Chapter 9

Transparency and Rule of Law as Key Priorities for Armenia

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With the growing tension between East and West, and with the rejection of common international rules by Russia, the question of how the post-Soviet states should construct their foreign relations remains of utmost importance. Armenia, a landlocked country in the South Caucasus, has yet to accomplish its transition from socialism to democracy and market economy. Moreover, efforts along these lines have regressed, and the authorities do little to implement reforms or to establish a healthy system of checks and balances. In recent months the country has been overwhelmed by protests. The authorities neither address domestic problems nor satisfy protestor demands. Instead, the Armenian government frequently resorts to disproportionate use of police forces against peaceful protestors. With political prisoners and hundreds of detained civil activists, journalists, and politicians, it will be impossible to build an independent and prosperous country.

Armenia has a rich history and culture, but at the same time it has experienced dark historical periods. The Armenian Genocide of 1915 and the unresolved Nagorno-Karabakh conflict shape Armenian identity. However, such historical issues have been instrumentalized by the Armenian government. Instead of building the future, Armenian authorities emphasize the past. Policies based on past grievances lead the Armenian government to become more and more dependent on Russia. Armenia needs to tackle corruption, falsified elections, a corrupt judiciary and many other problems—and Western partners whose efforts are based on democratic values, free and fair elections, and respect towards human rights have a crucial role to play.

This chapter offers background on Armenia’s relations with various actors, historical matters that shape Armenian identity, and the failure and lack of will to improve the country’s current situation. It then discusses the role of the West and its importance for Armenia. We seek to answer why Armenia slowed down its reform efforts, what the West needs to do to improve the situation in Armenia.
Regional Actors

After its independence in 1991, Armenia went through a difficult development path. It began to construct its relations with various regional actors. In terms of political, economic and social development, Armenia started to partner with various international actors such as the European Union (EU), Council of Europe (CoE), OSCE, UN, and NATO. In terms of its security, Armenia preserved its relations with Russia. It is a member of the Russia-led Collective Security Treaty Organization (CSTO), and hosts a Russian military basis in its second largest city of Gyumri. It also sought to forge relations with neighboring countries as well as the United States and a number of different European countries.

Newly-independent Armenia quickly found itself in a tough situation, however. Right after independence, war broke out between Armenia and Azerbaijan. The results of the war have defined power alignments in the South Caucasus. Turkey, in support of Azerbaijan, closed its border with Armenia. Armenia and Azerbaijan have remained hostile. Armenia connects itself with the world via its remaining two neighbors, Iran and Georgia. Two specific characteristics define Armenian domestic and foreign policy. The first is Armenia’s history, the second is the country’s relations with various players.

Once independent, Armenia was able to present to the world its two identity issues. The first was the Armenian Genocide during the Ottoman Empire in 1915, when 1.5 million innocent people were massacred and another million was scattered all around the world. The second was Nagorno-Karabakh, which was transferred to Azerbaijan in 1921, when the majority population of that region was ethnic Armenians. Nagorno-Karabakh is a symbol of national identity for Armenians. The war between Armenia and Azerbaijan erupted in 1992 and lasted until 1994. The war started with the fall of the Soviet Union, when Armenians living in Nagorno-Karabakh demanded independence from the Azerbaijani Soviet Republic. Azerbaijan, in turn, elevated the principle of territorial integrity over the principle of self-determination, and started a war to preserve its territory. As a result of the war, Armenia gained Azerbaijani territories around Nagorno-Karabakh, which became a security buffer zone. Currently Nagorno-Karabakh remains a de facto state with its own governmental institutions. On the other hand, Azerbaijan considers the Azerbaijani territories around Nagorno-Karabakh as territories occupied by Armenian armed forces. Whether one views the conflict from the perspective of Armenia or Azerbaijan, the important fact is that the conflict
remains unresolved and escalates sporadically. The Four Day War of April 2–5, 2016, once again underscored the importance of the Nagorno-Karabakh conflict and the fragile stability that surrounds it. Although the ceasefire is restored, each side suffers casualties on an almost daily basis—and the elites of each country use the conflict to stay in power and maintain public support.

