



The Legal Profession Reform Index

For

Armenia

November 2003

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INTRODUCTION

The American Bar Association's Central European and Eurasian Law Initiative (ABA/CEELI) developed the Legal Profession Reform Index (LPRI) to assess the process of reform among lawyers in emerging democracies. The LPRI is based on a series of 24 factors derived from internationally recognized standards for the profession of lawyer identified by organizations such as the United Nations and the Council of Europe. The LPRI factors provides benchmarks in such critical areas as professional freedoms and guarantees; education, training, and admission to the profession; conditions and standards of practice; legal services; and professional associations. The Index is primarily meant to enable ABA/CEELI or other legal assistance implementers, legal assistance funders, and the emerging democracies themselves to implement better legal reform programs and to monitor progress towards establishing a more ethical, effective, and independent profession of lawyers. In addition, the LPRI, together with ABA/CEELI's companion Judicial Reform Index (JRI), will also provide information on such related issues as corruption, the capacity of the legal system to resolve conflicts, minority rights, and legal education reform.

The LPRI assessment does *not* provide narrative commentary on the overall status of the legal profession in a country, as do the U.S. State Department's *Human Rights Report* and Freedom House's *Nations in Transit*. Rather, the assessment identifies specific conditions, legal provisions, and mechanisms that are present in a country's legal system and assesses how well these correlate to specific reform criteria at the time of the assessment. In addition, it should be noted that this analytic process is not a statistical survey. The LPRI is based on an examination of relevant legal norms, discussions with informal focus groups, interviews with key informants, and on relevant available data. It is first and foremost a legal inquiry that draws upon a diverse pool of information that describes a country's legal system at a particular moment in time through the prism of the profession of lawyers.

Scope of Assessment

Assessing legal profession reform faces two main challenges. The first is defining the terms "legal professional" and "lawyer." The title Legal Profession Reform Index is somewhat of a misnomer. The LPRI focuses its attention on lawyers; however, most of the world's legal professions are segmented into various categories. For example, the Council of Europe lists several distinct categories of legal professionals, including judges, prosecutors, lawyers, notaries, court clerks, and bailiffs. ABA/CEELI could have included all of these professions, and perhaps others, in its assessment inquiry; however, the resulting assessment would likely become either overly complex or shallow.

In order to keep the LPRI assessment process manageable and to maintain its global applicability and portability, ABA/CEELI decided instead to focus on professions that constitute the core of legal systems; i.e., professions that are universally central to the functioning of democratic and market economic systems. As a result, CEELI eliminated such professions as notaries, bailiffs, and court clerks because of variations and limitations in their roles from country to country. In addition, ABA/CEELI decided to eliminate judges and prosecutors from the scope of the LPRI assessment, in order to focus this technical tool on the main profession through which citizens defend their interests vis-à-vis the state. Independent lawyers, unlike judges and prosecutors, do not constitute arms of government. In addition, ABA/CEELI has also developed the JRI, which focuses on the process of reforming the judiciaries in emerging democracies. At some point, CEELI may also consider developing an assessment tool for prosecutors as well.

Once ABA/CEELI determined which category of legal professionals would be assessed by the LPRI, the remaining issue was to define the term "lawyer." In the United States and several other countries, lawyers constitute a unified category of professionals. However, in most other countries, lawyers are further segmented into several groups defined by their right of audience before courts. For example, in France, there are three main categories of advocate lawyers: *avocat*, *avoués à la Cour*, and *avocats aux Conseils*. An *avocat* is a lawyer with full rights of

audience in all courts, who can advise and represent clients in all courts, and is directly instructed by his clients and usually argues in court on their behalf. An *avoués à la Cour* has the monopoly right to file pleadings before the Court of Appeal except in criminal and employment law cases, which are shared with *avocats*. In most cases, the *avoués à la Cour* only files pleadings but does not argue before the court. He has no rights of any sort in any other court. The *advocates aux Conseils* represents clients in written and oral form before the Court of Cassation and the *Conceil d'Etat* (the highest administrative court of France). Tyrell and Yaqub, *The Legal Professions in the New Europe*, 1996. In addition to rights of audience, other factors further complicated efforts to define the term "lawyer", including the large number of government lawyers and corporate counsel who are not considered independent professionals and the practice in some countries of allowing persons without legal training to represent clients.

These issues posed a dilemma, in that, if ABA/CEELI focused exclusively on advocates (generally understood as those professionals with the right of audience in criminal law courts), it could potentially get an accurate assessment of perhaps a small but common segment of the global legal profession, but leave the majority of independent lawyers outside the scope of the assessment, thus leaving the reader with a skewed impression of reform of the legal profession. For example, according to the Council of the Bars and Law Societies of the European Union (CCBE), there were 22,048 lawyers currently practicing law in Poland in 2002. Of that number, only 5,315, or 24 percent, were advocates. If, on the other hand, the LPRI included all persons who are qualified to practice law, that might also produce an inaccurate picture, in that it would include non-lawyers and lawyers who are not practicing law. In order to keep its assessment relatively comprehensive yet simple, ABA/CEELI decided to include in the universe of LPRI lawyers those advocates and civil practice lawyers that possess a law degree from a recognized law school and that practice law on a regular and independent basis, i.e., excluding government lawyers and corporate counsel. In addition, because some of the factors only apply to advocates, ABA/CEELI decided to expand and contract the universe of lawyers depending on the factor in question.

ABA/CEELI's Methodology

The second main challenge faced in assessing the profession of lawyers is related to substance and means. Although ABA/CEELI was able to borrow heavily from the JRI in terms of structure and process, there is a scarcity of research on legal reform. The limited research there is tends to concentrate on the judiciary, excluding other important components of the legal system, such as lawyers and prosecutors. According to democracy scholar Thomas Carothers, "[r]ule-of-law promoters tend to translate the rule of law into an institutional checklist, with primary emphasis on the judiciary." Carothers, *Promoting the Rule of Law Abroad: the Knowledge Problem*, CEIP Rule of Law Series, No.34, (Jan. 2003). Moreover, as with the JRI, ABA/CEELI concluded that many factors related to the assessment of the lawyer's profession are difficult to quantify and that "[r]eliance on subjective rather than objective criteria may be ... susceptible to criticism." ABA/CEELI, *Judicial Reform Index: Manual for JRI Assessors*. (2001).

ABA/CEELI compensated for the lack of research by relying on fundamental international standards, such as the United Nations Basic Principles on the Role of Lawyers and the Council of Europe's Recommendations on the Freedom of Exercise of the Profession of Lawyer and on ABA/CEELI's more than 10 years of technical development experience in order to create the LPRI assessment criteria. Drawing on these two sources, ABA/CEELI compiled a series of 24 aspirational statements that indicate the development of an ethical, effective, and independent profession of lawyers.

To assist in evaluating these factors, ABA/CEELI developed a manual that provides explanations of the factors and the international standards in which they are rooted, that clarifies terminology, and that provides flexible guidance on areas of inquiry. Particular emphasis was put on avoiding higher regard for common law concepts related to the structure and function of the profession of lawyers. Thus, certain factors are included that an American or European lawyer may find

somewhat unfamiliar, and it should be understood that the intention was to capture the best that leading legal traditions have to offer. The main categories address professional freedoms and guarantees; education, training, and admission to the profession; conditions and standards of practice; legal services; and professional associations.

In creating the LPRI, ABA/CEELI was able to build on its experience in creating the JRI and the newer CEDAW Assessment Tool¹ in a number of ways. For example, the LPRI borrowed the JRI's factor "scoring" mechanism and thus was able to avoid the difficult and controversial internal debate that occurred with the creation of the JRI. In short, the JRI, and now the LPRI, employ factor-specific qualitative evaluations; however, both assessment tools forego any attempt to provide an overall scoring of a country's reform progress since attempts at overall scoring would be counterproductive.² Each LPRI factor, or statement, is allocated one of three values: *positive*, *neutral*, or *negative*. These values only reflect the relationship of a factor statement to a country's regulations and practices pertaining to its legal profession. Where the statement strongly corresponds to the reality in a given country, the country is given a "positive" score for that statement. However, if the statement is not at all representative of the conditions in that country, it is given a "negative." If the conditions within the country correspond in some ways but not in others, it is given a "neutral."

The results of the 24 separate evaluations are collected in a standardized format in each LPRI country assessment. As with the JRI, there is the assessed correlation and a brief summary describing the basis for this conclusion following each factor. In addition, a more in-depth analysis is included, detailing the various issues involved. Cataloguing the data in this way facilitates its incorporation into a database, and it permits users to easily compare and contrast the performance of different countries in specific areas and – as LPRI's are updated – within a given country over time. There are two main reasons for borrowing the JRI's assessment process, "scoring," and format. The first is simplicity. Building on the tested methodology of the JRI enabled a speedier development of the LPRI. The second is uniformity. Creating uniform formats will enable ABA/CEELI eventually to cross-reference information generated by the LPRI into the existing body of JRI information. This will give ABA/CEELI the ability to provide a much more complete picture of legal reform in target countries.

Two areas of innovation that build on the JRI experience are the creation of a Correlation Committee and the use of informal focus groups. In order to provide greater consistency in correlating factors, ABA/CEELI has formed a committee that includes the assessor and select ABA/CEELI DC staff. The concept behind the committee is to add a comparative perspective to the assessor's country-specific experience and to provide a mechanism for consistent scoring across country assessments. The use of informal focus groups that consist of not only lawyers, but also judges, prosecutors, NGO representatives, and other government officials are meant to help issue-spot and to increase the overall accuracy of the assessment.

Social scientists might argue that some of the criteria would best be ascertained through public opinion polls or through more extensive interviews of lawyers and court personnel. Being sensitive to the potentially prohibitive cost and time constraints involved, ABA/CEELI decided to structure these issues so that they could be effectively answered by limited questioning of a cross-section of lawyers, judges, journalists, and outside observers with detailed knowledge of the legal system. Overall, the LPRI is intended to be rapidly implemented by one or more legal specialists who are generally familiar with the country and region and who gather the objective information and conduct the interviews necessary to reach an assessment of each of the factors.

¹ CEDAW stands for the UN Convention on the Elimination of All Forms of Discrimination Against Women. CEELI developed the CEDAW Tool in 2001-2002.

² For more in-depth discussion on this matter, see C.M. Larkin, "Judicial Independence and Democratization: A Theoretical and Conceptual Analysis," 44 American Journal of Comparative Law. 605, 611 (1996).



The LPRI was designed to fulfill several functions. First, ABA/CEELI and other rule-of-law assistance providers will be able to use the LPRI's results to design more effective programs that help improve the quality of independent legal representation. Second, the LPRI will also provide donor organizations, policymakers, NGOs, and international organizations with hard-to-find information on the structure, nature, and status of the legal profession in countries where the LPRI is implemented. Third, combined with the CEELI's Judicial Reform Index (JRI), the LPRI will contribute to a comprehensive understanding of how the rule of law functions in practice. Fourth, LPRI results can also serve as a springboard for such local advocacy initiatives as public education campaigns about the role of lawyers in a democratic society, human rights issues, legislative drafting, and grassroots advocacy efforts to improve government compliance with internationally established standards for the legal profession.

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The Armenia LPRI assessment was conducted between September 29 and October 10, 2003 by Mark Dietrich, a former CEELI liaison to Romania, former country director for Russia, and former director of CEELI's bar reform programs, and by Suzanna Simonyan and Hasmik Hakobyan, staff attorneys in CEELI's Yerevan office. The team received strong support from other members of the CEELI staff in Yerevan and in Washington, DC, including Armenia Country Director Karen Kendrick and Liaison Kerry O'Brien. During the course of the assessment, the team met with approximately 45 judges, lawyers, prosecutors, government officials, and NGO leaders and reviewed numerous laws and other documents collected by CEELI or provided by those interviewed. CEELI is extremely grateful for the time and assistance rendered by those who agreed to be interviewed for this project. Lists of the persons interviewed and the documents reviewed are on file at the Washington, DC office of CEELI.

ARMENIA BACKGROUND

Overview of the Legal Profession

The term “legal professional,” or “jurist” as it is known in Armenia, is broadly defined, including anyone who has graduated from law school (which is a four or five year undergraduate program). After law school, most graduates pursue one of the following careers:

- Procurators, or prosecutors, who oversee investigations and prosecute criminal defendants;
- Investigators, who investigate crimes and are a part of the law enforcement apparatus of the Police Department, national security bodies, or the Prosecutor’s Office;
- Judges, who work either in first-instance or appellate courts or in the Court of Cassation or the Constitutional Court, which are the highest courts in the land³;
- Advocates are members of one of Armenia’s two advocate unions and are the only lawyers who can represent defendants in criminal cases⁴;
- Non-advocate lawyers, who may work either within companies, government agencies, NGOs or on their own (referred to in this publication as independent civil practice lawyers), and who may represent their companies or their agencies or individuals in non-criminal matters; and
- Notaries, who are responsible for filing certain types of contracts and real estate ownership records, as well as for verifying documents, certifying powers of attorneys, etc.

For reasons outlined in the LPRI Introduction, the scope of this report is limited to advocates and independent civil practice lawyers, although some factors, such as those pertaining to legal education can be applied to the broader legal profession as outlined above.

It is worth noting a related issue that has stirred a good deal of debate; namely, that one need not be a lawyer to represent another person or entity in a civil case. A party can give a “power of attorney” to anyone, whether he has legal training or not, and that person can act as a representative of a party in any non-criminal case. It is also notable that in criminal cases, the victim has a constitutional right to representation. In practice, the victim’s representative usually is an advocate; however, the law does not require the representative even to be a lawyer. See RA CRIMINAL PROCEDURE CODE, Article 78.

