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# INTEGRITY SYSTEMS AND THE RULE OF LAW IN ARMENIA

## A Field Assessment for Learning, Evaluation and Research Activity II (LER II)

JULY 2019

DISCLAIMER: The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

This Integrity Systems and Rule of Law Sub-Sector Assessment for Armenia was conducted by a team of international and local consultants fielded and managed by The Cloudburst Group—namely Simon Conté (team lead), Pavel Tadevosyan (country expert), Kate Marple-Cantrell (management and logistics), and Gayane Hayrapetyan (research support and translation)—and a staff member from USAID/Armenia, Bella Margaryan. The assessment team would also like to also thank Artur Drampyan at USAID/Armenia for his valuable support of the assessment fieldwork and insights.

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# CONTENTS

<b>I</b>	<b>EXECUTIVE SUMMARY</b>	<b>I</b>
1.1	INTRODUCTION	I
1.2	HISTORICAL AND POLITICAL CONTEXT	I
1.3	ASSESSMENT QUESTIONS	I
1.4	INTEGRITY SYSTEMS	2
1.5	LEGAL EDUCATION	3
1.6	JUSTICE SECTOR REFORM AND RULE OF LAW	4
<b>2</b>	<b>ASSESSMENT OVERVIEW</b>	<b>7</b>
2.1	PURPOSE, QUESTIONS, AND STRUCTURE	7
2.2	METHODS AND TEAM MEMBERS	8
<b>3</b>	<b>BACKGROUND</b>	<b>11</b>
3.1	LEGAL CONTEXT	11
3.2	HISTORY OF THE JUDICIARY	11
3.3	STRUCTURE OF THE COURTS	12
3.4	THE HIERARCHY OF DOMESTIC LEGAL ACTS	14
<b>4</b>	<b>INTEGRITY SYSTEMS</b>	<b>15</b>
4.1	INTRODUCTION	15
4.2	POLICY AND STRATEGY	15
4.3	CIVIL SERVICE INTEGRITY	17
4.4	WHISTLEBLOWER PROTECTION	20
4.5	CIVIL SOCIETY AND INDEPENDENT MEDIA	21
4.6	CONCLUSIONS	23
4.7	RECOMMENDATIONS	24
4.8	SUMMARY AND PRIORITIZATION OF RECOMMENDATIONS	26
<b>5</b>	<b>LEGAL EDUCATION REFORM</b>	<b>28</b>
5.1	INTRODUCTION	28
5.2	CORRUPTION	29
5.3	PRACTICAL LAWYERING SKILLS	31
5.4	CONCLUSIONS	34
5.5	RECOMMENDATIONS	34
5.6	SUMMARY AND PRIORITIZATION OF RECOMMENDATIONS	35
<b>6</b>	<b>JUSTICE SECTOR REFORM AND RULE OF LAW</b>	<b>37</b>
6.1	INTRODUCTION	37
6.2	SELECTION OF JUDGES	38
6.3	EDUCATION AND TRAINING	40
6.4	REMOVAL AND DISCIPLINE OF JUDGES	40
6.5	HARASSMENT AND INTIMIDATION OF JUDGES AND ADVOCATES	42
6.6	FINANCIAL RESOURCES	44
6.7	EFFICIENCY AND COURT ADMINISTRATION	48
6.8	JUDICIAL MONITORING AND EVALUATION	52
6.9	ACCESS TO JUSTICE	54
6.10	CONCLUSIONS	56

6.11	RECOMMENDATIONS	56
6.12	SUMMARY AND PRIORITIZATION OF RECOMMENDATIONS	58
7	DONOR ACTIVITIES	59
APPENDIX 1: VARIETIES OF DEMOCRACY PROJECT INDICATORS		62
	INTRODUCTION	62
	OVERALL MEASURES FOR ARMENIA	62
	JUDICIARY	64
	LIBERAL DEMOCRACY	65
	CORRUPTION IN ARMENIA	66
	DEMOCRACY & CORRUPTION ACROSS COUNTRIES	67
	COMPARING V-DEM TO POLITY (WITH FREEDOM HOUSE IMPUTATION)	70
	CONCLUSION	70
APPENDIX 2: RESEARCH QUESTIONS		71
	REFORMS	71
	LEGAL EDUCATION	72
	RULE OF LAW	73
	INTEGRITY SYSTEMS	74
	IS/ROL SECTOR DONORS	75
APPENDIX 3: LIST OF RESPONDENTS OF KEY INFORMANT INTERVIEWS AND SMALL GROUP DISCUSSIONS, CLOUDBURST FIELD MISSION IN ARMENIA, APRIL 15–MAY 3, 2019		76
APPENDIX 4: KEY INFORMANT INTERVIEW PROTOCOL		81
	INTERVIEWS (SEMI-STRUCTURED)	81
APPENDIX 5: OUTBRIEFING POWERPOINT PRESENTATION		87

## ABBREVIATIONS

ABA ROLI	American Bar Association Rule of Law Initiative
AC	Anti-Corruption
ADR	Alternative Dispute Resolution
AMD	Armenian Dram
BMZ	German Federal Ministry for Economic Cooperation and Development
CEHRO	Commission of Ethics for High Ranking Officials
CEPEJ	European Commission for the Efficiency of Justice
CPC	Corruption Prevention Commission
CIPE	Centre for International Private Enterprises
CPI	Corruption Perception Index
CSO	Civil Society Organization
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
EU	European Union
EUR	Euro
INL	Bureau of International Narcotics and Law Enforcement
IS	Integrity Systems
LL.B	Bachelor of Laws
LL.M	Master of Laws
MP	Member of Parliament
NA	National Assembly
NGO	Non-Governmental Organization
OECD	Organization for Economic Cooperation and Development
Ph.D.	Doctor of Philosophy
PM	Prime Minister

PSA	Public Service Announcement
RA	Republic of Armenia
ROL	Rule of Law
SJC	Supreme Judicial Council
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USD	United States Dollar
YSU	Yerevan State University

## I EXECUTIVE SUMMARY

### I.1 INTRODUCTION

The purpose of this Integrity Systems and Rule of Law (IS/ROL) Field Assessment is to conduct a primarily qualitative analysis of integrity systems/anti-corruption efforts as they relate to the rule of law to support USAID/Armenia's strategic development and programming. In light of reforms undertaken both before and after the Velvet Revolution of 2018 in Armenia, this assessment examines the status, role, and independence of the principal actors in the justice system and evaluates threats to the rule of law as well as potential responses.

To complete this assessment, the team synthesized extensive background research, including an academic Evidence Review under this tasking and a traditional desk review of relevant primary and secondary sources and applicable laws, codes, and procedures in Armenia. In April-May 2019, the assessment team conducted approximately three weeks of key informant interviews and small group discussions with stakeholders from the legal system (judges, prosecutors, practicing lawyers, judicial and bar association leaders), Government officials and Members of Parliament; legal education actors (law professors and students); Civil Society Organization (CSO) leaders; journalists; and international donor representatives (including USAID and other US Government actors).

### I.2 HISTORICAL AND POLITICAL CONTEXT

While Armenia's Velvet Revolution in 2018 was sparked by Serzh Sargsyan's bid to remain in power after alternating between the positions of Prime Minister and President, the protests gave vent to dormant public frustration with corruption and economic injustice. While business and political elites have grown wealthy since Armenia established independence from the Soviet Union in 1991, much of the population remains below or near the official poverty line, particularly in rural areas. Mr. Sargsyan's manipulation of the political system and his support from various oligarchs constituted the final straw.

### I.3 ASSESSMENT QUESTIONS

Within the current political transition context, five core questions designed to uncover current IS/ROL challenges and opportunities guide this assessment:

1. **Reforms:** What are the impacts and direction of integrity reforms undertaken by the Pashinyan government, and its predecessors, on the rule of law and judicial independence?
2. **Legal Education:** How does legal education and training for judges and lawyers advance and/or inhibit efforts to address ethics and integrity in the Armenian legal system?
3. **Rule of Law:** How does corruption and undue influence upon or by principal legal system actors threaten the rule of law and judicial independence in Armenia?
4. **Integrity Systems:** How effective are integrity systems for principal legal system actors and the public sector in ensuring ethical conduct, accountability, and transparency?
5. **IS/ROL Sector Donors:** Based on the evidence review and assessment findings, what actionable policy and programming steps are recommended to support USAID/Armenia's strategic development and programming on integrity systems and rule of law issues?



## I.4 INTEGRITY SYSTEMS

Mr. Pashinyan's popular support rests on his ability to fulfill his promises to root out corruption and restore social justice. A year since the Revolution, those efforts seem primarily focused on punitive measures, such as the numerous investigations and arrests of former politicians and businessmen. Mr. Pashinyan has also made frequent references to transitional justice. However, his notion of transitional justice seems less rooted in a need for national reconciliation, and more oriented towards recovery of assets and eliminating opposition to political reforms. Public trust in the Government's commitment to fighting corruption appears to remain high, even among the Government's most strident critics.

Despite this commitment, the far harder task of corruption prevention has encountered serious difficulties, and it seems that the government's efforts are reaching an inflection point. After releasing a draft National Strategy in December 2018, the Government came under strong criticism for essentially replicating the prior strategy. This underscores what respondents perceived as one of the major stumbling blocks for anticorruption reform – a serious lack of experience on the part of the Government. Many senior Government officials have minimal experience actually governing, particularly with many former members of civil society moving into government roles. Additionally, the National Assembly, in which Mr. Pashinyan's My Step faction wields a supermajority, is too is filled with brand new Members. Respondents noted that this inexperience has significantly hampered efforts to develop, coordinate, and implement a comprehensive anticorruption strategy. Other than Mr. Pashinyan himself, it is unclear exactly who is in charge of developing and implementing anticorruption policy and strategy, and the impression is that most officials are waiting for Mr. Pashinyan to take the lead.

Related to these concerns is the delay in choosing an institutional framework for anticorruption. Most respondents favor a split system, in which investigatory and prevention powers are kept separate, to avoid too much power being concentrated in a single entity. Some, however, favor a unified approach as being more effective due to efficiency, better coordination, and access to information. The decision as to which approach to use is solely in Mr. Pashinyan's hands, and the delay impacts both strategic planning and reforms already underway, such as the creation of the Corruption Prevention Commission (CPC).

Overall, the reform environment for anticorruption prevention is very challenging. In addition to the Government's perceived lack of expertise and coordination, the most likely partner for donor cooperation is the anticipated CPC. Unfortunately, its creation is delayed by difficulties with the selection process and the Government's lack of commitment to an anticorruption institutional framework. The financial declarations system is fairly strong, but the existing entity in charge of implementing it, the Commission on Ethics of High Ranking Officials (CEHRO) is operating without a Chairperson and its legal authority has been questioned. The CPC, with broad authority over corruption prevention, has the potential to be a strong partner if it is indeed implemented, and should be vigorously supported. Similarly, the integrity officers within each state body are also natural allies for anticorruption efforts, but they will need significant help to fulfill their responsibilities.

Whistleblower protection is an important element in uncovering public integrity corruption. Armenia's 2017 Whistleblower Law has been fairly well received and covers both internal and external methods of reporting. However, public awareness of the law remains low, significantly hampering its effectiveness.

As evidenced by the Whistleblower Law, public awareness raising is a significant challenge. No matter the legislative or institutional changes, anticorruption efforts are unlikely to succeed without



simultaneously fostering an anticorruption culture. Studies show that Armenian citizens have become fairly resigned to corruption, and efforts should be taken to correct this. The two most effective partners for raising public awareness are civil society and an independent media, both of which face challenges. Both saw numerous members move into government positions and suffer from poor communication with the Government on anticorruption issues. In particular, respondents recommended that civil society focus on targeted public awareness raising, such as youth-oriented campaigns. Independent media should be supported through better training, exchange visits, and cooperation with public television on anticorruption-oriented programming.

#### **I.4.1 RECOMMENDATIONS**

1. Strengthen civil society, particularly in its public awareness-raising role for anti-corruption issues and civic education, as part of a long-range plan to inculcate an anti-corruption culture.
2. Provide capacity building support to the Corruption Prevention Commission. Staff will need access to both technical expertise and training.
3. Support development of state body integrity officers in their “front line” role for corruption prevention.
4. Provide expertise to the Civil Service Office form of ethics training and technical assistance in drafting a Code of Conduct.
5. Support AC Strategy (once released) by providing expert advice on particular components.
6. Strengthen the capacity of independent media and investigative journalism as a means to promote public awareness of reforms and anti-corruption issues and to maintain pressure on the Government.
7. Support implementation of the Whistleblower Law by conducting a public awareness campaign so the public is aware of the law and its protections.
8. Provide expertise to Government on the issue of a unified AC institutional structure or separate bodies for law enforcement and prevention functions.

#### **I.5 LEGAL EDUCATION**

Armenia’s legal education system has gone through several rounds of reform, resulting in steady progress over the past ten to fifteen years. As is typical with a traditional civil law legal system, legal education is heavily lecture-driven, with limited instructor-student interaction, and an emphasis on rote memorization and jurisprudential theory. Armenia, however, has made significant improvement. Both faculty and students are increasingly internationalized and eager for comparative legal perspectives. Teaching methods have improved, and students have greater access to developing practical lawyering skills through clinical legal education programs and moot court competitions.

While most student respondents did not express significant concerns about corruption in admissions or testing, reports indicate that corruption remains a problem both in admissions and testing. Some respondents expressed concerns as to favoritism stemming from students with family or social connections. Low compensation and the unstable job status for professors have been noted as contributing factors to potential bribery. Also, anonymous grading is not widely utilized. Perhaps most concerning, however, is the lack of instruction on anticorruption issues and professional ethics.

The second significant challenge facing legal education reform is the continuing need for opportunities to develop practical lawyering skills. While improvements have been made, respondents indicated that legal education still tends to hew to the traditional civil law methods of instruction and an emphasis on legal

theory. Armenian law students need more opportunities to learn “how to think like a lawyer”, as is said of the U.S. legal education system. Faculty should be given opportunities to develop new areas of specialization and modern teaching methodologies.

Given the increasingly internationalized attitudes of both faculty and staff and the gains that have already been made, legal education reform provides perhaps the best opportunity for long-term impact.

### **I.5.1 RECOMMENDATIONS**

9. Promote an ethical and AC culture in law students as early as possible through mandatory courses on professional ethics and AC for all law students.
10. Significantly expand clinical legal education and moot court opportunities to all students to promote the development of practical lawyering skills.
11. Support curriculum reform to increase learning in practical lawyering skills, emerging legal issues, and a more international perspective.
12. Establish visiting professor programs to inject greater international expertise and perspectives.
13. Establish clinical programs to provide additional capacity for the Public Defender’s Office.
14. Provide better access to European and international legal materials through dedicated Lexis/Nexis or Westlaw research terminals.
15. Improve law library holdings with better selections of international texts and/or translations.
16. Establish specialized research centers attached to law schools to provide internship opportunities in strategic areas, such as anti-corruption.
17. Support funding for career services staff to coordinate internships for students.

## **I.6 JUSTICE SECTOR REFORM AND RULE OF LAW**

Judges have long been perceived as the justice system actors most susceptible to corruption, although advocates are also perceived to be facilitators of bribery. Additionally, continuing the Soviet legacy of telephone justice, politicians were widely suspected of influencing judicial decisions. The Velvet Revolution and the subsequent focus on corruption led to judges becoming the focus of much criticism. Judges believe that advocates take advantage of their poor image by making statements to the media in which they blame judges for unfavorable decisions. The SJC and Judicial Association have taken steps to defend judges, but to be more active they need additional resources and training on media relations.

Perhaps even more concerning are recent statements by Mr. Pashinyan, who has made numerous references to transitional justice. Some respondents expressed concern that his notions of transitional justice would lead to vetting of judges, and Mr. Pashinyan’s recent statements seem to bear out those fears. The Prime Minister’s encouragement of mob justice against the courts sets a dangerous precedent and is a serious threat to judicial independence.

Ironically, the recent Constitutional reforms of 2015 ushered in the Supreme Judicial Council (SJC), an independent body designed to provide for self-governance by the courts in order to enhance and protect judicial independence. With broad authority over the administration of the courts and the judges themselves, the SJC is a positive development. However, despite extensive regulations, both the selection and disciplinary processes are cause for concern. The selection process involves a written exam and a panel interview, both of which are transparent. However, the actual selection is left to a secret vote, creating the impression of backroom deals. Multiple respondents reported instances where candidates with seemingly excellent scores and interview feedback have been repeatedly passed over.

The disciplinary process of judges is also extremely detailed but leaves two concerns. The first, and most serious, is the ability of the Minister of Justice to initiate disciplinary proceedings against a judge. The threat of an executive branch official targeting judges for retribution seems to have been realized by the Minister of Justice's recent charges against Cassation Court judges. Additionally, respondents noted that most disciplinary proceedings against judges are for procedural violations. It seems unfair to penalize judges for circumstances largely outside their control given difficult working conditions.

Financing for the judiciary is not sufficient to meet current demands. While the judicial budget and salaries for judges have increased, Armenia consistently ranks in the bottom tier when compared to countries across Europe. Combined with poor benefits, overwhelming caseloads, and constant criticism, morale for judges seems poor. This can not only affect susceptibility to corruption, but also increase the difficulty of recruiting and retaining well qualified candidates.

The overload of cases is due to a lack of judges and support staff, poor case management systems, and outdated IT equipment. A vigorous public awareness campaign on Alternative Dispute Resolution mechanisms would also be beneficial, not only for potentially reducing caseloads, but for increasing access to justice for those who cannot afford traditional legal proceedings.

Another method for increasing judicial efficiency is a comprehensive judicial monitoring and evaluation system. While the Judicial Code does provide for judicial evaluations, an actual evaluation system is still being developed. The Public Defender's Office is the principal mechanism for providing access to justice, although it too is extremely overburdened by cases. With only 55 public defenders for the entire country, the Office is facing a rapidly increasing caseload due to its expanding scope of responsibility, which includes administrative, criminal, civil, and constitutional cases. The long working hours and poor salaries for Public Defenders also hamper the Office's ability to retain staff, which decreases efficiency.

While the justice system, and judges in particular, face numerous challenges, there are several strong institutions with which to partner. The Judicial Association, which has limited staff and resources, could play a stronger role in promoting the interests of judges and the courts if its capacity is developed.

### **I.6.1 RECOMMENDATIONS**

18. Promote reforms to SJC, including revision of selection and disciplinary procedures, e.g., revise oral examination scoring, eliminate MOJ ability to initiate disciplinary proceedings, eliminate or ameliorate discipline for procedural violations.
19. Promote higher salaries for judges and support staff. Doing so would reduce incentives for corruption, enhance the prestige of the judiciary, and attract better candidates for vacancies.
20. Promote State efforts to fund additional judicial support staff.
21. Administrative Courts: support proposals to require exhaustion of internal administrative remedies before turning to the courts and explore diversion of traffic cases to a specialized court with expedited procedures.
22. Support the development and implementation of a comprehensive e-justice system to increase efficiency - preferably, implement a comprehensive court performance evaluation and monitoring system to assess the strengths and weaknesses of the entire court system.
23. Work with SJC on development and implementation of a judicial evaluation system.
24. Support proposals to divert low value claims to notaries.

25. Provide capacity building to the Public Defender's Office by funding additional staff, trainings for new Public Defenders, and technology upgrades.
26. Work with the SJC on development of a court performance evaluation system to provide feedback on the overall performance of the courts.
27. Upgrade computer equipment and networking.
28. Eliminate mandatory retirement age for judges and institute a senior status system similar to U.S. federal judges over the age of 65 to reduce caseload by keeping more judges available.
29. Promote mediation and other ADR mechanisms through a vigorous public awareness campaign to reduce caseloads and increase access to justice.
30. Develop capacity of SJC and Judicial Association to more effectively respond to attacks on the judiciary and promote it through additional media relations personnel and training.
31. Enhance the capacity of the Academy of Justice by developing new trainings on priority topics; converting anti-corruption trainings into distance learning modules; and conducting exchange visits with other justice training institutes.

## 2 ASSESSMENT OVERVIEW

### 2.1 PURPOSE, QUESTIONS, AND STRUCTURE

The purpose of this Integrity Systems and Rule of Law (IS/ROL) Field Assessment is to conduct a primarily qualitative analysis of the legal sector and anti-corruption efforts in this political transition setting. In light of reforms undertaken both before and after the Velvet Revolution of 2018 in Armenia, this assessment examines the overall impact of integrity systems/anti-corruption efforts as they relate to the rule of law. Corruption has been consistently identified as a significant problem for Armenia, and public dissatisfaction with perceived corruption in political and business elites played a significant role in the Velvet Revolution. While the new Government's response has focused largely on punitive anti-corruption measures, investing in more proactive, preventative measures has long-term benefits for both anti-corruption and the rule of law. Perceived corruption in the legal system is perhaps the greatest threat to the rule of law in Armenia. By ensuring that both government officials and legal system actors are governed by independent and effective integrity systems that screen, monitor, and enforce ethical behavior free from corruption, public confidence in both the government and the rule of law will be significantly enhanced.

By examining the status, role, and independence of the principal actors in the justice system, both prior to and since reform efforts, this assessment evaluates threats to the rule of law in Armenia and potential responses. In particular, this assessment explores potential goals and sequencing for addressing systemic corruption within and threats to the independence of the justice system, and the role of both public (governmental anti-corruption and oversight bodies) and non-governmental (civil society, media) institutions of accountability. The assessment also reports on issues relating to corruption and the rule of law within legal education and the defense bar in Armenia.

The following five core questions guide the assessment:

1. **Reforms:** What are the impacts and direction of integrity reforms undertaken by the Pashinyan government, and its predecessors, on the rule of law and judicial independence in Armenia?
2. **Legal Education:** How does legal education and training for judges and lawyers advance and/or inhibit efforts to address ethics and integrity in the Armenian legal system?
3. **Rule of Law:** How does corruption and undue influence upon or by principal legal system actors threaten the rule of law and judicial independence in Armenia?
4. **Integrity Systems:** How effective are integrity systems for principal legal system actors and the public sector in ensuring ethical conduct, accountability, and transparency?
5. **IS/ROL Sector Donors:** Based on the evidence review and assessment findings, what actionable policy and programming steps are recommended to support USAID/Armenia's strategic development and programming on integrity systems and rule of law issues?

These questions have been informed by the three academic Evidence Reviews under this tasking, particularly the Integrity Systems and Rule of Law Evidence Review. Following each of these core questions, the team has developed a set of sub-questions, which are listed in Appendix 2, although this

document does not answer the questions in the same order as listed in the appendix. The first core question on the reforms will be answered throughout the other sections, rather than in its own section.

More generally, the assessment's structure is to first briefly review the background information on the Armenian legal system then provide an introduction, analysis, and set of recommendations for integrity systems, legal education, and rule of law.

## 2.2 METHODS AND TEAM MEMBERS

The Armenia IS/ROL Assessment analyzes a compilation of information gleaned from legal research and qualitative fieldwork. The methodology for this assessment consisted of two phases—desk research and field research.

The purpose of the desk phase of the assessment was to develop the assessment questions. The desk research phase began with an academic Evidence Review by an independent university team<sup>1</sup>. The academic Evidence Review considered what the academic literature tells us about integrity systems and rule of law challenges and assistance in political transition settings such as Armenia. The Evidence Review summarized evidence from the Armenia context and prioritized research and evaluation findings from similar transition settings, especially the former Eastern Bloc and post-Soviet context, with an emphasis on analysis-based, actionable, and operational recommendations. The Evidence Review also incorporated analysis of governance indicators from the Varieties of Democracy dataset (V-Dem) in Armenia and similar countries over time.<sup>2</sup> The Evidence Review served as the basis for fieldwork preparations and guided the assessment.

Then, before embarking on the interviews themselves, the field assessment team conducted extensive background research. The assessment team first combined the findings and recommendations from the academic Evidence Review with a traditional desk review of relevant primary and secondary sources, such as commentary and analysis of recent political and legal reform developments in Armenia, as well as prior assessments, studies, and reports from reform implementers, donors, Civil Society Organizations (CSOs), international organizations, and academia. The next stage of background research also included the compilation of relevant laws, regulations, codes, and procedures relating to IS and ROL reform in Armenia, including:

- Constitution of the Republic of Armenia;
- General law on the organization of the judiciary and legal profession;
- Criminal, civil, administrative, and other procedure codes;
- Applicable Criminal Code provisions, such as public integrity and corruption offenses;
- Laws on anti-corruption bodies and the Human Rights Defender;

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<sup>1</sup> USAID. 2019. Integrity Systems and the Rule of Law in Armenia: An Evidence Review for Learning, Evaluation and Research Activity II (LER II). URL: [https://pdf.usaid.gov/pdf\\_docs/PA00TNMJ.pdf](https://pdf.usaid.gov/pdf_docs/PA00TNMJ.pdf) [hereinafter IS/ROL Evidence Review].

<sup>2</sup> This VDem indicator analysis was updated during the preparation of this report to include 2018 data, which became available in April 2019. Please see Appendix I for VDem indicator analysis that incorporates 2018 indicator values.

- Laws on national budgets for the past 3-4 years, focusing on provisions relating to the judiciary and prosecutor's office's budgets and procurement;
- Laws or regulations on judicial salaries and other types of benefits;
- Laws and regulations on the civil service;
- Laws relating to internal inspectorate/inspector general functions for internal oversight;
- Secondary legislation and administrative regulations related to the judiciary, including those relating to issues such as training, examinations, promotions, and evaluations; and,
- Charters or other documents regulating the status of existing bar and judges' associations.

Finally, the assessment involved three weeks of qualitative fieldwork in Armenia, including visits outside the capital, to gain a broader perspective of integrity systems and rule of law challenges and opportunities. The assessment team consisted of: Lead Expert, Simon Conté; Local Expert, Pavel Tadevosyan; USAID Project Management Specialist, Bella Margaryan; Management and Logistics Lead, Kate Marple-Cantrell; and Research Assistant, Gayane Hayrapetyan. The Lead Expert and the Management and Logistics lead traveled to Armenia to carry out this research. The assessment team conducted field research, consisting of in-depth interviews and targeted small group discussions, over a period of approximately three weeks, from April 15-May 2, 2019. The geographic scope of the interviews included interviews held in 1) Yerevan, 2) Gavar, 3) Abovyan, and 4) Charentsavan.

These in-depth interviews and consultations occurred with key informants and stakeholders from the following main stakeholder groups:

- USAID and USAID partners;
- Judges;
- Prosecutors;
- Practicing lawyers;
- Government officials from other branches of government and public officials;
- Law professors;
- CSO leaders;
- Judicial and bar association(s) leaders;
- Journalists;
- International donor representatives; and,
- Members of Parliament.



Please refer to Appendix 3 for the full list of respondents in key informant interviews. Additionally, small group discussions were conducted to elicit views of law students at two universities. Please also refer to Appendix 3 for the full list of small group discussions. In total, the team met with 80 respondents. One-on-one interviews and small group discussions were conducted in Armenian or English, according to the respondent preference. Where needed, an interpreter was used during conversations. A guide of themes these interviews covered is located in Appendix 4.

As with any primarily qualitative analysis, the primary risk of this methodology is that the analysis and conclusions may be skewed by the biases and experiences of the interviewees, which are not guaranteed to be representative of the nation as a whole. Additionally, corruption issues are notoriously difficult to assess, as it is an inherently clandestine phenomenon. As such, conclusions must be based on perceptions of corruption, with the risk of a gap between perceived corruption and actual corruption.

Finally, in addition to general risks such as limited time and the availability of proposed interviewees, critical to the quality of the analysis is the willingness of interviewees to openly and honestly discuss issues, and to share information and insights. The assessment team made every effort build a strong rapport with interviewees—but if interviewees were concerned about how results would be used or intimidated by the presence of a multiple member interview team—the risk exists that interviewees may have limited their answers.

## 3 BACKGROUND

### 3.1 LEGAL CONTEXT

The **Republic of Armenia** is a sovereign, democratic, social state governed by the rule of law. According to Article 4 of the Constitution of the Republic of Armenia (hereinafter the RA Constitution), adopted June 12, 2015 through a national referendum, state power shall be exercised in conformity with the Constitution and the laws, based on the separation and balance of the legislative, executive, and judicial powers.

The **President of the Republic of Armenia** is the head of state and the guarantor of independence and territorial integrity of Armenia. The President is elected to a single seven-year term by the National Assembly of Armenia. Under Armenia's parliamentary system, the President is simply a figurehead and holds ceremonial duties, with most political power vested in the **Parliament (National Assembly)** and **Prime Minister**.