Cooperation with the EU and Armenia’s Turn to the EEU

As a country with a closed border and an unresolved conflict, it is highly important for Armenia to preserve diversified relations with Western actors. Armenia launched its cooperation with the EU as soon as it proclaimed independence, receiving expertise and financial aid in various fields. The EU is both a major donor (since independence, the EU’s direct financial assistance to Armenia has already exceeded $1 billion) and Armenia’s biggest trade partner. EU countries accounted for over 30 percent of Armenia’s total foreign trade turnover. The Russian Federation ranks second, accounting for 24% of Armenia’s total foreign trade turnover.¹

A new stage of Armenia’s cooperation with the EU commenced in November 2006, when the new European Neighborhood Policy Action Program (ENP AP) was approved and entered into force, providing Armenia with an opportunity to intensify political, economic and cultural relations with the EU, enhance regional cooperation, and take on greater responsibility in conflict prevention and resolution.²

On May 26, 2008, Poland and Sweden put forward an initiative to strengthen EU cooperation with a number of CIS countries, referring to such cooperation program as the Eastern Partnership (EaP). The project envisaged deepening of EU cooperation with Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine, and included proposals to intensify visa dialogues with the EU, strengthen trade relations, create free trade zones for services and agricultural products, cooperate on issues of environmental

protection and the social sphere, and cooperate in the field of energy security and other areas. It is noteworthy that the Eastern Partnership program is different from the ENP, because it not only covers institutional cooperation between the European Commission and the Government of Armenia, but also includes cooperation with civil society institutions. The EaP Civil Society Forum (EaP CSF) was founded in Brussels on November 17, 2009. This is a very significant innovation, since it provided the opportunity to use the full potential available in the countries-participants of the EaP program for its successful implementation. In addition, it created certain conditions for a trilateral dialogue among the Armenian government, Armenian civil society, and the EU.

In the framework of the Eastern Partnership, it was envisaged to simplify the EU visa regime with the EaP countries, as well as prepare Association Agreements with the EU. Negotiations on an Armenia-EU Association Agreement commenced in July 2010. The agreement was supposed to replace the existing Partnership and Cooperation Agreement. The actual Association Agreement consisted of two parts: political (including better governance issues, the rule of law, human rights, sectoral cooperation, etc.) and the agreement on Deep and Comprehensive Free Trade Area (DCFTA) contemplating liberalization of trade between Armenia and the EU.3

It is noteworthy that Armenia undertook various reforms in the framework of the EU Eastern Partnership program. The EaP Index 2013 shows relatively good scores for Armenia in various sectors. Six negotiation rounds on the DCFTA with the EU were held and concluded in July 2013. Armenia and the EU also signed Readmission and Visa Facilitation Agreements and lifted visa requirements for EU citizens traveling to Armenia.

According to the EaP Index, Armenia’s electoral environment improved. Parliamentary elections in 2012 in Armenia and Presidential elections in February 2013 were much better organized. However at the same time there was an abuse of administrative resources to the advantage of the ruling party, vote-buying, the non-participation of some influential candidates in the elections. Such violations served as evidence that European standards were not entirely being met. The Index noted that rallies and demonstrations were held without any obstacles, but that the Armenian Government was not fighting corruption very efficiently and no effective corruption

monitoring system was in place. Interestingly, in the summer of 2013 the Armenian leadership repeatedly declared its readiness to sign the EU Association Agreement, with special emphasis on the importance of the DCFTA agreement for Armenia. In July 2013, the EU and Armenia announced that the draft Association Agreement was ready and only pending some editorial changes.  

This deep and active cooperation between Armenia and the EU halted on September 3, 2013, when the president of Armenia announced that the Armenian government planned to join the Russia-backed Eurasian Economic Union (EEU). Since then, the areas of cooperation with the EU have decreased. The DCFTA, the main part of the Association Agreement, was frozen.

More than two years later, in December 2015, the EU and Armenia opened negotiations on a new framework to deepen bilateral relations that would replace the current Partnership and Cooperation Agreement, and reset EU-Armenian relations within the wider framework of the recently-reviewed European Neighborhood Policy and of the Eastern Partnership. The framework under negotiation does not, however, include a DCFTA, which was the core of the previous Association Agreement, and aimed at wide cooperation in the economic sector. After eight succeeding rounds, as of February 2017 the two sides had still not reached agreement on such a framework.

Switching back to Armenia’s commitments with the EEU, on January 1, 2015 Armenia became a member of the EEU, transferring some of its sovereignty to that organization, especially in the field of trade and markets. Upon joining the EEU, Armenia slowed down the reform process even further. This unexpected decision highlighted the degree to which the Armenian government is dependent on Russia, and that it lacks the will to construct a real sovereign state with its own foreign and internal policy.

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This is reinforced by Russia’s own geopolitical approach, which considers post-Soviet territories as its own area of influence, as well as by Armenia’s reliance on Russian support in its conflict with Azerbaijan and the presence of Russian forces on Armenian territory.