Historical Context

More than 10 years after the collapse of the Soviet Union, the Armenian legal profession, and the advocates – collectively known as the “*advocatura*,” still find themselves deep within the shadows of the Soviet system. During the Soviet era, the procuracy stood at the apex of the legal system and essentially dictated to the judges how to decide criminal matters and how long the sentence should be. Although the Soviet Constitution included a right to counsel and presumption of innocence, the role of the advocate was limited: the guilt of the defendant was assumed, and the best the advocate could hope for was to obtain a more lenient sentence by throwing his client to the mercy of the court (and the prosecutor). In political cases, “telephone justice,” whereby Communist Party leaders would call a judge to tell him or her how to decide the case, prevailed.

Civil cases were infrequent since there were few commercial or property rights subject to dispute, although divorces and inheritance cases were common. In important matters (or when one party had the right personal connections), a prosecutor could intervene, which would weigh heavily in the presiding judge’s decision. Prosecutors, moreover, had the power to reopen closed civil and

³ The Constitutional Court in Armenia has exclusive jurisdiction over and handles only matters related to the constitutionality of laws, government resolutions, orders and decrees of the president, and international treaties. The Court of Cassation is the highest appeals court on matters all civil, criminal, military, and economic cases.

⁴ In addition to criminal cases, advocates may also, and frequently do, represent parties in civil and commercial matters.

criminal cases by taking supervisory appeals. This was a tool by which more onerous criminal penalties could be imposed on defendants, even after the verdict and sentence had been entered and finalized and after all regular appeals had been exhausted (or deadlines missed).

Under the Communist system, no licensing system existed for advocates, rather they had to become members of the Collegium of Advocates, which was responsible for collecting fees and taxes and for paying advocates. Private legal practice, as it is known in the West, was largely non-existent.

Since independence, Armenia has taken some important steps toward advancing the rule of law, particularly with regard to its legislative framework. It enacted a new Constitution in 1995, which enshrines important political and individual rights and mandates the separation of powers and the independence of the judiciary. Armenia joined the Council of Europe (COE) in January 2001 and is now a party to the European Convention of Human Rights (the European Convention), violations of which can be brought before the European Court of Human Rights (ECHR) in Strasbourg after all domestic remedies have been exhausted.

Armenia has also enacted new civil and criminal codes and codes of procedure. To a large extent, these changes have established a more adversarial process in the courts and have sought in some ways to equalize the positions of the prosecutor and the advocate. For example, prosecutors may still appeal court decisions on criminal and civil (where state interest is involved) cases; however a new category of advocates, known as special license advocates, has been established, who may also appeal legally binding court decisions to the Court of Cassation on behalf of defendants or civil litigants. In addition, the Law on Advocates was passed in 1998, which established advocates as private practitioners, made them largely independent from the Ministry of Justice (MOJ), and provided some ethical guidelines for the profession.⁵

Although the laws have changed, many of the habits and practices of the Communist era have not, and compliance with the spirit of the new legislative framework is spotty. For instance, few really believe that prosecutors and advocates have equal powers in the courtroom. Judges are still hesitant to oppose the will of the prosecutor, and acquittals, as a result, remain very rare. Advocates have not yet become the powerful and respected profession they should be. While more law students are becoming advocates, this is principally because the profession can be more lucrative than becoming a prosecutor or a judge. The overall public perception of advocates remains low, based in part on the belief that advocates are part of the corruption that pervades the entire justice system. Moreover, while a good deal of attention has been paid to regulation of advocate activity, there is no specific law that governs the work or conduct of independent civil practice lawyers.

There are some special circumstances in Armenia that have slowed the pace of legal reform. One is the small and closed nature of the country itself. The resulting clannishness makes corruption more difficult to overcome since there is enormous social pressure on friends and family to do favors for one another and strong incentives against whistle blowing. In addition, the continuing conflict with Azerbaijan over the disputed territory of Nagorno-Karabakh has resulted in a blockade on two of Armenia's four borders by its neighbors Azerbaijan and Turkey, which has significantly impacted the country's economic development and has resulted in large numbers of citizens emigrating or seeking work abroad.

Organizations of Legal Professionals

The Law on Advocates requires that in order to practice as an advocate, one must be a member of a union of advocates. The establishment of a union of advocates requires the convocation and agreement of at least 50 members. Three such unions were established in 1999, when the law

⁵ The Law on Advocates is currently under review and a new law will probably be considered by parliament in fall 2004, but this report focuses on legal circumstances as they were when the assessment was conducted in October 2003.

went into effect: the Union of Advocates of the Republic of Armenia (UARA), which was the successor organization to the Soviet-era Collegium; the International Bar Union; and the International Union of Armenian Advocates. These last two organizations were merged as the International Union of Advocates (IUA) in September 2002. For the most part, there are few substantial differences between the UARA and the IUA. Members of both organizations have the same rights provided to all advocates under the law, and both unions have their own organizational structures, including disciplinary committees. There is one important difference, however; under the law, UARA members are the only advocates authorized by the government to represent indigent criminal defendants, known as “*ex-officio* advocates.” In addition, the IUA is generally regarded as the more progressive union since it does not trace its roots back to the Soviet Collegium.

There are 465 advocates overall in Armenia, of which about 300 belong to the UARA, and 165 to the IUA. No reliable figure could be obtained regarding the numbers of civil practice lawyers working in Armenia. Some LPRI respondents thought that the number of lawyers practicing civil law was quite low and that those that are practicing are planning on becoming advocates as soon as the next qualification examination is held. Other sources indicated that there are a number of independent business lawyers as well as those working for NGOs.

In addition to the two advocate unions, there are several other important lawyer-based associations operating in Armenia. The Armenian Association of International Law (AAIL) was established in 1998 in order to improve awareness of Armenia’s obligations under international law. It has about 500 members and is headed by a member of the Constitutional Court.

The Armenian Young Lawyers’ Association (AYLA) was established in 1995 by a group of law students at Yerevan State University. Its mission is to support the development of civil society and the rule of law, focusing on increasing the legal literacy of the general population and improving the professionalism of young lawyers. It has eight offices, two in Yerevan and six of which are located in five of 10 *marzes* (regions) outside of Yerevan. It has over 150 members, and any lawyer up to and including the age of 45 may join.

The Bar Association of the Republic of Armenia (BARA) was established in 1989 by a group of law students at Yerevan State University who wanted to be more active in the social changes in the Soviet Union brought on by *perestroika*. The Association was mostly inactive during the Nagorno-Karabakh conflict but was resuscitated in 1997. Its current goal is to bring together all jurists, including advocates, in-house lawyers, judges, and prosecutors. It has about 600 members, including about 150 advocates.

The Center for Comparative Jurisprudence (CCJ) is a small group of lawyers (about 20) working to ensure that Armenian law and practice comport to international human rights standards.

The Association of National and Local State Attorneys (ANALGA) was founded in July 2001 by civil servant lawyers. It has about 40 members, and its main goals are to enhance contacts among civil servants, support legislative developments, and provide legal guidance to citizens.

The Media Law Institute was established in late 2001. It has about 50 members. The Media Law Institute works in four main areas: Improvement of information and media legislation; litigation; education and training; and raising of public awareness on media law related issues.

SUMMARY FINDINGS

The LPRI assessment for Armenia shows a legal profession that has made some important breaks with the past but that is still struggling to overcome its Soviet legacy. The procuracy remains at the apex of the criminal legal system in Armenia, and, as a result, the rights of criminal defendants are often not fully protected, as evidenced by very high conviction rates. Establishing a true balance between the procuracy and the advocates will require greater judicial independence and reform of the procuracy itself, as well as the evolution of a new mindset in the legal community overall. In addition to this, advocates need to be better trained and more willing to assert their rights. Nevertheless, some important positive developments were observed in this area. Advocates reported few direct efforts on the part of the state to interfere with their work. They now have greater access to their clients, and confidential communications between lawyers and clients seem to be respected. For the most part, the immunity that advocates have been granted under the law is respected.

The two greatest challenges to reforming the practice of advocates that emerge from the following findings are related. The first is the use of “pocket advocates” – state-appointed advocates who collude with state investigators to deny criminal defendants their proper rights. The tradition of pocket advocates has undercut the public’s trust in the *advocatura*, and it was reported that as a result, many if not most criminal defendants waive their right to counsel. The second major challenge, as discussed in Factor 19, is the malfunctioning of the entire legal aid system for providing representation to the indigent. In the criminal sector, advocates are underpaid and, as a result, can be easily corrupted and manipulated. Their adversaries, the investigators and prosecutors, in some circumstances oversee how much they are paid (as well as judges). No state supported legal advice is available in the civil sector.

Civil practice lawyers are less regulated by the state in comparison to their advocate counterparts. Moreover, there is no mandatory bar association to maintain a minimum level of professionalism. A related concern is that non-lawyers may represent parties in court on civil matters. Plaintiffs in a case usually consider hiring non-lawyers to defend them not only because they lack the financial wherewithal to hire a lawyer, but also because of a lack of confidence in the legal profession. On the surface, this may appear to help increase access to justice, but it can also build an imbalance in the legal system if one party is represented by a lawyer, while the other is not.

Legal education is yet another important area that needs attention. As described in Factors 7 and 8, Armenia has too many law schools that are churning out too many lawyers who are insufficiently prepared to serve the public. A more stringent approach to accrediting law schools is needed, particularly because after law school, there are no requirements for further testing or training of civil practice lawyers. Although the advocate unions and rule-of-law implementers like ABA/CEELI provide a great amount of continuing legal education (CLE) training, it remains to be institutionalized and standardized.

Perhaps the most important developments that have occurred for advocates are that they are now largely independent from the MOJ, that they are self-managing, and that their profession has been privatized. Rates and fees are negotiated by advocates and clients. This freedom, of course, must be combined with greater accountability as well if it is to survive. Although the advocate unions have adopted codes of conduct and have the power to enforce them, the profession is still seen as a cog in an overall corrupt system. As discussed in Factors 16 and 17, advocates need to do more to police their own profession and to gain the trust of the public, which remains sadly lacking.

The Draft Law on Advocacy and Advocates Activity, which should be introduced in Parliament in fall 2004, may have a significant impact on the current state of affairs, but the direction and breadth of that impact is difficult to measure at this stage. ABA/CEELI will continue to monitor legislative developments to see how the revised law might affect, positively and negatively, the factors that are discussed in the body of this report.

TABLE OF FACTOR CORRELATIONS

The Armenia 2003 LPRI analysis reveals a developing legal profession in transition. While these correlations may serve to give a sense of the relative status of certain issues present, ABA/CEELI emphasizes that these factor correlations possess their greatest utility when viewed in conjunction with the underlying analysis. ABA/CEELI considers the relative significance of particular correlations to be a topic warranting further study. In this regard, ABA/CEELI invites comments and information that would enable it to develop better or more detailed responses in future LPRI assessments. ABA/CEELI views the LPRI assessment process to be part of an ongoing effort to monitor and evaluate reform efforts.

I. Professional Freedoms and Guarantees		
Factor 1	Ability to Practice Law Freely	Neutral
Factor 2	Professional Immunity	Positive
Factor 3	Access to Clients	Neutral
Factor 4	Lawyer-Client Confidentiality	Positive
Factor 5	Equality of Arms	Negative
Factor 6	Right of Audience	Neutral
II. Education, Training, and Admission to the Profession		
Factor 7	Academic Requirements	Neutral
Factor 8	Preparation to Practice Law	Negative
Factor 9	Qualification Process	Negative
Factor 10	Licensing Body	Neutral
Factor 11	Non-discriminatory Admission	Positive
III. Conditions and Standards of Practice		
Factor 12	Formation of Independent Law Practice	Positive
Factor 13	Resources and Remuneration	Negative
Factor 14	Continuing Legal Education	Neutral
Factor 15	Minority and Gender Representation	Positive
Factor 16	Professional Ethics and Conduct	Negative
Factor 17	Disciplinary Proceedings and Sanctions	Negative
IV. Legal Services		
Factor 18	Availability of Legal Services	Neutral
Factor 19	Legal Services for the Disadvantaged	Negative
Factor 20	Alternative Dispute Resolution	Neutral
V. Professional Associations		
Factor 21	Organizational Governance and Independence	Positive
Factor 22	Member Services	Neutral
Factor 23	Public Interest and Awareness Programs	Neutral
Factor 24	Role in Law Reform	Neutral

I. Professional Freedoms and Guarantees

Factor 1: Ability to Practice Law Freely

Lawyers are able to practice without improper interference, intimidation, or sanction when acting in accordance with the standards of the profession.

Conclusion	Correlation: Neutral
With a limited number of important exceptions, advocates are able to practice without improper interference, intimidation, or sanction.	

Analysis/Background:

Article 20 of the Law on Advocates states that advocates “shall be independent . . . and submit only to the Constitution and laws of the Republic of Armenia.” LAW ON ADVOCATES, art. 20. The same article prohibits any interference by the state, local authorities, political parties, NGOs, and mass media with the professional activities of an advocate. It also provides that advocates shall not be prosecuted or subject to liability for actions performed in accordance with the lawful performance of their professional duties. In addition, Article 21 affirmatively requires the state to protect the advocate and his or her family if they are threatened, and threatening an advocate is prohibited under Article 347.2 of the Criminal Code. If an advocate is arrested, the union to which the advocate is a member must be notified immediately. Moreover, only the Prosecutor General can initiate prosecution against special advocates (described in Factor 9). At the same time, Article 73.5(2) of the Criminal Procedure Code obligates the advocate to obey “the lawful instructions of the prosecutor, investigator, the body of enquiry [and] of the presiding person.” This provision could potentially be used as lever of coercion; however, there is no evidence of this provision being used against an advocate in such a manner.

