6, 2015 inflicted amendments and covered under this chapter do not exhaust the list of concerns. The upcoming large-scale legislative amendments should ensure maximum participation of civil society and other stakeholders aiming to prevent and neutralize possible threats and abuses.

Legislative Regulations of Constitutional Amendments Referendum

During the 24 years of its independence the Republic of Armenia has held 6 presidential elections, 5 parliamentary elections, 3 referenda, numerous local elections and by-elections. Out of the aforementioned elections, only the first presidential elections were deemed overall free and fair despite the imperfection its regulating law. The electoral processes were accompanied with numerous electoral violations and falsifications which entailed the gradually declining level of public trust.

According to the public opinion poll conducted by Advanced Public Research Group, only 5,4% of respondents believe that elections in Armenia are administered without electoral fraud, while 55,8% assure that the election results were completely falsified.²⁵ Public distrust towards the legitimacy of elections is conditioned by several pervasive and systematic violations, namely,

- Abuse of administrative resources,
- Disproportionate media coverage and lack of pluralism
- Vote buying and voter intimidation
- Falsification of voting result and voters' lists
- Ineffective adjudication of complaints

On October 5, 2015, the RA National Assembly adopted a decision about putting the Draft Constitutional Amendments of the Republic of Armenia to a Referendum. According to the RA President's Decree, the Constitutional Amendments referendum was appointed on December 6, 2015 and was administered with pervasive application of all aforementioned negative phenomena. It was distinguished by impunity of violations and unprecedented volume of intimidation against election participants: observers, mass media representatives, proxies and Commission members.

Organization and holding of Constitutional Referendum was regulated by the RA Law on Referendum and the RA Electoral Code.

²⁵ Study findings of public poll on Constitution Amendments, Armenia 2014-2015, APR Group
<http://aprgroup.org/images/Library/Constitution/2015-25-11-Q-Arm.pdf>

The Constitutional Draft, which foresaw 250 amendments, was put to voting in a complete package, while such comprehensive amendments implied real voting opportunity by citizens and chance to vote for each issue separately. Addressing this issue, the Venice Commission's Code of Good Practice provides, "Ensuring free suffrage requires a more stringent approach particularly in case of multiple issues. Voters shall not be called to vote for several different issues at a time considering that they can differ in opinions regarding each issue. A relevant list of issues shall be put to vote where the text includes a few separate aspects."

Article 4(2)(a) of the RA Law on Referendum provides that,

a) Articles 1, 2 and 114 of the Constitution cannot be submitted to a Referendum.

Article 114 of the effective Constitution was also amended into Article 203, which provided that "Articles 1, 2, 3 and 203 are not subject to amendments". With this regard, a group of RA attorneys expressed an opinion that since the aforementioned articles were not subject to changes in the constitutional context, therefore, the change of Article 114 proved the document to be a completely new constitution and not constitutional amendments²⁶

Article 4(2)(c) of the RA Law on Referendum provides that,

C) Issues related to human and citizens' rights, freedoms and obligations, the elimination or restriction of constitutional guarantees providing their implementation, as well as issues directly bestowed to the exclusive competence of state and local self-governing bodies cannot be submitted to Referendum.

According to HCA Vanadzor's assessment, unlike the RA effective Constitution, the Draft contained restriction of several human and citizen rights and freedoms along with abolition of constitutional safeguards ensuring their exercise. Therefore, it could not be submitted to a Referendum according to Article 4(2)(c) of the RA Law on Referendum. Regarding the issue HCA Vanadzor applied to the RA Human Rights Defender claiming to apply to the RA Constitutional Court in order to determine the compliance of RA NA's decision above to put the Constitutional Amendments Draft to referendum with the RA

²⁶ Opinion of the RA Group of Attorneys regarding the RA Constitutional Draft, <http://www.lex.am/docs/lawyers%20opinion.pdf>

Constitution. More detailed information on this will be presented under the report's "Actions undertaken regarding the recorded violations" section.

For the actual evaluation of the Referendum's legislative regulations, the two latest general elections and following aftermaths should be recalled.

In May 2012, the elections of the National Assembly of the Republic of Armenia were held. According to OSCE/ODIHR EOM, OSCE Parliamentary Assembly, the Parliamentary Assembly of the Council of Europe and the European Parliament,

"The elections, which were held under an improved legal framework, were characterized by a competitive, vibrant and largely peaceful pre-election campaign, which was, however, marked by a low level of confidence in the integrity of the process. Some violations of campaign provisions by electoral contestants, including the use of administrative resources and attempts to limit voters' freedom of choice, created an unequal playing field and ran counter to OSCE commitments. The elections were administered in an overall professional and transparent manner prior to Election 21 Day. Election Day was generally calm and peaceful, although organizational problems and undue interference in the process, mostly by party representatives, were observed. Deficiencies in the complaints and appeals process were cause for concern."²⁷

As reported by OSCE/ODIHR, the contestants questioned accuracy and quality of voter lists, abuse of administrative resources and vote-buying. To eliminate possible abuse of voter lists and particularly registered voters residing abroad, 28 members of parliament challenged the constitutionality of the Electoral Code provision, prohibiting the publication of signed voter lists. On 5 May, 2012, the Constitutional Court decided that the respective provision was constitutional, but did not rule out access to voter lists for protection of voters' rights. The Constitutional Court referred to Venice Commission principle of secrecy of vote.²⁸

In this regard it has been repeatedly outlined that the disclosure of signed voter lists is a proportionate measure to ensure the protection from their abuse²⁹. Moreover the stamping of passports makes voting apparent and the argument of secrecy of voting

²⁷Republic of Armenia, Parliamentary elections, May 6, 2012, OSCE/ODIHR Final Report, <http://www.osce.org/odihr/elections/91643?download=true>

²⁸RA Constitutional Court turned down the complaint initiated by PA, ANC, ARF, Azatutyun, May 5, 2012 <http://www.azatutyun.am/archive/news/20120505/2031/2031.html?id=24570951>

²⁹May 6, 2012 Report on Observation Mission of Parliamentary Elections, HCA Vanadzor, <http://hcav.am/wp-content/uploads/2012/08/Report.pdf>

becomes unfounded. One thing is clear that voter lists serve a major tool for the falsification of election results and hence their publication becomes impossible as long as actual political will to hold legal and democratic elections lacks.

Ineffective adjudication of complaints was an actual challenge during the Parliamentary elections in terms of ensuring elections legitimacy. As observed by the OSCE/ODIHR,

"A positive feature of the new Electoral Code is the requirement that administrative due process be applied by election commissions in handling of complaints. However, the Electoral Code unduly limits the right to file complaints to those whose personal electoral rights are at stake, essentially denying voters the right to seek judicial remedy for breach of general electoral rights. In addition, first instance court decisions on electoral rights may not be appealed, further limiting the opportunity to obtain effective legal redress. Moreover, the legal framework for complaints and appeals is unduly complex."

For instance CEC denied consideration of 95 percent of complaints on the grounds that private individuals do not have a legal right to file such complaints. The CEC examined few complaints and found no violations; others were rejected for technical grounds without consideration.

The election day violations included group voting, presence of unauthorized persons, breach of confidentiality of voting, multiple voting, vote-buying, voter lists irregularities, obstruction of observers', proxies' and reporters' rights, carousel voting and ballot box stuffing. The special ink for marking passports of voters was supposed to remain for 12 hours, but faded much earlier. Most domestic observers noted that the overwhelming abuse of administrative resources, coerced participation of state employees in the pre-election campaign rallies of the ruling Republican party, voter intimidations, numerous reports of vote buying by several parties, including through "in-kind" assistance and charitable activities, provided ground for considering 2012 Parliamentary elections unfair and non-democratic.

The last Presidential elections were held on 18 February, 2013. The 2013 Presidential elections again failed to meet democratic standards, as they were marred by lack of genuine competition, wide use of administrative resource throughout the campaign,

numerous cases of violations during the voting and ballot count and other negative factors that led to a low level of Armenian public's trust toward the official election result.

Administrative resources were fully employed in favor of the incumbent president Serzh Sargsyan, including state institutions, especially, state educational establishments, where campaigning is prohibited by the national law. Allegations of widespread vote-buying in favor of the incumbent and the concerns regarding the inflated voter lists irregularities led to further decrease of trust towards the elections.

In terms of assessing the congruence of legislative regulations to hold a referendum, it is noteworthy that OSCE/ODIHR recommendations made after the 2012 Parliamentary elections were not implemented at all, even though it was suggested to address them before the Presidential elections of 2013. They mainly referred to the efficiency of investigation of appeals and complaints, criminal liability for the facts of abuse of administrative resources, filing complaints regarding vote buying, as well as verifying voter lists.

During the Presidential elections the observers recorded that during the voting the Commissions in fact displayed a single-party conduct: both the law-enforcement bodies and electoral commissions failed to undertake an initiative to prevent violations without notice from observers or proxies. The results in observed polling stations significantly differed from the results of unobserved polling stations. This difference was also visible in terms of voter turnout. For instance, Serzh Sargsyan-Raffi Hovhannisian ratio of votes was 48.4% and 47.0%, in the election precincts of rural and urban communities of Lori and Tavush regions observed by HCA Vanadzor, whereas, in the election precincts where no observation was conducted the ratio of votes was 57.7 % and 37.7 %.

A strange pattern was recorded by numerous independent experts and reporting organizations, according to which Serzh Sargsyan's advantage was obvious in election precincts with incredibly higher voter turnout, while, Raffi Hovhannisian had the advantage in election precincts with more proportionate voter turnout. According to numerous experts, this testifies of massive ballot stuffing and inflated voter turnout. The aftermaths of the elections confirm that Serzh Sargsyan didn't win at least in the first round and the voting results have been falsified. The results of 49 election precincts where 90% voter turnout

was recorded, for example, showed Raffi Hovhannisian receive in average 6,8 %, as opposed to 92 % of votes received by Serzh Sargsyan, which significantly differed from the average national result.³⁰

After the controversial parliamentary and presidential elections the concerns regarding the Electoral Code regulations and administration of elections remained unmet, therefore, public trust towards the electoral process declined to a possible minimum. A similar scenario and mechanisms of “successfully” applied systemic violations was also anticipated during the organization and administration of the Referendum.

It is noteworthy that in June of 2015 a number of amendments and addenda were made to the RA law on Referendum, and their vast of majority implied the compliance of the law with the RA Electoral Code.

Article 23 of the RA law on Referendum prescribed that:

“1. The observers and the mass media representatives have the right to:

c) Appeal the decisions of Referendum Commission, the actions of the Commission members or their inactivity.

3. One member of an accredited observation mission can participate in the Commission’s sessions with an advisory vote or be present during the voting of the sessions of the Referendum Commission.

6. The observers and mass media representatives cannot be subject to liability for their opinions expressed in the course of voting and tabulation results of the Referendum.”

The aforementioned provisions were abolished by June 18, 2015 amendments. Accordingly, Article 23 of the RA law on Referendum was rephrased:

“Article 23: The rights, obligations and activity safeguards of observers, proxies and mass media representatives.

1. The terms and conditions of conducting observation mission during the referendum, accreditation of observers, the rights, obligations and activity safeguards of observers, proxies and mass media representatives are prescribed in the RA Electoral Code.

³⁰Report of the Armenian national platform of EaP CSF Presidential elections in Armenia in 2013
<http://eap-csf.eu/assets/files/Documents/ANP%20report%20on%20elections%202013.pdf>

2. During the referendum the proxies' status, registration, powers, rights and obligations and activity safeguards are prescribed in the RA Electoral Code."

Aiming to revoke unduly restrictions of observers' rights set forth in the RA Electoral Code, recommendations were delivered by a number of international and domestic observations missions, which failed to entail any changes. According to the effective Electoral Code, the observer can appeal the Commission's actions or inactivity only provided that the rights of the observer, stipulated by the RA Electoral Code, have been breached.

The issue of recognizing the Referendum results as invalid was reviewed by another remarkable amendment, thus, Article 35 foresaw,

"4. The results of the referendum are considered as invalid, if the number of inaccuracies or the violations held during the preparation and conduct of the referendum has impact or could have impact on the results of the referendum.

If the results of the referendum are considered as invalid, a new voting is conducted according to the procedures defined in this law no sooner than 10 days and no later than 20 days after the decision to invalidate entered into force.

5. The results of the referendum can be disputed in the Constitutional Court within 7 days after the official announcement of the results."

As a result of the amendments, the same article was redefined,

"5. If during the voting such violations of the current law and the RA Electoral Code occurred that could impact on the results of the referendum, the Central Commission decides to hold a new voting in separate polling stations in case such measures can fix the violation consequences.

6. If during the preparation and conduct of the referendum or administration of a new voting in separate referendum polling stations such violations of the current law and the RA Electoral Code occurred that could impact on the results of the referendum, the Central Commission decides to annul the referendum results and appoints a new voting.

7. The results of the Referendum can be disputed in the Constitutional Court until 18.00pm of 5-th day from the official announcement of the results."

The current amendment virtually added the option of appointing a new vote in separate polling stations. This can be assessed as an additional challenge to appealing the general election results. It is apparent that the violations recorded by the observation

missions were of systemic and centralized nature and were not characteristic of only separate electoral precincts.

It is quite obvious that setting tight time limits (next day of voting) does not suggest legality, besides; the interested parties are denied the chance to effectively appeal the decisions of the Electoral Commissions in tight deadlines. As a result, concerns on election processes and voting results remain unresolved; moreover, public trust towards the elected bodies continues to decline.

Administration of Constitutional Amendments Referendum

Pursuant to Chapter 3 of the RA law on Referendum, the Referendum Central Commission is entitled to organize a constitutional referendum and oversee its legality. As stipulated by the RA Electoral Code, the RCC exercises the functions of the RA Central Election Commission, which conducts the referendum through Territorial and Precinct Election Commissions. The RA Electoral Code provides that Territorial Commissions are 41 Standing Territorial Election Commissions, while Precinct Election Commission are formed preceding each voting. Article 42 (6)(6) of the RA Electoral Code foresees, “Applications on appointing members to the Precinct Election Commission shall be submitted to the Central Electoral Commission no earlier than 30 days and no later than 25 days prior to the voting day up to 6:00pm, whereas in case of early elections no earlier than 20 days and no later than 18 days prior to the voting day up to 6:00pm.”

Precinct Election Commission

Article 39 (2) of the RA Electoral Code has it that,

“Persons having conviction for the crimes provided by Articles 149 to 154.6 of the Criminal Code of the Republic of Armenia may not be a member of an election commission. The National Assembly deputies, members of the Constitutional Court, judges, prosecutors, ministers and their deputies, Marzpets and their deputies, mayors of communities and members of municipal councils of aldermen/hereinafter avagani/, military servicemen, persons serving in the National Security Service, in the Police, in the Service for Compulsory Execution of Judicial Acts, or in penitentiary institutions, as well as proxies, authorized representatives, observers, and candidates may not be members of territorial and precinct election commissions.”

Thus, members of avagani may not be members of territorial and precinct election commissions. This provision applies also to territorial and precinct referendum commissions. Based on an alert from Heritage Party representative, HCA Vanadzor verified the composition all the precinct election commissions and found that as of December 3, 2015 overall 203 avagani members were enrolled in the precinct referendum commissions. Detailed information on regional distribution is available in Table 1.

