

THE IMPACT OF THE RIGHT TO FREE ELECTIONS ON COMMUNITY GOVERNANCE AND PROPORTIONAL DEVELOPMENT OF LOCALITY

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Abstract: In this article, we have studied the possible factors affecting voters' free will expression and the secrecy of their vote in the National Assembly and proportional electoral system for local government elections. During the research, we have examined the Electoral Code of the Republic of Armenia and the norms set by the constitutional law, which ensure the maximum protection of voters' free will expression and the secrecy of their vote. Is analyzed the current legislation, the potential factors influencing voters' free will expression, and statistical data on elections in recent years. The current legislation should fully address any cases where voters might be influenced, and penalties are defined by the law for obstructing voters' free will expression. However, in this article, we focus not on the consequences, but rather on identifying existing gaps and potential solutions to ensure voters' secrecy in their voting choices and to protect them from any external influence, thus guaranteeing the protection of voters' free will expression and the secrecy of their vote. In the last decade, the electoral process has

been technologically improved, and the provision of secrecy has been enhanced, though these improvements do not fully ensure voters' secrecy and their free will expression. The regulations established by the Central Electoral Commission of the Republic of Armenia regarding the electoral process have been refined over the past decade.

Keywords: National Assembly, local self-government bodies, elections, ballot paper, established form

JEL codes: K1, K3

Research aims: the aim of the research is to identify the ways for development of free elections on community, which are improving community governance and proportional development of locality.

Research novelty: the research revealed existing gaps and potential solutions to ensure voters' secrecy in their voting choices and to protect them from any external influence

Introduction

The manifestation of citizens' free will during elections is of key importance for strengthening democracy in the state. In the Republic of Armenia, local self-government bodies are formed through the votes of residents of a given community who have reached the age of 18 and have the right to vote [1]. The guarantor of transparency, fairness and secrecy of elections is the current legislative regulations, which define the voting procedure and the circumstances for invalidating ballots of a certain sample [2]. There are gaps in the current legislation, which can affect the confidentiality of voters and the expression of free will.

This article takes a new look at the nature of the obstacles that arise in the process of exercising the right to vote, combining legal, social and technological factors. The scientific novelty lies in the following: in the systematic classification of obstacles, a multi-layered analysis of the factors that undermine electoral freedom is presented for the first time, divided into external (legislative shortcomings) and internal (lack of citizen awareness, fear) obstacles.

Analysis of the right-action contradiction: it is proven that the constitutionally guaranteed right to free choice is not practically eliminated due to the shortcomings of the mechanisms of real free choice. Innovative proposals for overcoming it are presented: specific practical and institutional solutions are presented: legislative changes, the use of technological means.

Science, technologies are improved year by year, which have not only a positive but also a negative impact on the manifestation of the free will of voters.

Research results

The right to vote of citizens of the Republic of Armenia is defined by the Electoral Code of the Republic of Armenia (Constitutional Law), but we have gaps in the Electoral Code, which creates an opportunity to have a possible impact on the voter's free will to choose. According to the Electoral Code of the Republic of Armenia (Constitutional Law) defines a provision on persons, who are unable to fill out the ballot independently, where there is no established criterion for defining persons.

A voter who is unable to fill out the ballot independently has the right, after informing the chairman of the commission, to invite another person to the voting booth, who must not be a member of the election commission, proxy, observer, representative of the mass media, or visitor. A person has the right to assist only one voter who is unable to fill out the ballot independently; the process is recorded in the register of the precinct election commission. Except for the above-mentioned case, the presence of another person in the voting booth while filling out the ballot is prohibited. The data of the person assisting a voter who is unable to fill out the ballot independently is recorded in the register of the precinct election commission.

In this case, the restriction on assisting a voter applies only to certain persons ensuring the electoral process (in accordance with the procedure established by the Code: a member of the commission, a proxy, an observer, a representative of a mass media outlet, a visitor), however, another person, who has a certain influence on the voter may impose his will on the voter and may be with the voter in the polling booth in order to verify the dictates of his will, in this case, the voter will make a choice against his will, and the voter's right to exercise his free will will be violated. In addition to the persons defined by the Code, including persons who have a possible influence on the exercise of the voter's free will in the list of those who are unable to assist voters will guarantee the expression of the voter's free will. With this loophole, a person who has no family connection with the given voter may have an impact on the voter's free will and his right to vote.

