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Acronyms

ABA/CEELI	American Bar Association/Central and Eastern European Law Initiative
AJRA	Republic of Armenia Judges Association
AUA	American University of Armenia
AAYL	Armenian Association of Young Lawyers
BARA	Republic of Armenia Bar Association
EPAC	Environmental Public Advocacy Center
EU/TACIS	European Union/Technical Assistance Commonwealth of Independent States
GDP	Gross Domestic Product
GTZ	German Development Agency
IUAA	International Union of Armenian Advocates
IUL	International Union of Lawyers
JTC	Judicial Training Center
NGO	Non-governmental Organization
MOJ	Ministry of Justice
MSI	Management Systems International
ROL	Rule of Law
SOW	Statement of Work
USAID	United States Agency for International Development
YSU	Yerevan State University

Executive Summary

Background

This assessment report presents the general findings, conclusions, and recommendations on the USAID Rule of Law (ROL) program in Armenia. Management Systems International, Inc. (MSI) carried out the assessment between March 25 and April 14, 2000.

Data collection included interviews with 68 persons, both in Washington, DC and Yerevan, Armenia. The team reviewed 90 documents including USAID contractor and grantee monthly, quarterly, semi-annual and final reports, laws, USAID Strategic Plans and R4s, USAID Request for Proposals (RFPs) and Statements of Work (SOWs) and other donor reports. It was extremely difficult to get hard data on both program activities and results because of the many key actors over the life of the program. Time and the lack of readily available data precluded performing some cost-benefit analyses on various activities. The team held an exit briefing for USAID staff in Yerevan.

The assessment included the impacts that technical assistance has had on law drafting, training, court management advances, the sustainability of non-governmental organizations (NGOs) in the judicial sector, law school improvements, public education programs, and partnering relationships with other donors. The bulk of the time available was spent on law drafting, training, the sustainability of NGOs, and law school improvements. Less time was spent on public awareness efforts because of the fewer activities the contractors/grantees spent on this area of endeavor.

Rule of Law Assessment

The ROL program in Armenia began in 1995, as part of a regional project. There have been a series of contractors and grantees carrying out widely diverse program activities, including IRIS, ARD/Checchi, AMEX, ABA/CEELI, and Chemonics, a Mission contracted program. USAID/Armenia Mission data show that to date a ceiling value of approximately \$8,200,000 has been approved for ROL regional and Mission programs with more than \$5,000,000 having been obligated.

While Armenia itself is a politically, socially, and culturally complicated country, it is relatively small, with a population of around 3,000,000 in an area approximately that of the state of Maryland. The general standard of living has fallen dramatically since soviet times, but high economic expectations remain. Today, daily survival, to say nothing of a more fortunate life style, requires both the never ending giving and receiving of favors, most often, but not always, pecuniary in nature. Thus, those who are in positions to impact the daily lives of others frequently find that they are either offered, or can command bribes. Some government officials are thought to “take bribes so that they can give bribes.”

Another major factor impinging on the ROL realization is that the military seem not to have modernized the concept of its role in society, and along with the police, is accused of frequent human rights violations. While some observers say that pressure groups in Armenia eventually can force government agencies to do the right thing by its citizens, others report that if the pressure groups push too hard, against deeply entrenched interests, these leaders or their families will be at physical risk.

Findings: The court system is relatively small, with a nine-justice Cassation Court, a 30-judge Appellate Court and 106 First Instance Courts in 17 courts. The legal community is comprised of between 350 and 400 law school graduates who are licensed to practice in criminal cases (advocats) and several hundred more who are law school graduates who work for government agencies or represent clients in civil cases.

Peculiarly one does not have to be a law school graduate, or indeed have any formal schooling, to represent clients in civil cases so the number of potential “litigants” cannot be determined.

There was no one particular Armenian coordinating body with which USAID could work to develop priorities and set specific targets. There were multiple actors, each with differing visions, and differing stakes.

The bulk of the program’s major activities have taken place in the short span of only four years. Much was accomplished in this period (1996-1999).

USAID relied heavily on Europeans to provide models for change given that Armenia had no desire to imitate the common law system of the United States, or other common law countries. Therefore, implementation of the strategies for Armenia heavily reflects Dutch, German, and Russian influences, as well as US.

Technical Assistance in legislation drafting:

Findings: USAID worked closely with the legislation drafting section of the Parliament. Early on it offered help training legal drafters, to enhance in-house capability, but the offer was declined. Now Parliament is willing to accept such training and USAID is preparing to offer it to Parliament and other government institutions.

Long-term on site foreign advisors, such as Anna Tarrasova who shepherded the Civil Code into being, basing it on the Russian model, with significant impute from the Dutch. Drafts were thoroughly vetted in Holland, and there were direct and permanent communications between the experts and the recipients, thus avoiding misunderstanding. The law was specifically adapted to the Armenian context, and received the most praise, although there are some criticisms. While appearing to be the most expensive form of assistance, it may have been the most effective.

Short-term on site foreign advisors who made frequent trips, sometimes four or five months apart, to discuss concepts and review drafts. These experts generally focused on the issue at hand, and sometimes the drafts were not checked for consistency with other legislation either being drafted or in force.

Another form was that foreign experts went to Armenia to discuss the principles and provided much needed background materials and samples; the drafts, often going through several permutations, were sent to the experts for comments. No follow-up face-to-face discussions took place.

A fourth model was that of providing as many relevant examples of similar legislation as possible for Armenian drafters to consider. Many samples were provided in English and translated into Russian, given that the Armenian language had never developed the prerequisite technical and conceptual vocabulary. In some cases, important principles were not included in the legislation because the drafters, not having any experience in commerce, could not appreciate the importance of the principles and the advisors could not convince them of the necessity of those principles.

In a fifth scenario, contractor resident staff provided informal assessments of proposed laws, through participation in meetings, conversations, or at common professional events and gatherings, even by telephone. Copious materials were provided, and translations made.

The important pieces of legislation adopted as a result of USAID assistance are: Civil Code, Criminal Procedures Code, Law on the Procuracy, Law on the Judiciary, Law on the Status of Judges, Law on the Execution of Court Judgments, Law on Advocats, and the Universal Electoral Code. Laws which are

pending are: the Criminal Code, the Operational Investment Code, the Administrative Procedures Code, and Constitutional Reforms that would remove the Executive Branch from the Judicial Council, give the Council of Court Chairmen the power to sanction judges, and for the Constitutional Court to review constitutional questions from lower court appeals.

The problems that have occurred regarding inconsistencies and in congruencies in legislation drafting are now being addressed by USAID through its current contractor.

Conclusions: The intense use of Western European and Russian experts facilitated Armenian acceptance of new concepts.

Many of the problems with legislation developed, not only by USAID but by other donors as well, stem from the fact that Armenian executive and legislative branches did not amend the Constitution to accommodate many of the new checks and balances concepts and requirements of an independent, modern judiciary, and the corresponding laws needed for a free market economy. There appears to be a lack of “political maturity” on the part of key actors.

Each of the varieties of legislation drafting assistance was in the main effective in so far as it could go, but the long-term advisor on-site seems to have produced the least conflictive result. Problems in legislation drafting arose basically in terms of Armenian resolution to adopt concepts that fall far outside their historical perceptions, like the Administrative Procedures Code, and Constitutional reform. Even though there were problems, USAID worked at legislation drafting assistance in a comprehensive and systematic way, making it clearly the leader among the donors in this field.

Training

Findings: USAID used six principal tactics in training: Study Tours, Attendance at Major International Conferences, Seminars and Workshops in Armenia, Training of Trainers, Course Development and Materials Development. Although the review team hoped to perform a cost-benefit analysis to determine which was most effective, it was not possible. Partly that was true because trainees participated in more than one kind of training, and each training had a different purpose. Each seemed meritorious to the participants.

The European Union/Technical Assistance to the Commonwealth of States (EU/TACIS) is to fund a Judicial Training Center. As part of the restructuring of the courts, training responsibility was removed by law from the executive branch and given to the Council of Court Chairmen. The program is a year late in starting. A Master Plan was prepared which does not appear to reflect operational costs of the JTC, and which suggests that other donors will be responsible for costs after the EU/TACIS funds run out in 18 months. Apparently the donor was determined to go forward with the JTC itself, rather than coordinate with other donors.

Little training has been done in court management or case management because policies regarding those two issues have not been adopted by the Council of Court Chairmen. Some overview training has been done.

Considerable investments have been made to upgrade and modernize the curricula and teaching methodology at the law school at Yerevan State University (YSU), with few results. The Dean justifies the delays saying that he needs still more resources to begin making the changes. At the same time, there are several private law schools in Yerevan, which provide varying qualities of instruction that could benefit from USAID backing. Their graduates are going into the justice sector, although as yet in fewer numbers than those of YSU.

Conclusions: Training has been effective in Armenia. The study tours and foreign seminars seem to have widened the intellectual and professional horizons of the attendees. The seminars and workshops, as reported by the participants, generally have met their needs and expectations both in content and process. The training of trainers program, begun early on, seems to have been particularly effective from the standpoint of the trainees.

It would appear that no strategic coordination between the donors has taken place if an expensive JTC institution is to be set up, whose continued existence is dependent on foreign donors. Although USAID has no coercive power to force donor strategic coordination, it should leverage whatever influence it has with the donors - and the beneficiaries - to attain this result given that continuing training is so important to long-term success.

Institutional Development for Public and Private Sector Legal Entities

Findings: Following the strategy set forth in its early programming, for the most part, USAID directly and through its contractors worked within the existing institutional structures to bring about change. Thus, USAID worked with the existing courts, the Parliament, the state law school, the Ministry of Justice, the Prosecutors, etc. This strategy rendered some important gains in the independence of the judiciary, and laws adopted. Over time, however, USAID has found that in some cases those in power either have not been willing or been able to bring about all the desired reforms.

USAID, principally through ABA/CEELI, was instrumental in creating a series of judicial sector NGOs, like judges associations, bar associations and environmental public advocacy groups. These groups sometimes have been able to achieve modest reforms and goals. None of the organizations is willing to tackle the corrosive problem of corruption within the system, however.

Some observers contend that USAID has allied itself only with “the power structure,” which they see as not willing to reduce its power by “real reform.” Thus, they question USAID’s real commitment to reform. They question the reform credentials of the leadership of USAID sponsored NGOs, suggesting that they do not champion anti-corruption campaigns or challenge governmental activities, especially in the area of human rights.

None of the organizations are financially viable in terms of carrying out their continuing legal education goals, or public awareness goals. Sustainability is not in the picture for the immediate future.

Conclusions: Without funding from USAID these institutions would neither have evolved as quickly as they did nor made the contributions to continuing legal education and public awareness that they have made. They presently are not viable institutions financially and will be dependent on international donor assistance for some time.

The assessment team was told by several contacts that “real reformers” believe that they are labeled “political” by their opponents, thus making them “ineligible” for USAID grant support. USAID should combat this perception, because just the perception precludes finding more allies for reform among the citizens who are looking for paradigmatic changes in their society.

Changing Public Perceptions of the Judicial Sector

Findings: There is a high degree of dissatisfaction with the judicial system, and fully 47% of Armenians are not aware of the on-going judicial reform. USAID’s program has two prongs: programs for professionals and programs for the general public. In these, judges and journalists were sent outside Armenia to conferences about the media and the judiciary, training programs for journalists were

conducted, and the contractors/grantees have given talks to professional groups. These efforts are needed given that some judges told the assessment team that they believe that journalists only file negative reports on the courts, and said that training on how to work with the media was important. Other judges clearly stated that journalists went beyond responsible reporting.

AAYLs has mounted seminars for the general public in remote areas of Armenia, reaching between 200 and 250 persons. It is also beginning a TV program on legal issues, and ABA/CEELI has addressed high school civics classes on the issue. The legal clinics run by the bar associations and YSU also directly raise public awareness.

USAID through its current contractor plans to continue working with judges and the media.

Conclusions: Improvement of the public perception of the judiciary is highly dependent on the performance of the judiciary itself.

In addition to continuing the activities already initiated as contemplated in its SOW for the new contract, additional activities such as the creation of high school civics textbooks, and teacher training in that field, the institution of obligatory government or political science classes in the universities can be instituted, and civic clubs like Kiwanis, Rotary, Lions International, or something more European oriented, can be developed so that cultural expectations change within the society. There is a lot more to be attempted through the existing NGOs or ones yet to be created.

Working in Concert with other donors

Findings: There has been some mutual cooperation between donors. There has, for example, been joint funding for study tours, or seminars taking place outside Armenia. At the same time, there are certain jealousies manifested in guarding areas of interest, such as the JTC, and differing viewpoints of what should be done in ROL. As one donor said, “Each donor has its mandate.”

Under the leadership of USAID, monthly donor meetings have been scheduled in the recent past to provide a forum where the donors can discuss their upcoming plans and activities. These have served to avoid some duplication of effort, and all of the donors who attend say that the meetings are helpful. The donors do not generally feel that Armenian institutions play off one donor against another, although several donors noted that proposals seeking financial aid are widely circulated in the hope that some donor will fund them.

Conclusion: What is lacking, however, are common strategies on how best to help Armenia in establishing a deeply rooted ROL tradition. There are important issues to be resolved, including corruption, independence of the judiciary, and human rights observations, that must be addressed in unison, but are not.

Summing Up

In a short period of time, USAID has accomplished much in terms of legislation drafting and training. Some advances have been made in public awareness of the judiciary. Some efforts are underway to spruce up laws that were hastily drafted.