Table 3. Number of avagani members enrolled in precinct election commissions as of December 3, 2015

Marz	Position	Appointed by							Total	
		TEC	RPA	ARFD	BHK	OEK	HAK	Heritage		
Aragatsotn	Chairperson			1	1				2	18
	Secretary		2						2	
	Member	8	3	1		1	1		14	
Ararat	Chairperson		2		2				4	30
	Secretary		2	1					3	
	Member	14	1	3	1	1	2	1	23	
Armavir	Chairperson		2						2	7
	Secretary		1						1	
	Member	2				2			4	
Gegharkunik	Chairperson		1		3				4	32
	Secretary		4			1			5	
	Member	14	1	3	3	1	1		23	
Lori	Chairperson		2		1				3	22
	Secretary		3	1					4	
	Member	5		5		4	1		15	
Kotayk	Chairperson		3		2				5	17
	Secretary		1		1				2	
	Member	6	1	2				1	10	
Shirak	Chairperson		5						5	38
	Secretary		5		1				6	
	Member	17	1	3	1	1	4		27	
Syunik	Chairperson		5						5	17
	Secretary		2						2	
	Member	6		1		1		2	10	
Vayots Dzor	Chairperson								0	14
	Secretary		1						1	
	Member	8	1	1	1		1	1	13	
Tavush	Chairperson				3				3	8
	Secretary		1		1				2	
	Member	3							3	
Total		83	50	22	21	12	10	5	203	203

Moreover, 83 of avagani members enrolled in the precinct commissions were appointed by relevant regional election commission, and 50 of them by Republican Party of Armenia (RPA), 22 by Armenian Revolutionary Federation, 21 by Prosperous Armenia, 12 by Rule of Law, 10 by Armenian National Congress and 5 by Heritage party.

It is noteworthy that according to the study data on Lori, Shirak, Tavush, Gegharkunik Marzes provided by Heritage party representative, another 5 members were identified to be appointed by the party above, which were replaced immediately upon identification. Such facts were not revealed by a following study conducted by HCA Vanadzor.

Along with other such data provided by relevant individuals, this information was presented to the RA Central Election Commission on December 4, 2015 claiming to abolish the breach of the RA Electoral Code and disseminate it among mass media outlets.

On December 8, 2015 after the voting, HCA Vanadzor conducted a second study over the precinct commission composition and found that 41 avagani members continued their enrollment.

Table 4. Number of avagani members enrolled in precinct election commissions as of December 8, 2015

Marz	Position	Appointed by							Total	
		TEC	RPA	ARFD	BHK	OEK	HAK	Heritage		
Aragatsotn	Chairperson			1					1	3
	Secretary		1						1	
	Member		1						1	
Ararat	Chairperson		1		1				2	6
	Secretary								0	
	Member	3			1				4	
Armavir	Chairperson								0	0
	Secretary								0	
	Member								0	
Gegharkunik	Chairperson		1		1				2	4
	Secretary		1						1	
	Member	1							1	
Lori	Chairperson								0	3
	Secretary								0	
	Member	3							3	
Kotayk	Chairperson				2				2	5
	Secretary		1						1	
	Member	1						1	2	
Shirak	Chairperson		4						4	12
	Secretary		1		1				2	
	Member	5	1						6	
Syunik	Chairperson		2						2	4
	Secretary		1						1	
	Member	1							1	
Vayots Dzor	Chairperson								0	0
	Secretary								0	
	Member								0	
Tavush	Chairperson				1				1	4
	Secretary				1				1	
	Member	2							2	
Total		16	15	1	8	0	0	1	41	41

This comes to testify that the RA Central Electoral Commission displayed inactivity allowing the accreditation of the avagani members and their enrollment in precinct commissions and failed to fix after notification. The decisions taken by the commissions above and related documents should be deemed invalid since they were signed by

unauthorized entities. It is noteworthy that the avagani members under the composition of precinct commissions were mostly represented by relevant territorial election commissions. Accordingly, in the order of superiority the RA Central Electoral Commission was obliged to undertake urgent measures not only abolish the breach, but also subject the responsible to liability.

According to the study findings, a substantial number of commission members appointed by the RPA namely are the close relatives (siblings, parents) of avagani members of relevant municipal communities. This is not anyhow regulated by law, but it indicates an apparent conflict of interests, therefore, it can serve a powerful influence in the restriction of voters' expression of free will especially in small communities.

Pursuant to Article 39 (3) of the RA Electoral Code,

"Citizens having the right of suffrage, who have, in accordance with the procedure prescribed by the Central Electoral Commission, completed professional training courses on the administration of elections and have been awarded qualification certificates, may be involved in the composition of precinct election commissions."

On October 20, 2015, Levon Zurabyan, Chairman of Armenian National Congress faction applied to the RA Central Electoral Code notifying that the Referendum scheduled for December 6, 2015 was a special electoral process, while 2015 accreditation trainings were conducted during a recess, which deprived many of participation opportunity and qualification certificates. The applicant solicited the extension of expired qualification certificates based on the decree of the CEC and their validation until the referendum administration.

On October 29, 2015, the RA Central Electoral Commission issued a decree to satisfy the appeal by leaving the expired certificates in force.³¹ As a result, the certificates of around 1312 out of 16 000 individuals enrolled in the election commissions were expired, including 116 that belonged to commission chairpersons and 109 to secretaries. It is noteworthy that 243 commission members, having an expired certificate, were appointed by relevant territorial election commission (See table 5).

³¹ RA CEC decree on discussing the appeal of ANC chairman Levon Zurabyan, http://res.elections.am/images/dec/15.67_A.pdf

Table 5. Number of commission members with expired certificates according to the appointing authority and position.

Position	Appointed by							Total
	TEC	RPA	ARFD	BHK	OEK	HAK	HP	
Chairperson		25	19	32	6	27	7	116
Secretary		23	11	22	12	27	14	109
Member	243	8	201	32	150	233	220	1087
Total	243	56	231	86	168	287	241	1312

Observation mission organizations, including HCA Vanadzor, have repeatedly pointed out the inadequate knowledge of the electoral code by the members of precinct election commissions and prioritized the need for ongoing training of commission members during every election. In this respect, training sessions conducted with already appointed commission members before the referendum is highly welcomed. However, it is hard to understand why the CEC failed to hold an additional test for the commission members with expired certificates during the month of October in parallel with these actions. Moreover, the election commission, which had appointed 243 members with expired certificates, could not but foresee such issues. The conduct of ANG, which never previously displayed its intention to boycott the commission, is also inconceivable in terms of failing to oversee and apply for the test in due time.

HCA Vanadzor finds the demand of mandatory Electoral Code test for observation missions unacceptable. However, it failed to submit an appeal for leaving the expired certificates in force, but rather kept to the law requirements when the demands imposed on observers were virtually in line with those of commission members and hence the rights were minimized. In the meantime, the precinct commissions are in more need to display competence and refrain from evading the law, which was typical during the referendum. All of this comes to testify that the constitutional referendum was pushed forward hurriedly and negligently.

Mainly one-party conduct of commissions was repeatedly unveiled during the constitutional referendum. An unprecedented number of alerts on intimidation and vote-buying attempts against precinct commission members were also received. For instance, ANC faction deputy Levon Zurabyan sent footage to the RA General Prosecutor’s office,

where an attempt of vote-buying (100.000 AMD) was made in relation to a Yerevan precinct commission member appointed by ANC.³² A criminal case was initiated regarding it and Zaven Mirijanyan, a staff of Kentron Administrative District, was arrested.³³

A great number of commission members appointed by the Opposition withdrew as a result of pressures and intimidation.

Voter lists

Aiming to evaluate the legitimacy of electoral processes HCA Vanadzor studied into various factors which affect or may affect the legitimacy of elections.

According to the RA National Statistical Service (RA NSS), in 1991 the population of the Republic of Armenia totaled 3, 574, 500 of which 57% (2, 051,473) were eligible to vote, i.e. legally capable persons aged 18 and above. Perhaps it was due to the lack of general and systematic voting lists and ambiguous registration mechanisms that the voting lists of the 1990s had numerous gaps, and a large number of people were deprived of their right to vote. However, the regulation of this issue over time has led to the opposite extreme. Since 2012, the ratio of the number of voters has increased disproportionately amounting to 83%. According to the data of the RA NSS, as of January 1, 2015, the number of the RA resident population totaled 3,004, 000. Meanwhile, the number of voters in the initial lists of voters published by the RA Police in 2015 amounted to 2,566,733; i.e. the ratio of the voters is 85%. In other words, while within the past 24 years, the RA population declined by over 500 thousand, the total number of the voters increased by nearly as much (See table 6).

³² Territorial commission member was promised 100.000 AMD for fraud, <http://www.aravot.am/2015/11/26/633007/>

³³ Criminal case initiated regarding vote-buying of electoral commission ANC member, Prosecutor general, <http://www.tert.am/am/news/2015/12/11/kostanyan-4/1871709>

Table 6. Resident population, nationals with the right to vote and the number of voters according to state elections

Elections	number of resident population	number of voters	ratio of voters	number of voter turnout in number	number of voter turnout in percent
1991 Independence referendum	3574500	2051473	57%	1518090	74%
1995 NA elections	3248800	2178699	67%	1183573	54%
1996 Presidential elections	3246000	2210189	68%	1333204	60%
1998 First round of Presidential elections	3232100	2293636	71%	1449004	63%
1998 Second round of Presidential elections	3232100	2300816	71%	1567702	68%
1999 NA elections	3226900	2198544	68%	1137660	52%
2003 First round of Presidential elections	3212200	2315410	72%	1462383	63%
2003 Second round of Presidential elections	3212200	2331507	73%	1595702	68%
2003 NA elections	3212200	2340744	73%	1233757	53%
2003 Constitutional Referendum	3212200	2339704	73%	1215908	52%
2005 Constitutional Referendum	3219200	2317462	72%	1514307	65%
2007 NA elections	3230100	2319722	72%	1391540	60%
2008 Presidential elections	3238000	2315410	72%	1681027	73%
2012 NA Elections	3026900	2501597	83%	1572858	63%
2013 Presidential elections	3017100	2509434	83%	1521261	61%
2015 Constitutional Referendum	3004000	2566733	85%	1302368	51%

According to the RA NSS average annual rate of population distribution by age, 25-30% of the resident population is aged below 18. It follows that the voting population should have totaled 70-75% (or an average of 73%) (as it was the case in 2003-2008, according to Table 1). The 10%-increase in the ratio of voters in 2012 may not be interpreted in any way as a natural growth, since there is no numerical evidence or argument to believe that a similar natural overgrowth occurred back in 1990-1994. The picture becomes clearer as we examine distributions by Marzes (regions). Comparison of the numbers of resident population in the Marzes of the Republic of Armenia and Yerevan city as of January 1 through the years of 2007, 2008, 2012, 2013 and 2015 and the

number of voters in national elections in the same areas in the same years³⁴ comes to show that the declining overall population rate was accompanied by a sharp increase in the absolute number and ratio of voters. Actually, the number of voters in Lori Marz appears to make 105% of the resident population (See table 7).

Moreover, the ratio of the number of population and voters in Vanadzor shows that the above trend of disproportional growth of the number of voters results from artificial intervention or numerical manipulations.

According to the data on the official website of the RA Central Electoral Commission, in 2005, the number of voters in Vanadzor totaled 101,205, whereas according to the RA NSS statistics, the resident population in Vanadzor in 2005 totaled 105,700; it follows from the above that 96% of the resident population had the right to vote. As for the year of 2015, the declining population rate has been accompanied by increasing number of voters; as a result, the number of voters in Vanadzor amounts to 117% of the resident population (See table 8).

³⁴ Ad notam: the RA Central Electoral Commission's website has no number of the 2008 Presidential election voters. Therefore, this number was calculated by adding the ballot papers provided to the precinct electoral commissions, which, according to the RA Electoral Code, exceed the number of voters by 3%.

Table 7. Resident population, nationals with the right to vote and the number of voters according to Marzes

Residence	2007			2008			2012			2013			2015		
	Res. Pop. as of January 1	Total number of voters	Ratio of voters	Res. Pop. as of January 1.	Total number of voters (PEC ballots 97%)	Ratio of voters	Res. Pop. as of January 1	Total number of voters	Ratio of voters	Res. Pop. as of January 1	Total number of voters	Ratio of voters	Res. Pop. Ra NSS as of October 1	Total number of voters having referendum suffrage	Ratio of voters
Yerevan	1104900	751083	68%	1107800	745542	67%	1061000	814225	77%	1066300	824859	77%	1076500	845885	79%
Aragatsotn	140000	99238	71%	140500	102820	73%	133000	113690	85%	133000	114323	86%	129600	115383	89%
Ararat	275100	191832	70%	276500	189538	69%	260700	212317	81%	261400	213038	81%	259400	217788	84%
Armavir	280200	201463	72%	281600	202370	72%	266200	222641	84%	267100	224622	84%	265600	229562	86%
Gegharkunik	239600	173041	72%	240100	173558	72%	235400	185981	79%	235600	186456	79%	231900	187876	81%
Lori	282700	224029	79%	282000	222130	79%	235600	236441	100%	234700	237494	101%	226200	238048	105%
Kotayk	276200	210191	76%	277800	209229	75%	254600	231710	91%	255300	232594	91%	254700	235549	92%
Shirak	281300	212980	76%	281000	211169	75%	252100	228732	91%	251300	229265	91%	243200	230558	95%
Syunik	152900	105799	69%	152800	116400	76%	141800	121433	86%	141700	109384	77%	139500	109448	78%
Vayots Dzor	55800	45133	81%	55800	45570	82%	52400	47412	90%	52200	47227	90%	51100	47149	92%
Tavush	134200	104933	78%	134200	109694	82%	128600	108324	84%	128300	108560	85%	126300	109487	87%
Total	3222900	2319722	72%	3230100	2328020	72%	3021400	2522906	84%	3026900	2527822	84%	3004000	2566733	85%



Table 8. Vanadzor resident population, nationals with the right to vote, the number of voters pursuant to state and LSGB elections

Election	Resident Population (RA NSS)	Total number of voters (CES)	Ratio population between and voters	Number of voter turnout	Ratio of voter turnout according to number of voters
2005 Vanadzor LSGB elections	105500	101205	96%	47799	47%
2007 NA elections	105000	93414	89%	51224	55%
2008 RA Presidential elections	104800	93000	89%	60711	65%
2008 Vanadzor LSGB elections	104800	93600	89%	46197	49%
2012 RA NA elections	86200	96524	112%	51224	53%
2012 Vanadzor LSGB elections	86200	96248	112%	44540	46%
2013 RA Presidential elections	85700	96577	113%	51702	54%
2015 referendum	82400	96656	117%	36771	38%

Interestingly enough the data promulgated by the RA Police contained 242, 267 names, surnames and middle names, which are identically repeated throughout the republic more than once, totaling 600, 251 voters. Moreover, only in Yerevan the total number of voters with repeated names, surnames, and middle names amounts to 130,000. To outline the difference, it is worth mentioning that the numeric redundancies totals only 9000 in case of 239, 000 voters of Lori Marz.

HCA Vanadzor singled out the data of voters without registered addresses (See table 9).

