

LACK OF “HUMAN RIGHTS CULTURE” AND WEAKNESS OF INSTITUTIONAL PROTECTION OF HUMAN RIGHTS IN THE SOUTH CAUCASUS

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Abstract

The main focus of this paper is the analysis of reported level of (dis)trust towards the Ombudsmen in Armenia, Azerbaijan and Georgia, based on the findings of CRRC’s Caucasus Barometer survey. During the period from 2008 to 2013, trust towards the respective country’s Ombudsman declined in all three countries. Both bivariate and regression analysis suggest that the nature of (dis)trust towards the Ombudsmen is different in each country, but in all cases it is positively correlated with reported trust towards major governing bodies. Although the respective Laws are clear that this is an independent institution, our finding suggests that, in public perception, Public Defenders represent the government – and this perception may hinder efficiency of this institution to serve as promoters of “human rights culture” in their countries.

1. Introduction

In the countries of the South Caucasus (Armenia, Azerbaijan and Georgia), the awareness about human rights and the mechanisms of their protection have historically been rather low, hence, “human rights culture” is still far from strong in these societies. Although institutions of Public Defenders (or Ombudsmen) have been established in all these countries after the breakup of the Soviet Union, and respective legal mechanisms have been created, this did not yet lead to major changes in public knowledge, perceptions and attitudes. Just under a third of the population of the South Caucasus countries reported in CRRC’s 2013 Caucasus Barometer survey¹ trust towards the Ombudsman of the respective country, with 20% to 30% answering “Don’t know” to this question. Although the establishment and very existence of the institutions of Public Defenders represent important steps forward towards ensuring chances of protection of human rights in these

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¹ <http://www.caucasusbarometer.org/en/>

post-Soviet countries, the data suggest these institutions have not yet proven to be as efficient as democratic reformers were hoping they would.

The main focus of this paper is, however, not a detailed account of the activities of the Ombudsmen and their offices in the South Caucasus countries, but, rather, analysis of public attitudes towards Public Defenders – primarily, level of (dis)trust towards the Ombudsmen in Armenia, Azerbaijan and Georgia. The paper will analyze how similar, or how different is it in each of these countries, and how it correlates with the population’s major demographic characteristics and democratic attitudes. Detailed background information about the institution will be presented based on the Georgian case. General information about functions and performance of the Public Defender (PD) of Georgia and his Office will be provided in the first part of the paper, followed by description of methodology of data collection and analysis, and findings for each of the countries.

2. The Public Defender (Ombudsman) of Georgia: Functions and Performance

1996 Organic Law on Public Defender of Georgia provided the necessary legal basis for the establishment of this institution. Importantly, by 1996, post-Soviet Georgia already had some experience of institutional defense of human rights: in 1992, very soon after this former Soviet republic has proclaimed its independence, a governmental Committee on Interethnic Relations and Protection of Human Rights was established. This Committee served as the basis for the establishment of the institution of Public Defender in 1996. Compared to the mandate of the Committee, though, the rights and possibilities of the Public Defender are much broader.

In the period between 1997 and 2015, Georgia had five Public Defenders. The main function of the Public Defender, commonly referred to as the Ombudsman, in Georgia is to oversee the observance of human rights in the country. This includes providing assistance to the citizens who report violation of their human rights; analysis of the country’s legislation, ensuring its compliance with international standards; and advice to the government on the steps to be taken to protect human rights. According to the official information, “The Public Defender of Georgia exercises the functions of the National Preventive Mechanism, envisaged by the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Ombudsman of Georgia undertakes educational activities in the field of human rights and freedoms, and lodges complaints in the Constitutional Court of Georgia in case the human rights and freedoms envisaged in the chapter II of the Georgian constitution are violated by a normative act. The Public Defender is further authorized to exercise the Amicus Curiae function in Common Courts and the Constitutional Court of Georgia. Powers and functions of the Office of Public Defender (PDO) are defined in the Organic Law on Public Defender of Georgia of 1996”².