The areas of most concern are whether corruption will totally undermine what has been done, and discredit democracy. There are questions about whether the Government of Armenia is willing and able to move forward with further structural reforms in the Constitution to promote an independent and capable judicial system.

Recommendations

These recommendations taken together should help USAID to continue to work on improving upon what it has already done, and move more boldly into areas on which it has not as yet placed the necessary emphasis.

1. USAID should hammer out united strategies with other international donors to actively fight corruption in the court system. While USAID has given its current contractor instructions to develop an anti-corruption program, it has not given the contractor any specific target activities as it has in all other areas. While no one activity will in and of itself curtail corruption, there is a series of projects that can be undertaken, in a common front with other donors, including but not limited to:
 - A. Sponsor a highly publicized series of forums on corruption, and its deleterious effects on the society, including the economy. While this should include the written press, since mass circulation is so low, it should also include radio and television efforts. When corruption is seen as a way of life, there has to be a massive education campaign before the public begins to change...just as there had to be massive campaigns before the noxious effects of smoking were generally recognized in the U.S. If there were opposition by public officials to such a campaign, that opposition would be eloquent testimony about the sincerity of public officials who say that they are against corruption. Should there be serious opposition from the government, the donors should seriously reevaluate whether it is worthwhile to work in rule of law programs in Armenia.
 - B. USAID should seek out those truly concerned citizens who want to do something about corruption and help them form judicial watchdog NGOs, and guarantee financial backing for a significant length of time, perhaps eight to ten years. The money would be minimal compared to the overall investment USAID has already made in its Rule of Law program. In supporting these groups, some will obviously be accused of being “political,” but Lech Waleska and other important European reformers have also been accused of being “political.” It is almost too much to expect the reformers to come only from within government agencies and any true reformer from outside the system will immediately be stigmatized as being “political.” If there are true reformers within the establishment they will welcome outside support.
 - C. USAID should bring experts on the elimination of judicial corruption to Armenia. There are countries that have had similarly corrupt systems that have made great strides to curb corruption. Some of the practical steps to contain corruption, aside from decent salaries for the judiciary, include, but are not limited to:
 1. Life insurance for judges who might otherwise throw decisions because of fear for their lives.
 2. Security programs for judges and prosecutors and their families when necessary.
 3. Inspectors General within the judiciary and Prosecutorial institutions.
 4. Sting operations against the worst offenders as examples.
 5. Public financial disclosure statements for judges, prosecutors and police chiefs.

6. Judicial and Prosecutorial appointments made based on a non-political nomination process led by distinguished public citizens, and an opportunity for public comment on the nominations before they are passed to the appointing officials. This helps assure that both honest and well-qualified persons are appointed. This might require only implementing regulations or code changes.
 7. Bar Association ratings of judges and prosecutors.
 8. Public awards and recognition of judges whose service is exemplary.
 9. Case assignments are not made by Chairmen of the trial courts, but are assigned randomly by the luck of the draw. This prevents channeling cases to any one judge who might be more sympathetic to one side than the other.
 10. Establish judicial watchdog groups.
 11. Establish adequate pension plans so that judges know that they can retire in dignity.
2. In conjunction with the other donors, seek two specific reforms in the Laws on the Judiciary:
 - A. That judges in every case must stipulate in writing their reasons based on law for their decisions so that both parties know clearly that the decision is not arbitrary, and has been arrived at fairly. Parties can lose a lawsuit and not blame the court if they see that they have been treated fairly under the law. Losing parties might question the fairness of the law, but then they must work on the legislature for relief.
 - B. That the Court of Cassation actually decide cases appealed to it, rather than just remanding cases to the courts for retrial. This would give clearer instructions to trial and appeal courts about what the law really means.
 3. USAID should seek out and support more NGOs that advocate human rights in Armenia. Human Rights are the foundation of a democratic state, and economic reform alone, no matter how important, will not build the public's respect for a political system, and its judicial component, that violates human rights. Prevention of abuses is more important than trying to remedy human rights violations through slow moving court actions. If a government is prone to violate the human rights of its citizens, reformers within any government need all the help they can get from both local and internationally linked NGOs. An Administrative Procedure Law would help protect the ordinary citizen from abusive bureaucrats, but a national commitment to human rights is more important.
 4. In conjunction with the other donors, push for better qualifying procedures for attorneys who are permitted to practice before the bar in both civil and criminal cases. A citizen has a right to know that his attorney is qualified and that attorneys who are not qualified negate the effects of a good adversarial justice system. Presently qualified "advocates" might need to be "grand fathered" in, but those representing civil case clients and who have never been examined should not. This has the added advantage of showing prospective students at private universities which of those private schools have reputations for producing qualified graduates.... i.e., graduates that can pass qualifying examinations.
 5. USAID should support morally and financially at least two private law schools in Armenia. USAID's economic policies are predicated upon the notion that monopoly production is harmful

to society yet, by only providing support to YSU Law Faculty, USAID is supporting the old socialist notion that only the State has a legitimate role in education. By providing competition to the notion that only the state is legitimate, USAID's goals are more likely to succeed because:

- A. The current YSU Dean's protestations that he is interested in reform, but has trouble bringing the old-guard Law Faculty of YSU along, would be finally tested; the current bright young reformers at YSU would be strengthened because they could point to successful faculties in other schools, and the conservative professors likely would either move on or change their engrained habits. They would not like to see the prestige of YSU suffer.
 - B. A larger cadre, perhaps three times more than presently graduate from YSU, of well-qualified students would be produced more quickly in three schools;
 - C. Private schools, which produce quality graduates, could see their students take their proper place in the judicial structure, eliminating the discrimination that is imposed on them by such organizations as BARA, and others dominated by YSU graduates.
 - D. There would be a larger pool of well-qualified applicants to the American University of Armenia's graduate degree law program, which has been handsomely supported by USAID and endowed by the US Congress. This would be highly beneficial to Armenia.
6. USAID should support financially and morally the Arbitration Courts that have been recently created by statute. Just as with creating alternatives to monopolies of state institutions, USAID should foster multiple venues in which relief can be sought by aggrieved parties in commercial disputes. Arbitration courts can produce satisfactory results more quickly than traditional courts, at a lower cost. At a time when outside financial investors are very wary about present court corruption, all the reassurances that can be given to them should be given. A model Arbitration Court would go a long way to dispel their fears. It is working in other countries, such as Bulgaria.
 7. That USAID advocate that the Court of Appeals have venues outside of Yerevan in order to provide effective access of all Armenians to the Justice system, either establishing additional courts of appeals in major population centers, or through adopting a rotating, circuit riding, principle.
 8. USAID should focus more effort on public awareness, because an understanding of how the system works is crucial to long term faith in not only the justice system, but also democratic institutions. Such activities could be developing high school civics texts, teacher training in this area, and helping universities develop political science or government courses. Additional work with civic groups could be useful.
 9. USAID should urge those engaged in training to systematically invite participants from all sectors of the judicial systems to undergo joint training, both in the content of laws and legislation, but also in helping define their respective roles within the system. When one training institution invites a foreign expert from one country to discuss laws, prosecutors, defense attorneys, judges, and private practitioners should all get the same message.
 10. USAID should assure that foreign legal experts come well versed in Armenia law and the situation in Armenia. They should have a good comparative law background.

I. BACKGROUND AND CONTENT

A. BACKGROUND

This assessment report presents the general findings on the USAID Rule of Law program in Armenia. The Bureau for Europe and Eurasia, Office of Democracy and Governance, commissioned the impact study. It was carried out from March 25 through April 14, 2000. Management Systems International, Inc. (MSI) operating under an USAID-MSI Indefinite Quantity Contract for Analytical Services in Democracy and Governance, used a senior court management specialist and a European/USA trained lawyer with experience in civil law in the context of societies in transition from socialism to free-market democracies to undertake the study.

The data collection methodology was standard for USAID impact assessments. The team interviewed eight persons in the United States and 60 in Armenia. It spent 10 working days in Yerevan, the capital of Armenia, where it interviewed 50 Armenians and 12 professionals from other countries. (See Annex B), following the agreed Scope of Work. Respondents include local jurists and court management staff, principal USAID contractors and grantees, other international donor organizations, university law school faculty, and USAID staff, both in the US and Armenia. (See Annex C). Before departing for Yerevan and while there, the team reviewed 90 documents, (See Annex A) including USAID contractor and grantee monthly, quarterly, semi-annual and final reports, Armenian laws, USAID Strategic Plans and R4s, and other donor reports. The team interviewed key respondents together so that they both had the same overview of the program, but then interviewed others separately to conserve time. There were daily team sessions to share and discuss the information learned. The team held an exit briefing for USAID staff.

The assessment included the impacts of Technical Assistance on law drafting, training, court management advances, the sustainability of NGOs in the legal area, law school improvements, public education programs, and partnering relationships with other donors. The bulk of the time was spent on law drafting, training, the sustainability of NGOs, and law school improvements because those areas showed the largest number of activities and the largest investments. Because of lack of time, the team was not able to visit courts outside Yerevan, nor visit private university law schools other than AUA.

Factors facilitating the assessment include: one team member could interview in Russian which helped capture the nuances necessary for follow-up questions; there was a good interpreter who understood the jargon of the field; offices were easily accessible in Yerevan so there was minimal lost time in transportation, and Armenians seemed genuinely open to discussing the project.

Factors limiting the assessment include: not enough lead time to calendar appointments with key persons such as the Minister of Justice, or others who were traveling outside the country; there was no team meeting prior to arriving in country so that some time was lost in organization and task assignments at the beginning. The difficulties of obtaining hard data can be illustrated by the discrepancies on the number of trial court judges given by various respondents. Some said that there were 96, others 126; some said that there were 23 appellate judges, and others 26. The data used in the report come from counting the names on the roster given by the Judicial Training Center...(106 trial judges and 30 appellate.)

B. RULE OF LAW ASSESSMENT - USAID/ARMENIA

The Rule of Law (ROL) program in Armenia began in 1995, somewhat later than in other Newly Independent States, having been initiated as part of a Regional Project by what is now the Bureau for Europe and Eurasia. Subsequently the Mission assumed leadership and responsibility for the Rule of Law Program, and both Regional and Missions projects co-exist. There have been a series of institutional contractors carrying out widely diverse regional program activities, which when initiated primarily focused on Georgia or other countries. Regional contractors operating in Armenia included IRIS, whose main thrust was economic development, ARD/Checchi, whose main focus was other countries, AMEX, whose focus was also shared with other countries, and ABA/CEELI which had a project dedicated to Armenia, although as an institution it also worked in other countries. In 1999 the Mission directly contracted with Chemonics. ABA/CEELI continues to operate as before. USAID /Armenia Mission data shows that to date a ceiling value of approximately \$8, 200,000 has been approved for ROL Regional and local Mission programs in Armenia, with more than \$5,000,000 having been obligated.

An important backdrop of the program is that Armenia is not only a very small country, geographically about the size of Maryland, with few natural resources, and a population of around only 3,000,000, but it has more than half the population living on incomes below the poverty line, and around a quarter of the population in dire poverty. Before independence it was not a country that was traditionally submerged in poverty and, therefore, the economic expectations that the citizens have are different from those in other parts of the world where USAID has worked in ROL programs. Armenia's general educational level is also high, again raising expectations. While under soviet domination, there were always hardships, but Armenia even then enjoyed a fairly high standard of living. Today, however, daily survival, to say nothing of a more fortunate life style, requires both the never ending giving and receiving of favors, most often, but not always, pecuniary in nature. Thus, those who are in positions to impact the daily lives of others, frequently find that they are either offered, or can command bribes. Some government officials are thought to "take bribes so that they can give bribes." No one, at any level, is immune to giving or receiving some kind of favor.

The other major factor, according to many persons interviewed, is that the military seems not to have modernized the concept of its role in society, and along with the police, is accused of frequent human rights violations. While some observers say that pressure groups in Armenia eventually can force government agencies to do the right thing by its citizens, others report that if the pressure groups push too hard, against deeply entrenched interests, these leaders or their families will be at physical risk.

C. RULE OF LAW GOALS

The Rule of Law focus has shifted slightly in emphasis over the roughly five years of the project. At first it was specifically to help Armenia transition from a command economy to a market economy, rather than from a totalitarian society that trampled human rights to a democratic society. This economic focus is evident in all of the reports of the contractors, such as the following extracted from the introduction to the final report of ARD/Checchi Joint Venture which states: *"The first objective was to frame legal substance, such as by improving the constitutions, laws and administrative regulations needed to protect individual rights within a market economy. The second objective was to strengthen legal institutions that formulate, implement, adjudicate and enforce the law. These included such institutions as courts, legislatures, executive branch agencies and law schools, among others. The last objective was to strengthen civil society by increasing the role and effectiveness of non-state actors, including civic organizations, political parties, trade unions and other NGOs. A subsidiary purpose of the final objective was to heighten public awareness and demand for participation in the legal system and legal reform."*

The AMEX final report repeats the primary goal of the Rule of Law program, but adds a human rights component, describing the goal as being *“to facilitate the transition to a democratic, market-oriented society in Armenia by assisting in the establishment of the basic legal framework necessary to support rapid economic growth and concomitant protection of human rights together with the development of the core legal institutions needed to implement this legal framework.”*

The latest contractor, Chemonics, responded to a SOW that states that *“this contract will focus on the continued development of a legal system that better supports democratic and market reforms and helps accelerate the growth of private enterprise.”*

Finding: These goals were set for a judicial sector that is relatively small as justice systems go. The number of justices and judges, divided among four court levels are: nine Constitutional Court justices, 13 Court of Cassation {Supreme Court} justices, 30 Appellate Court judges, and 106 First Instance judges in 17 Courts, seven of which are in Yerevan. Although the issues are complex and some seem intractable, the justice system is not a large amorphous conglomerate that is difficult to fathom. The legal community is comprised of about 350 to 400 licensed practicing law school graduates eligible to represent clients in criminal cases and try cases, and several hundred more law school graduates who are attorneys working for the government or represent clients in civil cases, but who are not licensed to represent clients in criminal cases. There is no requirement in law to be either licensed or even a university graduate to represent clients in civil cases. Because even a non-schooled neighbor can represent anyone in a civil case, there are no statistics about the actual number of persons who “practice” before the court.