Table 9. The number of voters without registered addresses according to Marzes

Marz	Number of voters without registered addresses
Aragatsotn	150
Ararat	228
Armavir	185
Gegharkunik	56
Kotayk	88
Lori	177
Shirak	128
Syunik	37
Vayots Dzor	44
Tavush	12
Yerevan	0
Total	1105

Besides, birthday dates in a number of voter data were missing. Moreover, according to birth year category, persons born prior to 1991 are included in this list, which is rather questionable (See table 10).

Table 10. The number of voters having no or incomplete birthday dates according to Marzes

Marz	Number of voters without birthday dates
Aragatsotn	1785 voters, the last one's birth year 1972
Ararat	5984 voters, the last one's birth year 1980
Armavir	6621 voters, the last one's birth year is 1985
Gegharkunik	3757 voters, the last one's birth year 1981
Kotayk	4467 voters, the last one's birth year 1975
Lori	2144 voters, the last one's birth year 1984
Shirak	2519 voters, the last one's birth year 1975
Syunik	1617 voters, the last one's birth year 1991
Vayots Dzor	515 voters, the last one's birth year 1984
Tavush	1486 voters, the last one's birth year 1979
Yerevan	6408 voters, the last one's birth year 1984
Total	37 303

Transparency International Anticorruption Center (TIAC) has also reported on inaccuracies and inconsistencies in the voter lists.³⁵ In response to a publication issued by TIAC on repetitions, cases on multiple voters registered under the same address and a number of nationals above the age of 100, the RA Police released a clarification reply whereby accepted that only 23 out of 167 voters above the age of 100 were alive. The RA Police explained the case of 500 voters registered under the same address with its incapacity to eliminate nationals, who are absent or have changed their place of residence, from registration on its own initiative, and in some cases citizens are registered under a common address since their actual place of residence is not fixed. However, as mentioned above, the voter lists contained nationals with unregistered addresses, which indicates that either the RA Police doesn't register them under other addresses or the explanation doesn't simply comply with reality. In terms of redundancy of voters' data, the RA Police disseminated a statement indicating that inaccuracies were not unveiled by checkups.³⁶

The RA Police has provided various explanations to the effect that the data of the RA NSS are not based on the RA State Population Register data and do not include the persons absent for over a year from the country, whereas, the RA Police is not entitled to eliminate

³⁵ "There are 9 addresses in Armenia where 100 voters are registered and another 13 with more than 100 voters" Gala, <http://galatv.am/hy/news/9-100-13-100/>

³⁶ CLARIFICATION (on the information disseminated by Executive Director of Transparency International Anticorruption Center Varuzhan Hokyanyan) RA Police, <http://www.police.am/news/view/%D5%BA161115.html>

the names of absent RA nationals from voters lists. The voter lists submitted by the RA Police are based on the RA State Population Register data, according to which 3, 302, 424 nationals were registered in the RA as of July 1, 2015.³⁷

If the data submitted by the RA NSS and RA State Population Register comply with reality means then at least 15% percent of nationals included in the RA voter lists reside outside of the Republic of Armenia and are hence denied the chance to vote despite their integration in the voter lists. Although electronic voting is only exercised for a limited group, among them voters who are on diplomatic service in diplomatic or consular representations of the Republic of Armenia or are employees in branches of Armenian-based corporations beyond borders as well as members of their families, residing abroad with them. However, their number is rather low (265 voters) but it displays an obvious discrimination against other citizens residing abroad.

With an aim to identify facts on voter impersonation in the name of absent voters, Citizen Observer Initiative launched "Oversee the Referendum" website,³⁸ where citizens could enter their data and specify whether they would be in the territory of the RA and partake in the vote. Through records of sequential numbers of voters on the voting day Citizen Observer Initiative spotted numerous cases of voter impersonation in the place of absent voters. In this regard, HCA Vanadzor also received an alert that Lori Marz community leaders possessed their community voter lists with passport and other relevant data and through intimidation and vote bribes instructed the precinct commission chairs to fill in voters' data and vote "yes" for them. The aforementioned alert was confirmed on the Voting Day by the unprecedented number of such revealed cases regarding which numerous mass media releases were circulated.

The inflation of voter lists and their possible manipulation have been repeatedly discussed by domestic and international observers and experts. Thus, with an aim to maximize public trust towards elections, publication of the signed voter lists is recommended enabling nationals to verify the participation of their contacts currently absent from Armenia and become confident in the honesty of the outcomes.

³⁷ The Police's preliminary "reviews" and the RA State Register's "desired" data. 3.302.424 voters are registered in the RA, <http://galatv.am/hy/anatylitcs/3-302-424/>

³⁸ "Oversee the Referendum" Citizen Observer Initiative, <http://hanraqve.com/>

Additionally, for the prevention of manipulations it is highly recommended to stipulate an order, whereby, the list of the RA nationals on long-term absence from the RA will be separated from the main voter lists. In the meantime, the exercise of suffrage right by the RA citizens, who are absent from the Republic, remains an urgent issue to be addressed. This implies ensuring of pre-election campaign oversight and voting opportunities.

Constitutional Amendments Campaign

On October 8, 2015 the RA President signed a decree on appointing the Referendum on December 6, 2015, and the day following it the official Referendum campaign was launched. It is noteworthy that the unofficial campaign of constitutional amendments had begun long before it. Back in the spring of 2014, the Constitutional Reforms Commission adjunct to the President of the RA had virtually commenced the constitutional amendments pre-campaign via submission of constitutional Concept Paper³⁹, while the launching of campaign against constitutional amendments dated September, 2014 began through the creation of "You will not pass it" civic initiative.

Pursuant to Article 21 (1) of the RA law on Referendum, "Those who are eligible for campaigning can create a referendum fund for the purpose of funding the referendum campaign." Provision 6 of the Article above forbids spending means not included in the fund during the campaign. The prohibition of fund creation on voluntary basis and spending means outside the fund framework poses legal ambiguity and the oversight of overall campaign funding remains vague.

According to the reference submitted by the Oversight and Audit Service of the CEC, 16 funds have been created for the campaign of constitutional amendments, where an overall 101, 070, 543, 8, AMD was deposited, 85, 988, 710 AMD of which was withdrawn to cover procurement of goods and services. The greatest amount deposited by the Republican Party of Armenia totaled 80, 899, 527, AMD, maximum 66, 729,098, AMD of which was withdrawn for expenditure costs. In general, political parties that campaigned in favor of constitutional campaign and established funds, including RPA, ARF, "Prosperous Armenia" Party, Social Democrat Hunchakian Party, possessed budgets of 90,834,727, AMD, out of which only 75, 890, 330 AMD was actually spent. In this regard it is noteworthy that Social Democrat Hunchakian Party deposited 95, 000, AMD and withdrew exactly as much.

Political parties campaigning against constitutional amendments, including ANC and "Heritage", deposited overall 7, 700, 816,8, AMD of which 7, 566, 380, was withdrawn. "Rule of Law" Party declared about joining the campaign against constitutional

³⁹ Discussion of Constitutional Amendments Concept Paper, RA Ministry of Justice, <http://moj.am/news/constreforms>

amendments and creating a fund, but no deposits were made. The remaining 9 funds were created by 8 NGOs and 1 physical entity. No deposits were made into 3 funds, while a total of 2, 535, 000, AMD was deposited in 6 of them of which 2,532, 000, AMD was withdrawn. It should be noted that the deposit and withdrawal amounts were exactly the same in the 5 funds above. In general, the official total amount of resources used in the campaign for constitutional amendments constituted the tenfold of those used for campaigning against it.

A series of press releases on the abuse of administrative resources were regularly submitted by Citizen Observer Initiative and HCA Vanadzor in the phase of constitutional campaign.

Focal trends and main violations of the campaign are enlisted in the report section below.

Awareness-raising on Constitutional Amendments and Debates

Awareness-raising actions on the contents of constitutional amendments were rather limited, and the public at large was deprived of its chance to receive comprehensive information regarding it. Namely, the Amendments Draft was made accessible only electronically.

According to Radio Liberty, the antagonists of constitutional amendments recalled that 500,000 copies of the Draft had been disseminated among public at large prior to 1995 Constitutional Referendum by the government's decree, which constitutes 4 voters per Draft copy. The RA Ministry of Justice reports Radio Liberty that 15, 400 free copies of the new Draft were distributed throughout Armenia in the run-up to amendments, which makes 165 voters per Draft copy.⁴⁰ By #1184 N decree⁴¹ of the RA Government, dated October 15, 2015, 1, 786, 759,900, AMD was allocated for the preparation and administration of 2015 constitutional amendments, 74, 36, 225, of which for publication costs, which excluded publication of the Draft.

In response to criticism regarding lack of awareness-raising publications, Deputy Chairman of the National Assembly of the Republic of Armenia, Hermine Naghdalyan (RPA), and Chairman of ARF Collegiate Headquarters MP Aghvan Vardanyan recommended

⁴⁰ RPA recommends getting familiar with the Constitutional Draft from brochures and electronically, <http://www.azatutyun.am/content/article/27382499.html>

⁴¹ #1184 N decree of the RA Government, <http://www.arlis.am/DocumentView.aspx?DocID=101039>

nationals to read their "Ayo" brochures without cover page.⁴² These statements simply suggest that ruling parties are not deemed independent and they view the Government's obligations in the context of their pro-constitutional campaign.

In "Ayo & Voch" ("Yes & No" in Armenian) TV show broadcast on ArmNews TV and the A1+ website, from November 13-December 2, 2015, two groups of the "yes" and "no" campaigners visited around the Marzes of Armenia presenting their dispositions on constitutional amendments.⁴³ NA RPA deputies Margarit Yesayan, Samvel Farmanyan, NA PA deputy Mikael Melkumyan, ARF member Artur Yeghiazaryan represented "yes" campaigners of northern front. Among "no" campaigners were "Hayazn" Party representative Armen Mkrtychyan, Narek Ayyazyan from "Free Democrats" party and "HAYQ" initiative member Vardan Khachatryan. Petros Makeyan, the leader of the "Democratic Motherland" Party, who was to be among "no" campaigners of northern front, refrained from participation since he found it irrelevant to conduct a campaign accompanied by unfamiliar fellows.⁴⁴ "Yes" campaigners of southern front were Member of Specialized Commission on Constitutional Amendments Hrayr Tovmasyan, Chairman of Armenian PR Association Arman Saghatelyan, NA RPA MPs Karine Achemyan and Vardan Ayyazyan. Among "No" campaigners were Chairperson of Public Opinion Research Center Tamara Gevorgyan, political actor Azat Arshakyan, activist Vaghinak Shushanyan, and NA MP Hrant Bagratyan.⁴⁵

Despite the great number of critiques, this show allowed identification of genuine public moods and true attitudes towards political activists. In an interview with A1+ show participant Vaghinak Shushanyan pointed out cases when some teachers admitted being pushed to participation in the show by their school principals, and the latter, in their turn, were forced by village heads. According to V. Shushanyan, voters were clearly directed, as they talked in favor of "yes" before cameras and "no" elsewhere.⁴⁶ Campaign in favor of constitutional amendments was quite negatively addressed in the internet and social networks, that is why, negative comments under campaign materials were quickly deleted.

⁴² See 35

⁴³ "Yes and No" live, <http://www.a1plus.am/1416915.html>

⁴⁴ Why did Opposition representative turn down "show"?, Zhoghovurd, <http://armlur.am/444728/>

⁴⁵ "Yes and No", participants share views in the run-up to the main talk show, <http://www.tert.am/am/news/2015/12/04/show/1864275>

⁴⁶ <http://www.1in.am/1783314.html>, <http://www.1in.am/1783039.html>

Although the RA law on Referendum prohibits promises during campaigns, numerous such cases were recorded within the scopes of the show. For instance, in the Town of Meghri, "Yes" front representative, MP Karine Achemyan, promised the residents to raise the issue of natural gas supply or to settle school property issue elsewhere. Yet, another "Yes" front representative, NA deputy Vardan Ayvazyan, suggested organizing a production workshop.⁴⁷ Giving promises during the campaign is prohibited by Paragraph 11(b) of Article 20 of the RA Law on Referendum and Paragraph 7 of Article 18 of the RA Electoral Code, and breaching those provisions entails administrative liability.

On November 14, 2015 RA Prime Minister Hovik Abrahamyan, RA Minister for Regional Administration Emergencies Armen Yeritzyan, and RA Minister of Urban Development Narek Sargsyan visited Aparan where "Yes and No" reality show shootings were undergoing. Besides, the Prime Minister interacted with the reality show participants and asked around if they were able to convince, stressing the necessity of reforms. RA Prime Minister Hovik Abrahamyan, Head of RPA's "Yes" campaign headquarters declared he had paid a visit to support residents, who suffered losses from the strong storm and rain the day before. However, it is worth noting that he never made visits in such cases before, therefore, it was an apparent campaign act and abuse of official position in the run-up to the Referendum.⁴⁸

On November 6, "Yerankyuni" political debate show on constitutional amendments was launched. The show was hosted by Armen Ashotyan, RA Minister of Education and Science, RPA Deputy Chairman, this first talk show was problematic in terms of unbiased promulgation of constitutional amendments.⁴⁹

Campaign in favor of Constitutional Amendments

As mentioned above, the Constitutional Amendments Campaign virtually began back in 2014, when the Concept Paper of Constitutional Amendments was being drafted. Upon the launching of official campaign RPA and ARFD began actively campaigning in favor of Constitutional Amendments, and although "Prosperous Armenia" had declared about

⁴⁷ Reality show, day 1. RPA again relied on election bribes , <http://hraparak.am/?p=94032&l=am%2F>

⁴⁸ H. Abrahamyan to "Yes" campaigners in Aparan, "Are you able to convince?", <http://www.a1plus.am/1417247.html>

⁴⁹ Armen Ashotyan's sensational "Erankyuni" footage available at <https://www.youtube.com/watch?v=DGPUuY8d7nM>

supporting “yes” campaign, it did not conduct active campaigning. “Yes” campaigners did not act from one front.

ARF Campaign Collegiate Headquarters was run by NA ARFD faction Secretary Aghvan Vardanyan.⁵⁰

High-rank state officials were enrolled in RPA’s Constitutional Referendum Campaign headquarters: RA Prime Minister Hovik Abrahamyan was appointed as Head of RPA’s Referendum Campaign headquarters, Vigen Sargsyan as Deputy Head of the headquarters and the Person in Charge of campaign. The following officials were appointed as Deputies to the Head of the Campaign Headquarters: Vahram Baghdasaryan, the RPA Parliamentary Faction Leader, Karen Karapetyan, Parliament Member from the RPA, Armen Yeritsyan, the RA Minister for Regional Administration and Emergencies, Hovhannes Hovsepyan, the Head of the Supervision Service of the RA President; and Levon Yolyan, the Deputy Head of the RA Chamber of Control. Marz governors/Marzpets/ were appointed as Coordinators of the all the Regional “Yes” Headquarters, while community mayors were appointed in the same post in many of the communities. Such immediate contribution by the state administration proves that Constitutional Amendments Campaign was pushed forward by the authorities very aggressively and hurriedly.