After Armenia joined the EEU, Russia began dictating terms in many different areas. In 2016 the Armenian leadership agreed to merge its air defense system with that of Russia and to create joint military units.\(^7\) A growing number of economic assets were also handed to Russia: even the gas pipelines connecting various regional centers of Armenia were transferred to Russian monopoly Gazprom (against some “debt,” which appeared out of nowhere), despite the fact that they were built with the EU and World Bank funding. The electricity supplier to Armenia, the CJSC Electric Networks of Armenia, founded in May of 2002 as a merger of four state regional companies, is a subsidiary of the Russian OJSC RAO UES International CJSC. These examples underscore that cooperation with Russia and EEU membership is eroding Armenia’s sovereignty in the economic, energy, and defense fields.

Why did Armenian authorities agree to EEU membership? We believe the Russian leadership gave some promises of support to the Armenian government on the Karabakh issue. Such support has not been in evidence, however, as became clear during the April 2016 war in Nagorno-Karabakh, and by the fact that in 2015–2016 the Kremlin sold advanced offensive weapons to Azerbaijan.\(^8\) Another reason why the Armenian leadership was not able to resist “pressure” from Russia and refused to sign the EU Association Agreement is that high-ranking Armenian public officials own many businesses in Russia and are reliant on Russia to maintain their positions of authority, given their own political illegitimacy tied to rigged elections.

**Armenia’s Membership in the OSCE and the Council of Europe**

Thanks to cooperation with the OSCE and the Council of Europe, Armenia started to undertake reforms in human rights and many other political sectors. Armenia became a member of the OSCE in 1992, and a


member of the CoE in 2001. Armenia joined a number of European conventions, including those related to human rights (freedom of assembly and expression, freedom of media, equality of citizens before the law regardless of their origin or beliefs, rights of women and children, etc.). These principal tools currently provide the opportunity for the citizens of Armenia to fight for their rights and are a major deterrent against the temptations of the authorities to inflict large-scale repression on political opposition and the active part of civil society. It is thanks to Armenian commitments to the OSCE and the CoE, for instance, that criminal penalties for belonging to religious minorities were excluded from Armenia’s Criminal Code. The abolishment of the death penalty, which was a direct result of Armenia’s CoE membership, brought serious changes to Armenia’s legal culture.

The European Court of Human Rights (ECHR) is another important European institution that has allowed Armenians to defend their rights. Many Armenian citizens who exhausted all legal remedies in the Armenian courts with regard to their claims, have appealed to the ECHR. Even in today’s situation, many Armenian citizens have managed to win cases by appealing to the ECHR against Armenian authorities. This offers a chance that Armenian courts will be more careful in rendering clearly illegal decisions or in executing political orders.

Armenia has received significant legal support from the Venice Commission of the CoE. Its legal advice and evaluation of the constitutional reforms in Armenia in July 2005 and December 2016 were very important for the country’s civil society. Certainly, there were a lot of controversies and heated debates around these reforms, but the mere presence of such prestigious institutions meant that Armenian authorities could not blithely contravene human rights legislation.

Exceptionally important is the assistance of the OSCE and the CoE in ensuring that the Electoral Code of Armenia complies with democratic principles and norms. This process has of course had its setbacks, the most important of which has often been the unwillingness of the authorities to conduct genuinely democratic elections. For example, after the February 2008 presidential elections, a serious political crisis started in Armenia, due to opposition allegations of widespread and serious voter fraud. The authorities used force against various peaceful rallies and arrested a significant number of opposition figures. These events led to the adoption of resolutions 1609 and 1620 of the Parliamentary Assembly of the CoE, condemning the actions of the Armenian authorities and demanding sanc-
tions on those responsible for the deaths of civilians. A number of international organizations, including the CoE, started discussions on the presence of some people in Armenia who fall under the concept of “political prisoner.” This pressure by the CoE and the OSCE led to the Armenian authorities, over the course of 2009 and 2010, to release by amnesty most of the opposition figures who participated in the March 2008 protest rallies.

During the subsequent four years (i.e., 2009–2012) the level of political freedom somewhat increased, as manifested in more transparent and competitive parliamentary and presidential elections of 2012 and 2013. All parties and presidential candidates had the opportunity to speak on television and to meet freely with voters. Nonetheless, observers from those influential Armenian non-governmental organizations that monitored the electoral process noted a number of serious violations: abuse of administrative resources, electoral bribes, and most importantly, manipulated vote counts on election day. Both the improvements and the abuse of administrative resources were also confirmed by the OSCE Election Observation Mission in Armenia.

Despite clear abuses, the deterrent role of the OSCE and the CoE continues to be exceptionally important. Recently, for instance, under pressure from these organizations, Armenian authorities released a significant number of prisoners (including politicians and journalists) who participated in protest rallies in June and July 2016.

