

2009

Legal & Court System Focus Groups

Focus Group Analysis
Armenia, Azerbaijan, Georgia

CRRRC

6/5/2009

Contents

ARMENIA 3

 General Public 3

 Business Representatives 7

 Lawyers..... 10

AZERBAIJAN..... 14

 General Public 14

 Business Representatives 17

 Lawyers..... 20

GEORGIA..... 24

 General Public 24

 Business Representatives 29

 Lawyers..... 34

ARMENIA

General Public

Respondent #	Gender	Age	Occupation
Respondent 1	female	47	Unemployed
Respondent 2	female	32	Teacher
Respondent 3	female	41	Cosmetologist
Respondent 4	male	30	Unemployed
Respondent 5	female	25	Sociologist
Respondent 6	female	22	Student
Respondent 7	male	35	Engineer
Respondent 8	female	30	Lawyer
Respondent 9	male	48	Banker

Participants expressed general dissatisfaction with law enforcement in the country. However, some noted that the situation has improved during the last 10 years.

“Despite of all the efforts, as far as I know, from what I see and hear laws in our country are not enforced properly.” (Female, 47, unemployed, Yerevan)

“We have serious problems with law enforcement. Even if the laws are not formulated properly no one cares, as they are not enforced anyways.” (Female, 25, sociologist, Yerevan)

“There are laws, but by having the laws in our hands we still do not feel protected. I am saying this from my own experience.” (Male, 35, engineer, Yerevan)

“I see many positive changes in comparison to 10 years ago. Citizens are also more aware of their rights now.” (Male, 48, banker, Yerevan)

According to the participants following factors make courts less popular with the population: courts are expensive and time-consuming, judgments are not always fair and seldom predictable, lawyers and judges lack professionalism.

“Our courts are not affordable for regular citizens – both from the financial aspect and the time.” (Male, 35, engineer, Yerevan)

“The courts should become more user-friendly. It takes absurdly long time to solve a case through the court.” (Female, 32, teacher, Yerevan)

“If you do not have money, nerves and time, you will prefer the unofficial way to solve your case.” (Female, 47, unemployed, Yerevan)

“There are people who have power and they always win. It will still be presented as a case solved by the court, but it is the poor that always loses.” (Female, 41, cosmetologist, Yerevan)

“There was a common saying during the Soviet times “Find a man, an article is easy to find.” I think this Soviet legacy still exists and people are afraid of this.” (Female, 30, lawyer, Yerevan)

“I think people were less afraid during the Soviet times than now. Now we are living in a society, where everything is possible if you have money and power. We live in chaos now.” (Male, 48, baker, Yerevan)

“There is no certainty in the judgment of the court. People are afraid they will lose more through the court judgment.” (Female, 22, student, Yerevan)

“We lack good lawyers. Most of the lawyers do not care about their client; they become a negotiator between the client and the judge.” (Female, 25, sociologist, Yerevan)

Considering the shortcomings of the courts, as well as the national mentality, participants preferred out of court settlement of the conflicts.

“If I am an organization, I would probably go to the court. But if it is a personal case, we are all Armenians and even if it involves a lot of money we will try to find other ways to solve the issue. I personally would prefer alternative ways.” (Male, 30, unemployed, Yerevan)

“I was defending my organization in the court, and the judge himself suggested solving the issue through negotiations, rather than the court. I think dealing with the issues

through the personal ties works better. My experience shows that conflicts are solved better around a coffee table.” (Female, 30, lawyer, Yerevan)

“I think family conflicts are also better to solve out of the courts, through informal ties.” (Female, 32, teacher, Yerevan)

“I think people negotiating without the government – the court is preferable. There is nothing better than an out-of-court development.”(Male, 48, banker, Yerevan)

All the participants agreed that informal ties (criminal leaders specifically) play significant role in solving disputes. Based on their experience some of the participants also mentioned that even if the case is at the court informal ties still play a significant role.

“I think criminal leaders play a big role. Our firm had a case and very good lawyers, but my boss still asked a criminal leader for assistance.” (Male, 35, engineer, Yerevan)

“I think in our country it is necessary to have powerful connections, be it a small, very small, or a large case.” (Female, 42, cosmetologist, Yerevan)

“It depends who is your opponent. If you have a case with someone who is on your level you may be fine in the court. But if your opponent has connections with the criminal world, than you are in a big trouble.” (Female, 25, sociologist, Yerevan)

“If there is no pressure on the court from any of the sides then some justice can be expected.” (Male, 48, banker, Yerevan)

Participants came to a consensus that institutional changes alone cannot establish rule of law in Armenia. No legal reform will achieve its goal unless the population is educated of their rights, a culture of law enforcement is created and the profile of the courts is raised.

“Reforms and change in the mentality should go in parallel. The court system should be more effective, less expensive, but it will not have a really big effect if our values are not in place.” (Female, 32, teacher, Yerevan)

“People do not know their rights. People just don’t know.”(Male, 30, unemployed, Yerevan)

“We need to bring up our children knowing their rights and standing up for them.”
(Female, 32, teacher, Yerevan)

“Yes, our children should be brought up with respect towards the laws. But I think we should start from ourselves.” (Male, 48, banker, Yerevan)

“I think it should start from me. I should become better aware to be able to do anything. It is a process. There is a lot to do.” (Female, 22, student, Yerevan)

“Because we do not demand, the government doesn’t bother to control or put the mechanisms in place. A good example is also very important. I think this is a two sided process, bottom up and top down.” (Male, 48, banker, Yerevan)

“I think apathy is the biggest problem today. The younger generation is apathetic and the older generation is tired of struggling. This needs to be changed.”(Female, 25, sociologist, Yerevan)

“I think the Judiciary should be independent. As long as people know that the courts are dependent on the state, they will never trust it.” (Male, 35, engineer, Yerevan)

Business Representatives

Respondent #	Gender	Age
Respondent 1	Female	57
Respondent 2	Male	52
Respondent 3	Male	47
Respondent 4	Male	35
Respondent 5	Female	32
Respondent 6	Female	46
Respondent 7	Male	46
Respondent 8	Female	40

Participants noted that there has been a positive shift in the court system during the last 10 years. However, they still expressed general dissatisfaction with court procedures. One of the main problems the participants mentioned was the time it takes to solve the case through the court. The new reforms have also created some confusion currently making the process even more time consuming.