According to another provision of the Electoral Code of the RA (Constitutional Law), the criteria for a valid ballot for the proportional electoral system are established, which must guarantee the confidentiality of the voter, which should not allow other persons to reveal the confidentiality of the voter's decision, for example, through special markings. Electoral Code of the Republic of Armenia (Constitutional Law) establishes the following:

- ✓ In the case of elections to the National Assembly and the community council held under the proportional electoral system, a ballot of the established sample is invalid if it includes any notes or markings.
- ✓ A minor violation of the established form cannot be considered a basis for the invalidity of the ballot, if the voter's intention is clear and unambiguous.
- ✓ A ballot of the established sample is valid if it is not invalid.
- ✓ If there is another item in the envelope, in addition to the ballot, then the ballot is canceled with the envelope and the item in the envelope in such a way that during the recount it is possible to confirm the presence of the item. An appropriate entry is made in the register.

It is noteworthy, that until January 1, 2025, the ballot was also invalid if there was another item in the envelope, in addition to the ballot, but from January 1, 2025, the presence of another item in the envelope will be considered valid after the relevant legislative amendments, which can also be considered a corruption tool.

Electoral Code of the RA (Constitutional Law) clearly defines the provisions in which cases the ballot is invalid, which is supposed to

ensure the confidentiality of the voter and provide the voter with the opportunity to express his free will, but the provisions defined by the current Electoral Code may not ensure the voter's independence, the Code does not present all cases of declaring the ballot invalid, which may have an impact on the voter's expression of his free will to choose. The Electoral Code does not define all cases, in which the voter can be guaranteed, that he will not be influenced. According to the Electoral Code, the election is secret and control over the free expression of the voter's will is prohibited.

During the elections to the National Assembly and the community councils held under the proportional system, the voter chooses one of the parties participating in the elections by placing the ballot of that party in the ballot envelope. The ballot is placed in the ballot envelope without folding it. Unused ballots are thrown into a separate box placed in the voting booth. It is determined that the ballot is placed in the envelope without folding it, but the ballot folded in the envelope is considered valid, by influencing voters and revealing the secrecy of the voter's choice, other persons who may have a possible influence on the given voter can clearly know what decision the given voter has made, for example, by agreeing with the voter to fold the ballot in any way. Electoral Code of the Republic of Armenia (Constitutional law) must ensure the expression of the free will of the voters and the secrecy of the election.

During the election, the voter shall have the technical also provides his fingerprint through the device, but identification is carried out only on the basis of passport data (in cases specified by the Code, also in the case of other documents), for complete and faster identification, identification based on the fingerprint of

technical equipment will be more effective, which will exclude all possible options for participating in the election based on the passport data of another person impersonating the person. Obstruction of the work of telephone, recording and video recording equipment by using technological equipment in the voting booth will also guarantee the confidentiality of the voter's choice. Residents can participate in local self-government bodies in accordance with the procedure established by law, free choice will create an opportunity for residents to be part of the self-government of their community. Freedom of choice allows residents to make choices for the best management of their community, ensuring the effective and targeted use of community financial resources.

Conclusion and discussions

As a conclusion, we present here a number of statements

1. Voters' inability to fill out their ballots independently may be due to a number of factors:

 due to their health problems, for example, due to vision problems.

2. Due to lack of literacy

3. Due to the influence of other persons

4. Due to incomplete knowledge of the election procedure.

To solve the first problem, to ensure the freedom of the voter's right to vote, to prevent another person from being in the polling station with the voter and to express the voter's free will, it is necessary to provide appropriate means for voters, for example, during the election, the Central Election Commission may provide glasses for people with different levels of vision problems, which

the voter can use in the polling station and return to the territorial election commission. If other persons force the voter to choose the candidate they want, in this case, using any tool, for example, after using bribery or threats, that person will exercise control over the voter, which will allow him to make sure that the voter voted for the candidate he wants, this may be by making the ballot paper in some distinctive way (for example, folding the ballot paper in the shape of an airplane), which will be considered sufficient evidence of bribery. for the giver. Another verification method is to be in the voting booth with the voter as a helper. The main goal of my article is to ensure the manifestation of the free will of the voters, the exclusion of the influence of others on them, and the exclusion of corruption during the election.