This unusual aspect of the Armenian system, that non-law school graduates can represent clients in civil actions, while successful examination completion is required for law school graduates who wish to practice before the bar in criminal cases, presents a special challenge to the Rule of Law Program in Armenia. The Prosecutors Office in terms of numbers does not correspond to that of the courts, with the entire office including only about 35 Prosecutors, assistants, investigators and support staff numbering about 400. A formal Public Defenders program does not exist. Trial court judges hear both civil and criminal cases. The Appellate Court, seated only in Yerevan, hears cases de novo, making it sometimes difficult and expensive to appeal, especially if the case were from outside the capital. The Supreme Court makes findings, and sends the cases back to the lower courts. The Constitutional Court has very limited jurisdiction, and there is no way to reach the Constitutional Court from the other courts.

The courts are moneymakers for the government, producing for the treasury about \$1,000,000 annually while the budget is about \$500,000. If the system is used as desired, they should produce far more revenue in the future.

Conclusion: As a result of the lack of credentialing for representatives and counselors in civil cases, there is an enormous task of educating the general public about the civil code and civil procedures code. It also seems reasonable to conclude that as long as there are unschooled and unlicensed representatives in civil cases, the losing clients will be dissatisfied with the judiciary. An unschooled representative can be no match for a well-educated lawyer. The client will not understand that the “representative” was not qualified, but might well blame the judge for the loss, either thinking that a bribe was taken or that some other event took place. At the same time, one possible reason to offer a bribe is because the representative is not qualified to argue a case on its merits. As long as well-qualified lawyers do not argue before the bench, the quality of judging will not improve. As long as well-qualified lawyers do not argue before the bench, there can be no real adversarial procedure.

The additional funds generated might well pay for facilities modernization, better salaries for judges and support staff, and good administration.

The assessment team identified four basic areas of endeavor to achieve the overarching economic and democratic goals, some of which correspond directly to SO 2.2 and SO 2.1:

1. Technical Assistance in drafting legislation;
2. Training;
3. Institution building, including procurement of equipment;
4. Public awareness raising of the law to change public perception of the judicial sector; and
5. Working in concert with other international donors.

These areas of endeavor will be summarized below. However, one common element is that USAID and its contractors relied heavily on Europeans to provide models for change given that Armenia had no desire to imitate the common law system of the United States or other common law countries, although some scholars suggest that there is a tendency to exaggerate the differences between common law and European civil law as both have evolved over the centuries. Since Armenia highly desires to enter the World Trade Organization as a European country, this desire to parallel European systems is natural. Therefore, implementation of the strategies for Armenia heavily reflect Dutch, German, and Russian influences, as well as US.

1. Technical Assistance in Drafting Legislation:

The first level of reform was determined to be legislative. The laws of the former Soviet system rapidly had to be replaced by laws which would change the foundations of the legal order, give a satisfactory legal solution to the respective regulated matters in accordance with the principles of the community of democratic states and at the same time take into account the specific conditions in the country, the cultural traditions of its people, etc. Taking into account the human and financial resources of Armenia, substantial outside assistance was necessary. USAID, among foreign donors, led the way in providing those human and financial resources. The program was operating in a crisis climate in which the GDP had fallen by 40% in the months previous to its initiation, outward migration of the young, able bodied, and well educated was endemic, inflation had reached 900% annually, corruption was taking on forms not experienced even under Soviet rule, and a recently adopted Constitution did not favor an independent judiciary in which citizens could sue for relief from unconstitutional acts of the government. Getting the economy moving was an important Strategic Objective of USAID, which was seen as being almost impossible without concomitant improvements in the Rule of Law. IRIS, the earliest contractor, working on the economy and Rule of Law issues noted in its final report that, regarding the effects of corruption, *“Both of the groups (major foreign investors and commercial attaches in a conference) emphasized that concern about corruption, government arbitrariness, and a general lack of the rule of law were more obstacles to Foreign Direct Investment than the Armenian markets.”*

Technical Assistance in drafting legislation took several forms:

Findings: USAID worked closely with the legislation-drafting department of the Parliament, offering to provide technical drafting training to its staff. These offers were initially rejected. Now, however, USAID plans to provide this technical assistance to the Parliament and interested executive branch agencies. As will be noted, proposed laws were not imported willy-nilly from other countries. Rather, the important voices were Armenian.

For development of the Civil Code, an expert on the newly approved Russian Civil Code took up residence for two years, during which time she supervised the drafting of the Armenian Civil Code, which some observers claim is superior to its Russian model. These drafts were thoroughly vetted by Armenian drafters in Holland, chosen because it was the country in Europe that most recently thoroughly had overhauled a civil code. There were direct and permanent communications between the experts and the recipients, thus avoiding misunderstanding. After a series of meetings and interchanges, the Parliament adopted the drafts. It is the code that has received the most praise among all the subsequent legislation developed. While an on-site long-term expert is usually the most expensive method of providing technical assistance, it appears to have paid off.

In other cases, the experts were not residents, but made frequent trips, sometimes four or five months apart, to Armenia to discuss first the concepts that should be incorporated in the codes, and then to review drafts. These experts generally focused on the issue at hand, and sometimes the drafts were not checked for consistency with other legislation either being drafted or in force. In at least one case on a key piece of legislation, the restructuring of the Ministry of Justice, the consultants complained that they were poorly received by the Ministry.

In a third approach, the contractor would bring over experts to discuss the principles, provide much needed background materials and samples, and then send the drafts to the experts for comment. Sometimes the drafts would go through several generations, with comments going back and forth. No follow-up face-to-face discussions took place.

A fourth method consisted of providing as many relevant examples of similar legislation as possible for Armenian drafters to consider. Many samples were provided in English and translated into Russian, given that the Armenian language had never developed the prerequisite technical and conceptual vocabulary. In some cases, according to some expert observers, important principles were not included in the legislation because the drafters, not having any experience in commerce, could not appreciate the importance of the principles and the advisors could not convince them of the necessity of certain principles. For example, under legislation adopted, boards of directors can be held criminally and civilly liable if the corporation does not turn a profit, not exactly a great incentive to risk taking. It illustrates the difficulty of changing societal norms. At the same time, in deciding commercial cases, the judges are not to examine the prevailing practices regarding what agreements mean within the trade at the time the contract was entered into, a fundamental concept in western commerce and judicial practice.

In a fifth scenario, contractor resident staff would provide informal assessments of proposed laws, through participation in meetings, conversations, or at common professional events and gatherings, even by telephone. Nevertheless, in almost every instance, copious materials were provided, and translations made. Observers suggest that some important nuances were lost in the multiple translations, given that the quality of the translations was often criticized.

In a sixth permutation, such as with the attempt to develop an Administrative Procedures Code, Armenian drafters were taken to a seminar organized in the Hague for them and Georgian colleagues to introduce them to the concepts of western administrative law. Substantial materials were provided, and experts arrived on an interim basis. No code has been drafted after all of those efforts, as opposed to the successful efforts for other legislation. It is a question of dispute if those in charge of the project actually do not understand the basic principles of why there is a need for an administrative procedures code, so foreign to their Soviet past, or if the authorities are not willing to take the steps necessary to curb administrative corruption or other egregious bureaucratic behaviors. At the very least, the official assigned by the Ministry of Justice to develop the code does not seem to understand the concepts.

Finding: The important pieces of legislation adopted as a result of USAID assistance are:

Civil Code, Criminal Procedures Code, Law on the Procuracy, Law on the Judiciary, Law on the Status of Judges, Law on Execution of Court Judgments, Law on Advocates, and the Universal Electoral Code. Laws which are pending are: the Criminal Code, the Operational Investment Code, the Administrative Procedures Code, and constitutional reforms that would remove the executive branch from the Judicial Council, give the Council of Court Chairmen the power to sanction judges, and empower the Constitutional Court to review constitutional questions from lower court appeals.

Finding: Many of the experts have impressive credentials in their fields of specialization, such as Dr. Howard Fenton (Administrative Procedures Code), Dr. Herman Schwartz (Constitutional Law), Anna Tarrasova, (Civil Code) Mr. Arkenbout of Centre for Legal Cooperation and Dr. Snijders of the Netherlands Supreme Court, and numerous others. Those credentials sometimes have been recognized by their Armenian counterparts, and sometimes not.

Finding: Even though an impressive array of legislation has been adopted, by having used the multiple approaches to legislative drafting described above in a “forced march” scenario, a series of lapses and contradictions occurred which USAID is now trying to correct through a contract to rationalize the laws already passed. These flaws include: the Civil Procedure Code contravened the Bankruptcy Law so that bankruptcy cases could not be heard; the Law on Advocates still permits non-lawyers to represent clients in important civil cases; it also limits to three the number of lawyers who can practice before the Court of Cassation, (permitting three additional lawyers to be admitted yearly) which means that those lawyers who are admitted to practice charge very high fees). In addition to a lack of “political maturity”, several observers told the assessment team that at the time it was proposed, it was “inconvenient for the interests” of those in power to have a functioning bankruptcy law.

Finding: Many problems with the legislation stem from what is permitted by the Constitution adopted in 1995. This is true with the make up of the Judicial Council, and the appointment process for judges being dominated by the Ministry of Justice. However, apparently significant improvements to judicial independence, i.e., the creation of the Council of Court Chairmen, the judiciary’s responsibility for its own budget preparation, training, and court administration came about when an important donor insisted on these changes as a *sine qua non* for its involvement in Rule of Law reform.

Conclusion: The intense use of Western European and Russian experts has facilitated Armenian acceptance of new concepts. At the same time, Armenians developed considerable legislative drafting experience because of the practices used.

Conclusion: In hindsight many of the problems with legislation developed not only by USAID but by other donors as well stem from the fact that the Armenian executive and legislative branches did not amend the Constitution to accommodate many of the new concepts and requirements of an independent, modern judiciary, and the corresponding laws needed for a free market economy. To a great extent, this lack of “political maturity” or a lack of an ingrained understanding of political checks and balances with which there is no historical familiarity under an old soviet system, has caused great confusion and additional expenses on the parts of the donors to spend time, energy and resources to modify that which could have been perfected in the earlier stages of the project. As a result, much work needs to be done to revise laws that have just been adopted (activities that USAID has contracted Chemonics to perform) and even more work is required on the part of Armenians to reform the Constitution.

Conclusion: Each of the varieties of legislative drafting assistance was in the main effective in so far as it could go. Problems have arisen basically in terms of Armenian resolution to adopt concepts that fall far outside their historical perceptions, like the Administrative Procedure Codes. The old soviet mentality is

still very much in evidence within some institutions in Armenia, and those holding power see no reason to change. The idea that a company should be able to “cure” some problem caused by contravening some obscure regulation remains foreign. (The question still remains if this is true because if a company can “cure” it will not be a continuing source of bribes or require some other drastic government action, thus removing effective power from the bureaucrat.)

Conclusion: Even though there have been problems, USAID worked at legislative reform in a comprehensive and systematic way, making it clearly the leader among the donors in this field.

2. Training:

As described in the section on Technical Assistance in Drafting Legislation, the wholesale changes in Armenian legislation and codes portray fundamental new societal concepts, manifested both in commercial, interpersonal, and citizen/state relationships. While the world has witnessed such breakdowns of the old orders before, this usually occurred when democracies changed to dictatorships. Otherwise, in most societies such changes were brought about iteratively over perhaps centuries. In those cases, lawyers, judges, prosecutors, police, public administrators, businesspersons, consumers, investors, taxpayers, professors, and citizens of every stripe pretty much know how the codes and laws, and their enforcement, affect their lives. Their daily actions are both supported and reinforced by a series of institutions, both governmental and non-governmental, and there are long-term memories, precedents, customs and habits to guide daily commercial and interpersonal transactions.

But when Civil Codes, Civil Procedure Codes, Criminal Codes, Criminal Procedures Codes, Bankruptcy Laws, etc. suddenly and without precedent shift paradigms as carried out in recent Armenian legislation, the rapid and pervasive spread of knowledge about these changes becomes paramount. USAID’s goal was to use training to promote understanding of these changes at all levels in the sector.

