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Righting the wrong? Illustrating and understanding post-authoritarian transitional justice in Georgia and Armenia

CEERES Master Thesis – *by* Veronika Pfeilschifter

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Righting the wrong? Illustrating and understanding post-authoritarian transitional justice in Georgia and Armenia

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Table of content

Abbreviations.....i
Acknowledgments.....ii
Abstract.....iii
Chapter 1: Introduction.....1
1.1 Picking up the pieces of an authoritarian past.....1
1.2 Chapter guide.....2
1.3 Research gaps, relevance and aims.....2
1.4 Research question, sub-question and definition of variables.....4
1.5 Limitiations of analysis.....5
Chapter 2: Key concepts and theoretical framework for an analysis of post-authoritarian transitional justice.....6
2.1 Rethinking transitional justice as a human rights concept.....6
2.2 Conceptualizing a matrix of transitional justice implementation.....10
2.2.1 Legal-judicial dimension.....11
2.2.2 Political-administrative dimension.....11
2.2.3 Socio-economic dimension.....12
2.2.4 Symbolic-representative dimension.....13
2.3 Developing a model to understand transitional justice implementation.....15
2.3.1 Approaching the authoritarian legacy.....16
2.3.2 Making civil society's influence visible.....17
2.3.3 Thinking about the impact of external elites.....18
Chapter 3: Methodology.....19
3.1 Research design.....19
3.2 Case selection.....21
3.3 Operationalization.....26
3.4 Data collection.....27
3.5 Methods of analysis.....28

Chapter 4: Illustrating transitional justice measures in post-2012 Georgia and in post-2018 Armenia…………………..……..……………………………………………..…..…..30

4.1 Legal-judicial dimension: From procedural rights violations during prosecutions to lack of victims' legal rehabilitation 31

4.2 Political-administrative dimension: From personal continuities in law enforcement, absence of vetting to lack of compensations 40

4.3 Socio-economic dimension: From partial return of illegal financial assets and property to lack of societal redistribution 46

4.4 Symbolic-representative dimension: From apology to lack of truth telling.................. 51

4.5 Summary 55

Chapter 5: Understanding two different paths of post-authoritarian transitional justice in Georgia and Armenia ……………………………………………………...…………....58

5.1 Continuation of authoritarian neoliberal legacy vs. resistance to authoritarian past 58

5.2 Confrontational vs. corrective relations with civil society.. 64

5.3 Lack of international pressure vs. active response to external elites' demands 67

Chapter 6: Conclusions…………...…..71

Bibliography…………...75

Appendix I: Post-2018 prosecutions in Armenia..100

Appendix II: Post-2012 prosecutions in Georgia …………………….............................106

Appendix III: Memo on field trip to Yerevan (28 to 30 October 2019)........……….......112

Appendix IV: **Memo on online debate 'Transitional Justice in Central Asia and Georgia' (14 July 2020)**……………………..…..118

Appendix V: Memo on online discussion 'The Recovery of the Judiciary in the Context of Constitutional Amendments' (8 May 2020)……………………............................…..119