The **National Assembly (NA)**, the representative body of the people of Armenia, implements the legislative power. The NA is a unicameral body, consisting of at least 101 deputies elected for five-year terms.<sup>3</sup> Article 103 of the RA Constitution provides that the NA adopts most laws and resolutions by a simple majority of deputies participating in the vote, provided that more than half of the total number of deputies took part in the voting. According to the Electoral Code of the Republic adopted in 2016, parties need to pass a 5% threshold and coalitions a 7% threshold, respectively, to be included in the distribution of mandates. The election system reserves 50% of votes cast in favor of each party to be distributed via party lists. Out of these, four seats will be assigned to national minorities first of all, provided they are included on party lists. A party list cannot include over 70% of representatives of the same sex and its every four consecutive entries shall include members of both sexes. Another 50% of votes received by each party are distributed among their territorial lists submitted in 13 electoral districts. If any party or coalition wins over two-thirds of the mandates in the first round of elections, sufficient additional mandates will be distributed among all other parties to ensure that at least one-third of all seats are given to parties other than the winning one.

The **Government of the Republic of Armenia**, or the executive branch of the Armenian government, is an executive council of government Ministers in Armenia. The government is composed of the Prime Minister, two Vice Prime Ministers, and Ministers. It is one of the three main governmental branches of Armenia and is headed by the Prime Minister of Armenia. The Government develops and implements internal and external policies of the state on its basis. The Government implements the overall management of public administration bodies. The Constitution and laws define the powers of the Government. According to article 146 of the RA Constitution, the Government shall have jurisdiction over all matters pertaining to the executive power which are not reserved to public administration or to other local self-governance bodies.

### 3.2 HISTORY OF THE JUDICIARY

Armenia declared its independence from the Soviet Union on September 21, 1991. However, until 1998 the country still operated under a Soviet-style legal system. Armenia adopted its Constitution in 1995, introducing a three-tiered structure of courts of general jurisdiction. Nevertheless, over the next three

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<sup>3</sup> In this Call there are 132 deputies in the National Assembly.

years these courts were not established and the Court of Cassation—the third and highest judicial instance of Armenia, except for matters of constitutional justice—only began functioning in 1998. The first instance courts and two courts of appeal were created in 1999 (Also see Section 2.3—Structure of the Courts, below).

The Constitution of the Republic of Armenia was adopted on July 5, 1995, and has been twice subject to extensive amendments, as a result of the referenda of November 27, 2005, and December 6, 2015. The three-tiered structure of courts of general jurisdiction was maintained throughout and continues to operate.

By the amendments to the RA Constitution adopted on December 6, 2015, a new independent state body called the **Supreme Judicial Council (SJC)** was established. Article 173 of the RA Constitution proclaimed that the SJC is an independent state body that guarantees the independence of the courts and judges. The provisions of Chapter 7 of the RA Constitution stipulate that only the courts exercise justice in the Republic of Armenia, and the guarantor of the unhindered implementation of that function is the SJC.

The SJC consists of five prominent legal scholars of high professional qualifications selected by the representative body of the people (the National Assembly), as well as five experienced judges elected by the representative body of the judiciary (the General Assembly of Judges), as a result of which the representation of all judicial instances is ensured.

On April 9, 2018, the SJC assumed the powers delegated by the RA Constitution and the RA constitutional law “On the RA Judicial Code.” The set of tools<sup>4</sup> for the implementation of the powers of the SJC is intended to ensure the establishment of a new three-tier judicial system in the Republic of Armenia and the strengthening of the independence of the judiciary by the ratified international treaties of the Republic of Armenia, the RA Constitution, and the RA constitutional law “On the RA Judicial Code.”

### 3.3 STRUCTURE OF THE COURTS

In the Republic of Armenia, only the courts in compliance with the Constitution and laws shall administer justice. The RA constitutional law “On the RA Judicial Code” article 2 states that the following courts function in the Republic of Armenia: first instance courts (Courts of General Jurisdiction, the Bankruptcy Court and the Administrative Court); appellate courts (Criminal Court of Appeal, Civil Court of Appeal, and Administrative Court of Appeal); and the Cassation Court, which has a Criminal Chamber and a Civil and Administrative Chamber. The Constitutional Court shall administer constitutional justice in the Republic of Armenia according to Article 167 of the RA Constitution.

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<sup>4</sup> As defined by the Constitution, the tools for the implementation of the powers of the SJC are: (1) drawing up and approving the lists of candidates for judges, including candidates; (2) proposing to the President of the Republic the candidates for judges subject to appointment; (3) proposing to the President of the Republic the candidates for chairpersons of courts and the candidates for chairpersons of chambers of the Court of Cassation, subject to appointment; (4) proposing to the National Assembly the candidates for judges and for Chairperson of the Court of Cassation; (5) deciding on the issue of secondment of judges to another court; (6) deciding on giving consent for initiating criminal prosecution against a judge or depriving him or her of liberty with respect to the exercise of his or her powers; (7) deciding on the issue of subjecting a judge to disciplinary liability; (8) deciding on the issue of terminating the powers of judges; (9) approving its estimate of expenditures as well as those of the courts, and submit them to the Government, in order to include them in the Draft State Budget as prescribed by law.

Courts of General Jurisdiction have first-instance jurisdiction over all civil, criminal and other cases that are not reserved to the specialized courts. The general jurisdiction courts also have jurisdiction over cases on enforcement of judicial decisions, cases on juveniles, payment orders, etc. They hear other cases as provided by the criminal procedure laws and supervise the pre-trial proceedings in a criminal case. The RA constitutional law “On the RA Judicial Code” article 23 states that there are ten courts of general jurisdiction: the Court of General Jurisdiction of First Instance of Yerevan city and nine courts of general jurisdiction in the regions (called *marzes*),<sup>5</sup> ranging in size from six to thirteen judges (including a chair<sup>6</sup>). An individual judge hears cases in the courts of general jurisdiction.

The Administrative Court has jurisdiction over all cases arising from public legal relations, including disputes related to administering public or alternative service; disputes between administrative bodies that are not subject to resolution by higher authorities; cases involving disputes on suspending and terminating the activities of associations in the area of public law, including trade unions; and cases on issuing payment orders that arise from public legal relations. The exceptions are cases that fall under the jurisdiction of the Constitutional Court, the Bankruptcy Court or Courts of General Jurisdiction. The Administrative Court is based in Yerevan and has seats in six other cities. It consists of 17 judges, including a chair. An individual judge examines on the merits most cases that have come before the Administrative Court. Cases concerning legality of normative acts issued by the executive branch and by local authorities, as well as certain election-related disputes, are heard by five-judge panels; while three-judge panels examine those relating to municipal decisions on public assembly.<sup>7</sup> The Bankruptcy Court began operating on January 1, 2019.

Armenia has three courts of appeal: the Civil Court of Appeal, the Criminal Court of Appeal and the Administrative Court of Appeal.<sup>8</sup> The Civil Court of Appeal and the Criminal Court of Appeal review appeals from Courts of General Jurisdiction.<sup>9</sup> The Administrative Court of Appeal reviews appeals from the Administrative Court. All three of these courts operate in Yerevan.

The Court of Cassation is the court of highest instance in Armenia, except for matters of constitutional justice, according to RA Constitution article 171. The Court of Cassation, by way of revision of judicial acts within the scope of powers prescribed by law, shall ensure the uniform application of laws or other regulatory legal acts and eliminate the fundamental violations of human rights and freedoms. The Court of Cassation ensures the uniform application of laws and other normative legal acts if there is a problem of law or the different legal acts of the courts have been used in different cases or have not been applied as a result of various misconceptions. In order to eliminate the fundamental violations of human rights and freedoms, the Court of Cassation reviews the judgments that hinder the essence of justice.

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<sup>5</sup> Aragatsotn, Ararat and Vayots Dzor, Armavir, Gegharkunik, Kotayk, Lori, Shirak, Syunik, and Tavush.

<sup>6</sup> In addition to the powers of a judge, the chairperson of a court of first instance, as well as of a court of appeal:

(1) Ensures the normal operation of the court, as well as supervises the operation of the staff of the court; (2) Grants leave to judges; (3) Represents the court before other bodies; (4) Refers issues related to ensuring the normal operation of the court to the Supreme Judicial Council, the General Assembly, or to the commissions of the General Assembly; (5) In the case of discovering any prima facie violation of the code of conduct committed by a judge, reports it to the Ethics and Disciplinary Commission of the General Assembly; (6) Approves, in the manner prescribed by the SJC, the duty schedule of judges carrying out judicial oversight over pre-trial criminal proceedings and publishes the seats of judges scheduled for duty on the official website of the judiciary.

<sup>7</sup> *Id.* arts. 196, 208, 203.

<sup>8</sup> The RA constitutional law “On the RA Judicial Code” 2(4).

<sup>9</sup> *Id.* art. 39(1).

The Court of Cassation is divided into two Chambers, namely the Civil and Administrative Chamber and the Criminal Chamber. Located in Yerevan, the Court consists of a Chair, two Chamber chairs, and 14 judges: five judges and a chair in the Criminal Chamber and nine judges and a chair in the Civil and Administrative Chamber. Decisions of the Court of Cassation shall be considered adopted if the majority of judges vote for it. Decisions of the Court of Cassation are final and not subject to appeal.

The Constitutional Court is responsible for the administration of constitutional justice. It is a judicial body, which is separate and independent from the executive, the legislative, and the judiciary. It is responsible for supervising the constitutionality of laws and other legislative instruments. The law of Constitutional Court of Armenia is defined both in Armenian constitution and in law. It is located in Yerevan and has nine judges, who are referred to as members. The court's authority extends beyond merely determining the constitutionality of legislation and includes functions with important political implications. These additional functions include, *inter alia*, determining whether international treaties comply with the Constitution before they are ratified; resolving disputes relating to referenda or presidential and parliamentary elections; declaring whether there are insurmountable obstacles to the election of a presidential candidate; concluding whether there are grounds for impeaching the President or whether the President is incapable of performing his/her duties; and deciding whether to suspend or prohibit the activities of a political party, as prescribed by law.<sup>10</sup>

### 3.4 THE HIERARCHY OF DOMESTIC LEGAL ACTS

The Armenian legal system is based on continental law, with the Constitution having supreme legal force and its norms applying directly. The Constitution singles out constitutional laws (Judicial Code, Electoral Code, etc.), which shall be adopted by at least three fifths of the total number of parliament members. Constitutional laws must comply with the constitution. Laws, which can be adopted by the majority of votes of the parliament members participating in the voting,<sup>11</sup> must comply with the Constitution and constitutional laws. Secondary regulatory legal acts must comply with constitutional laws and laws. Once ratified or approved, international treaties become part of Armenia's legal system and are put into effect directly, without the need for intermediary national law changes. No treaty can be ratified unless it complies with the Constitution. In case of conflict between the norms of ratified international treaties and laws, the norms of international treaties shall apply. Armenia being a member of the European Council and having ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), acknowledges the judgments of European Court of Human Rights as binding, and these judgments are playing an increasing role in the Armenian system of justice.

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<sup>10</sup> RA Constitution article 168.

<sup>11</sup> Please note that the National Assembly has quorum if more than half of the total number of deputies have registered in the sitting. This means that the minimum number of voting members is half of the half, or one quarter of the total number of deputies.

## 4 INTEGRITY SYSTEMS

This section presents assessment findings, conclusions, and recommendations related to Integrity Systems.

### 4.1 INTRODUCTION

Armenia's history of corruption issues has been well documented. In Transparency International's *Corruption Perception Index (CPI)*, Armenia received a score of 35 out of 100 in 2018, with a ranking of 105 out of 180 countries.<sup>12</sup> Corruption is perceived to be endemic throughout business and political elites. In the International Republican Institute's (IRI) *Public Opinion Survey: Residents of Armenia*, dated May 6-31, 2019, the courts, customs, and medical institutions were identified as the most corrupt entities.<sup>13</sup> The Government's anti-corruption efforts, however, are resonating with the public. In Transparency International's *Global Corruption Barometer* for 2016, 65% of Armenians rated the prior Government's anti-corruption efforts as bad or fairly bad.<sup>14</sup> In the recent IRI report, 59% of respondents rated the new Government's anti-corruption efforts as sufficient, and 58% believe that corruption is getting either much or somewhat better.<sup>15</sup>

While negative perceptions of Armenia's corruption problems have remained fairly consistent, the Velvet Revolution of 2018 ushered in both a renewed focus on anti-corruption efforts and heightened expectations from the public. In March and April of 2018, hundreds of thousands of Armenians took to the streets in a massive act of civil disobedience to protest the electoral fraud of President Serzh Sargsyan, culminating in his resignation on April 23. In a country where 25.7% of the population lives below the national poverty line,<sup>16</sup> and where arguably many more can be considered poor,<sup>17</sup> pent up frustration with economic inequality and corruption has driven public demand for accountability.

### 4.2 POLICY AND STRATEGY

A year after the Revolution, trust in the Government's commitment to anti-corruption reforms remains high. Even those most critical of the Government's efforts attest to its high political will to implement meaningful reforms. Indeed, this commitment seems to be the primary underpinning of the Government's popular legitimacy. The Government appears to be acutely aware of this, and there is a sense amongst many, particularly in civil society, that public demand for accountability is driving a reactive and punitive approach to anti-corruption reform, rather than a comprehensive and balanced strategy. For example, interviews with government officials consistently emphasized the need for assistance in implementing asset recovery as a governmental priority, and the primary focus of the Government's anti-corruption efforts appears to be the numerous investigations of former government officials.

Overall, there are two significant strategic challenges that threaten the Government's anti-corruption efforts. First, respondents are uniformly concerned that the Government does not have the necessary

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<sup>12</sup> Transparency International, *Corruption Perceptions Index 2018*, <https://www.transparency.org/cpi2018>.

<sup>13</sup> International Republican Institute, *Public Opinion Survey: Residents of Armenia* p. 35 (May 6-31, 2019) [https://www.iri.org/sites/default/files/armenia\\_poll\\_may\\_2019\\_final.pdf](https://www.iri.org/sites/default/files/armenia_poll_may_2019_final.pdf).

<sup>14</sup> Transparency International, *Global Corruption Barometer 2016*, <https://transparency.am/en/gcb>.

<sup>15</sup> International Republican Institute, *Public Opinion Survey: Residents of Armenia* pp. 37-38 (May 6-31, 2019) [https://www.iri.org/sites/default/files/armenia\\_poll\\_may\\_2019\\_final.pdf](https://www.iri.org/sites/default/files/armenia_poll_may_2019_final.pdf)

<sup>16</sup> Asian Development Bank, *Poverty In Armenia*, <https://www.adb.org/countries/armenia/poverty>.

<sup>17</sup> ARKA News Agency, *About 45 Percent of Armenia's Population is Poor* (October 17, 2017), [http://arka.am/en/news/society/about\\_45\\_percent\\_of\\_armenia\\_s\\_population\\_is\\_poor/](http://arka.am/en/news/society/about_45_percent_of_armenia_s_population_is_poor/)

expertise to develop and implement an anti-corruption strategy. And second, there have been significant delays in the Government's adoption of an institutional framework for its anti-corruption prevention and investigatory functions. Both of these issues raise serious roadblocks to reform efforts.

Despite the best intentions of the Government, many respondents are deeply skeptical of its ability to conceptualize, coordinate, and implement a comprehensive anti-corruption strategy. The frequent refrain is that the government has high political will but no expertise. The Revolution brought new leadership across the Government and Ministries that, due to the prior regime's hold on power, has no experience with governing. Indeed, many of the new members of the Government came directly from civil society. Exacerbating the Government's lack of experience in governing is the fact that fully 101 out of 132 Members of Parliament, or 76.5%, are also brand new.<sup>18</sup>

As such, respondents complained that it is unclear exactly who is in charge of developing and implementing anti-corruption policy and strategy. Many noted that it is simply unrealistic to expect Mr. Pashinyan to make every decision, but the general impression is that most officials are essentially waiting for him to take the lead and tell them what to do. Previously, the Anti-Corruption Council served as the primary vehicle for anti-corruption policy coordination, although this body was not well regarded by respondents and it reportedly has not met under the new Government. This lack of coordination is reflected in the delayed development of an overarching anti-corruption strategy, which was released in December 2018. Unfortunately, the initial draft is largely viewed as replicating the prior strategy, due to reliance by the new and inexperienced political leaders upon the core of civil servants who served under the prior regime. Reaction from civil society has been highly negative. After numerous discussions and receipt of over 500 pages of comments, the Government is completely revising its strategy and may be nearing completion. Unless the second draft is significantly improved, support for the Government's anti-corruption reforms may be seriously compromised.

Exacerbating the negative perception of the Government's expertise is the delay in choosing an institutional framework for anti-corruption. Some within both the Government and civil society support a unified approach, in which a single anti-corruption entity is responsible for anti-corruption education, corruption prevention, operative intelligence, and preliminary investigation functions. This would represent a significant shift in Armenia's anti-corruption strategy, as it currently employs a decentralized system where multiple bodies are responsible for corruption prevention and investigatory functions. For example, these functions are currently shared by the Commission of Ethics for High Ranking Officials (CEHRO), government body ethics commissions, the Civil Service Office, the Investigation Committee, the Special Investigation Service, the Investigation Department of the State Revenue Committee, and the Investigation Department of the National Security Service.

The proponents of a unified approach argue that it is more efficient and cost effective due to the elimination of duplicative functions and departmental competition, better coordination and access to information, and overall cost savings. Having a unified body, they argue, is also more independent from political influence, as it would be a constitutional independent body that answers directly to the National Assembly, which would also provide for transparency and public accountability. Others, however, favor a checks-and-balances approach by splitting these functions to prevent any single entity from wielding

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<sup>18</sup> EVN Report, *New Armenia's Parliamentarians* (January 13, 2019) <https://www.evnreport.com/politics/new-armenia-s-parliamentarians>.



too much power. While such an approach might not be as efficient, it avoids having a single, overly powerful body that runs the risk of being subverted by political interests. For example, some respondents expressed concern that officials in charge of investigations should not have direct access to all of the financial disclosure information and databases of the CEHRO. Forcing law enforcement to go through procedural channels to access information would help prevent such power from being abused.

While progress has been reported, the overall delay in committing to an institutional framework for anti-corruption necessarily delays strategic planning and other reforms that were already underway. For example, the anticipated Corruption Prevention Commission (CPC), which has been delayed until 2020 due to problems with the selection process, is intended to be the successor entity to the Commission on Ethics for High Ranking Officials and provide overall coordination for corruption prevention. But if the Government chooses a unified institutional framework, it is unclear how this would impact the CPC. Regardless of which approach the Government chooses, it would benefit from assistance in adapting its AC institutional framework into an implementable and coordinated strategy.

Overall, civil society is critical of the lack of systemic consultation on anti-corruption strategy and policy. The primary mechanism for soliciting public comment is the E-draft system, through which the Government publishes proposed legislative drafts and other documents, including the anti-corruption strategy, for comment and discussion. At the time of this report, a total of 1,530 drafts had been published on the website, with 22 drafts currently active.<sup>19</sup> The use of an online forum can be an effective mechanism for increasing transparency and providing an opportunity for public comment. Understandably, however, an online format limits the extent to which criticisms and suggestions can be discussed and debated. While five CSOs used to serve as permanent members on the Anti-Corruption Council, as mentioned above, that body has not been utilized under the new Government. Thus, while there have been some consultations, civil society representatives stated that systematic and ongoing dialogues between civil society and government are sorely needed, preferably through a standing working group.

### 4.3 CIVIL SERVICE INTEGRITY

The Law on Public Service, last amended March 23, 2018, establishes the broad parameters for ensuring civil service integrity, beginning with the general requirement that civil servants conduct themselves in accordance with the principles of “serving the public, loyalty to the public interest, good manners and respectfulness, good faith, and objectivity.”<sup>20</sup> Article 28 provides for the establishment of model rules of conduct by Corruption Prevention Commission (CPC), but this body is still not operational.<sup>21</sup> However, this provision also empowers the Deputy Prime Minister coordinating the civil service to establish rules of conduct for civil servants, and under this authority the Civil Service Office has plans to do so.<sup>22</sup> The establishment of more specific rules to provide consistency and clarity would be a positive development, and the Civil Service Office should be encouraged to move forward with its plans.

Restrictions on gifts are regulated by Articles 29 and 30 of the Law on Public Service and are generally satisfactory.<sup>23</sup> In addition to providing that “persons holding public positions and public servants must

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<sup>19</sup> Unified Website For Publication of Draft Legal Acts, <https://www.e-draft.am/>.

<sup>20</sup> Law of The Republic of Armenia on Public Service, art. 22, *last amended* March 23, 2018 [hereinafter Law on Public Service].

<sup>21</sup> *Id.* art. 28.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* arts. 29 and 30.

not accept, or agree to accept in the future, any gift if it is connected with the performance of their official duties,”<sup>24</sup> the law establishes a maximum value of 75,000 AMD (approximately 155 USD)<sup>25</sup> for all gifts, which includes “ceded claims, surrender of claims without compensation or property sold at an apparently disproportionately low price, services rendered or work carried out at an apparently disproportionately low price, as well as preferential loans, [and] gratuitous use of another’s property...”<sup>26</sup> Gifts must also be registered with the Government.<sup>27</sup>

The Law on Public Service also establishes incompatibility requirements<sup>28</sup> and restrictions on conflicts of interest.<sup>29</sup> Both are satisfactory, although respondents indicated that the restrictions on conflicts of interest would benefit from implementing regulations to provide greater specificity. Additionally, some respondents indicated that all government officials will require training in both the existing laws and any future regulations.

One of the most significant integrity systems is the financial disclosure requirement under Article 34 of the Law on Public Service, which provides for declarations to be submitted to the CPC upon assumption and termination of official duties and also annually.<sup>30</sup> With the CPC still not established, however, these duties are still being fulfilled by the CEHRO. The financial declaration requirements are fairly comprehensive, applying not only to approximately 3,500 public officials, but also to their adult and minor family members.<sup>31</sup> The declaration is to include immovable property, all means of self-propelled transportation, securities, loans, monetary funds, any property in excess of 8 million AMD (approximately 16,593 USD),<sup>32</sup> and all incomes derived from employment, royalties, loans, dividends, monetary winnings, gifts, inheritance, pensions, and a variety of other sources.<sup>33</sup> Additionally, while the declarations process is intended to include potential conflicts of interest, this component has reportedly been delayed until 2020.<sup>34</sup>

Overall, the legislative framework for the financial disclosure requirements is fairly strong. Perhaps the most significant oversight is that the declarations requirements should be expanded to include political candidates. As noted in the Evidence Review preceding this assessment, mitigating state-capture by oligarchs is crucial for creating safe political and economic space.<sup>35</sup> And given public concerns as to corruption between business and political elites, vetting candidates for potential conflicts of interest and their sources will increase transparency. Fortunately, Article 43 of the Law on Public Service provides that, subject to certain limitations, “a declaration shall immediately be published on the official website of the Commission for Prevention of Corruption,” thus giving the public access to this data.<sup>36</sup>

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<sup>24</sup> *Id.* art. 29.

<sup>25</sup> Oanda Currency Converter, as of May 13, 2019, <https://www.l.oanda.com/currency/converter/>.

<sup>26</sup> Law on Public Service, art. 29.

<sup>27</sup> *Id.* art. 30.

<sup>28</sup> *Id.* art. 31.

<sup>29</sup> *Id.* art. 33.

<sup>30</sup> *Id.* art. 34.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* art. 40.

<sup>33</sup> *Id.* art. 41.

<sup>34</sup> *Id.* art. 42.

<sup>35</sup> IS/ROL Evidence Review.

<sup>36</sup> Law on Public Service, art. 43.

There are concerns, however, as to the enforcement of these provisions. As with the overall conduct and conflicts of interest standards, government officials would benefit from training in the financial disclosure requirements and how to submit an application. Currently, the CEHRO is functioning with only four of its five commissioners, as the former Chairperson resigned in protest at the legislative uncertainty facing the CEHRO. Due to the delay in establishing the CPC, the legislative authority for the CEHRO was extended to prevent a disruption in the receipt and processing of financial disclosures. However, several respondents raised serious concerns about the legality of the CEHRO's authority and questioned whether the financial disclosure requirements would survive scrutiny if challenged in court. This report cannot evaluate the merits of these arguments, but even the suggestion that the CEHRO's authority is questionable raises concern and confusion over the enforcement of the financial disclosure system, particularly if those referred to the Prosecutor General's Office for criminal prosecution challenge its legitimacy. Further complicating matters is the uncertain future of the CPC due to the debate over a universal or separated institutional framework for anti-corruption. If the Government chooses a universal institutional framework, the existence of the CPC and its functions are thrown into doubt, potentially before it even becomes functional. Overall, the confusion over the legality and future of the financial declarations systems is quite concerning.

The CPC, if it is established, will represent a significant improvement over the existing CEHRO. The CPC will be empowered with overall responsibility for corruption prevention, including implementing the financial declarations system, monitoring compliance with ethical requirements and incompatibility restrictions, policy development, drafting of any relevant codes of conduct and ethics, providing guidance and assistance to state body ethics commissions and integrity affairs officers, and public awareness-raising.<sup>37</sup> To fulfill these functions, the five CPC Commissioners will reportedly have a staff of approximately 40 people, significantly expanding its capacity compared to the CEHRO. The Commissioners will be selected by the National Assembly, based on a competition board with representatives from the Constitutional Court, the Human Rights Defense, opposition parties in the National Assembly, the Public Council, and the Chamber of Advocates.<sup>38</sup> To protect the CPC's independence, it is granted financial independence as an autonomous state body,<sup>39</sup> while the Commissioners' freedom is also guaranteed by law and they are granted limited immunity for their official conduct.<sup>40</sup>

As it is being established, the CPC will need significant capacity building assistance, such as initial trainings for the new staff and access to experts and advisors on its various functions, including legislative drafting, policy development, coordination with integrity affairs officers, and public awareness-raising. Additionally, respondents indicated that the electronic declarations system would benefit from updates to provide better interoperability with other government databases and to keep it current with legislative changes. Given its central role in corruption prevention, the CPC has the potential to be a strong partner for donor assistance efforts, and its development should be considered a key priority.

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<sup>37</sup> Law of the Republic of Armenia on the Commission of Prevention for Corruption, arts.23 and 24, *last amended* March 23, 2018 [hereinafter Law on the CPC].

<sup>38</sup> *Id.* art. 11.

<sup>39</sup> *Id.* arts. 2 and 5.

<sup>40</sup> *Id.* art. 17.

As already referenced, the integrity affairs officers established by the Law on Public Service also play a critical role in corruption prevention.<sup>41</sup> Utilizing a decentralized approach, the law creates an integrity affairs officer in each state body, with responsibility for providing their body with guidance on ethics issues, developing and implementing training programs, and developing internal integrity plans.<sup>42</sup> One drawback to these positions, according to respondents, is that no new positions were created. Instead, these responsibilities have been added to an existing position within each state body. As such, these individuals will be hard pressed to fulfill their responsibilities, and would benefit from expert guidance, training of trainer's support, coordination with the CPC, and assistance with development and implementation of internal integrity plans. Like the CPC, the integrity officers are a natural partner for donor assistance activities, and their capacity should be developed.

#### 4.4 WHISTLEBLOWER PROTECTION

The main task of whistleblower protection provisions is to encourage the disclosure of official wrongdoing by protecting those who make disclosures from acts of reprisal or revenge. Whistleblowing raises the tension between the whistleblower as hero or as traitor. Are whistleblowers heroes who expose illegal and corrupt conduct, maladministration, misconduct and wastage, or are they traitors because they disclose confidential information and practices? An informed society underpins a democratic society, so a democratic society must encourage, support, and protect whistleblowers.

Armenia passed its Whistleblower Law in June 2017 and it has been generally well received.<sup>43</sup> The law has fairly broad application, as it applies to:

...a natural or legal person, who reports, in good faith and as provided for by this Law, information—regarding a case of corruption or a violation in respect of conflict of interests, or rules of ethics or incompatibility requirements, or other restrictions or declaration, or other harm to public interests or the threat thereof—related to the official or the body, with whom he or she is or was in employment or civil law, or administrative law relations, or to whom he or she has applied for the purpose of rendering services, or who has been mistakenly perceived as a whistle-blower.<sup>44</sup>

The law covers both internal (reports to a superior) and external (reports to the relevant state body) methods of reporting,<sup>45</sup> or reports may instead be made anonymously through the electronic complaints platform.<sup>46</sup> It does not, however, include reporting to the media, which seems to be an oversight. The only other significant problem is an extremely vague definition of *corruption*.<sup>47</sup>

The elements of reprisal are broadly defined, including:

- Termination or demotion of employment;
- Reduction of staff;

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<sup>41</sup> Law on Public Service, art. 46.

<sup>42</sup> *Id.* art. 46.

<sup>43</sup> Law of the Republic of Armenia on the System of Whistleblowing (June 2017) [hereinafter Whistleblower Law].

<sup>44</sup> *Id.* art 2.1(2).

<sup>45</sup> *Id.* art 4.

<sup>46</sup> *Id.* art 9.

