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COMMENTS

**ON THE DRAFT AMENDMENTS AND ADDITIONS
TO THE ELECTORAL CODE
OF THE REPUBLIC OF ARMENIA**

by
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Comments on the Draft Amendments and Additions to the Electoral Code of the Republic of Armenia

1. The revision process of the electoral code is now clearly very far advanced and much progress has been made during the current phase. These comments reinforce many of the comments of Professor Owen and where not otherwise noted I endorse them.

Voter registration

2. Annual registration seems quite sufficient, especially as there is a very open procedure for review five weeks before the poll. I am glad that the Armenian authorities have taken this point (Ministry of Foreign Affairs memo of 29 June 2001).

The Central Electoral Commission

3. Provision for the representation of parties without parliamentary representation. This is tricky. Restricting membership to (Article 14 new points 1 and 2, replacing points 1 to 5) government representatives plus parliamentary parties clearly discriminates against other parties. But given the problem of phantom parties, the clear systemic need to institutionalise parties as part of the wider process of institutionalising democratic systems and the need for this body to operate efficiently this bias seems to be fully justified.

Constituency boundaries

4. This is always a matter of concern both with respect to who decides on the boundaries and what the decision-making criteria are. On the latter point I would support a more liberal (25%) margin in terms of numbers of voters. Congruence with local authority boundaries and community identity and interest should have some priority over simple numerical equality. The trend over the past thirty years in well established democracies with non-PR electoral systems has been to assign the task of constituency boundary making to independent commissions, often comprising representatives of political parties and legal authorities. In some cases the decisions of such bodies are final. This seems a much better option than leaving this matter entirely to legislative bodies (as in most of the states of the USA).

Election campaign provisions

5. A ban on the publication of opinion polls during the final stages of the election campaign is on the statute book in several countries. Whether this is wise is another matter. Whilst some academic evidence supports the notion that there is 'voting for the winner effect' (as there certainly is with respect to voters' remembrance of how they voted after the result of the election is known) it is difficult to justify limitation on potential voters' information on these grounds. This is an unjustified limitation on freedom of speech. More pragmatically given modern information technology such restrictions are, in practice, impossible to implement effectively.

Counting of votes

6. The proposed provisions of Article 61 of the Code seem to meet the concerns about possible confusions in the tallying of ballot papers raised by Professor Owen.

By elections

7. I concur with Professor Owen's concern over the grouping of by elections to two days per year. Despite a mass of evidence that by elections tell us nothing about the underlying national political mood, especially given often very low turnouts, they are always regarded by the media and often by governments and politicians, who should know better, as significant indicators. Grouping by elections only serves to reinforce this undesirable deformity.