Although there is no legislation analogous to the Law on Advocates for civil practice lawyers, guarantees of independence and safeguards against interference are provided by the Constitution and by legal provisions on the equality of parties in Armenia’s procedural codes. For example, Article 98 of the Criminal Procedure Code protects participants to a criminal proceeding (e.g., defendants, defendant’s representatives, etc.).

In practice, both advocates and civil practice lawyers reported that government authorities, as a rule, do not interfere with their work, nor do they attempt to intimidate them. However, one advocate did state, “if you stretch your neck out too far, you can expect special attention” from the authorities, such as the tax inspectors, and several respondents cited examples of efforts to interfere with or intimidate advocates. Other respondents claimed that most of the intimidation comes from the victims’ side (relatives or friends). An advocate can request a protection order from the court, but in practice this is difficult to enforce.

In one high profile and politically important case, for example, the state sought to prevent an advocate from representing his client by claiming that he was not entitled to practice law because a prior conviction had not been expunged when he had obtained his license. The matter was referred to the advocate’s union, the IUA, which rejected the claim and held that he had been properly admitted. After this finding was rendered, the prosecution accused the advocate of suborning perjury, and a criminal case was being considered as of the time of this assessment. It remains unclear whether the authorities will allow this advocate to continue to practice law.

In another case, reported by a prosecutor, an advocate was charged with using forged documents. In the view of the prosecutor, the charge was unfounded, and it was filed simply in an effort to intimidate the advocate. This prosecutor also noted that sometimes the police do look into the affairs of advocates, but regarded it as “a professional hazard.” One advocate noted that the relatives of a victim threatened him and then attempted to bribe him.

Another advocate reported that in a case he was pursuing against the mayor of a locality, he was subjected to political pressure (from members of parliament) “not to be so hard on him.” He said, however, that this was unusual and that in other cases against local politicians, he had not encountered any form of intimidation. In a different case, an advocate who was representing a group of victims that had been allegedly brutalized by the police was contacted by a representative of the Police Department and asked to drop the case. When the advocate refused, the Police Department representative apparently turned to the victims and persuaded them to drop the case.

Despite these negative examples, most advocates interviewed felt safe from intimidation. One advocate in the regions reported that in the early years of practice, the authorities will test you, but if you are not in the pockets of the investigators and pay all your taxes properly, there is nothing they can do.

Factor 2: Professional Immunity

Lawyers are not identified with their clients or the clients’ causes and enjoy immunity for statements made in good faith on behalf of their clients during a proceeding.

Conclusion	Correlation: Positive
<p>The law provides for immunity for advocates, and, in practice, immunity has generally been respected for both advocates and civil practice lawyers.</p>	

Analysis/Background:

Article 20 of the Law on Advocates, as well as Article 86.2(2) of the Criminal Procedure Code, provide immunity for advocates. For the most part, advocates and civil practice lawyers reported that this immunity was respected and that they did not feel overly identified with their clients or subject to special harassment because of whom they were representing. There was one exception reported, a case in which an advocate had apparently gotten into an argument with the judge over the latter’s tardiness in appearing for the hearing. The judge had the advocate expelled from the courtroom and then pursued a case for criminal slander. Subsequently, several dozens of advocates appeared in protest at the hearing of the advocate, and the matter was dropped.

Factor 3: Access to Clients

Lawyers have access to clients, especially those deprived of their liberty, and are provided adequate time and facilities for communications and preparation of a defense.

Conclusion	Correlation: Neutral
Advocates have the right to meet with clients that are imprisoned and are given adequate time and facilities to consult with them. Facilities to allow for consultations between advocates and clients are not sufficient in all courthouses, however, and the cages that remain in some courtrooms also impinge on communications between advocates and clients during trial.	

Analysis/Background:

Article 20 of the Law on Advocates states that advocates “shall be secured an opportunity for having individual, unhindered, confidential communications and consultation” with their clients. In addition, Article 73.1(2) of the Criminal Procedure Code gives the advocate the right to private, unhindered communication with the defendant, without limits as to the number of meetings or their length. After detention or arrest, the Criminal Code of Procedure requires the investigator or prosecutor to inform a suspect that he or she has the right to legal representation and that if he or she cannot afford one, the state will pay for and appoint an advocate to work on his behalf. See CRIMINAL CODE OF PROCEDURE, art. 10, 63.2(4), 65.2(3), 70.3(2), 165.

Advocates reported that, in practice, they indeed enjoy relatively free access to imprisoned clients and noted a vast improvement in this regard. Once a client retains representation, the advocate must present his retainer agreement to the investigator in charge, who then provides the advocate with a letter that enables him or her to visit the detention facility where the client is being held. There are no limitations on the numbers of visits, and the limitations on the time and length of the visits were thought to be reasonable. Special rooms have been set up where advocates and their clients can meet in a confidential setting. These are relatively new procedures and were undertaken as a part of the shift in prison management responsibilities from the Ministry of the Interior to the Ministry of Justice in 2001, as required by the Council of Europe (COE).

The situation seems to be less consistent and more problematic when the defendant is held at a courthouse. Reportedly some, but not all, courthouses have separate rooms where advocates and defendants can meet. Lawyer-client consultations within the courtroom are also sometimes constrained by judges who prohibit informal conversation between the advocate and his or her client. The cages in which defendants are kept in the courtroom (and which are being removed, albeit slowly) also present an obstacle to the advocates’ access to their clients. In one high profile case related to the 1999 attack on Parliament⁶, the LPRI assessment team observed the defendants were not only kept in cages, but guards also formed a wall in front of the cages, blocking any access to the defendants.

The situation at the moment of arrest is also problematic. According to Articles 63 and 65 of the Criminal Procedure Code, the defendant has a right to counsel as of detention or arrest, and it was reported that that right was generally respected (a prosecutor who was interviewed emphasized that this constituted a significant break from past practices). However, there are several instances in which practices reportedly run counter to the law, such as when the investigator remains in the room when an advocate meets with the suspect for the first time to decide on whether he or she wants representation. Obviously, the presence of the investigator can have a chilling effect on those discussions. Another concern is that sometimes investigators

⁶ On October 27, 1999, five gunmen launched a surprise terrorist attack on the Armenian Parliament that resulted in the murders of the then prime minister, speaker of parliament, and six other officials.

will interrogate a suspect under the guise of questioning them as a witness.⁷ As a result, the “witness” can be held without access to legal counsel, during which time a savvy investigator can collect enough information against him or her. Finally, the investigator frequently encourages the suspect to refuse representation by telling him or her that the state will seek a lesser charge if he or she does not request an advocate and “cooperates.” Among these things are the suspect paying a bribe, providing testimony the way the investigator dictates, refusing to retain an advocate or the investigator threatening to open another investigation against a relative if the suspect does not cooperate.

The procedure for waiving a suspect’s or a defendant’s right to counsel requires an advocate to co-sign (with the defendant or suspect and the investigator) a document in which representation is declined. However, a number of respondents reported that investigators will tell a suspect that they do not need an advocate and will have them sign a waiver. Afterward, the investigator will ask a “pocket advocate” (a lawyer with whom the investigator has a “cooperative” relationship) to sign the requisite waiver of counsel. Given the extraordinarily low acquittal rate, it must seem reasonable to the defendant to waive counsel, pay a bribe, and negotiate for a lesser charge rather than to incur the wrath of the investigator, be charged with a more serious crime, and face the inevitable conviction and longer prison sentence. Although no statistics were available, one advocate outside of Yerevan estimated that in 80-85 percent of the criminal cases, defendants decline representation, while a Yerevan investigator said that defendants decline representation more than 50 percent of the time. Some NGOs have requested permission from the Ministry of Justice to research archives in order to gather statistics on the frequency with which defendants decline representation, but such permission has not yet been granted. Still, Article 328 of the Criminal Procedure Code requires judges to ask defendants whether they want representation. The Council of Court Chairmen, recognizing the problem, has instructed the courts to ask defendants regardless of whether they already waived that right while in the custody of the investigator and prosecutor.

Perhaps the most notable violation of access to clients occurred during and immediately after the 2003 presidential elections. In reaction to opposition-backed demonstrations, the Armenian government reportedly detained more than 200 opposition supporters for allegedly organizing and leading unauthorized demonstrations, public disorder, hooliganism, and disobeying police. Many of the accused were not provided with legal representation, and advocates who searched for their clients were often given incorrect or misleading information as to where they were being detained.

Factor 4: Lawyer-Client Confidentiality

The state recognizes and respects the confidentiality of professional communications and consultations between lawyers and their clients.

Conclusion	Correlation: Positive
Advocates have the right to confidential communications with their clients, and that right is respected in practice.	

Analysis/Background:

Armenia’s legal framework addresses the confidential nature of information communicated to advocates by their clients. Article 73.1(2) of the Criminal Procedure Code gives advocates the

⁷ The Criminal Code of Procedure does not guarantee a witness an explicit right to counsel, in contrast to a suspect or defendant. However, such a right does extend from ECHR case law, and an argument has been made in an Armenian court case based on this case law. At the time the LPRI was conducted, it was unclear how the case was decided.

right to private, unhindered communication with the clients. Moreover, Articles 86.2(2) and (3) of the Criminal Procedure Code, for instance, states that advocates may not be called as witnesses to “ascertain any information, which might be known to them in connection with a request for legal assistance or by rendering it.” Article 8 of the Law on Advocates provides that “information confidentially provided to the advocate by the client, as well as the information and evidence obtained by the advocate independently in the course of his or her advocate activity, shall be considered an advocate secret.” Article 8 permits disclosure of the advocate secret only under the following conditions:

- The client consents to the disclosure;
- If non-disclosure, in the opinion of the advocate, would result in death, severe bodily harm, or “large scale property damage;” or
- It is necessary to resolve a dispute between the advocate and the client.

The limitations placed on lawyer-client confidentiality set forth in Article 8 generally comport with the approach taken in many legal traditions. Article 21 of the Law on Advocates further prohibits the use as evidence of advocate’s secrets obtained through the search of an advocate or his or her residence.

Advocates reported that lawyer-client confidentiality is respected in practice. No respondents reported any examples of search and seizure of lawyers’ files. While certain other ethical concepts are not well-understood or respected in Armenia, the concept of confidentiality is. Nevertheless, some advocates thought that some of their conversations with detainees had been monitored, but those concerns could not be confirmed. One advocate reported that one interview with a client had been held in the presence of a prison guard.

The earlier mentioned practice of investigators remaining present during the initial discussion between the advocate and the defendant can be seen as a breach of lawyer-client confidentiality, in that the advocate does not have an opportunity to explain in private and without intimidation why the defendant may need a lawyer (see Factor 3).

The confidentiality of communications is also respected in civil cases. Civil practice lawyers reported no efforts on the part of opposing counsel or others, for example, to obtain the contents of conversations between lawyers and clients.

Factor 5: Equality of Arms

Lawyers have adequate access to information relevant to the representation of their clients, including information to which opposing counsel is privy.

Conclusion	Correlation: Negative
<p>Although Armenia’s new legislation provides advocates with many rights to information and materials, in practice access to information remains uneven in favor of the prosecutor. In non-criminal cases, access to information by opposing parties and counsel are more evenly balanced.</p>	

Analysis/Background:

Article 73.1 of the Criminal Procedure Code enumerates the rights of an advocate in a criminal proceeding. These rights include:

- To know the essence of the indictment against the client;
- To participate in interrogations of the client;
- To participate in investigations undertaken by the investigator or the prosecutor upon their invitation;
- To interview private individuals and to obtain data and documents from organizations;
- To seek the opinions of experts;
- To object against actions taken by criminal prosecution bodies and to have those objections included in the case file;
- To review the full file upon the completion of the investigation; and
- To obtain copies of judicial decisions.

One of the goals of the Criminal Procedure Code is apparently to level the playing field between the advocate and the prosecutor. Indeed, most advocates felt that they are now in a better position in terms of equality of arms than they had been in the past. They also felt that judges were at least beginning to protect some of these rights. For example, advocates have the right to review case files developed by investigators and prosecutors in advance of a trial, and it was reported that the time provided to review the file in advance of the proceedings is generally adequate and that an extension of time can be requested and is usually granted by the judge, if needed.

At the same time, advocates also expressed some concerns about access to information. In particular, they complained about the limited information that they may obtain and activities that they may undertake during the investigation period before trial, which usually can last up to one year. While advocates can obtain the indictment, the defendant's statement, as well as expert reports and conclusions, if applicable, they are not entitled to see the statements of other witnesses without the permission of the investigator or to be informed of any wiretaps during an investigation. Moreover, advocates do not have open access to closed court files, but must demonstrate a need, and have authorization from his or her client.

It is only after the conclusion of the investigation that the advocate is entitled to get copies of witness statements and wiretap transcripts. If the prosecutor does not turn over these materials, a breach of the Criminal Procedure Code has occurred, and the judge will order that the materials be provided. It was reported, for example, that if a piece of evidence or other relevant information pertaining to a case file is not provided to the defense and the defense counsel raises the issue in court, the breach of rules will usually be considered insubstantial and thus the evidence will be admitted. There are provisions in the Civil and Criminal Procedure Codes that are akin to the exclusionary rule of American practice, in which illegally obtained evidence can be excluded from consideration. CIVIL PROCEDURE CODE, art. 47; CRIMINAL PROCEDURE CODE, art. 105. One prosecutor said that if these rights are violated, the case will likely be returned for further investigation, which typically leads to the matter being dropped. The statistics on acquittal rates cited in Factor 6, however, indicate that few matters are returned for further investigation.