<sup>47</sup> *Id.* art 2.1(7)

- Failing to assign the whistleblower to work related tasks or overloading him/her with tasks;
- Interfering with work-related activities;
- Refusing to use incentives or a reduction of salary;
- Use of disciplinary proceedings or other sanctions; or
- Other measures aimed at deterring him/her from whistleblowing.<sup>48</sup>

While the legislative framework is generally sufficient, respondents reported two weaknesses previously identified in the OECD Report. First, public awareness of the Whistleblower Law remains low, and a public awareness campaign is strongly recommended. If citizens don't know about the existence and protections of the law, the law fails to serve its purpose of encouraging whistleblowers to come forward. Second, after significant delays, the electronic reporting mechanism for anonymous reports only just became functional.

#### 4.5 CIVIL SOCIETY AND INDEPENDENT MEDIA

Civil society and independent media both face challenges and opportunities in the fight against corruption. Although many members of civil society joined the Government, thus providing better access for some of their former colleagues, the relationship between civil society and government has been somewhat sporadic, based on personal relationships rather than formalized, systemic consultation. As previously noted, better coordination between civil society and the government would be beneficial.

Some CSO representatives noted that the influx of civil society members into the government has created something of a brain drain for civil society. While there is still a robust civil society, steps should be taken to ensure that it is able to play a strong role in anti-corruption activities. For example, the companion study to this report, *Civil Society and Media in Armenia*,<sup>49</sup> recommended establishing a policy research/resource center for CSOs in affiliation with a university. Not only would this provide CSOs with access to better research, but it would facilitate contact between civil society and university staff and students. Exposing students to civil society research and activities would also help train and recruit a new generation of civil society professionals. CSOs might also benefit from trainings, such as research, legislative analysis, advocacy, public awareness raising, effective social media strategies, and substantive issues related to anti-corruption. Additionally, to the extent permitted by Armenia law, training CSOs in how to draft and submit *amicus curiae* ("friend of the court") briefs. Doing so could be an effective strategy for CSOs to inject their expertise into strategically important cases on corruption, the rule of law, and human rights. And finally, training in trial monitoring is another strategy that may increase the impact of CSOs. By monitoring trials related to corruption and, more broadly, the rule of law and human rights, CSOs can help identify strengths and weaknesses in the justice system. If these trainings are conducted jointly for National Assembly and/or Ministerial staff, it would also foster dialogue and contacts between civil society and government.

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<sup>48</sup> *Id.* art 2.1(6).

<sup>49</sup> USAID. 2019. *Civil Society and Media in Armenia: A Field Assessment for Learning, Evaluation and Research Activity II (LER II)*. Forthcoming. [hereinafter CSM Field Assessment].

According to respondents, the most significant assistance that civil society can provide is in the area of public awareness-raising. An effective corruption prevention strategy cannot merely focus on legislative or institutional changes. As in many societies, corruption is as much a cultural problem as it is a political or criminal problem. Transparency International's *Global Corruption Barometer 2016* revealed high levels of tolerance for corruption. Sixty-seven percent of Armenia respondents believed there was no duty to report corruption, 24% of respondents reported paying a bribe, and 77% indicated that reporting corruption is not socially acceptable.<sup>50</sup>

These attitudes were borne out in this study's interviews, with respondents citing a high cultural acceptance of corruption. For example, many believe that while taking a bribe is viewed as a corrupt activity, offering a bribe is not. Similarly, offering a gift to an official providing a service is also commonly not viewed as corruption. Respondents also cited the small size of the country, such that family and community ties are accentuated, increasing pressures to do a "favor" for someone who might be in a position to help or hinder you in the future. Law professors, for instance, mentioned the pressure to provide good grades to students from prominent families, in case the professor has dealings with them in the future.

With this in mind, civil society can assist with efforts to promote an anti-corruption culture through public awareness-raising. Respondents recommended that such efforts be targeted. Youth-oriented campaigns, for example, were a frequent recommendation, starting as early as primary school. Young people can bring about cultural change in attitudes and behaviors towards corruption, have the vitality and perspective that needs to be heard, and the creativity and innovation that is needed to address this complex agenda. Possible activities might include "Schoolhouse Rock" style Public Service Announcements (PSAs), social media videos showing common corruption situations and how to avoid them, street law programs recruiting university or high school students to teach younger children about corruption and civic responsibility, youth integrity camps, or promotion of integrity clubs and youth movements. Youth-oriented anti-corruption campaigns are increasingly popular due to the recognition that cultural change is a long-term investment, and the best opportunities to do so are activities that shape young minds before they come to tolerate corruption. As noted by Transparency International, youth "tend to be more open to wide-scale socio-political transformation and have less vested interest in maintaining the status quo."<sup>51</sup> With its wealth of experience, USAID has considerable advantages in assisting civil society with a robust anti-corruption public awareness campaign.

Independent media and investigative journalism play a critical, and frequently underutilized, role in combating corruption, not only in terms of uncovering corruption, but also for public awareness-raising, monitoring anti-corruption reforms, and applying pressure on the Government to maintain momentum. While the *Civil Society and Media in Armenia*<sup>52</sup> assessment under this tasking examines the role of the media in more depth, respondents for this report had several observations. Traditionally, independent media in Armenia is at a competitive disadvantage, as many media outlets are funded by oligarchs, who have their own business and political agendas. Independent media, and investigative journalism in particular, finds it extremely difficult to attract advertisers and funding. And, as with civil society, numerous members of the media moved into positions with the Government or in the National

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<sup>50</sup> Transparency International, *Global Corruption Barometer 2016*, <https://transparency.am/en/gcb>.

<sup>51</sup> Sofia Wickberg, Transparency International, *Best Practices in Engaging Youth in the Fight Against Corruption*, July 16, 2013, <https://www.u4.no/publications/best-practices-in-engaging-youth-in-the-fight-against-corruption>.

<sup>52</sup> CSM Field Assessment.



Assembly, depleting the pool of qualified journalists. As a result, there is a dearth of quality journalism that can carry the anti-corruption message.

Respondents recommended that support for independent media would aid corruption prevention by raising awareness of reforms and the importance of fighting corruption and keeping public pressure on the Government should reforms falter. Possible activities include working with public television on incorporating anti-corruption themes into soap operas and popular dramas or by airing PSAs and youth-oriented shows focusing on civic education, providing exchange visits to developed media outlets in the region to learn journalistic skills and best practices, implementing trainings for journalists on anti-corruption and media management, and providing grants to reputable, independent media outlets.

Finally, the role of both civil society and the independent media in raising public awareness and influencing society attitudes towards corruption can be enhanced through the use of social behavior change communication (SBCC). SBCC is the strategic use of communication approaches to promote changes in knowledge, attitudes, norms, beliefs, and behaviors. By identifying specific changes to existing practices and behaviors, coordinating strategic communications amongst partners and stakeholders, and following up with evaluations to determine impact, the use of SBCC programs can significantly increase the chances of success. In fact, SBCC programs should be utilized not just amongst civil society and independent media, but all entities involved in promoting an anticorruption culture. An excellent resource is C-Change's SBCC Toolkit, developed in cooperation with USAID.<sup>53</sup> The toolkit includes an SBCC framework, capacity assessment tool, and other resources.

## 4.6 CONCLUSIONS

The reform environment for anti-corruption activities is extremely challenging, due to delays and confusion with overall strategy and coordination, combined with the Government's focus on punitive rather than preventative measures. For example, the recent emphasis on transitional justice seems oriented more towards asset recovery and punishing uncooperative judges than in helping to reconcile victims with past abuses. There is no clear sense from Government leaders as to reform priorities, and the primary decision maker on all important strategic issues appears to be solely Mr. Pashinyan. As such, top-level interventions may not be feasible until a national strategy and AC institutional framework are decided in order to determine what the needs and opportunities are. However, an offer to provide advice with these two strategic issues may be worthwhile. If and when the CPC is created, it remains the most logical partner for corruption prevention efforts, as well as the state body integrity officers and the Civil Service Office. As noted in the Evidence Review, working with these actors to help prevent petty corruption not only enhances public credibility, but serves to help create an anti-corruption culture from the bottom up.

Other bodies may also be worthwhile as partners, such as the State Control Service. Unfortunately, due to the corruption charges brought against Mr. Davit Sanasaryan and his subsequent suspension, the State Control Service declined to speak with the assessment team. The recently constituted Audit Chamber, which has received prior assistance from USAID in implementing analytical software, is another potential partner. However, it is also receiving assistance from the World Bank, including an assessment of the national procurement system, so resources may be better spent in other areas to avoid duplication of

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<sup>53</sup> C-Change, SBCC Toolkit (July 18, 2012) <https://www.c-changeprogram.org/resources/sbcc-toolkit>.



efforts. Nevertheless, the Evidence Review notes that implementing a system of randomized audits can be especially effective, and this may be worth supporting if the opportunity arises.

Perhaps the most pressing concern and greatest challenge is countering the culture of corruption that has developed. Corruption has become so ingrained and expected that only a sustained public awareness raising effort, in conjunction with both government institutions and civil society, can hope to have an impact.

Finally, while private sector corruption is outside the scope of the research questions, the suggestion raised in the Evidence Review regarding engagement with small and medium enterprises seems to have potential. As the “underdogs” in the commercial system, they have financial incentives to organize and resist corruption. Creating an association to foster these efforts would provide a potential partner for future engagement.

## 4.7 RECOMMENDATIONS

1. ***Civil Society:*** strengthen civil society, particularly in its public awareness-raising role for anti-corruption issues and civic education, as part of a long-range plan that utilizes social behavior change communication theory and programs to inculcate an anti-corruption culture. Potential activities include:
  - a. developing a university-affiliated research center to boost research capacity and forge links with faculty and students;
  - b. trainings on research, legislative analysis, advocacy, public awareness raising, effective social media strategies, and substantive issues related to anti-corruption;
  - c. promoting public awareness through “Schoolhouse Rock” style PSAs, social media videos showing common corruption situations and how to avoid them, street law programs recruiting university or high school students to teach younger children about corruption and civic responsibility, youth integrity camps, or promoting integrity clubs and youth movements; and
  - d. facilitating better communication and consultation between civil society and the Government through the establishment of a standing working group and ongoing dialogues.
2. ***Corruption Prevention Commission:*** provide capacity building support to the Commission on Prevention of Corruption. The successor body to the Commission on Ethics for High Ranking Officials, the CPC will have significantly expanded responsibility in its lead role on corruption prevention issues. As such, it promises to be a key partner for donor assistance efforts. With a brand-new staff, the CPC will need significant assistance, including:
  - a. training on ethical and conduct standards, policy analysis and development, and legislative drafting for new staff;
  - b. upgrading the electronic declarations system;

- c. amending the Law on Public Service to expand the declarations requirements to political candidates; and
  - d. improved coordination with the state body integrity officers.
- 3. **Integrity Officers:** support development of state body integrity officers in their “front line” role for corruption prevention. As they effectively serve in this role part-time, they will need assistance with:
  - a. developing their expertise in relevant ethics and conduct standards and procedures;
  - b. developing and implementing ethics trainings for the staff at their particular state body;
  - c. developing and implementing internal integrity plans that reflect the Government’s national anti-corruption strategy; and
  - d. developing expertise in policy analysis.
- 4. **Civil Service Office:** despite its transition to more of a support and advisory role in the new, decentralized civil service system, the Civil Service is a natural partner in promoting corruption prevention. It cited ethics trainings that are already being planned in cooperation with USAID, and these should be implemented as widely as possible. Additionally, the Civil Service Office expressed enthusiasm for expert assistance in drafting a Code of Conduct for Public Officials, in accordance with its responsibilities under the new Law on Public Service.
- 5. **AC Strategy:** at the time of this report, the second draft of the anti-corruption strategy plan had not been released, although some respondents believed it was close to completion. Once the new national strategy has been released, the Government may benefit from expert advice on particular components. Potential activities include:
  - a. advisors and/or expert working groups to provide feedback on various components of the strategy, and its overall cohesiveness;
  - b. facilitated discussions with civil society;
  - c. coordination and synthesis of all inputs and feedback to provide a comprehensive overview of suggestions and options;
  - d. establish and support a mechanism for providing coordination, monitoring, and evaluation of the strategy, including development and implementation of performance indicators; and
  - e. public awareness-raising of the strategy to explain the practical impact and maintain strong public support for reforms.
- 6. **Media:** strengthen the capacity of independent media and investigative journalism as a means to promote public awareness of reforms and anti-corruption issues and to maintain pressure on the Government. Potential activities include:

- a. working with public television on incorporating anti-corruption themes into soap operas and popular dramas;
  - b. airing PSAs and youth-oriented shows focusing on civic education;
  - c. providing exchange visits to developed media outlets in the region to learn journalistic skills and best practices;
  - d. implementing trainings for journalists on anti-corruption and media management; and
  - e. providing grants to reputable, independent media outlets to encourage objective reporting on anti-corruption issues.
7. **Whistleblower Protection:** support implementation of the Whistleblower Law by conducting a public awareness campaign so the public is aware of the law and its protections.
  8. **AC Institutional Framework:** provide expertise to the Government on the issue of a unified anti-corruption institutional structure vs. separate bodies for law enforcement and prevention functions. Respondents both within and outside the Government suggested that issue is critical, and the decisions reportedly rests solely in the hands of Mr. Pashinyan. Until it is resolved, anti-corruption reforms will be largely stalled.

#### 4.8 SUMMARY AND PRIORITIZATION OF RECOMMENDATIONS

Table I below presents the summary and prioritization of Integrity Systems recommendations. The prioritization of recommendations is based on: (1) how important an issue/problem is, (2) how difficult it may be to carry out a recommendation successfully, and (3) how widespread the impact of the activity would be. The time horizon listed is the anticipated length of the associated project required to implement the recommendation.

TABLE I: SUMMARY AND PRIORITIZATION OF INTEGRITY SYSTEMS RECOMMENDATIONS:

SECTOR RECOMMENDATION PRIORITIES	PROJECT LENGTH
<b>HIGH</b>	
I.c. Utilizing SBCC theory and programs, promote AC public awareness raising in cooperation with civil society, independent media, and relevant government stakeholders	5 year project
I.d. Facilitate better communication between government and civil society	1 year project
2.a. Trainings for CPC staff	1 year project
2.d. Facilitate coordination between CPC and integrity officers	2 year project
3.a. Trainings to develop integrity officers	1 year project
3.b. Facilitate ethics trainings by integrity officers	1 year project
3.c. Facilitate internal integrity plans by integrity officers	1 year project
5.a. Provide advisors/expert working groups on AC strategy once adopted	1 year project

6.b. Work with media on PSAs and youth-oriented shows incorporating civic education	5 year project
<b>MEDIUM</b>	
1.b. Civil society trainings on research, AC, etc.	1 year project
2.b. Upgrade electronic declarations system	2 year project
2.c. Amend Law on Public Service to require financial declarations from political candidates	1 year project
4. Cooperate with Civil Service Office on drafting Code of Conduct for Public Officials	2 year project
5.c. Coordinate inputs on second draft of AC strategy	6 month project
5.d. Establish mechanism for coordination, monitoring, and oversight of AC strategy	3 year project
<b>LOW</b>	
1.a. Develop university-affiliated research center for civil society	5 year project
6.a. Work with public television on incorporating anti-corruption themes into soap operas and popular dramas	2 year project
6.c. Exchange visits for media to learn best practices	2 year project
6.d. Trainings for media on AC and media management	1 year project
6.e. Grants to encourage independent media focusing on AC	3 year project
7. Public awareness campaign on Whistleblower Law	1 year project
8. Expertise to Government on AC institutional framework	6 month project

## 5 LEGAL EDUCATION REFORM

This section presents assessment findings, conclusions, and recommendations related to legal education reform.

### 5.1 INTRODUCTION

A quality legal education is essential for producing competent and ethical legal professionals for all aspects of the legal system—judges, prosecutors, and advocates. While many legal reform programs focus on institutional reform, developing the human capital that drives these institutions is just as important. And there is no easier way to ensure an adequate supply of open-minded and effectively trained legal professionals than through legal education reform.

Armenia has traditionally had a well-regarded education system, but the legacies of the Soviet legal education system significantly hampered the education of legal professionals. During the Soviet Union, Yerevan State University (YSU) had the only law faculty. In the post-Soviet era, both public and private law schools were allowed to proliferate, but, due to poor oversight, many of these institutions were not well regarded. Legal education in Armenia is classified as higher professional education, and can be offered through a university, institute, or academy.<sup>54</sup> Additionally, higher educational institutions include both state institutions and private (non-state) institutions, including some that are foreign-affiliated. State institutions are heavily regulated by the Ministry of Education, which includes compliance with the mandatory state accreditation process and implementing the approved curriculum. Students are admitted based on the centralized, state-run examination process. Private institutions must receive a license from the Ministry of Education and must also undergo the accreditation process if they wish to offer state-recognized degrees. However, they control their own budgets, admissions process, and curriculum. Law degrees are available at the Bachelor's (LL.B), Master's (LL.M) and Doctoral (Ph.D.) levels. Today, Yerevan State University, French University in Armenia, and Russian Armenian University are the main universities to offer a Bachelor's law degree. Yerevan State University, French University in Armenia, and American University of Armenia offer a Master's degree, while Yerevan State University, Public Administration Academy of RA, and Russian Armenian University offer Doctorate law degrees.

Higher education as a whole, and legal education in particular, has been the focus of numerous rounds of reforms and development assistance, and Armenia has made steady progress in restoring educational excellence. Compared with ABA ROLI's *Legal Education Reform Index* from 2007, significant improvements are evident.<sup>55</sup> This conclusion is reinforced by the Evidence Review, which notes, "Legal education in Armenia has been improving particularly since 2005, when Armenia joined the Bologna Declaration on the European Space for Higher Education and launched reforms improving accreditation processes and alignment with European standards."<sup>56</sup>

However, two principal problems remain. While respondents indicated only moderate concerns with corruption issues in the education system, corruption in higher education is well documented. Compounding this problem is that ethics and corruption issues constitute a significant gap in the legal curriculum, missing an opportunity to inculcate ethical values into the next generation of legal professionals. Additionally, while changes have been made to incorporate more training in practical

<sup>54</sup> Law of The Republic of Armenia on Higher and Postgraduate Professional Education, art. 12, (last amended May 29, 2015) [hereinafter Law on Higher Education].

<sup>55</sup> ABA Rule of Law Initiative, *Legal Education Reform Index for Armenia* (August 2007).

<sup>56</sup> IS/ROL Evidence Review, at 36.

lawyering skills, the traditional, theoretical approach to legal education still seems to prevail, hindering students' development of practical lawyering skills.

Fortunately, this area is ripe for reform, and offers perhaps the best opportunities for long-term success. First, the past decade has seen steady improvement in Armenian legal education, and reinforcing success is typically a more efficient use of resources. Second, Armenian students and professors are increasingly internationalized, politically aware, and eager for skills and learning outside the traditional civil law education experience, compared with 15 or 20 years ago, when there was more institutional resistance. And finally, legal education reform is an area where USAID has considerable experience, with excellent resources to draw from both in terms of best practices and a U.S. legal education community that is typically eager to support international reform efforts. For example, expansion of clinical legal education has been identified as an important aspect of developing practical lawyering skills for Armenian law students. Coincidentally, the U.S. has consistently been the leader in the development of clinical legal education, dating back to Duke University in 1931, and followed by the rapid adoption of clinical legal education programs in the 1970s.<sup>57</sup> Not surprisingly, USAID drew from the U.S. experience in clinical legal education, perhaps most importantly the considerable supply of experienced clinicians to help train local colleagues and jumpstart clinics. As such, USAID has a wealth of prior programs, materials, and relationships (including implementers with relevant experience) from which to draw. Similarly, the sheer scope and breadth of the legal education system, compared to any other country, simply provides too many potential resources for almost any other conceivable assistance program, whether it be developing moot court programs, recruiting professors or academic staff (such as law librarians) with particular expertise for trainings or exchange programs, or establishing sister law school programs. Overall, legal education reform is the area with perhaps the best competitive advantage for USAID.

## 5.2 CORRUPTION

Higher education in Armenia has been viewed as susceptible to corruption for many years.<sup>58</sup> In surveys, university students report significant corruption at their institutions, including in the admissions process, exams, and graduation exams.<sup>59</sup> In one study, “25% of 1,200 first-to-third year students pursuing their bachelor degrees at the universities in Yerevan and Gyumri had been personally involved in bribery transactions, while 36.5% had heard about such transactions and believed the information to be true.”<sup>60</sup> Academic dishonesty is also a significant problem. In 2015, a report by the Open Society Foundation revealed widespread use of purchased papers in higher education, with 16.3% of students in the study reporting that they had submitted an unethically obtained paper.<sup>61</sup>

Surprisingly, student respondents for this assessment expressed only moderate concern about corruption, and generally did not feel that it has a significant impact on either their educational experience or opportunities. Most acknowledged that they believe corruption existed to some extent, such as in the admissions process, although they were quick to note that any such corruption is part of

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<sup>57</sup> Margaret B. Drew and Andrew P. Morriss, *Clinical Legal Education & Access to Justice: Conflicts, Interests, & Evolution*, p. 3 (2013) [https://scholarship.law.umassd.edu/cgi/viewcontent.cgi?article=1096&context=fac\\_pubs](https://scholarship.law.umassd.edu/cgi/viewcontent.cgi?article=1096&context=fac_pubs).

<sup>58</sup> Open Society Foundations-Armenia & Center for Applied Policy, *Strengthening Integrity and Fighting Corruption in Education: Armenia*, at 39, (2016) [http://www.osf.am/wp-content/uploads/2017/01/Integrity-Report\\_ENG\\_PUBLISHED\\_16.01.2017.pdf](http://www.osf.am/wp-content/uploads/2017/01/Integrity-Report_ENG_PUBLISHED_16.01.2017.pdf).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Open Society Foundation-Armenia, *Unethical Purchase of Academic Papers in Public Universities of Armenia*, at 26 (2015), <http://www.osf.am/wp-content/uploads/2015/05/Kristine-Goroyan.pdf>.

the Ministry of Education's centralized testing process, not the university itself. Instead, they complained more strongly about the quality of the admissions examination, which they believed was an ineffective mechanism for assessing their ability as future law students, particularly since high school transcripts are not taken into consideration.

None of the respondents were personally aware of any instances of corruption in either the admissions process or in testing, and they generally thought that procedures were sufficient to deter corruption. While they conceded that there might be some corruption in exams, oral exams were perceived as a deterrent since everyone can see and judge how well someone performed, making it harder for a student to receive an inflated grade. This is contrary to the *OECD Fourth Round Monitoring Report*, however, which notes that the high stakes of the oral exams and the inherent ambiguity in evaluating them makes them more attractive and vulnerable to manipulation.<sup>62</sup> Although some universities employ anonymous grading for written exams, this practice does not seem widespread and should be instituted across the legal education system.

While respondents were concerned less about petty bribery in admissions and testing, they were more concerned about the possibility of family influence. Echoing a common theme, due to Armenia's fairly small population and the "everybody knows everybody" phenomenon, well-positioned individuals have disproportionate influence, which respondents believed could be leveraged to help with admissions or exams. At least one professor noted the possibility that, since many law students come from families with judges or advocates, there may be pressure to be more lenient with well-connected students. For example, most law professors are forced to work second jobs due to low compensation, many of them as advocates, and they may be hesitant to give a poor grade to the child of a judge when they might have to practice before that judge in the future.

While petty bribery may not have raised strong concerns from our respondents, the problems of low compensation and unstable job status for professors has been noted as a contributing factor in other reports. For example, the *OECD Fourth Round Monitoring Report* describes how most instructors are hired on short-term, non-competitive contracts, and, as a result, "staffing decisions are frequently marked by arbitrariness and by a subjective uncertainty of academic staff about their career and employment prospects."<sup>63</sup> Higher salaries would not prevent petty corruption on their own, but they would certainly reduce the appeal, perhaps even the necessity, of bribe-taking by professors while encouraging recruitment of more highly qualified candidates.

Perhaps the greatest oversight pertaining to corruption and ethics is the dearth of instruction on these issues. Surprisingly, there is still no mandatory course on professional ethics and conduct at the Bachelor's level. Some courses touch on ethical issues, but the subject is not addressed in a comprehensive and systematic way, and the lack of mandatory instruction undermines its importance. Law students need to receive a clear message that professional ethics are a critical requirement for practice as a legal professional, and that they are key actors in the fight against misconduct and corruption. Failing to instill a sense of ethics in law students as early as possible is a missed opportunity. Additionally, ethics training should include or be supplemented with anti-corruption training. While

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<sup>62</sup> OECD, *Anti-Corruption Reforms in Armenia: Fourth Round of Monitoring of the Istanbul Anti-Corruption Action Plan* at 175 (July 2018) <https://www.oecd.org/corruption/acn/OECD-ACN-Armenia-4th-Round-Monitoring-Report-July-2018-ENG.pdf> [hereinafter OECD Report]

<sup>63</sup> OECD Report at 167.



ethics education positively inspires and motivates students to do the right thing, nonetheless, in their careers they will likely encounter contexts where corruption is hard to avoid, either because it is endemic or because it is hard to detect. Specific training should be implemented to teach students how to recognize and resist corruption, and more generally to assert their personal values in the workplace.

### 5.3 PRACTICAL LAWYERING SKILLS

Respondents reported an overall high level of satisfaction with their legal education. However, they conceded that, typical with legal education in most civil law systems, Bachelor's-level training emphasizes theory over practical lawyering skills. U.S. legal education tends to emphasize teaching students “how to think like a lawyer,” such as through research and writing instruction, legal analysis, and advocacy skills training. Even the case-based, Socratic method of legal instruction, in which students are asked to analyze cases and defend their conclusions in a series of questions from the professor, develops critical legal thinking while exploring complex legal principles. Utilization of open book exams emphasizes analytical rather than memorization skills.

Civil law systems, on the other hand, tend to employ a more theoretical and jurisprudential approach to education, emphasizing legal theory and rote memorization of statutes in a lecture-driven format. Often, as in Armenia, there is a practicum requirement where students serve a period of time as a legal intern, although they are typically not well regarded as their tasks are mostly administrative. While Armenia's legal education system used to employ a largely traditional, theoretical approach to instruction, reform efforts over the past ten years have resulted in considerable progress. Deans, professors, and students are all aware of the value of opportunities to develop practical lawyering skills and feel that education has become more balanced between theory and practice. Access to clinical and moot court opportunities have increased and some professors have adopted more discussion-oriented teaching methods. Yerevan State University, for example, plans to expand clinical legal education program to make it available to all students, if resources permit.

Despite this, students noted that additional improvements are needed, as opportunities to develop practical lawyering skills are still too limited. Clinical legal education is one of the most popular methods for developing practical lawyering skills. While it is beneficial in of itself, it is even more effective when integrated with practice-based learning as part of the overall curriculum—not as an optional extra but as a properly designed education process involving real clients and real problems. There are strong connections between clinical learning and practice-based learning. Practice-based learning involves students being presented with a problem situation, analyzing the problem, and identifying resources for learning to solve it. The objective of the professor is to provide guidance while enabling the students to learn independently. Clinical experiences can complement the classroom-based coverage of many basic subject matters, thereby addressing limitations of the traditional doctrinal law curriculum. Clinical programs offer students the opportunity to apply theoretical learning to specific problems posed by real clients. In such a way, clinical legal education serves as a half-way house, moving students away from the classroom to experience real problems and clients.

When implementing a clinical legal education program, however, there are certain requirements and limitations that must be considered:

*Clinicians:* clinical legal education requires a very low instructor-to-student ratio. Based on the necessity for direct guidance, instructors must provide a significant amount of expertise, time, and energy.

Accordingly, the development of clinics is often limited by the availability of qualified clinicians. One strategy to overcome this is to utilize external relationships and make full use of social resources by recruiting experienced judges, prosecutors, or lawyers as visiting professors.

*Financial Implications:* clinical legal education requires a high investment including, but not limited to, the cost of establishing the clinic in terms of both space and equipment, any costs related to handling the case (e.g., court filing fees), and the instructor's pay. Overall, financing can be a significant limitation.

*Standards:* given the sensitivity of working with actual clients, it is essential to regulate clinical legal education with appropriate standards and guidance to schools for implementation. Given the rich tradition of clinical legal education in the U.S. and in legal reform programs, there are ample best practices from which to draw.

*Teaching Methods:* even more so than traditional legal courses, clinical legal education must make use of diverse and enriched methods of teaching in order to be successful, such as by integrating classroom teaching and practical legal skills training. Teaching through questions, dialogue, interaction, and simulation-teaching methods must precede the actual practical operation in the clinic. Students accept the case, confer with the client, investigate the case, and analyze the law. Students also mediate or litigate on their own, with instructors only helping as needed. After finishing the case, instructors then concentrate on providing feedback.

*The Evaluation Problem:* clinical legal education evaluation does not work like traditional legal education with closed book examinations. Instead, schools should establish an evaluation system based on the specifics of the clinic system. Four different evaluations should be considered: student self-evaluation, client evaluation, student-peer evaluation, and instructor evaluation.