Finding: The training efforts to achieve a rapid and pervasive spread of knowledge show six principle tactics used by the Rule of Law contractors over the life of the program. Because of the short time available for the assessment, it was not possible to try to determine the relative cost/benefit value of any one training tactic over others. Illustrations of the activities carried out under these tactics can be found in the appendices for the contractors, although in their final reports, sometimes credit is claimed by more than one contractor for performing what appears to be the same activity:

Study Tours: In the Armenian Rule of Law program, study tours were used to give key policy decision makers and other key actors in nearly every category first hand knowledge of other judicial practices so that they would be both receptive to change and be advocates for reform. Study tours were arranged for justices of the Constitutional Court, judges of the Court of Cassation, Appellate and First Instance Courts, the directors of the Judges Association, the Dean and several faculty of the Yerevan State University Law School, Prosecutors and Investigators, defense attorneys, judicial trainers and court administrators. They visited US federal and state courts in Washington, DC, California, Ohio and New York; the National Judicial College, the Netherlands, Georgia, Oklahoma, and Hungary. Interviews with several of the participants show that participants, with a few notable exceptions to be noted below, have been active in promoting changes (whether successfully or not) to give the judiciary more independence from the executive and legislative branches, in setting up participatory training programs, and in forming NGO professional organizations. Many participated in several kinds of training. Therefore, the assessment team could not confirm a direct relationship between the results achieved and the tactics used. In other words, given all the other USAID interventions, it is impossible to determine if the same results would have been achieved without the study tours.

Participants interviewed who had been on study tours all rated them highly in terms of broadening their experiences by allowing them to interact with international peers and see firsthand for themselves alternatives to the Armenian system. At the same time, several participants explained that Armenia could never expect to have the luxurious court accommodations and chambers that US courts have, nor hope to imitate all of the court management and case management techniques that they saw, because that would require enormous financial resources. These persons put more emphasis on developing an “Armenian” way. A few persons interviewed who had not been on study tours complained that only those whose English was good or a favored few were chosen, but the assessment team interviewed non-English speakers who had been on the trips and reported them to be very useful. Others reported that only a select few were invited, and reinvented, for study tours.

Attendance at Major International Conferences: Through contractors, Armenians were sent to at least 13 international conferences on topics related to Commercial Law, Joint Stock Companies, Constitutional Courts, Criminal Justice systems, strengthening independent judiciaries, judicial qualification processes, the media and the judiciary, law school reform and environmental issues in such diverse locations as the United States, the Netherlands, Russia, Latvia, Georgia, Denmark, and Poland. Frequently key attendees at these international conferences were the same persons who attended study tours. No attendee complained to the assessment team that he or she had been sent on too many international trips, while the same complaint about not spreading the trips around caused some dissatisfaction. There has been some cooperation and coordination with other donors, with the result that USAID and another donor have shared the costs for particular trips.

Seminars and Workshops: Finding data on the number of conferences, seminars and workshops spanning the entire program and by all the contractors proved to be impossible. Full and complete quarterly, yearly or even final reports do not exist for a series of reasons, especially for contracts that spanned more than one country. Nevertheless, more than 30 separate justice sector topics and themes have been addressed in Armenia, both in Yerevan and the provinces, in workshops and seminars. Many of the seminars have been given to more than one group, and many more than one time to the same groups. Illustrative lists are found in the appendices.

In some cases the contractors brought in foreign experts to lead the seminars/workshops, sometimes local contractor core staff conducted the sessions, and frequently the contractors simply financed the sessions with the teaching being done by trainers developed under contractor auspices. According to the Training Needs Assessment done for EU/TACIS by ABA/CEELI in 1999, Armenian judges at least preferred the latter. A similar assessment has not been done for practitioners, prosecutors or defense attorneys.

With rare exceptions, workshops/seminars/conferences have been directed to segregated audiences, i.e., judges alone, prosecutors alone, defense attorneys alone, etc. Only a few have combined the audiences so that all of the parties are developing the same understanding, the same interpretation of the laws that they all must apply in the same manner. Each institution within the judicial sector tends to look after its own needs only. One reason given for this is that the judges need to be out from under the yokes of the Prosecutors, and training together only fosters Prosecutorial dominance.

Training of Trainers: In the Rule of Law Consortium Newsletter of June, 1995, David Bronheim wrote that “...we developed the concept of cooperating with the apex bodies of key legal institutions in efforts to retrain the trainers - those individuals whose task it was to train judges, procurators and law students.” : Training of Trainer courses were carried out for judges, prosecutors, attorneys and law school faculty in several venues. Some training was done for attorneys, judges and government officials at the American University of Armenia, under a grant. The training for Yerevan State University (YSU) law school faculty took several forms. Three young professors at Yerevan State University were sent for a semester to Boalt Law School at the University of California, Berkeley for a semester. Five young professors at

Yerevan State University were sent to New York University for several weeks to learn about and how to teach electronic library skills, eight young law professors were sent to Budapest, Hungary for a course in modern teaching methods, two law school professors from YSU were sent to Leiden, the Netherlands for a conference on developing teaching methods and law school curriculums. The results of the efforts directed at the Law Faculty of Yerevan State University will be discussed under the section on institution building below.

Training Course Content and Process Finding: In an attempt to determine the effectiveness of the training sponsored by USAID, the assessment team interviewed 26 judges, 20 at the trial court level, six at the appellate and cassation levels. Evaluations performed by the trainees after they received courses show that the courses were satisfactory both in content and process. Because all of the judges received training to some extent in the substance of the laws, they found the courses very applicable to their jobs. Judges did not deem necessary training in judge skills, however. (Such training is crucial for judges despite the prevailing opinion that they do not need such training. The judges themselves prefer to be told what the law means instead of being taught how to read and implement any law. A highly skillful judge would be able to apply even an unknown and complex law, while the one who “knows” only particular laws would be helpless when new laws are adopted.)

Training in court administration did not seem to have much effect on the trial judges. A training needs assessment carried out by ABA/CEELI in conjunction with EU/TACIS in 1999 shows that the training of trainer concept for judges and professionals has been quite successful. Those who have received courses prefer training by Armenian professionals to that of outsiders. In most instances when contractors now provide support for continuing legal education, either carried out by the Judicial Training Center, the Judges Association or one of the bar associations, they basically only provide financing, unless it is a new topic for which expertise has not been developed in Armenia.

All judges in Armenia now have judicial assistance, akin to law clerks in the United States. The assessment team found no indication that they are receiving legal research training like that which was envisioned for YSU law school students. Such training will be necessary if the legal assistants are to be fully effective.

Development of a Judicial Training Center Finding: As part of the restructuring of the courts, training responsibility was removed by law from the executive branch and given to the Council of Court Chairmen which has established a Judicial Training Center (JTC) (sometimes referred to as The Judicial Training Institute) housed presently in the Court of Cassation. The role of the JTC is to develop core curricula that everybody will take in the courts. It does not plan to train prosecutors, attorneys and others in these core elements, however.

At the time of the assessment, the EU/TACIS program had agreed to provide approximately 1,000,000 Euros over an 18-month period, although the director of the JTC did not know when the project might start. Since the program is at least a year late in starting (recent estimates now suggest Fall 2000), USAID continues to fund JTC training on an ad hoc basis. So does GTZ. The Open Society sponsors trips outside of Armenia on an ad hoc basis. Both USAID and the World Bank are relying on the EU/TACIS program to take over the bulk of training.

The Master Plan for the Judicial Training Center prepared by Manatt, Phelps & Phillips, as presented to the assessment team by EU/TACIS shows that, out of an approximately 1,000,000 Euro budget, 525,000 Euros will be spent on refurbishing and furnishing facilities, including a dormitory for 20 students. Given the number of courses that the JTC is presently planning to give, a “couple in the Spring and a couple in the Fall” according to the current Center Director, a dormitory facility seems to be an expensive proposition to maintain, especially since there are only about 126 judges in all in Armenia, and a handful

of court administrators. Housekeeping and grounds staff, cooks, laundry and maintenance staff will all eat into the budget in future years...money which is not clearly identified in the Tentative Budget and which does not seem to be available. Even if it were, there would seem to be other priorities clamoring for it. There is no commitment from the GOA to maintain the center after the EU/TACIS money runs out. The Master Plan calls for the Finance Committee of the JTC to “identify other local and foreign donors and pursue funding from them.” Apparently the Council of Court Chairmen rejected the advisor initially proposed by EU/TACIS, explaining that it wanted someone younger who could “coordinate the efforts of the donors.” There were no comparative costs presented for a facility that uses rented space when courses actually are given. There are no costs regarding meals for the participants who are to be in the facility for several days. There are no annual depreciation costs for maintenance, replenishment of sheets and towels, etc. Presently the JTC courses sponsored by donors are frequently held in ski resorts and prestigious hotels in Yerevan.

Training in Court Management for Judges and Administrators Finding: Some preliminary training has been carried out in this area, which can be characterized as familiarizing decision makers with the issues involved in modern court management. A group of judges and administrators went to the United States to observe first hand how the courts are organized and managed. When the Council of Court Chairmen was given the responsibility of developing the judiciary budget, USAID gave training in budget development to the local court administrators. However, the main thrust of training for administrators will come after the Council of Court Chairmen adopts measures that stem from the suggestions made by Robert Lipshure on court administration and case management. At the present time there seems to be little or no case backlog pending in the courts, and the administrative structure is extremely rudimentary. If the courts are used as intended to resolve disputes, the caseload should increase significantly and the courts must be prepared to handle it. At the present time, while Chairmen spend some time on local court administrative matters, their main non-judicial function seems to be attending to citizens who seek their advice.

Materials Development Finding: Throughout the terms of the ROL program in Armenia, emphasis has been placed on providing both physical and intellectual materials for training. To that end, the program has provided translations of legislation under consideration by the Armenian parliament, corresponding examples of laws from the United States and Europe, many in Russian, professional intellectual journals from around the world, law library materials for several institutions from which to build Armenian laws. USAID paid for the printing of the Armenian Constitution in both Armenian and English. It paid for the printing of *The Constitutional Review and Its Development in the Modern World (A Comparative Constitutional Analysis)*, coauthored by Gagik Harutyunyan, President of the Constitutional Court.

Finding: Reportedly at the US ambassador’s insistence, the Constitutional Court was given approximately \$210,000 worth of computers so that the nine justices could communicate with each other and have access to international sources. It is housed in a splendid building, the halls filled with Armenian original art. Persons interviewed said that the national budget of the Constitutional Court equals that of the rest of the courts combined, but the assessment team could not verify those statements. Providing computers to the trial courts was not part of the USAID program. Providing computers and refurbishing some trial court buildings which are in deplorable states is to be undertaken under a World Bank program to begin in 2000.

Finding: Beginning in 1997 agreements were made to collaborate closely with the Law Faculty at Yerevan State University (YSU). The YSU Law Faculty was given more than 25 computers, as well as audio/visual materials for the computer laboratory so that law students could be proficient in legal research. They were connected to legal databases such as Lexis and Westlaw. They have all of the Armenian laws on CD. YSU was given a complete law library as well. Additionally, USAID has funded the production of more than 25 new law lecture packets to be used by professors, students and judges, along with a printing machine to produce more. The Dean of the Law School at YSU stated that there is

an oral agreement that USAID will fund the printing in editions of 1500 of a series of books, whose preparation is being financed by the Open Society Institute. The results of this material aid to YSU will be discussed in Institution Building below.

Finding: None of USAID's grantees nor contractors provides moral, material or financial cooperation to any of the many private university law faculties which together graduate about as many attorneys as YSU. In spite of this lack of cooperation, many observers of the local situation indicate that some private law faculties are graduating some attorneys as good as those who graduate from YSU. They say that this is due to the fact that YSU professors teach at these private universities, using the same curriculum and materials that they use at YSU. Independent observers note that these same professors when being paid by the private school tend to perform better than when they are at YSU where they often miss lectures, or seem detached from teaching. What the private universities lack often are the very kinds of cooperation that USAID has given to YSU...materials, libraries, research facilities, etc. Some critics justify not helping the private universities because they say that the students are not as well prepared to enter a university as those of YSU. On the other hand, there are so many stories of students buying their way into YSU (which the assessment team was in no position to verify) that if true, there is no reason to believe that the students at one institution enter better prepared than others. Some private university students are gaining entrance into American University of Armenia's masters program, others have been accepted into the International Union of Armenian Advocates, others have been appointed as judges, are hired by the government, in spite of the prejudice against them displayed by those loyal to their old alma mater, YSU. Whether they are appointed on merit, or for other reasons, they are becoming active participants in the judicial system.

Conclusion: Training by and large has been effective in reaching its intended objective, with the important exception of YSU law school to be discussed below. What has taken place has been well done, but much more training is required in future years, both in law content and in the role of judges. Training for court administrators, legal assistants, and other support staff will be required, depending on the duties established under new procedures currently being considered.

Conclusion: It would appear that no strategic coordination between the donors has taken place if an expensive judicial training institution is to be set up, partially financed by one donor for 18 months, with the responsibility to be assumed by an as yet undetermined donor in the future. It is to be hoped that the Council of Court Chairmen is sufficiently versed in budget preparation to understand that it will be responsible for substantial day-to-day operating costs other than those to be covered by EU/TACIS.

Conclusion: Until the case management format is approved by the Council of Court Chairmen, and the court administration proposals are enacted, little more can be done at the present time in training in court management. But, again, there are only a few courts in the country, about half in Yerevan itself. Therefore, this training should be relatively easy to complete.