At trial, advocates do not have the right to subpoena witnesses but must request the judge to do so. It was reported that the judge will usually but not always honor that request. If he or she fails to issue the subpoena, the judge must explain his or her reasoning but often will simply write that the "indictment is well supported" and leave it at that.

Access to information seems more balanced in civil cases, and the Civil Procedure Code provides for a form of discovery. Plaintiffs and defendants are required to attach evidentiary documents to complaints and responses/answers, which are supposed to be passed to the opposing party. CIVIL PROCEDURE CODE, art. 91.3 and 95.1. It was also noted, however, that such discovery was not always honored, and that some advocates still practiced too much courtroom surprise and gamesmanship. One advocate said that you can ask the judge to exclude such "surprise" evidence, but there are no legal guarantees. There is much discretion

with the judge in the enforcement of discovery proceedings, and its fair application remains uneven. Still, it was noted that if new information is presented by one side during a trial, the opposing lawyer may request time to prepare a response.

In terms of access to information such as legislation and case law, problems persist, although those problems exist for lawyers, prosecutors, and judges equally. These circumstances are more fully described in Factors 13 and 24.

Factor 6: Right of Audience

Lawyers who have the right to appear before judicial or administrative bodies on behalf of their clients are not refused that right and are treated equally by such bodies.

Conclusion	Correlation: Neutral
<p>Advocates have the right to appear before judicial and administrative bodies on behalf of their clients, and that right is usually respected. Judges, however, still tend to show greater deference and provide preferential treatment to prosecutors, contributing to very high conviction rates.</p>	

Analysis/Background:

Article 73.1(13) of the Criminal Procedure Code guarantees advocates the right to participate in court sessions and to address the court. Article 42 of the Civil Procedure Code provides a similar right to all court representatives, which applies not only to advocates, but to civil practice lawyers and to non-lawyer representatives as well. These rights are generally respected, although there has been one notable exception. In one case, described in Factor 1, it was alleged that the advocate had not properly obtained his license. The prosecutor proceeded with a motion to remove the counsel from the court, which the judge granted. As a result, the advocate was prevented from representing his client and was in fact removed from the courtroom.⁸

Whether advocates are treated equally in court remains a controversial question. As discussed in Factor 5, judges tend to provide preferential treatment to and show greater deference to prosecutors than to advocates. The challenge may be less with the procedural codes than with a residual Soviet mentality. Under the Soviet system, the prosecutors had the greatest power in the courts; judges typically followed their lead, and advocates were little more than window dressing. Although the laws may have changed, the approach and the mentality have not. Many respondents opined that the *advocatura* remains a weak institution in comparison to the procuracy in post-communist Armenia. As one advocate said, the courts create inequality between the prosecution and the defense by “inertia,” resulting in the very low acquittal rates. A senior judge seconded this view, saying that the relationship between the prosecutor and the advocate was similar to the way it was in the Soviet Union and that “the judges are at fault here.” He also noted however that the mentality of the advocates themselves will need to change if they are to become the equals to the prosecutors.

One of the problems is the use of “pocket advocates,” in which some *ex-officio* advocates, who are paid by the state to represent indigent defendants, were reported to work for the investigator and the prosecutor rather than for their clients. Another problem seemed to be that some advocates do not yet understand fully the rights that they do possess. One judge reported how an advocate should have moved to suppress certain evidence in the pre-trial stage, but did not.

⁸ It should be noted that this instance was a politically sensitive case involving the brother of the prime minister who was killed in the 1999 attack on Parliament.

After the trial, the advocate admitted to the judge that he did not know he had the right to challenge the evidence.

Ultimately, however, many respondents felt that advocates do not have a meaningful opportunity to influence the outcome of cases. This point of view was supported by the available statistics, which indicate that acquittals remain almost as rare as they were under the Soviet system. According to the Ministry of Justice, in 2002 there were a total of four acquittals in the entire country out of approximately 5,000 criminal matters, and for 2003, as of September, there had been five acquittals out of approximately 2,000 cases. The Court of Cassation's statistics confirmed this. Armenia's highest appeals court has stated there have been a total of 14 acquittals in the courts of first instance over the last five years, and an additional 14 in the Court of Cassation during that time.

Some judges defended the acquittal rate by saying that one also had to take into account the matters that were returned to the prosecutor's office for further investigation, which are usually dropped. According to the Ministry of Justice, however, only 27 such cases had been returned in 2002, and 11 as of September 2003. Other judges were more open. One lower court judge said he had given only one acquittal over the preceding year, which was overturned on appeal. One senior judge admitted that sometimes "we hear that judges do not treat prosecutors and advocates equally." This was, he felt, due to the Soviet tradition, when the prosecutors held sway. (As a young judge in that system, he said, he had once acquitted a defendant, and "everyone thought I was insane.") Even the Minister of Justice admitted that judges usually seek to avoid acquittals. Another advocate pointed out that although the law provides for an adversarial procedure, power still flows from the prosecutor down to the judge, as in the Soviet Union, rather than the other way around, and advocates are at the bottom end of the hierarchy. "Without personal connections," he said, "lawyers are unable to do anything . . . But you can be acquitted of anything if you have money and connections." Empowering the advocates and making their work more meaningful is accordingly interdependent on enhancing the independence of the judiciary, reforming the prosecutor's office, and addressing the broader issue of societal corruption.

II. Education, Training, and Admission to the Profession

Factor 7: Academic Requirements

Lawyers have a formal, university-level, legal education from institutions authorized to award degrees in law.

Conclusion	Correlation: Neutral
<p>Advocates must obtain law degrees from university level institutions, but the accreditation process for those schools is not sufficiently stringent. In addition, in non-criminal matters, one does not need to have any form of education to represent another party, and persons without legal education may act as representatives in court.</p>	

Analysis/Background:

In order to become an advocate, one must be a graduate from a law faculty, as well as pass a qualification examination and be a member of one of the advocate unions. LAW ON ADVOCATES, art. 10. Although civil practice lawyers do obtain a law degree, there is no formal legal requirement to do so. Most degrees are based on a four-year undergraduate level program (although some are five-year programs). Four-year programs award the equivalent of a

bachelor's degree. The equivalent of a master's degree can be obtained after an additional two years, and some schools also offer doctoral degrees in law. There are also programs by which students can obtain law degrees by correspondence. If one already has a degree in another discipline, one may be able to obtain a law degree in three years, depending on the university's degree requirements.

There are three fundamental concerns related to academic requirements for lawyers. First, one does not need to be a lawyer to appear in court in a civil matter. The non-lawyer representative must simply file a power of attorney with the court, signed by the party. CIVIL PROCEDURE CODE, art. 41. In many cases, moreover, the parties proceed *pro se*, i.e., representing themselves (one judge estimated that close to half of the litigants in her first-instance court did not have representation). This may be viewed positively from an access-to-justice perspective, and many cases are so minor in nature as to not justify the expense of representation. One source noted that in some cases, accountants serve as representatives in tax and labor cases and that they frequently do a good job. Problems can arise, however, if one party is represented by a lawyer and another is not. The Civil Procedure Code is quite complicated, and not having a lawyer can place a litigant in at least a procedural disadvantage. In addition, as one judge pointed out, the lack of representation places a burden on judicial time and efficiency, since the claims presumably will not be as well prepared as they would be if handled by a lawyer, and the judge needs to spend time advising the party that is not represented by a lawyer.

Second, as in other countries in the former Soviet Union, there are simply too many law schools churning out too many graduates. According to the Ministry of Education, there are 46 law schools in Armenia, 42 of which are private universities and four of which state institutions (Yerevan State, Gavar State, High School of Police, and State Pedagogic University, which offers degrees for school teachers of law) offering law degrees. There are universities with joint programs with the Ministry of Education (MOE) and foreign universities that offer law degrees as well (e.g., French University, the American University of Armenia [only a graduate-level program], and Russian-Armenian [Slavonic] University).

There are not enough qualified teachers to work at this number of law faculties. Moreover, even considering that law is an undergraduate degree and that many of the law faculty graduates go to work as investigators or low-level government officials, there are not enough jobs to warrant the high number of law school graduates. While none of the respondents seemed to know exactly how many law students there are in a country with a population of about three million, there are over 1000 students enrolled in bachelor's, master's, and doctoral law programs at Yerevan State alone.⁹ By comparison, the United States, a country with a population of almost 290 million, has 187 law schools accredited by the American Bar Association, which have a total of 145,000 law students.¹⁰

Third, although Armenia has begun to accredit its law schools, the accreditation and licensing procedures are inadequate and are applied unevenly.¹¹ The four state institutions do not need to be accredited because of their state status. Among 42 private law schools, 21 (18 universities and three law departments of private universities) are accredited by the Ministry of Education (MOE), and 21 are licensed pending accreditation. Only one school that sought accreditation to teach law has been turned down.

There are four stages of accreditation: 1) self-assessment by the university; 2) an independent expert audit of the self-assessment; 3) review of the audit conclusions by the State Licensing and Accreditation Agency; and 4) final examinations administered for two years by the Licensing and

⁹ Please note that Yerevan State University has the biggest law department in the country.

¹⁰ These figures do not include the small number of non-ABA accredited law schools.

¹¹ Being accredited essentially means that the graduates receive a government-approved diploma and are therefore eligible to be hired by government agencies.

Accreditation Agency. Accreditation can be rejected if the State Licensing and Accreditation Agency rejects the auditor's review or if 60 percent of the graduates from the institution did not pass a final examination administered by the Licensing and Accreditation Agency over a two-year period. Once granted, renewal of a license and accreditation status is not required; however, the Ministry of Education can conduct inspections and terminate licenses.

The accreditation process in practice does not include an assessment of the professors, the libraries, and the infrastructure, although such issues, according to the regulations, are supposed to be reviewed (as well as licensing).¹² One professor said that he knew he had been listed on the accreditation applications of five schools, although he taught at only one. Corruption is also reported to be a problem in the accreditation process, particularly with regard to the selection of independent auditors, and it was reported that the person formerly in charge of accrediting schools of higher education has been charged with corruption and is currently evading authorities.

Factor 8: Preparation to Practice Law

Lawyers possess adequate knowledge, skills, and training to practice law upon completion of legal education.

Conclusion	Correlation: Negative
<p>Law schools in Armenia generally provide lawyers with adequate theoretical knowledge of the law, but no schools provide sufficient practical and analytical skills training to practice law upon graduation.</p>	

Analysis/Background:

As discussed in Factor 7, there are simply too many law schools with not that many capable law professors. This means that students may not be obtaining meaningful instruction in the analytical and practical skills that lawyers need. It was reported that most instruction was through lecture, with a few seminars at which students are expected to repeat back to the teacher what was given in the lecture. While many respondents felt that law schools provide a good theoretical grounding in the law, they emphasized that the lack of practical and analytical skills training meant that law school graduates were not being prepared to practice law upon graduation. This sentiment seems to be borne out in a legal education survey conducted by ABA/CEELI during the time of this assessment.¹³

Third or fourth year students are required to participate in a practicum at various government agencies or with the courts that may vary from one to three months in length. As with internships, the quality of the experience varies, but it is generally accepted that not much meaningful practical experience is gained during these brief assignments. As one law professor said, all the student really needs is to have the judge or the prosecutor overseeing him or her sign the piece of paper saying that the student showed up.

¹² According to Government Decision No. 372, in order to be issued a license, a university must provide 8.2 m² per student; list the existence of labs, rooms, equipment, staff, etc.; hire 50 percent of its teaching staff on a permanent basis, out of which three must have doctoral degrees; comply with state curriculum and syllabus standards; possess an appropriate amount of textbooks and computers; have a gymnasium; and offer practical training.

¹³ ABA/CEELI surveyed 25 legal professionals in Armenia, who collectively hired more than 65 lawyers in the past five years. The consensus of those surveyed was that students from both state and private universities come out with a strong theoretical base of knowledge, but both sectors' graduates have an enormous lack of practical experience. *What Employers Think About Armenian Law Faculty Graduates* (January 2004).

Some clinical programs, with donor support, are being introduced, but the only law school-based clinic is at Yerevan State University, where 46 students work.¹⁴ There are also a number of NGO-based clinics with active student internship programs. While participating in these programs may provide the students with valuable experience, they do not gain any academic credit for their work,¹⁵ which may inhibit students from taking part in these programs and learning practical skills.

In addition to the lack of practical skills training, the law school curriculum seems outdated. There is a required core curriculum for both private and state universities, which is based on the main “Yerevan State” model.¹⁶ However, several observers noted that, because legal education is an undergraduate degree, too great an emphasis is placed on non-legal topics, such as languages and history, and not enough on the basics of law. Moreover, while some schools do teach modern commercial law topics, some respondents thought that further emphasis needed to be placed on these and other emerging topics, such as bankruptcy and competition law.

Interestingly, advocate-related coursework is also reported to be under-emphasized in the state law schools – 20 hours of instruction on the role of the advocate versus 60 hours on the procuracy – and graded by a less rigorous (pass/fail) test. The quality of the teaching materials was also called into question, with few commentaries being developed on the new substantive and procedural codes and an over-reliance on Russian-language texts.