For citizens with health problems, for example, the blind, the best option is the Braille alphabet as an indispensable means of communication for the blind, this option has been used by the Central Electoral Commission in recent years. However, they may not master the alphabet, in the reality of Armenia, the majority of communities do not have alphabet training and the residents do not master the alphabet. Let's imagine a situation when a blind citizen does not want to use the given alphabet, in this case the voter must voluntarily use the help of another person, who, according to our legislation, can also be any person who is not related to the voter. If the voter has no connection with another person, then how can the voter be sure that that the choice was made by his own will, in this case, the probability that the assisting person will place the candidate's ballot in the envelope at the voter's request, I think, will be quite low. For such and many other similar cases, if the CEC is

unable to provide conditions to ensure the independence of voters in participating in the election, at least legislative measures should be taken to reduce the circle of those assisting voters, which will reduce the possibility of expressing the will of a given voter and being deceived by another person.

To solve the second problem, a certain number of ballots can be printed in accordance with the procedure established by the CEC, which will have photos of the candidates and the voter can orient himself alone with the photo of the candidates (in the case of a proportional procedure, the photo of those occupying the first place or the first three places). According to the RA Government Decision 139-N dated 22.11.2016, the surnames, names and patronymics, from the point of view of the decision, I think my version of the photo does not contradict the Electoral Code, since the presence of the data of the first three candidates in the ballot papers could also be considered contrary to the principle of silence, in this case, a sample ballot with the personal data of the first three candidates, if it does not contradict the current Electoral Code, then the proposed version with the photo will also not cause a contradiction in the current legislation. As a rule, the main mass of voters choose a party (or alliance) for the persons included in the electoral list, according to the current legislation, if one of the parties (alliance of parties) participating in the election as a result of the community council elections receives more than 50 percent of the seats of the council members, then the person at the top of the list of candidates of that party (alliance of parties) is considered the elected head of the community by force of law. Based on the current legislation, it can be assumed that voters consider the

candidate who occupies the first place on the electoral list as the head of the community. The review of existing cases demonstrates that, upon a candidate's resignation, the council of elders selects the community leader from the first three nominees on the electoral list, giving precedence to the candidate ranked first.

To solve the 3rd problem, it is necessary to define a clear list of people who can help a given person to be in the polling booth during the election. As a "rule", the voter's family members are mainly informed about the election of family members. Based on the great respect and attitude towards family in our society, we can assume that in our society it is not typical for family members to influence each other's will and families with such violent influence on each other are rare in our society. Therefore, thanks to relevant legislative amendments, a list of people who can help voters can be defined. For example, a voter can be helped by family members of a given voter (parent, child, spouse) if they have relevant documents (marriage certificate, birth certificate). Those who do not have family members can seek help from other people after providing relevant information about their absence. From studies conducted in rural areas, we have concluded the following: Let's imagine a situation when, during the local government elections in a rural settlement of the region, a voter uses the help of a person from the village who is not related to him. In this case, as a rule, the voter, the person helping him and the majority of the village residents will learn about the given election. We think that confidentiality is generally not maintained in this case and the person helping him can inform other people about the voter's decision. In villages, local government elections are mainly viewed as a means of conflict and

there are many cases when elections have been a means of conflicts between residents of many rural settlements, therefore, in order to ensure confidentiality in rural settlements, the possibility of assistance from other people should be reduced.

During the 4th problem, the members of the precinct election commission, before the voter participates in the election, provide a detailed presentation of the election procedure. In addition, the CEC provides methodological instructions that are posted on the walls and fully describe the entire election process [8].

Electoral Code of the RA (Constitutional Law) clearly defines the invalidity of the ballot cases of being, but there is no provision for considering the ballot invalid if it is in a folded envelope, another person, using corrupt tools, can influence the voter's decision to vote and demand that the ballot be folded in a previously agreed manner as evidence. There are cases when voters accidentally fold the ballot, but the Central Election Commission has repeatedly informed voters, both on television and during the election, during advertising banners and during the presentation of the procedure for selecting commission members, about the circumstance of putting the ballot in the envelope without folding it. There are cases when the ballot is folded intentionally, with images of any object, for example, an "airplane" and other objects, the commission member at the polling station, in accordance with the procedure prescribed by the Code, affixes a self-adhesive stamp to the open part of the envelope on the ballot, by folding the ballot like any image, the voter can place the ballot in the envelope in a way that will enable the commission member at the polling station a self-adhesive stamp to be affixed to the ballot, in these cases, it is

necessary to exclude the consideration of such ballots as valid by appropriate legislative amendments, therefore, in all cases, a ballot folded in an envelope should be considered invalid by legislative amendments. The tornness of the ballot is also considered valid by the current legislation, but it can also be considered a means of influencing the ability of other persons to vote.