Although the RA law on Referendum does not prohibit conducting campaigns by authorities holding aforementioned political or discretionary positions and their enrollment in campaign headquarters is not deemed a breach of law, RA law on Referendum, however, does not in any way regulate the use of administrative resources. Therefore, the facts above may pose risks for the abuse of administrative resources and official powers regarding which numerous alerts were received during the campaign.

According to mass media publications, Marz governors convened village heads and obliged them to work actively for the “yes” vote.⁵¹ Rubik Abrahamyan, the Ararat Marz Governor, strictly instructed not only the village heads but also all the doctors and hospital directors of the Marz to work actively for the “yes” vote and threatened to fire in case of disobedience.⁵² Aravot daily reported that staff of the Malatia Medical Center, which

⁵⁰ ARF begins Marz visits, <http://armtimes.com/hy/read/73023>

⁵¹ They set amounts, <http://www.chi.am/index.cfm?objectid=7CE13620-72A6-11E5-81980EB7C0D21663>

⁵² Ararat Marzpet directed all of Marz’s physicians to vote “Yes”, “Chorrord Ishkhanutyun”, <http://armtimes.com/hy/read/75085>

belongs to Samvel Alexanyan, MP from the RPA, had been instructed by the administration to collect "yes" votes, namely, forms were distributed to be fill in 10 citizens' data.⁵³ As reported by Haykakan Zhamanak daily, Artak Sargsyan, another member of parliament from the RPA, owner of the SAS supermarket chain, had demanded the staff of his supermarket to secure "yes" votes each and to present the copies of eight voters' passports.⁵⁴

According to a report by "GALLA" TV, relevant people were actively compiling lists of citizens urging to give "yes" votes in Getq and Gharibja, Shirak Marz villages. Heads of the above villages notified that lists were compiled under Marzpet's order with a promise to provide gasification, however, it should be noted that the villages had consistently raised this issue throughout 20 years but tried to solve it only in the run-up to the referendum.⁵⁵

Similar alerts were also typical of schools and kindergartens, where "yes" votes were extorted by all possible means. HCA Vanadzor also received such alerts, whereby, the staff in one of the kindergartens based in Stepanavan, Lori Marz, were instructed to vote for "yes", to photograph the ballot and submit. As reported by the alert, the staff of the city's other institutions were also urged to vote directly justifying it by "Prime Minister's personal request to staff" statement.⁵⁶

On November 10, 2015, a footage titled "RA Armed Forces" was disseminated via "Say Yes" YouTube channel, where the new regulations on the RA Armed Forces were presented. The latter, according to the RA Minister of Defense in footage, would contribute to the country's security.⁵⁷

Although the amendments to the RA Law on Referendum dated 2005 allow political or discretionary position holders to conduct campaigns, RA Minister of Defense Seyran Ohanyan's participation in the campaign is virtually conceived as a direct instruction imposed on the armed forces and irrelevant manipulation of security playing cards pursuing political gains.⁵⁸ Moreover, in this regard Gagik Melikyan, a member of parliament from RPA, justified RA Minister of Defense Seyran Ohanyan's campaign terming it as an act by a

⁵³ Samvel Aleksanyan's employees were tasked to secure votes in favor of the referendum, <http://www.aravot.am/2015/11/08/626755/>

⁵⁴ "SAS" employees are forced to bring "Yes" ballots, "Haykakan Zhamanak", <http://www.epress.am/2015/11/19/«սաս»-իաշխատակիցներին-պարտադրում-ե.html>

⁵⁵ Lists being compiled in Shirak Marz villages. Marzpet claims that villagers' "Yes" refers to gasification and not the Constitution, <http://qalatv.am/hy/news/129276/>

⁵⁶ Alerts on election violations keep coming, <http://hcav.am/events/05-12-2015-01/>

⁵⁷ RA Armed Forces, "Say Yes", <https://www.youtube.com/watch?v=Uo6TGQxmEWw>

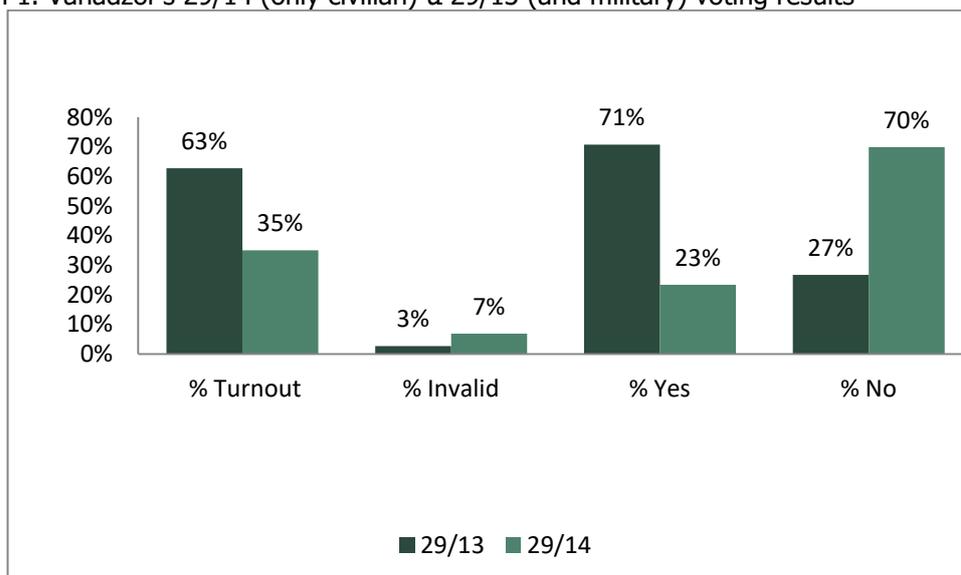
⁵⁸ Seyran Ohanyan joined Constitutionl Amendments Campaign, <http://www.azatutyun.am/content/article/27356494.html>



RA national. According to him, "Any serviceman, from soldier to General or Minister of Defense, is entitled to partake in the campaigns and enjoy the freedom of expression as a RA citizen." This statement not only points out the unacceptability of campaign by the RA Minister of Defense (irrespective of whether it was done on behalf of RA Citizen or Minister of Defense, though the footage contained Seyran Ohanyan's name and post), but also contradicts Article 5(b) of the RA Law on Referendum, which provides, "Members of the Constitutional Court and Judges, Prosecutors, Investigative Commission and National Security, officials of penitentiary institutions and military servicemen are prohibited to campaign."

Despite all claims, the actual difference in the voting results of citizens and servicemen speaks of imposed direction to ensure "yes" votes in the armed forces. Namely, the findings of observation carried out in 2 door-to-door precincts of Vanadzor clearly outline the fact of imposed turnout and voting by servicemen (See diagram 1). The recorded data suggest that voter turnout was 63% in #29/13 precinct, where the servicemen of "Duts" military unit in Vanadzor voted, while it was 35% in #29/14 precinct. The voting results in the aforementioned precincts are exactly opposite: if in case of #29/14 precinct 70% constituted "No" votes, then in # 29/13 precinct the ratio of "yes" and "no" votes were 71%, 23%, respectively.

Diagram 1. Vanadzor's 29/14 (only civilian) u 29/13 (and military) voting results



Besides, passing down undercover directives, Marz governors and community mayors stood out during their public speeches showing zealous confidence in the victory of "Yes" while excluding possible victory and even campaign of "No" front.

Namely, Syunik Marz Governor Surik Khachatryan assured journalists that his Marz would secure the highest percentage of “yes” votes in the referendum, and that he would determine the exact percentage.⁵⁹ Shirak Marz Governor Feliks Tsolakyan, Marzpets of Gegharkunik and Aragatsotn Rafik Grigoryan and Sargis Sahakyan also displayed assurance regarding the victory of “yes” votes.⁶⁰ Gagik Sargsyan, Mayor of Arinj community in Kotayk, notified that 80-90% of the villagers were going to vote in favor of the constitutional amendments as well as excluded creation of “No” headquarters in Arinj.⁶¹ During a meeting-debate organized by “Transparency International Anti-corruption Centre” NGO Meghri (Syunik Marz) Mayor Arshavir Hovhannisyan, “Yes” headquarters Chairman, declared that people do not need awareness or campaigning because he was the elected mayor and the residents of his community would vote the way he told them. After the aforementioned meeting 3 Meghri residents, who were enrolled as observers of Citizen Observer Initiative, refused to carry out observation on the day of Referendum.⁶²

The issue of illegal involvement of local self-governing authorities in the Referendum campaign was persistent in other communities, too. Particularly, on November 7 and 8, 2015, two residents from Vanadzor posted information on their Facebook page, which read that people, introducing themselves as employees of condominiums or municipality, visited their apartments, asked for state employees to “direct their votes”, wanted to verify how they would vote in order to work with “No” supporters.⁶³ One of the mentioned citizens made another post 2 days later, whereby, he/she was asked by the same person to reassure whether he/she was a 100% “Yes” supporter to have his/her data submitted, but when the citizen demanded 5000 AMD, the person made a note “Yes-money”.⁶⁴

By the way on November 7, 2015, in a talk with “Zhoghovurd” daily Vanadzor Mayor Samvel Darbinyan at first denied his involvement in the campaign bringing the arguments that mayors are not entitled to interfere in campaigns, but then told the journalist that “Vanadzor residents are all supporting “Yes” and that there are “No” supporters.”⁶⁵

⁵⁹ Surik Khachatryan is certain Syunik will provide the highest “Yes” rate, <http://www.azatutyun.am/content/article/27343063.html>

⁶⁰ Marzpets predict “Yes” in their Marzes during the Referendum , <http://armtimes.com/hy/read/73151>

⁶¹ Insults to Tsarukyan are forgotten in Kotayk, Village heads say “Yes”, <http://www.1in.am/1760043.html>

⁶² Use of Administrative Resources in Preparation of Referendum Summary, <http://transparency.am/hy/news/view/1170>

⁶³ <https://www.facebook.com/narine.kroyan?fref=nf>, <https://www.facebook.com/lilia.abrahamyan.9>

⁶⁴ <https://www.facebook.com/lilia.abrahamyan.9/posts/10153740604019824?pnref=story>

⁶⁵ All Vanadzor residents are in favor of “Yes” and none of them supports “No”, Mayor, Zhoghovurd Daily <http://armlur.am/441505/>

A great many alerts were received regarding cases of vote bribe promises and bribing of Commission members. According to a publication by Chorrord Ishkhanutyun daily, numerous alerts of promising vote bribes in the amount of 5000 AMD were received from various communities of Yerevan and Marzes, besides, "extra gift" mobile phones were distributed to the residents to photograph their "Yes" ballot. In the 8th and 9th districts of Nor Nork, several teams distributed vote bribes. In the Shengavit district of Yerevan, homes were visited by some representatives who tried to compile lists of "yes" voters. In the Malatia Sebastia district of Yerevan, telephones and food bags were promised for voting "yes" noting that "Irrespective of their participation "Yes" will win and they are simply gifts".⁶⁶

The Constitutional Amendments supporters failed to carry out their campaign through rallies, instead, they preferred behind the scenes and hall meetings with targeted audience. Such meetings were only made public after they were over if publicized at all. Educational establishments were mostly involved in such meetings.

Particularly on October 22, during the Academic Council's session Gagik Ghazinyan, Dean of Law Department of Yerevan State University and Gevorg Danielyan, Constitutional Law Chair in the same Department, who are also members of the Constitutional Reforms Commission adjunct to the President of the RA, presented the Constitutional Amendments Draft in warm colors, although the RA Law on Referendum prohibits campaigns by the personnel of educational establishments.⁶⁷ At the same time, "You will not pass it" civic initiative members wanted to advocate for "No" in Yerevan State University, but Rector Aram Simonyan announced that no one will be allowed from outside to enter his university and advocate "No".⁶⁸

On November 17 Gyumri Mayor Samvel Balasanyan held a meeting with the students of the city's educational institutions in the recently renovated Youth Palace of Gyumri, where he awarded the student with certificates, while conducting "yes" campaign. As reported by one of the students, some women from Municipality staff directed students to

⁶⁶ 5000 AMD is being promised for each vote, <http://www.aravot.am/2015/11/25/632333/>

⁶⁷ "You will not pass it" accuses YSU administration for launching illegal referendum campaign, <http://www.azatutyun.am/content/article/27321152.html>

⁶⁸ YSU Rector, " No one will be allowed from outside to enter university" , <http://www.azatutyun.am/content/article/27316749.html>

pose amendment-related questions to the Mayor, which served a good ground for “yes” campaign.⁶⁹

On November 21, “Heritage” Party Lori regional Youth Council member Gevorg Kotanjyan told 1in.am that currently Aram Simonyan and Gurgen Khachatryan, Rectors of Yerevan State University and Vanadzor State University, respectively, were conducting closed-door campaign at #3 secondary school with the university students, which was also confirmed by the students. The participants were disallowed to use recording gadgets. G. Kotanjyan attempted to attend the meeting in order to verify the acquired information, but he was not let in.⁷⁰ On November 25, RA Education and Science Minister Armen Ashotyan told journalists that campaigns cannot be deemed illegal, since the CEC has issued a list of halls, where “Yes” and “No” fronts can meet free of charge.⁷¹ It is noteworthy that the aforementioned list allows meetings in the above halls after 16:00pm, when the given meeting took place in the morning.

Numerous alerts on election bribes were also received during the rallies. In fact, RPA deputy General Seyran Saroyan did not refute cases of alleged election bribes in a conversation with news.am by stating, “Let’s assume vote-buying happens, isn’t it good for our people, this is a give and take process, which means it is necessitated. Even if they take money, they can get behind that curtain and vote as they want, can’t they?”⁷² On December 8, already after the Referendum, Erebuni Deputy Mher Sedrakyan told “Aravot” Daily regarding the alleged vote-buying in Erebuni administrative district, “I am not so active in our community, it is our community, we tackle things with residents beforehand and there is no need to be active. Now we simply direct and everything goes as we plan, and election bribes are simply rumors”.⁷³ According to the MP, there is no more a need for vote-buying, since issues are “settled” by simply one directive.