Appendix VI: Interlocutors for interviews ……………………..122

Abbreviations

Department of Constitutional Security of the Republic of Georgia - CSD Georgia

Economic and social rights - ESR

European Court of Human Rights - ECHR

European Union - EU

Georgian Dream - GD

Georgian Young Lawyers Association - GYLA

Georgian Trade Union Confederation - GTUC

International Center for Transitional Justice - ICTJ

Member of Parliament - MP

Ministry of Internal Affairs - MoIA

Ministry of Justice - MoJ

National Security Service Armenia - NSS Armenia

Non-governmental organization - NGO

Open Society Foundation - OSF

Organization for Security and Cooperation in Europe - OSCE

Political and civil rights - PCR

Prime Minister - PM

Republican Party of Armenia - HHK

State Revenue Committee Armenia - SRC Armenia

Temporary State Commission on the Miscarriage of Justice - TSCMJ

Transparency International Armenia/Georgia - TI Armenia/Georgia

United Nations - UN

United Nations Human Rights Officer of the High Commissioner - UNOHCHR

United National Movement - UNM

Universal Declaration of Human Rights - UDHR

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Abstract

The thesis explores why post-authoritarian transitional justice (TJ) is implemented and why not and which factors influence governments' decisions on initiating TJ after transitions. It examines post-2012 Georgia and post-2018 Armenia as small-*n* case studies and compares the extent of TJ implementation based on a combination of Vello and Eva-Clarita Pettai's transitional justice matrix and Dustin Sharp's economic violence approach. This framework enables the illustration of different patterns of TJ implementation in four dimensions – legal-judicial, political-administrative, socio-economic and symbolic-representative – which combine 16 indicators to form the *explanandum* (dependent variable). Based on the author's theoretical three-factor model of TJ implementation, the thesis presents evidence that the phenomenon can be understood as the result of governmental responsiveness to civil society activism, the TJ pressure of external elites and the ideological and structural prevalence of an authoritarian legacy (independent variables). Within the time periods under analysis (2012 to 2015 in Georgia and 2018 to 2020 in Armenia), it was found that the Georgian government was comparatively less active in initiating TJ measures than the Armenian government, particularly with regard to the symbolic-representative and socio-economic dimensions. The thesis frames Georgia's TJ patterns as a consequence of the continuation of an authoritarian legacy, a lack of external TJ pressure and conflicting relationships with civil society. By comparison, Armenia's broader level of TJ implementation can be understood as a result of resistance to an authoritarian legacy, an initially higher level of external TJ leverage and the government's cooperation with civil society.

***Keywords**:* Human rights, post-authoritarian transitional justice, Georgia, Armenia, transitional justice structure

Chapter 1: Introduction

1.1 Picking up the pieces of an authoritarian past

When the philosopher Antonio Gramsci (1891–1937) wrote what would later become his famous *Prison Notebooks* (1926), he probably would not have expected one particular sentence to be repeatedly quoted, which summarizes all too well the topic of this thesis: *“The crisis consists precisely in the fact that the old is dying and the new cannot be born […]”* (Gramsci 1926 [1971]: 276). Systemic transitions after phases of an authoritarian, violent past always seem to be crises, regardless of which part of the world they occur in. They indicate that dominating practices within a society have (at least temporarily) become contested, no longer accepted, and no longer normatively acceptable and that something new should take their place. When two neighboring countries in the South Caucasus, Georgia and Armenia, were driven by public outcries to end long periods of systemic political and economic injustice to initiate transitions in 2012 and 2018, respectively, civilians hoped that the new political elites would start enforcing normative changes and finally guarantee very basic human rights. Both Bidzina Ivanishvili (2012–2013) – Georgia’s richest man, then soon-to-be new prime minister (PM) and founder of Georgian Dream (GD), a political party, which has stayed in power until today – and Nikol Pashinyan – Armenia’s leader of the non-violent Velvet Revolution in 2018, which was driven by “[…] widespread disillusionment with socioeconomic decline, persistent insecurity and authoritarian encroachment” (Broers 2020: 1) – assured that they would pick up the pieces of an authoritarian past. After videotapes that exposed the torture of inmates at the notorious Gldani Prison No. 8 were broadcast on Georgian public television (Euronews 2012), Ivanishvili declared that he would restore justice (Austin 2018). He proclaimed an end to the grave human rights violations conducted by the administration of the ruthless neoliberal reformer and the West’s former darling, Mikheil Saakashvili, whose legacy remains contested in Georgian society. Ivanishvili promised to hold accountable those who broke civilians’ rights and guaranteed human dignity to those who had been deprived of it during a violent 10-year phase of ‘zero tolerance for petty crime’ – an authoritarian mission to modernize the state by enforcing capitalism.

In August 2018, 100 days after Armenia’s Velvet Revolution, which wiped away the political foundations of an oligarchic network of endemic corruption that included Serzh Sargsyan, the country’s leader, former head of state and head of the Republican Party (HHK), Pashinyan – who had become the face of the revolution – announced the creation of ‘transitional justice bodies’ (The Prime Minister of the Republic of Armenia 2018), a mechanism that differed

from the establishment of ‘extraordinary courts’, which is unconstitutional in Armenia (Article 163, Constitution of the Republic of Armenia 2015). Today, more than eight years after Georgia’s transition, activists and politicians in Georgia agree that the idea of transitional justice (TJ) has failed. In Armenia, talks on post-authoritarian (not post-conflict) TJ have grown quiet in the wake of the horrendous second Nagorno-Karabakh war (2020). How did we arrive at these points and, more importantly, why?