Importantly, the Public Defender represents an independent institution, and is bound only by the Constitution of Georgia and relevant national and international legislation. The Ombudsman cannot be a member of any political party, or be involved in any type of political activity. The PD is elected by the Parliament of Georgia and both him/her and his/her office are funded by the state budget. The Ombudsman him/herself enjoys personal immunity. Any attempt to interfere with or influence the Public Defender’s work is a crime.³

The Law requires the Ombudsman both to react on the cases of violation of human rights and to be proactive in monitoring how human rights are protected in the country. The number of

² <http://ombudsman.ge/en/public-defender/mandati>

³ <http://ombudsman.ge/uploads/other/2/2058.pdf>

applications received by the Ombudsman in 2014 is reported to be 7272,⁴ an impressive increase compared to 5457 applications registered by the Office in 2013.

All services provided by the Public Defender to the citizens are free. In order to make its services more accessible to the population, the institution has seven regional offices in different regions of Georgia⁵ (see Map 1).



Map 1: Locations of the Public Defender's Regional Offices, Georgia (2015)

The institution strives to be actively involved in international collaboration, and is a member of a number of associations active in the field. Since 2013, PD's International Advisory Board has been created in order to strengthen the protection of human rights in Georgia. The members of the Board are to share their knowledge and experience in the field, and assist the Public Defender's Office in institutional development. Also in 2013, the Office underwent Accreditation under the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

Hence, in Georgia, the institution of the Public Defender has a solid legal basis, with a mandate and resources allowing it to protect human rights and help strengthen the "human rights culture" in the country. The following sections of this paper will demonstrate how this institution is viewed by the population.

3. Methodology

Annual Caucasus Barometer (CB) surveys have been conducted by CRRC offices⁶ in Armenia, Azerbaijan and Georgia since 2004⁷, as part of a larger project funded by the Carnegie Corporation of New York. Findings for the period from 2008 through 2013 are used in this paper, with major focus on the 2013 findings.⁸

Caucasus Barometer is the only survey regularly conducted across the region employing the same survey instrument and a comparable methodology. The questions focus on major issues of

⁴ <http://ombudsman.ge/en/public-defender/mandati> (p. 6)

⁵ This overview covers the period until 2015. Two more regional offices were established after that, in Ozurgeti in November 2016 and in Mestia in July 2017.

⁶ <http://www.crrccenters.org/20122/Documentation>

⁷ The surveys were not nationally representative until 2006.

⁸ The survey was not conducted in 2014 and 2016. In 2015 and 2017, the survey was conducted in Armenia and Georgia, but not in Azerbaijan.

social and political transformation of the countries of the South Caucasus, including development of democratic values and level of trust towards major social and political institutions.

Caucasus Barometer surveys adult (18+) population of Armenia, Azerbaijan and Georgia, excluding population living in conflict regions (Nagorno Karabakh, Nakhichevan, South Ossetia and Abkhazia). The interviews are conducted in Armenian in Armenia; in Azerbaijani in Azerbaijan; and in Georgian, Armenian and Azerbaijani in Georgia⁹. Through 2013, PAPI (Paper-and-Pencil) face-to-face interviewing was employed; CRRC introduced CAPI (Computer Assisted Personal Interviewing) in 2014.

Multistage cluster sampling with preliminary stratification is employed for Caucasus Barometer surveys. Around 2200 interviews are completed per country annually; fieldwork takes place in Fall (October-November). The results of the surveys are representative for the entire population of each country, excluding territories affected by military conflicts, and are also representative at the levels of for the population of the capitals, other urban settlements and rural settlements.

The 2013 wave of the Caucasus Barometer survey took place between the 3rd and 27th of October in Georgia, between the 26th of October and the 15th of November 15 in Armenia, and between the 1st of November and the 16th of December 16 in Azerbaijan. 2133 respondents were interviewed in Georgia, 1832 – in Armenia and 1988 – in Azerbaijan, with response rates being, respectively, 69%, 65% and 82%. The data was weighted for the analysis performed for this paper.

Important to note, the Caucasus Barometer surveys are in open access at CRRC's online data analysis platform¹⁰ Datasets in SPSS and STATA formats, as well as survey documentation (questionnaires, fieldwork reports) can be downloaded and analyzed by all interested researchers.

In the Findings section below, results of bivariate analysis are presented first, mostly analyzing the correlation between the variables of interest, followed by logistic regression models run separately for each country in order to understand the predictors of trust towards Ombudsmen of the respective countries.