Following constitutional reforms in December 2015 (according to which Armenia will transform into a parliamentarian state) and in advance of April 2017 parliamentary elections, the OSCE and the CoE have strongly supported Armenian efforts, which have included a government-opposition dialogue, to prepare a new Electoral Code that meets standards set forth by both organizations. The opposition demanded that Armenian citizens living abroad (estimated at 500–600,000 people) be excluded from

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election lists; that the names of citizens who voted be published; that ID
cards be required for voting (to avoid repeat voting); that surveillance
cameras be installed at all polling stations to prevent planted ballot papers;
and a number of other important amendments. These amendments, which
with some reservations were adopted by the Armenian authorities, offer
some reason for optimism that the April 2017 elections will be more dem-
ocratic and transparent.

At the same time, unfortunately, we often notice inconsistencies in the
actions of the Armenian authorities, due to which, parallel to certain
progress we see fallbacks. For instance, even though Armenian authorities
argued that changing the country’s constitutional order by shifting it to a
parliamentarian form of government would strengthen the role of political
parties and generate stronger political bonds with Armenian citizens, sig-
nificant electoral fraud again took place in October 2016 in municipal
elections in the cities of Vanadzor and Gyumri.\textsuperscript{12} Those elections proved
how unwilling Armenian authorities are to respect the choice of the Armen-
ian people, and therefore are unable to adequately respond to current
challenges. Opposition parties in Vanadzor, for example, have been boy-
cotting sessions of the city council, and today there is a serious crisis in
the governance of the city. This time, unfortunately, the response from
the Council of Europe or the OSCE had been insufficient, in part because
local elections in Armenia are not observed by international actors.

Despite these instances, the joint observation missions of the OSCE
and the CoE play an important role in ensuring democratic and transparent
elections. For many years they have monitored Armenia’s parliamentary
and presidential elections. Their reports (often very critical) have played
an important role in preventing some violations during the elections, and
have helped to improve Armenia’s electoral legislation. We have high-
lighted only a few examples, but suffice it to say that both organizations
have made a difference in establishing the rule of law in Armenia, fighting
against violations of rights and freedoms of citizens, preventing electoral
fraud, and strengthening the development of civil society institutions, as

\textsuperscript{12} In Vanadzor, for example, three opposition forces who together received about 50 percent
of votes signed a memorandum of cooperation after the election, which according to the
constitutional reforms automatically gave them the right to propose a candidate for the
mayor of Vanadzor. Nonetheless, authorities manipulated the closed election of the mayor
to approve the candidate from the ruling Republican Party, despite the fact that during the
elections this party received only 37 percent of the votes. The situation in Gyumri was
similar.
well as ensuring freedom of mass media, and improving governance based on basic democratic principles.

**The Role of the OSCE Minsk Group in the Nagorno-Karabakh Conflict**

The OSCE is the principal international actor working towards a peaceful settlement of the Nagorno-Karabakh conflict. In 1994 the OSCE Budapest Summit established the OSCE Minsk Group, which continues to work on the conflict. The United States, Russia and France co-chair the Minsk Group, which also includes Belarus, Germany, Italy, Sweden, Finland, and Turkey, as well as Armenia and Azerbaijan.\(^\text{13}\)

To frame a way forward to resolution of the conflict, in 2009 the Minsk Group presented in L’Aquila the Madrid Principles, based on non-use of force, territorial integrity, and equal rights and self-determination of peoples. The basic contours have been accepted by both Armenia and Azerbaijan in principle. The Principles set forth a number of steps:

- return of the territories surrounding Nagorno-Karabakh to Azerbaijani control;
- an interim status for Nagorno-Karabakh providing guarantees for security and self-governance;
- a corridor linking Armenia to Nagorno-Karabakh;
- future determination of the final legal status of Nagorno-Karabakh through a legally binding expression of will;
- the right of all internally displaced persons and refugees to return to their former places of residence;
- international security guarantees that would include a peacekeeping operation.\(^\text{14}\)

Despite the Principles, the conflict not only continues, it is marked by an escalating dynamic. Even though the conflict is protracted and has not devolved into a large-scale war, skirmishes are common. Escalation along the Contact Line or sniper fire claim both Armenian and Azerbaijani victims. The situation heated up again in April 2016, when Azerbaijan initiated military actions and for four days heavy fighting broke out across the Contact Line.