Even with the above limitations in mind, clinical legal education is a vital component of a holistic approach to legal education. Applied learning has benefits beyond simply developing practical lawyering skills, such as interacting with clients, producing legal briefs and court filings, or representing clients at hearings. In addition to the immediate, skills-based benefits of applied learning, students in clinical legal education programs are exposed to legal issues that expand their conception of justice and help develop an appreciation of their role as advocates for those in need. This could be through the more traditional applications of legal clinics providing services to tenants facing eviction, incarcerated individuals filing appeals, or victims of domestic violence seeking protection from the courts. Seeing how the law impacts the everyday lives of citizens carries a valuable lesson that the law is not merely for the benefit of political or business elites, but for the protection and benefit of all citizens. Furthermore, as part of the second-generation development of clinical legal education, students may also gain exposure to issues promoting social change, such as clinics seeking to protect communities from environmental violations or those establishing the validity and applicability of human rights under European law or international obligations. As such, the applied learning of clinical legal education benefits both practical lawyering skills and the development of students with an appreciation for the role of the law in protecting and advocating for the disadvantaged, whether on an individual basis or for society as a whole.

Another popular option for developing practical lawyering skills is the utilization of moot courts. By researching and writing a brief, typically on a novel area of law, and then arguing their case before judges, students learn an array of valuable skills. While international moot court competitions such as the Philip C. Jessup competition garner most of the attention, more value might be obtained from

participating in regional or European competitions, particularly those focused on ECHR. Greater use of competitions between Armenian law schools or even within individual law schools would be even more cost effective and allow for participation by a greater number of students.

Curriculum reform is another valuable component of legal education reform and can address both practical lawyering skills and emerging areas of substantive law. Both students and professors are interested in a modernized and internationalized curriculum, with courses such as insolvency, intellectual property, Information Technology (IT) law, Alternative Dispute Resolution (ADR), health law, European law, common law, criminal responsibility of legal entities, legal English, oral advocacy skills, and research and writing. Unfortunately, curriculum changes will require cooperation not just from universities but also from the Ministry of Education. While it is understandable that there should be certain core requirements, the Evidence Review notes that more flexibility for law faculties would be beneficial.<sup>64</sup>

Of course, a more internationally-oriented and interactive core of law faculty should accompany curriculum reform in order to engage students with discussion-oriented teaching methodologies that emphasize critical thinking rather than rote memorization. Given the adoption of case precedent at the Court of Cassation level and from ECHR cases, consideration should be given to at least some use of the case-based method of teaching, which again focuses on analysis and critical thinking. Additionally, the law faculty can be globalized through visiting professor programs, both foreign professors that visit Armenian universities and Armenian professors that visit foreign law schools. In order for reform to take root, it must have local champions, so it is particularly important to provide Armenian professors with exposure to other legal education systems for an extended duration—at least one semester, preferably a full academic year. One possibility is to arrange these exchanges through sister-law school programs that forge an ongoing relationship between the two faculties.

In order to pursue a more internationally-oriented curriculum, students will need access to better legal research materials. Respondents complained that the majority of legal textbooks are quite dated and that the selection of texts in Armenian is naturally quite limited. Potential activities include supplying law libraries with current international legal textbooks in an accessible language, such as English, which most students now learn from an early age. While a considerably larger investment, it may also be worthwhile to provide Armenian translations of key texts in critical areas. Students also expressed a strong interest in gaining access to LexisNexis and Westlaw, perhaps through dedicated terminals in the law library.

Finally, students expressed difficulty in obtaining internship experience. While there is a practicum requirement, respondents did not find the experience terribly useful, as the practicum entails mostly administrative rather than legal work and is a fairly short duration. Bachelor's students must fulfill a 6-week practicum while Master's students must fulfill an 8-week practicum. Overall, respondents indicated that the practicum experience was poorly organized, had limited choices, and provided little exposure to practical lawyering. The practicum requirement should be evaluated as part of the requirements for legal education. Additionally, consideration should be given to developing internship opportunities for students both during the academic year and over the summer. One option is to fund career services staff at law schools to focus on developing internship programs between law schools and specific institutions. Alternatively, this effort could be centralized, with a legal internship center that coordinates postings, applications, and placements for all law schools. It may also be useful to consider establishing

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<sup>64</sup> IS/ROL Evidence Review at 36.

specialized research centers at particular law schools to provide internship opportunities in strategic or emerging areas, including anti-corruption.

## 5.4 CONCLUSIONS

Legal education reform presents perhaps the best opportunity for long term impact in both corruption prevention and rule of law reform. The current generation of law students and professors is increasingly open to a more modern and globalized approach to legal education. Even deans and law school administrators, traditionally amongst those most resistant to change, seem more accepting of legal education reforms, judging from current efforts to incorporate new legal education methods. One potential partner is the informal council/consortium of law school deans recently created by the Dean of YSU. However, for many legal education reforms, it will also be necessary to engage the Ministry of Education to give law faculties more flexibility with their programs. Finally, there is a wealth of resources in the U.S. legal education community, so the American Association of Law Schools may be useful in coordinating with American law schools.

To help fight corruption in the justice sector, it is essential to instill an intolerance for corruption in Armenia's future legal professionals, and the students themselves may be the best partners. The idealism, energy, and activism of students pairs well with anti-corruption efforts, so partnering and supporting student groups is strongly recommended.

## 5.5 RECOMMENDATIONS

9. **AC Education:** promote an ethical and anti-corruption culture in law students as early as possible by developing mandatory courses on professional ethics and anti-corruption for all law students. Be sure to incorporate not just training in the relevant standards, but also hypotheticals with discussions exploring common scenarios and how to handle them.
10. **Practical Lawyering Skills:** significantly expand clinical legal education and moot court opportunities to all students to promote the development of practical lawyering skills. Potential activities include:
  - a. funding the infrastructure (e.g., space and equipment) for clinical education centers within law schools;
  - b. providing ongoing trainings for new clinicians and moot court advisors; and
  - c. developing model standards and guidelines for all clinics.
11. **Curriculum Reform:** support curriculum reform to increase learning in practical lawyering skills, emerging legal issues, and a more international perspective, including:
  - a. developing courses in subjects such as insolvency, intellectual property, IT law, ADR, health law, European law, criminal responsibility of legal entities, common law, legal English, oral advocacy skills, research and writing; and
  - b. exploring dual degree programs to create access to specialized programs, such as IT, health, and business.

12. **Internationalize Professors:** establish visiting professor programs to inject greater international expertise and perspectives into the law faculty. Exchange programs should include both visiting professors from and to Armenian law schools.
13. **Support Public Defender's Office:** establish clinical programs to provide additional capacity for the Public Defender's Office. As noted in the section on Justice Sector Reform, the Public Defender's Office is woefully understaffed, and a clinic to provide law student support would increase their capacity, thereby enhancing access to justice.
14. **Electronic Research:** provide better access to European and international legal materials through dedicated Lexis/Nexis or Westlaw research terminals.
15. **Update Legal Texts:** improve law library holdings with better selections of international texts and/or translations of key texts into Armenian.
16. **Research Opportunities:** establish specialized research centers attached to law schools to provide internship opportunities in strategic areas, such as anti-corruption.
17. **Internship Opportunities:** support funding for career services staff to coordinate internships for students.

## 5.6 SUMMARY AND PRIORITIZATION OF RECOMMENDATIONS

Table 2 below presents the summary and prioritization of Legal Education recommendations. The prioritization of recommendations is based on: (1) how important an issue/problem is, (2) how difficult it may be to carry out a recommendation successfully, and (3) how widespread the impact of the activity would be. The time horizon listed is the anticipated length of the associated project required to implement the recommendation.

TABLE 2: SUMMARY AND PRIORITIZATION OF LEGAL EDUCATION RECOMMENDATIONS:

SECTOR RECOMMENDATION PRIORITIES	PROJECT LENGTH
<b>HIGH</b>	
9. Promote mandatory AC and ethics education	1 year project
10.a. Expand clinical legal education programs with funding for space, equipment, clinicians	2 year project
10.b. Train new clinicians and moot court advisors	2 year project
<b>MEDIUM</b>	
10.c. Develop model standards and guidelines for all clinics	1 year project
11.a. Promote curriculum reform to globalize legal education	2 year project
12. Create visiting professor programs	5 year project
13. Create clinical programs to support Public Defender's Office	5 year project

I4. Provide access to Lexis/Nexis or Westlaw	5 year project
I5. Improve law library holdings	2 year project
<b>LOW</b>	
I1.b. Explore dual degree programs	2 year project
I6. Fund specialized research centers attached to law schools	3 year project
I7. Fund career services staff to coordinate internships for students	2 year project

## 6 JUSTICE SECTOR REFORM AND RULE OF LAW

This section presents assessment findings, conclusions, and recommendations related to justice sector reform and rule of law.

### 6.1 INTRODUCTION

Armenia's justice system has gone through multiple rounds of reform since independence in 1991, the most recent ushered in by the Constitutional reforms of 2015. Traditionally, the justice system has been viewed as corrupt, due to both petty corruption and political influence. While judges are typically perceived as the most corrupt actors within the justice system, advocates facilitating bribery between clients and judges are also seen as a problem. Freedom House's *Nations in Transit* report for 2018 gives Armenia's "judicial framework and independence" category only a 5.5 on their 7 point scale, with 1 representing the highest level of democratic progress and 7 the lowest.<sup>65</sup> The factors behind this score include bribery and political influence at all levels of the judiciary, weak self-governance and lack of accountability, and harassment of lawyers.<sup>66</sup> Perhaps indicating the ongoing difficulties in making progress in judicial reform, Armenia's judiciary has received the exact same score of 5.5 since 2009.<sup>67</sup>

The Revolution of 2018 has both highlighted and exacerbated many of the tensions and weaknesses of the justice system. While judges, prosecutors, and advocates are not explicitly hostile towards one another, there is very little trust and respect between the principal actors within the justice system. Judges complain about lack of respect from advocates and feel unfairly maligned whenever advocates use the media to blame judicial corruption as the reason for unfavorable decisions. Prosecutors and advocates believe that most, if not all, judges are corrupt. Both judges and advocates do not feel that their counterparts are competent or ethical. And advocates feel they are not always treated fairly by prosecutors and are concerned by harassment and intimidation against advocates representing unpopular defendants. There are exceptions, of course, as not every judge, prosecutor, and advocate echoes these sentiments, but the overwhelming lack of mutual respect is deeply concerning.

Perhaps the most significant development stemming from the 2015 Constitutional reforms is the creation of the Supreme Judicial Council (SJC), a new self-governance body empowered to select and discipline judges, administer the courts, draft and propose the judicial budget, regulate the work of judges, and a myriad of other powers.<sup>68</sup>

Finally, perceptions of judicial corruption are high in Armenia and encompass a variety of potential influences:

1. There may be political interference to influence the outcome of a civil case or a criminal trial.
2. Judicial system actors, as well as victims and witnesses, may be bribed to influence the process and outcome of court cases.
3. Judicial system actors may face extortion, that is, they are coerced to act corruptly under the threat of violence or the release of damaging information.

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<sup>65</sup> Freedom House, *Nations in Transit 2018—Armenia* (2018) <https://freedomhouse.org/report/nations-transit/2018/armenia> [hereinafter *Nations in Transit Report*].

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> Judicial Code of the Republic of Armenia, art. 89 (February 7, 2018) [hereinafter *Judicial Code*].



4. Judicial system actors may engage in nepotism to enable close contacts or family members to benefit from any largesse it is in their discretion to distribute, such as awarding procurement contracts for court security services.<sup>69</sup>

Effective anti-corruption efforts and effective judicial reform efforts go hand-in-hand. For example:

1. Adequate salaries and benefits for judges not only allow them to attain a reasonable standard of living without resorting to corruption, but the enhanced morale and prestige discourages corruption.
2. Improved human resources management, with transparent recruitment and promotion standards and procedures, helps to ensure judges are selected and promoted based on merit and not due to political or private interests.
3. Improving the education of training of judges, particularly on ethics issues, helps to promote high standards of professionalism.
4. Internal disciplinary mechanisms are essential to safeguarding both judicial integrity and independence.
5. Oversight and control mechanisms, such as improved court administration and court evaluations, help identify irregularities.
6. Increased transparency, such as requiring judges to publish their decisions, requiring courts to improve access to information on cases, and better cooperation between the media and judiciary, reinforces confidence in the judiciary.
7. Public awareness campaigns can make citizens and court users aware of their rights and what they can expect from courts and help them resist paying bribes.

Accordingly, anti-corruption reform and justice sector reform are intertwined. While anti-corruption considerations should always be kept in mind, an effective justice sector reform program will almost necessarily address these issues by default.

## 6.2 SELECTION OF JUDGES

The selection process for a judge is laid out in Chapter 16 of the Judicial Code.<sup>70</sup> Candidates must be between the age of 28 and 60, be an Armenian citizen, hold a Bachelor's degree in law, have five years of professional work experience, and be proficient in Armenian and know at least two of the following languages: English, German, Russian, and French.<sup>71</sup> Legal scholars with at least five years of experience are waived from taking the written exam but must sit for the oral interview.<sup>72</sup>

The selection process is overseen by the Supreme Judicial Council and it is worth noting the highly detailed procedures laid out over approximately 18 pages within the Judicial Code. After applying, the first significant step in the selection process is the written exam, and great pains have been taken to ensure transparency. Not only is the examination broadcast live and recorded, but the exam may be monitored by two representatives from the Chamber of Advocates and three civil society

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<sup>69</sup> Transparency International, *Fighting Judicial Corruption* at 5 (2014)

[https://knowledgehub.transparency.org/assets/uploads/kproducts/Topic\\_guide\\_on\\_judicial\\_corruption\\_.pdf](https://knowledgehub.transparency.org/assets/uploads/kproducts/Topic_guide_on_judicial_corruption_.pdf).

<sup>70</sup> Judicial Code, chap. 16.

<sup>71</sup> *Id.* art. 97.

<sup>72</sup> *Id.* art. 106.;

representatives.<sup>73</sup> The exam itself includes written questions and hypotheticals designed to test the candidates' theoretical legal knowledge and analytical skills.<sup>74</sup> The exams are scored anonymously by an evaluation committee comprised of five judges and two scholars, selected randomly from a pool recommended by the Supreme Judicial Council's (SJC) Training Commission.<sup>75</sup> One problem noted by respondents is that the results of the exam cannot be appealed, even if there is some sort of error.

The second major portion of the selection process is the interview, which is open to a variable number of the highest scoring candidates from the written exam, determined by the number of vacancies plus 5 to 50%.<sup>76</sup> The interview itself is designed to evaluate:

...the professional work experience of the contender, his or her motivation to become a judge and expectations, awareness of the requirements of the fundamental legal acts concerning the status of a judge, his or her personal qualities (in particular, self-control, conduct, moderate use of reputation (influence), sense of responsibility, listening skills, communication skills, sense of justice, analytical skills and other non-professional qualities necessary for the activity of a judge).<sup>77</sup>

The interview is no more than 1 ½ hours long and includes responding to a hypothetical legal situation chosen at random from a list of questions, for which the candidate has 30 minutes to prepare.<sup>78</sup>

According to respondents, the candidates are scored on various criteria, there is a secret discussion, and then a secret vote by the SJC members either for or against each candidate.<sup>79</sup> Additionally, a psychologist is part of the interview team and is also given an advisory vote during the final vote.<sup>80</sup> It is at this point that the process appears to break down and has drawn considerable criticism. As hopefully demonstrated by the above summary, the selection process is highly regulated and designed to maximize transparency while minimizing outside influence. Every detail of the process is laboriously spelled out over 18 pages of text. But after all of this, the final selection comes down to a completely subjective vote made in secret. Numerous respondents reported instances where candidates with excellent scores and feedback were passed over for other candidates, not just once but multiple times.

The secret vote, which is designed to protect the SJC members from outside influence, only creates the impression that the selection process is marred by internal horse-trading and favoritism instead of rewarding candidates with the highest scores on both the written and oral exams. It is a pity that such a well-thought-out process essentially resorts to a traditional secret selection process with no appeal or accountability. To correct this, the subjectivity and secrecy of the final selection needs to be removed. Instead of utilizing a final vote, one option is to have the candidates with the highest overall scores between the written and oral portions receive offers. This would preserve the ability of the SJC to evaluate and score candidates, while eliminating the final vote and the perception of secret deals and influence.

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<sup>73</sup> *Id.* art. 102.

<sup>74</sup> *Id.* art. 103.

<sup>75</sup> *Id.* art. 104.

<sup>76</sup> *Id.* art. 107(2.1)

<sup>77</sup> *Id.* art. 108(1).

<sup>78</sup> *Id.* art. 108(4)

<sup>79</sup> *Id.* art. 109(1).

<sup>80</sup> *Id.* art. 108(1).

## 6.3 EDUCATION AND TRAINING

One of the most positive legal reform developments in recent years is the creation of the Academy of Justice, which was created in 2014 to provide initial and ongoing training to judges, prosecutors, and investigators. It also provides training to other judicial staff, such as bailiffs and staff from the Human Rights Defenders Office, Prosecutor's Office, and State Investigative Office.

Housed in a modern and well-equipped facility that includes moot court facilities and a computer lab, the Academy received unanimously positive feedback from respondents, and it seems well positioned to significantly increase the quality of both new and existing judges, prosecutors, and investigators. The initial training for judges lasts between seven to ten months and includes both general and specialized trainings and an internship lasting at least three months. Some of the general classes are taught in conjunction with prosecutors and advocates—an approach that is encouraged to help foster a sense a mutual respect between the principal actors in the justice system.

Ongoing training for judges includes 80 to 120 hours of mandatory training determined by the Board of the Academy of Justice, divided into two sessions per year. Some trainings may also be satisfied through distance learning. The Board of the Academy solicits feedback on suggested classes, from which it determines its curriculum for ongoing trainings. It also conducted a judicial training needs assessment in 2016 in cooperation with the Council of Europe, which primarily focused on European law. It may be time to consider conducting a broader judicial training needs assessment. Respondents indicated that judges may benefit from trainings in Alternative Dispute Resolution mechanisms, the new civil procedure code, domestic violence, court management, writing skills for case decisions, pretrial procedures, and criminal procedure.

The Academy favorably noted its cooperation with the Embassy in developing training modules on anti-corruption, and it expressed a desire for assistance in converting these or similar trainings into distance learning modules. It also suggested it would be useful to develop new trainings on both criminal and civil procedure and to conduct exchange visits with other justice training institutes to share best practices. Some respondents observed that judges may also benefit from training in judicial opinion writing. As is typical of many civil law countries, judicial opinions by Armenian judges typically emphasize facts rather than legal analysis, and as in Armenia. While only Cassation Court decisions are binding, well-reasoned and written judicial opinions benefits not only the quality of justice rendered but also any appeals process.

## 6.4 REMOVAL AND DISCIPLINE OF JUDGES

As part of its oversight function over the judiciary, disciplinary action against judges is vested in the SJC.<sup>81</sup> Four grounds are provided for imposing disciplinary sanctions against judges:

1. obvious and gross violation of provisions of substantive or procedural law while administering justice or exercising—as a court—other powers provided for by law;
2. gross violation by the judge of the rules of judicial conduct prescribed by this Code, committed with intent or gross negligence;
3. failure by the judge to fulfill his or her duty to participate in mandatory trainings provided for by law; and
4. failure to inform the Supreme Judicial Council about interference in relation to administering

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<sup>81</sup> *Id.* art. 141(1).

justice and exercising—as a court—other powers provided for by law, as well as rights arising from the status of a judge.<sup>82</sup>

Both the SJC Disciplinary Commission and the Minister of Justice are authorized to institute disciplinary proceedings against a judge.<sup>83</sup> Once charges against a judge have been filed, the SJC will conduct a disciplinary hearing, during which the judge is entitled to:

1. get familiarized with, take excerpts from, and make carbon copies of the materials having served as a ground for consideration of the issue in the Supreme Judicial Council;
2. ask the speakers questions, file objections, give explanations and file motions;
3. submit evidence and participate in the examination thereof;
4. participate in the session, acting in person as well as through an advocate; and
5. receive compensation for reasonable remuneration rendered to the advocate, in case disciplinary liability has not been entailed.<sup>84</sup>

If the SJC finds there has been a disciplinary violation, possible penalties include a warning, a reprimand, a severe reprimand, or termination.<sup>85</sup>

While the overall procedures for disciplinary proceedings are well thought out, respondents identified two problems. First, numerous respondents noted that the ability of the Minister of Justice to initiate disciplinary proceedings constituted a serious threat to judicial independence. The SJC was created primarily as an independent, self-governing body for judges in order to protect judicial independence. In a system where political interference in the courts remains an ongoing concern, allowing the Executive branch to initiate disciplinary proceedings against a judge is extremely troubling. Even though the Minister of Justice merely initiates the disciplinary proceeding and presents the case to the SJC disciplinary panel, the mere threat that such charges may be politically motivated is incompatible with basic principles of judicial independence and may have a chilling effect on the decisions of judges. Indeed, respondents cited a recent case in which the Minister of Justice brought disciplinary charges against the judges of the Court of Cassation in apparent retribution for their decision. While allowing the Minister of Justice bring disciplinary charges against judges may work in some systems, it does not seem wise given Armenia's history.

Second, respondents complained that the majority of disciplinary charges are brought for procedural violations, particularly where judges fail to meet deadlines. While procedural violations can certainly be serious, as justice delayed is justice denied, the reality is that judges in Armenia face extreme obstacles in fulfilling their obligations in a timely manner. As noted, they endure high caseloads, which are exacerbated by the revised procedural timelines in the new civil procedure code. Judges are almost being set up to fail, and leaving them exposed to disciplinary sanctions for matters that are essentially out of their control seems unjust.

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<sup>82</sup> *Id.* art. 142.

<sup>83</sup> *Id.* art. 145(1).

<sup>84</sup> *Id.* art. 153(1)

<sup>85</sup> *Id.* art 149(1).

## 6.5 HARASSMENT AND INTIMIDATION OF JUDGES AND ADVOCATES

In order for a justice system to work effectively, the primary actors (judges, prosecutors, and lawyers) must all have at least a minimal level of trust in one another. They might not like one another, but they should at least believe that, as a whole, they all serve important roles in the justice system and, by and large, believe that they are all dedicated to seeing that justice is done. While a sense of competition in certain regards may be natural, the lack of respect between judges, prosecutors, and advocates in Armenia is palpable, and events since the Revolution only seem to have intensified those feelings. While not universal, significant numbers of judges, prosecutors, and advocates speak of one another almost as if they are the enemy. Their counterparts are incompetent at best, and completely unethical at worst.

Judges appear to feel the most aggrieved, as they believe they are a convenient target for the public's frustration with corruption and inefficiency in the justice system. And the reality is that public perception of judges is extremely poor. As noted by the *GAN Business Anti-Corruption Portal*:

The judiciary presents businesses with a high risk of corruption. Bribes and irregular payments are often exchanged to obtain favorable court decisions. The system is not independent: it is subordinate to elites, undermined by corruption, and a lack of training has resulted in a general incompetence of staff. In effect, manipulation of judges by the executive and widespread bribery and inefficiency are major concerns. More than two-thirds of citizens perceive the judiciary to be corrupt.<sup>86</sup>

Judges believe that advocates take advantage of their poor image by making statements to the media in which they blame judicial corruption for unfavorable decisions. Judges are prohibited from responding to these attacks and feel their hands are unfairly tied. To counter this, both the SJC and Judicial Association have made some attempts to push back on the attacks on judges. However, both could use additional staff and resources to mount a vigorous defense of both specific attacks and, more generally, the role of judges in promoting a just society. Both should be highlighting reform efforts and the challenges that judges face. The Judicial Association, as the professional association that represents the interests of judges, would be the natural leader in this role. However, it has extremely limited staff and resources. As such, the SJC may be in the stronger position to advocate for judges. Both organizations could use support for media relations staff and media relations training.

While the concerns of advocates are not as widespread, respondents indicated that they too have become the target of public mistrust and even animosity. Respondents reported that advocates representing unpopular clients in the wake of the Revolution have been threatened and intimidated, most frequently by hostile crowds outside courtrooms. There are also reports of advocates' emails being hacked, eavesdropping on conversations with clients, and lack of access to exculpatory information. In one instance, an advocate reported being targeted for a tax audit after taking on a controversial client. Advocates, although generally regarded more favorably than judges, are also viewed as participants in corruption, primarily by acting to facilitate petty bribery between clients and judges.

The Chamber of Advocates seems to be taking a strong role in defending the interests of not only advocates but, in some cases, judges as well. It is an independent organization that serves as a unified bar, representing the interests of all advocates. Respondents spoke favorably about the work of the

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<sup>86</sup> GAN Business Anti-Corruption Portal, *Armenia Country Report* (July 2016) <https://www.business-anti-corruption.com/country-profiles/armenia/>.

Chamber, noting its training programs, its statements defending both advocates and judges from public attacks, its support for the Public Defender's Office, its well-regarded implementation of the bar exam, and its more aggressive stance in holding advocates accountable for misconduct and attacks on judges. It is also participating in the development of a new ethics code for advocates. As recommended in the Evidence Review, the Chamber of Advocates seems to be a strong and natural partner for anti-corruption and justice reform efforts. Specifically, the Chamber of Advocates should be consulted as the voice of Armenia's advocates on any initiatives that would change the legal system, even though this assessment does not recommend particular initiatives that the Chamber of Advocates would lead.

Events since the Revolution have only exacerbated mistrust of the judiciary, as the public vents its frustration and anger against anyone associated with the fraud and corruption of the prior regime. The Government should be sending a strong message protecting the independence of the judiciary, but the message so far has been very mixed. Mr. Pashinyan has made statements referring to transitional justice, without clearly defining what this means. For example, at a speech commemorating his 100<sup>th</sup> day in office, Mr. Pashinyan stated:

But today we have a situation where law enforcement agencies are working under pressure, and besides there have been events that raise questions about whether our current judicial system is not only physically but also morally able to combat corruption. People are voicing increasingly much concern that a considerable part of our judges have been serving the corrupt system for many years. Today, more and more citizens are saying that many judges in Armenia have been part of the corrupt system, and in this sense, there is strong distrust towards the judiciary. Indeed, this is a very delicate subject, but in any case we should not be tempted to interfere in the affairs of the judiciary....

In general, I think it crucial for us to record the current state of our judicial system, hold serious discussions in the near future and make a decision on the establishment of transitional justice bodies since we need them not only because many corrupt figures hold to their vicious practice, but also because there are many flaws in our legislation.<sup>87</sup>

While the merits and disadvantages to applying transitional justice principles in the Armenia context is beyond the scope of this report, respondents are troubled by statements in which discussions of judicial corruption are linked with references to transitional justice. Some believe that transitional justice will lead to the full-scale vetting of judges, and recent events give these concerns more credence.

In response to the court's release of former President Robert Kocharian from pretrial detention, Mr. Pashinyan called for the public to block court entrances during a nationally televised address on May 20, 2019. He also stated:

And therefore, dear colleagues, the time has come to carry out a surgical intervention in the judicial system. This process should go as follows:

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<sup>87</sup> ARMENPRESS, *PM Nikol Pashinyan's speech dedicated to 100 days in office* (August 17, 2018) <https://armenpress.am/eng/news/944242.html>.

All judges in Armenia should be subjected to vetting. In other words, the public should have complete information about their political connections and genealogy, property status, as well as about their personal and professional qualities manifested during the previous period.

All those judges who have been recognized by the European Court of Human Rights to have committed gross violations of human rights should resign, or be removed from their posts. All those judges who know inside themselves that they cannot be impartial and objective should resign, providing thereby a crucial service to the Republic of Armenia and its people.<sup>88</sup>

These statements constitute a serious challenge to judicial independence. Calling upon the public to blockade court entrances is tantamount to Executive branch endorsement of the use of force against the judiciary. And it is particularly concerning that both Members of Parliament from Mr. Pashinyan's My Step party and government workers participated in these blockades. The potential vetting of judges in response to an unpopular court decision may have a chilling effect on judicial independence. While the possibility of political influence on judges by the prior regime cannot be dismissed, threatening the livelihood of judges in response to a court decision merely feeds the cycle of politicization and subservience of the judiciary. While vetting of judges has been implemented in other instances, such as Georgia and Ukraine, it is an extreme measure, and not one that should be instituted as political retaliation. USAID must advocate for a measured approach to undue influence on the courts, such as endorsing fair and transparent investigations into specific instances of corruption and misconduct through the courts and/or the established SJC disciplinary process. Again, it would be helpful to cooperate with both the SJC and the Judicial Association to push back on attacks on judges and promote their role in a democratic society.