Corruption in the law schools is also still reported to be a problem, with students using either money or connections to ensure admission and good grades. The testing is almost always oral, which can present further opportunities for unethical practices. Overall, there seemed to be mixed opinions about the level of corruption. Some respondents reported that the situation was improving, especially, for example, with the increased use of written examinations in addition to oral tests. However, other respondents thought that the level of corruption had increased, citing a decrease in the number of “real” corruption cases in comparison with three years ago.

Factor 9: Qualification Process

Admission to the profession of lawyer is based upon passing a fair, rigorous, and transparent examination and the completion of a supervised apprenticeship.

Conclusion	Correlation: Negative
Admission to the <i>advocatura</i> is supposed to be based on passing an examination; however, this has not been administered since 2001. No requirement exists for advocates to complete a supervised apprenticeship. Civil practice lawyers are not required to take any form of qualification examination or to serve an apprenticeship before they begin to practice.	

Analysis/Background:

The law sets out a qualification process for advocates. Article 10 of the Law on Advocates requires that, in addition to having a law degree, the advocate candidate must pass “a

¹⁴ ABA/CEELI plans on sponsoring two law school-based clinics at Gavar State University and Gyumri “Progress” University in winter 2003-04.

¹⁵ The concept of giving students academic credit is controversial and not well understood.

¹⁶ Private universities have more flexibility in terms of adding courses to the main curriculum, but the curricula are not changed on yearly basis with the exception of perhaps one or two courses being added.

qualification examination and [receive] a corresponding certificate.” In contrast, there is no licensing procedure for civil practice lawyers. Anyone who has graduated from law school may simply start to work as a lawyer in civil matters without any additional licensing procedure.

The Law on Advocates refers to the State Qualification Commission, which was supposed to administer an advocates’ examination; however, a law establishing the Commission was never passed, so the MOJ took the initiative in organizing the qualification examination. The MOJ began administering examinations in 1999, and a qualification commission consisting of seven people – three advocates, three judges, and one MOJ representative – was created; however, the MOJ stopped administering the examination in 2001. No examinations have been given since 2001, as a result, no new advocates have been licensed since that time. As a result, most civil practice lawyers who have aspirations of becoming an advocate either work with licensed advocates or are only handling civil cases until the examination process restarts.

If a candidate passes the examination, he or she then takes the results to either one of Armenia’s two advocate unions and applies to be licensed. The union has one month to decide either to grant or refuse the license. The advocate unions may refuse to grant a license on a number of grounds, including employment as a public servant, being convicted of a criminal offense, or health issues that prevent an advocate from fulfilling his or her duties, to name a few reasons. UARA CHARTER, art. 22 and IUA CHARTER, art. 4.9. Refusal to license an advocate candidate is subject to judicial review. Once granted, licenses are valid for life. LAW ON ADVOCATES, art. 11. To date, neither union has declined to license anybody who passed the examination.

The 1999 examination consisted of a multiple-choice test, followed by interviews for those who had passed. Books with the sample test questions and answers were available in advance. According to one source, a local NGO helped to develop the questions, but according to another, the Ministry of Justice prepared them. In 1999, according to the president of the Union of Advocates of the Republic of Armenia (UARA), about 700 people took the examination, of which 440 passed. Respondents generally considered the 1999 examinations to have been administered fairly, although several advocates noted that the examination was perhaps not rigorous enough and that a number of unqualified candidates were admitted into the profession.

The examinations were different in 2000 and 2001. In those years, the applicants were given a case fact sheet and asked to write an appeal. In all years, the written components were graded blindly, and most observers felt that the examinations were conducted in a fair and transparent manner. Those who passed that part of the test then underwent an interview process. In 2000, there were about 200 applicants, and 35 people passed. In 2001, there were about 260 applicants, and 59 passed. Some respondents complained that the oral part of the 2000 examination was not administered objectively, citing the lack of sufficient questions used and the failure to select questions randomly (most oral examinations in Europe are administered by selecting by chance several questions out of a large “deck of cards” with questions on them).

The reason for the failure to administer the examination during the past two years, according to the president of the UARA, is that Article 38 of the Law on Advocates, which refers to the Qualification Commission, was intended to be transitory and was never replaced. As a result, there is no legal provision governing the administration of new examinations. Some advocates complained that the Ministry of Justice should not be involved in any way in administering the qualification examination, and there appears to be some interest on behalf of the MOJ to transfer all responsibility for administering the examinations to the bar unions themselves. The 2003 Draft Law on Advocacy and Advocates Activity provides for the re-establishment of the examination process, but it is not clear if and when the new law will be passed or what form the final examination process will take.

Some advocates can also obtain a special license that enables them to reopen closed cases on a special appeal to the Court of Cassation. CONSTITUTION, art. 93; LAW ON ADVOCATES, art. 18. Previously, such special appeals, known as supervisory appeals, could only be brought by the

prosecutor; however, the procedural codes were amended in 2001, removing all limitations on appeals to the Court of Cassation for cases (in both civil and criminal matters) that have not come into legal force. For the cases that have already come into legal force, the appeal to the Court of Cassation can be brought by the prosecutor general or his deputies or by advocates who hold a special license and are registered at the Court of Cassation. Each advocate union can grant three special licenses each year, which are valid for five years. LAW ON ADVOCATES, art. 12. Currently, there are only nine special licensed advocates. To become a special licensed advocate, one must pass an examination on special program and then be elected in closed voting by the General Assembly of the advocate union to which one is a member. *Id.* art. 10 and art 12.

There is no apprenticeship requirement to become either an advocate or a civil practice lawyer, except for the completion of a practicum while studying law. During the Soviet period, there was a requirement that advocates have a one-year apprenticeship or three years experience in another legal profession, such as a judge or prosecutor. Many respondents valued the apprenticeship system under the Soviet system. The Draft Law of Advocates and Advocate Activity envisions re-introducing some form of apprenticeship.

Some respondents felt that the lack of a licensing procedure to handle civil cases had a financial impact on civil practice lawyers. But as the number of non-lawyers representing clients (no hard statistics were available) is not that high, the impact is not sufficient enough to draw potential clients away from advocates and civil practice lawyers.

Factor 10: Licensing Body

Admission to the profession of lawyer is administered by an impartial body, and is subject to review by an independent and impartial judicial authority.

Conclusion	Correlation: Neutral
Admission to the <i>advocatura</i> is administered largely by the advocate unions themselves and is subject to judicial review. There is no licensing body for civil practice lawyers.	

Analysis/Background:

The advocate unions grant licenses to practice to advocates, and the advocates see this as an important protection. One advocate emphasized “we get our license from the union, and only the union can take it away.” Neither union has rejected the application of an aspirant advocate who has passed the examination, but in theory appeal to the judiciary is available in case of rejection.

No governmental or non-governmental body oversees the licensing of civil practice lawyers. The only requirement is that they be graduates of law schools. Although this is positive in terms of not creating barriers to entry to the profession, it does raise some questions as to the qualifications of lawyers who handle only civil law cases.

Factor 11: Non-discriminatory Admission

Admission to the profession of lawyer is not denied for reasons of race, sex, sexual orientation, color, religion, political or other opinion, ethnic or social origin, membership in a national minority, property, birth, or physical disabilities.

Conclusion	Correlation: Positive
Admission to the profession does not seem to be denied for any of the cited reasons.	

Analysis/Background:

The grounds for refusing a license are spelled out in Article 14 of the Law on Advocates. It provides that one cannot become an advocate if one works for the state, is convicted of a crime, or is recognized as incompetent. Currently, the Law on Advocates does not explicitly contain a non-discrimination provision. However, the Draft Law on Advocates and Advocate Activity does include such a provision. See DRAFT LAW ON ADVOCATES AND ADVOCATE ACTIVITY (October 2003), art. 24. Both the existing Law on Advocates and the Draft Law on Advocates and Advocate Activity contemplate vesting foreign lawyers with the right to practice law except in proscribed instances, such as providing legal assistance on matters of national security, taking part in legal aid schemes, training assistants and interns, and being elected to offices of the Chamber of Advocates (the proposed successor organization to Armenia's current advocate unions). See DRAFT LAW ON ADVOCATES AND ADVOCATE ACTIVITY (October 2003), art. 18. See *also* LAW ON ADVOCATES, art 2.

Despite the lack of legal provisions, racial or ethnic discrimination in the admission to the legal profession is not a significant concern in practice largely because Armenia is mono-ethnic (officially only 2.1 percent of the population is non-ethnic Armenian). Although Armenia has had some difficulties with gender rights issues on whole,¹⁷ discrimination, in terms of admission to legal profession, does not appear to be a problem. There are reported to be basically equal numbers of men and women advocates, with some prominent women lawyers. Moreover, since there is no admission procedure to practice civil law, this obviously removes any potential barriers to admission in this area of the law.

One source did state that fewer women are admitted to the law faculty at Yerevan State University (YSU) than men, although others reported a gender balance in law schools overall. According to the YSU Law Department 60 percent of its students are men and that 40 percent are women. Some respondents noted some discrimination against women who seek to become members of the procuracy based on a feeling that women should not be involved in investigating violent crimes.

Although the 2003 presidential elections revealed a growing political polarization within Armenia, this has not affected the ability of candidates to join either of the two advocate unions based on their political beliefs.

¹⁷ In July 2002, ABA/CEELI conducted the pilot implementation of its CEDAW Assessment Tool, which found "Armenia's de jure compliance with CEDAW ... largely satisfactory ... but [its] de facto compliance is more problematic. While laws exist on the books, they are rarely implemented or enforced." For more details, see the *CEDAW Assessment Tool Report for Armenia*, July 2002.

III. Conditions and Standards of Practice

Factor 12: Formation of Independent Law Practice

Lawyers are able to practice law independently or in association with other lawyers.

Conclusion	Correlation: Positive
Although advocates must be members of one of the unions, there is no other limitation on the formation of their practice.	

Analysis/Background:

Article 9 of the Law on Advocates states that advocates can practice under any legal status. Similarly, the Civil Code permits civil lawyers to establish law practices. There is no other limitation on the way lawyers may practice. It was reported that most worked as individuals, although some have formed partnerships or limited liability companies with other lawyers.

In practice, respondents indicated that there were few, if any, challenges or barriers in setting up independent legal practices. Rather, most of the challenges seem to be related to more practical issues related to maintaining an office, such as office upkeep, paying taxes, etc. These issues are discussed in detail under Factor 13.

Factor 13: Resources and Remuneration

Lawyers have access to legal information and other resources necessary to provide competent legal services and are adequately remunerated for these services.

Conclusion	Correlation: Negative
Not all lawyers have ready access to legal information and other resources. The pay scale for most advocates, in particular those working on state paid criminal defense, and civil practice lawyers is low.	

Analysis/Background:

Access to legal information is a challenge for all lawyers in Armenia. New laws and regulations are published by the government in the official bulletin, but are not distributed to lawyers, who must buy them in bookstores. Laws can be readily found in Yerevan and in other major cities, but not in the smaller municipalities. The laws can cost between ARD 2,000 and 10,000 (about \$3.50 to \$17.70) to purchase. Lawyers can get free access to laws in libraries, but it is generally more difficult in the regions (*marzes*). AYLA’s presence in areas outside of Yerevan has been helpful in providing lawyers in the *marzes* with access to the IrTek legislative database; however, the association’s presence is limited to six regional cities.

IrTek costs about \$50 to install and \$25-30 for monthly update. Most lawyers cannot afford the IrTek database, but both unions of advocates have it in their main offices and make it available to their members, as do the other legal NGOs, such as BARA, the ANALGA, etc. The IrTek database is also available to most government lawyers at their ministries.

Due to the sweeping changes made to Armenia's legal framework in recent years, there is a pressing need for legal commentaries in order to provide guidance on new laws and codes to lawyers and to judges, prosecutors, etc. However, there are few commentaries on new legislation and not enough economic incentives to develop them. Similarly, judicial decisions are also not readily available, although more than 5,000 were published on an ABA/CEELI-sponsored website.¹⁸

Office space is also a concern for some lawyers. Before 1998, advocates maintained offices in each of the courthouses, but since the Law on Advocates was passed, they are no longer entitled to such office space, and so either have private office space or work out of their homes. The same applies to civil practice lawyers. Some advocates now rent space from the courts, and in one instance, the advocate had been given an office in the building of the procuracy. Overall, this is an additional expense that advocates did not previously have to bear. Moreover, it may be more difficult for clients to find lawyers if they are not located in a courthouse.

Unlike some countries, the advocate unions generally do not have a set fee structure; UARA has guidelines with the minimal fees for certain type of services (filling out papers, consultation, etc.). Lawyers negotiate their fees with their clients ("The amount and procedure of remuneration for advocate activity shall be decided by the contract signed between the advocate and the person having applied for the receipt of legal service." LAW ON ADVOCATES, art. 6); *Also see* CRIMINAL PROCEDURE CODE, art. 165.1. Article 4.1 of the UARA Code of Conduct states that "[a]n advocate's fees shall be reasonable," but provides no other guidelines. The IUA Code of Conduct does not address the issue of fees. It is difficult to establish how well advocates and civil practice lawyers are doing financially. Clearly, there are a few lawyers who are well known and who can command high fees. Many others, especially those less able to adapt to the new circumstances, may be struggling.

Some respondents indicated that remuneration was dependent on years of experience and personal reputation. One source indicated that an advocate might be paid \$100 per month to work on a case, plus per hour fee for each hour that he or she is in court. Another advocate said that professionals can charge about \$150-200 per case and that \$100 can buy about one month of an advocate's time. It was also reported that more experienced advocates may charge up to \$1000 per criminal case. One of the NGOs that provides representation services reported that it paid its lawyers \$200 per month. Contingency fees are permitted and typically constitute 2-5 percent of the amount of the total claim, depending on how complicated the matter is. Special advocates, who have the right to appeal closed cases, can charge \$100 per filing. It was reported that experienced advocates typically handle about 12 cases at any particular time and that civil practice lawyers manage about seven. *Ex-officio* advocates, paid from the state budget to defend indigent criminal defendants, are very poorly paid. As a result, services are typically poor and can result in these representatives turning into "pocket advocates" (see Factor 19 for more information).