“I can see some positive changes in the legal system during the last 10 years. Documentation is done in a better way. The buildings where the courts are situated are also better.” (Male, 35, business, Yerevan)

“If I was to evaluate the current court system from the procedural point of view, it is all right. But from the point of view of the results, it is average or bad.” (Male, 47, business, Yerevan)

“The court procedures are so long that it seems like the case never gets solved. There is also lack of education and professionalism among the judges.” (Female, 46, business, Yerevan)

“Time is the major problem in the court today. We have a case that has been in the court for the last 2 years. Of course it implies a lot of financial losses.” (Male, 46, business, Yerevan)

“Because of the reforms small cases, economic cases specifically, take two years now.” (Female, 57, business, Yerevan)

“After the reforms no one knew what is happening for two-three months.” (Male, 47, business, Yerevan)

“During the last few years I have noticed that the enforcement of the judgments is being artificially extended. It seems like the judgments are made in a way to create room for maneuvers.” (Male, 47, business, Yerevan)

Most of the participants were not aware of the court procedure in other countries. Those who had some experience, mentioned that the court procedures are time consuming in other countries as well.

“I have been to some meetings Cyprus; their cases last longer than in Armenia. In Germany, the cases can last up to 3-5 years.”

All the participants preferred out-of-court settlement for their cases. They explained this by courts being very time-consuming.

“We try to solve our issues through compromise, through various deals, paying half now, half later, etc. We even prefer getting only half of the amount and declaring the second half of the amount hopeless, only not to go to the court. We know that the court will take way too much time and money. And we won’t even know if we will win the case.” (Male, 35, business, Yerevan)

“We prefer alternative ways, not the court.” (Female, 57, business, Yerevan)

“There is no trust toward the courts; today we all prefer dealing with the issues through compromise.” (Female, 57, business, Yerevan)

Arbitration courts were described as the most preferable development for Armenia.

“We have arbitration courts in Armenia, in the banking system, at the Chamber of Commerce. However, they themselves don’t know what their roles and responsibilities are.” (Female, 46, business, Yerevan)

“The problem is that arbitration court is not developed in our society as a value yet. The people who have created these arbitration courts do not quite understand what that is.” (Male, 46, business, Yerevan)

“Arbitration court is part of the civil society, and the fact that it does not properly exist in Armenia is connected with the development level of the civil society in the country.” (Female, 32, business, Yerevan)

Direction for development:

“They [courts] should make the procedures more transparent.”(Male, 35, business, Yerevan)

“Even the simplest information is not available in the courts.” (Female, 46, business, Yerevan)

“The courts should be independent from the state.” (Female, 57, business, Yerevan)

“The court will always try to solve the case in favor of the state and the state budget, unless it is independent” (Male, 47, business, Yerevan)

“The courts should be more transparent. If everyone talks about how corrupt the courts are, the trust towards the courts is not going rise. I think courts should make the information about solved cases to the public. They should present good examples as well. There are no good examples about the court cases solved, or about good judges. I think the profile of the courts and the judges is very low.” (Male, 46, business, Yerevan)

Lawyers

Respondent #	Gender	Age
Respondent 1	Female	26
Respondent 2	Male	28
Respondent 3	Male	34
Respondent 4	Male	25
Respondent 5	Female	22
Respondent 6	Female	35
Respondent 7	Female	33
Respondent 8	Male	45
Respondent 9	Male	40
Respondent 10	Male	46

Participants mentioned that the positive changes have occurred in the court system during the last three years. However, participants had different opinions about having younger employees at the courts.

“I can see some positive changes. But this is very subjective. First instance courts are still in are in very bad situation. After these reform new and young judges have been employed, who are not competent and are hard to work with.” (Female, 33, lawyer, Yerevan)

“I think that the young judges are better. I work in the system, I can see the difference.” (Female, 34, lawyer, Yerevan)

“The structure has become more complicated, but the corruption risks have also been reduced thanks to the new system. So from the institutional point of view, there have been positive changes. I think young judges are more open for new knowledge and

information, while older judges have brought the soviet legacy with them.” (Male, 34, lawyer, Yerevan)

“I think we are in a development stage. We have new professional lawyers who force with their knowledge the judges also to develop and correspond.” (Female, 26, lawyer, Yerevan)

The participants noted that the courts have quite low profile among the population.

“There is a common belief in the population, that if you don’t have money you will not win the case. There is no trust towards the courts.” (Female, 33, lawyer, Yerevan)

“Population just doesn’t trust the courts.” (Male, 28, lawyer, Yerevan)

“The attitude towards courts should be changed.” (Male, 34, lawyer, Yerevan)

According to the participants one of the major problems that directly concerned them as professionals working in the legal field was the lack of predictability of the outcomes for the cases. They also noted that judgments are not always followed up properly.

“There is no legal predictability. It is because the courts are often not fair in their judgment. So it is very hard for me as a lawyer to promise something to my client. The lack of legal predictability makes us look bad in the eyes of our clients.” (Male, 46, lawyer, Yerevan)

“I am looking at two cases now that have had two different judgments. So when I tell my client that I do not know exactly what the outcome of the case will be, I am not the judge, the client loses the trust towards the lawyer. They decide to find alternative ways to solve the issue.” (Female, 26, lawyer, Yerevan)

“The courts cannot follow up on its judgments’ executions. “ (Male, 28, lawyer, Yerevan)

“We have problem not with the institutions but with persons, who do not know their roles.” (Male, 25, lawyer, Yerevan)

Most of the participants agreed that Administrative Courts in Armenia operate better than the other courts.

“Today the society is skeptical about the First instance Court, as people say, we will apply to Appellation Court, if we lose the case. This already puts this court into a less favorable position.” (Male, 25, lawyer, Yerevan)

“In general, I would evaluate the way the court system operates in Armenia as bad. Administrative Courts work better than the other courts.” (Male, 25, lawyer, Yerevan)

“I think Administrative Courts operate better than the rest. This was a new court for us and either new judges or judges from the Economic Court were employed there. With the Civil Court, the same judges who were working badly were employed here and continue working badly.”(Male, 45, lawyer, Yerevan)

Most of the participants emphasized the importance of the narrow specialization of the courts.