4. Findings

During the period from 2008 to 2013, reported trust¹¹ towards the respective country's Ombudsman declined from 58% to 28% in Georgia; from 49% to 31% in Armenia, and from 45% to 19% in Azerbaijan. Interestingly, reported distrust has remained rather stable in each country through this period, at around 8% in Georgia and around 22% in Armenia and Azerbaijan. A detailed look at the demographic profile of those trusting and distrusting the Ombudsman is the first step to understand what explains declining trust towards this institution¹².

4.1. Georgia

In Georgia, the share of those who report trusting the Ombudsman is almost three times bigger than share of those who report distrusting him (28% and 10%, respectively), while the majority report indifference (41% "neither trusting nor distrusting" the Ombudsman, and another 20% answering "Don't know"). Reported trust towards the Ombudsman does not differ by the population's major demographic characteristics, such as gender, marital status, type of settlement

⁹ In Georgia, the respondents living in multiethnic primary sampling units can choose the language of the interview.

¹⁰ <http://www.caucasusbarometer.org/en/>

¹¹ The Caucasus Barometer surveys measure trust towards major social and political institutions using a 5-point scale. Answer options "Fully trust" and "Trust" are combined here.

¹² The rest of the paper is based on CB 2013 findings.

the person lives in, his/her employment status or household's economic condition. Compared with representatives of younger age groups, the level of trust, however, tends to decrease among those who are older, but the strengths of correlation is rather weak (Pearson's $R = -0.110$)¹³. Correlation between the level of trust towards the Ombudsman and the highest level of education achieved by individuals is slightly stronger (Spearman's correlation = 0.165), suggesting that those with higher levels of education tend to report a higher level of trust towards the Ombudsman.

More obvious differences are observed among those who have positive vs. negative opinions about the political developments in the country. Those who assess these developments positively (i.e. think that the politics is definitely or mainly going in the right direction) tend to report higher levels of trust towards the Ombudsman. Among those who think that politics in Georgia is going "mainly in the right direction," 38% report trusting the Ombudsman, while 6% report distrusting him.

Similarly, those who think that people in Georgia are treated fairly by the government tend to report higher trust towards the Ombudsman. This suggests that trust towards the Ombudsman in Georgia is strongly correlated with support for the way the country is developing – and, most probably, with support for the current government. Indeed, rather high positive correlations are observed between the variable measuring trust towards the Ombudsman, on the one hand, and variables measuring trust towards the Parliament and the Executive government (Cabinet of Ministers) of the country (Spearman's correlations being, respectively, .358 and .320). Interestingly though, correlation with the variable measuring trust towards the President is much weaker, with Spearman's correlation = .109. This is not entirely unexpected, as the President currently has less executive power in the country, while the relationship of the current President and his administration with the Cabinet of Ministers and the Parliament are often problematic.

More importantly, though, the correlation of the variable measuring trust towards the Ombudsman in Georgia with the variables measuring democratic attitudes in general is much weaker. A relatively strong correlation is observed with the variable measuring support for the statement whether it is important or not for a good citizen to be critical towards the government (Spearman's correlation = .210). It may be the case that the public opinion does not necessarily see the Ombudsman's office as one of the major democratic institutions.

In order to understand how, if at all, the discussed variables influence the population's trust towards the Ombudsman, logistic regression was run. Of the demographic variables in the equation (age, gender, settlement type, marital status, employment, and highest level of education achieved), all were statistically significant, but the impact on reported trust towards the Ombudsman was not very big – with the exception of settlement type. The rural population was 1.5 times more likely to report trust towards the Ombudsman.

Of the variables measuring attitudes to democracy¹⁴, all were, again, significant, and had stronger effect on reported trust towards the Ombudsman. Those reporting that "democracy is preferable to any other kind of government" were 1.6 times more likely to report trust towards the Ombudsman, as were those who believed that politics in Georgia was developing in the right direction. Those who stated that Georgia is currently a democracy were 1.3 times more likely to report trust towards the Ombudsman. The latter finding suggests the answers may be influenced by social desirability bias, and this risk is further enhanced by the fact that those who actually share democratic beliefs (in case of this particular model – those who believe that it is important for a good citizen to be critical towards the government) do not seem to differ in their reported trust towards the Ombudsman in

¹³ In cases of all tables presented in this paper, correlations between the variables are significant.