⁶⁹ „Yes” undercover campaign in Gyumri on the International Youth Day, <http://www.aravot.am/2015/11/18/630114/>

⁷⁰ Alert, Rectors of YSY and VSU are conducting campaign with students, <http://www.1in.am/1775810.html>

⁷¹ Minister of Education, attempts of illegal “No” campaigns are greater, <http://www.aravot.am/2015/11/25/632520/>

⁷² Is it bad? let people get some money Seyran Saroyan, <http://news.am/arm/news/296380.html>

⁷³ Mher Sedrakyan, “We settle everything with our people in advance” Hraparak, <http://www.aravot.am/2015/12/08/637213/>

Campaign against Constitutional Amendments

In September of 2014, "You will not pass it" civic initiative was created aiming to terminate the process of Constitutional Amendments.⁷⁴ The members of the initiative held meetings with various social-political group representatives attempting to unify forces and struggle against the constitutional amendments from a united front. As a result, on September 12, 2015 the initiative convened a forum, where the participating political parties, including NA ANC and Heritage factions, as well as a number of NGOs and civic initiatives founded "No" front of the constitutional amendments.⁷⁵ It is noteworthy that several hotels refused to provide a hall for the forum, which was qualified by the initiative members as the "order of the authorities".⁷⁶

On September 25, 2015 "You will not pass it" civic initiative and "No" front carried out its first rally and demonstrations in Gyumri, which were followed by a number of rallies in Yerevan. Some of the activists and journalists were obstructed during the rally in Gyumri by the bus driver who refused taking them to the rally location. Gyumri Dramatic theatre after Vardan Achemyan refused to provide electricity during the rally, undergoing in the vicinity of it, bringing an argument they had a previously planned event, however, it went as scheduled since the initiative members had all necessary equipment.⁷⁷

On October 5, 2015, when the Constitutional Amendments Draft was being voted in the Parliament, the initiative launched a march to the National Assembly building. At its gates clashes between the demonstrators and the police officials occurred and the latter prohibited putting up "No" posters on the NA's gates. As a result of the clashes 21 marchers were apprehended. The Police officials even attempted to apprehend NA MP Aram Manukyan.⁷⁸ A protocol was drawn up in relation to 8 apprehended persons under

⁷⁴ "You will not pass it" civic initiative against constitutional amendments was created, 7 or, <http://www.7or.am/am/news/view/74994/>

⁷⁵ "You will not pass it" initiates forum of „No" Front, <http://nopasaran.am/2015/09/10/s-t-p-անցկազմի-և-նախաձեռնում-է-ն՛ջ/>

"No" Front's statement , <http://nopasaran.am/2015/09/12/n՛ջ-h-ճակատի-հայտարարություն/>

⁷⁶ "You will not pass it" civic initiative claims "special" order was given not to provide them a hall , <http://www.azatutyun.am/content/article/27235223.html>

⁷⁷ "No" Front's first rally over, the next one scheduled for October 2 , <http://armtimes.com/hy/read/70879>

⁷⁸ Dozens of "You will not pass it" members were apprehended, <http://civilnet.am/2015/10/05/no-pasaran-members-detained/#.VnvT4raLRMw>

Article 180.1(11) of the RA Code on Administrative Offences (On Violating the Order of Holding Rallies, Meetings, Processions, and Demonstrations).⁷⁹

“You will not pass it” civic initiative and “No” front conducted campaigns not only via rallies, but also social networks: relevant groups were set up on Facebook, and other websites were created where interviews, ads, statements and other campaign materials were posted.⁸⁰ The initiative members tried to display their dispositions in public places via “No” graffiti in the streets, however, such measures were impeded by the Police. Four initiative members Artur Minasyan, Hrayr Manukyan, Karpis Pashoyan, and Hayk Avetikyan, who were going to do “No” graffiti in different areas of Yerevan for public awareness on the rally scheduled for October 2, were apprehended to the Central Police department on the night September 28-29.⁸¹ In the evening of September 29, initiative member Vardan Harutyunyan was apprehended from Mashtots park, who was also trying to do “No” graffiti in the area of the park.⁸² Protocols on administrative offences were filed against them.

“You will not pass it” had also scheduled a Youth Forum in the Double Tree by Hilton hotel for November 30, however, the hotel broke previously reached arrangement, and refused to provide a hall, as a result of which the Forum did not take place. The initiative qualified the occurrence as directed by the authorities, whereby, their right to equal campaigning opportunity was breached.⁸³

“No” Front’s concluding rally took place in the Freedom Square on December 3, which was followed by a march before the official closing of campaigns.⁸⁴ Gyumri ANC member Vahagn Khachatryan informed that upon receiving a phone call their minibus driver asked them out half way to Yerevan, stating he felt unwell and could not continue the route.⁸⁵ The Police also restricted entry to the Freedom Square through inspections and checkups of bag of those who wanted to go in. A young man was apprehended for refusing to open his backpack.⁸⁶

⁷⁹ 21 citizens released, next rally scheduled for October 30, <http://armtimes.com/hy/read/71414>

⁸⁰ <http://voch.am/>, <https://www.facebook.com/%D5%88%D5%89No-161825480821197/?fref=ts>, <http://nopasaran.am/>, <https://www.facebook.com/cheganckacni/?fref=ts>

⁸¹ 4 activists of “You will not pass it” initiative were apprehended, they are now free, <http://armtimes.com/hy/read/71049>

⁸² “You will not pass it” movement participant Vardan Harutyunyan was apprehended, <http://news.am/arm/news/288378.html>

⁸³ Youth Forum of „No” won’t be held, the Double Tree by Hilton broke the arrangement, <http://www.aravot.am/2015/11/27/633442/>

⁸⁴ We have drafted a winning struggle program, Levon Zurabyan, <http://armtimes.com/hy/read/75242>

⁸⁵ After a phone call Gyumri minibus driver left Yerevan going demonstrators half way, <http://www.aravot.am/2015/12/03/635434/>

⁸⁶ Young man taken to the Police Department for refusing to open his backpack before the rally, <http://www.a1plus.am/1422062.html>

Boycott of Constitutional Amendments

On October 12, 2015 an announcement was made about the creation of Unified Headquarters by the Opposition and Political Board of New Armenia Public Salvation Front. Representatives and members of "Heritage" party, Founding Parliament, "Stand Up Armenia" civic initiative, "Democratic Motherland" Party, Union of Political Scientists of Armenia were enrolled in the composition of the Political Board. Jirayr Sefilyan was appointed as Chairman of the Unified Opposition Headquarters. Unlike "No" Front, which was urging citizens to go to polling stations and vote "No", "New Armenia" chose to boycott the process of constitutional amendments aiming to eliminate Serzh Sargsyan and his regime through civil disobedience, to avert the adoption of the new Constitution and form a transitional government that enjoys public trust.⁸⁷

New Armenia Public Salvation Front has held a number of rallies in the Marzes of the Republic and Yerevan urging citizens to join the nationwide movement at the Republic Square on December 1, which aims to remove the ruling regime. The Front's representatives and participants of the rallies encountered numerous impediments during their campaigns. Namely, on the night of November 1 the poster which read "No to the criminal regime's new constitution", was stolen from the wall of Founding Parliament Gyumri office.⁸⁸ On November 4 the police in Vanadzor removed the participants of New Armenia's march from the roadway explaining that the march restricted other citizens' right to freedom of movement and adding they had not been notified about the demonstration.⁸⁹ The police officials contacted Smbat Barseghyan-participant of the demonstration held in Vanadzor on November 5-verified his current place of residence and summoned him to the Police station.⁹⁰ On November 5, at first Kotayk Marz Buzhakan village municipality refused to provide electricity for the loudspeakers of "New Armenia" front's representatives justifying that they were not authorized to support the rally, but later agreed to provide it.⁹¹ However, the rally did not take place due to lack of participants. This, according to Founding Parliament member Pavel Manukyan, resulted from the fear atmosphere

⁸⁷ "New Armenia" against Constitutional Amendments, <http://civilnet.am/2015/10/12/new-armenia-salvation-front-statement/#.VnvX2raLRMw>

⁸⁸ "New Armenia" front's campaign poster was stolen in Gyumri, <http://himnadir.am/qjnljphnlf-hwuh2nuwltl-tlu-lnp-hwjuuuw/>

⁸⁹ Police officials jostle with demonstrators in Vanadzor, <http://www.aravot.am/2015/11/04/625591/>

⁹⁰ Police pursuing "No" campaign participant young man, <http://armtimes.com/hy/read/73360>

⁹¹ Village municipality does not provide electricity to „New Armenia“, <http://www.a1plus.am/1415457.html> , „They entered the building, put up the poster, turned on the electricity“ Mayor is furious over „New Armenia“, <http://www.a1plus.am/1415609.html>

prevailing in the village.⁹² On November 12, 2015, New Armenia Public Salvation Front conducted awareness-raising campaign in Karakert village of Armavir Marz, but the road to the village was covered with cement bags, which was deemed by the Front representatives as an impediment for their movement and campaign.⁹³ On top of all this, Jirayr Sefilyan was summoned to the RA Investigative Commission for interrogation on November 11, 2015 regarding the criminal case filed earlier that year. The latter qualified the filing of the criminal case, failure to stop the case, and initiation of investigative actions in the run-up to the Referendum as a political persecution.⁹⁴ On November 23, 2015 police officials visited the apartment of New Armenia Public Salvation Front member Armen Mikaelyan's parents. According to the press release disseminated by "New Armenia", the visit was meant to keep people away from their intentions to struggle.⁹⁵ The Police refuted that the visit was linked to Armen Mikaelyan's political beliefs.⁹⁶ In November some incidents related to Nanor Barseghyan- wife of Jirayr Sefilyan- were recorded: at first her car was damaged, specifically, the car tire was deflated, then she was pursued by a car with tinted windows, after which she was attacked and her bag was stolen. This was qualified as a measure of restraint in the publication by New Armenia Public Salvation Front.⁹⁷ On November 27, Vardenis Office representative, Martiros Hakobyan, notified that anyone, he is meeting with, is being intimidated urging them keep away from him. He believes that these cases of intimidation were carried out under NSS's order via Deputy Head of Gavar Police Department.⁹⁸

On December 1, 2015, New Armenia's rally began in the Freedom Square, which was followed by a demonstration and later a 24-7 sit-down strike. A number of incidents were recorded during these actions. Firstly, Yerevan Municipality prohibited putting up tents in the Freedom Square making a reference to the note of the RA Ministry of Culture.⁹⁹ Numerous alerts were recorded, whereby, the police obstructed citizens traveling to Yerevan from different regions. According to a publication, Artak Yeghoyan, head of "King Deluxe" LCC based in Abovyan, declared that traffic was suspended out of security

⁹² Public Salvation Front's rally did not take place, <http://www.a1plus.am/1415482.html>

⁹³ Regime to block the main road of Karakert to cause obstruction in Armavir Marz, „New Armenia“, <http://www.1in.am/1767480.html>

⁹⁴ Jirayr Sefilyan kept silent during the interrogation, <http://www.a1plus.am/1416551.html>

⁹⁵ Police continues attempts of psychological persecution against New Armenia Public Salvation Front members, <http://www.aravot.am/2015/11/23/631786/>

⁹⁶ RA Police to New Armenia. We urge you refrain from ungrounded accusations, <http://www.aravot.am/2015/11/24/632053/>

⁹⁷ „New Armenia“, Jirayr Sefilyan's wife to become a regular target for attacks, <http://www.aravot.am/2015/11/26/633050/>

⁹⁸ Vardenis Office representative. They began to intimidate my acquaintances, <http://www.a1plus.am/1420518.html>

⁹⁹ Municipality prohibits putting up tents in the Freedom Square, <http://armtimes.com/hy/read/75035>

measures and by the police order, however, later in the day the company notified the information did not comply with reality and that traffic was stopped by their own initiative due to technical issues.¹⁰⁰ HCA Vanadzor received alerts that at first attempts were made to bribe drivers of two of the three cars of Yerevan-Vanadzor route, then they were disallowed to head for Yerevan, and were threatened with deprivation of their driver's licenses. Some obstacles on Vanadzor-Yerevan route were also encountered by the free busses provided by New Armenia Front.¹⁰¹ According to an alert received by "New Armenia" Front, in the town of Yeghegnadzor the Police obstructed the procession of cars heading for Yerevan. The operation of public transport minibuses was discontinued.¹⁰² Aram Hakobyan, Gyumri Branch Leader for the Founding Parliament, reported minibus drivers refusing to take them to Yerevan.¹⁰³ The Police released a response-statement by refuting the obstruction of traffic by the Police.¹⁰⁴

Before the demonstration the police officers apprehended Gevorg Safaryan, member of the Founding Parliament, on the grounds that he refused to unzip his shirt, when they wanted to administer a checkup.¹⁰⁵ Mikayel Nahapetyan and Smbat Barseghyan were also subjected to apprehension. Later in the day they were all set free. The police informed that 2 members of the Founding Parliament were taken to the police station on suspicion of breaching demonstration participants' duties under the RA Law on the Freedom of Assembly. While Mikayel Nahapetyan, whose construction helmet with "No" note had been taken away by the Police, was apprehended for clarifications.¹⁰⁶ During the march the demonstrators deviated from previously scheduled route and went to Melik Adamyan Street, where "Heritage" party head Raffi Hovhannisian tried to lay flowers near the RPA

¹⁰⁰ Traffic to Yerevan has been suspended by our initiative, King Deluxe <http://armtimes.com/hy/read/75037>

¹⁰¹ Urgent: those from Vanadzor who wanted to participate in the rally were stranded half-way, drivers were threatened with deprivation of their driver's licenses, <http://hcav.am/events/01-12-2015-02-2/>

¹⁰² The Police obstructs procession of citizens from Marzes to Yerevan, "New Armenia" <http://civilnet.am/2015/12/01/new-armenia-alarms/#.Vnvd5baLRMw>

¹⁰³ Demonstrators from Gyumri do not reach Yerevan. Drivers are ubiquitously reluctant to take them, <http://www.aravot.am/2015/12/01/634548/>

¹⁰⁴ Police denies. Police denies. Traffic on Republic's roads operates according to general schedule", <http://www.aravot.am/2015/12/01/634561/>

¹⁰⁵ Apprehended Gevorg Safaryan and Smbat Barseghyan were set free, <http://armtimes.com/hy/read/75052>

¹⁰⁶ Citizen taken to the police station from the vicinity of Freedom Square was freed, <http://www.azatutyun.am/archive/news/20151201/2031/2031.html?id=27400753>

office, but the Police did not allow it.¹⁰⁷ A dispute regarding loudspeakers occurred between the demonstrators and the Police, since the latter did not allow their transportation.¹⁰⁸

On December 2, 2015 three individuals approached the truck belonging to "New Armenia" Front members on which they were transporting necessities of the sit-in strike to the Freedom Square and damaged the cooling system.¹⁰⁹ The police official, who had apprehended Gevorg Safaryan the previous day, exerted pressures against him in the Freedom Square on the same day. Later another 2 police officials joined him trying to take Gevorg Safaryan, but people in the square intervened and did not allow it.¹¹⁰ Regarding the incident, RA Police Chief Vladimir Gasparyan applied to the RA Prosecutor General Gevorg Kostanyan to verify the authenticity of disseminated information and prepare materials.¹¹¹

On December 4 the Police confiscated 4 tables belonging to "New Armenia" rally participants and apprehended the Front member Gagik Yeghiazaryan.¹¹² Chairman of the Founding Parliament Garegin Chugaszyan declared that the Police had persecuted their supporters from Vanadzor Gagik Yeganyan and Samvel Makaryan, visited their apartments, summoned them to the Police department, as well as from December 1 another their adherent in Vanadzor Zhanna Zhamharyan was chased by a car.¹¹³ HCA Vanadzor also received alerts on these persecution cases.¹¹⁴ Jirayr Sefilyan asked the assembly participants to put up tents but the Police did not allow it.¹¹⁵ RA Minister of Culture Hasmik Poghosyan replied to the journalists' question that putting up tents are prohibited in the Freedom Square since the Opera House building walls and monuments around it are being damaged.¹¹⁶ Upon the beginning of the demonstration the Police blocked the protesters' way requiring information on the route. The latter first refused to answer but later notified they were going to the RA Central Electoral Commission and then return Freedom of Square. Receiving necessary route information the Police unblocked the road.¹¹⁷

¹⁰⁷ Raffi Hovhannisian is trying to lay flowers near the RPA office, police has formed a wall, <http://mamul.am/am/news/76105>

¹⁰⁸ Demonstrators are on Republican street, police are obstructing the car with equipment, <http://news.am/arm/news/299431.html>