“I think the courts should be specialized.” (Female, 35, lawyer, Yerevan)

“I think combining the courts made the process less effective. The judges are not competent enough to deal with different issues.” (Male, 34, lawyer, Yerevan)

“I think the today the judges learn in the process. They should come already trained.” (Male, 46, lawyer, Yerevan)

Participants generally found it hard to evaluate Armenian court system from the global perspective; however they agreed that courts should be developed in Armenia considering country specifics.

“If we compare Armenia with developed countries, we will be in the very bottom. In our country the judge is perceived as an enemy. And it is not our fault; the courts themselves are contributing to this stereotype.” (Male, 34, lawyer, Yerevan)

“We are taking court structure of developed countries and trying to imply it to our country. We just do not have the same culture of courts.” (Female, 35, lawyer, Yerevan)

While most of the participants did not have clear understanding of how Arbitration Courts operate, they all recognized the need for the development of Arbitration Courts in Armenia.

"I am a practicing lawyer, but I myself am not very aware of the Arbitral Courts, how can we talk about the general population." (Female, 33, lawyer, Yerevan)

"Today we have "problem solvers" in Armenia. They are not official arbiters, but we all well know who to turn to in order get solutions to our problems." (Male, 46, lawyer, Yerevan)

"I think out-of court development is preferable. In case of the out-of-court settlement you have two sides of the conflict. With the courts you have 5 sides, with costly and time consuming effects." (Male, 34, lawyer, Yerevan)

"Consensus is the most preferable way of conflict settlement." (Male, 40, lawyer, Yerevan)

"We do not have the culture of arbitral court. But it is very preferable." (Female, 22, lawyer, Yerevan)

"Arbitral court could be the most effective way of solving conflicts in Armenia." (Male, 28, lawyer, Yerevan)

"Arbiter is providing services to me, and he will not want to harm his reputation by taking bribes." (Male, 46, lawyer, Yerevan)

"I think Arbitral Courts would be more effective and faster." (Male, 25, lawyer, Yerevan)

"Businesses should be informed about the advantages of the Arbitral Court. Their judgments are final." (Male, 28, lawyer, Yerevan)

AZERBAIJAN

General Public

Respondent #	Gender	Age	Occupation
Respondent 1	Male	29	Economist
Respondent 2	Male	19	Manager
Respondent 3	Male	53	Researcher
Respondent 4	Male	22	Student
Respondent 5	Male	45	Consultant
Respondent 6	Male	26	Student
Respondent 7	Male	25	Economist
Respondent 8	Male	25	Economist
Respondent 9	Male	26	Program Manager
Respondent 10	Male	32	Economist

Court rules were described to be followed up properly to some extent. FG participants noted that the situation in the country has got better over the past 3 years and that 90% of the rules are followed by the citizens. Decisions depend on their nature, i.e. when they come in contrast with the interests of government structures, such as Executive committees, they are hardly followed up.

“Compared to other post-soviet countries, rules in Azerbaijan are more or less followed. Court rules that are in favor of the government are mainly followed.” (Male, 45, consultant, Baku)

“People don’t even know the rules. Sometimes they break the rules, without realizing it.” (Male, 32, economist, Baku)

“People are still indifferent to rules, even though the situation has got better over the past years.” (Male, 26, program manager, Baku)

According to the participants, people do not think seriously about the rules and procedures and believe that they can be changed depending on what circumstances dictate. Such being the case, there remains room for bribery and corruption in order to have a decision in favor of bribe-giving party.

“The rules have to be not only legal, but also ethical and moral. Also, quasi courts system such as - grand jury, reconciliation courts - should be established in the country.” (Male, 45, consultant, Baku)

“Nowadays the so-called “unwritten rules” are followed up. Actually, any rule can be changed as long as it is not opposed to the rule of law.” (Male, 25, economist, Baku)

“The rules have to be just and fair. As the quote goes: “The finger cut by justice wouldn't hurt”. (Male, 22, student, Baku)

“Power should be decentralized among different government structures. Relevant instances should be constituted.” (Male, 53, researcher, Baku)

It has been discovered, that if problems are not resolved peacefully, the respondents would appeal to court. Sometimes, it is not the courts themselves that demand bribes, but people themselves are inclined to give bribes to the court as a thankful gesture due to the well-established culture of awarding people under the name of “Hormet” (meaning ‘respect’).

“Comparing to other countries, court procedures in Azerbaijan are expensive, but short.” (Male, 26, student, Baku)

“Legally, it's not expensive, but illegal ways are costly. Sometimes threatening is more than enough. Tell the other party, you will appeal to court and you might resolve your problem peacefully.” (Male, 19, program manager, Baku)

“Both parties try to bribe the court, but the court (in most cases) supports the party that is in accordance with the law.” (Male, 45, consultant, Baku)

Many respondents claimed that it was a cultural issue that people avoid appealing to courts, because of the close relations they've got not only with their family and friends, but also with their neighbors.

“People would rather handle their problems on their own, because appealing to court means spending even more time and money on resolving the issue.” (Male, 29, economist, Baku)

“Even when there are car accidents, people try to quickly resolve the issue, before the police show up and expenses are doubled.” (Male, 22, student, Baku)

Almost all of the respondents agreed that money plays the most important role in solving conflicts. They stated that money significantly weighs out the importance of other factors.

“Powerful friends can sometimes help out. Police can’t.” (Male, 19, program manager, Baku)

“They can all play significant roles.” (Male, 25, economist, Baku)

“Both money and powerful friends can be useful.” (Male, 45, consultant, Baku)

As participants mentioned, courts should not be the appealing point for all cases and that should be the level of graveness of cases so as to decide whether it is worthwhile appealing to the court or not. Another important point is the culture or mentality under the influence of which people tend to think that going to courts would harm the current status of relationships. Yet, the courts were endorsed by the participants, at least ideally, as an institution that should work for the sake of impartiality and fairness in cases.