¹⁴ There were four such variables in the model: importance for a good citizen to be critical towards the government; assessment of the way political processes develop in the country ("right" direction vs "wrong" direction); attitudes towards democracy as a political system; and assessment of level of democratization of Georgia.

comparison to the rest of the population (Table 1).

4.2. Armenia

The reported level of trust towards the Ombudsman has been relatively stable in Armenia after 2009. In 2013, 31% of the population reported trusting the Ombudsman (with only 9% reporting “fully trusting” him), while 24% reported distrusting him. The share of those who answered “Don’t know” fluctuated between 15% and 22% in the period between 2009 and 2013, with the smallest share (15%) recorded in 2013.

In 2013, a relatively weak correlation (Spearman correlation =.121) between reported trust towards the Ombudsman and age can be observed in Armenia, while no differences are observed by other major demographic characteristics – including settlement type, which is an unexpected finding. The correlation between trust towards the Ombudsman and level of education is weaker in Armenia, when compared to the same correlation in Azerbaijan and Georgia, which is also a rather unexpected finding. Overall, it is more difficult to describe the demographic characteristics of those trusting (or distrusting) the Ombudsman in Armenia, than it is in Azerbaijan and Georgia.

In Armenia, reported trust towards the Ombudsman is correlated with trust towards other major governing bodies (the President, Parliament and the Executive government), though the strength of correlation is moderate (Spearman correlations are .261, .257 and .246, respectively). There is a very strong correlation between trust towards the Ombudsman and trust towards the European Union (Spearman correlation =.522), suggesting that the institution of the Ombudsman (and, possibly, the very concept of human rights’ protection) is perceived to be part of European values and/or way of life.

Those Armenians who believe that people are treated fairly by the government tend to have highest trust towards the Ombudsman, and vice versa; however, the correlation between the variables is not very strong (Spearman correlation =.189). Trust towards the Ombudsman in Armenia does not seem to differ by variables measuring democratic attitudes.

The same regression model run based on the Armenian data leads to rather different findings. First of all, education is no longer significant in this model (Table 2). Of the demographic variables, gender and employment status seem to have the biggest impact to reported trust towards the Ombudsman: men are 1.3 times more likely than women to report trust towards the Ombudsman, and so are those who are employed. The variables measuring attitudes to democracy, although statistically significant, do not seem to affect trust towards the Ombudsman, except the variable measuring opinions regarding whether politics in Armenia is developing in the right or wrong direction. Those who think that the politics in Armenia is developing in the right direction are much less likely to report trust towards the Ombudsman.

4.3. Azerbaijan

In Azerbaijan, the share of the population reporting trust towards the Ombudsman is almost equal to the share of those who report distrusting him (19% and 21%, respectively). This finding is relatively constant for the period from 2009 to 2013. The share of those who answered “Don’t know” in 2013 was, however, the highest of the three countries at 29%, with a further 2% refusing to answer this question. Hence, almost a third of the population either could not or would not answer this question.

In Azerbaijan, reported trust towards the Ombudsman does not seem to have been influenced by major demographic characteristics of the population. The only exceptions are differences by settlement type and, to slightly lesser extent, level of education. People living in the capital, on

the one hand, report trusting the Ombudsman twice less often compared to the national average (14% vs 28%), and the population of rural settlements, on the other hand, trusts the Ombudsman more compared to the urban population (Spearman correlation =.190). Similarly to the Georgian findings, those with higher levels of education tend to report higher trust towards the Ombudsman.

Although the 2013 Azerbaijani data does not show differences in trust towards the country's Ombudsman based on positive vs. negative opinions about the political developments in the country, the correlation between answers to the question about trust towards the Ombudsman and assessments whether people are or are not treated fairly by the government is rather strong (Spearman correlation =.224). Those who disagree with the opinion that people in Azerbaijan are treated fairly by the government tend not to trust the Ombudsman, while those who agree with this opinion report a higher level of trust towards him.