¹⁰⁹ Car "radiator" of demonstrators gathered in the Freedom Square has been damaged <http://armtimes.com/hy/read/75132>

¹¹⁰ Avetisyan, "Alleged General claims Gevorg Safaryan to have sworn at a police official", <http://www.aravot.am/2015/12/02/635002/>

¹¹¹ Vladimir Gasparyan sent the application to SIS, Prosecutor's office, <http://www.a1plus.am/1422206.html>

¹¹² Police to have confiscated 4 tables belonging to „New Armenia” Front members, <http://www.lragir.am/index/arm/0/country/view/124400>

¹¹³ "New Armenia" members are being chased, Garegin Chugaszyan, <http://www.1in.am/1786988.html>

¹¹⁴ Participants of Assembly in Liberty Square Still Face Intimidation, <http://hcav.am/events/04-12-2015-07/>

¹¹⁵ Again tent hustles in the Freedom Square, <http://www.aravot.am/2015/12/04/635875/>

¹¹⁶ Minister of culture. "They take the chance to spoil the Freedom Square monuments", <http://www.aravot.am/2015/12/04/635645/>

¹¹⁷ "Revolution started, people come out to streets". protest march continues, <http://www.aravot.am/2015/12/04/635888/>

On December 5 Yerkrpah Volunteer Union members headed by the Gyumri office Chairman Yura Aleksanyan attacked the sit-in strike participants. One of them approached freedom fighter Yura Atoyan and verified if he was the other day's "Turk" and spat in his face, while another member kicked Yura Atoyan in the chest. One of the strike participants Areg Kyureghyan (political prisoner Hayk Kyureghyan's brother) attempted to protect Yura Atoyan while kicking him back. The Police apprehended the attackers and Areg Kyureghyan, while the attacked Yura Atoyan was not summoned to the Police station.¹¹⁸ RA NA deputy from RPA Seyran Saroyan justified the attack explaining that he should not have talked about "Nation's General" Manvel Grigoryan.¹¹⁹

Delegitimization of Constitutional Amendments

Considering that participation in the Referendum indicates legitimization of falsifications in the country's current situation, which is marred by the absence of constitutional order and consistent election frauds, a group of citizens have initiated delegitimization of constitutional amendments and applied to the RA Police Chief, Chairman of CEC and Head of their Regional Passport Division of the Police to have their names eliminated from voter lists.¹²⁰ The Police notified they were not authorized to remove names from the voters register on the basis of the person's application.¹²¹ Some of these nationals went to polling stations on the day of voting and crossed their names off the voter lists.¹²²

¹¹⁸ Attack and provocation in the Freedom Square, <http://www.lragir.am/index/arm/0/country/view/124448>

¹¹⁹ Seyran Saroyan. "Back and Forth Swearing and hustles" Aravot, <http://www.aravot.am/2015/12/08/637409/>

¹²⁰ An offer of delegitimization of falsified elections to the RA citizens , <http://www.aravot.am/2015/11/26/632777/>

¹²¹ The Police refuse to remove the names of boycotting citizens from voter lists, <http://armtimes.com/hy/read/74953>

¹²² Process of Constitutional Referendum, <http://civilnet.am/2015/12/06/constitutional-referendum-online-update/#.VnuHz7aLRMw>, <http://www.epress.am/2015/12/06/Երևանի-քաղաքացի-ստիպված-ընդեց-իր-անուն.html>

Observation of Voting Day in Lori Marz

The data on violations recorded on the Referendum Day were collected at the "Citizen Observer" initiative call center and posted on the alert map, which was accompanied with relevant measures undertaken by the initiative.¹²³ Alerts received by "Citizen Observer" are summed up in the initiative's report.¹²⁴

In the meantime, HCA Vanadzor also received alerts regarding which the organization submitted reports to relevant authorities and disseminated statements. The alerts directly received by the organization and measures undertaken regarding them are presented below in the current report.

In addition to a number of recorded violations, the obstruction of the observers' mission was unprecedented on the Voting day. With the launching of the Voting day, the observers of HCA Vanadzor and other member organizations of "Citizen Observer" initiative were prohibited to look up and record serial numbers from the signed voter lists and pose identification verifying questions to the voters. Tigran Papanyan, Chairman of #30 Territorial Election Commission visited a number of Vanadzor-based election precincts and threatened to arrest observers in case they recorded the serial numbers of voters. HCA Vanadzor issued a clarification regarding this violation, whereby, the voter lists, including the serial numbers of voters, are posted in polling stations and are made accessible to everyone, and observers have the right to freely access and get familiar with the electoral documents possessed by the electoral commission including signed voter lists.¹²⁵

During the day of Referendum, especially to the end of voting, intimidation and pressures were applied against a great number of observers by relatives and employers, attempts of vote-buying, removing observers from the precincts and exerting psychological pressures against them were recorded along with other ways of obstructing observers' mission. For instance, the observers from #30/19 and # 32/35 precincts were instructed by their employers to go voting. The observer from #32/54 was pushed to leave the precinct through pressures. The observer of #31/6 was known by many in the precinct and was therefore subjected to pressures. The latter was moved to another precinct. In #29/36 and

¹²³ RA Constitutional Amendments Referendum, "Citizen Observer" initiative, <http://transparency.am/elections/2015-12-06/>

¹²⁴ Final Report: Observation Mission for the Constitutional Amendments Referendum of the Republic of Armenia on December 6, 2015, Citizen observer Initiative, <http://transparency.am/en/publications/view/119/?tag=elections>

¹²⁵ Clarification by HCA Vanadzor, <http://hcav.am/events/06-12-2015-033/>

#30/31 precincts attempts to exercise pressures against the observers through relatives were made aiming to prevent them from recording violations and impacting on the process. As a result, #30/31 precinct observer was also relocated. In #29/26 and #32/32 precincts psychological pressure was applied against observers aiming to discharge them by all means. In #31/7 precinct the person, having voted the second time, attempted to photograph the observer, who had voiced about it. This incident intimidated the observer. In the presence of all the Commission members and voters the Commission Chairman of #29/11 precinct told HCAV's observer, "Their party is the nastiest one along with their chairman" meaning the Organization represented by the observer and its head Artur Sakunts.

Numerous cases and violations of voting order, namely, breach of confidential voting, open voting, open ballot box, violation of the protocol of rotating functions among commission members by a draw of lots, and others were recorded in the observed precincts. For instance, in #32/1 precinct the voters put their ballots into the envelopes outside the voting booth. In #30/31 precinct there was a mirror-like surface behind the voting booth which made the voting visible. In #32/66 precinct the ballot box was open; it was only sealed after the observer's interference. In #30/35 two cases were recorded when the voters' signatures were fixed in the voter list, but the Commission member's seal was missing. In #30/28 precinct one of the Commission members did not shift by a draw of lots explaining it by bad eyesight. In some of the precincts issues related to accessibility and equipment were recorded. #31/43 precinct was located on the second floor, there was no ramp in #31/47 polling station, and #30/35 precinct was not accessible for persons with disabilities. In #30/12 precinct was not adequately equipped, but due to the observer's interference it was fixed.

HCA Vanadzor has recorded cases of ballot box stuffing, when the observer witnessed ballot box being stuffed with ballots; there was also incompliance between the number of signed voters and ballots in the ballot box (for instance #29/25 and #32/32 precincts). Regarding the fact of ballot box stuffing in #29/25 precinct of Spitak, HCA Vanadzor reported on crime, a criminal case was initiated within the frames of which the observer was interrogated.

Numerous cases and attempts of transportation of voter groups, multiple voting, voter impersonation, irregularities in voter lists, overcrowding of voters, presence of unauthorized persons in the precincts, direction of voters, breach of vote count procedure. For example, "GAZelle" car with 0471L state number transported the voters to #29/8 precinct, which was arranged by condominium head Bakhshik Pluzyan. In that area several "GAZelle" cars were noticed.

Cases and attempts of multiple voting were recorded in #29/8, 32/54 and in #31/7, 31/47 precincts, respectively. In #30/32 voter impersonation in the place of another voter was recorded, and the latter was told by the commission member he/she could not vote because of it. In # 29/43 precinct an attempt to vote by the use of a person's passport data was made.

HCAV's lawyer, who was voting in #30/21 precinct, found out that voter impersonation in the place of her family members had taken place. The organization's lawyer informed the Chairman of PEC about it, but the latter rejected to undertake any measures or record the violation. The organization's lawyer submitted an alert to relevant Territorial Election Commission and the Police.

On December 6, 2015 a criminal case was filed at the Lori Regional Department of the RA Investigative Committee under Article 153 of the RA Criminal Code.

On January 15, 2015 the RA Investigative Committee released a statement, according to which, the aforementioned alert referred to voter impersonation in the place of others and resulted from misunderstanding.

Deeming the proceedings of the criminal case over, the relevant department of the Investigative Committee took a decision to terminate the criminal case. Later, a statement regarding the incident and results of the conducted investigation was disseminated by the RA Investigative Committee, which reads, "... the reporting person confirmed that the alert on voter impersonation in the place of her family members was a misunderstanding".

The analysis of the statement indicates that the agency responsible for the investigation came to this conclusion based only on the interrogation data of the reporting person and witnesses involved. According to the statement, the agency responsible for the investigation did not initiate any other investigative actions, but the interrogation of the

mentioned persons. Namely, no checkup of passport data compliance and handwriting analysis, or other investigative measures were administered.

Measures, undertaken within the framework of the criminal case investigation, were not directed to the revelation of the crimes, perpetrator of the crime and subjecting the latter to liability.

In fact, during the whole duration of the preliminary investigation S. Soghomonyan never confirmed the fact that alert submitted by her was a misunderstanding consequence.

Moreover, in the testimonies provided by her during the preliminary investigation S. Soghomonyan repeatedly mentioned upon submitting the report she was certain her family members had not appeared in the precinct and voted prior to that moment. To the question of the agency responsible for the investigation what measured she had undertaken to verify the alert raised by her, she replied that as an observer she was not entitled to clarify the voter impersonation in the place of others, moreover, the observer fully carried out her obligations by notifying the PEC Chairman about the violation recorded by her.

Moreover, in this case the agency responsible for the investigation should have identified whether or not S. Soghomonyan's family members had participated in the voting. According to the information released by the Investigative Committee, this is nothing more than an interrogation of the reporting person and witnesses.

In #31/7 precinct the voter lists contained unidentified persons registered in some of the voters' addresses. In #31/59 precinct multiple people assisted the voters and did not leave the area, unauthorized persons were also present in # 30/35 precinct, who oversaw the voting process. The proxies directed the voters in # 30/6, 30/10 and 30/12 precincts.

In #30/6 precinct the RPA's proxy had a copybook at hand, where he/she took notes leaving the precinct regularly after which a new flow of voters was recorded. In # 30/27, 29/8, 30/24, 32/53 precincts there was overcrowding: both in the voting room and within 50 meters outside of the precinct. In #30/27 precinct the Commission Chair explained the gathering of voters by the cold weather outside. In #30/24 the Commission Chair did not undertake any measures to disperse overcrowding. #29/11 precinct observer noticed 3 "No" ballots, which the Commission Chair put on the "Yes" ballots, later a dozen of "No"

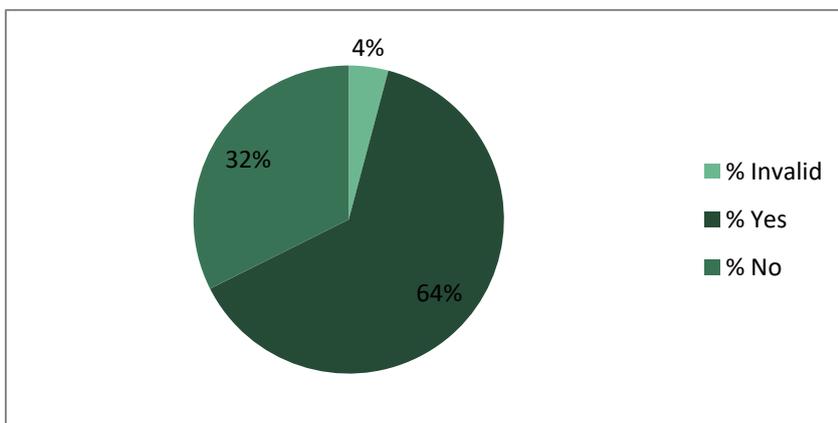
ballots lying on “Yes” ballots were claimed invalid, when it was clear that “no” was taking the lead.

In general, the unprecedented number of violations recorded and alerts received on the day of Referendum testifies that the PECs were tasked to do their best to ensure necessary voter turnout to pass constitutional amendments, and voter impersonation in the place of voters was administered by them using personal data at their disposal or made up ones.

Analysis of Voting Results

According to the RA law on Referendum, Draft submitted to referendum is considered as adopted if more than half of the voters voted for it, but not less than one fourth of the citizens included in the lists. Pursuant to the concluding protocol of the Central Electoral Commission, 1302368 voters participated in the Constitutional Referendum, of which 825292 (64%) voted in favor of the constitutional amendments, which constitutes more than one third of voters having the right to suffrage.

Diagram 2. Referendum results



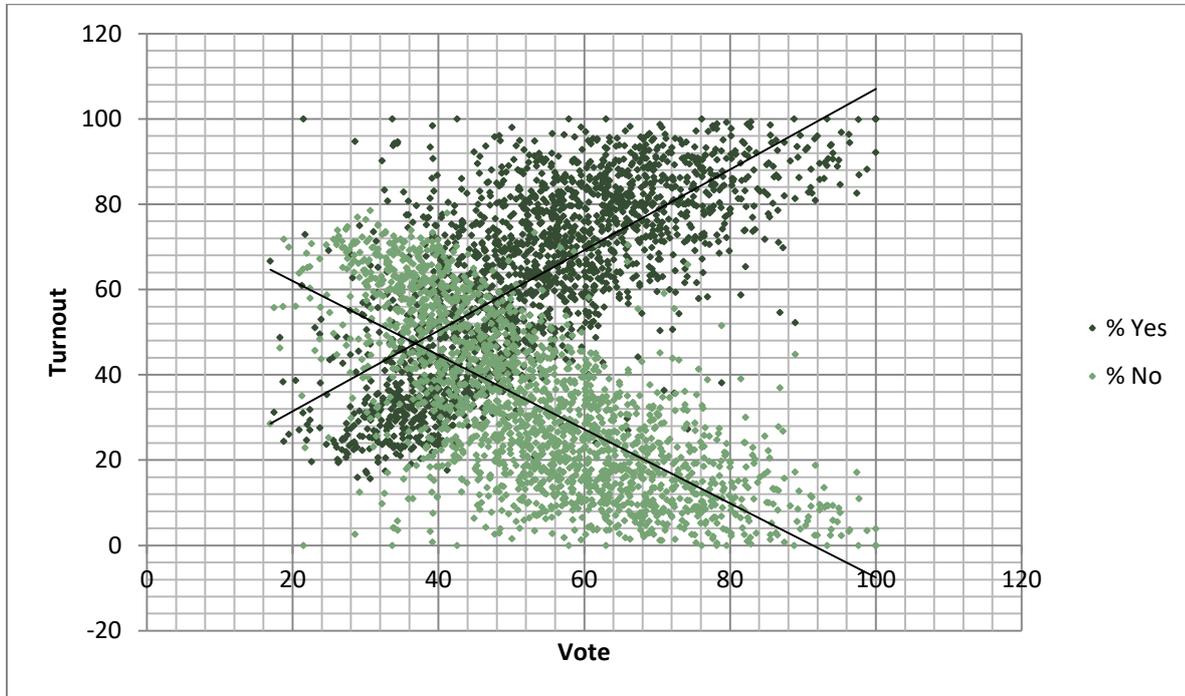
The concerns in the preparation stage of the voting about voter impersonation in the place of absent voters and conduction of the constitutional amendments at any cost were grounded by unprecedented number of alerts on excessive ballot box stuffing and voter impersonation in the place of absent voters. Numerous alerts were recorded especially in the City of Yerevan regarding cases of multiple voting through manipulation of additional voter lists. Overall 19 082 voters were included in additional voter lists.