“People should appeal to courts when there are no other ways to resolve the problem. Small cases should be negotiated between the parties themselves. The negotiations between the parties without appealing to court would undermine the establishment of culture of extensive court use. But use of courts is an indicator of advanced democratic practice in the country” (Male, 25, economist, Baku)

“People are afraid of jeopardizing their relations within communities; therefore they avoid appealing to courts.” (Male, 26, economist, Baku)

“Humans have many rights and using courts is one of them, but firstly, court system should be reformed to make it more user-friendly for the general public. Courts should enforce their decisions for people to believe that the system is effective.” (Male, 22, student, Baku)

Business Representatives

Respondent #	Gender	Age
Respondent 1	Male	32
Respondent 2	Female	35
Respondent 3	Male	25
Respondent 4	Male	27
Respondent 5	Male	52
Respondent 6	Male	27
Respondent 7	Male	46

Participants noted that the situation in the country has gotten better over the past years. Also a subjective human factor was brought up in the discussion. Respondents tend to think that it is people’s fault when they don’t know the rules and that ignorance of the law doesn’t excuse you from the law.

“Ignorance of the law brings to the outcome where the rule of law is not being implemented properly.” (Male, 27, business, Baku)

“People are all aware of the rules. It’s just many choose not to follow them.” (Male, 25, business, Baku)

“Law is King. The reason rules are not followed is not because of the law, it is because of some people who abuse law following their own interests by money laundry and fake tenders.” (Male, 32, business, Baku)

“Law is adopted objectively, but followed subjectively. However, the situation has gotten better over the past few years. People are now more likely to follow the rules.” (Male, 27, business, Baku)

Respondents were concerned with the court procedures being time-consuming and costly; lawyer services being expensive; judges making improper decisions in the favor of the opposite parties because of the bribery.

“People should express interest in learning the rules and their own rights. Government mechanisms should work properly and in accordance with the law. No good can come out of the bribery, corruption, “universal” lawyers (the ones that handle a wide variety of issues) that are present in our country.” (Male, 32, business, Baku)

“People are supposed to know the rules, so that they can at least prevent the illegal factors that are present in everyday life.” (Male, 27, business, Baku)

“Some governors (e.g. Ministry of Customs) think they are the law. They live by their own rules: in the world of corruption and bribery”. (Male, 25, business, Baku)

“Court procedures are time-consuming. Finding an affordable lawyer is time-consuming. The probability of a just judgment is very hard to guess. All these factors lower the willingness to appeal to courts.” (Female, 35, business, Baku)

Comparing to other countries

“It is impossible to know about the current situation in our law system, because there are no sources, no relevant statistics or an internet portal for the people to receive necessary information.” (Male, 32, business, Baku)

“We can’t compare or talk about the differences in the law systems of our country and other countries because we have no information regarding this particular issue.” (Female, 35, business, Baku)

It has been discovered that respondents are likely to appeal to courts when there are no other ways to resolve the conflicts. However, many of them noted that appealing to court would be a measure of last resort. Court appeals are discouraged because of informal payments one has to make to win the case.

“If I have a car accident, I’ll try to resolve the issue myself. If I appeal to court, I’ll spend twice as much money and time.” (Male, 27, manager, business, Baku)

“People are not willing to appeal to courts. Even in work agreements and contracts, the paragraphs about appealing to courts agitate the possibility of resolving the issue peacefully if there is even a slight chance of doing so.” (Female, 35, business, Baku)

“People don’t appeal to courts because they don’t believe in justice.” (Male, 25, business, Baku)

“It’s hard to find a good lawyer at an affordable price. I would appeal to court if there was no other way to resolve my problem.” (Male, 27, business, Baku)

“Using oriental/eastern approaches, linking the solution of the problems with our mentality is going to do no good. We need to have precise government mechanisms. “Court culture” should be widely agitated among the population.” (Male, 32, business, Baku)

The participants shared some valuable thoughts on how to improve the situation in the country. Each respondent supported the idea of agitating the “Court culture” widely among the society.

“When resolving a conflict, people should go on a compromise. Before appealing to court, they should try to find another person, an impartial third party, who could help them make a right decision. However, “Court Culture” should be widely agitated. People should not be afraid of appealing to courts.” (Male, 32, business, Baku)

“While agitating the “Court Culture”, government could run relevant TV commercials; implement an open-door policy - invite people to attend court processes.” (Male, 25, business, Baku)

“Alongside with inviting people to court processes, certain trials (with the agreement of both parties) could be shown on TV.” (Male, 25, business, Baku)

Lawyers

Respondent #	Gender	Age
Respondent 1	Male	48
Respondent 2	Female	32
Respondent 3	Female	27
Respondent 4	Male	27
Respondent 5	Male	29
Respondent 6	Female	27
Respondent 7	Male	37
Respondent 8	Male	35

Overall, courts were described to be far removed from the independence and judges tend to pass decisions that favor people who bribe them. Also, due to the absence of advanced implementation mechanisms that could preside over all circumstances, laws remain on paper. Another important issue is the treatment of people with the law. They have so-called presumption that laws can be changed or interpreted the way they want if they please courts with certain incentives. Several participants noted that the significant barrier to the implementation of court decisions is the subordinated structure in the judiciary system. This is particularly because laws have many “unless it is stated otherwise”, and therefore give much space for the authorities to preside over the court decisions passed. By the time the decision gets to the implementation stage, it goes through many government bodies, sometimes not directly related with the judiciary system. People remain ignorant about courts and live with taboos against them. They think an appeal to the court is the worst case and bear fear towards them since they do not believe court decisions are impartial and influenced by the political orders.