## 6.6 FINANCIAL RESOURCES

The Judicial Code establishes that both the courts and the Supreme Judicial Council shall be financed from the state budget.<sup>89</sup> The budgetary process begins with draft budgets submitted by the various courts to the SJC's Judicial Department, which drafts an overall budget for the approval of the SJC.<sup>90</sup> The SJC's budget is then submitted to the Government in the course of the normal national budgetary process.<sup>91</sup> The Government can either accept the budget with no changes, or submit it to the National Assembly with any proposed changes.<sup>92</sup> If there are delays in the approval of the State Budget, the judiciary essentially operates with the same budget as the prior year until a new budget is approved, thereby ensuring no interruption in the business of the courts.<sup>93</sup> Overall, the budgetary process respects judicial independence, as it provides the SJC with the primary role in determining the judicial budget, with appropriate input and approval from the Government and National Assembly.

Based on Government data provided to the European Commission on the Efficiency of Justice (CEPEJ), the overall judicial budget and salaries have seen steady increases in recent years. Figure I, below,

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<sup>88</sup> ASBAREZ, *Pashinyan Calls for Overhaul of Judiciary* (May 20, 2019) <http://asbarez.com/180731/pashinyan-calls-for-overhaul-of-judiciary/>.

<sup>89</sup> *Id.* art. 38(1).

<sup>90</sup> *Id.* arts. 38(3)-(5).

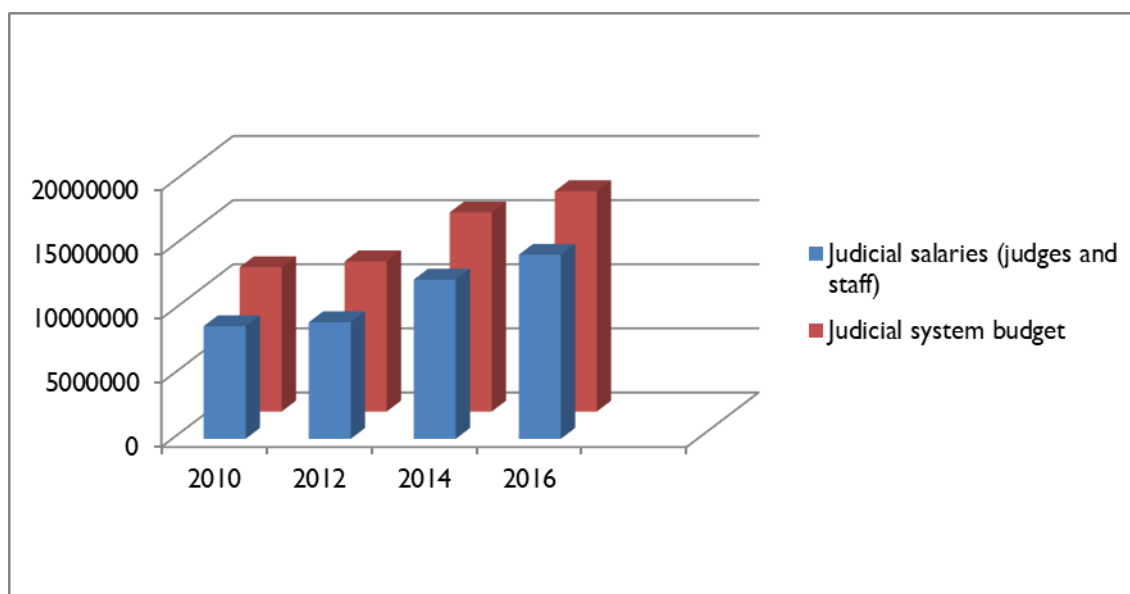
<sup>91</sup> *Id.* art. 38(6).

<sup>92</sup> *Id.* art. 38(7).

<sup>93</sup> *Id.* art. 38(8).



displays the judicial system budget and judicial salaries in Armenia from 2010-2016 (all data provided in Euros).<sup>94</sup>

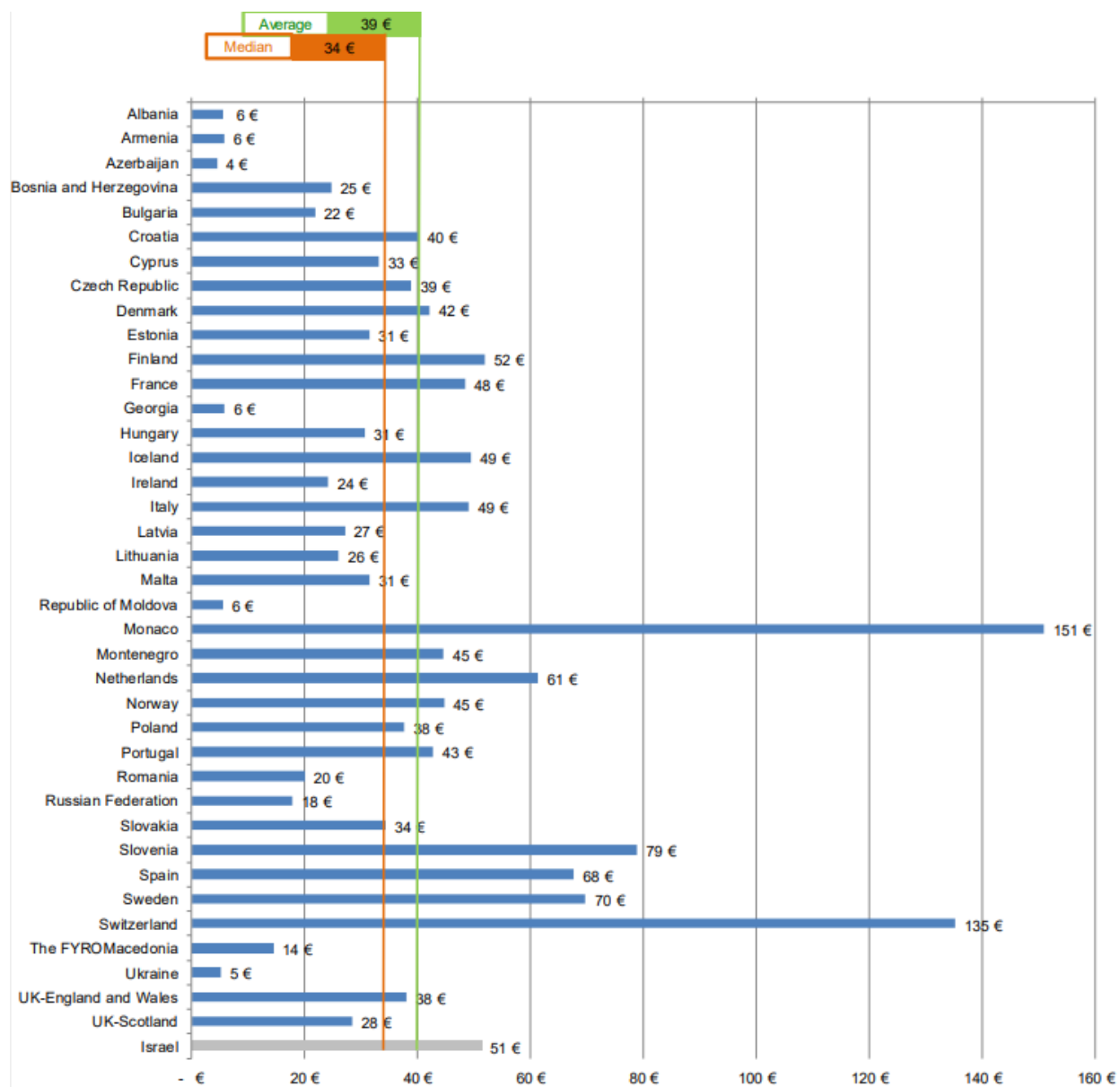


**FIGURE 1: JUDICIAL SALARIES AND JUDICIAL SYSTEM BUDGET<sup>95</sup>**

While both the judicial budget and salaries have increased, the impression from both respondents and sources is that the judiciary is under budgeted. For example, when one looks at the court budget per capita, Armenia ranks in the very lowest across all of Europe. Figure 2, below, presents 2016 court budgets per capita across CEPEJ countries.

<sup>94</sup> The judicial budget for 2017 was 8,858,232,900 AMD, which is approximately 16.5 million euros. For 2018 the judicial budget was 9,217,079,800 AMD, or approximately 17 million euros, and for 2019 the judicial budget is 12,380,667,600 AMD, or approximately 23 million euros.

<sup>95</sup> European Commission on Efficiency of Justice, Armenia Judicial System Evaluations 2012-2018 <https://www.coe.int/en/web/cepej/country-profiles/armenia>.



**FIGURE 2: 2016 COURT BUDGETS PER CAPITA, COMPARATIVE<sup>96</sup>**

For perspective, Armenia’s per capita court budget spending of 6 EUR puts it ahead of just Azerbaijan and Ukraine, and on par with Albania, Georgia, and Moldova. The next lowest per capita spending is found in Macedonia (14 EUR) and Russia (18 EUR), while every other country in Europe spends at least

<sup>96</sup> CEPEJ, European Judicial Systems: Efficiency and Quality of Justice at 42(October 2018) <https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c>.

20 EUR per capita on its court budget or higher.<sup>97</sup> The average per capita spending for European states is 39 EUR.

Nowhere is this lack of spending more obvious than in the salaries for judges. Despite several increases, even those most critical of the judiciary acknowledged that judicial salaries are still too low, particularly when compared with the salaries available to advocates and elsewhere in government. One counterpoint, however, is that relative to the average salary in Armenia, judicial salaries are fairly high. According to the *2018 CEPEJ Report*, a starting judge's salary is four times the average gross annual salary, while a Supreme Court judge earns more than eight times the average gross annual salary.<sup>98</sup> Of course, Armenia's fairly high poverty rate skews these numbers, and the courts are not competing against professions with just average salaries to recruit and retain qualified judges—they are competing with advocates and other skilled professions. Table 3, below, includes the minimum starting judicial salaries including taxes for various positions within each court in Armenia.

TABLE 3: JUDICIAL SALARIES<sup>99</sup>

POSITION	MONTHLY SALARY (AMD/USD)
President of the Constitutional Court	1,058,240 AMD/2,202 USD
President of the Court of Cassation	992,100 AMD/2,064 USD
President of Chamber	793,680 AMD/1,651 USD
President of the Appellate Court	760,000 AMD/1,581 USD
Appellate Court Judge	727,000 AMD/1,512 USD
Administrative and First Instance Court Judges	661,400 AMD/1,376

In addition to the relatively low salaries, judges have poor benefits. Their pensions were initially set at 75% but were subsequently reduced to 55%, and some politicians have recently proposed that they be reduced further still. Additionally, judges are not provided with health insurance. They receive an allowance of just 80,000 AMD (166 USD) to help pay for vacation or education expenses.

Respondents noted that the low salaries for judges, when combined with the massive caseloads they must carry as well as the lack of respect from advocates, the media, and the public, makes recruiting and retaining well-qualified candidates for judges extremely difficult. Indeed, the SJC reports steadily declining application rates for judicial positions, and even mentioned one instance in which there were not enough qualified candidates for the number of vacancies. Also, low salaries for judges are likely one contributing factor to corruption. While raising salaries is not enough in of itself to prevent corruption, fewer judges would be tempted by corruption if they felt they were paid a reasonable salary and/or risked losing that salary if they are caught. While improvements have been made, further increases to judicial salaries and benefits are recommended.

<sup>97</sup> *Id.*

<sup>98</sup> *Id.* at 123.

<sup>99</sup> Judicial Salaries, <http://court.am/>.

In addition to exploring salary increases, it may also be beneficial to explore non-financial incentives for both judges and court staff in order to raise morale. While judges and court staff enjoy fairly generous vacation benefits, other steps could include a welcome dinner for new judges and staff hosted by the Cassation Court, recognizing judges and staff when they reach significant milestones, working with judges and staff to create professional development plans and provide opportunities for training and specialization, adjust case schedules so that judges have one day every other week for writing and paperwork (possibly via telework), etc. While all employees enjoy financial benefits, judges and staff need to feel their contributions are recognized and valued.

## 6.7 EFFICIENCY AND COURT ADMINISTRATION

Another major challenge facing judges is a massive overload of cases. Civil court judges report having upwards of 1,500 active cases, while criminal court judges report having approximately 50 active criminal cases at trial. Judges consistently reported working late into the evening and on weekends in order to ensure that cases are handled properly and that procedural deadlines are met. Combined with the relatively low salaries commensurate for their position, and the sense of victimization at the criticism of advocates and the media, morale for judges seems low, which in turn exacerbates the risk of corruption.

### 6.7.1 STAFFING

A significant part of the problem is an apparent lack of both judges and support staff. There are 227 judges for the entire country. Based on the 2016 data from CEPEJ (see Figure 3 below), Armenia has 7.74 judges per 100,000 inhabitants.<sup>100</sup> Even when looking at just other states in Eastern Europe, this ratio is extremely low. While both Azerbaijan (5.24) and Georgia (7.48) also have extremely low numbers of judges, Eastern European states overall have an average of 24.31 judges per 100,000 inhabitants.<sup>101</sup> Every other country in the region has at least 11 judges per 100,000 inhabitants (Moldova) and as many as 43 judges per 100,000 inhabitants (Slovenia).<sup>102</sup> Quite simply, there are not enough judges to adequately provide timely and efficient justice.

A partial solution to this problem would be eliminating the mandatory retirement for judges at age 65.<sup>103</sup> Many judges can remain productive well past the age of 65, and Armenia would benefit from implementing a system comparable to the senior status for judges in the U.S., primarily at the federal level but in some state courts as well. U.S. federal court judges at least 65 years old and with 15 years of service are eligible to take a form of semi-retirement, in which they receive a limited caseload and essentially work part-time, while still receiving their full salary. Many Armenian judges indicated that their primary benefit from their position is the pride of calling themselves a judge, so many would likely wish to continue serving past age 65. This is an untapped resource that Armenia would be wise to take advantage of.

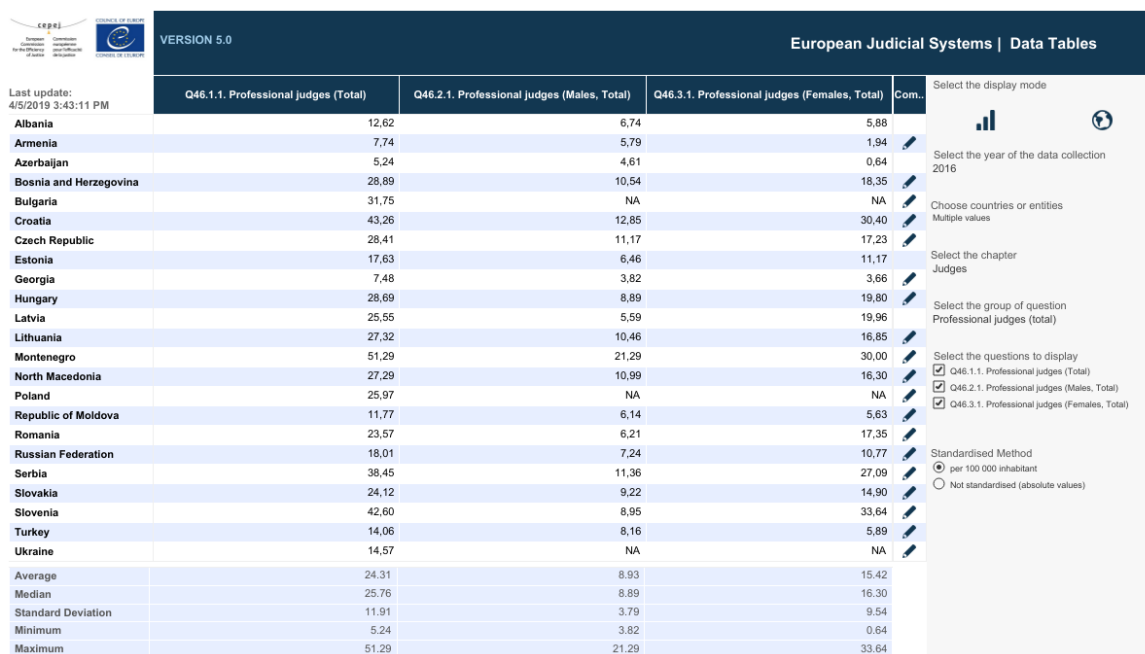
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<sup>100</sup> CEPEJ, Dynamic Database of European Judicial Systems <https://www.coe.int/en/web/cepej/dynamic-database-of-european-judicial-systems> [hereinafter CEPEJ Database].

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> JUDICIAL CODE art. 56(1)



**FIGURE 3: 2016 COURT JUDGES PER 100,000 INHABITANTS, COMPARATIVE<sup>104</sup>**

## 6.7.2 CASE MANAGEMENT AND E-JUSTICE

The number of support staff is barely adequate. Each First Instance judge is supported by an assistant, a clerk, and a secretary, while Appellate Court judges are supported by an assistant and a clerk. Ordinarily, these numbers might be sufficient, except for the overload of cases and the poor case management systems. When visiting judges' chambers and clerks' offices, the assessment team consistently saw waist-high stacks of case files piled up along the walls. With so many active cases and not enough storage space to properly organize and store case files, this ad hoc method is incredibly inefficient but likely the only realistic option. Every time there is an update to a case file, it must somehow be located in the stacks of cases and manually updated, then returned to the stack. The chances of lost paperwork or even case files must be extremely high. Judges reported that having an additional assistant or clerk would be extremely useful. However, judges also face difficulties in attracting and retaining support staff, as the salaries are extremely low.

There are two basic case information and tracking systems. The first is the Datalex.am system, available online and at kiosks in courthouses. This is a very basic information system that is updated by the clerks with the current status of cases and is intended for the public to access their case information. Additionally, there is a basic internal case management system, but respondents complained that judges typically do not have access to the system, just their clerks. While the internal system allows for tracking of cases and entering judgments, it is not a comprehensive e-justice system and most court transactions and documents are still handled on paper.

<sup>104</sup> CEPEJ, European Judicial Systems: Efficiency and Quality of Justice at 42(October 2018) <https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c>.

Overall, the courts do not take full advantage of e-justice measures to promote judicial efficiency and communication with other judicial system actors. Better utilization of case management information systems and greater use of electronic files, videoconferencing, digital recording, and other e-justice measures would decrease the time and costs associated with registering and processing cases. Respondents indicated that the SJC is working on an e-justice initiative in its conceptual stages, and this is one area where USAID may wish to be of assistance.

Of course, one prerequisite to any form of electronic case management or e-justice is a robust IT infrastructure. Unfortunately, while most respondents indicated that judges have access to computers, in many courts these computers are ten or more years old. Armenia simply has not regularly updated its computer hardware, and this will be an essential component of any software or system upgrades.

One additional aspect of court administration is case assignment. Court systems vary in the procedures they utilize to assign cases to judges. Some countries assign this responsibility to either the court president or the head of the court section. In other courts, case assignment is a function managed by court administrators or court clerks rather than judges. Another option is the random assignment of cases. Finally, case assignment can be based on informal criteria, such as long-established court practices or more formal rules and laws governing the court. Whichever method is chosen, the procedure to assign cases to judges must be weighed against various competing priorities, such as independence and impartiality, transparency, efficiency, flexibility, equal distribution of the caseload, and quality in judicial decision-making.

Consistent with anti-corruption best practices, Armenia utilizes random case assignment via its internal case management system. This is intended to prevent judges from either avoiding or seeking out particular cases in which they may have an interest, while preventing attorneys or litigants from steering a case before a particular judge. At the same time, random case assignment necessarily makes consideration of judicial specialization extremely difficult, resulting in a reduction of efficiency. As a consequence, the tensions among these priorities must be balanced in the light of the specific features of each judicial system. A more flexible system that factors judicial specialization, complexity, or caseload distribution into case assignment will decrease randomness and increase opportunities for corruption. The common perception that the courts are one of the most corrupt institutions in Armenia is perhaps the gravest threat to the legitimacy of the legal system. Accordingly, a randomized case assignment system is likely preferable to other methods that would maximize efficiency.

Some respondents indicated that advocates have learned how to game the assignment system by withdrawing and resubmitting their case until they receive the judge they desire. As such, the case assignment system should be upgraded to ensure that cases are being properly assigned and without manipulation.

Administrative courts, created in 2008, are one means of judicial specialization that can be successful in an environment such as Armenia. Feedback on the administrative courts is fairly positive, although they face many of the same obstacles as the ordinary courts. Like their peers, administrative judges face overwhelming caseloads, with some reportedly assigned 1,500 cases at once. Ten judges were added to the administrative court of first instance, so the most significant backlog is now during the appeals process, with delays of approximately one year before an appeal can be heard. Respondents recommended requiring applicants to exhaust internal administrative remedies before filing suit with the administrative courts, which could reduce the caseload as much as 50%. Additionally, respondents

indicated that approximately 40% of administrative court cases are traffic violations, which might be more efficiently handled in a court with expedited procedures.

### 6.7.3 ALTERNATIVE DISPUTE RESOLUTION

A second approach that may be useful is expanded use of Alternative Dispute Resolution (ADR) mechanisms to divert cases from the courts. These mechanisms can include facilitated negotiations prior to a formal legal process, or arbitrations that replicate minitrials with expedited hearings and procedures. There are both binding and non-binding options. Negotiation and mediation are typically non-binding and offer litigants the opportunity to resolve their dispute without resorting to more expensive and time-consuming formal court procedures. Arbitration may either be binding or non-binding. ADR may also be voluntary or mandatory, either by requiring litigants to mediate prior to formal court proceedings, or through commercial contracts in which the parties agree to resolve any disputes via arbitration.

ADR offers a variety of potential benefits when included as part of an overall program for judicial reform. Since ADR mechanisms are less formal, they are more flexible, less expensive, and faster to resolve. With many basic cases in Armenia taking many months or even years to resolve, there are many incentives for litigants to opt for ADR. ADR mechanisms also have the potential for increased satisfaction with resolutions as they tend to focus more on equitable and efficient resolutions that involve more direct negotiation and communication between the parties. When implemented effectively, ADR mechanisms have the potential to alleviate cases from overburdened courts while increasing access to justice for individuals that cannot afford the cost or time of prolonged litigation.

There are a variety of factors that indicate ADR may be helpful in Armenia. First, the simple arithmetic of too many cases and too few judges is a strong argument for ADR. Second, even with the numerous changes to the civil procedure code, lengthy case delays are inevitable. Simply requiring shorter procedural timelines without having the necessary capacity only exacerbates problems. ADR can help bypass procedural delays, dispensing justice more quickly. Finally, ADR provides better access to justice for those without the means for expensive legal costs. Armenia has a significant portion of its population either below or near the poverty line, so ADR may provide them with a better option for resolving legal disputes.

Armenia already has some provision for ADR mechanisms, including both mediation and arbitration, although feedback has not been particularly encouraging. In its 2017 Report on the Efficiency of the Armenia Judiciary, the European Commission stated plainly that, “Alternative Dispute Resolution (ADR) and Legal Aid are no success stories. ADR is still in its initial stage in Armenia, and its effects on the total workload of the judiciary are negligible.”<sup>105</sup> Arbitration is typically not well regarded, as mandatory arbitration is commonly used in creditor cases. Mediation is also an option, although it is a fairly recent development and neither well known nor popular with the general public. As of 2017, mediation is now an option for civil, family, and labor disputes, and the judge is required to inform the parties of the possibility to resolve the dispute via mediation.<sup>106</sup> The Ministry of Justice maintains a list of accredited

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<sup>105</sup> European Commission, 2017 Report on the Efficiency of the Armenian Judiciary, 1<sup>st</sup> Peer Assessment Mission on the Rule of Law in Armenia (JHA IND?EXP 64029), p. 3, (March 6-10, 2017), [http://moj.am/storage/uploads/001.Final\\_Efficiency-Judiciary\\_Quintavalle-2.pdf](http://moj.am/storage/uploads/001.Final_Efficiency-Judiciary_Quintavalle-2.pdf).

<sup>106</sup> Mediation World, *Mediation is Formally Introduced in Armenia* (January 27, 2017) <https://www.mediationworld.net/armenia/articles/full/5452.html>.



mediators, and the first four hours of mediation time is provided free of charge.<sup>107</sup> Settlements reach via mediation are referred to the court and are considered binding court judgments.<sup>108</sup>

There are, however, several options for increasing the use of mediation, both voluntary and mandatory:

- *Mandatory mediation*: the use of mandatory mediation can be useful in more specialized types of cases such as family law. In what can often be a contentious and emotional scenario, a skilled and empathic mediator may find a way to bring the parties to a reasonable agreement. While even mandatory mediation may not always be successful, requiring parties in certain types of cases to mediate will inevitably lead to some of them reaching a resolution.
- *Public awareness*: mediation must be widely promoted. As part of a public awareness campaign, it should be considered as important as any other judicial reform efforts and promoted as such.
- *Ensure supply of qualified mediators*: working with the Chamber of Advocates, it would be helpful to develop trainings to ensure an adequate supply of qualified mediators. Additionally, work with law schools to include classes and clinics in mediation, such as the ADR clinic offered as part of the LL.M program at American University of Armenia, which includes an annual mock arbitration competition.
- *Notarial mediation*: as used in several civil law countries, including Spain, France, Georgia, and Belarus, expand the use of notarial mediation. This voluntary process can be used to resolve a variety of disputes, such as family law, inheritance, property law, contracts, and business law.
- *Outreach and education for judges*: judges will also need training in how to encourage and handle mediation as part of the legal process. Without support from judges, mediation will be extremely difficult to implement successfully.
- *Oversight*: ensure that there is sufficient oversight and ethical guidelines for mediators. Since mediators are not strictly legal professionals, there must be effective regulation and protection for consumers.
- *Access*: identify any barriers to access and locate mediator centers close to courthouses to encourage litigants to use them. Also consider creating mediation resource centers within courthouses to provide litigants with information, make referrals, and perhaps maintain a centralized electronic schedule to facilitate appointments.

## 6.8 JUDICIAL MONITORING AND EVALUATION

While judicial independence is usually the first principle that one considers when evaluating a judicial system, accountability is just as important. While that accountability should be implemented through mechanisms that protect judicial independence, judicial systems without accountability are inefficient, vulnerable to abuse, and at risk of losing public confidence—all serious concerns for the Armenian judiciary. The Judicial Code recognizes the importance of a performance evaluation system for judges, with the following objectives:

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<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

1. Contribute to the selection of the best candidates when compiling the promotion lists of judge candidates;
2. Contribute to the selection of the areas of training of judges;
3. Reveal ways of improving the effectiveness of the work of the judge;
4. Contribute to the self-improvement of the judge;
5. Contribute to the improvement of the effectiveness of activities of the court.<sup>109</sup>

Judges are to be evaluated once every five years based on the quality and professionalism of their work, the effectiveness/efficiency of their work, and their ethics.<sup>110</sup> The SJC has responsibility for conducting performance evaluations of judges and is reportedly currently working on an evaluation system. USAID should consider providing technical expertise for developing and implementing such a system.

In addition to implementing a judicial evaluation system, Armenia should consider implementing a comprehensive court performance evaluation and monitoring system. Instead of just evaluating the performance of individual judges, the focus of court performance evaluation is to comprehensively assess the effectiveness of the courts to better determine what resources and interventions it needs to meet its functions and how to deploy them. For example, one such approach is offered by the International Consortium for Court Excellence, which has developed its *Global Measures of Court Performance*.<sup>111</sup> This framework identifies eleven core measures of court performance and mechanisms for implementing them. The core measures consist of:

1. *Court user satisfaction*: the percent of court users who believe that the court provides procedural justice, i.e., accessible, fair, accurate, timely, knowledgeable, and courteous judicial services;
2. *Access fees*: the average court fees paid in civil cases;
3. *Case clearance rate*: the number of outgoing cases as a proportion of the number incoming cases;
4. *On-time case processing*: the percentage of cases disposed or otherwise resolved within established timeframes;
5. *Duration of pre-trial custody*: the average elapsed time criminal defendants who have not been convicted of crime are detained awaiting trial;
6. *Court file integrity*: the percentage of case files that can be located and retrieved in a timely manner and meet established standards of accuracy, organization, and completeness;
7. *Case backlog*: the proportion of cases in a court's inventory of pending cases that have exceeded established timeframes or time standards;
8. *Trial date certainty*: the certainty with which important case processing events occur when scheduled expressed as a proportion of trials that are held when first scheduled;
9. *Employee engagement*: the percent of employees of a court who, as measured by a court-wide survey, are passionate about their job, committed to the mission of the court and, as a result, put discretionary effort into their work;

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<sup>109</sup> Judicial Code art. 136(2).

<sup>110</sup> *Id.* art. 138.

<sup>111</sup> International Consortium for Court Excellence, *Global Measure of Court Performance* (2<sup>nd</sup> ed.) (2018) <http://www.courtexcellence.com/~media/Microsites/Files/ICCE/Global%20Measures%20Pre-Publication%20-%20Sep%202018.ashx>.