Based on the studies conducted and our personal experience, during the counting of ballots in local government elections, there were numerous cases of ballots being folded in the form of various geometric bodies, obviously corruption tools were used during the election, the electoral commission openly considered the ballots valid based on the fact that the legislation does not provide for the case of not considering them valid.

The proposed legislative amendments will ensure the full realization of the free choice of voters. Free, transparent, anti-corruption mechanisms are of great importance for the establishment of each state, strengthening and strengthening democracy in action. Local self-government bodies should take measures to ensure the participation of community residents in local self-government, which can also be implemented through various awareness programs.

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**ԱԶԱՏ ԸՆՏՐԵԼՈՒ ԻՐԱՎՈՒՆՔԻ ԱԶԴԵՑՈՒԹՅՈՒՆԸ
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ՀԱՄԱՉԱՓ ԶԱՐԳԱՑՄԱՆ ՎՐԱ**

Գեղամ Սմբատյան

ՀՀ պետական կառավարան ակադեմիա, ասպիրանտ

Բանալի բառեր - Ազգային ժողով, տեղական ինքնակառավարման մարմիններ, ընտրություն, քվեաթերթիկ, սահմանված նմուշ

Հոգվածում ուսումնասիրվել են Ազգային ժողովի և համամասնական ընտրակարգով ՏԻՄ ընտրություններին ընտրողների ազատ կամքի արտահայտման, իրենց ընտրելու գաղտնիության վրա ազդող հնարավոր գործոնները: Քննարկվել են ՀՀ Ընտրական օրենսգիրք (սահմանադրական օրենքով) սահմանված նորմերը, որով հնարավորինս ապահովվում են ընտրողների ազատ կամքի արտահայտումը, իրենց ընտրելու գաղտնիությունը:

Ուսումնասիրվել են գործող օրենսդրությունը, ընտրողների ազատ կամքի արտահայտման վրա ազդող հնարավոր գործոնները, վերջին ժամանակների ՏԻՄ ընտրությունների մասին տեղեկությունները կենտրոնական ընտրական հանձնաժողովի պաշտոնական հրապարակումներից (2016-2024թթ.): Գործող օրենսդրությունը պետք է ամբողջությամբ ապահովի ընտրողների վրա հնարավոր ազդեցության դեպքերը, օրենսդրությամբ սահմանված են պատժամիջոցներ ընտրողների ազատ կամքի արտահայտմանը խոչընդոտելու

համար: Սակայն հողվածում ուսումնասիրվել է ոչ թե հետևանքը, այլ վեր են հանվել առկա բացերը ու հնարավոր ուղղիներ՝ ընտրության գաղտնիությունն ապահովելու և հնարավոր ազդեցությունից զերծ մնալու համար, որով ձեռք են բերվում երաշխիքներ ընտրողների ազատ կամքի արտահայտման և իրենց ընտրության գաղտնիության ապահովման համար:

Մեկ տասնամյակից ավել է, ինչ ՀՀ-ում տեխնոլոգիապես բարելավվել է ընտրության կարգը, տեխնոլոգիապես հագեցված սարքավորումներով հնարավորություն տալով ընտրության մասնակցությունը փաստել նույնականացման սարքի միջոցով, ընտրողի մատնահետքի հաստատմամբ, որով բավականաչափ բարելավվել է ընտրողի անձամբ իր ընտրությունը կատարելու հանգամանքը: Ընտրողների քանակից պայմանավորված, ընտրատեղամասերում տեղադրվում են տեսախցիկներ, որոնց կարող է հետևել ցանկացած անձ, և որը հնարավորություն է տալիս ընտրողին երաշխավորելու իր ընտրության գաղտնիությունը, սակայն այդ բարելավումը ամբողջությամբ չի ապահովում ընտրողների գաղտնիության, և անձամբ իր ընտրությունը կատարելու հանգամանքը:

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