Lawyers consistently raised two concerns regarding fees. First, according to the tax laws, advocates are treated the same as other entrepreneurs and must pay both an income tax of 17 percent and Value Added Tax (VAT) of 20 percent. Advocates and civil practice lawyers felt that this was onerous, especially considering the public service nature of their work and that they should be exempt from VAT. One advocate admitted that given the tax structure and in order to circumvent paying taxes, advocates frequently do not enter into written contracts with their clients. This can be a dangerous game, exposing advocates to government intrusion and potentially undermining their independence. Indeed, one advocate outside of Yerevan reported that it was very difficult to maintain a practice, because the tax police were constantly making inquiries.

¹⁸ ABA/CEELI halted the posting of judicial decisions shortly after judicial reform activities were suspended after the 2003 presidential election. ABA/CEELI anticipates that judicial reform and specifically the expansion of the judges' website will restart in early 2004. The web site is www.armenian-judiciary.am.

Second, both advocates and civil practice lawyers face a challenge in collecting their fees, particularly in the regions. Given the economic climate in Armenia, this comes as no surprise. Several advocates, in particular outside of Yerevan, said that much of their work is essentially *pro-bono*. Civil practice lawyers responded similarly. One advocate estimated that he did not get paid for 50 percent of his cases, and others reported that they do not charge for consultations, just representations.

Factor 14: Continuing Legal Education

Lawyers have access to continuing legal education to maintain and strengthen the skills and knowledge required by the profession of lawyer.

Conclusion	Correlation: Neutral
<p>Although continuing legal education (CLE) opportunities through donor organizations do exist, Armenia has not yet established a consistent means of providing continuing legal education to its lawyers. Advocates and civil practice lawyers outside of Yerevan have little, if any, access to training.</p>	

Analysis/Background:

Article 24 of the Law on Advocates states that one of the goals of the advocate unions is to “organize their members’ education and training.” No legal CLE requirement exists for civil practice lawyers. Despite the Law on Advocates mandate and the many free, donor-funded activities, attending CLE programs has not yet become standard practice in Armenia. The advocate unions or the lawyer associations do not have the resources to conduct CLE without donor support.

This is unfortunate because the need for CLE in Armenia is great, given the ongoing changes in the legislative framework. Indeed, at a conference co-hosted by the Ministry of Justice, the Council of Europe, and the Embassy of France in March 2003, it was agreed that the establishment of a training institute for advocates and other lawyers should be a high priority for Armenia, and a working group was established to pursue that goal. Apparently, however, no significant progress has been made since that time. It is also notable that there are few opportunities for CLE outside of Yerevan. Nevertheless, there have been some significant efforts made in this area, although largely on an *ad-hoc* basis and entirely funded by international donors.

The two advocate unions, with funding from ABA/CEELI and USAID, engaged in an extensive series of trainings, focusing largely on advocacy skills, in 2002 and 2003. In 2002, 30 such CLE programs were conducted, almost entirely in Yerevan. Between 25 and 40 advocates attended each session. Unfortunately, this project ended in September 2003, and although the unions would like to continue to offer training, it is not clear that they will be able to without outside funding and organizational support.

AYLA, also with ABA/CEELI and USAID support, conducted 25 training sessions in 2002, mostly on criminal law and criminal procedure. This program was expanded in 2003 to approximately 150 roundtables and seminars being conducted around the country on a variety of topics, including ECHR case law and criminal procedure law. BARA has trained a group of journalists on covering legal issues. With the support of the Open Society Institute (OSI), working with the Helsinki Committee and the Council of Europe and the UK-based Interights Center, BARA is also training 25 Armenian advocates on case applications to the European Court of Human Rights. One senior judge noted that more needed to be done in this area, as only four lawyers had

presented arguments to him based on the European Convention over the past two years. The Sakharov Center, with funding from the United Nations High Commissioner for Refugees (UNHCR), also conducts some training for lawyers on human rights and refugee rights in the four regions in which it works.

Factor 15: Minority and Gender Representation

Ethnic and religious minorities, as well as both genders, are adequately represented in the profession of lawyer.

Conclusion	Correlation: Positive
<p>There are few ethnic and religious minorities in Armenia, but both genders are adequately represented in the legal profession.</p>	

Analysis/Background:

There are no anti-discrimination laws in Armenia. However, the Constitution does set out some guidelines for equality. See CONSTITUTION, art. 15 and 16. The current Law on Advocates does not have any anti-discrimination clause. Armenia is a signatory to the United Nation’s Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which addresses a broad range of gender rights issues, and its *de jure* compliance as such is largely satisfactory according to ABA/CEELI’s 2002 CEDAW Assessment Tool. It is also a signatory to such international treaties as the International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, European Convention on Human Rights, and the European Charter for Regional or Minority Languages. These treaties are currently being translated into Armenian and certified by the Ministry of Foreign Affairs (MFA) through an ABA/CEELI-sponsored program.

As noted in Factor 11, Armenia is a largely mono-ethnic state, with small numbers of Yezidis, Kurds, Georgians, Russians and Greeks. As a result, ethnic or religious discrimination was not viewed as a significant practical issue among respondents, particularly when it came to minority representation among advocates. At the same time, UARA reported that all its members are ethnic Armenians, although there had been one ethnic Georgian and one Yezidi, but both recently had become prosecutors. The IUA said that it did not track the ethnicity of its members but that at least one member was ethnic Russian. Given the lack of official organization among civil practice lawyers, it is impossible to give an accurate count as to how many ethnic or religious minorities may be practicing in this area of the law. AYLA did not know if any ethnic minorities were represented in its membership. Neither of the advocate unions nor the government has established any initiatives to encourage the training, placement, and advancement of ethnic minorities.

In contrast to ethnic and religious minorities, there is much better representation of women within the legal profession. The president of the UARA estimated that women constituted about 40 percent of its membership, but only one woman is in a leadership position as chairperson of the Oversight Committee. The IUA reported that 51 out of 165 members (31 percent) are women and that there are five women on the 13-member Executive Board, three women on the ten-member disciplinary committee, and three women on the eight-member financial control committee. AYLA indicated that its membership is gender-balanced, and ANALGA was an exception in this area, reporting that only five out of its 40 civil service lawyer members are women.

Factor 16: Professional Ethics and Conduct

Codes and standards of professional ethics and conduct are established for and adhered to by lawyers.

Conclusion	Correlation: Negative
<p>The two advocate unions have enacted codes of conduct, and various legislative acts also guide the behavior of advocates. But these codes and laws are incomplete, are vague in many instances, and are unevenly applied. There is no enforceable code of conduct that applies to civil practice lawyers. Problems with the ethics of lawyers are said to abound.</p>	

Analysis/Background:

Advocates are required to abide by their respective advocate union’s code of conduct; however, there is no comprehensive, government-sanctioned code of professional ethics or code of conduct for civil practice lawyers in Armenia. Notably, the Law on Advocates includes some ethics provisions. According to Article 19 of the Law on Advocates, advocates must abide by the following practices:

- Obey the Code of Professional Conduct and the bylaws of the advocate union to which he or she belongs;
- Refrain from disclosing advocate’s secrets (lawyer-client confidentiality);
- Refrain from any client-related conflict of interests and from taking a position in a case without the client’s agreement;
- Not represent two or more persons in the same matter, if there is a conflict of interest between them;
- Not participate in a case if the advocate has previously been a judge, prosecutor, investigator, expert, or witness in the case;
- Not represent a client whose interests are adverse to those of a prior client, without the written consent of the prior client; and
- Cease to render assistance to two or more persons if a conflict of interest arises between them.

The Criminal Procedure Code also provides that advocates may not undertake any action against the interests of the client, declare the guilt of the client without the client’s permission, or appear in a case in which they have participated as a judge, prosecutor, investigator, interpreter, expert, etc. See art. 73.2 – 73.4 and 93. In addition, it is a criminal offense for an advocate to accept a bribe. CRIMINAL CODE, art. 200.3. It is also a crime for an advocate to forge evidence. *Id.*, art. 349.2.

Both advocate unions have codes of conduct, which cover many of the same issues that the laws cited above address, such as on representing the interests of the client, protecting client confidences, etc. UARA CODE OF CONDUCT, art. 20; IUA CODE OF CONDUCT, art. 6, 13, and 14. The IUA Code, in particular, tracks the Law on Advocates, adding very little additional guidance. The UARA Code does require advocates to maintain their independence, professionalism, and personal dignity (Article 2) but does not provide guidance in specific situations beyond those covered in the Law on Advocates. *Ex-parte* communications are not expressly prohibited by any law or code of conduct.

BARA also has a code of conduct, and, as with the advocate codes of conduct, the BARA Code of Conduct emphasizes such broad concepts as the independence of lawyers, maintaining client confidences, and acting with integrity. BARA CODE OF CONDUCT, art. 1.3. The BARA Code does,

however, provide more specific guidance in areas that are not covered by the advocate codes of conduct. For example, it exhorts members to practice the following types of conduct:

- Lawyers “shall avoid using improper means for attracting clients” and “shall refrain from advertising [themselves], except for cases stipulated by law.” art. 2.3.
- Lawyers must “inform clients concerning possible undesired consequences” before rendering services. art. 3.3.
- “Due to the fact that vulnerable groups of the population are not able to pay for legal assistance rendered to them, lawyers are obliged to allocate part of their spare time for rendering free legal assistance and advice to such people.” art. 3.4.
- Lawyers “shall promote . . . the legal awareness of citizens.” art. 3.10.
- Lawyers shall improve their professional knowledge and “undertake actions for improvement of the legal education system and the functioning of state bodies administering justice . . . ” art. 6.1.

While the existence of these codes and the provisions included in the other laws is salutary, there is clearly a problem with adherence to them. Many of the advocates interviewed did not even know that their respective unions had adopted codes of conduct. BARA’s Code of Conduct has no enforcement provisions, and it is strictly voluntary, meaning that if a member were in breach, it would in no way affect his or her ability to practice law. Moreover, multiple examples of unethical conduct were provided to the assessment team. First, and perhaps most importantly, many respondents believed that corruption among advocates persists, mostly through the work of “pocket advocates” as described in Factors 6 and 19 but also as conduits for payments to judges and prosecutors. It is impossible to know how many advocates are implicated, but the problem is perceived to be widespread. One leading advocate estimated that 30 percent of his colleagues are involved in corrupt practices. One senior prosecutor reported that no advocates had been charged with corruption, although some in-house lawyers had been, mostly relating to obtaining licenses or procuring state contracts. No advocate has been charged with corruption in proceedings before the unions either.

Second, despite the many prohibitions against conflicts of interest, there were several reports of advocates working for one client and then switching sides when the other side offered more money. A related problem, also reported to be relatively common and also illegal, is when advocates fail to enter into a written agreement with the client, in order to avoid paying taxes on the agreed upon fees.

A final problem that was also frequently cited was of advocates failing to appear for hearings. In terms of courtroom decorum, however, it was reported that advocates are generally respectful of the judges. Although there was a case reported of an advocate being prosecuted by a judge for having called him “illiterate” in court. There were also a few unsubstantiated reports of advocates assaulting judges or witnesses.

There are no codes or standards of professional ethics and conduct for civil practice lawyers.

Factor 17: Disciplinary Proceedings and Sanctions

Lawyers are subject to disciplinary proceedings and sanctions for violating standards and rules of the profession.

Conclusion	Correlation: Negative
<p>Advocates are subject to disciplinary proceedings, but there have been few violations found and light punishments provided. There are no mechanisms for civil practice lawyers.</p>	

Analysis/Background:

The only frameworks in Armenia for disciplining lawyers for violating standards and rules of the profession applies exclusively to advocates. These include the Law on Advocates, the codes of ethics of each advocate union, and the charters of each of the advocate unions. No process for disciplining ethical or conduct-related violations exists for civil practice lawyers nor are there any enforceable standards and/or rules of this area of the profession. The only code of professional conduct that applies to civil practice lawyers is the one promulgated by BARA, which has no enforcement provisions.

The Law on Advocates addresses how advocates are to be disciplined for ethical violations. Article 22 requires Armenia’s advocate unions to establish disciplinary committees to hear complaints against members and mandates that disciplinary proceedings begin upon the receipt of a signed complaint. The complaint must be filed within three months of the discovery of the violation, and the proceedings must be completed within one month of the filing of the complaint. LAW ON ADVOCATES, art. 27.

Article 23 of the Law on Advocates stipulates that an advocate may be subject to a warning (oral, but recorded in the minutes), a reprimand (a letter is placed in the advocate’s file), or a severe reprimand (which also results in a letter in the advocate’s file). Reportedly, all three punishments expire within one year, and any record is expunged, although this process is not stated for in the law. Article 15 of the Law on Advocates states that an advocate may lose his or her license for violating provisions of the Code of Professional Conduct that call for termination as a punishment. All disciplinary actions are subject to judicial review. LAW ON ADVOCATES, art. 23. The law does not address whether an advocate may have representation, nor has this principle been tested. Interestingly, Article 17 of the UARA Code of Conduct also allows for the suspension of advocates, although that is not cited as a possible punishment in the Law on Advocates. Article 34.2 of UARA Charter provides that persons who have been expelled from the union may apply for readmission after two years, following the regular admissions process. It is noteworthy, however, that according to the charters of both unions, the primary grounds for loss of membership, and hence loss of license to practice, seems to be failure to pay dues.