10. *Compliance with court orders*: the total amount of payments of monetary penalties (fines and fees) collected by a court or court system, expressed as a proportion of the total amount of monetary penalties ordered by a court in a given period of time;
11. *Cost per case*: the average cost of resolving a single court case, disaggregated by level and location of court, and by case type.<sup>112</sup>

As described by the *Global Measures of Court Performance*, their purpose “is to provide individual courts, justice systems, and countries with a guide for good practices for successful performance measurement and management, including comparative analysis and benchmarking within (e.g., different times and locations of courts) and across different jurisdictions.”<sup>113</sup> While this is merely one approach to evaluating court performance, it demonstrates broader measures that evaluate the strengths and weaknesses of the courts, rather than just the individual performance of judges. To truly understand the needs of the Armenian court system, USAID should consider implementing a more in-depth court performance evaluation.

## 6.9 ACCESS TO JUSTICE

The right to legal assistance is guaranteed under Article 62 of the Constitution as a basic right.<sup>114</sup> Accordingly, all citizens have the right to legal assistance and, in certain cases provided by law, citizens may be eligible for state-financed legal assistance. Armenia is also party to the Council of Europe and to the European Convention on Human Rights; therefore, the guarantees of legal aid implied in Article 6 thereof (regarding the right to a fair trial) are also applicable. Under Article 10 of the Armenian Code of Criminal Procedure all citizens have the right to receive legal aid in accordance with the procedures set forth therein.

The Public Defender’s Office is the principal mechanism for providing access to justice, which was created under the Law on Advocacy to provide socially vulnerable citizens with free legal aid.<sup>115</sup> An individual is entitled to the services of a legal-aid funded advocate (a Public Defender) (i) in criminal cases where the person does not have sufficient means to engage an advocate himself, and (ii) in civil matters where the person falls within certain categories.<sup>116</sup> A Public Defender is an advocate employed in the Office of the Public Defender and is employed by the Chairman of the Chamber of Advocates upon submission by the Head of the Office of the Public Defender. Public Defenders are remunerated for their work from the State Budget as prescribed by law.<sup>117</sup>

Legal aid in civil, administrative, and constitutional cases is provided on the basis of the applications of citizens and is available to the following:

- members of families of military servicemen who died defending the national borders;
- disabled people of 1st and 2nd category;

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<sup>112</sup> *Id.* at 2.

<sup>113</sup> *Id.*

<sup>114</sup> Constitution of the Republic Of Armenia art. 62 (amended December 6, 2015).

<sup>115</sup> The Republic of Armenia Law on Advocacy ch. 7 (December 14, 2004).

<sup>116</sup> Pro Bono Institute, *A Survey of Pro Bono Practices and Opportunities in 84 Jurisdictions* at 37 (March 2016) <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/A-Survey-of-Pro-Bono-Practices-and-Opportunities.pdf>.

<sup>117</sup> *Id.*

- indigent people with poverty graduation rank higher than 0;
- participants in the Great Patriotic war and the participants in military actions in defense of the national border;
- pensioners living alone;
- children left without parental care and similar persons;
- refugees and people temporarily sheltered in Armenia.<sup>118</sup>

State provided legal aid will cover the following activities and services:

- consultation, preparation of applications, lawsuits, appeals and other documents and provision of information;
- representation and defense in criminal, civil, administrative and constitutional cases;
- representation in all stages of criminal procedure.<sup>119</sup>

In addition, the Office of the Public Defender organizes free legal aid days for all citizens every Thursday.

Public demand for legal aid through the Public Defender's Office has always been high but has increased dramatically in recent years as their scope of responsibility has expanded.

In 2006, there were 35 public defenders handling only criminal cases. By 2012, there were 50 public defenders, but they are now responsible for providing legal assistance in administrative, criminal, civil, and constitutional cases. In 2016 the scope of civil cases eligible for assistance was expanded yet again. The Office currently has 55 public defenders—28 based in Yerevan and the remainder in offices throughout the regions. In 2011, the Office handled 2,096 criminal cases. By 2016, the Office was handling 5,264 criminal cases as well as 4,750 civil cases, representing nearly a 500% increase in caseload.

Other factors increase the burden on the Public Defenders, such as the increase in immigration cases, which numbered approximately 400 in 2017, and for whom the Office is obliged to pay for interpreters. Due to the low salaries (approximately 300,000 AMD/625 USD per month) and long working hours, there is high turnover of Public Defenders. The Public Defender's Office is assisted by the Chamber of Advocates, which helped arrange pro bono support from approximately 40 recent graduates.

Basic needs for the Public Defender's Office include additional funding to increase the number of Public Defenders, offer better salaries, and cover interpreter costs. Respondents also indicated that there is no system for verifying the financial status of legal aid applicants. As such, scarce resources may be going to those who do not qualify for assistance. The Office previously installed an electronic public defender system that allows the Office to monitor the cases and workload of the Public Defenders, but technical improvements would be helpful.

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<sup>118</sup> *Id.* at 37

<sup>119</sup> *Id.* at 38.

## 6.10 CONCLUSIONS

The Armenian justice system faces serious challenges both in terms of its legitimacy in the eyes of the public and its ability to efficiently and fairly deliver justice. The first issue stems not only from a legacy of petty and political corruption, but also from an inability to manage an ever-increasing caseload. The latter issue stems largely from inadequate resources, most notably a lack of personnel, financial support, management systems, and infrastructure. Without investments in the judiciary, both corruption and justice delivery are unlikely to improve.

Given the crisis in public legitimacy, judges must be at the forefront of reform efforts instead of being reactive. Accordingly, the SJC is the strongest potential partner, particularly since it already seems to be in the process of different reform initiatives. It has immense power over the careers of judges, but it balances two roles—protecting judicial independence and protecting the judges themselves. Judges must be seen to be accountable if they wish to maintain judicial independence. The Judicial Association, if it can develop a stronger voice, is another potential partner.

Currently two of the strongest bodies are the Chamber of Advocates, which has established itself as an effective institution that both holds advocates accountable while representing the concerns of the legal profession, and the Academy of Justice, which provides excellent training to new and current judges. Both will also be reliable partners for reform efforts.

## 6.11 RECOMMENDATIONS

18. *SJC Reforms*: promote reforms to the SJC, including revision of selection and disciplinary procedures, e.g., revise oral examination scoring, advocate for stakeholder discussion and review of MOJ ability to initiate disciplinary proceedings, and eliminate or ameliorate discipline for procedural violations.
19. *Judicial Salaries*: promote higher salaries and non-financial benefits for judges and support staff. Doing so would reduce incentives for corruption, enhance the prestige of the judiciary, and attract better candidates for vacancies.
20. *Judicial Staff*: promote the State efforts to increase the number of helping staff for judges through funding for additional judicial support staff.
21. *Administrative Courts*: support proposals to require exhaustion of internal administrative remedies before turning to the courts and explore diversion of traffic cases to a specialized court with expedited procedures.
22. *E-Justice*: support the development and implementation of a comprehensive e-justice system to increase efficiency.
23. *Judicial Evaluation System*: work with SJC on development and implementation of the proposed judicial evaluation system to provide feedback to judges.
24. *Diversion of Low Value Claims*: support proposals to divert low value claims to notaries and expand the categories of disputes eligible for notarial mediation.

25. **Public Defender's Office:** provide capacity building to the Public Defender's Office by promoting additional staff, trainings for new Public Defenders, and technology upgrades.
26. **Court Performance Evaluation System:** work with the SJC on development of a court performance evaluation system to provide feedback on the overall performance of the courts.
27. **Enhance IT Infrastructure:** upgrade computer equipment and networking.
28. **Senior Status Judges:** advocate for review of mandatory retirement age for judges and consider a senior status system similar to the U.S.'s for federal judges over the age of 65.
29. **ADR:** promote mediation and other ADR mechanisms to reduce caseloads and increase access to justice.
  - a. **Mandatory mediation:** encourage the use of mandatory mediation in specialized cases such as family law.
  - b. **Public awareness:** conduct a vigorous public awareness raising campaign to inform the public about the benefits of ADR.
  - c. **Ensure supply of qualified mediators:** work with the Chamber of Advocates and the school for mediators to develop trainings for mediators and expand ADR classes and programs in law schools.
  - d. **Outreach and education for judges:** develop trainings for judges on how to encourage and handle mediation as part of the legal process.
  - e. **Oversight:** ensure that there is sufficient oversight and ethical guidelines for mediators.
  - f. **Access:** identify any barriers to access and locate mediator centers close to courthouses or in outlying areas where access to courthouses may be difficult. Also consider creating mediation resource centers within courthouses.
30. **Media Relations:** develop the capacity of the SJC and the Judicial Association to more effectively respond to attacks on the judiciary and promote its role in society through additional media relations personnel and training.
31. **Judicial Training:** enhance the capacity of the Academy of Justice by:
  - a. developing trainings on ADR mechanisms, the new civil procedure code, domestic violence, court management, writing skills for case decisions, pretrial procedures, and criminal procedure;
  - b. converting anti-corruption trainings into distance learning modules; and
  - c. conducting exchange visits with other justice training institutes to share best practices.

## 6.12 SUMMARY AND PRIORITIZATION OF RECOMMENDATIONS

Table 4 below presents the summary and prioritization of Justice Sector Reforms and Rule of Law recommendations. The prioritization of recommendations is based on: (1) how important an issue/problem is, (2) how difficult it may be to carry out a recommendation successfully, and (3) how widespread the impact of the activity would be. The time horizon listed is the anticipated length of the associated project required to implement the recommendation.

TABLE 4: SUMMARY AND PRIORITIZATION OF JUSTICE SECTOR REFORM AND RULE OF LAW RECOMMENDATIONS:

SECTOR RECOMMENDATION PRIORITIES	PROJECT LENGTH
<b>HIGH</b>	
18. Judicial Code reforms to improve SJC selection and disciplinary procedures	2 year project
19. Promote higher salaries for judges	1 year project
20. Promote funding for additional support staff	1 year project
22. Work with SJC to implement and monitor e-justice system	5 year project
23. Work with SJC to develop and implement judicial evaluation system	3 year project
<b>MEDIUM</b>	
24. Support proposals to divert low value claims	1 year project
25. Provide capacity building to Public Defender's Office	3 year project
26. Work with SJC to develop and implement court performance evaluation system	3 year project
28. Create system for Senior Status judges	1 year project
30. Develop media relations capacity of SJC and Judicial Association	3 year project
<b>LOW</b>	
21. Expand diversion of cases to Administrative Courts	3 year project
27. Enhance IT infrastructure for courts	2 year project
29. Promote ADR mechanisms	3 year project
31. Enhance capacity of Academy of Justice	2 year project



## 7 DONOR ACTIVITIES

This section summarizes the integrity systems and rule of law activities of USAID and other donors.

**USAID:** USAID anti-corruption programming has consistently focused on reducing corruption via a dual strategy of direct government support and tandem work with civil society. This work has experimented with business enabling environment, demand side, and government-led approaches. USAID has a current program closing this year that supports citizens and civil society to fight corruption. Through the Engaged Citizenry for Responsible Governance program (implemented by Transparency International Anticorruption Center; 2014-2019), USAID supports a locally led civil society consortium to reduce the space for corruption by increasing civic engagement in and oversight of reforms. The goals of this program are to improve transparency and accountability of government actions and policies and ensure citizens' access to reliable information on corruption.

USAID also partners with the Government of Armenia on targeted rule of law support, but its last program cycle did not have a strategic rule of law focus. Recent support to the government has included the establishment of the Center for Development of Legislation and Legal Studies and the digitalization of court materials and introduction of electronic court filing, both with the Ministry of Justice. USAID also supports reforms within the Audit Chamber.<sup>120</sup> In past years, USAID sustained a long-term partnership with the American Bar Association Rule of Law Initiative (ABA-ROLI) in the judicial sector from 1995-2013 to provide expert assistance in drafting and analyzing laws and codes, completing professional training of legal sector actors, building sector institutional and professional capacity, enhancing court monitoring and administration, and reforming legal education.

Looking to the future, a USAID Office of Transition Initiatives program to Armenia that is in development may provide support for integrity systems and rule of law going improvements forward.

Finally, though it is not a USAID initiative, the Bureau of International Narcotics and Law Enforcement (INL) within the State Department assists Armenian law enforcement agencies and actors in the criminal law system to adopt more transparent, accountable, and professional practices in the execution of their work and the management of institutions. During this work INL supports various initiatives that help Armenia reform its justice sector and increase law enforcement cooperation. INL's approach is focused on providing Armenia with increased technical capabilities and supporting government institutions to develop in line with international standards for human rights, accountability and transparency. INL has supported the establishment of a new training space within Armenia's Justice Academy. INL also contributed to updating training curricula and ethics codes in line with international standards, including financing experts who developed anti-corruption and human rights principles that are now part of the Justice Academy's mandatory curriculum. Finally, INL sponsored representatives from the Wisconsin State Bar to revise the ethics code and disciplinary procedural rules of Armenia's Chamber of Advocates.

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<sup>120</sup> More information about USAID/Armenia's Democracy, Human Rights, and Governance portfolio, including anti-corruption and justice sector programming, is available at: <https://www.usaid.gov/armenia/democracy-and-governance>.

**EU:** The EU also supports the Armenian government and civil society in their efforts to fight corruption. To date the EU has committed 14.8 million Euro to assist with the implementation of the government's anti-corruption strategy and the reform customs and border management.<sup>121</sup> Moving forward, the donor interviewee indicated that if the government produces a credible anti-corruption strategy, the EU will provide direct budget support or a project for the government to facilitate these reforms. Through its CSO engagement, the EU will also continue to support civil society initiatives that promote anti-corruption reforms and act as government watchdogs in Armenia.<sup>122</sup>

The EU's support to democratic governance reforms in Armenia also includes rule of law assistance and reforms in the justice sector. This work involves initiatives to promote the independence of the judiciary and improve legal infrastructure. In terms of future programming, the EU plans to support analysis / peer review of the government justice reform framework in 2020, with the goal that this will result in a gap analysis and additional recommendations for sector reform.

**GiZ:** GiZ supports rule of law in Armenia on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ) through the Legal Approximation Towards European Standards in the South Caucasus project (2018-2020). Working directly with the Ministry of Justice, the goal of this work is the professionalization of the administrative jurisdiction and the alignment of Armenia's legal systems to EU standards. GiZ also works on legal education with a focus on civil, constitutional, and administrative law for students. Since 2012,<sup>123</sup> an in-house anti-corruption specialist has supplemented GiZ's advising on judicial reform, focusing on public awareness, and a 2015-16 anti-corruption project supported the Ethics Commission. Recently, the Government asked GiZ for help with the new anti-corruption strategy but then ceased all contact. Since that time GiZ has not worked with the Government on anti-corruption, administrative, legislative, or constitutional reforms. GiZ's concentrated assistance on the justice system will wind down by early next year.

**World Bank:** As part of the cross-cutting inclusion of governance across its three focus areas,<sup>124</sup> anti-corruption is a filter<sup>125</sup> for all World Bank programming: the Country Partnership Framework 2019-2023 "will seek opportunities under each focus area to incorporate key elements of good governance and inclusion."<sup>126</sup> These could take the forms of greater transparency in financial reporting, improving procurement management, or increased accountability in sectors like the extractive industries. Along with other donors (USAID, UK, GiZ), the World Bank also financially supported predecessor government anti-corruption strategies and would like to see an assessment of the strategy once it is completed. In the meantime, the World Bank participated in a joint EU partnership survey of officials within the judiciary and CSOs in the spring of 2019, but the respondent did not indicate upcoming WB plans to support government anti-corruption action planning.

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<sup>121</sup> [https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/armenia\\_en](https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/armenia_en)

<sup>122</sup> EU Roadmap for Engagement with Civil Society in Armenia 2018-2020, at 11.

<sup>123</sup> <https://www.giz.de/en/workingwithgiz/9352.html>

<sup>124</sup> These include export enabling and firm competitiveness, human capital development and equity, and sustainable management of environmental and natural resources. World Bank. 2019. Armenia—Country Partnership Framework for the Period FY19-FY23 (English). Washington, D.C.: World Bank Group. <http://documents.worldbank.org/curated/en/523501552357219076/Armenia-Country-Partnership-Framework-for-the-Period-FY19-FY23>

<sup>125</sup> Other cross-cutting governance filters include: accountability and transparency, citizen engagement, gender inclusion, spatial inclusion, and digital connectivity. *Id.*, at 19.

<sup>126</sup> *Id.*, at 19.

**UNDP:** UNDP interviewees noted that anti-corruption work is difficult right now due to the turnover, investigations, and prosecutions within the new government. Along with other donors, the UNDP is involved in efforts to develop the new government anti-corruption strategy, most recently through supporting the April 17-18 Government-Civil Society International Expert Conference on the RA Anti-Corruption Strategy and International Experience,<sup>127</sup> along with the European Union and the Centre for International Private Enterprises (CIPE).

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<sup>127</sup> The Ministry of Justice of the Republic of Armenia, the Armenian Lawyers' Association and the CSO Anti-Corruption Coalition of Armenia jointly hosted this event.

## APPENDIX I: VARIETIES OF DEMOCRACY PROJECT INDICATORS

### INTRODUCTION

This section presents an updated Varieties of Democracy dataset (V-Dem) analysis report on a number of factors related to Armenian democracy and governance over time and in regional context. We begin with summary measures for the key principles of democracy as well as a measure of corruption. We then turn to a series of time plots on overall democracy with sub-measures, judicial indices, liberal democracy indices, and corruption indices. We then show some results for Armenia relative to other regional cases. Finally, since all of these results rely on a single data set, we show that V-Dem tracks another prominent democracy measure, Polity, but provide significantly more nuance, which lends more confidence to this study's focus on V-Dem data.

V-Dem is a database assembled by a worldwide team of professional social scientists. Indicators are based on factual information, such as government records, where appropriate. The indicators we review here draw heavily on subjective assessments made by country experts; typically five country experts contribute to each rating. V-Dem does not document experts' rationale for indicator changes; in what follows, we infer explanations for changes based on events at the time. V-Dem indicators are intended to be comparable across countries and over time, although the reader should acknowledge that there is a margin of error around any given point estimate. In general, higher numbers indicate more democratic practices, although important exceptions are noted in the text below.

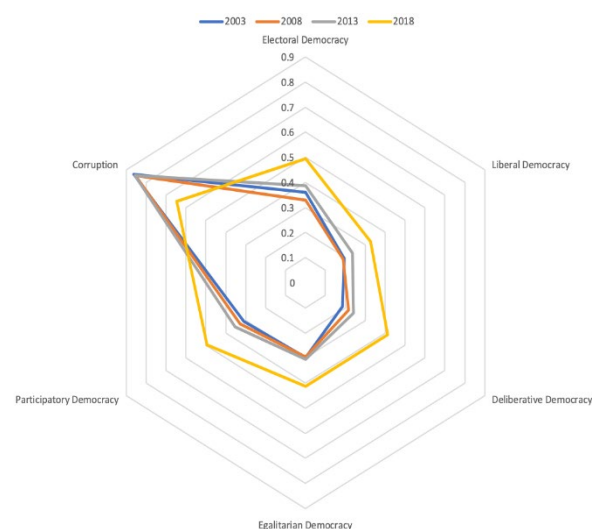
### OVERALL MEASURES FOR ARMENIA

Figure 4 summarizes data on different components of democracy in Armenia over time, with particular points documenting 2003, 2008, 2013, and 2018. The overlap between polygons indicates a lack of change in measures on each indicator over time. Six concepts are presented. For the five democracy indicators, each indicator ranges from 0 to 1, where 0 represents a less democratic and 1 represents a more democratic score. At the northern point of the figure is Electoral Democracy (index of freedom of association; clean elections; freedom of expression; elected executive; and suffrage); this was somewhat higher in 2003 but has generally been stable since then. Northeast is

Liberal Democracy (index of equality before the law and individual liberties; judicial constraints on the executive; and legislative constraints on the executive); this has been very stable over time. Southeast is Deliberative Democracy (index of measures of how political elites reason on and justify public policy and engage in consultation); this was higher in 2018, with the country's political transition having an impact on the scoring (see above). South is Egalitarian

Democracy (index based on measures of equal rights/freedoms for all people and equal distribution of resources across all social groups); the measure increased following the political transition of 2018 but was previously highest in 2003. The

Figure 4. Armenia: Principles of Democracy Indices & Corruption

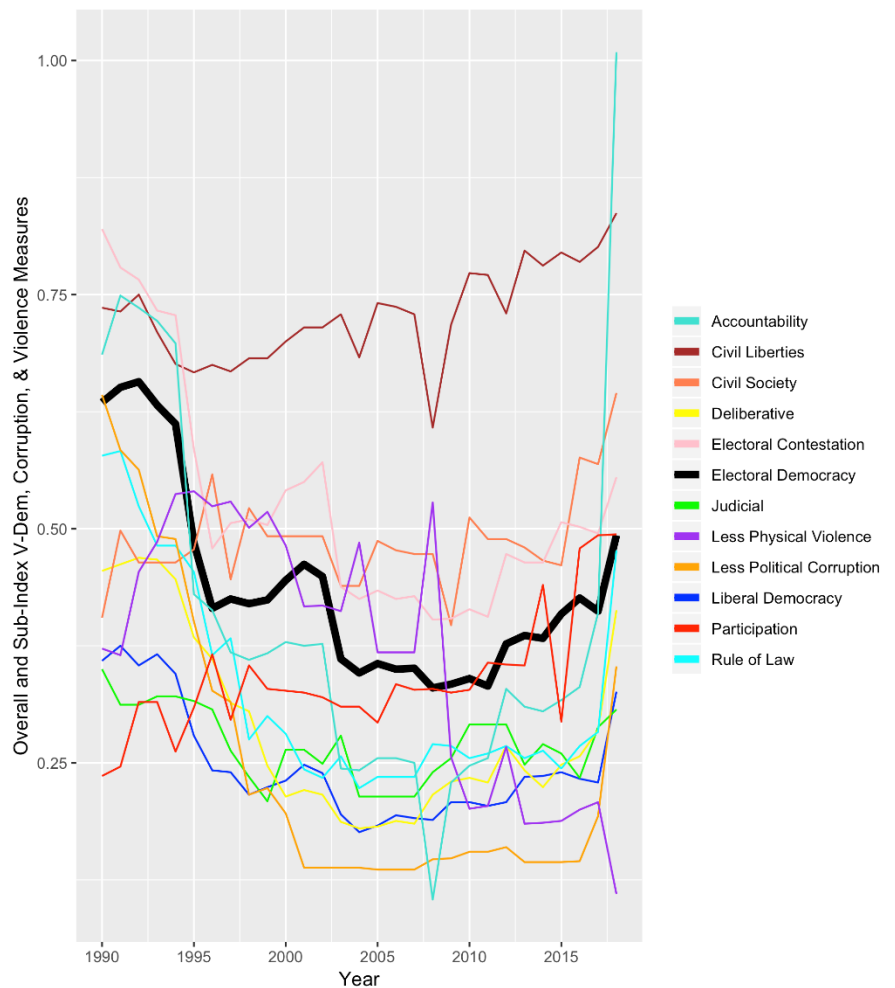


change in this index indicates that V-Dem experts evaluated that equal protection before the law and equal access to resources eroded over time. For context, the magnitude of the decrease in the V-Dem measure of Egalitarian Democracy from 2007-2017 was on par with simultaneous decreases in Ukraine and Russia (V-Dem Annual Democracy Report 2018). Southwest is Participatory Democracy (index of civil society participation, citizen initiatives, and direct voting for officials at all levels of government). This was low and stable throughout much of the period and then notably increased in 2018. This reflects the increase in civil society activity and citizen participation that took place in the context of Armenia's political transition. Northwest is Corruption (index of legislative, judicial, executive, and public-sector corruption measures). This ranges from 0, or no corruption, to 1, or total corruption. This measure has been consistently high in Armenia over time, although V-Dem experts identified an improvement in corruption over the 2008 to 2018 period (as indicated by the decrease in the corruption measure).

Figure 5 displays the overall measure of electoral democracy (northern point in Figure 5) in V-Dem, and it breaks down the sub-indices that contribute to this overall measure. We plot scores for 1990-2018. For all measures, higher values indicate more democratic outcomes. Electoral Democracy (also known as “polyarchy,” Dahl, 1973) intends to record the responsiveness of rulers to citizens, when this is

“achieved through electoral competition for the electorate’s approval under circumstances when suffrage is extensive; political and civil society organizations can operate freely; elections are clean and not marred by fraud or systematic irregularities; and elections affect the composition of the chief executive of the country” (Coppedge et al., 2018). Overall, Electoral Democracy was high immediately following Armenia’s independence from the Soviet Union, but it fell meaningfully by the mid-1990s. It hit new lows in the mid-2000s although rose again in recent years. Taking into account margins of error around each point estimate, the major takeaway is that Electoral Democracy by 2017 was lower than levels in the early 2000s—though it rose again in 2018 in light of the political transition.

Figure 5. Armenia: Electoral Democracy with Sub-Measures, Corruption, and Violence



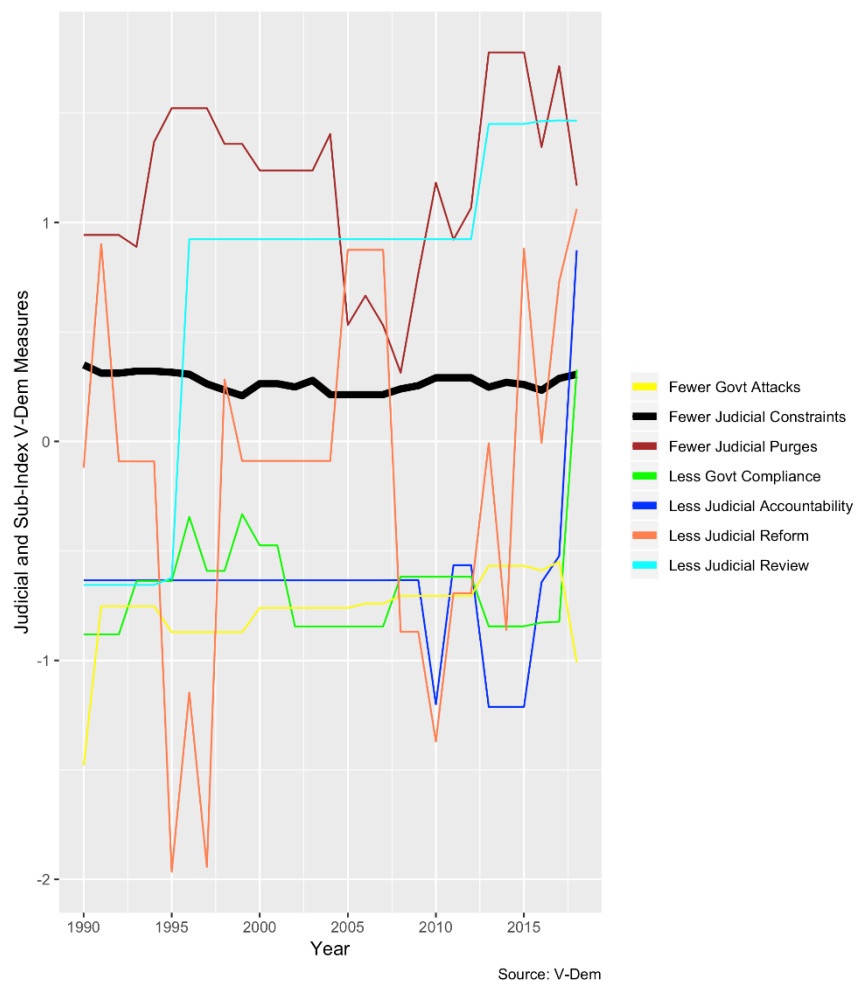
In Figure 5, the sub-indices that contribute to the overall electoral democracy score provide further context on the overall trend. Taken

together, these variables measure political participation, the strength of rule of law and electoral institutions, and the threat of physical violence. First, focus on the fact that this group of indicators are all around the same level on the overall scale from 0 (worse outcome) to 1 (better outcome). This suggests that—at least prior to the political transition in 2018—the various aspects of political and civil life relevant to democracy in Armenia were all varying around a low beginning baseline. There are three notable exceptions. First, Electoral Contestation was extremely high at independence, in the midst of undeveloped political parties, but it dropped significantly by the early 2000s. Second, Accountability followed the same trend, though it increased drastically with Armenia’s political transition in 2018. Accountability captures “constraints on the government’s use of power through requirements for justification for its actions and potential sanctions” (V-Dem Codebook). This includes accountability through elections, checks and balances between institutions, and oversight by civil society and media. The third exception is Civil Liberties, which includes “the absence of physical violence committed by government agents and the absence of constraints of private liberties and political liberties by the government” (V-Dem Codebook). Since independence, Civil Liberties have been notably higher in Armenia than the other aspects of political life considered here, and Civil Liberties have been generally increasing over time. (For definitions of other variables, see V-Dem Codebook.)