1.2 Chapter guide

The present thesis aims to answer these two main questions. It intends to trace a logical line between the context of the chosen TJ trajectories and the patterns of TJ implementation in post-2012 Georgia and post-2018 Armenia. Whilst Chapter 1 draws on the relevance and the limits of analysis and provides an overview of the literature, Chapter 2 outlines the thesis’ theoretical backbone. It uses Vello and Eva-Clarita Pettai’s three-dimensional approach to operationalize TJ in legal-judicial, political-administrative and symbolic-representative dimensions in the framework of accountability and reconciliation and adds in correspondence to its critical approach the dimension socio-economic, re-distributive justice, based on Dustin Sharp’s thinking. Furthermore, the thesis developed a three-factor theoretical model of TJ implementation as an attempt to understand the analysed TJ patterns. Explanatory variables include authoritarian legacy, the influence of civil society and the impact of external elites. Then, Chapter 3 provides an overview of methodology by introducing the usefulness of the Most-Similar-Different-Outcome (MSDO) research design for the thesis’ *outcome-oriented approach*, which forms the basis of a controlled case comparison and by presenting the methods used in data collection and evaluation. Next, Chapter 4 describes the TJ measures implemented by the post-transitory governments in Georgia and Armenia, as well as the ones that they did not implement. Chapter 5 analyses how the mentioned three factors influenced the scale of the governments’ implementation of TJ. Finally, Chapter 6 sums up the thesis’s most important results and answers the research question.

1.3 Research gaps, relevance and aims

The academic and social relevance of this thesis, as related to identified research gaps, is based on five central factors. Firstly, unlike post-conflict transitional justice (e.g., Broers 2019, Frichova 2009), post-authoritarian TJ in Georgia after 2012 (Appendix IV, Dolidze 2020, p. 118) and in Armenia after 2018 is under-researched and under-analysed within a systematized framework. Only a few analysts and policy experts, such as Dolidze (2013,

2015), de Waal (2012) and, most notably, Varney (2017) have provided more holistic analyses of TJ *perspectives* in Georgia from 2012 to 2017. To date, there have not been any analyses that evaluated the scope of post-Saakashvili TJ or posed the question of why TJ as a political project failed in post-2012 Georgia. Single academic publications, such as those by Austin (2018) and Stan (2009: 238-239), have generated fragmented descriptive knowledge on the flaws of TJ in Georgia since its independence in 1991. However, due to their under-theorized approach, they did not assess the reasons for the implemented measures nor for proposed and/or failed TJ measures. In the case of Armenia, policy experts and consultants have similarly analysed TJ *perspectives* (Carranza 2018, 2019, Kopalyan 2018, 2019, 2020a) and the political significance of single TJ measures in the TJ process (Vasilyan 2019). Theory applying post-2018 analyses, which could measure the scale of TJ implementation, have, certainly also due to the ongoing process of TJ implementation, not yet been finalized. The academic literature on post-authoritarian TJ in Armenia before 2018 is rare and has focused on the lack of its post-Soviet lustration and post-conflict memorialization (Stan 2009: 240-241, Suciu 2018). Thus, one of the present thesis' goals is to close the empirical gap, which applies to both countries. Secondly, the lack of country-focused empirical analyses logically implies an absence of comparative studies on the topic, which further underlines the relevance of this research project. Whilst civil society and lawyers (e.g., Chanturia 2020, Heinrich Boell Foundation South Caucasus 2018, Kirakosyan 2020, Sakunts 2020, Zadoyan, in: Armenian Lawyers Association 2019a) have stressed the usefulness of a comparative approach in order to learn from mistakes made in the Georgian context, systemic comparative analyses have not yet been conducted. Nerses Kopalyan has briefly drawn on lessons learnt from Georgia and concluded that its TJ mechanism was perceived as a failure for four central reasons: (1) a lack of independent observatory bodies, which would have overseen investigatory and prosecutorial units after 2012; (2) political prosecutions due to selective justice; (3) "various reform structures and bodies', which were seen as artificial and finally (4) a "relatively underdeveloped civil society" (Kopalyan 2018). These are relevant observations that must be further verified and contextualized, both to illustrate Georgia's TJ trajectory and to compare the scale of its implemented measures with those of Armenia. Thirdly, TJ analyses have so far mostly excluded to examine the ethos or dominant ideological narrative behind the implemented measures, which includes an analysis on the forms of human rights violations, which were addressed as part of the TJ trajectory. Since one of the thesis's main observations concerns the absence of answers to economic violence as part of TJ, a critical approach is necessary to understand governments' TJ-related decisions. Fourthly, an aim of the study is to