Both after the 2013 Presidential Elections and the sum-up of this voting a number of structures and experts presented the findings of their analyses, according to which, the voting results have been artificially inflated and are not trustworthy.¹²⁶ The studies indicate there is clear-cut pattern, pursuant to which, with the increase of voter turnout, the number of votes in favor of the constitutional amendments also grew disproportionately.

¹²⁶ Statistical Analysis of the RA Constitutional Amendments Referendum, "Union of Informed Citizens" <http://uicarmenia.org/?p=1249>
 Constitutional referendum in Armenia, Roman Udot, <http://romanik.livejournal.com/>
 Armenia's (Rigged) Constitutional Referendum, David Grigoryan <http://www.atlanticcouncil.org/blogs/new-atlanticist/armenia-s-rigged-constitutional-referendum>

This means in a real and free voting situation, the voters have similar conduct and turnout increase does not imply percentage difference, while, in case of artificial inflation, the proportion of votes alters.

Diagram 3. Ratio of voter turnout and actual voting results



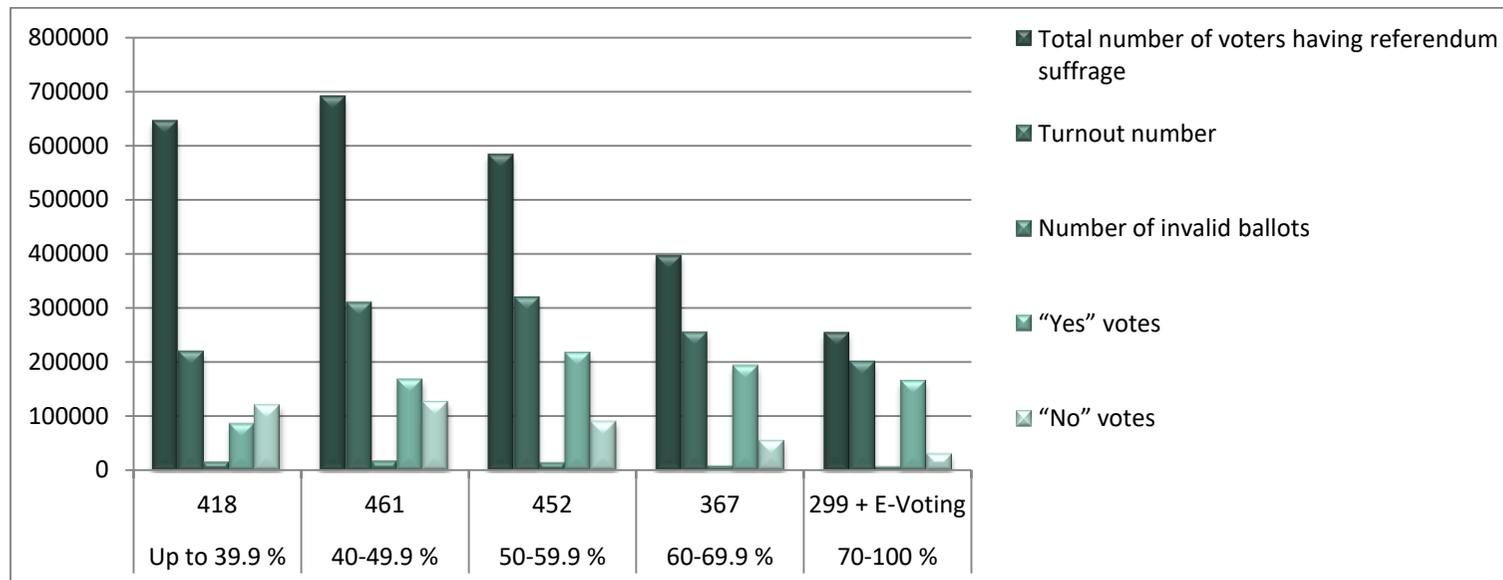
Disproportionate change in the ratio of votes becomes obvious in separate percentage groups of turnout. It is clear that in case of turnout exceeding the minimum turnout rate, the ratio of votes is changed in favor of "Yes", moreover, the higher the turnout rate, the greater the difference of votes is. This fact indicates large-scale ballot box stuffing.

Particularly, if in case of up to 40% voter turnout, "against" votes constitute 55% and "for" votes become 39%, then in the range of 40-50% the ratio is changed into opposite: 54% "for" and 41% "against". In the 50-60% range of turnout the "no" votes become 28%. In the 60-70% range, "against" votes constitute 22% and in the range of 70-100%, they constitute only 15%. (See table 11 and diagram 4)

Table 11. Turnout percentage groups

Turnout	Number of precincts	Total number of voters having referendum suffrage	Turnout number	Number of invalid ballots	% Invalid	"Yes" votes	% Yes	"No" votes	% No
Up to 39.9%	418	644220	219546	13313	6%	85890	39%	119901	55%
40-49.9%	461	689637	309150	15322	5%	167138	54%	126147	41%
50-59.9%	452	582599	318526	12064	4%	215990	68%	89887	28%
60-69.9%	367	396249	254576	7093	3%	192124	75%	55006	22%
70-100%	299 + e-vote	254293	200815	5643	3%	164379	82%	30627	15%
Total	1997+1	2566998	1302613	53435	4%	825521	63%	421568	32%

Diagram 4. Turnout percentage groups

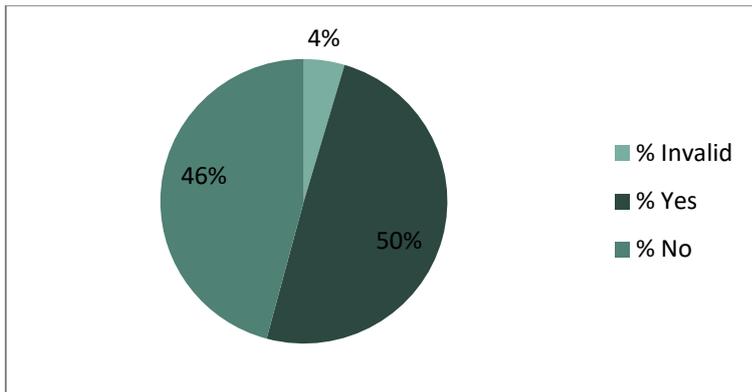


The publications of our partner organizations regarding the voting results clearly show their falsification. As an additional argument to the same statement, HCA Vanadzor has conducted a comparative analysis of election results in Lori Marz, which allows assessing the difference of votes in the observed and unobserved precincts as well as urban and rural communities, thereby, assessing the efficiency of observation mission from the viewpoint of preventing violations and actual results of voting.

According to official data, 46% of the voters, who have the right to vote at a referendum, have participated in the voting in Lori Marz, of which 56% voted "for" the constitutional amendments and 39% "against" it. Overall, the voter turnout in the Marz rural communities exceeded that of the urban communities by 7 %.

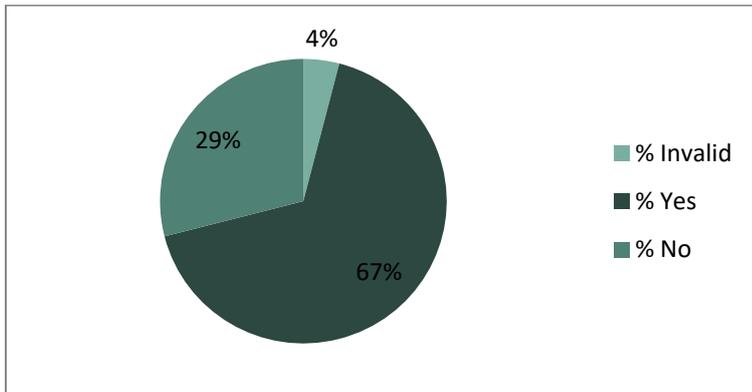
The results of the urban community voting suggest that the voter turnout constituted 44%, of which 50% voted "for", and 46% "against". (See Diagram 5)

Diagram 5. The voting results of Lori Marz urban communities (turnout 44%)



Whereas, the voting results of rural communities clearly indicate the dominance of votes in favor of constitutional amendments, while voter turnout is 51%. (See diagram 6)

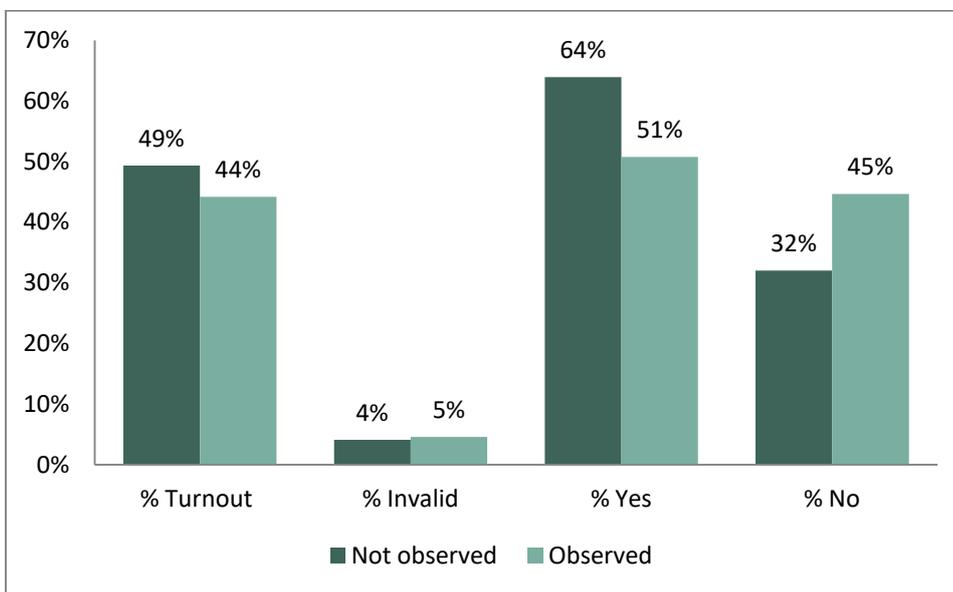
Diagram 6. The voting results of Lori Marz rural communities (turnout 51%)





Additionally, HCA Vanadzor also studied the difference of results in observed and unobserved precincts. According to the study, the voting results in observed precincts radically differed from those of unobserved ones, moreover, in this case both separate and joint analysis of rural and urban communities openly indicate that the observation mission had a certain preventive significance regarding election violations, however, it is noteworthy that the observers recorded cases of excessive ballot box stuffing in the observed precincts, which has adversely impacted the effectiveness of the observation mission. (See Diagram 7)

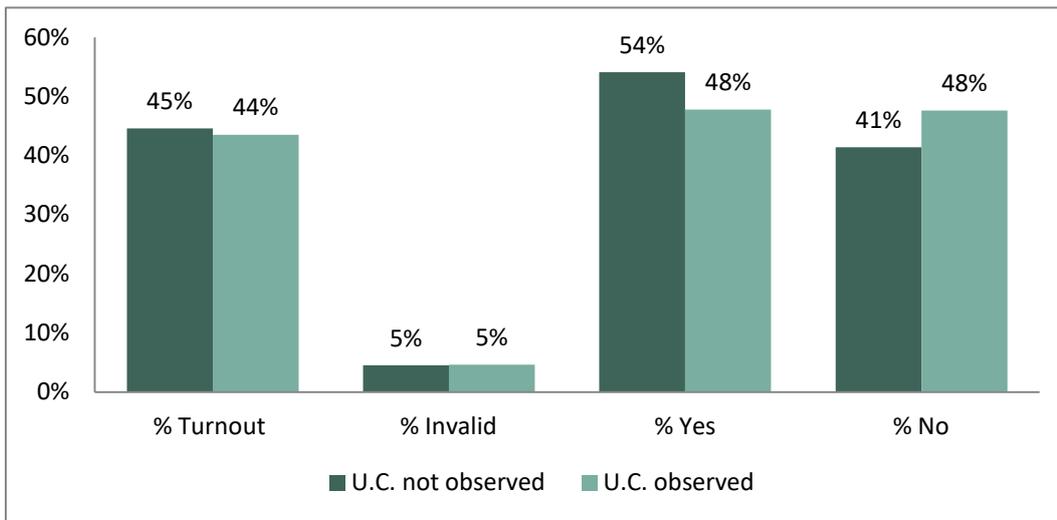
Diagram 7. The voting results of precincts observed and not observed by HCAV in Lori Marz



In general, in the precincts, where the organization did not conduct observation mission, the rate of “Yes” was higher by 13 % as compared to that in observed precincts. On the other hand, “No” was respectively higher by 13% in precincts where observation was carried out. The difference between valid and invalid ballots in observed and unobserved precincts constituted 1%.