The UARA’s five-member Disciplinary Committee is elected by the General Assembly for a three-year term. The procedure for responding to a complaint is as follows: The Executive Board will first discuss the matter to determine whether it warrants referral to the Disciplinary Committee. If it goes to the Disciplinary Committee, one of the committee members will investigate the charges, will develop a file, and will set a date for a hearing.

The Disciplinary Committee heard several dozen matters in the past year, but most of them dealt with non-payment of dues and other minor issues. UARA CHARTER, art. 30.8 and IUA CHARTER art. 4.15 and 4.5. In one serious matter, one member of the union had been representing the victim, but, in the middle of the investigation, switched sides and started representing the defendant. The Disciplinary Committee, by a 3-2 vote, recommended expulsion, but the Executive Board voted 5-2 that the recommendation was too harsh and the advocate received

only a written admonition. Two members who had stolen money from their clients and fled the country have been disbarred.

The IUA's nine-member Disciplinary Committee is elected for four years by the General Assembly. At least seven members of the Committee must be present to hear a complaint. Both sides attend the hearing, which occasionally leads to a reconciliation or settlement. The hearings are open, and the press has attended some of them. Since June 2002, the IUA had considered 11 complaints against its members, with three resulting in reprimands being issued against the advocates in question. In one case, an advocate was charged with collecting fees from a client without first having executed a contract, which under Armenian law is considered an abuse of official position, and resulted in criminal sanctions. The cases in which no disciplinary actions were taken were mostly matters filed by judges concerning the failure of an advocate to appear for a hearing. Upon investigation, the Committee determined that the advocates had given prior notice of their inability to appear. In another case, a client sought a refund of the retainer he had paid the advocate because he had lost the case. Again, the committee found no violation of ethical standards.

There seem to have been relatively few actions taken by the unions against their membership, given the high level of concern regarding the ethics of advocates. Moreover, no actions have been taken regarding the "pocket advocates." The unions seem to be acting to protect their members, which may be understandable but is detrimental to the profession overall and to the freedom of the unions in the longer term.

IV. Legal Services

Factor 18: Availability of Legal Services

A sufficient number of qualified lawyers practice law in all regions of a country, so that all persons have adequate and timely access to legal services appropriate to their needs.

Conclusion	Correlation: Neutral
<p>Although there appear to be sufficient numbers of advocates and civil practice lawyers practicing in Yerevan, there were reported shortages of lawyers, particularly advocates, in some of the more remote regions outside of the capital. Moreover, the quality of services provided by lawyers in the regions tends to be poor.</p>	

Analysis/Background:

There are about 465 advocates in all of Armenia, which has a population of about 3.2 million. This means that there is a ratio of about one advocate for every 6,900 persons. In contrast, the United States has almost 635,000 private practitioners, the ratio of which to the general population is 410:1. In contrast, Norway, with a population of almost 4.5 million, has 3,747 practicing private practitioners, giving it a ratio of one lawyer to every 1200 inhabitants. There also seems to be a fair number of civil practice lawyers based on the number of law students graduating each year, although a reliable estimate could not be established. As noted elsewhere, one does not need to be a lawyer to represent a litigant in a civil case, and many parties choose to litigate *pro se*. Thus, availability of legal representatives should not be a significant problem, but apparently it is, at least outside the capital. For example, more than half of Armenia's advocates work in Yerevan. The Ministry of Justice reported that three regions did not have enough advocates but that special examinations had been held and five new candidates became advocates, thus alleviating the problem.

UARA maintains nine offices in all of Yerevan city’s districts and has another 24 offices in the *marzes*. It reported to have an office in each of Armenia’s 10 *marzes* and that even in the most remote region, Kapan, there are two advocates. Despite this, the president of the UARA admitted that in some regions there are too few advocates and that coverage must be obtained from neighboring regions (in this regard, Armenia’s small size is an advantage; although most lawyers are based in Yerevan, many work on a national basis). The IUA has members working in eight of the ten *marzes* outside of Yerevan, although there are only three regional IUA offices out of which their advocates can operate.

The shortage of advocates outside of Yerevan was confirmed through visits to three towns. One advocate from a city, not far from Yerevan, with a population of about 50,000, reported that there were three advocates working in the city and that it was not enough, although sometimes advocates come from Yerevan to help out. There were also three prosecutors and three judges in the city. In another town, which has less than 15,000 inhabitants, the one advocate there reported that he could handle the workload and that there was no need for additional advocates (this may be because defendants are declining representation by advocates, as described in Factor 19). There was also one prosecutor and one judge in the locality. He also noted that there were no civil practice lawyers in the town. In another city, with about 22,000 residents, there was only one advocate, who reported that he only handled about one or two criminal cases per month but that the town needed more lawyers to help with civil cases.

Finally, it should be noted that several respondents said that there might not be a problem with the numbers of advocates and civil practice lawyers in the regions, even if in some there were only one or two, but rather the real problem was with the quality of legal services. As described in Factor 5, lawyers in the *marzes* have less access to laws and other legal information and fewer opportunities to participate in CLE. The few number of advocates also means that there is less competition and hence less motive to provide better services. The small legal community in these regions (where there may be one judge, one prosecutor, and one advocate) may also mean that they work too closely together, potentially to the detriment of the criminal defendants.

Factor 19: Legal Services for the Disadvantaged

Lawyers participate in special programs to ensure that all persons, especially the indigent and those deprived of their liberty, have effective access to legal services.

Conclusion	Correlation: Negative
<p>The state supports a program to provide indigent criminal defendants with free legal representation, but the system is under-funded and is reportedly subject to corruption and manipulation by the prosecutorial authorities. There is no state supported system to provide legal aid in civil cases. A number of the lawyers’ organizations provide consultation and representation to the indigent in both criminal and civil cases, but it is done on an <i>ad-hoc</i> basis.</p>	

Analysis/Background:

Armenia’s legal framework for providing legal aid seems broad and at the same time, insufficient to meet the country’s growing legal needs. Article 40 of the Armenian Constitution states that “[e]veryone is entitled to receive legal assistance,” and that “everyone is entitled to legal counsel from the moment he or she is arrested, detained, or charged.” See *also* CRIMINAL PROCEDURE CODE, art. 10. In practice, free legal assistance is provided to the indigent in criminal cases only. See Criminal Procedure Code, art. 10(5). This assistance is rendered only by UARA, according to Article 6 of the Law on Advocates.

In practice, the state provides legal representation for the indigent only in criminal matters. According to statistics provided by the UARA, in 2002, 67 advocates represented 790 persons in 428 cases, and for the first nine months of 2003, 94 advocates represented 1,340 people in 904 matters. There is no state-funded program for consultations or representation in civil matters. Apparently, there is no means test conducted to determine whether a defendant is financially capable of retaining his or her own advocate. The investigator, prosecutor, or judge making the decision typically accepts the defendant's claim that he or she cannot afford to hire an advocate, as there is no guidance in the criminal procedure or other codes. If it is determined that the defendant needs an advocate, the investigator, prosecutor, or judge contacts the UARA, which then assigns a lawyer to the case. Although Article 70 of the Criminal Code of Procedures prohibits the body conducting the criminal trial from recommending a specific advocate to represent a defendant, in practice, investigators will request or will directly contact a specific advocate to represent a defendant. In instances in which the investigator makes such a request, the requested advocate is likely to be appointed.

There are a number of important concerns with the appointment and work of *ex-officio* advocates. The most troubling concern is the claim that an investigator or prosecutor may recommend an advocate whom he or she knows is willing to collude to the detriment of the defendant. The advocate does not actually work for the defendant, but rather reports to the investigator and feeds him or her evidence. This is based on past Soviet practices and partly explains the hesitation on the part of defendants to accept state-funded legal representation.

A related problem is the amount of compensation paid to the *ex-officio* advocate must be approved by the investigator or the prosecutor during the period of investigation and by the judge during the trial. Mainly the advocate's compensation is based on the amount of time he or she spends with the defendant at the detention center or at the investigation department, studying the files provided by the investigator, and in court during the trial. Putting aside the fact that advocates do not get paid for time spent on independent research or investigation, this method for calculating compensation creates a conflict of interest for the advocate.

The advocates' main task should be to challenge the claims, decisions, and evidence presented by investigators and prosecutors (and sometimes judges); however, they are likely to be less zealous in that task if they know that their fee is dependent on the approval of the person they are supposed to challenge. On the other hand, of course, an advocate who is on good terms with an investigator is likely to have more hours approved and to receive a higher fee. On a more positive note, most respondents felt that these practices were waning, and one prosecutor estimated that now "only" about 10 percent of the advocates are in the pockets of the investigators. It was remarked that the younger advocates seem less inclined to act as "pocket advocates."

In addition to problems connected with the system for paying *ex-officio* advocates, the actual amount of remuneration appears insufficient to ensure quality representation. According to the Law on Advocates, *ex-officio* advocates are supposed to be paid an amount equivalent to a prosecutor's hourly basis. See Art. 6. In practice, this works out to the hourly rate of the prosecutor who is representing the state in the case in question. One advocate who was interviewed estimated that the *ex-officio* advocates are paid about ARD 800 (\$1.42) per hour and added that "no one will risk himself or herself for this amount." Several advocates also reported that it takes a long time to receive payment from the *ex-officio* fund.

Overall, too little funding is allocated to the provision of legal aid. The Ministry of Justice reported that it allocates \$10,000-20,000 per year to *ex-officio* advocates. This fund is provided directly to the UARA, which manages and distributes it. In 2002, the UARA was paid ARD 11,690,000 (\$20,700) from the state budget, and for the first nine months of 2003, it been paid ARD 9,654,612 (\$17,090).

Another concern with the legal aid system is that only the UARA is allowed to provide *ex-officio* advocates, which means that IUA advocates do not have an opportunity to compete for these services, thus limiting the universe of available advocates. Moreover, not all UARA members are on the list of *ex-officio* advocates, only those with fewer clients. As a result, some respondents reported that the quality of representation for those represented by *ex-officio* advocates to be very low.

In addition to state-funded legal aid, a number of NGOs offer *pro bono* legal services. For example, the Open Society Institute supports four clinics in Yerevan and in the *marzes*. Approximately, 8-10 staff lawyers provide legal consultations to persons in need, on a variety of issues. It has also taken about 80 cases to the courts. The Sakharov Center, with one office in Yerevan and four regional offices, funded by UNHCR, provides legal advice to the needy as well. It estimates that it provides help to about 9,000 persons each year, mostly on housing, family law, and pension issues. Again, it will generally provide consultations, but it also provides court representation.

ABA/CEELI supports several legal clinics as well. ANALGA provides free advice to citizens regarding interaction with governmental agencies on matters such as licensing businesses, property ownership, and tax matters. About 400 individuals and 50 organizations have received assistance from the clinic thus far. The AAIL runs a clinic that assists individuals and organizations to prepare complaints submitted to the European Court of Human Rights. Over the 10 months of its existence, it had met with some 300 potential clients and prepared 20 applications for the court in Strasbourg. Most of these complaints dealt with the right to a fair trial, in particular the right to have a witness summoned, although some also dealt with torture and the right to property. AYLA's offices also provide citizens with free legal counseling. The organization has offices in six cities and services more than 400 people per month, providing advice mostly on family law and property ownership issues. ABA/CEELI also funded free legal services projects carried out by both advocate unions until September 2003.

For the last five years, BARA has supported the Yerevan Center for Legal Aid; it has one office in Yerevan and three offices in the regions. Over the last two years, it has provided consultations to about 5,000 people on criminal law, family law, and housing issues, and has also represented some clients (about 40-60 each year) in court. It focuses its representation work on juveniles, the handicapped, senior citizens, national minorities, and former prisoners. Its representative emphasized that they provide representation in criminal matters because the official system "is not working."

Despite the number of organizations providing legal assistance, these can be characterized as an inefficient patchwork of organizations. In March 2003, the MOJ, the COE, and the Embassy of France organized a conference to discuss the provision of legal services in Armenia. One of the main conclusions of that event was that Armenia needed to develop a true legal aid bureau that would provide representation in both criminal and non-criminal matters. Improvements in the legal aid system are being contemplated in the context of the Draft Law on Advocacy and Advocate Activity (October 2003), but no concrete measures have been taken.

Factor 20: Alternative Dispute Resolution

Lawyers advise their clients on the existence and availability of mediation, arbitration, or similar alternatives to litigation.

Conclusion	Correlation: Neutral
Lawyers do not typically advise their clients on the existence and availability of alternative dispute resolution because it is not well-developed or known about in Armenia.	

Analysis/Background:

Alternative Dispute Resolution (ADR) is not well developed in Armenia and is used in only rare circumstances. As a result, most lawyers do not advise their clients about the availability of ADR. There are no programs on court annexed mediation or arbitration. ADR is not covered in the law school curriculum. The Minister of Justice reported that Armenia is considering introducing a new law on ADR.

It was reported that lawyers do sometimes assist their clients in settling cases, but it was not possible to determine how common that practice is.

V. Professional Associations

Factor 21: Organizational Governance and Independence

Professional associations of lawyers are self-governing, democratic, and independent from state authorities.

Conclusion	Correlation: Positive
Armenia's advocate unions and other lawyer associations are self-governing, democratic, and mostly independent from state authorities.	