contribute to the theorization of TJ as a structural concept. Whilst the field of TJ has produced a vast number of empirical analyses, it lacks contributions that illustrate the validity of intermediate-range theories. Research on causes for the success or failure of TJ remains rare (Duthie 2017: 9-11). In their 2010 paper, Olsen et al. concluded that "if transitional justice does achieve its goals, neither scholars nor policy-makers clarify when, why, or how it might do so" (Olsen et al. 2010: 981). The present study aims to critically assess whether reasons for the (lack of) TJ can be found in the pre- or post-transition structure. Finally, the thesis hopes to contribute to practical debates surrounding TJ in both Georgia and Armenia. During the research process, which ended before the 2020 elections in Georgia and the second Nagorno-Karabakh war, it became evident that human rights activists, scholars and analysts encouraged TJ implementation. However, during the time of data collection, there has been societal disillusionment in the Georgian case and a certain resignation due to incoherent governmental communication regarding the design of TJ implementation in the Armenian case. A critical issue that has been frequently raised concerns the general usage of TJ as a very academic and elitist term, which is mostly unrelated to forms of "soft authoritarianism" (Mazmanyan 2020). Whilst the present research doesn't claim to be a policy guide, it aims to at least illustrate and understand TJ implementation patterns to provide impetus for further discussions.

1.4 Research question, sub-question and definition of variables

The thesis has developed one main research question, which is related to a sub-question, which has to be answered first in order to resolve the research puzzle.

Although the political systems of Georgia (2003–2012) and Armenia (2008–2018) appear to be quite similar at first, the following analysis demonstrates that the implementation of TJ measures differed after the countries' respective transitions. Consequently, the thesis aims to identify factors that can explain the introduction of TJ in post-authoritarian contexts. The main research question is, 'Under which conditions is post-authoritarian transitional justice implemented by governments?' Consequently, the reasons are treated as the independent variable (IV, explanans).

In order to answer this question, a second sub-question was posed. It aims to illustrate the landscape of TJ implementation and reads as follows: 'Which measures of post-authoritarian transitional justice have been implemented by governments in Georgia since 2012 and in Armenia since 2018?' Thus, the scale of TJ implementation is the dependent variable (DV, explanandum).

1.5 Limitations of analysis

The analysis has five main limitations and was thus unable to obtain certain results. First, the thesis focuses only on post-authoritarian responses to a post-Soviet predecessor government in each country. Thus, it considers neither the lack of post-Soviet TJ nor the full path dependency and development of human rights after 1991. The former excludes an analysis of TJ measures as answers to human rights violations that occurred in Soviet times. The latter issue may be especially disadvantageous in Armenia's case, since the Armenian government's TJ strategy (The Government of the Republic of Armenia 2019) addresses rights violations committed under not only Sargsayan, but also the country's first post-independence president, Levan Ter-Petrosyan (1991–1998), and second president, Robert Kocharyan (1998–2008). Similarly, a thorough analysis of human rights violations under Georgian presidents Zviad Gamsakhurdia (1991–1992) and Eduard Shevardnadze (1992–2003) was not part of the study. However, various interlocutors (e.g., Ramishvili) have underlined that this would contribute to a better understanding of the politics of truth and justice in post-Soviet Georgia. Such an undertaking could help to decode a "long-term culture of impunity, which persists in Georgian society [and] has […] perverted [its] social fabric […]" (Chanturia 2020). Because of its chosen approach, which focuses on TJ answers to the respective immediate pre-transitory governments, the research project does not include analyses of the abovementioned post-Soviet authoritarian regimes. Being aware that this limitation narrows the research results, it states that clear categories and the inclusion of distal factors in the IV (comp. subsection 2.3.1) help to illustrate the political reality of the chosen timeframe. The second limitation, which relates to the framework of the analysis, is the lack of examination of rights violations amongst different social groups and identities (e.g., gender, citizenship or health conditions). Whilst much more sociological research should be conducted on the topic and sociological analyses are needed in order to understand the full scale of rights violations, the present research focuses on analysing governmental responses as TJ *measure types*. Thirdly, the study is limited by the type of rights violations that it considers. Within the framework of economic and social rights, it focuses on the right to work and social security in relation to employment. The thesis neither assesses violations of the right to health, education, water, sanitation and housing nor examines cultural rights violations and their relation to authoritarianism and TJ. Certainly, analyses of these rights categories could be conducted in the future. The fourth and most important limitation of the study concerns my entire lack of Georgian and Armenian language skills. In order to ensure adequate coverage of Georgian- and Armenian-language sources and information, I cooperated with three local research