Conclusion: In the short run, graduates of the private law schools are likely to play an important role in government offices, the judiciary, and the NGOs. Supporting some private universities would help USAID reach its goals more quickly and perhaps serve as a stimulus to YSU to implement already agreed upon curriculum changes and teaching methodology

3. Institutional Development for Public and Private Sector Legal Entities:

While training has been aimed at developing the human resource capacity in the judicial sector in Armenia, so that the actors can perform their technical roles better, and legal drafting has been addressed to give the framework within which the system operates, another primary area of endeavor has been Institutional Development, both so that there is structural development and so that the actors are

challenged to perform new roles. In this respect, Armenians display the three classic stages of development: there is a large portion of those in power and responsible public offices who implicitly refuse to recognize that there are problems that require radical changes; a smaller group recognizes that there are problems, but is not willing to look for solutions; an even smaller group knows that there are problems, is looking for solutions, and is ready to take action to resolve the problems.

The goal of these activities is to have strengthened public and private institutions so that they desire a fully functioning judicial sector as well as to develop their organizational capabilities to champion and implement judicial reforms at all levels.

Governmental Organizations:

Findings: For the most part USAID directly and through its contractors has worked within the existing institutional structures to bring about change. It posited that, as Bronheim put it, “the most significant results could be achieved by cooperating with those reformers who operated the key training institutions or reached the widest possible audience.” This meant working with the head of the Constitutional Court, the chairman of the then Supreme Court (now the Court of Cassation), the Dean of the YSU Law School, the Minister of Justice, the Prosecutor General, and the head of legal drafting in the Parliament. A virtual plethora of activities resulted in many significant pieces of legislation enacted. At the same time, there has been excruciatingly slow progress on other equally important issues...in some cases, either because these key reformers did not have the political power or influence attributed to them (which could very well have changed given the abrupt changes in the executive branch since Bronheim’s strategy was put into place), or the key reformers did not understand the breadth and depth of the changes required as suggested by the activities surrounding the Administrative Procedures Law, or the reformers were not truly interested in the reforms which might directly affect powerful interests, exemplified by the gutting of the bankruptcy reforms according to many observers.

Finding: Over the life of the project, the judiciary has received important measures of structural independence from the executive branch. The creation of the Council of Court Chairmen gives the judiciary the power to develop its own administrative structure, case management procedures, and budget. It has no power over the appointment of judges, and little power over their discipline, however. The Council of Justice still has powers overlapping those of the Council of Court Chairmen. The Chairman of the Constitutional Court acts as a de facto co-chair of the Council of Justice.

All judicial appointments ended on schedule in 1998. The Ministry of Justice developed the qualification standards for legislatively mandated replacement of judges. ABA/CEELI offered technical assistance in developing qualifying examinations, but the offer was refused. The Ministry of Justice prepared a qualifications test that did not discriminate between excellent candidates and minimally qualified candidates...over 95% of those taking the exam passed it. Appointments were not made only from those applicants who obtained the highest qualifying scores, since some who achieved nearly perfect scores were not appointed or reappointed. The MOJ then applied other standards for appointment recommendations, and the standards that it used have not been disclosed. A high scoring judge has challenged his non-reappointment on the basis of unclear standards, but the challenge has not been upheld at two lower court levels. It is not certain that had the judiciary been responsible for developing its own examinations and criteria for appointment that it would have developed a better method.

Conclusion: Significant work remains to be done in this area of qualification examinations and criteria for appointing judges. This might require code amendments or implementing regulation changes. It could involve nominations by committees of esteemed citizens, with public hearings on suitability and reputation. However, an important point is that an independent judiciary can still be corrupt if there are no checks upon it and the judges. Just making a court system independent does not cut out corruption.

a) Constitutional Court:

Finding: While USAID has given serious training to the Constitutional Court justices, supported it morally and economically, the Court is not seen as an important institution in Armenia. One constitutional scholar says that the Court basically has power only over treaties since there is no way for the common citizen to seek constitutional relief from any action of the government. Two leading attorneys and some scholars told the assessment team that the Constitutional Court is a “worthless institution” and wondered why so much investment was made in it given the appalling physical conditions of the trial courts. Observers of the local scene suggested over and over again to the assessment team that Constitutional reform aimed at giving the Court more power to protect the citizen from public institutions seems to be low on the executive and legislative agendas. Although the World Bank AIDE MEMOIRE of February 2000 suggests that there is some consideration given to enhance the authority of the Council of Court Chairmen, and the composition of the Council of Justice, which would have the effect of making the judiciary more independent, it does not extend that hope to an expanded role for the Constitutional Court. USAID plans no more immediate support of the institution. Further description of the activities of the Constitutional Court (specifically the Law Center) are developed under the Public Awareness Section.

Yerevan State University Law Faculty:

Finding: As described above, YSU has received a significant amount of resources and attention from USAID. This has been done to the exclusion of all the private university law faculties in Yerevan as described above. USAID’s interventions in faculty training abroad, library and electronic data, computer labs, teaching materials development and participation in international conferences all proceeded in hopes of bringing about significant changes in the way the law school courses were developed and taught. Yet there always seems to be a new need at the university before the contemplated changes can be put into effect, i.e., requests for more faculty sent abroad, more equipment furnished, etc. When ABA/CEELI tried to implement an environmental legal clinic program at YSU, an important ROL teaching initiative, there were innumerable meetings, and some false starts, but finally no results. USAID’s cooperation seems to be on hold until more positive results are noted. At the present time, a voluntary, not for credit, legal aid clinic has opened at YSU funded by the Open Society Institute and involves about seven students out of the approximately 200 that could be involved. No credits are being given to student volunteers. This follows the pattern set up when ABA/CEELI tried to set up an Environmental Law Clinic at YSU. The assessment team visited briefly one classroom which was being conducted by a professor beneficiary of the study grant to Berkeley, and there was some interaction between him and the students. From the general observations for varying sources, it seems that some of those sent abroad on study tours are trying on their own to make some changes in course presentation. But there seems to have been no fundamental change in the way that the law faculty operates. Recently the law school has been asked to review all legislative proposals before they are voted on in Parliament. This might force the faculty to take clear positions on important reform proposals.

Finding: An institution has been created in Armenia which was neither fostered nor supported by USAID - the Court of Arbitration. Arbitration courts can speed resolutions of disputes in ways that no court can, leaving both parties satisfied with the solutions. Given all the problems associated with getting the courts operational and recognized as efficient and fair by foreign commercial interests that USAID hopes will invest in Armenia, a well functioning Arbitration Court is necessary. A major study conducted on foreign investment by IRIS shows that foreign investors want an arbitration court.

Arbitration Courts are less complex than first instance trial courts that try disputes under all kinds of legislation, including murder, burglary, child custody, divorces, inheritance disputes, commercial disputes, and the like. Parties using arbitration courts agree in the contract that they will settle the

disputes through arbitration, and thus are inclined to honor the verdicts. Because they are speedier, they are less expensive in attorney fees and court costs. Arbitration undertaken in a formal Arbitration Court is different than civil court ordered arbitration in which the resolution needs to be approved by the civil court judge and sometimes still requires a civil trial if arbitration breaks down. Not all arbitrators in these instances are qualified attorneys well versed in standard commercial transactions. In Bulgaria, for example, the institution is much better respected than the trial courts, and has become a really effective and quite popular dispute resolution tool, with about 250-300 international and domestic cases per year.

Non-governmental Organizations:

Principally through ABA/CEELI, the program has worked to establish NGOs that would advocate independence of the judiciary, improve the quality of attorneys, judges, and advocates, and engage the public in solving their own problems. To that end, the following institutions have been established since 1996:

- Association of Judges of the Republic of Armenia - AJRA
- Bar Association of the Republic of Armenia -BARA
- Armenian Association of Young Lawyers -AAYL
- International Union of Armenian Advocates - IUAA
- International Union of Lawyers - IUL
- Environmental Public Advocacy Center - EPAC

Findings: Through USAID funding for courses and materials, and training of trainers, these institutions have provided significant training on the content of the new codes to their members. These courses have been well received and appear to have been useful in disseminating the new commercial and civil law concepts embodied in the legislation. They generally have offices and publish newsletters and some materials for distribution to the bar and general public. The competition among them seems to be beneficial to the judicial sector since more than one voice can be raised to support or question legislative actions.

The AJRA represents about 95% of sitting judges. It is requested to review legislative drafts before parliamentary approval. It has developed a Code of Ethics for judges. While the leadership talks about the Association as an organization to promote behavior and attitudinal change, some of the members interviewed saw it more as a trade union to secure better pay, benefits and working conditions. In truth, it is all of those things in the minds of the originators, but will not be truly effective until the members see it that way, too. Some judges state that the association reminds them of *“how it was in Soviet times....all join because they feel that they have to.”*

BARA claims membership of over 800 lawyers, and like its US counterpart it is not limited to trial attorneys. Membership is predicated upon graduating from YSU Law School, or being certified to be a criminal trial attorney. Its founding president is the Dean of the YSU law school. BARA does not admit graduates of the private law schools regardless of their class standing or other merits. With funds provided by the Open Society Institute, BARA runs a law clinic for the poor, staffing it with three trial attorneys paid \$100.00 per month, about twice what a government attorney would command. Both as an organization and through its individual members it has played a formal role in lobbying for legislative changes in the laws. Many members actively participated in drafting the reform codes. At the same time, when the Law on the Judiciary was before Parliament, BARA thought that it contained arbitrary and subjective criteria for nominations, threatening the future independence of judges and invited the

leadership of the majority parties to discuss changes. It has given courses for practitioners on new legislation. BARA also conducts public awareness campaigns through what was once a journal and now a newsletter (reduced because of lack of funds) that it distributes.

BARA adopted a code of Ethics in December 1999, and with the help of ABA/CEELI distributed copies around the world, receiving comments from 20 countries, although it has not been able to print and distribute the final Code.

BARA does not have a peer review committee to sanction members who might violate the Code. BARA has no plans to rate and rank the work of sitting judges, although BARA says that it knows of anomalies that occur. BARA feels that there is no adequate institutional mechanism to sanction judges. It does not complain to the Council of Court Chairmen about what it perceives as judge misconduct. While theoretically it could work for the disbarment of an attorney, BARA says disbarment would not have much of an effect in Armenia. ABA/CEELI continues to work with BARA, but the organization seems not as active a force for reform as originally hoped.

AAYL, with 70 members and 200 associate members, has an office in Yerevan, provides courses for practitioners, has a legal clinic financed by the British for those who cannot afford an attorney, and has outreach programs to the general public outside Yerevan to familiarize citizens about how to resolve problems through the new legal system. In two such meetings it attracted between 200-250 citizens. AAYL maintains a computer based library which is used by members, the public and private university law school students. Partial funding for the library was provided by USAID. It maintains four regional offices. AAYL drafted the original NGO law which was adopted by Parliament. It currently is being amended by the MOJ.

IUAA has systematic and practically oriented training programs for its members. IUAA has a law clinic that serves the poor on a *pro bono* basis, without being subsidized by donors. They have around 75 members, and about 150 associate members. Their seminars are free to their members, but also they invite prosecutors, and managers of private enterprises to attend. IUAA has a mentoring program for young lawyers, in which they handle cases together, or the young lawyers can seek advice for senior attorneys. IUAA plans to start a legal awareness program on a private TV channel. Some members of the Association cover all of the association operating costs; for example, the offices are provided free by members who own the building in which they operate.

Finding: Although there are the positive attributes mentioned above, negative aspects were pointed out to the assessment team. These include: with a few exceptions, the leaderships of the most important groups are firmly entrenched in the existing establishment and might be neither willing nor able to fight the system from inside. Examples of this include the fact that the founding president of BARA is also the Dean of the Faculty of the YSU, who has been effective in taking only baby steps in implementing curricula and teaching reforms. Everything is funded by donors, including providing legal services to the poor. The president of the AJRA is the Vice-chair of the Constitutional Court and most of the board are from there and the higher level courts. Only two judges represent the majority first instance judges in the AJRA.. ABA/CEELI seems to be trying to apply criteria for continuing support based on the results and cooperation received. At the same time, USAID is accused of allying itself only with the “power structure,” with some observers and members of other NGOs questioning how sincerely it wants real reform. Because of this, some groups say that they prefer not to be associated with USAID. The leaderships of these groups would not be an issue if they were seen as championing anti-corruption campaigns and challenging governmental actions, but because they do not, their reform credentials are called into question.

Environmental Public Advocacy Center:

Finding: Reviews of ABA/CEELI documentation and interviews with its staff show that the EPAC has grown steadily over the last years in terms of influence and impact. It lists a number of pro-active wins that EPAC has successfully negotiated without having to get embroiled in the court process, making important public figures reconsider their actions, and act in the interest of the public. This win-win approach seems to be the best possible result...citizens taking action in their own interest, learning negotiating skills that are so important to successfully implement USAID's 2.2 Strategic Objective. Armenia's EPAC is successfully integrated into the regional EPAC network, which was highly praised in the evaluation of ABA/CEELI in 1998.

At the same time, EPAC has not been able to become self-sustaining financially in this initial period.

American University of Armenia:

Finding: Nearly \$340,000 was granted to AUA to set up the law department, which gives a Masters of Comparative Legal Studies degree, but no undergraduate degree. It is affiliated with the University of California Berkeley School of Law. Congress has endowed the AUA with 9.6 million dollars to fund its faculty and law program on an on-going basis. USIS provided a law library which AUA claims is perhaps the best law library in the area. It gives two-year courses to classes of 15 students, now having graduated 25. Two graduates are judges of the first instance courts, one is on the Court of Appeals and another is the head of the Arbitration Court. Some of the students are young, key players in the legislature, some are graduates of YSU and some are graduates of private university law schools. The AUA philosophy is to send its students back into society as change agents for a better, more honest legal system.