“Legislative authorities function on a satisfactory level, whereas execution of the adopted law leaves a lot to be desired. There is no objectivity in court judgment. Commercial law (banking law, finance law, etc.) is relatively functioning. The main problem is the legal training (education). The enlightenment component is taken into

consideration, but basic rudiments and essential knowledge is left out as well as practice and experience.” (Female, 32, lawyer, Baku)

“People need to work with professionals. Jurists and legal scholars are supposed to be capable of abstract thinking.” (Male, 29, lawyer, Baku)

“Courts should be independent and impartial. Each law can’t be the King. Our law is not comprehensive enough.” (Male, 27, lawyer, Baku)

“Everywhere in the world people are looking for comfort. So they are going to do the thing that is the easiest, e.g., if there is a car accident, people would be likely to bribe the police or deal directly with the other party, rather than having their cars being towed to the penalty area. The law should be abstract. Legislative authorities can’t always be trusted. The law is adopted, consummated, but the executive mechanism is not working.” (Male, 37, lawyer, Baku)

Several lawyers commonly believe that it takes long with the documentation and procedural issues when an average person turns to the court. Another concern is that they do not considerably trust courts and it is quite possible that the decision will turn out to be the opposite of what they expect even if they have the right claim. Another important concern is that the people are ignorant about their rights. That is why people do not dare to use the courts to resolve their conflicts via courts.

“The rules are followed by people, but there is always a subjective factor of people’s irresponsibility. If government officials want to earn money by all means possible, no rules are able to stop them. The rule of law is directly linked with the educational and human factors. We are talking about “human crisis”. In order to prevent it, youth should be properly educated at an early age.” (Male, 27, lawyer, Baku)

“Governments are not made of angels. Our country encounters the problem of civil society. There are no powerful NGOs that could promote the idea of civil society in Azerbaijan.” (Male, 27, lawyer, Baku)

“The law should help resolve and overcome occurring clashing situations. Once again, the courts should be able to make independent decisions.” (Male, 35, lawyer, Baku)

“Incentives in people play a very significant role. The “right” way is the hard way, that’s why people choose the wrong way and resort to corruption and bribery.” (Male, 37, lawyer, Baku)

“Officials in our country do what they want. They don’t care about the rules if the rules contradict their decisions. If the rules are not applied properly, what kind of an executive mechanism are we talking about?” (Male, 35, lawyer, Baku)

Comparing to other countries

“Our lawyers tend to make the trials last longer in order to double their own importance, enhance their reputation and line their own pockets.” (Female, 32, lawyer, Baku)

“The difference is that, in the states there is a narrowly defined expert system of lawyers that specialize in one field only. In our country, lawyers “manage” to handle all types of cases, be it a divorce or a property issue, criminal case or a car accident.” (Male, 37, lawyer, Baku)

Respondents agreed that the major concern is the bad image of courts in people’s minds. For them it is a process of red-tape that will take a long time without any guarantee that the decision will be as you expect even if you have a strong claim. The general agreement is that because of the procedural hardships people choose to negotiate among themselves instead of wasting both time and additional money in courts.

“There are two main reasons why people are not applying to courts: First people are afraid of the legal system, of the documentation processes; second it’s time-consuming and costly. The bottom line is that all of these factors are caused by the low levels of education. If a fourteen-year old girl is getting married, why would she care about the rules, courts or legislation?” (Female, 32, lawyer, Baku)

“People don’t appeal to courts because they don’t believe in justice.” (Male, 29, lawyer, Baku)

“People don’t appeal to courts because they still think of courts as a retributive system that implements punitive measures.” (Male, 27, lawyer, Baku)

“Before appealing to courts people think of easier ways to resolve the problem – directly with the opponent party or with bribery.” (Male, 27, lawyer, Baku)

Participants agree that under the current circumstances arbitration courts do not operate well first because big foreign companies which have local partners in Azerbaijan cooperate with world-known arbitration courts and local companies have to comply with this condition. Due to the underdeveloped system in arbitration, foreign companies do not seem interested to switch their cooperation with the local arbitration courts. Again, the concern of injustice applies to arbitration courts as well.

“Arbitration courts don’t function properly, they should be imported.” (Male, 29, lawyer, Baku)

“There is no need in arbitration courts in our country. Large businesses are linked with foreign companies that appeal to arbitration courts in other countries. Small businesses usually resolve their problems themselves or with the help of third parties. Medium size businesses could be the only sector that would need to appeal to arbitration courts, but even in this case, they could appeal to friendly settlements or first instance courts.”
(Female, 32, lawyer, Baku)

“People should apply to courts if the problem can’t be negotiated between the parties.”
(Male, 29, lawyer, Baku)

“There should always be a proper access to justice. People should not be afraid of courts.” (Male, 27, lawyer, Baku)

“We need independent courts and just decisions. People need time in order to adjust to the idea of just courts and impartial judges.” (Male, 35, lawyer, Baku)

GEORGIA

General Public

Respondent #	Gender	Age	Occupation
Respondent 1	Male	29	Private company
Respondent 2	Male	29	Economist
Respondent 3	Male	23	Unemployed
Respondent 4	Male	24	Graduate Student
Respondent 5	Female	53	Teacher
Respondent 6	Male	33	Unemployed
Respondent 7	Female	48	Unemployed (biologist, teacher)
Respondent 8	Female	40	Private company
Respondent 9	Female	26	Psychologist, school teacher
Respondent 10	Female	50	Housewife

All participants agreed that court decisions are not enforced properly. Some of the focus group participants think that nothing has changed during the last three years. However, most of them noted that the situation has become worse.

“The situation has not just remained the same, but has gotten much worse.” (Female, 53, teacher, Tbilisi)

“The court system now is more biased than it was three years ago.” (Male, 29, economist, Tbilisi)

“Three years ago the government was newly elected, they fought more against corruption and work was done.” (Male, 29, private company, Tbilisi)

Most of the participants supported the opinion that today the situation in court system is better compared to 10 years ago; however, as already mentioned, it is worse compared to three years ago. Participants' assumptions were mostly not based on personal experience (only one respondent had a case taken to a court), rather on the information they received from mass media and friends/relatives.