Figure 6. Armenia: Judicial Democracy, with Sub-Measures

## JUDICIARY

Figure 6 plots Armenia’s judicial scores for 1990-2018. Please see descriptions below to interpret high versus low scores. In general, V-Dem experts consider all courts in the judicial system at every level. The overall Fewer Judicial Constraints score in Figure 6 is based on experts’ evaluations of the extent to which political actors respect the constitution and comply with court decisions, as well as the independence of the courts from political interference. In Armenia, there are constraints on the judiciary, and those constraints have been quite constant since independence. Meaningful movement has occurred in related judicial quality measures, however. First, note the variation in Judicial Purges, or whether judges were removed from their posts without cause. This was a particular problem around 2005-2010 (lower values on Fewer Judicial Purges) but has been less of a problem in recent years. Second,

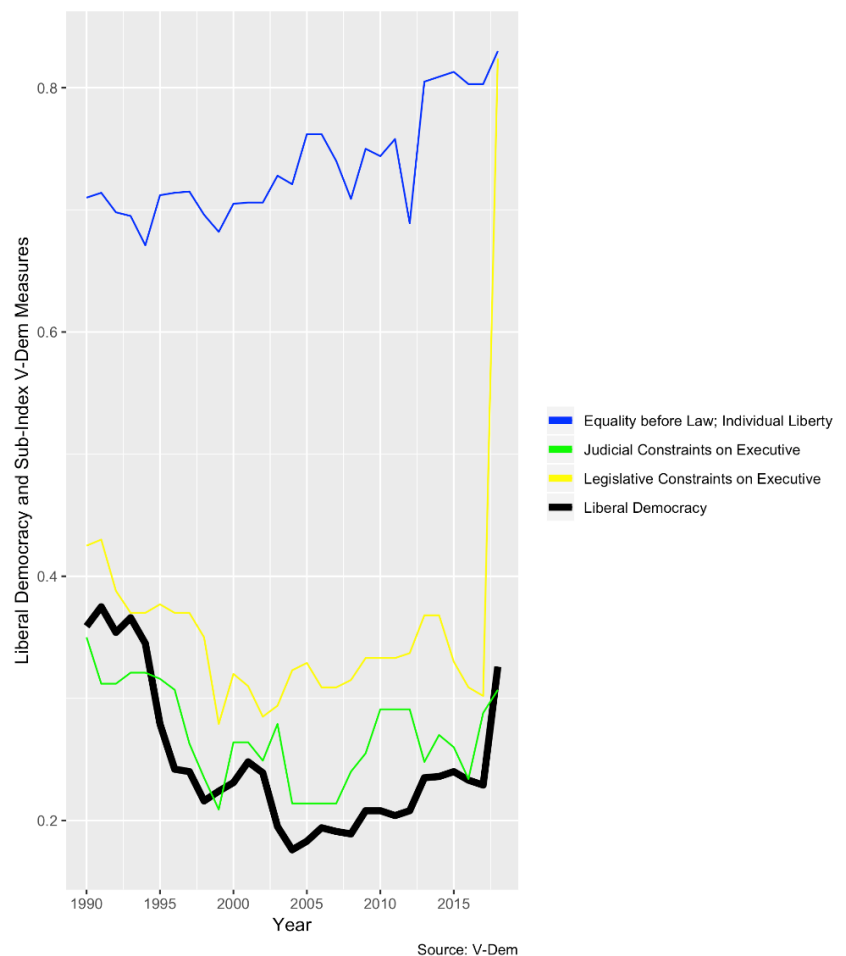


note the variation in the Less Judicial Reform measure. This marks periods in which more judicial reform was undertaken (negative values), specifically in the years after 1995 and 2010. However, these reforms did not improve or change the overall quality of the judiciary in terms of Fewer Judicial Constraints. Third, note the non-democratic trend in the Less Judicial Review measure over time; as of 2018, judicial review is particularly absent. The other indicators in Figure 6 capture government attacks on the judiciary, government compliance with judicial rulings, and judicial accountability. While there has been some variation in these measures, they have not followed a distinct pattern over time, and values in 2017 are around where they were in the mid-1990s. (For definitions of these variables, see V-Dem Codebook.) In sum, the major takeaway from Figure 6 is that the judiciary in Armenia has been marked by stability and has not undergone meaningful reform that has removed constraints. Whether the recent uptick in scores on a number of judicial measures, corresponding to the 2018 political transition, will remain is unknown at this point.

## LIBERAL DEMOCRACY

Figure 7 plots the trajectory of Liberal Democracy in Armenia, from 1990-2018. Higher values indicate more democratic outcomes. The Liberal Democracy measure “emphasizes the importance of protecting individual and minority rights against the tyranny of the state and the tyranny of the majority” (V-Dem Codebook). Overall, Liberal Democracy was high immediately upon independence but dropped meaningfully by around 1997 and continued to decline until 2005. One key takeaway is that the overall measure of Liberal Democracy (bolded line) has been improving since 20004; in 2018 it was around the level of the early 2000s. Figure 7 plots Judicial Constraints on the Executive and Legislative Constraints on the Executive, which are components of the overall Liberal Democracy measure. These have trended similarly to the overall measure, meaning that constraints on the executive were high following independence and today are at around the levels they were in 2000. The large increase in Legislative Constraints on the Executive is likely due to the extra constraints that the new parliamentary system imposes as compared to the previous semi-presidential system (Markarov, 2016).

Figure 7. Armenia: Liberal Democracy, with Sub-Measures



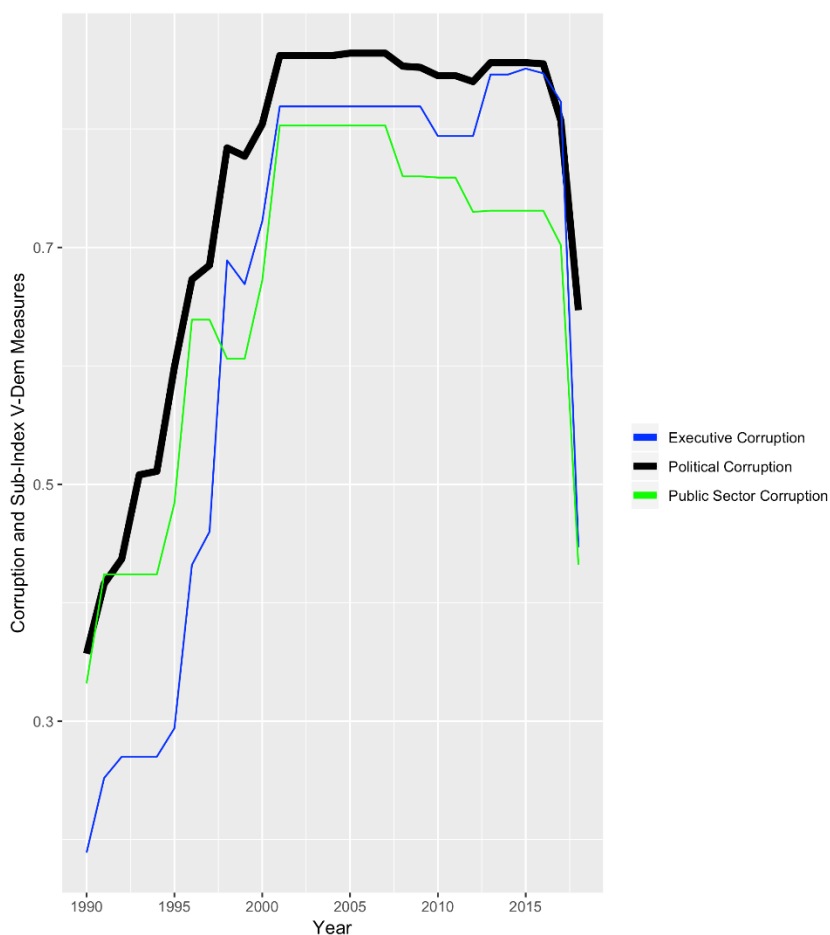


What is particularly notable in Figure 7 is Equality Before the Law: Individual Liberty. This indicator measures the extent to which laws transparently, rigorously, and impartially enforce the law and the extent to which the law protects citizens' physical integrity rights, property rights, freedom from forced labor, freedom of movement, and freedom of religion. First, the absolute values of this indicator have been high in the whole period. This can be interpreted as Armenia's scores being better than other countries at comparable levels of overall Liberal Democracy. For example, in an analysis of 2017 data, V-Dem places the level of realized political equality in Armenia in the top 25% of a set of countries with similar overall democracy scores (V-Dem 2018 Democracy Report, p. 35, Figure 2.2).<sup>128</sup> Second, Individual Liberty has generally improved over time in Armenia, reaching a new high in 2018—following the political transition. The takeaway is that strong Individual Liberty has been a particularly positive outcome in Armenia even before its political transition.

## CORRUPTION IN ARMENIA

Figure 8 captures corruption in Armenia 1990-2018. Here, higher values indicate worse outcomes, in terms of more corruption. We report the overall Political Corruption measure as well as sub measures for Executive Corruption and Public-Sector Corruption. The overall measure includes executive (with specific attention to both bribery and embezzlement), legislative, and judicial corruption. It intends to cover both petty (low-level) corruption and grand (large-scale) corruption, bribery and theft, and corruption intending to influence law making and corruption intending to influence law implementation. To remind the reader, these scores are based on input from country experts and thus draw on more than observable events in the news, for example, making them particularly valuable. In general, Political Corruption grew sharply from independence until just after 2000, leveled off at high rates until 2015, and then dropped precipitously for the years 2016-2018. The trend in Executive Corruption parallels the overall trend, including the decline from 2016-2018. While in the years immediately after independence, Public Sector Corruption was higher than Executive Corruption, since around 2000 Public Sector Corruption has been meaningfully lower. It has also been declining in

Figure 8. Armenia: Corruption, with Sub-Measures



Source: V-Dem

<sup>128</sup> For context, other countries in this set include Egypt (in the lowest 25% of de facto political equality) and Singapore (in the highest 25% of de facto political equality).

the period from around 2007 to 2018 and not just in the 2016-2018 period.

## DEMOCRACY & CORRUPTION ACROSS COUNTRIES

Figure 9 compares Armenia with other countries in the post-Soviet space that experienced a political transition, by which we mean a widescale, popular protest movement that led to significant electoral changes. We compare each country in the year before the political transition to provide context on democratic indicators and corruption in the environment immediately preceding the political transition. The significant overlap across the polygons suggests similarities in the characteristics of democracy in these countries in the year before their respective political transitions. The indicators are the same as those in Figure 4. Armenia is notable for being in the “middle of the pack” on most of these indicators; it is at or below the different democracy measures in Moldova 2008 and Ukraine 2003, but above Georgia 2002 and Kyrgyzstan 2004. When it comes to corruption, the level in Armenia in 2018 is significantly lower than it was in Georgia 2002, Ukraine 2003, or Kyrgyzstan 2004; it is about on par with Moldova 2008.

Figure 9. Armenia vs. Regional Comparisons: Principles of Democracy Indices & Corruption

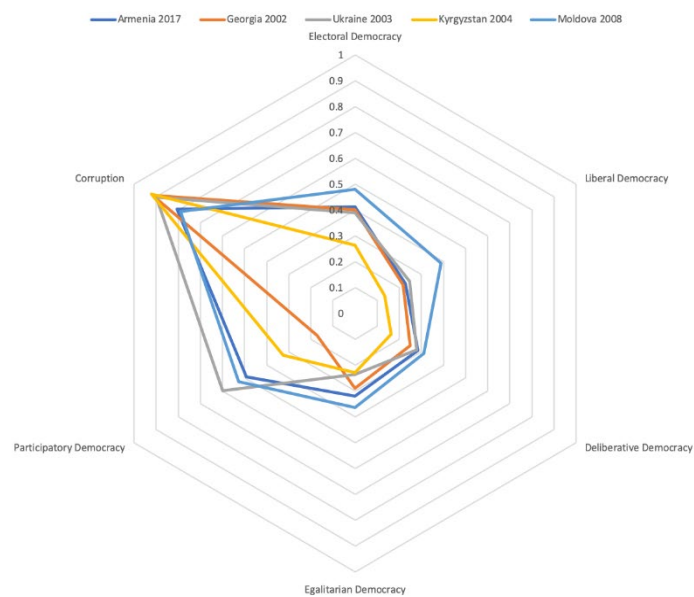


Figure 10 compares Armenia with other countries in the post-Soviet space that experienced political transitions by tracking their scores on democracy over time, from 1990–2018. Years are on the x-axis, and overall standardized democracy scores are on the y-axis. This is again the Electoral Democracy score, an overall measure of electoral democracy and democratic practices (see discussion above). The black shapes on the graph indicate the year in which their political transitions took place. We can see that the Electoral Democracy score increases in each of Georgia, Kyrgyzstan, Ukraine, and Moldova after their political transitions. The increase only lasts a few years in Moldova and Ukraine, with Ukraine's score declining to around pre-transition levels. Kyrgyzstan's score increases only slightly following its political transition. For comparison, political developments in Kyrgyzstan that took place within the structure of that country's institutions (and thus not in response to a political transition related protest movement) accounted for a greater amount of democratic improvement since around 2010. The takeaway is that political transitions have correlated with large improvements in democracy in general, but not in all cases, and those improvements are not stable over time. Armenia's Electoral Democracy trend is included for context. At the time of political transition, Armenia had a higher score than all comparison countries except Moldova.

Figure 10. Armenia and Regional Countries: Comparative Scores on Democracy

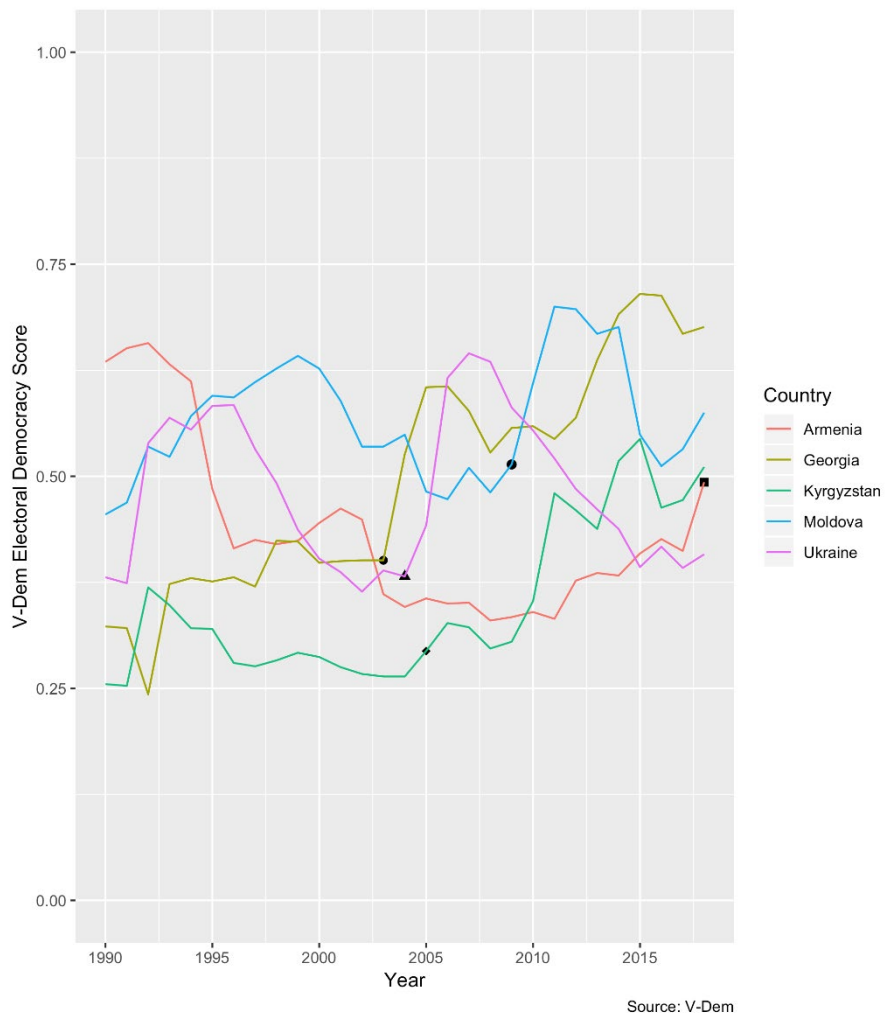
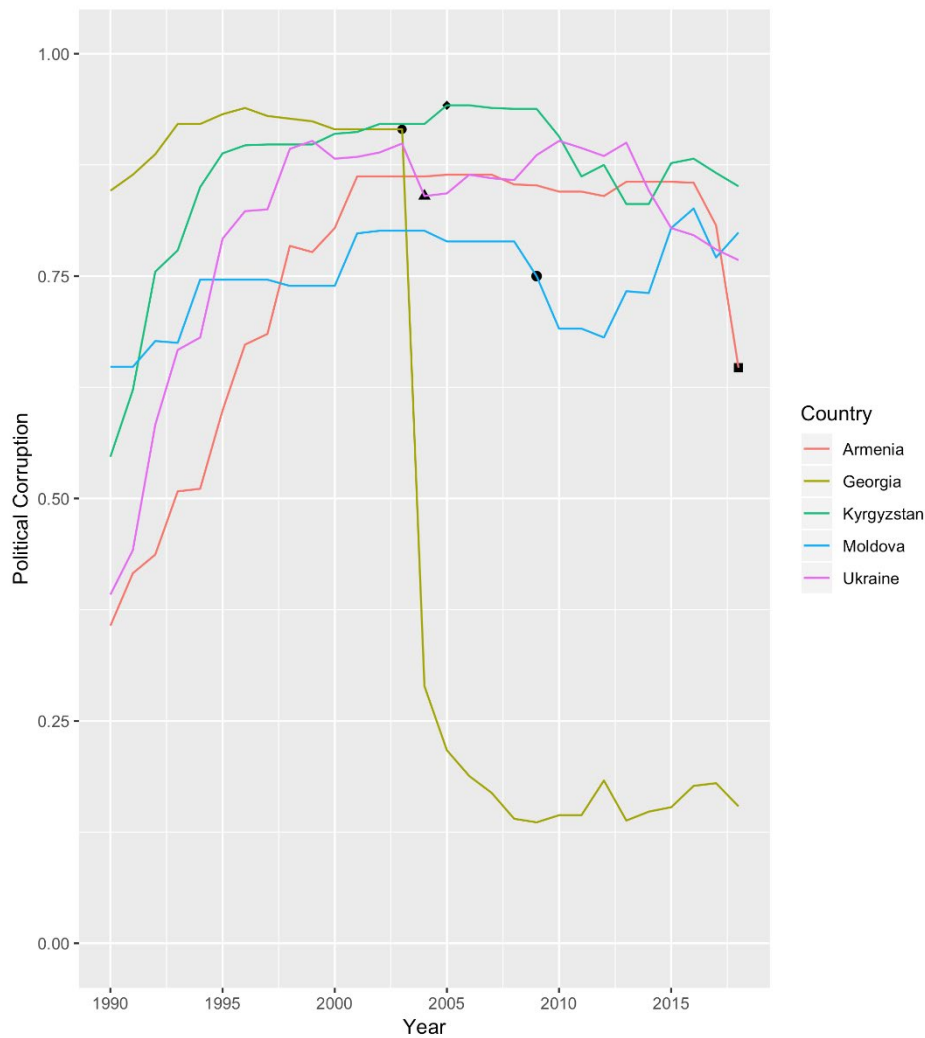


Figure 11 again compares Armenia with other countries in the post-Soviet space that experienced a political transition by tracking their scores on Political Corruption over time, from 1990–2018. Years are on the x-axis, and Political Corruption scores are on the y-axis. Political Corruption captures both “petty” and “grand” corruption, including both bribery and theft, that influences law making and implementation (see again Figure 8). The black shapes on the graph indicate the year in which the political transition took place. The year in which the political transition took place in Kyrgyzstan and Ukraine does not precede a notable improvement in the overall trend in either country. Political Corruption meaningfully declined following events in Moldova in 2009, although it is now back at its previous level. Most notably, Political Corruption declined dramatically following Georgia’s political transition.

Corruption in Georgia in recent years has hovered around the level it dropped to following its transition, but that drop was so meaningfully large as to put it on a totally different trajectory than the

Figure 11. Armenia and Neighbors: Comparative Scores on Corruption



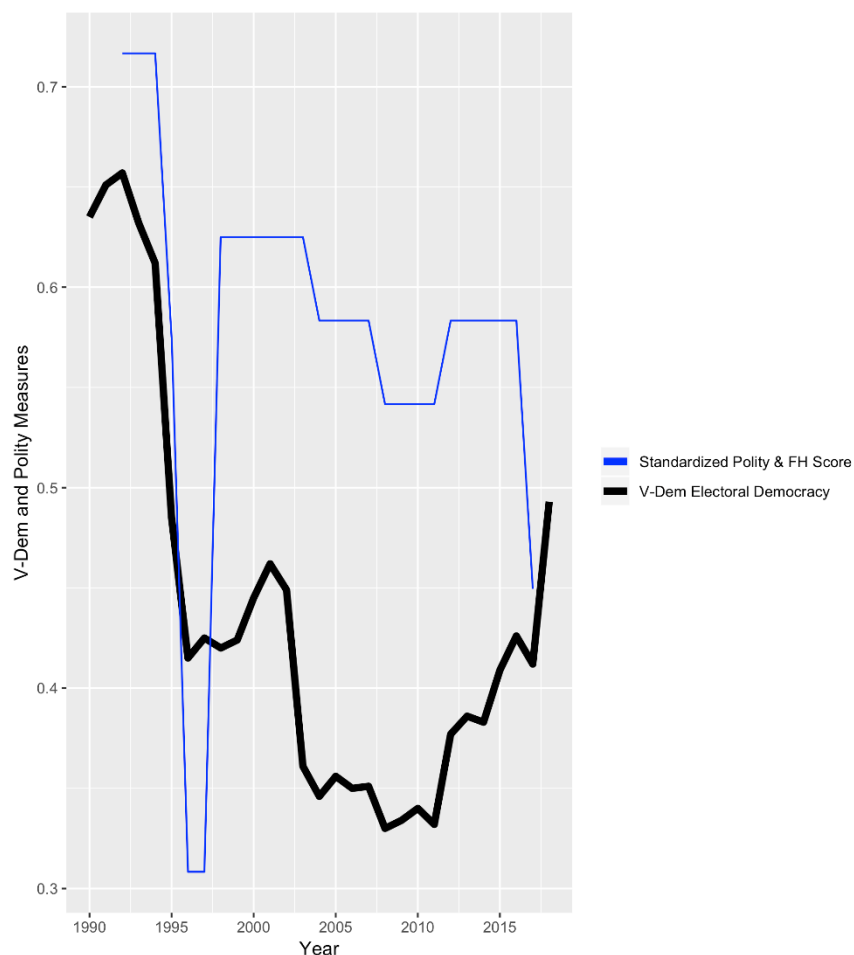
Source: V-Dem

other political transition countries in the figure. The Georgian case gives a proof-of-concept that significant anti-corruption gains are possible in the immediate aftermath of a political transition, and those gains need not erode away over time. Armenia's Political Corruption trend is included for context; it is among the lowest until the mid-2000s. Until 2018, when it dropped significantly, Armenia's corruption levels were clustered with those of the four countries other than Georgia.

## COMPARING V-DEM TO POLITY (WITH FREEDOM HOUSE IMPUTATION)

Figure 12 compares the V-Dem Electoral Democracy score for Armenia (1990–2018) to an alternative measure of democracy, which is a standardized measure from Polity and Freedom House.<sup>129</sup> While both indices note a change in the years after 1995, the relative size of that change—both the drop-off and the subsequent increase—is larger in the Polity indicator. Coming to recent years, the Polity indicator declines substantially from 2016 to 2017. The V-Dem indicator also shows a decline, but a much subtler one. The V-Dem indicator places the score in 2017 around the level of the score in 2013, and still higher than scores since around 2003; the Polity indicator drops the score to significantly lower than that recorded in 2003. In our view, the V-Dem indicator levels and trends are more useful than the Polity indicator, because the V-Dem indicator is based on a wide variety of sub-indicators reviewed here that allow it to capture nuance missing from the Polity indicator. In the context of Armenia, that nuance reveals that the Polity indicator overexaggerated changes in democracy in Armenia, particularly in the late 1990s and since 2015.

Figure 12. Comparing V-Dem to Polity



## CONCLUSION

We emphasize several key takeaways from this analysis of V-Dem indicators. First, in recent years Armenia's democracy scores have been relatively stable and near, albeit generally lower, than those of other political transition countries in the region. As a component of this, we highlight the stability and low level of Armenia's scores when it comes to judicial qualities. A notably good outcome in Armenia is the high level of individual liberty in terms of individual equality before the law and, particularly, the extent to which the law protects citizens from violence. From 1990-2000, corruption was high and stable in Armenia until 2016-2018 period, during which there was a meaningful decline—notably due to the political transition. Based on our analysis of similar transition countries, corruption mostly declines following a political transition, though that decline is not universally maintained (see Figure 11).

<sup>129</sup> Note: the standardized Polity & Freedom House score is unavailable in the 2019 version of the V-Dem dataset.

## APPENDIX 2: RESEARCH QUESTIONS

### REFORMS

*Core Question: What is the impact of integrity reforms undertaken by the Pashinyan government, and its predecessors, on the rule of law and judicial independence in Armenia?*

Table 5 below, lists proposed Reforms sub-questions and data sources within each of these sub-areas.

TABLE 5: REFORMS SUB-QUESTIONS AND DATA SOURCES

SUB-QUESTIONS	SOURCE (MAJOR INTERVIEW CATEGORIES)
I.1) What reform efforts, if any, related to rule of law and corruption have been undertaken?	Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender
I.2) How do reform efforts compare with trends and recommendations identified in the Evidence Review?	Desk review and assessment team analysis
I.3) What is the legacy of reforms that predate the current government?	<p>Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender</p> <p>Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts</p> <p>Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office</p> <p>Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases</p> <p>Law professors and law students</p> <p>NGO leaders from local organizations focusing on anti-corruption and ROL reform</p> <p>Judicial and bar association(s) leaders</p> <p>Journalists</p> <p>International community representatives, including international organizations and foreign embassies contributing to IS/ROL reform efforts</p>
I.4) Have current or past reform efforts had any demonstrable impact, either positive or negative, on the rule of law and judicial independence?	<p>Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender</p> <p>Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts</p> <p>Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office</p> <p>Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases</p> <p>Law professors and law students</p> <p>NGO leaders from local organizations focusing on anti-corruption and ROL</p>

	reform Judicial and bar association(s) leaders Journalists International community representatives, including international organizations and foreign embassies contributing to IS/ROL reform efforts
1.5) What does government consider to be its primary and secondary reform priorities going forward?	Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender

## LEGAL EDUCATION

*Core Question: How does legal education and training for judges and lawyers advance and/or inhibit efforts to address ethics and integrity in the Armenian legal system?*

Table 6, below, lists proposed Legal Education sub-questions and data sources.

**TABLE 6: LEGAL EDUCATION SUB-QUESTIONS AND DATA SOURCES**

SUB-QUESTIONS	SOURCE (MAJOR INTERVIEW CATEGORIES)
2.1) Does the legal education system adequately address issues relating to ethics and corruption?	Law professors and law students, Judicial and bar association(s) leaders, practicing lawyers
2.2) Is there corruption within the legal education system with regards to either admission or grading?	Law professors and law students, Judicial and bar association(s) leaders Journalists
2.3) Do judges receive initial training in issues relating to ethics, corruption, conflicts of interest, etc.?	Law professors and law students, Judicial and bar association(s) leaders Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases
2.4) Do judges and lawyers receive ongoing training in issues relating to ethics, corruption, conflicts of interest, etc.?	Judicial and bar association(s) leaders Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases
2.5) Do judges receive training in handling cases relating to corruption?	Law professors and law students, Judicial and bar association(s) leaders Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized



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courts

Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office

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## RULE OF LAW

*Core Question: How does corruption and undue influence upon or by judges and lawyers threaten the rule of law and judicial independence in Armenia?*

Table 7, below, lists proposed Rule of Law sub-questions and data sources.

TABLE 7: RULE OF LAW SUB-QUESTIONS AND DATA SOURCES

SUB-QUESTIONS	SOURCE (MAJOR INTERVIEW CATEGORIES)
3.1) How are judges selected and is the process free from undue influence and corruption?	Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender  Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts  Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office  Judicial and bar association leaders
3.2) Is admission to legal practice based on a fair and transparent process free from undue influence and corruption?	Judicial and bar association(s) leaders Practicing lawyers
3.3) Are judges and lawyers able to fulfill their professional duties without undue influence or corruption from authorities within either the legal system or government?	Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts  Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office  Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases  Journalists
3.4) Are judges and lawyers subjected to harassment, influence, or corruption by private parties?	Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts  Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office  Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases  Journalists

3.5) Do judges and lawyers enjoy immunity for actions taken in good faith in their official capacity?	Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts  Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office  Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases
3.6) Are lawyers able to represent their clients with full equality of arms and respect for lawyer-client confidentiality?	Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases
3.7) Are there independent professional organizations to support the interests of judges and lawyers and promote an independent and effective legal system?	NGO leaders from local organizations focusing on anti-corruption and ROL reform  Judicial and bar association(s) leaders

## INTEGRITY SYSTEMS

*Core Question: How effective are integrity systems for principal legal system actors and the public sector in ensuring ethical conduct, accountability, and transparency?*

Table 8, below, lists proposed Integrity Systems sub-questions and data sources.