Conclusion: USAID's decision to not make further investments in the Constitutional Court is appropriate.

Conclusion: If competition is good for commerce, it is also good for government institutions. It would be healthy for the civil courts to know that there is an arbitration court to provide effective competition to them in settling commercial disputes. When there is competition for providing services, it is less easy to require bribes. USAID's economic development goals would be more easily reached if more foreign companies invested in Armenia because there was an Arbitration Court.

Conclusion: It might well be that the YSU Dean has lost political standing and cannot implement the reforms, or that he does not understand that implementation begins on a shoestring rather than with all the bells and whistles imaginable, or that he is so overwhelmed by resistance from old guard professors that he has not been able to implement urgently needed new teaching methodologies and curriculums. Old guard professors could very well be resisting the efforts of younger professors, fearing that if students like the new teaching methodology, they also will be forced to change. It might also be that he is a master of promising more than he can deliver. The assessment team made no attempt to judge his motivation. What it did conclude was that significant cooperation has been extended with few positive results.

Conclusion: USAID's apparent decision to suspend further material aid to YSU until more positive results are achieved is appropriate.

Conclusion: The investment made in AUA should pay off in the short run in terms of moving the judicial system toward a more honest, open system.

Conclusion: Self-sustainability sometimes works in the United States where there are institutions that finance all of their works through subscription fees, membership fees, donors, and charges for services, etc. On the other hand, the number of charitable and development foundations in the US who pass out billions of dollars annually sustain innumerable NGOs in the US. In Armenia, a country that has no charitable giving tradition, with 54% living below the poverty line, with 1300 former state enterprises bankrupt, with 1300 new businesses just starting up and in no position to begin exercising their corporate responsibilities, with thousands of young Armenian intellectuals emigrating because there are no jobs, and millions more supporting extended families on the little they earn, it perhaps is not fair to expect that even the most vital of local NGOs subsist without continued, sustained financing from donors. That holds true for all the NGOs that USAID has created. The trick that Armenian observers point out is distinguishing those NGOs that were formed just to get money from donors and those that were formed to effectively fight for change. The former seem to abound, the latter sometimes get labeled as troublemakers and have a problem getting funding at all. (One distinguishes between the two by doing research on the NGO just like an investment banker would do research on a company check out the management, the way it spends its funds, the actual activities it is undertaking with whatever resources it has...like donations of time to important causes, and the reputations of its leaders.)

Without funding from USAID these institutions would neither have evolved as quickly as they did nor made the contributions to continuing legal education and public awareness that they have made. They presently are not viable institutions financially and will be dependent on international donor assistance for some time. Civic giving is not an ingrained societal characteristic in Armenia and, as in most similar societies, sustainability of these institutions may be the last goal reached by the international community. For example, the professional lawyers associations charge dues of about \$2.00 (US) per month. BARA charges about \$5.00 per year. Publications cannot be sold for enough to cover their printing costs. Some charge for copies of materials produced, but this provides little income. ABA/CEELI recently has offered to help build up the institutions through its regional office in Kiev, but that work had not begun at the time of the assessment.

Conclusion: Because the assessment team was told by several observers that some real reformers are labeled “political” by their opponents, thus making them “ineligible” for USAID grant support, USAID might want to look into this subject. This false perception might very well preclude USAID from finding allies for reform among the citizens who are looking for paradigmatic changes in their society.

4. Changing Public Perceptions of the Judicial Sector:

The goals for this endeavor are for the Armenian public to have confidence in the judicial system, and use the courts for dispute resolution, providing investors with a system in which they can feel confident that they will have fair and just hearings of their claims.

Finding: The results of a commissioned analysis of the Public Awareness of the Judicial Reform of the Republic of Armenia revealed that the knowledge about legal reform is significantly low . Fully 47% of those interviewed were not aware of the judicial reform or knew about it to any extent. About 60 % rated their legal knowledge as low and 87 % mentioned TV, relatives, friends, other community people and tax inspectors as their primary source of information. At the same time 44% of the respondents mentioned that they experienced significant need for legal knowledge.

There is a high degree of dissatisfaction with the legal system and justice system in particular and a great number of the people consider the laws unfair as “protecting the interests of wealthy people or the government” while the courts are largely viewed as “useless, untrustworthy, unaffordable, etc.” Several judges in interviews suggested that there would always be public dissatisfaction with the judicial system

because each party who loses his case will go away dissatisfied. Why that should hold true for Armenia and not for western countries where the judiciary is far more respected is unclear.

At the same time it is the general opinion among legal professionals that journalists are incompetent to inform the public about legal issues, are sensationalists and do not pay enough attention to the real issues of the legal system and the legal reform.

USAID's efforts have gone in two directions: Programs for Professionals and Programs for the General Public.

Programs for Professionals:

Contractor/Grantee staff have given talks to professional groups; along with the Open Society and Freedom House, five judges and five journalists were sent to conferences about the media and the judiciary outside Armenia, and there have been training programs for journalists.

Programs for the general public:

AAYL has mounted seminars for the general public in remote areas of Armenia, reaching between 200 and 250 persons. It is also beginning a TV program on legal issues for the general population. At the same time, ABA/CEELI has addressed high school civics classes on the issue.

The Constitutional Law Center (through AMEX) has disseminated information about constitutional law and the work of the Constitutional court. Although it is predominantly oriented towards satisfaction of the needs of professionals, there have been activities aimed at raising the degree of knowledge of the general public about the issues of constitutional law. The Center has published over 10 titles of popular literature aimed at the general public. At the same time 400,000 copies of the Constitution were printed and distributed, about one copy almost for every family. A book, containing questions and answers on Democracy, the judicial system in the USA was distributed to schools, libraries and the general public. It also organized an "Olimpiad" (a traditional Soviet term used for students contests) in which different teams competed on constitutional issues while there was a "Court" rendering a decision.

For about a year BARA published a newsletter for its members and the public, with a printing of about 2600 weekly, with 500 paid subscribers.

Additionally legal aid for the poor (through the BARA Center for Public Assistance, Armenian Young Lawyers' Association Citizens' Advice, The Legal Clinic at Yerevan State University School of Law, and the International Union of Advocates) has the added benefit of raising public awareness of the legal system and the fact that the latter might be a serious factor in the solution of disputes.

Conclusion: While in the area of improvement of the public perception of the judiciary the particular results are highly dependent on the performance of the judiciary itself, in general there is a lot more to be done in the area and some of the organizations and institutions performing such activity have not been covered by USAID programs.

Conclusion: Improvement of the public perception of the judiciary is highly dependent on the performance of the judiciary itself.

In addition to continuing the activities already initiated as contemplated in its SOW for the new contract, additional activities such as the creation of high school civics textbooks, and teacher training in that field, the institution of obligatory government or political science classes in the universities can be instituted,

and civic clubs like Kiwanis, Rotary, Lions International, or something more European oriented, can be developed so that societal expectations change. There is a lot more to be attempted through the existing NGOs or ones yet to be created.

These efforts have not been given the same amount of attention as the other endeavors undertaken by USAID, and their true impact cannot be easily measured at this time.

5. Working in Concert with Other Donors:

There are several other international donors working to greater or lesser extents in ROL. USAID has far and away the largest program to date. If the World Bank commits \$10,000,000 as expected, it will supplant USAID's commitment. EU/TACIS with 1,000,000 Euros appears to be third.

There has been some active mutual cooperation between donors. There has, for example, been joint funding for study tours, or seminars taking place outside Armenia. ABA/CEELI did a training needs assessment for EU/TACIS. USAID and the Open Society have jointly financed activities. At the same time, there are certain jealousies, and differing viewpoints of what should be done.

Under the leadership of USAID, monthly donor meetings have been scheduled in the recent past to provide a forum where the donors can discuss their upcoming plans and activities. These have served to avoid some duplication of effort, and all of the donors who attend say that the meetings are helpful. The donors do not generally feel that Armenian institutions play off one donor against another, although they acknowledge that it is common for Armenian institutions to cast a wide net looking for financial support.

Conclusion: What is lacking, however, are common strategies on how to best help Armenia in establishing a deeply rooted ROL tradition. There are important issues to be resolved, including corruption, independence of the judiciary, human rights observations, etc that should be addressed in unison, but are not. The issue of donor coordination is not easy, and probably must be addressed at the highest levels of the respective institutions. As one donor put it, "Each donor has its mandate."

D. THE ISSUE OF REGIONAL VERSUS LOCAL MISSION PROGRAMS

Given that most of Armenia's ROL activities have been carried out under Regional projects, it is difficult to measure whether Regional or local Mission contracting attains goals better. Regional projects were necessary in the beginning given that the mission itself was regional. There was not enough Mission staff to develop the projects, let alone monitor them effectively.

Now that the Mission has enough staff, local Mission projects seem appropriate. The only caveat is whether a local Mission will remain in lock step with the Region in setting up its Mission strategy. If not, then continued Regional projects seem appropriate.

E. SUMMING UP

Intense activities have resulted in a framework within which the Armenian judiciary can work well to fulfill USAID's goals of an appropriate judicial environment for a market economy and citizen protection. By and large most of the laws needed have been passed, and even though there have been some notable legislative flaws, there seems to be an Armenian willingness to make the technical corrections required. A number of important institutions have been established that are in a position to lobby for judicial independence, continuing legal education for judges and attorneys, changes in law

school curricula and teaching practices, and some public awareness campaigns have begun. To date, the efforts have been largely successful. The easy part has been accomplished.

There are, however, other fundamental issues that Armenia must resolve before it can call itself a Rule of Law Society. To resolve these issues will require more political maturity, and perhaps political will, than the society has displayed thus far. The assessment team in the short time in Armenia could not predict whether the political will indeed is present, and only more effort on political maturity is needed, or if there is no political will. The major ROL issue in Armenia remaining is simply corruption, part of which stems from economic problems almost everybody faces, part of which is deeply engrained in the attitudes that Armenians have about how one treats one another.

The conclusion reached by the assessment team is that the ROL program in Armenia has performed legal surgery akin to taking out vital organs from a deformed body, one at a time, and transplanting other organs. (Constitutions, civil and criminal codes and procedural acts, etc.) Sometimes the replacements have been healthy organs that just need time to be accepted by the body, but sometimes they themselves have not been entirely healthy or compatible with other transplants and so the body remains weak. (the Constitution and laws that conflict with other laws) At the same time, instead of just replacing organs, prostheses have been required for parts that were missing from the body (e.g., Administrative Procedures Act). But even if all the missing parts had been appended, and all the organs had been successfully replaced with healthy ones, gene therapy still is required to make the body of the Armenian democratic society completely well. For it is in the DNA, the very internal composition of the society that the solutions to Armenia's economy and democracy lie...it is the DNA that needs the genes to represent not only political will, but also a sense of the common good so that Armenia as a sovereign country and its citizens as individuals can reach their full potentials. These two factors will determine in the not too distant future if the populace develops faith in the courts and the much ballyhooed democratic system, or whether the populace will give up on democracy.

F. RECOMMENDATIONS

These recommendations taken together should help USAID to continue to work on improving upon what it has already done, and move more boldly into areas on which it has not as yet placed the necessary emphasis.

1. USAID should hammer out united strategies with other international donors to actively fight corruption in the court system. While USAID has given its current contractor instructions to develop an anti-corruption program, it has not given the contractor any specific target activities as it has in all other areas. There is a series of projects that can be undertaken, in a common front with other donors, including but not limited to:
 - A. Sponsor a highly publicized series of forums on corruption, and its deleterious effects on the society, including the economy. While this should include the written press, since mass circulation is so low, it should also include radio and television efforts. When corruption is seen as a way of life, there has to be a massive education campaign before the public begins to change...just as there had to be massive campaigns before the noxious effects of smoking were generally recognized in the U.S. If there were opposition by public officials to such a campaign, that opposition would be eloquent testimony about the sincerity of public officials who say that they are against corruption. Should there be serious opposition from the government, the donors should seriously reevaluate whether it is worthwhile to work in rule of law programs in Armenia.

- B. USAID should seek out those truly concerned citizens who want to do something about corruption and help them form judicial watchdog NGOs, and guarantee financial backing for a significant length of time, perhaps eight to ten years. The money would be minimal compared to the overall investment USAID has already made in its Rule of Law program. In supporting these groups, some will obviously be accused of being “political,” but LechWaleska and other important European reformers have also been accused of being “political.” It is almost too much to expect the reformers to come from within the government agencies and any true reformer from outside the system will immediately be stigmatized as being “political.” If there are true reformers within the establishment they will welcome outside support.
- C. USAID should bring experts on the elimination of judicial corruption to Armenia. There are countries that have had similarly corrupt systems that have made great strides to curb corruption. Some of the practical steps to contain corruption, aside from decent salaries for the judiciary, include, but are not limited to:
2. Life insurance for judges who throw decisions because of fear for their lives.
 3. Security programs for judges and prosecutors and their families when necessary.
 4. Inspectors General within the judiciary and Prosecutors institutions.
 5. Sting operations against the worst offenders as examples.
 6. Public financial disclosure statements for judges and prosecutors.
 7. Judicial and Prosecutorial appointments made based on a non-political nomination process led by distinguished public citizens, and an opportunity for public comment on the nominations before they are passed to the appointing officials. This helps assure that both honest and well qualified persons are appointed.
 8. Bar Association ratings of judges and prosecutors.
 9. Peer rating of judges and prosecutors.
 10. Public awards and recognition of judges whose service is exemplary.
 11. Case assignments are not made by Chairmen of the trial courts, but are assigned randomly by the luck of the draw. This prevents channeling cases to any one judge who might be more sympathetic to one side than the other.
 12. Establish Judicial watchdog groups.
 13. Provide adequate pensions so that judges can retire in dignity.
 14. In conjunction with the other donors, seek two specific reforms in the Laws on the Judiciary:
 - A. That judges in every case must stipulate in writing their reasons based in law for their decisions so that both parties know clearly that the decision is not arbitrary, and has been arrived at fairly. Parties can lose a lawsuit and not blame the court if they see that they

have been treated fairly under the law. Losing parties might question the fairness of the law, but then they must work on the legislature for relief.