The focus group participants named several factors which need to be changed in courts:

“The government should not interfere (too much) into court decisions.” (Male, 29, private company, Tbilisi)

“Courts should be unbiased. There should be no pressure upon courts. Cadres [decision-makers] should be more experienced, not like it is now with the young generation in charge.” (Male, 24, graduate student, Tbilisi)

“The system should not allow the government to interfere.” (Male, 23, unemployed, Tbilisi)

“Age [of judges] should be defined. They should be more experienced and qualified.” (Female, 48, unemployed, Tbilisi)

“An attorney should not be afraid of a judge, a judge should not be afraid of a prosecutor, and a prosecutor should not be afraid of higher officials.” (Female, 53, teacher, Tbilisi)

“Courts should take into consideration circumstances in which a crime was committed.” (Female, 40, private company, Tbilisi)

According to most of the participants, neither of court departments (solving criminal, civil and business cases) works to a satisfactory level. Nevertheless, there were different opinions regarding the extent to which the courts complied with the laws.

“In my opinion, the courts dealing with business cases work better. They are more in fashion nowadays.” (Female, 50, housewife, Tbilisi)

“Assuming from mass media criminal cases are more noticeable.” (Female, 26, psychologist, Tbilisi)

“Civil courts are more transparent. You can find more objectiveness there. Of course, all three should be changed, but civil court is one step forward.” (Male, 29, economist, Tbilisi)

All but one participant claimed that they would turn to court only if they see no other way of solving a dispute with a neighbor. They mostly preferred negotiating a solution by themselves. Three main reasons are named for not taking the case to a court:

“I would never turn to a court. There is no sense in that.” (Male, 24, graduate student, Tbilisi)

“Despite everything, turning to a court is related to financial problems.” (Female, 40, private company, Tbilisi)

“In our country the mentality is different. Turning to a court is more common in Europe.” (Male, 23, unemployed, Tbilisi)

The participants identified costs and length of court procedures as the main difference between courts in Georgia and other countries, however, could not agree whether prices in Georgia are higher or lower compared to other countries. Two participants thought that Georgia tries to copy European patterns, which is not always appropriate in their opinion.

“We want to be like Europe, but at the end it all turns into ‘Ratatouille’.” (Male, 33, unemployed, Tbilisi)

“Our country does not have an opinion of its own. It is all European [in a negative way].” (Male, 29, private company, Tbilisi)

The respondents generally preferred to solve disputes outside the court system because of the lack of trust in court systems and, more importantly, because of Georgian way of thinking.

“Who wants to turn to a court? It is not only about trust in courts. People just prefer to solve disputes among themselves, not involving a third party.” (Male, 33, unemployed, Tbilisi)

However, one participant indicated to a change of attitude towards courts.

“It was better not to go to courts before, but the situation has changed recently. Disputes cannot always be solved through negotiations as this often brings bad results. Parents may lose their child and then regret not going to a court before.” (Female, 50, housewife, Tbilisi)

When asked how useful/important courts, lawyers, police, friends and criminal authority could be in resolving a legal claim, different opinions were observed among the participants. Some of them rated courts as the most important in solving legal claims, others gave preference to friends. Most of the participants agree that criminal authority would not be useful in solving any disputes.

“The most important in solving legal claims is courts, then lawyers, friends and police. It is obvious that a criminal authority cannot properly solve any problem.” (Female, 53, teacher, Tbilisi)

“It depends on the case, but I would first turn to a friend.” (Female, 26, psychologist, Tbilisi)

Participants expressed different attitudes towards a more extensive use of courts to solve conflicts. Some of them claim they would turn to courts in any case. Others would reserve courts as the last option to solve disputes. Furthermore, there were participants that would make a decision depending on the type and difficulty of the case.

“I would prefer taking my case to the court. A friend may support you, however, nowadays it is more reasonable to go to the court.” (Female, 50, housewife, Tbilisi)

“I would turn to the court as a last resort.” (Male, 23, unemployed, Tbilisi)

“It depends on the case. If I had a dispute with an individual I would solve it personally. However, in the case of a legal entity, I would certainly turn to the court.” (Male, 29, private company, Tbilisi)

Participants named several factors that would make using courts more “user-friendly”.

Four participants claimed that the court procedures are quite costly and, therefore, not affordable for people.

“The costs and fees of the procedures should be reduced.” (Female, 40, private company, Tbilisi)

Apart from costs, participants also mentioned justice as a factor to improve in courts.

“Costs must be reduced as many people cannot afford to take their case to a court. More importantly, truth and not money should be the determinant for winning the case. There must be justice in courts.” (Female, 53, teacher, Tbilisi)

The participants also named the following factors:

“Most importantly, the government should not interfere into court decisions. Afterwards everything will get better.” (Male, 24, graduate student, Tbilisi)

“Nowadays who pays more, wins the case. Laws should be very strict and applicable to everyone equally.” (Male, 29, economist, Tbilisi)

“Courts should become more objective. Moreover, they should work more with public in order to make procedures more comprehensible.” (Female, 26, psychologist, Tbilisi)

“Judges and lawyers should upgrade their qualifications. In addition, procedures and decision-making of courts should not take too much time. Sometimes it lasts more than one year.” (Female, 26, psychologist, Tbilisi)

Business Representatives

Respondent #	Gender	Age
Respondent 1	Female	26
Respondent 2	Female	21
Respondent 3	Female	27
Respondent 4	Male	24
Respondent 5	Male	28
Respondent 6	Male	27
Respondent 7	Male	27
Respondent 8	Male	28
Respondent 9	Female	21
Respondent 10	Male	26

There were different views among business focus group participants regarding the enforcement of court decisions. The majority claimed that the court’s judgments are executed, although not always reached properly.

“In case of execution, the court’s judgment is enforced properly.” (Male, 27, business, Tbilisi)

“I have not had any experience with courts, but I have heard that it is not executed well.” (Female, 27, business, Tbilisi)

“There is a problem in courts, it is not objective.” (Male, 28, business, Tbilisi)

Focus group participants had various opinions if the situation in courts has changed compared to three years ago. Some of them thought that the situation was the same and nothing had changed.

“I don’t think anything has changed .In terms of business, the decisions are made unfairly and it [business] has no protection whatsoever.” (Female, 27, business, Tbilisi)

“There is no change. I have not seen a proper court decision.” (Male, 27, business, Tbilisi)

A few thought that the situation in courts has gotten better in comparison to three years ago.