**TABLE 8: INTEGRITY SYSTEMS SUB-QUESTIONS AND DATA SOURCES**

SUB-QUESTIONS	SOURCE (MAJOR INTERVIEW CATEGORIES)
4.1) Are there adequate laws, regulations, and codes governing the ethics and conduct of legal system actors and public officials?	Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender  Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts  Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office  Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases
4.2) Are there internal investigatory, audit, and disciplinary systems for holding legal system actors and public officials accountable for misconduct?	Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender  Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts  Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office  Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases

4.3) Are legal system actors and public officials held criminally accountable for corruption or intentional acts of professional misconduct?	<p>Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender</p> <p>Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts</p> <p>Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office</p> <p>Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases</p>
4.4) Are court proceedings regulated and implemented in a manner that maximizes efficiency and minimizes undue influence and corruption, particularly in civil and commercial cases?	<p>Government officials, including relevant Members of the National Assembly, Ministry of Justice, anti-corruption bodies, and the Human Rights Defender</p> <p>Judges from different levels of the judiciary (trial, appellate, and Supreme courts), and judges from the Constitutional Court or other existing specialized courts</p> <p>Prosecutors, including the Prosecutor General and prosecutors from different levels within the Prosecutor's Office</p> <p>Practicing lawyers, including the Head of the Office of the Public Defender and attorneys specializing in both criminal defense and civil cases</p>

## IS/ROL SECTOR DONORS

*Core Question: Based on the Evidence Review and assessment findings, what actionable policy and programming steps are recommended to support USAID/Armenia's strategic development and programming on integrity systems and rule of law issues?*

Table 9, below, lists the proposed Donor sub-question and data sources.

**TABLE 9: IS/ROL SECTOR DONORS SUB-QUESTIONS AND DATA SOURCES**

SUB-QUESTIONS	SOURCE (MAJOR INTERVIEW CATEGORIES)
5.1) Based on the Evidence Review and assessment findings, what actionable policy and programming steps would you recommend to support USAID/Armenia's strategic development and programming on integrity systems and rule of law issues?	International community representatives, including international organizations and foreign embassies contributing to IS/ROL reform efforts

### APPENDIX 3: LIST OF RESPONDENTS OF KEY INFORMANT INTERVIEWS AND SMALL GROUP DISCUSSIONS, CLOUDBURST FIELD MISSION IN ARMENIA, APRIL 15–MAY 3, 2019

GROUP	NAME SURNAME OF THE INTERVIEWEE	THE POSITION OF THE INTERVIEWEE	NUMBER OF INTERVIEWEES	DATE OF INTERVIEW
Judicial branch	Mr. Gagik Harutyunyan	President of the Supreme Judicial Council of Armenia	2 (Harutyunyan and his adviser)	04.26.2019
Judicial branch	Mr. Gevorg Danielyan	Member of the Supreme Judicial Council of Armenia, Law Professor at YSU	1	04.19.2019
Judicial branch	Mr. Yervand Khundkaryan	Chairperson of the Court of Cassation of Armenia, President of the Association of Judges of Armenia	1	04.18.2019
Judicial branch	Mr. Arsen Mkrtchyan	The Chairperson of the Civil Court of Appeal of Armenia	2 (Mkrtchyan and his adviser)	04.18.2019
Judicial branch	Mr. Hovsep Bedevyan	The Chairperson of Administrative Court of Appeal of Armenia	1	04.25.2019
Judicial branch	Mr. Ruben Vardazaryan	The Chairperson of the Court of First Instance of General Jurisdiction of Yerevan	1	04.19.2019
Judicial branch	Ms. Naira Hovsepyan	Judge of the Court of First Instance of General Jurisdiction of Yerevan (Civil Specialization)	1	04.22.2019
Judicial branch	Ms. Simizar Hovsepyan	Judge of the Court of First Instance of General Jurisdiction of Yerevan (Civil Specialization)	1	04.26.2019
Judicial branch	Mr. Sergey Chichoyan	Judge in the Court of First Instance of General Jurisdiction of Gegharquniq Region, A Member of the Supreme Judicial Council of Armenia (Criminal Specialization)	1	04.30.2019
Judicial branch	Ms. Anna Arzumanyan	Judge in the Court of First Instance of General Jurisdiction of Kotayq Region (Civil	1	04.30.2019

		Specialization)		
Judicial branch	Mr. Garik Avagyan	Chairperson of the Bankruptcy Court of Armenia	I	04.23.2019
Judicial branch	Ms. Marine Melqonyan	Judge of the Court of First Instance of General Jurisdiction of Yerevan (Criminal Specialization)	I	04.29.2019
Prosecutors	Mr. Arsen Simonyan	Head of the Department for Combating Corruption and Economic Crimes	I	04.23.2019
Prosecutors	Mr. Hayk Movsisyan	Deputy Head of the Department of State Interests Protection of Prosecutor General Office of Armenia	I	04.22.2019
Advocates	Mr. Ara Zohrabyan	Chairman of the Chamber of Advocates of RA, Advocate (Civil specialization)	I	04.18.2019
Advocates	Mr. Hayk Alumyan	Defense Attorney	I	04.27.2019
Advocates	Ms. Melanya Arustamyan	Head of the Office of Public Defender	I	04.16.2019
Advocates	Mr. Aleksandr Sirunyan	Defense Attorney	I	04.27.2019
Advocates	Mr. Tirayr Vardazaryan	Advocate (Commercial and Administrative cases), Law Professor	I	04.27.2019
Advocates	Mr. Arsen Tavadyan	Advocate (Commercial)	I	04.20.2019
Government Officials	Mr. Yeghishe Kirakosyan	Adviser to the Prime Minister of RA	I	04.29.2019
Government Officials	Ms. Liana Ghaltakhchyan	Deputy Chief of Prime Minister Staff	I	04.20.2019
Government Officials	Mr. Tigran Khachikyan	Deputy Minister of Justice of the Republic of Armenia (The departments specialized in anti-corruption issues will be under his coordination)	I	04.16.2019

Government Officials	Ms. Mariam Galstyan	Head of the Division of Drafting Anti-Corruption Policy in the Ministry of Justice	I	04.16.2019
Government Officials	Ms. Siranush Sahakyan	Ex-Chairperson of the Commission on Ethics of High-Ranking Officials	I	04.20.2019
Government Officials	Mr. Armen Khudaverdyan	Deputy Chairperson of the Commission on Ethics of High-Ranking Officials	I	04.25.2019
Government Officials	Mr. Edgar Shatiryan	Member of the Commission on Ethics of High-Ranking Officials	I	04.25.2019
Government Officials	Mr. Gegham Sargsyan & Ms. Gayane Buniatyan	Deputy Head and Head of Analysis and Development Projects Department at the Civil Service Office of RA	I	05.02.2019
Government Officials	Ms. Nina Pirumyan and Mr. Mikayel Khachatryan	Head of Research and Educational Center and Head of International Cooperation Department in the Human Rights Defender office	2 (Pirumyan and Khachatryan)	04.18.2019
Parliament Members	Mr. Taron Simonyan	Member of the National Assembly of RA, "Bright Armenia" Faction	I	04.23.2019
Parliament Members	Mr. Gevorg Petrosyan	Member of the National Assembly of RA, Member of the Standing Committee on State and Legal Affairs, "Prosperous Armenia" Faction	I	05.02.2019
Association Leaders	Mr. Vahe Yengibaryan	Executive Director of the Association Board of the Association of Judges of RA	I	04.27.2019
Association Leaders	Mr. Gagik Ghazinyan	President of the Bar Association of RA, Dean of the Faculty of Law of Yerevan State University	I	04.17.2019
Heads of	Mr. Sergey Araqelyan	Rector of the Academy of Justice	2 (Araqelyan and his assistant)	04.29.2019

Schools				
Law Professors	Mr. Vahe Hovhannisyan	Head of the Chair of Civil Procedure of Yerevan State University	1	04.17.2019
Law Professors	Mr. Ara Gabuzyan and Ms. Anna Margaryan	Head of the Chair of Criminal Law of Yerevan State University and Lecturer in the Chair of Criminal Law of YSU	2 (Gabuzyan and Margaryan)	04.17.2019
Law Students	Students from the Faculty of Law of Yerevan State University	Students from Bachelor's and Master's programs	8	04.17.2019
Law Students	Students from American University of Armenia	Student from the LL.M. Faculty of American University of Armenia	8	04.18.2019
NGO Leaders	Ms. Sona Ayvazyan	Executive Director of Transparency International Anti-Corruption Center	1	04.22.2019
NGO Leaders	Ms. Haykuhi Harutyunyan	President of "Protection of Rights Without Borders" NGO	1	04.22.2019
NGO Leaders	Mr. Artur Sakunts	Chairperson at Helsinki Citizen's Assembly Vanadzor Office	1	04.26.2019
NGO Leaders	Ms. Arpine Hovhannisyan	Founder of the "Legal Education and Control" NGO, Ex-Vice Spokesperson of the National Assembly of RA	2 (Hovhannisyan and her adviser)	04.25.2019
NGO Leaders	Mr. Daniel Ioannisyan	Founder and President of "Union of Informed Citizens" NGO	2 (Ioannisyan and another representative of the NGO)	04.30.2019
NGO Leaders	Mr. Avetiq Ishxanyan	Chairman of Helsinki Committee of Armenia	1	04.16.2019
NGO Leaders	Mr. Ashot Khurshudyan	Head of Education and Training Unit at International Center for Human Development	1	04.27.2019
NGO Leaders	Ms. Nina Karapetyants	Representative of "Helsinki Association for Human Rights"	1	04.20.2019
NGO Leaders	Mr. Karen Zadoyan	President of the "Armenian Lawyers"	1	04.23.2019



		Association” NGO		
NGO Leaders	Ms. Hasmik Hakobyan	Country Director for Armenia in American Bar Association Rule of Law Initiative	1	04.15.2019
	Mr. Artak Kyurumyan	Independent Researcher	1	05.02.2019
Journalists	Ms. Sara Petrosyan, Ms. Christine Barseghyan, and Ms. Liana Sayadyan	Journalist at Hetq specialized in juridical and local self-governed sector issues, Manager of Anti-Corruption projects at Hetq, and journalist at Hetq	3 (Petrosyan, Barseghyan, and Sayadyan)	04.15.2019
Donors	Mr. Gregory Tsouris	Deputy Head of Cooperation for the EU Delegation to Armenia	1	04.16.2019
Donors	Mr. Vigen Sargsyan	Senior Communications Officer for the World Bank	1	04.17.2019
Donors	Mr. Vardan Poghosyan and Mr. Hrachik Yarmaloyan	Representative GIZ Office in Armenia and Regional M&E Coordinator for the South Caucasus in GIZ Legal Program in Armenia	2 (Poghosyan and Yarmaloyan)	05.02.2019
Donors	Ms. Kristina Afoyan	Resident Legal Expert US Department of Justice in Armenia	1	04.17.2019
Donors	Mr. Audie Holloway	Senior Law Enforcement Advisor in the International Bureau of Narcotics and Law Enforcement at the U.S. Embassy Yerevan	1	04.15.2019
Donors	Mr. Michael Shulman	International Bureau of Narcotics and Law Enforcement Director at the U.S. Embassy Yerevan	1	04.15.2019

## APPENDIX 4: KEY INFORMANT INTERVIEW PROTOCOL

### INTERVIEWS (SEMI-STRUCTURED)

This guide is presented as a sample or illustrative interview protocol. Please note that, as interviews were semi-structured, these questions were not necessarily asked verbatim or in this order. Instead, the guide acted as a memory aide or a checklist for the interviewers, to ensure that relevant topics were covered to the extent possible. Additionally, successful semi-structured interviewing requires interviewer flexibility to pursue useful themes outside of those listed or to focus on a subset of themes where a source is particularly informative. As such, this guide served as a 'living' document during fieldwork, and questions may have been dropped, added, or revised during fieldwork.

### INTRODUCTION

Thank you very much for taking the time to meet with us. Before we start, I'd like to give you a bit more context for the research. I'm an independent consultant engaged by the Cloudburst Group and an expert in legal assessments. Mr. Pavel Tadevosyan is a legal professional here in Yerevan. Our Research Assistant (Ms. Gayane Hayrapetyan) is also here to serve as a language interpreter.

We're assessing the legal environment both before and after the Velvet Revolution for USAID. We want to learn more about legal education, integrity systems, and the rule of law to inform future USAID programming.

Your contribution is very important to us and we appreciate your time and input. Results of this interview may be used in assessment reporting, and this report will be made publicly available online. However, we will ask for your permission if we are considering a direct quote and otherwise your responses will be kept confidential. And of course, you don't need to answer every question. Do you have any questions for us before we start?

### REFORM (ALL)

1. What anti-corruption reforms or initiatives are you aware of related to the justice system and the public sector?
2. How effective do you believe they have been?
3. What steps would you recommend to improve the accountability, transparency, and integrity of the justice system and the public sector?

### JUDICIAL BRANCH, PROSECUTORS & ADVOCATES

#### LEGAL EDUCATION

4. What is the perception as to the fairness and impartiality of **the admission process to law schools**?  
[PROBE: concerns about money, family/political connections]
5. What is the perception as to the fairness and impartiality of **examinations and grading in law schools**? [PROBE: concerns about money, family/political connections]
6. Is the legal curriculum comprehensive?
  - a. Does it include training in professional conduct?
  - b. Does it include training in ethics?
7. Is there a specialized school for judges and/or prosecutors?
  - a. If so, does it include training in relevant ethical and professional standards?
8. Do judges and prosecutors receive training in handling corruption cases?

9. Are there other training needs for judges and prosecutors?

### ***RULE OF LAW***

10. Within the system of selection of judges and prosecutors, are there safeguards that:
- Minimize political influence?
  - Maximize transparency?
  - Maximize professional qualifications?
11. Do any statutes or regulations establish criteria for selection of judges and prosecutors?
12. Is there an independent body involved in the selection process?
13. What is the perception of the fairness and impartiality of the selection process?
14. What sort of examination process is required for the practice of law?
15. Are there other requirements for admission to the practice of law?
16. Is the examination and licensing process for admission to legal practice regarded as fair, transparent, and free from political interference or other undue influence?
17. Do judges have guaranteed tenure?
- If not, how can they be removed from office, and is the process regarded as free from political interference or other undue influence?
18. Are there laws and regulations guaranteeing and implementing the independence of judges?
19. As a judge, how much influence do superiors have over case/trial decisions or do you do so completely independently?
20. Do judges have any form of immunity?
21. Are there any cases of intimidation or harassment experienced by judges or prosecutors?
22. What precautions, if any, are taken to ensure the safety of judges and prosecutors?
23. Do lawyers enjoy professional immunity?
24. Have lawyers suffered negative consequences, penalties, or harm because of representing controversial clients or causes?
- What about in the area of human rights?
  - Is there any evidence to suggest that prosecutors rely on prosecution or threat of prosecution to intimidate lawyers in the courtroom?
25. Are there any special protective measures taken to protect lawyers in matters involving organized crime or corruption?
26. Do lawyers have sufficient time and facilities to prepare an adequate defense for clients, particularly for clients in custody?
27. Is lawyer-client confidentiality recognized and respected?
28. Do prosecutors have an obligation to furnish lawyers with information necessary for the defense of their clients, particularly exculpatory evidence?
29. What is the perception of the honesty of lawyers?
- What about with regards to any collaboration with judges and/or prosecutors?
30. Do professional associations for judges and lawyers promote the interests and independence of their members?
- Are they free from governmental influence?
31. Would Alternative Dispute Resolution (arbitration/mediation/small claims) improve the efficiency and fairness of the justice system?

### ***INTEGRITY SYSTEMS***

32. How well do the ethical and professional standards for judges/prosecutors/lawyers help to ensure the integrity of the profession?

33. Are judges/prosecutors/lawyers aware of the relevant ethical and professional standards?
34. How well has the Supreme Judicial Council fulfilled its role in protecting judicial independence while ensuring accountability and transparency?
35. What are the disciplinary procedures for judges/prosecutors/lawyers?
36. How are judges assigned cases? [*Probe: lottery, according to their specific area of expertise, etc.*]
37. Are there meaningful mechanisms for members of both the public and legal profession to submit complaints against judges, prosecutors, and lawyers?
38. What sort of internal investigative or audit functions exist for judges, prosecutors, and lawyers?
39. Does the judiciary and prosecutor's office periodically and publicly account for their activities as a whole?
40. Are courtroom proceedings open to the public and the media?

Questions for senior judges only:

41. How many judges/lawyers have been disciplined over the past 3 years and for what charges?
42. How many judges/lawyers been removed from office or disbarred over the past 3 years?
43. Have any judges/lawyers been subjected to criminal or civil proceedings over the past 3 years?

## GOVERNMENT OFFICIALS, PARLIAMENT MEMBERS & PUBLIC OFFICIALS

### LEGAL EDUCATION

44. Which body is responsible for accreditation of law schools?
45. What influences are there on the accreditation process, if any?
  - a. Are there any concerns as to political interference or other undue influence in the accreditation process?
46. In your view, to what extent is there corruption within the legal education system with regards to either admissions or grading?

### RULE OF LAW

47. Within the system of selection of judges and prosecutors, are there safeguards that:
  - a. Minimize political influence?
  - b. Maximize transparency?
  - c. Maximize professional qualifications?
48. Do any statutes or regulations establish criteria for selection?
49. Is there an independent body involved in the selection process?
50. What is the perception of the fairness and impartiality of the selection process?

### INTEGRITY SYSTEMS

51. How well do the ethical and professional standards for judges/lawyers/public officials help to ensure the integrity of the profession?
52. Do government employment contracts require signing of codes of ethics?
53. How well has the Supreme Judicial Council fulfilled its role in protecting judicial independence while ensuring accountability and transparency?
54. What are the disciplinary procedures for judges/lawyers/public officials?
55. How are judges assigned cases? [*Probe: lottery, according to their specific area of expertise, etc.*]
56. Do judges have contempt and enforcement powers to hold public officials and agencies accountable?

57. Is there judicial review of administrative decisions?
58. Are there meaningful mechanisms for members of both the public and legal profession to submit complaints against judges, prosecutors, and lawyers?
59. What sort of internal investigative or audit functions exist for judges and lawyers?
60. Is the political independence of the civil service protected by law and in practice?
61. Is the hiring of civil servants merit-based and free from outside influence?
62. Are promotions for civil servants merit-based and free from outside influence?
63. Do civil servants receive adequate training in relevant ethical standards and regulations?
64. Is there an oversight body for reviewing hiring and promotion decisions for civil servants?
65. Are civil servants protected from dismissal or reassignment after a new administration assumes power?
66. Are there adequate financial disclosure and conflict of interest rules for senior officials and Members of the National Assembly?
67. How are financial disclosure and conflict of interest rules for senior officials and Members of the National Assembly enforced?
68. What sort of supreme audit authority exists for fiscal accountability across the public sector, and how well does it work?
  - a. What audit system does the audit authority use in selecting and conducting audits, i.e., is it randomized?
  - b. Is the supreme audit authority protected from political influence?
  - c. Are findings and recommendations of the supreme audit authority enforced?
69. How well does the National Assembly provide oversight of public funds?
70. What agencies exist to investigate corruption and how effective are they?
71. Are anti-corruption agencies protected from political influence?

## LEGAL EDUCATORS & ASSOCIATION LEADERS

### *Legal Education*

72. Which body is responsible for accreditation of law schools?
73. Do accreditation standards include appropriate training in professional conduct and ethics?
74. Are there non-accredited institutions that award diplomas in the field of law?
75. What influences are there on the accreditation process, if any?
  - a. Are there any concerns as to political interference or other undue influence in the accreditation process?
76. Is the legal curriculum comprehensive?
  - a. Does it include training in professional conduct and ethics?
  - b. Does it include training in ethics?
77. Are there published standards and criteria for admission to institutions providing legal education?
78. What are the admissions criteria to institutions of legal education?
  - a. Are these standards uniform?
  - b. Do institutions require a standardized, fair, rigorous, and transparent entrance examination?
  - c. What other factors might influence ability to get in?
79. What is the perception as to the fairness and impartiality of the admission process?
80. How are students evaluated and graded?

81. What is the perception as to the fairness and impartiality of examinations and grading in law schools?
82. Is there a specialized school for judges? If so, does it include training in relevant ethical and professional standards?
83. Do judges receive training in handling corruption cases?

### **INTEGRITY SYSTEMS**

84. In your view are judges and lawyers able to fulfill their professional duties without undue influence or corruption from authorities within the **legal system**?
85. In your view are judges and lawyers able to fulfill their professional duties without undue influence or corruption from authorities within the **government**?

Questions for the heads of the judges and bar associations only:

86. How many judges/lawyers have been disciplined over the past 3 years and for what charges?
87. How many judges/lawyers been removed from office or disbarred over the past 3 years?
88. Have any judges/lawyers been subjected to criminal or civil proceedings over the past 3 years?

### **GROUP DISCUSSIONS WITH STUDENTS**

#### **LEGAL EDUCATION**

89. Is the legal curriculum comprehensive?
  - a. Does it include training in professional conduct and ethics?
  - b. Does it include training in ethics?
90. Are there published standards and criteria for admission to institutions providing legal education?
91. What are the admissions criteria to institutions of legal education?
  - a. Are these standards uniform?
  - b. Do institutions require a standardized, fair, rigorous, and transparent entrance examination?
  - c. What other factors might influence ability to get in?
92. What is the perception as to the fairness and impartiality of the admission process?
93. How are students evaluated and graded?
94. What is the perception as to the fairness and impartiality of examinations and grading in law schools?

### **INTEGRITY SYSTEMS**

95. In your view are judges and lawyers able to fulfill their professional duties without undue influence or corruption from authorities within the **legal system**?
96. In your view are judges and lawyers able to fulfill their professional duties without undue influence or corruption from authorities within the **government**?

### **CSOS & MEDIA**

97. In your view, is there corruption within the legal education system? [*PROBE: Accreditation, admissions, examinations and grading*]
98. In your view are judges and lawyers able to fulfill their professional duties without undue influence or corruption from authorities within the **legal system**?

99. In your view are judges and lawyers able to fulfill their professional duties without undue influence or corruption from authorities within either the **government**?
100. Are judges and lawyers subjected to harassment, influence, or corruption by private parties?
101. Are there independent professional organizations to support the interests of judges and lawyers and promote an independent and effective legal system?
102. Does the judiciary periodically and publicly account for its activities as a whole?
103. Are courtroom proceedings open to the public and the media?
104. What role do CSOs play in anti-corruption and rule of law reform?
- a. How strong is civil society in Armenia?
  - b. How would you describe the relationship between the government and CSOs?
  - c. Are the laws and regulations pertaining to CSOs reasonable?
  - d. Have CSOs met any sort of resistance or criticism or been penalized for their activities?
  - e. Are there specific activities, training, or assistance that CSOs can provide?
105. Do ministries and agencies periodically report on their work to the public?
106. Do ministries and agencies respond to requests for information?

## DONORS

107. What is your view of legal education in Armenia?
108. What is your view of the justice system?
109. What is your view of current integrity systems and anti-corruption efforts in Armenia?
110. What are the policy priorities of other donors?
111. What do you view as gaps in support that may need to be filled?
112. How effective is coordination between donors?

## CONCLUSION (ALL)

113. Do you have any final comments that you wish to share?
114. Are there any questions that you would like to ask me?



## APPENDIX 5: OUTBRIEFING POWERPOINT PRESENTATION



### OUTLINE

- 1) PURPOSE
- 2) RESEARCH QUESTIONS
- 3) METHODOLOGY
- 4) INITIAL FINDINGS
- 5) NEXT STEPS



6/4/2019

2

## ASSESSMENT PURPOSE

- Understand context changes after the 2018 Armenian Velvet Revolution
- Examine the status, role, and independence of principal legal actors
- Identify justice and public sector corruption risks and potential responses



## CORE RESEARCH QUESTIONS

1. **Reforms:** What are the impacts and direction of integrity reforms undertaken to date?
2. **Legal Education:** How does legal education and training advance or inhibit efforts to address ethics and integrity?
3. **Rule of Law:** How does corruption and undue influence upon or by principal legal system actors threaten rule of law and judicial independence?
4. **Integrity Systems:** How effective are integrity systems for principal legal system actors and the public sector in ensuring ethical conduct, accountability, and transparency?
5. **Donors:** What is USAID's comparative advantage? What are the gaps in planned donor assistance?

## METHODOLOGY

- Informed by three academic Evidence Reviews, particularly Integrity Systems and Rule of Law Evidence Review
- Desk research (prior to fieldwork)
- Field research from April 16 - May 2
- Qualitative semi-structured interviews (individual and group; approx. 75 interviewees) with interpreter
- Interviews in 1) Yerevan, 2) Gavar, 3) Abovyan, 4) Charentsavan

6/4/2019

5

## INTERVIEWS & SMALL GROUP DISCUSSIONS

- Judges
- Prosecutors
- Practicing lawyers
- Government officials from other branches of government and public officials
- Law professors and law students
- NGO leaders
- Judicial and bar association(s) leaders
- Journalists
- International donor representatives

6/4/2019



## FINDINGS: ACADEMIC EVIDENCE REVIEW

- Instituting government employee codes of ethics, disclosure requirements, and a randomized audit system will be beneficial
- Addressing petty corruption is a less risky start to anti-corruption (AC) efforts – start transparency reforms later in the process
- Engaging with Small- and Medium-Sized Enterprises/Associations is a particularly promising path to gradually erode state capture
- Court reform beyond judicial independence (supporting court efficiency and administration) is important
- Development of Bar Associations to improve overall quality and commitment of judges to rule of law
- Suggest government expand engagement with civil society actors on rule of law and anti-corruption reforms

6/4/2019

7

## INITIAL FINDINGS & RECOMMENDATIONS

- 1) INTEGRITY SYSTEMS
- 2) LEGAL EDUCATION
- 3) JUSTICE SECTOR





## INTEGRITY SYSTEMS CONTEXT

- High political will but low expertise
- Public demand for accountability driving strategy
- Lack of political coordination
- Delays in fundamental AC reforms threaten momentum:
  - National AC Strategy
  - Institutional Framework
  - Legality of both Commission on Ethics of High-Ranking Officials and Corruption Prevention Commission (CPC) in question

6/4/2019

9

## INTEGRITY SYSTEMS RECOMMENDATIONS

1. Expertise on AC institutional framework
2. Capacity building for CPC (or other prevention agency)
3. Assist Civil Service Office in drafting Code of Conduct
4. Coordination and Training of Trainers (ToT) for integrity officers:
  - Ethics trainings
  - Internal integrity plans
5. Technical improvements for electronic declarations system
6. Strengthen civil society and independent media
7. Facilitate better coordination between civil society and government – establish permanent working group
8. Promote development of AC culture, e.g., youth-oriented PSAs, Street Law programs, Facebook/YouTube videos

6/4/2019

10

## LEGAL EDUCATION CONTEXT

- Steady improvements, but still lacking in development of practical lawyering skills
- Fairly high levels of student satisfaction
- Increasingly internationalized and politically aware students and open-minded faculty
- Awareness of potential corruption but low levels of concern
- Lack of training in both professional ethics and corruption issues

6/4/2019

11

## LEGAL EDUCATION RECOMMENDATIONS

1. Expand clinical legal education and moot court opportunities
2. Curriculum reform emphasizing practical lawyering skills, emerging issues, and international perspectives
3. Promote AC education and professional ethics for all students
4. Research centers at law faculties to provide internships
5. Clinical program to support Public Defender's Office
6. Lexis/Nexis and Westlaw access
7. Improve library holdings with more emphasis on international texts
8. Visiting professor programs to increase international expertise

6/4/2019

12

## JUSTICE SECTOR CONTEXT

- Increased pressure on judges and advocates since Revolution has exposed lack of trust between legal system actors
- Judges are set up to fail – case overload, insufficient salaries and benefits, long hours, poor equipment and case management, poor public image
- Access to justice threatened by case backlog, excessive trial delays, overburdened Public Defender's Office
- Concerns with selection and disciplinary processes by Supreme Judicial Council (SJC)

6/4/2019

13

## JUSTICE SECTOR RECOMMENDATIONS

1. Increase salaries and benefits for judges and staff
2. Develop and implement comprehensive e-justice system
3. Develop and implement judicial evaluation system
4. Upgrade computer equipment and networking systems
5. Reform judicial selection and disciplinary procedures
6. Implement senior status system for judges over 65
7. Promote mediation and alternative dispute resolution mechanisms
8. Develop media relations capacity and expertise for SJC and the Judicial Association

6/4/2019

14



## NEXT STEPS

- Final assessment report (Summer 2019)
- Expand discussion of opportunities, challenges, and recommendations
- Update VDem indicator analysis