Analysis/Background:

The Law on Advocates provides a basic framework for the democratic governance of Armenia's advocate unions. For example, Article 3 guarantees advocates the right to form associations, and Article 24 mandates that the unions be "independent, self-governing associations and enjoy all rights established by law for public organizations." The Law on Advocates also requires that advocate unions establish the following mandatory bodies: a general assembly, an executive board, a disciplinary committee, and an oversight committee. LAW ON ADVOCATES art. 27. Article 25 of the Law on Advocate Activity provides that "...on its founding meeting the union of advocates shall adopt the by-laws and elect the governing and oversight bodies of the union, the disciplinary committee."

In addition, both advocate unions have rather detailed procedures in place concerning the election of leadership officials and their term limits, issues to be considered by the advocate unions' general assemblies, minimum number of members for voting quorums, and the duties of various organizational committees. See UARA CHARTER, art. 9-21 and IUA CHARTER, art. 5.1-

5.18. The Law on Public Organizations (NGOs) covers similar governance issues for voluntary lawyer-based organizations. See LAW ON PUBLIC ORGANIZATIONS (NGOs), art. 14 and 18.

In practice, the two advocate unions are generally considered to be independent. They intersect with the Ministry of Justice in only two respects. The qualification examinations for advocates were held under the auspices of the Ministry of Justice, although the Ministry claimed little tangible control over them and asserted that it wanted to transfer full responsibility for administering the examinations to the advocate unions. Second, UARA provides *ex-officio* advocates as representatives to the indigent, which is paid for by the Ministry of Justice, as described in Factor 19. Beyond these areas of cooperation, which do not seem unreasonable, neither union reported any form of governmental interference in their affairs.

The initiation fee to join the UARA is ARD 5,000 (\$9.00), with a 2,000 drams (\$3.50) monthly fee due thereafter. UARA, as has the IUA, reported some problems with collecting these fees. That leaves some question as to their financial independence, which could affect their organizational independence.

UARA's governing structure conforms to the standards established by the Law on Advocates. It has a general assembly, consisting of all members, that meets annually and that elects the seven members of its executive board. The executive board members serve a three-year term and meet monthly. The president is elected directly by the General Assembly in a secret vote to a four-year term.¹⁹ The president is limited to two terms. There is a five-member disciplinary committee elected by the General Assembly to a three-year term, and a three-member oversight committee, also elected by the General Assembly to a three-year term. There is also the International Affairs Coordinating Board and the Science and Methodology Council.

The IUA has a governance structure similar to UARA's. It has a General Assembly consisting of all members, which meets once per year and which elects a 13-member executive board. The Executive Board meets on a quarterly basis. The president of the union is elected directly by the General Assembly to a four-year term and is limited to serving no more than two consecutive terms. There is also a nine-member disciplinary committee, and a seven-member oversight committee. The IUA also has a small staff, consisting of a chief of staff, an Internet manager, an accountant, and two publication editors. The fees to join the IUA are ARD 6,000 (\$11.00) initiation, and ARD 2,000 (\$3.50) per month after that. The IUA admitted, however, that its collection of dues is uneven. It reported, for example, that one member had not paid his dues for four years and then left to join the other union.

Other voluntary lawyer associations also seem to be self-governing and independent from government interference. AYLA also has a general assembly consisting of all members, which meets every two years. It elects an executive board, which meets at least quarterly, but usually more often. The chairman is elected for two years. Because AYLA receives grants and engages in a number of programmatic activities, it has a fairly large staff of 25 employees. It has both full and associate members. There are about 75 full members, who pay ARD 2,000 (\$3.50) per month and have full voting rights. Associate members pay only ARD 1,000 (\$1.75) per month but cannot hold or vote for the offices. More than 50 percent of its members are in Yerevan. Only about 15 advocates are AYLA members. AYLA appears to be doing better in collecting the fees in comparison to its advocate union counterparts, even though it is a strictly voluntary organization, and it does not have any enforcement mechanisms as do advocate unions with their ability to strip licenses.

BARA also has a general assembly and an executive board and board chairman, who are elected by the Association's general assembly. The membership fee is about \$1 per year, which most of

¹⁹ UARA has had the same president since its establishment in 1999. Prior to that, he was also the president of its predecessor organization, the Collegium of Advocates.

the 600 members pay. BARA also undertakes a number of initiatives that are grant-funded, and the organization has a relatively large staff of 12–13.

Factor 22: Member Services

Professional associations of lawyers actively promote the interests and the independence of the profession, establish professional standards, and provide educational and other opportunities to their members.

Conclusion	Correlation: Neutral
<p>Armenia’s advocate unions and voluntary lawyer associations have promoted the interests of the profession through their work on the Law on Advocates. They also maintain libraries and databases for use by their members and provide some opportunities for continuing legal education. These services, however, are largely limited to Yerevan and are for the most part dependent on the support of international donor organizations.</p>	

Analysis/Background:

The Law on Advocates does not contain specific language requiring or encouraging the advocate unions to get involved in promoting the interests of the profession, establishing standards, and providing educational opportunities. However, Article 24 does exhort advocate unions “to undertake actions with the purpose of increasing the reputation of an advocate.” Again, because there is no specific legislation for civil practice lawyers, no legal provisions exist in this area.

The charters of UARA, IUA, and AYLA all have provisions that address the issue of member services related to the promotion of the interests and the independence of the profession, the establishment of professional standards, and the provision of educational opportunities for members. For example, UARA’s charter specifically identifies “[creating] conditions for professional activities of its members ... [protecting the] rights and legitimate interests of its members ... [and organizing] professional education and training of its members [aimed] at raising the professional skills of [its] members” as some of its main goals and objectives. UARA CHARTER, art. 6. See also IUA CHARTER, art. 3 and AYLA CHARTER, art. 2.1.

Both advocate unions engage in some legal advocacy activities and provide some member services. For example, both organizations are actively engaged in the debate surrounding the Draft Law on Advocacy and Advocates Activity. In addition, AYLA and lawyer-based organizations have participated in ABA/CEELI-sponsored round-table discussions on the draft law and have sent comments on the draft law to the Ministry of Justice.

In addition, both unions maintain libraries and access to the IrTek legislative database, publish newsletters, and, as described in Factor 14, provide some limited CLE opportunities for their members. Advocates in the *marzes*, however, reported that they get little support or information from either of the advocate unions. Other lawyer organizations, such as AYLA and BARA, also maintain libraries, provide access to the legislative database, publish materials, and provide some CLE.

As noted in Factors 16 and 17, the advocate unions and other voluntary lawyer associations have created ethical codes and mechanisms for enforcement that are supposed to enhance professional standards. However, actual enforcement remains inadequate. Moreover, as mentioned in Factor 16, awareness of these standards appears to be low. Finally, although other lawyer organizations, such as BARA, have established codes of conduct, no enforcement

mechanisms exist, nor are there any state-sponsored codes or standards of professional ethics and conduct for civil practice lawyers.

Factor 23: Public Interest and Awareness Programs

Professional associations of lawyers support programs that educate and inform the public about its duties and rights under the law, as well as the lawyer’s role in assisting the public in defending such rights.

Conclusion	Correlation: Neutral
<p>Advocate unions and some lawyer associations have developed some public education materials, but these activities are dependent on the funding of international donor organizations and take place on an ad-hoc basis.</p>	

Analysis/Background:

Although the Law on Advocates does not explicitly require that advocate unions play a role in public interest and awareness programs, Article 24 states that “[t]he goals and objectives [tasks] of the unions of advocates are to create necessary conditions for their members, to conduct their professional activity; to protect their members’ rights and lawful interests in relations with the state and local self-governing agencies and organizations, and also in the court of law... and to undertake actions with the purpose of raising the reputation [honor] of an advocate.”

In addition, the charters of several of Armenia’s lawyer-based organizations, including the IUA, the AAIL, UARA, and AYLA, do set out various objectives aimed at educating the public about the law. For example, one of the IUA’s stated main objectives is “to promote the advancement of the sense of justice of population.” IUA Charter, Art. 2.1. UARA’s charter states that “to realize [the organization’s] main goals and objectives, ... [the union] might ... disseminate information on its activities in Armenia and foreign states, ... organize peaceful meetings, other mass events ...” AYLA’s charter states the organization seeks to “raise the population’s awareness of legal issues and the level of legal culture through dissemination of information on laws and legal knowledge among the general public” See art. 2.1.

The IUA and several other lawyer organizations make an effort at improving public awareness on legal issues; however, these activities are usually dependent on support from the international donor community. The IUA, for example, with funding from World Learning/USAID and the Eurasia Foundation, has participated in developing some television and radio programs related to legal issues such as human rights, criminal law, and family law. In 2003, it helped produce three 30-minute films and nine televised roundtable discussions. With funding from the British Department for International Development (DFID), the IUA prepared a manual for lawyers on how to apply to the European Court of Human Rights in Strasbourg, and with funding from ABA/CEELI and USAID, it developed a brochure entitled “The Protection of Citizen’s Electoral Rights” in spring 2003.

AYLA holds periodic public forums on legal topics targeted toward the general population. With funding from DFID and the International Foundation for Election Systems (IFES), it developed a series of 14 public information brochures on such topics as housing law, labor law, pensions, and family law. Five thousand copies of each were published and distributed. AYLA also developed 16 televised programs in 2001 that were shown on local TV stations with funding from DFID and the Eurasia Foundation. A local lawyer hosted the programs with regional government officials as guests, and citizens could call in with questions. Similar to the IUA brochure, AYLA, with

ABA/CEELI, developed a brochure on voter rights and the protection mechanisms available under the Electoral Code and other domestic laws.

ANALGA, with funding from ABA/CEELI and USAID, published a booklet that identifies government agencies and their areas of responsibility as well as addresses and telephone numbers. About 500 copies were published and distributed. The president of the ANALGA has appeared on national radio and given interviews to the press as well.

The AAIL has also received support from ABA/CEELI and USAID to publish 1,000 copies of commentaries on key ECHR articles and to conduct a number of radio broadcast seminars on such topics as accession to the Council of Europe and election law.

Factor 24: Role in Law Reform

Professional associations of lawyers are actively involved in the country’s law reform process.

Conclusion	Correlation: Neutral
<p>Although both unions and the other associations of lawyers provide some commentaries on draft legislation and engage in some other relevant activities, they are not consistently involved in the process of legal reform in Armenia.</p>	

Analysis/Background:

The Law on Advocates makes no provision for the involvement of advocate unions in law reform; however, the charters of UARA, the IUA, AYLA and the AAIL do make specific reference to these types of activities. For example, UARA’s charter specifically identifies “[presenting] conclusions of experts on legislative acts and projects ... [and] participating in the development and consideration of legislative acts” as one of the main methods for achieving its organizational goals and objectives. UARA CHARTER, art. 7. See *also* AAIL CHARTER, art. 2 and AYLA CHARTER, art. 2.1

Representatives from UARA and IUA expressed some frustration that they were not more involved in the legal reform process and that they were not asked to participate in the MOJ legislative working groups. The only legislation on which advocates, as a group, have had significant impact is the Law on Advocates. The IUA added that it had been left off of all commissions on legal reform. Neither union, for example, was officially involved in drafting the new criminal code, although the opinions of some individual members may have been solicited and some roundtable discussions, with ABA/CEELI support, were organized.

The IUA has sought to provide some input at the parliamentary level and submitted comments to parliament on the new Criminal Code, the 2003 constitutional amendments, the Law on Detention, and the Law on Religious Organizations. The problem is that the real drafting work and policy decisions are made within the government, and the unions have not been deeply involved at that level.

Some of the lawyer associations have also been involved in legislative drafting, but, as with the advocate unions, this has been at a superficial level. One of AYLA’s first projects in 1995 was to provide comments on a draft NGO law, many of which were accepted. It has since been working to improve various aspects of the law, such as adding a provision for tax-exempt status, so that revenues from sales of educational materials would not be subject to taxation. AYLA reported that parliament and government working groups are turning to it with more frequency to comment



on draft legislation. BARA provided comments on the Law on Advocates, and the Center for Comparative Jurisprudence held discussions on constitutional amendments.

Beyond legislative drafting, the IUA and AYLA are working with ABA/CEELI on a court monitoring project in which some 43 lawyers, law students, and advocates are observing court cases in seven first-instance courts in Yerevan and in select *marzes* as part of a month pilot project. Once the pilot phase is completed, the IUA and AYLA will expand the project to all 10 regions in the country. The project has been focusing on efficiency and effectiveness of court procedures, such as whether hearings are held as scheduled, whether the prosecutor and advocate actually appeared in court, whether the presumption of innocence was observed, whether adversarial principles were observed, and whether the public and mass media were allowed to attend hearings. Once the information is gathered, the organizations will produce a report detailing suggestions for improving courtroom procedures.

LIST OF ACRONYMS

AAIL	Armenian Association of International Law
ANALGA	Association of National and Local Government Attorneys
ARD	Armenian drams (local currency)
AYLA	Armenian Young Lawyers Association
BARA	Bar Association of the Republic of Armenia
CCBE	Council of the Bars and Law Societies of the European Union
CCJ	Center for Comparative Jurisprudence
CLE	Continuing Legal Education
COE	Council of Europe
DFID	Department for International Development (United Kingdom)
ECHR	European Court of Human Rights
IFES	International Foundation for Election Systems
IUA	International Union of Advocates
MOE	Ministry of Education
MOJ	Ministry of Justice
NGO	Non-governmental organization
OSI	Open Society Institute (Soros Foundation)
UARA	Union of Advocates of the Republic of Armenia
UNHCR	United Nations High Commissioner for Refugees
YSU	Yerevan State University