“What I have heard of, it has gotten better. The courts no longer take bribes.” (Female, 21, business, Tbilisi)

“Overall, it has changed. The Institute of lawyers has become stronger. Before, the lawyers took bribes and now the new system enables them to do their work appropriately.” (Male, 28, business, Tbilisi)

“Before, the bribes were common. Nowadays, people can find justice as the civil disputes are decided objectively. I have heard that 53% of civil cases were decided in favor of the public and not the government...What was happening before - that people killed, paid money and were free –is no longer common today. Now everything is in the framework of the law.” (Male, 26, business, Tbilisi)

However, these viewpoints were criticized by other participants who argued that unbiased decisions are only made in civil cases and not when it comes to business or political cases.

“If there is a dispute between a husband and wife, the decision will certainly be made accurately; however, when it comes to bigger businesses or political disagreements the court decision is biased.” (Male, 27, business, Tbilisi)

“Nonobjective decisions are made not only in political, but also in business cases.” (Male, 27, business, Tbilisi)

“Political issues are not decided objectively. However, the problem does not lie in the court system, but in the prosecutor’s office.”(Male, 26, business, Tbilisi)

All participants of the focus group agreed that the situation in courts is much better compared to ten years ago.

“Compared to ten years ago, the court system is now established. The problems which are so obvious nowadays indicate that the system itself exists.” (Male, 28, business, Tbilisi)

It is remarkable that only two respondents had personal experience with the court and their attitude was pessimistic.

“...Monopolies have a great impact on the court. The organizations are very unprotected and have no resources to defend themselves.” (Male, 28, business, Tbilisi)

“If the government has an interest it interferes into the court process and influences the decision.” (Male, 26, business, Tbilisi)

All participants felt reluctant to use local courts because it is perceived as time-consuming and costly. One of the respondents claimed he would offer his business partners more beneficial conditions if there was an arbitrary court to solve the problem in case of a possible dispute in a short period of time - within 2-3 days. The court itself is not very trusted.

“I always require the payments in advance. I can’t rely on the contract and have no hope that the court will defend my rights.” (Male, 27, business, Tbilisi)

The respondents also named what aspects of the court should be improved to make it better:

“The law should be simplified and it should take less time to make decisions.” (Female, 26, business, Tbilisi)

“The competency of judges. Once I attended a court where the judge was non-competent and did not understand the issue.” (Male, 28, business, Tbilisi)

“The court system has developed; however, the competency of judges is not in compliance with the speed of reforms.” (Male, 28, business, Tbilisi)

Respondents named money, time and discomfort as main concerns when going to the court with a particular case:

“Generally, going to the court is an uncomfortable process.” (Male, 26, business, Tbilisi)

To go to the court just to “teach a lesson” to another party was not supported by all participants in the group. However, some of them thought that it is essential to go to the court to prevent other cases and ensure the rule of law.

“I would not go because it takes too much time.” (Male, 24, business, Tbilisi)

“If the case is valuable to me, I would go to court, but if my business would be harmed by it, I would not go.” (Male, 26, business, Tbilisi)

“I would definitely go and also encourage other to do the same. This way the court system will develop and with time become more objective.” (Male, 28, business, Tbilisi)

Participants perceive court procedures in Georgia as being similar to other countries. The one difference stated was the end result reached by the court.

“In terms of time, the court procedure is probably the same as in other countries. The only difference is the outcome.”(Female, 27, business, Tbilisi)

“I don’t think there are any major differences. It [the court procedure] is similar because it is copied from the procedures of other countries.” (Male, 26, business, Tbilisi)

Several reasons were named by focus group participants for why they are reluctant to engage in solving their business conflicts through courts.

“Time and money.” (Male, 26, business, Tbilisi)

“Even if someone has the time and money, the reason lies in quality and expectations. I must have trust towards the court to take a case to the court.” (Male, 28, business, Tbilisi)

“It also has to do with relationships. Bringing a case to the court is the last stage of the relationship with your business partner. Everybody tries to maintain a good relationship and when involving the court this relationship ends.” (Female, 27, business, Tbilisi)

“There is also fear what the court dispute will bring. Problems may arise with the tax service or other violations might be brought up.” (Male, 27, business, Tbilisi)

The focus group participants generally had positive attitudes towards the role of Arbitration Courts, however, state that it is not well developed in Georgia. Few respondents had vague perceptions of the Arbitration Courts.

“As far as I know, the Arbitration Courts have started establishing, but have no active role yet.” (Male, 26, business, Tbilisi)

“It is not developed at all.” (Male, 28, business, Tbilisi)

“I know there are Arbitration Courts but I don’t know how they work.” (Male, 27, business, Tbilisi)

“If you don’t know how they [Arbitration Courts] work, how can you trust them? It is not properly developed and I don’t know much about it.” (Male, 28, business, Tbilisi)

According to the respondents, in case of numerous business disputes the Arbitration Court is preferred since it has simplified procedures and require less time compared to courts. Participants also named several factors that would make using courts/arbitration more “user-friendly”:

“First of all, there should be a campaign which will provide information about court systems to society. I don’t even know the location of the institution... In the West, it is a common establishment which is frequently used. In Georgia, we don’t have that practice. Many even don’t know how it works.” (Male, 28, business, Tbilisi)

“People should at least have basic knowledge of courts. Personally, I don’t even know where to start.” (Male, 24, business, Tbilisi)

“People try to avoid going to the court. They do not trust state-appointed attorneys and those lawyers who are trusted are expensive. Therefore, state-appointed attorney should higher their qualifications.” (Male, 26, business, Tbilisi)

“If we are talking about civil issues, there appears to be a mental problem. People tend to have negative perceptions of those who turn to courts frequently.” (Female, 21, business, Tbilisi)

“People think that they will never need to go to a court. There is no readiness of court systems ... For example, before there was no trust in police. However, information from the mass media helped people get familiarized with “Patruli.”” (Male, 28, business, Tbilisi)

Lawyers

Respondent #	Gender	Age
Respondent 1	Male	30
Respondent 2	Female	22
Respondent 3	Female	48
Respondent 4	Female	27
Respondent 5	Female	50
Respondent 6	Female	25
Respondent 7	Male	24

The focus group participants claimed that execution of court decisions depends on the type of cases. However, they pointed out that if a ministry is a side in legal dispute enforcement of court decisions is more problematic.