- B. That the Court of Cassation actually decide cases appealed to it, rather than just remanding cases to the courts for retrial. This would give clearer instructions to trial and appeal courts about what the law really means.
15. USAID should seek out and support more NGOs that advocate human rights in Armenia. Human Rights are the foundation of a democratic state, and economic reform alone, no matter how important, will not build the public's respect for a political system, and its judicial component, that violates human rights. Prevention of human rights abuses is more important than trying to secure them through slow moving court actions. If a government is prone to violate the human rights of its citizens, reformers within any government need all the help that they can get from both local and internationally linked NGOs. An Administrative Procedure Code would be helpful in curbing human rights abuses.
16. In conjunction with the other donors, push for better qualifying procedures for attorneys who are permitted to practice before the bar in both civil and criminal cases. A citizen has a right to know that his attorney is qualified and that attorneys who are not qualified negate the effects of a good adversarial justice system. Presently qualified "advocates" might need to be "grand fathered" in, but those representing civil case clients and who have never been examined should not. This has the added advantage of showing prospective students at private universities which of those private schools have the reputation for producing qualified graduates, i.e., graduates that can pass qualifying examinations.
17. USAID should support morally and financially at least two private law schools in Armenia. USAID's economic policies are predicated upon the notion that monopoly production is harmful to society yet, by only providing support to YSU Law Faculty, USAID is supporting the old socialist notion that only the State has a legitimate role in education. By providing competition to the notion that only the state is legitimate, USAID's goals are more likely to succeed because:
- A. The current YSU Dean's protestations that he is interested in reform, but has trouble bringing the old-guard Law Faculty of YSU along, would be finally tested; the current bright young reformers at YSU would be strengthened because they could point to successful faculties in other schools, and the conservative professors likely would either move on or change their engrained habits. They would not like to see the prestige of YSU suffer.
- B. A larger cadre, perhaps three times more than presently graduate from YSU, of well qualified students would be produced more quickly in three schools;
- C. Private schools, which produce quality graduates, could see their students take their proper place in the judicial structure, eliminating the discrimination that is imposed on them by such organizations as BARA, and others dominated by YSU graduates.
- D. There would be a larger pool of well qualified applicants to the American University of Armenia's graduate degree law program which has been handsomely supported by USAID and endowed by the US Congress. This would be highly beneficial to the new Armenia.
18. USAID should support financially and morally the Arbitration Courts that have been recently created by statute. Just as with creating monopolies of state institutions, USAID should foster

multiple venues in which relief can be sought by aggrieved parties in commercial disputes. Arbitration courts can produce satisfactory results more quickly than traditional courts, and at a time when outside financial investors are very wary about the present court corruption, all the reassurances that can be given to them should be given. A model Arbitration Court would go a long way to dispel their fears.

19. That USAID advocate that the Court of Appeals have venues outside of Yerevan in order to provide effective access of all Armenians to the Justice system, either establishing additional courts of appeals in major population centers, or through adopting a rotating, circuit riding, principle.
20. USAID should focus more effort on public awareness, because an understanding of how the system works is crucial to long term faith in not only the justice system, but also democratic institutions.
21. USAID should urge those engaged in training to systematically invite participants from all sectors of the judicial systems to undergo joint training, both in the content of laws and legislation, but also in helping define their respective roles within the system. When one training institution invites a foreign expert from one country to discuss laws, prosecutors, defense attorneys, judges, and private practitioners should all get the same message.
22. USAID should assure that foreign legal experts come well versed in Armenia law and the situation in Armenia. They should have a good comparative law background.

ANNEX A

LIST OF DOCUMENTS REVIEWED

I. Armenian Legal Acts

1. The Constitution of the Republic of Armenia;
2. The Law on the Organization of the Judiciary of the Republic of Armenia;
3. The Law of the Republic of Armenia on the Status of Judges;
4. The Regulations of the Council of Court Chairmen of the Republic of Armenia;
5. The Law on the Service of Providing the Compulsory Enforcement of Legal Acts of the Republic of Armenia;
6. The Law on Compulsory Enforcement of Court Decrees of the Republic of Armenia;
7. The Law on Advocate Activity of the Republic of Armenia

Other Acts

1. Rules of Judicial Conduct of the Republic of Armenia;
(Issued by the Association of Judges)
2. Code of Professional Conduct for Lawyers of the Republic of Armenia;
(issued by the Bar Association of the Republic of Armenia).

II. Documents originating from USAID

Legal Assessment USAID/CAUCASUS GEORGIA
(A joint legal assessment prepared by Democracy and Governance Office and Economic Restructuring Office);
USAID/ARMENIA - Strategic Plan FY 1999 - FY 2003
USAID/ARMENIA - Results Review and Resource Request FY 2000
USAID/ARMENIA - Results Review and Resource Request FY 2001, March 1999
USAID/ARMENIA - List of Contractors, Aug. 11, 1999

III. Documents originating from USAID contractors and grantees:

A. ABA/CEELI - Armenia

Judges Training Chart;
Monthly ABA-CEELI Status Report for December 1996;
Monthly ABA-CEELI Status Report for January 1997;
Monthly ABA-CEELI Status Report for February 1997;
Monthly ABA-CEELI Status Report for March 1997;
Monthly ABA-CEELI Status Report for April 1997;
Monthly ABA-CEELI Status Report for May 1997;
Monthly ABA-CEELI Status Report for June 1997;
Monthly ABA-CEELI Status Report for July 1997;
Monthly ABA-CEELI Status Report for August 1997;
Monthly ABA-CEELI Status Report for September 1997;
Monthly ABA-CEELI Status Report for October 1997;
Monthly ABA-CEELI Status Report for November 1997;
Monthly ABA-CEELI Status Report for December 1997;

Monthly ABA-CEELI Status Report for January 1998;
 Monthly ABA-CEELI Status Report for February 1998;
 Monthly ABA-CEELI Status Report for March and April 1998;
 Monthly ABA-CEELI Status Report for May 1998;
 Monthly ABA-CEELI Status Report for June 1998;
 Monthly ABA-CEELI Status Report for July and August 1998;
 Monthly ABA-CEELI Status Report for September 1998;
 Monthly ABA-CEELI Status Report for October 1998;
 Monthly ABA-CEELI Status Report for November 1998;
 Monthly ABA-CEELI Status Report for December 1998;
 ABA/CEELI - Semi-Annual Performance Report, August 1996 to January 1997
 ABA/CEELI - Semi-Annual Performance Report, February 1997 to July 1997
 ABA/CEELI - Semi-Annual Performance Report, August 1997 to January 1998
 ABA/CEELI - Semi-Annual Performance Report, February 1998 to July 1998
 ABA/CEELI - Semi-Annual Performance Report, August 1998 to January 1999
 U.S. - Based Training for Armenian Prosecutors and Investigators - December 6-19, 1997 - Program
 The Reform of Armenia's Judicial and Legal System - paper by Gahmk Markarian;
 Materials from a Seminary on Continual Legal Education for Judges - March 12-14, 1999 in Yerevan (in Russian);
 Schedule of CEELI Training filed with AED;
 Assessment of Training Needs in Armenia;

B. ARD/Cecchi

Final Report, Rule of Law Program, November 30, 1998

C. AMEX International, Inc.

1. Statement of Work – Sept. 30, 1997
2. Democracy & Governance - Rule of Law Programs General CLIN 0002
3. Quarterly Report - January 1 - March 31 1998, with attachments:
 - Democracy & Governance - Rule of Law Programs General CLIN 0002
 - Technical Assistance on Constitutional Law and Round Table - by Prof. Herman Schwartz, Armenia, January 20-23, 1998);
 - U.S. Study Tour for faculty Members of Yerevan State University School of Law - by Doug Myer (trip-report, February 28 - March 17, 1998) with attached program;
4. Quarterly Report - April 1 - June 30 1998, with attachments
 - Second Council of Europe Conference at Yerevan, June 16-18, 1998
 - A Joint Report by Robert Stewart and Justice Robert F. Utter with Programme and List of Participants
 - Sessions on Draft Civil Code of the Republic of Armenia - January 25-28, 1998
 - Schedule and List of participants;
 - Consultation on the Third Part of the Armenian Civil Code and its Implementation by Davt Karapetyan of
 - Amex International, Inc. and Eric Vincken of the Centre for International Legal Cooperation;
 - D&G Round Table, January 28, 1998;
 - Centre for International Legal Cooperation - Project Proposal for a Program on the Implementation of the

- Armenian Civil Code for the period Sept. 1 1998 - July 1, 2000 with attachment on estimated costs;
- 5. Quarterly Report - October 1 - December 31 1998, with attachments
 - Study of the United States System for the Execution of Civil Judgements by Robert Lipscher, revised Jan. 10, 1999;
 - Trip Report by Prof. Herman Schwartz - Yerevan, Oct. 8-10, 1998;
- 6. Quarterly Report - January 1 - March 31 1999, with attachments
 - Report of Activities: YSU School of Law The Rule of Law Project by Mirela Roznovschi, Mar/Apr 1999);
 - The Prospects for Administrative Law Reform in Armenia - Report by Prof. Howard Fenton;
- 7. Quarterly Report - April 1 - June 30, 1999, with attachments
 - (Comprehensive Rule of Law Caucasus)
 - Trip Report by Anna Tarassova (scope of work - providing expert advice to the drafting group of the Legal Department in the National Assembly on commercial law) accompanied by schedule;
 - Armenian Judicial Training - A Study Tour Schedule and List of Participants, Nevada/ Ohio;
 - Democracy & Governance - Rule of Law Programs General CLIN 0002
- 8. Quarterly Report - July 31 - 30 September 1999, with attachments
- 9. Final report - Rule of Law Program in Armenia, with attachments
 - Draft Concept Paper for Administrative Legislation of the Republic of Armenia;
 - Comments on Concept Paper for Administrative Legislation of the Republic of Armenia by Howard Fenton;
 - Organizational Review of the Ministry of Justice of Armenia by Michael Cornelius
 - (Trip Report July/August 1999, Report and 5 annexes);

D. Chemonics

- Statement of Work of May 7, 1999, prepared by Chemonics;
- First Quarterly Report – October to December 1999

E. IRIS

- Final Field Report;
- Report on “Investigation of Factors Inhibiting Foreign Direct Investment in Armenia” Jan. 30, 1999

IV. Documents from Other Sources:

World Bank- Judicial Reform Project - Pre-Appraisal Mission (Aide Memoire) prepared by the Team consisting of Irina Kichigina, Task team Leader (LEGEC); Prof. Charles Nihan - Consultant, Francis Rosenthal (ECSPE) and David Shahzadeyan (ECSPE);

World Bank - Armenia: Challenges for Judicial Reform, April 1998

- Analysis of Public Awareness on Judicial Reforms in Armenia - based on the results of a survey;
- Master Plan for the Judicial Training Center, Manatt, Phelps & Phillips (with Tentative Budget)
- Information Leaflet of Armenian Young Lawyers Association;
- Information Leaflet of International Union of Armenian Advocates;

- Department of Law of the American University of Armenia - Presentation Paper
- Rule of Law Competition (RFP) Eurasia Foundation, Feb. 29, 2000
- Armenian International Magazine, February 2000
- “Novoye Vremija,” (newspaper) April 11, 2000
- Legal Service Provider NGOs, extract from Who Is Who is Armenian NGO’s List

ANNEX B

LIST OF PERSONS

USAID – Washington

Beth Cypser, Rule of Law Division Chief, E&E Bureau
Robert Wallin, Armenia Desk Officer
Corbin Lyday, Consultant, ENE/DGSR
Geraldine Donnelly, former director, USAID/Armenia
Janet Kennedy Kurley, Evaluation Specialist
Stephen Haykin, FUP Program Officer, ENE/PCS/NPSA
Claudia Dumas, Senior Rule of Law Advisor, ENE/DG/ROL

USAID - Armenia

Benjamin M. Allen - Rule of Law Advisor;
Kim Delaney - Director, Office of Democracy and Social Reform;
Deborah Berns - Democracy Officer;
Bela Markarian – Rule of Law Assistant.