Interestingly, the strength of the correlation between trust towards the Ombudsman, on the one hand, and other major governing bodies (the President, Parliament and the Executive government), on the other hand, is weaker in Azerbaijan compared to Georgia. Of these three governing bodies, trust towards the executive government is most strongly correlated with the trust towards the Ombudsman (Spearman correlation =.219). Similar to the finding in Georgia, trust towards the Ombudsman in Azerbaijan is most weakly correlated with trust towards the President (Spearman correlation =.100), but reasons for this findings are not entirely clear, given the strength of this institution in Azerbaijan.

Trust towards the Ombudsman in Azerbaijan is not highly correlated with variables measuring democratic attitudes, which suggests that different relationship between attitudes towards the Ombudsman and democratic attitudes may be in place in Azerbaijan and Georgia.

Of the demographic variables in the logistic regression model run based on the Azerbaijani data, education and gender have the biggest impact on reported trust towards the Ombudsman. Quite similar to the Armenian finding, men are 1.2 times more likely than women to report trust towards the Ombudsman. Azerbaijan is the only of the South Caucasus countries where impact of the education is evident: those having secondary education are 1.6 times more likely to report trust towards the Ombudsman.

Much like the Georgian case, those Azerbaijanis who report that “democracy is preferable to any other kind of government” are 1.3 times more likely to report trust towards the Ombudsman. On the contrary, those who think that Azerbaijan is currently a democracy are much less likely to report trust towards the Ombudsman (Table 3).

5. Conclusions

As the Caucasus Barometer data show, protection of human rights (minority rights comprised) is not named by the population of the South Caucasus countries as one of the major issues facing their countries; quite often, people know almost nothing about human rights. In this situation, the Public Defenders have the possibility – both legally and culturally – to become crucial agents for change and to contribute to the democratic development of their countries.

Although survey data suggest similar levels and dynamics of trust towards Public Defenders in Georgia, Armenia, and Azerbaijan, more detailed analysis shows that nature of trust towards Ombudsmen is different in these countries. Quite alarmingly, the population's trust towards Ombudsmen has declined in Georgia, Armenia and Azerbaijan after 2009, in spite of the development of this institution which, at least in Georgia, has at its disposal all possible legal means to efficiently serve as a mechanism for the protection of human rights and to contribute to the strengthening of the “human rights culture” in their countries. Importantly, trust towards Ombudsmen is positively

correlated with reported trust towards major governing bodies, such as Parliaments and Cabinets of Ministers, which suggests that, to a certain extent, the population perceives Public Defenders to be representatives of the government – even though the respective legislation is clear that this is not the case. Better knowledge of Public Defenders’ independence from the government, as well as the missions and the resources of this institution by the public will help strengthen the protection of human rights and, eventually, develop human rights culture in these societies.

6. References

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Step 1 ¹⁵	B	S.E.	Wald	df	Sig.	Exp(B)	95% C.I.for EXP(B)	
							Lower	Upper
RESPAGE	-.002	.000	477.498	1	.000	.998	.998	.998
RESPSEXreg(1)	.095	.003	1286.329	1	.000	1.100	1.094	1.106
STRATUMreg(1)	-.420	.003	25281.894	1	.000	.657	.654	.660
RESPMARreg(1)	.106	.003	1540.618	1	.000	1.111	1.105	1.117
RESPEMPLreg(1)	-.036	.003	176.612	1	.000	.965	.960	.970
RESPAGE	-.002	.000	477.498	1	.000	.998	.998	.998
RESPSEXreg(1)	.095	.003	1286.329	1	.000	1.100	1.094	1.106
STRATUMreg(1)	-.420	.003	25281.894	1	.000	.657	.654	.660
RESPMARreg(1)	.106	.003	1540.618	1	.000	1.111	1.105	1.117
RESPEMPLreg(1)	-.036	.003	176.612	1	.000	.965	.960	.970
RESPEDUreg(1)	.221	.003	5741.080	1	.000	1.248	1.240	1.255
becriticalreg(1)	-.081	.003	962.616	1	.000	.922	.918	.927
POLDIRNreg(1)	-.474	.003	31966.690	1	.000	.622	.619	.626
ASSESSDEMreg(1)	-.279	.003	10417.644	1	.000	.756	.752	.760
ATTDEMreg(1)	-.494	.003	29627.261	1	.000	.610	.607	.614
Constant	.142	.005	745.563	1	.000	1.153		

Table 0.1: Variables in the Equation (Georgia).