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The Four Day War of April 2016 once again highlighted the importance of the Nagorno-Karabakh conflict and the fragile stability that surrounds it. Although the ceasefire has been restored, each side reports daily casualties. Because elites in both Armenia and Azerbaijan use the conflict to maintain public support while slow-rolling domestic reforms, the temptation toward sporadic escalation is high.

Unfortunately the OSCE did not respond to the April 2016 conflict quickly or consistently. The Minsk Group took on the role of observer rather than active moderator or negotiator, and has not played much of a role since that time. This weakening of the OSCE is troubling, particularly in the aftermath of Russia’s annexation of Crimea, which has caused post-Soviet countries to worry more about their security, and generated greater concern that Russia will use the leverage of the Nagorno-Karabakh conflict to advance its own interests. Greater cooperation with the EU, a soft power, would not guarantee Armenia’s security, and Armenia is not a member of NATO. This leaves the OSCE as a critical actor for the region. It needs to intensify its efforts to resolve the conflict peacefully.

Armenia’s Vibrant Civil Society

Perhaps one of Armenia’s strongest achievements is its civil society. Armenian civil society strives towards Western values and seeks to establish democratic conditions in the country. It is a positive phenomenon that in recent years Armenian civic engagement has increased, led first and foremost by young people who understand the need to change the country’s elites. Civil society activists, mostly young people, have realized their responsibility and are engaged on social issues. They stopped the construction of high-rise buildings in a park in Yerevan, they prevented an increase in public transportation fees, and organized mass protests in June 2015 to fight higher electricity tariffs. These protests, which attracted massive attention all over the world, were called the “Electric Yerevan.”

It is also worth mentioning movements against the constitutional reforms of 2015, those related to enhanced security of Nagorno-Karabakh in

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April 2016, those supporting of armed group “Sasna Tsrer,” which occupied a police patrol service regiment in Yerevan in July 2016,\textsuperscript{17} the yearly “Anonymous Parades,” the protests of “Nairit” chemical plant workers,\textsuperscript{18} and many other vivid examples of active efforts within Armenian society pushing for major reforms in the country. These efforts are important evidence that Armenia has a strong civil society, expressed particularly through such movements as well as individual civil activists and those who fight undemocratic steps undertaken by successive Armenian governments.

Unfortunately, the authorities have responded to these peaceful activities with a disproportionate use of force, arbitrary and numerous arrests and detentions, and beatings of political opponents and journalists. Andrias Ghukasyan, a member of the “Get Up, Armenia” movement who was arrested in July 2016, is one of a number of political prisoners being held by the Armenian authorities. This is the situation of Armenia today. Nonetheless, despite political oppression, endemic corruption and weak rule of law, Armenian civil society in Armenia is persevering in its efforts to build a democratic state. It remains one of the important sectors with capacity to prevent the total transformation of Armenia into an authoritarian state.

**Political Recommendations**

Rigged elections are one of the main important problems for Armenia. The elites must change if there is to be a healthy political environment. The OSCE, CoE elections observation missions, the EU and the United States need to demand accountability from Armenian authorities when it comes to potential violations of the commitments they have made regarding respect for human rights, democracy and the rule of law. Accountability remains an important tool inhibiting Armenian authorities from falsifying elections.

The West also needs to intensify the struggle against corruption. There should be an independent commission of influential experts who would monitor and assess the level of corruption in an independent way.


Economic Recommendations

Western actors need to establish a mechanism that would stimulate growth in the regions of Armenia. Equal distribution of power and wealth would assist in the development of the Armenian economy and agriculture. Western actors also need to provide financial aid in the fight against the monopolized economy.

Recommendations on the Nagorno-Karabakh Conflict

The Nagorno-Karabakh conflict is of utmost importance to the Armenian nation. At the same time it is the topic that is used by both Armenian and Azerbaijani authorities to remain in power by mobilizing the public. International organizations, mainly the OSCE, need to organize frequent meetings between Armenia and Azerbaijan both on the presidential and ministerial levels. Frequent meetings will render the authorities of the conflicting sides accountable for their actions.

At the same time the EU needs to organize frequent parliamentary meetings. These meetings could be moderated by EU member state deputies and attended by members of the Armenian and Azerbaijani parliaments. Such meetings would facilitate common joint projects in various sectors (cultural, economic and political).

It is also of utmost importance that the OSCE deploy a mechanism on the Contact Line of Nagorno-Karabakh that can identify which side commits cease-fire violations.

Finally, the West needs to activate Armenian-Azerbaijani projects at the level of civil society to build greater trust among the ordinary people of Armenia and Azerbaijan. Projects may include mere meetings, joint training opportunities, or cross-border cooperation regarding such practical issues as security of water supplies or agricultural development.