assistants who identified local-language sources, made transcripts and conducted translations. This additional help substantively expanded the data.

Chapter 2: Key concepts and theoretical framework for an analysis of post-authoritarian transitional justice

First, Chapter 2 presents the definition of TJ used in this thesis and distinguishes it from related terms that are within the same *semantic field*. The section also underlines the necessity of giving equal consideration to the severity of political and economic violence. Secondly, an own conceptualization is developed, which represents a combination of Vello and Eva-Clarita Pettai's (2015) three-dimensional approach (legal-judicial, political-administrative and symbolic-representative) and Dustin Sharp's (2014) paradigm of economic violence; this enables the addition of a fourth socio-economic dimension. Thirdly, the chapter presents the theoretical foundation for the research by illustrating determinants that have been considered to be beneficial for the implementation of TJ in the literature. Fourthly, an own model of TJ implementation is then constructed.

2.1 Re-thinking transitional justice as a human rights concept

'Transitional justice' as a term was coined by Neil J. Kritz, a senior scholar at the United States Institute of Peace, in his three-volume monograph from 1995 (Kritz 1995). Since then, a vast body of theoretical scholarship (most notably Elster 2004, Franzki/Olarte 2014, Grodsky 2011, Pettai/Pettai 2015, Sharp 2013, 2014, 2018, 2019, Teitel 2000, 2003) has developed. Transitional justice has become established as a discipline. Intergovernmental and supranational institutions (European Union External Service 2015, United Nations 2010, even the World Bank 2011) and governments (Davis 2014, Sancho 2014) have included it as a normative goal of liberal democratization. In 2011, the position of a United Nations (UN) Special Rapporteur on TJ ('Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence') was established. Since 2000, international and non-governmental organizations (NGOs) such as the International Center for Transitional Justice (ICTJ) have offered consultancy on TJ formation and implementation to governments and civil society worldwide. Transitional justice has become internationalized as a global project (Nagy 2008).

In this thesis, transitional justice is defined as "the judicial and non-judicial processes designed to reckon with past human rights violations following periods of […] state

repression, and[/or] armed conflict" (Dancy et al. 2019: 1). Thus, TJ as a concept seeks for an extension of purely legal measures but aims to achieve *societal* transformation (Murphy 2017). By rectifying with the past, TJ aims for accountability from groups and individuals who have previously committed human rights violations and reconciliation for collectives and individuals whose human rights were violated (ICTJ 2020b, Pettai/Pettai 2015: 15). Its ultimate – and, indeed, utopian – goal (which is reflected in the thesis' conceptualization of TJ) is not the establishment of liberal democracy, as is often uncritically assumed, which moves elements of economic violence to the periphery (Sharp 2014: 25), but rather an end to previous structural political and economic violence. Whilst non-governmental and non-state actors, which frequently influence and play leading roles in TJ processes, offer alternative spaces and forms of TJ (Kurze/Lamont 2019), the thesis focuses on measures initiated by governments and state organs.