USAID contractors and grantees

ARD/Checchi

Michael Goldstein
Professor Herman Schwartz

Chemonics

Gahmk Markarian - Rule of Law Advisor

ABA/CEELI

Frederick Yeager - Liaison;
Regina Dubrov – Washington Liaison
Patrice Noe Johnson – Liaison
Janet Katz – Environmental Program

Eurasia Foundation

Lelit Melikyan

Armenian Institutions

Armenian Young Lawyers' Association, Karen Zadoyan, President
International Union of Armenian Advocates, Tigran Ter-Esayan, President, Levon Ter-Avetikyan and Zaruhi Postanjyan, members
Association of Judges of the Republic of Armenia, Alvina Gyulumyan – President and Vice-Chair of the Constitutional Court;
International Union of Advocates, Tigran Djanoyan, President
Bar Association of the Republic of Armenia, Vigen Kocharyan - Executive Director and Associate-professor in Constitutional and International Law - Yerevan State University - Faculty of Law;

Union of Advocates of the Republic of Armenia, Misha Philipossian - Chairman;

Armenian Justices, Judges and key court staff

Gagik Harutunian, President of the Constitutional Court of Armenia
Arushan Akopyan, Manager-n-Chief, Constitutional Court of Armenia
Henrik Danielyan - President of the Court of Cassation, President of the Justice Council, President of the Council of Court Chairmen;
Garik Avagyan, Chief of Staff, Court of Cassation
Zhora Vardanyan, President, Central Court of First Instance

Surik Kostanyan, President, Court of First Instance for the Erebuni and Noubarashen Municipalities
Amrahi Ptrosyan - judge;
Alexei Sukoyan - judge;

Tariel Manukyan, President, Court of First Instance for the Shengavit Municipality
Ishkhan Barseghyan – judge
Naira Hhovsepyan – judge
Arhtur Ohanyan – judge

Elena Sogomonyan, judge, Appellate Court on Economic Cases of the Republic of Armenia
Ashot Sargissyan - judge;

Rudolf Mofsesyan, President, Court of First Instance for the Avan and Nor Nork Municipalities
Khachatur Baghdasaryan - judge;

Elizavetta Danielyan, President, Court of First Instance for the Ajapnyak and Davidashen Municipalities
Levon Grigoryan - judge;
Erna Hairyan - judge;

Tigran Petrosyan, President, Court of First Instance for the Malatia- Sebastia Municipalities
Hamlet Asatryan - judge;
Samvel Uzunyan - judge;

Mher Chachaturyan - justice, Criminal division of the Court of Cassation;
Zinavor Ghoukassyan - justice, Criminal division of the Court of Cassation;
Hovhanness Ghoukassyan - justice, Criminal division of the Court of Cassation;
Serzhik Avetissyan - judge, Appellate Court on Criminal and Military Cases;
Noem Hovsepyan - judge, Appellate Court on Civil cases;
Arman Khachatryan, Director, Judicial Training Center

Universities

Gagik Ghazinyan, Dean, Yerevan State University School of Law
Karin Gevorkyan - International Relations Deputy Dean
Sergey Arakelyan - Law Library Director;
David Karapetyan - Civil procedure lecturer, participant in U.S.A. 3 months training program;
Barnabas Johnson, Dean in Residence, American University of Armenia Law School

Private Attorneys

Thomas Samuelian - Private attorney, Arlex International, Ltd., Managing Attorney
Hovhannes Asryan - Private Lawyer, President of Pro Democracy Association;

Other International Donors

EU/TASIS, Garik Hairapetyan
United Kingdom - Department of International Assistance (Former “Know-how” Fund)
Carl Ulbricht - consultant;
World Bank, David Shahzadyan - officer;
Gessellschaft fuer Technische Zusammenarbeit (GTZ)
Irina Martchyan - Office manager;
Vartan Bohgossyan - Program Officer;
Open Society Institute, Assistance Foundation – Armenia, Larisa Minasyan;

ANNEX C

ILLUSTRATIVE ROL ACTIVITIES OF THE IRIS CAUCASUS CENTER – YEREVAN

An initial Rule of Law Needs Assessment in 1995

Consultation to:

The Ministry of the Economy on commercial legislation
Elaboration of the new laws on Joint Stock Companies and Limited Liability Companies

Workshops/Seminars:

At American University of Armenia on Commercial Law
Alternative Dispute Resolution
Collateral (or Pledge) Law

Legal Assessment:

Civil Code

Translations:

Civil Code into Russian and English

ANNEX D

ILLUSTRATIVE LIST OF ARD/CHECCHI INTERVENTIONS IN ARMENIAN JUDICIAL SECTOR

Seminars

Financed the first Judicial Conference of Armenia, in which Justice Scalia of US Supreme Court participated
Co-financed TransCaucasus Constitutional Court members trip
Sponsored Case Management seminar with Venice Commission for judges

Training

Awarded American University of Armenia \$340,000 grant to set up Law School
Training of Trainers program in US for attorneys and judges
Training of Trainers program for judges and attorneys in Armenia
Five concentrated seminars throughout Armenia
Sponsored YSU Law School professors in Budapest
Library training activity for YSU Law School at New York University

Materials

Printed compendium of commercial legislation
Established a legal resource center for lawyers, judges, legislators and others.

Equipment

Provided computer equipment for:

Armenian Standing Committee on State and Legal Issues,
Armenian Center on Cooperation for Development of Legislation
Armenian Legislative Committee,
Constitutional Court,
Ministry of Justice,
Yerrevan State University Law School

Code Drafting

Sent Armenian civil code team to the Netherlands to discuss code drafts

ANNEX E

ILLUSTRATIVE LIST OF AMEX INTERVENTIONS IN ARMENIAN JUDICIAL SECTOR

Consultants on:

Constitution and Constitutional Law
Development of Yerevan State University Library, Information Center and Internet Linkages
Development of Criminal and Criminal Procedures Codes
Money Laundering
Development of Civil Code
Assessment of Court Administration procedures
Administrative Procedures Code for Ministry of Justice
Law on Limited Liability
Law on Registration of Legal Entities
Law on Notaries
Administrative Reorganization of the Ministry of Justice

Study Tours:

Sent group of Prosecutors to United States and the Netherlands
Sent group of judicial trainers and administrators to United States
Sent 3 young law professor to UC-Berkeley for semester
Sent Council of Court Chairmen members to National Judicial College and Ohio
Sent 5 YSU young faculty members to NYU for intensive training in electronic Library skills
Sent 8 young law teachers to Budapest Hungary for course in modern teaching Methods cosponsored by
Constitutional and Legal Policy Institute
Sent YSU Law Faculty to Netherlands to discuss Administrative Procedures Codes

Training:

Developed Training of Trainers program for Prosecutors
Sent Prosecutors for training in the Netherlands

Conferences:

Sent Armenians to conference on Commercial Law in Washington, D.C.
Sent deputy chief of Constitutional Court to Warsaw conference
Financed Armenian Judicial Conference in Yerevan
Sent Dean and Vice-dean of YSU Law School to NIS law school conference
Sent Armenians to conference on joint stock companies and limited liability
Sent two law school professors from YSU to Leiden for conference on Developing teaching methods and
law school curriculums
Sent Constitutional Court members to Rotterdam
Sent Constitutional Court members to Moscow

Materials:

Developed Prosecutors Practice Manuals & Legal Commentaries
Published Law Course Materials for Yerevan State University
Published Textbook on *Law and the State*
Provided YSU with subscriptions to comprehensive legal periodicals and literature
Provided extensive materials on Administrative Procedures Code to Ministry of Justice

Equipment:

Provided computer equipment to YSU Law School for electronic library
Provided computer equipment for entire Constitutional Court
Provided computer equipment to YSU Law School for class registration

Translations:

Translated Law on Procuracy

ANNEX F

ILLUSTRATIVE ACTIVITIES ABA/CEELI IN ARMENIAN JUDICIAL SECTOR

Consultants on:

Formation of the Armenian Judges Association

Formation of the Bar Association of the Republic of Armenia

Continuing Legal Education in Ministry of Justice

Continuing Legal Education in Procuracy General

Environmental Advocacy Center in Yerevan

Legal Education Reform at YSU Law Faculty

Establishment Environmental Law Clinic at YSU

Criminal Codes

Criminal Procedures Codes

Judicial Code of Ethics

Bringing Cases before the Constitutional Court

Judicial Certification examinations

National Environmental Action Plan

Workshops/Seminars:

Criminal Law for 100 prosecutors on corruption, narcotics trafficking, money

Laundering

Law on the Procuracy

Law on Operative-Investigatory Activity

Law on the Status of a Judge

Law on Advocate Service

Law on the Judicial System

Criminal Code

Criminal Procedures Code

Trial Advocacy for 60 attorneys, judges and law professors

Bankruptcy Law

Ethics, the death penalty, criminal procedure and adversarial process in US

New Amnesty law for 70 Armenian Judges

Monthly Environmental NGO Roundtable Meetings

Environmental Legislative Drafting

Co-hosted Environmental Open Forum with Georgian NGOs and Armenian NGOs

Civil Code

General Overview of legal profession in US for Young Lawyers Union

Criminal Law for 80 prosecutors and investigators

“Judicial and Legal System of Armenia” for lawyers and journalists

Six regional workshops for Association of Judges on civil code, civil Procedures code, criminal code and criminal procedures code.

Regional workshop on Legal Mechanisms to Protect Wild Plants and Animals

Convention on Public Participation in Environmental Decision-making

Participation of Society in the Regulation of Environmental Problems
Human Rights and the Rights of the Accused
Separation of Powers with Constitutional Court in the regions
Bail and Pre-trial Detention
Judicial Conduct
Trade Regulations
Crimes Against the Person
Unilateral Actions
Copyright Laws

Special Activity:

co-hosted Armenia's First Earth Day Celebration in Yerevan
Environmental Clinical Legal Education Course at YSU

Study Tours and Conferences:

Ten Prosecutors and investigators to Washington DC and Los Angeles on US Criminal Justice system
Four Judges from Judges Association to Riga, Latvia on Strengthening Independent Judiciaries
Five Executive Board Members of BARA to US in Washington DC and San Francisco
Deputy Minister of Justice to Tbilisi, Georgia to observe judicial qualification Examination
Armenian judges and journalists to Goudari, Georgia for workshop on Media and the Judiciary and
Rights of the Accused in Democratic Society
President of EPAC to Aarhus, Denmark
EPAC legal staff to Wroclaw, Poland for conference on Building Effective Advocacy Programs
Eleven Armenian defense attorney to Oklahoma

Lectures:

To Association of Judges on adversarial system, roles of judges, prosecutors and defense attorneys
US Media law and Freedom of the Press to Armenian journalists
To high school students on EPAC

Legal Assessments:

Judicial reforms for the Standing Committee for State and Legal Affairs
Draft Environmental Protection Law for Ministry of Environment
Draft laws for Labor Code
Legal Status of Judges
Penitentiary law
Civil Procedures Code
Criminal Procedures Code
Organization of the Judiciary
Draft Law on Advocacy
Clean Water Act
Regional Civil Service and Public Administration laws
Law on Wild Plants
Law on Animal Kingdom
Law on Plant Kingdom
Environmental Education Law

Media Law
Law on Television and Radio for the Republic of Armenia
Law on Freedom of Conscience and on Religious Organizations
Rules on the Behavior of Judges in Armenia
Code on Lithosphere for the Republic of Armenia
Law on Foreign Investment

Materials:

Provided copies of the Russian translations of *ABA Model Code of Judicial Ethics*
US Civil Service law
US and European Criminal Justice systems
US and European and international efforts to fight drug-related crimes and Corruption
ABA Model Rules of Professional Conduct
Model Code of Attorney Conduct (European Union)
Draft laws on advocacy of the Republic of Uzbekistan and the Russian Federation
Laws, rules and traditions relative to legislative drafting including citation, Codification, and amendments
Public Participation in Environmental Decision Making Manuel
Development on an EPAC library

Translations:

Translated Constitutional Court decision on presidential elections
Translated Concept Paper of Judicial Reforms in Republic of Armenia
Environmental Protection Law
Manual on Public Participation in Environmental Decision Making
Convention on Public Participation in Environmental Decisionmaking
Financial Support: Judges Association for publication of newsletter,
Preparation of benchbook for Judges
Publication of first edition of *Environment and the Law newsletter*
Advocacy grant to BARA for office space and equipment and to hire a full-
Time staff person

ANNEX G
ARMENIAN RULE OF LAW ASSESSMENT
QUESTIONNAIRE ABOUT TRAINING

1. Length of Service of Interviewee
 - a. 0-2 years
 - b. 3-5 years
 - c. 6-10 years
 - d. over 11 years
2. Type of judge, i.e., criminal, civil, appeal, etc
3. Location: _____
4. In what subjects were you trained?
 - a. _____
 - b. _____
 - c. _____
5. How many training events did you attend?
6. How long was (were) the workshop?
 - a. 0-2 days
 - b. 3-5 days
 - c. 6-10 days
 - d. over 11 days
7. Were the topics relevant to the cases you hear?
Yes _____ No _____
8. How was the quality of training?
Content
 - a. very high

- b. high
- c. medium
- d. low

Process

- a. very high
- b. high
- c. medium
- d. low

9. How many cases, if any, have you heard in which you have been able to apply your new learning in the last 8 months?
- a). 0 cases
 - b). 1-2 cases
 - c). 3-5 cases
 - d). 6 or more cases
10. Can you summarize how the training affected your thinking, or what changes the training made in your courtroom practices?
11. Are there aspects of your new knowledge with which you are not yet comfortable?
- a. Yes
 - b. No
11. If yes, can you identify the most important gaps or issues?
12. Have the new laws made a difference yet in how you do your work?
- a. Civil Code yes _____ no _____
 - b. Criminal Code yes _____ no _____
 - c. Criminal Procedures Code yes _____ no _____
 - d. Etc. Yes _____ no _____
13. If yes, please describe what difference it has made?