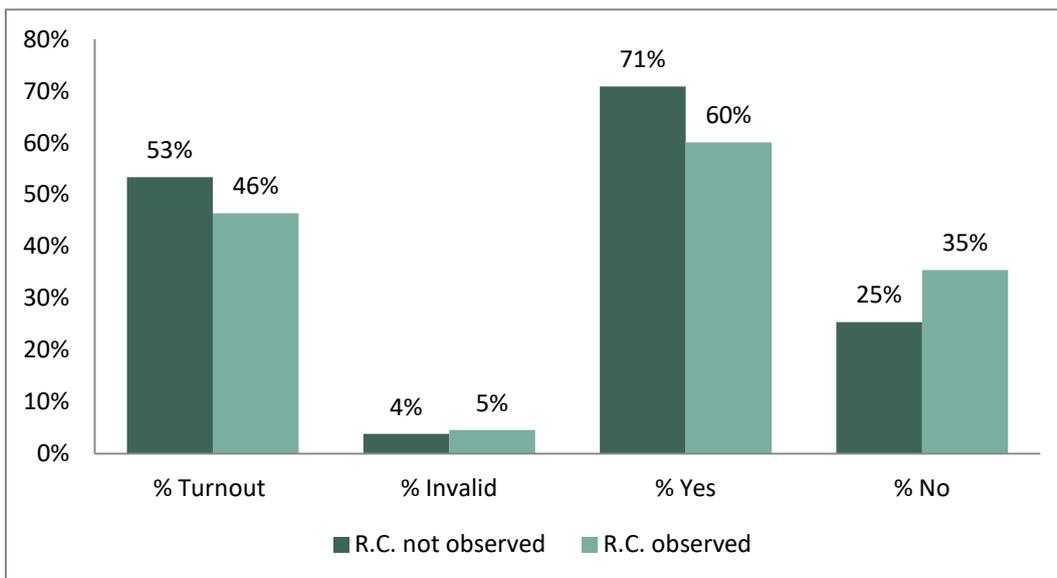
The separate analysis of observed and unobserved precinct in Lori Marz suggest that the ballots in observed and unobserved urban communities were distribute equally, even in case of recorded ballot box stuffing. (See Diagram 8)

Diagram 8. The results of HCAV's observed and not observed precincts of Lori Marz urban communities



By the results of precincts in rural communities of Lori Marz "Ayo" dominates, moreover, the turnout index of observed and not observed precincts differ by 13%. (See diagram 9)

Diagram 9. The results of HCAV's observed and not observed precincts of Lori Marz rural communities



It is evident that the high rate of voter turnout in rural communities is not conditioned by the villagers' greater activism but by ballot box stuffing. With an aim to provide grounded record on the fact of voting results falsification, HCA Vanadzor selected a number of rural communities, where visited several precincts and through the observation of one of them (the one outlined in the diagram) HCAV was able to compare and assess the volume of election frauds. (See diagram 10)



Table 12. Results of observed and not observed precincts

Pr. N.	Community	Total number of voters having referendum suffrage	Turnout number	Turnout percentage	Number of invalid ballots	% Invalid	"Yes" votes	% Yes	"No" votes	% No
29/36	Arevashogh	1148	508	44%	33	7%	352	69%	122	24%
29/37		1020	831	81%	32	4%	745	90%	54	6%
31/12	Margahovit	1330	599	45%	56	9%	367	61%	176	29%
31/13		1477	539	36%	39	7%	256	47%	244	45%
31/58	Shnogh	843	542	64%	48	9%	436	81%	53	10%
31/59		1460	794	54%	62	8%	407	51%	326	41%
32/14	Mejavan	1790	381	21%	15	4%	231	61%	133	35%
32/15		1221	713	58%	16	2%	608	85%	89	12%
32/16		1336	522	39%	16	3%	376	72%	130	25%

These findings serve as undeniable evidence that falsification of voting results is not episodic or of private character, and the revelation or denial of separate violations are not basis to claim that violations did not influence the voting results. The fact that the official voting results are not in compliance with reality is well grounded.

Actions undertaken regarding recorded violations

In the run-up to the constitutional amendments referendum scheduled for December 6, 2015 and on the day of Referendum, the Organization submitted written applications to relevant authorized agencies in cases of violations of the norms stipulated by the Electoral Code.

Actions undertaken regarding violations recorded during the campaign and preparation of Referendum

1. On October 12, 2015 the Organization submitted an application to the RA Human Rights Defender claiming to apply to the RA Constitutional Court in order to determine the compliance of RA NA's decision to put the Constitutional Amendments Draft to referendum with the RA Constitution. The application was grounded by the requirements of the provision enshrined in the RA law on Referendum, whereby, the issues related to human and citizens' rights, freedoms and obligations, the elimination or restriction of constitutional safeguards providing their implementation cannot be submitted to referendum. The Organization's study on the RA Constitutional Amendments, which outlined the restriction of certain human and citizens' rights and freedoms persistent in the Draft of Constitutional Amendments, was attached with the application.¹²⁷ In his reply note, the RA Human Rights Defender wrote that the grounds of disputing the constitutionality of the RA NA's decision at the RA Constitutional Court were insufficient.

2. Based on an alert from Heritage Party representative, HCA Vanadzor verified the composition of all the Precinct Election Commissions and revealed that avagani representatives were among commission members, which is prohibited by the Electoral Code and RA law on Referendum. As a result of the study it was identified that overall 203 avagani members were enrolled in the precinct referendum commissions. On December 4, 2015 based on its study findings the Organization submitted an application to the RA Central Election Committee with a claim to undertake relevant measures to abolish the breach and enroll other commission members in the place of avagani members. No reply was received from the RA Central Election Committee regarding the aforementioned application; however, HCAV again revealed through study that some partial changes had

¹²⁷ HCA Vanadzor Assessment of RA Constitutional Amendments http://hcav.am/wp-content/uploads/2015/09/EN_HCA-Vanadzor-assessment-of-constitutional-Reforms.pdf

been made in PEC compositions. On day following the Referendum Organization found out that overall 42 avagani members continued their enrollment in the commissions. This means that on the day of the Referendum, persons unauthorized to exercise any functions under the election commissions or at all be present in the precincts, were enrolled in the election commissions. Since the aforementioned violation was not reinstated, the documents signed and decisions made by such people cast doubt over the legality of the process.

Actions undertaken in relation to violations recorded on the Voting Day

1. On December 6, 2015 the Organization filed a crime to the RA Police, RA Special Investigative Service, and the RA Central Election Commission on the grounds of an alert received from Gayane Tunyan, member of #32/54 precinct commission of the RA Lori Marz Kurtan village. According to the information provided by her, village head Mher Gevorgyan, also RPA party proxy, obstructed the commission work stating that the precinct area belonged to him and he should determine how the elections must pass. The community head claims in case a voter appears with the passports of his/her family members, the latter should vote in their place. Via the report above the Organization demanded authorized agencies to undertake relevant measures regarding the aforementioned violation and give legal evaluation of the community leader's actions. On December 8, 2015 a reply note was received from Public Relations and Information Department of the RA Police, whereby, the report on crime was transferred to Stepanavan division of RA Police Lori Marz department, where preparation of materials was underway.

2. On the day of Referendum the Organization submitted an application to the RA Central Election Commission based on an alert from one of the #32/56 precinct election commission members of Vardablur village, RA Lori Marz, according to which, voter impersonation in the name of other persons was recurrent. Through the aforementioned application HCAV demanded undertaking of relevant measures to abolish the violation. The Organization has not received a reply on this note from the RA CEC until present.

3. HCA Vanadzor received an alert from an observer, conducting observance #29/8 precinct of Vanadzor city, according to which, before the actual beginning of the voting, the commission members compiled an attendance list of their members and posted it on the wall easily accessible to everyone, where the present commission members marked "yes" in front of their names and marked "no" in front of absents ones. HCA

Vanadzor considered the presence of “yes” as a sign of apparent campaign. To reinstate the violation, the Organization informed the CEC about it via a phone call claiming to remove such campaigning materials from the precincts. By the order of the RA CEC the “yes” note was removed from the precinct above.

4. After the Referendum, on December 10, 2015 the Organization filed a crime report to RA Prosecutor’s office and RA SIS, whereby, it alleged that the results of Constitutional Amendments Referendum, dated December 5, 2015 were falsified in a number of precincts. The alleged target was the precincts where the rate of voter turnout was the highest throughout Armenia. The crime report had it that on the voting day 450 precincts displayed 50-60% voter turnout; 60-70% voter turnout was recorded in 368 precincts and 297 precincts manifested 70-100% turnout, these indices provide substantial grounds to assume that in the precincts where the voter turnout was 60% and higher either ballot box stuffing or voter impersonation in the name of absent voters had occurred. The list of precincts with 60 % and above voter turnout was attached with the crime report. The investigation conducting agency failed to issue a relevant decision on the ground of the crime report filed by HCAV and present it to the latter. On 15.01.2016 the Organization applied to the court claiming to abolish the RA SIS’s inactivity and oblige the latter to issue a decision based on the crime report dated December 10, 2015 and provide it to the reporting agent.

Considering the fact that the law enforcers and Central Election Commission follow the releases disseminated by observation missions, HCAV did not send out official notes on some of the recorded violations to authorized entities, instead, the Organization released and circulated publications on the identified breaches via its website, assured they would be addressed.

Thus,

5. One of the first violations recorded on the voting day was that the Precinct Election Commission members disallowed observers to verify the voters’ identity or look up the voters’ serial numbers from the voters register, considering it a excerpt from voters list. Based on this alert, the Organization circulated a relevant statement this issue was later discussed with the Chairman of Territorial Election Precinct, the problem was tackled, and

the Organization's voters did not encounter suchlike challenges in the second half of the voting day.

6. Another disseminated statement related to the transportation of groups of voters in community serving vehicles.

7. A crime report was filed via the HCAV website based on an alert from the Organization's observer, whereby, the ballot box stuffing was administered in #29/25 precinct. Regarding this a criminal case was submitted to Spitak Investigation Division of the RA Investigative Committee, within the scopes of which the observer, who had conducted observation mission in the aforementioned precinct, was also interrogated. Investigation is underway at present.

8. Pursuant to another disseminated publication, multiple voting was underway in #29/08 precinct of Vanadzor. On December 10, 2015 A. S. Mnatsakanyan, Investigator for High-Profile Cases from Lori investigation division of the RA Investigative Committee, decreed to reject filing of the criminal case due to the absence of event of crime. Numerous materials have been compiled at different Police departments on the basis of disseminated publications and reported alerts on breaches.

Based on the aforementioned, the Organization has been receiving notes from various departments of the RA Investigative Committee requesting personal data of observers or information providers in order to summon them to interrogation or explanation as well as submitting relevant documents or proofs that substantiate the violations in case of their presence.

9. On January 19, 2016 HCA Vanadzor disseminated a statement regarding the inadequate investigation of the alert on voter impersonation in the place of family members of HCAV's lawyer in # 30/21 precinct.¹²⁸

¹²⁸ Misunderstanding on the part of investigator, HCA Vanadzor, <http://hcav.am/events/19-01-2016-03/>

Conclusions and Recommendations

Numerous frauds and obvious falsification of Constitutional amendments referendum results indicate that the referendum was a failure, and the draft cannot be deemed adopted.

Based on the observation findings revealed during both the campaign and on the actual Election Day, Citizen Observer Initiative and the European Platform for Democratic Elections (EPDE) inferred:

The referendum campaign was marred by large-scale misuse of administrative resources in favor of the Constitutional amendments, which affected the process of voting and vote count via the oversight of electoral administration at territorial and local levels. Inaccuracy of voter lists remains the most crucial issue considering the confidentiality of voter participation that leaves room for further manipulations.

On the voting day, observers reported an unprecedented number of violations of the Electoral Code and international standards which were of systemic character. Citizen observers and some international media outlets reported intimidation, suppression cases and threats across the country. Manipulations of the voter lists, violations spotted during the voting and the vote count, as well as high number of cases of direct falsifications of results by electoral commissions influenced the final outcome of the referendum.

Considering the great number of electoral violations and crime, including intimidation of voters, falsification of protocols and numerous reports on ballot box stuffing, Citizen Observer Initiative and the European Platform for Democratic Elections believe that the Referendum results do not reflect the free will of Armenian citizens and hence can not be deemed legitimate.¹²⁹

Although the Constitutional Referendum was not entirely observed by International Observation Missions, however, the observations conducted by international expert groups (namely, European Platform for Democratic Elections) and domestic observation missions (particularly, Citizen Observer Initiative) provide sufficient grounds for international agencies, namely, EU representatives in Armenia, to negatively assess the administration

¹²⁹ Constitutional Referendum Preliminary statement on the conduct of the Constitutional Referendum Citizen Observer Initiative and European Platform for Democratic Elections Republic of Armenia, <http://hcav.am/events/07-12-2015-02-2/>

of the Referendum casting doubt over the credibility of Referendum results prior to the comprehensive and objective investigation of the electoral violations.¹³⁰

The US Embassy in Armenia disseminated a statement, according to which, "Reinstating the credible allegations of electoral violations recorded during the Referendum and not excluding that the information on individuals, who directly participated in the electoral violations, will be used to assess their possible participation in Embassy programs or activities."¹³¹

Based on the results of observation mission, HCA Vanadzor finds that:

- Process of Constitutional Amendments was non-democratic and non-participatory
- The results of Referendum held on December 6, 2015 have been falsified

HCA Vanadzor reiterates its recommendations on electoral processes, which have been compiled as a result of studying the recommendations of International Election Observation Missions.¹³²

HCA Vanadzor recommendations to the International election observation missions

- Conduct an in depth analysis of the schemes of falsifications in order to propose effective safeguards against them
- Advocate for disclosing signed voter lists following elections
- Collaborate closely and continuously with domestic election observers in drafting recommendations
- Advocate for a more proactive role of the CEC in verifying documents submitted to the Commission
- Develop an action plan together with the Armenian authorities for implementation of the recommendations that have not been implemented or have not been implemented effectively based on the assessment by HCA Vanadzor.

Recommendations to the RA National Assembly Standing Committee on State and Legal Affairs

- Ensure legislative implementation of IEOM recommendations submitted in 2003-2013

¹³⁰Local EU statement on the constitutional referendum in Armenia on 6 December, http://eeas.europa.eu/delegations/armenia/press_corner/all_news/news/2015/2015_12_10_2_en.htm

¹³¹ U.S. Embassy's Additional Statement on Armenian Referendum <http://armenia.usembassy.gov/news121415.html>

¹³² Implementation of IEOM Recommendations in Armenia in 2003-2013, Assessment Report <http://hcav.am/wp-content/uploads/2015/07/IEOM-recimp-arm.pdf>

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- Stipulate the obligation of the CEC to verify the grounds and origin of documents submitted by candidates, including certificates about registration and residence, declared income, reports on campaign expenditures
 - Restore the right of observer organizations to appeal electoral violations and election results
 - Clearly stipulate the obligations and functions of law enforcement bodies and particularly the police, in terms of prevention of electoral violations during the entire electoral process and the Election Day
 - Ensure that the RA citizens are able to exercise their voting right abroad on the Election Day through the RA Diplomatic and Consular Missions
 - Legally stipulate that signed voter lists be published within three days after the Election Day on the official website of the CEC
 - Restore the provision in the Electoral Code stipulating that observers would not be prosecuted for their opinions about the electoral process
 - Stipulate the obligation of the CEC and TECs to prevent electoral violations outside of the 50 meter radius of the polling station
 - Eliminate the requirement to take a qualification test for conducting election observation and to legally stipulate that observer organizations are responsible for recruiting competent and impartial observers
 - Eliminate the provision of revoking the accreditation of an observer organization due to partiality of one observer.
 - To stipulate in the Electoral Code the requirement of registration of proxies by the RA Central Electoral Commission prior to the Election Day

Recommendations to the RA Central Electoral Commission and Agency in charge of compiling Voter lists

- Ensure proper implementation of IEOM recommendations on election administration
- Separate the list of voters who are abroad 5 days before the Election Day

About HCA Vanadzor

Helsinki Citizen's Assembly-Vanadzor NGO /hereinafter HCA Vanadzor/ is a nonpolitical, non-religious, non-profit NGO, which unites individuals who support the supreme principles of Democracy, Tolerance, Pluralism, and Human Rights, as values.

HCA Vanadzor was founded in 1998 as a branch of Helsinki Citizens' Assembly Armenian Committee. It was registered as an independent organization in 2001 and was re-registered in 2005 at the Ministry of Justice. The Headquarters of the organization is in Vanadzor – Lori Regional Center. The geographical scope of the organization's activity covers both the Lori Region and the entire territory of the Republic of Armenia.

The Vision of HCA Vanadzor is a society formed with the supreme values of Human Dignity, Democracy and Peace.

The Mission of HCA Vanadzor is the promotion and support of civil initiatives, the strengthening of human rights protection, and peacebuilding activities on national and regional levels.

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