“In my practice I encountered a case which started in 1995 but has not been resolved yet.” (Female, 48, lawyer, Tbilisi)

“Civil cases are executed relatively easily. Problems arise in administrative disputes. In particular, job-related cases at ministries are complicated.” (Female, 22, lawyer, Tbilisi)

“Even the cases that have been solved in European courts are not executed in Georgia because of the lack of finances in budget.” (Female, 25, lawyer, Tbilisi)

“When the government has its interest in a case, then courts create non-substantial obstacles to claimants to prolong the process until the claimant loses interest in the execution of the court decision.” (Male, 24, lawyer, Tbilisi)

“Another problem is that the Execution Board is sometimes biased towards government interests.” (Male, 24, lawyer, Tbilisi)

The participants claimed that the situation on average has improved compared to three years ago. They also noted that the situation has significantly improved compared to 10 years ago.

“Before 2004 the situation was much worse. Even simplest court decisions were not executed without a lawyer.” (Female, 27, lawyer, Tbilisi)

“Court executors were not taken seriously before 2004; they were not protected by law.” (Male, 24, lawyer, Tbilisi)

“The level of corruption has significantly decreased.” (Female, 22, lawyer, Tbilisi)

“10 years ago prosecutors did not even have elementary inventory. They were working on pure enthusiasm.” (Female, 25, lawyer, Tbilisi)

All the participants agreed that all the named factors (efficiency, honesty, lowering the costs, enforcement) need to be improved in courts. Nevertheless, they pointed out other issues as well:

“Qualifications of judges, lawyers, prosecutors should be increased.” (Female, 25, lawyer, Tbilisi)

“Situation in regions is horrible with respect to infrastructure and qualifications.” (Female, 22, lawyer, Tbilisi)

“There was a case in one of village courts. The court hall had no window; the accused jumped from it and escaped.” (Female, 25, lawyer, Tbilisi)

“Court fees should be reduced. Discrepancies in legislation should be eliminated, especially in the executive branch.” (Female, 27, lawyer, Tbilisi)

“Public trust towards courts should be increased. On the other hand, honesty and qualified staff is crucial.” (Female, 22, lawyer, Tbilisi)

The focus group participants agreed that the Civil Court is the most efficient, administrative court has improved its performance lately and criminal court works worst of all.

“The court solving business cases faces most problems, such as judges are often not able to base their decisions on laws. Court decision terms are often unrealistic and are not met.” (Female, 22, lawyer, Tbilisi)

“There is no qualified staff for dealing with bankruptcy cases. In foreign universities there are separate branches for that field, in Georgia there are only two specialists in this area.” (Female, 25, lawyer, Tbilisi)

The respondents identified the following major concerns when going to the court with a particular case:

“Relations with the other part is the biggest problem.” (Female, lawyer, Tbilisi)

“The judge is the most important.” (Female, 22, lawyer, Tbilisi)

“Terms are the biggest problem and the law cannot solve it until lawyers are responsible for this issue.” (Female, 22, lawyer, Tbilisi)

When asked whether they would go to the court just to “teach a lesson” to another party, majority of the participants said it would depend on a case.

“I have firm principles and I would definitely go to the court to restore justice.” (Female, 22, lawyer, Tbilisi)

“If the case is not too serious, I would not go to the court. Even if you are right you do not expect to win the case.” (Female, 27, lawyer, Tbilisi)

“I would go if the case was complicated and important. The main issue is not to set a precedent of injustice.” (Female, 27, lawyer, Tbilisi)

The focus group participants claimed that there is no big difference between courts in Georgia and abroad. Besides, in their opinion, court system in Georgia is the best among the courts of post-Soviet countries.

“Courts are expensive everywhere. Georgia is no exception.” (Male, 24, lawyer, Tbilisi)

“In whatever condition the country is, in the same condition is the court – developing.” (Male, 30, lawyer, Tbilisi)

The respondents claimed that there is no tradition of going to court in Georgia. Everybody tries to avoid it. They referred to the law that suggests that all efforts should be made to resolve disputes outside courts, but if it does not work then court is the only way.

“People are afraid of courts. They even avoid appearing as a witness in the court.” (Female, 25, lawyer, Tbilisi)

“People do not know where to go, whom to attend.” (Male, 25, lawyer, Tbilisi)

“Arbitrary court discusses cases quicker, but is more expensive.” (Female, 27, lawyer, Tbilisi)

The focus group participants noted that criminal authorities are no longer efficient in solving serious disputes. In their opinion, friendship still plays a role in resolving conflicts, however, courts and lawyers are the most important.

“A lawyer can lose a case because the judge is biased towards another side who is his friend or relative.” (Female, 22, lawyer, Tbilisi)

“In courts of first instance friendship does not influence court decisions as sentences can be adjudicated in higher instance courts.” (Male, 30, lawyer, Tbilisi)

“If the government is the other side in court it is very likely that unfair decision will be made.” (Female, 27, lawyer, Tbilisi)

The respondents agreed that it depends on a specific case whether it is better to solve a dispute in the court or without it.

“The court is the only solution in criminal cases.” (Female, 25, lawyer, Tbilisi)

“There are cases when individuals and the government are capable to solve their dispute through negotiations.” (Female, 22, lawyer, Tbilisi)

“Businesses always try to avoid court procedures which may be prolonged and create additional problems for the parties.” (Male, 24, lawyer, Tbilisi)

The focus group participants outlined the following changes that need to be done to improve court performance:

“Three main things should be done: the population should be informed on court processes, administrative procedures should be simplified and bureaucracy should be reduced in courts of first instance.” (Male, 24, lawyer, Tbilisi)

“Court fees in Georgia are too high. But the issue here is different: in legal terms courts are authorized to release claimants from court fees. However, this right is not implemented by courts.” (Female, 27, lawyer, Tbilisi)

“The court should have a social fund to support and subsidize poor people who take their case to the court.” (Male, 24, lawyer, Tbilisi)

“TV advertising and programs can be very helpful. Ordinary people should be explained in detail how to apply to the court.” (Male, 30, lawyer, Tbilisi)