Step 1 ¹⁵	B	S.E.	Wald	df	Sig.	Exp(B)	95% C.I.for EXP(B)	
							Lower	Upper
RESPAGE	-.008	.000	7558.986	1	.000	.992	.992	.992
RESPSEXreg(1)	.227	.003	5247.981	1	.000	1.255	1.247	1.262
STRATUMreg(1)	-.027	.003	72.685	1	.000	.973	.967	.979
RESPMARreg(1)	.090	.003	805.335	1	.000	1.094	1.087	1.101
RESPEMPLreg(1)	.274	.003	7317.242	1	.000	1.315	1.307	1.323
RESPEDUreg(1)	.004	.003	1.199	1	.274	1.004	.997	1.010
becriticalreg(1)	.040	.003	160.134	1	.000	1.041	1.035	1.047
POLDIRNreg(1)	-1.338	.005	62728.182	1	.000	.262	.260	.265
ASSESSDEMreg(1)	-.352	.004	8238.279	1	.000	.704	.698	.709
ATTDEMreg(1)	.101	.003	1114.786	1	.000	1.106	1.100	1.113
Constant	.915	.008	14145.548	1	.000	2.498		

Table 0.2: Variables in the Equation (Armenia).

Step 1 ¹⁵	B	S.E.	Wald	df	Sig.	Exp(B)	95% C.I.for EXP(B)	
							Lower	Upper
RESPAGE	.001	.000	336.842	1	.000	1.001	1.001	1.002
RESPSEXreg(1)	.222	.002	8272.908	1	.000	1.249	1.243	1.255
STRATUMreg(1)	-.762	.002	110531.771	1	.000	.467	.465	.469
RESPMARreg(1)	-.005	.003	3.779	1	.052	.995	.990	1.000
RESPEMPLreg(1)	-.350	.003	18939.325	1	.000	.705	.701	.708
RESPEDUreg(1)	.446	.002	36781.935	1	.000	1.562	1.554	1.569
becriticalreg(1)	-.130	.004	1273.911	1	.000	.878	.872	.885
POLDIRNreg(1)	.086	.002	1241.880	1	.000	1.090	1.084	1.095
ASSESSDEMreg(1)	-.958	.003	144194.281	1	.000	.384	.382	.386
ATTDEMreg(1)	.297	.002	15615.741	1	.000	1.346	1.340	1.352
Constant	-.399	.005	5505.679	1	.000	.671		

Table 0.3: Variables in the Equation (Azerbaijan).

¹⁵ Variable(s) entered on step 1: RESPAGE, RESPSEXreg, STRATUMreg, RESPMARreg, RESPEMPLreg, RESPEDUreg, becriticalreg, POLDIRNreg, ASSESSDEMreg, ATTDEMreg.

RESPAGE	Respondent's age, measured on a ratio scale.
RESPSEXreg(1)	Respondent's sex, measured on a dichotomous scale.
STRATUMreg(1)	Settlement type, originally a nominal variable with three categories: capital, other urban settlements and rural settlements.
RESPMARreg(1)	Respondent's marital status, originally a nominal variable measured by question A7_R of the questionnaire. xviii
RESPEMPLreg(1)	Respondent's employment status, originally a nominal variable measured by question J1 of the questionnaire.
RESPEDUreg(1)	Highest level of education obtained by the respondent; originally a nominal variable measured by question D4 of the questionnaire.
becriticalreg(1)	Assessment of importance for a good citizen to be critical towards the government, originally an ordinal variable measured by question P16_7 of the questionnaire.
POLDIRNreg(1)	Assessment of which direction the respective country's politics is developing towards; originally a nominal variable measured by question P1 of the questionnaire.
ASSESSDEMreg(1)	Assessment of democratic development of the country; originally a nominal variable measured by question P17 of the questionnaire.
ATTDEMreg(1)	Attitudes towards democratic vs. non-democratic rule; originally a nominal variable measured by question P18 of the questionnaire.

Table 0.4: Variables in the regression models.