Transitional justice can be implemented after periods of authoritarianism ('post-authoritarian TJ', in which 'post-communist TJ' represents a specific type of TJ in countries from the former Soviet Union) and conflict ('post-conflict TJ'). There can be a simultaneous need to implement both types of TJ (e.g., post-1992 Georgia, post-1994 Armenia, post-2010 Kyrgyzstan and post-2013 Ukraine, amongst others). Thus, the distinction between post-conflict TJ and post-authoritarian TJ is purely analytical. Post-conflict TJ is a response to periods of structural violence, which include large-scale physical violence committed in an armed conflict between two or more states, different state and non-state actors or in the context of contested statehood. Post-authoritarian TJ, which is the focus of this research, is a response to systemic violations of principles of democracy – namely, civil, political, social and economic rights. Both post-conflict and post-authoritarian TJ should be regarded as sub-groups of TJ, since they aim to achieve the same ends: the restoration of rights that were violated due to practices, structures and systems of rights abuse. The two arms of the International Bill of Human Rights, the 1966 *International Covenant on Political and Civil Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESC), legally codified all types of human rights (United Nations Human Rights Officer of the High Commissioner 1966a, b). First presented in the Universal Declaration of Human Rights (UDHR) in 1948, human rights are *indivisible* and interdependent, as stated particularly in the 1993 Vienna Declaration and Programme of Action (UNOHCHR 1993). Political and civil rights ensure the right to life, liberty and security of person (Article 3 of the UDHR) and not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (Article 5 of the UDHR). Furthermore, human rights encompass the rule of law:

everyone has the right to an effective remedy "by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law" (Article 8 of the UDHR) and is "entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him" (Article 9 of the UDHR). They further include the right to vote freely (Article 21 of the UDHR) and to peaceful assembly (Article 20 of the UDHR). Violations of political and civil rights caused by murder, rape, torture and other forms of physical violence are subsumed under *political violence*. Economic and social rights reflected in Articles 17 and 22 to 27 of the UDHR include, amongst other rights, the right to property (Article 17 of the UDHR), social security (Article 22 of the UDHR) and work[1] (Article 23 of the UDHR). Violations of economic and social rights (ESR) resulting from corruption, economic crimes and political policies that reproduce pervasive structural economic inequality and deliberately violate social and economic rights are subsumed under "*economic violence"* (Sharp 2014: 2). Due to size limitations, the thesis operates on a narrow definition of corruption that focuses on the appropriation of property and financial assets.

An authoritarian system is defined as a political system in which political and economic violence occur. This conceptualization prevents the term 'democracy' from being reduced to minimalist procedural and liberal (not critical) definitions (as e.g., Levitsky/Way 2010, O'Donnell/Schmitter 1986). According to the logic of the thesis, any post-authoritarian TJ approach must include responses to violations of both rights groups. Ismael Muvingi (2009) calls this an attempt to overcome the 'bias of the parent discipline of human rights', which has narrowly focused on the violation of political and civil rights.

Over the past ten years in particular, there has been increased disagreement within the academic community about whether or not to include social and economic rights as part of TJ (Carranza 2008, Hecht/Michalowski 2012, Ochoa-Sánchez 2018). Some scholars have loudly opposed the idea by underlining that (1) TJ is conceptually over-stretched (Waldorf 2012); (2) TJ measures are not suitable for responding to economic violence due to their alleged "legalistic and corrective" (ibid.: 179) nature; (3) TJ is limited in terms of time, capacity and skills (Mani 2008); and (4) socio-economic violations would concern sectors of governance and pose difficult budgetary questions (McAuliffe 2014: 277). However, these arguments are

[1] Other social and economic rights, which are not covered in this thesis, include the right to an adequate standard of living, the right of family to protection and assistance, the right to the highest attainable standard of physical and mental health, the right to education and the right to cultural life and benefits of scientific progress (United Nations 1948). The realization of these rights has not necessarily been achieved in political systems defined as procedural democracies, or systems in which free elections (as a minimum threshold) are conducted.

considered to be unconvincing, tentative and incoherent within the present thesis. Counterarguments to the abovementioned four aspects can be provided as follows. First, ceteris paribus, there is nothing wrong with developing broad concepts. It is indeed necessary to exhaustively define terms in order to enable the holistic description of phenomena (Bell, Campbell and Ní Aoláin 2007). Second, because of their corrective nature, TJ measures should equally encompass all rights violations (Arbour 2006) and not repeat the ideologically driven competition between political and civil rights (PCR) and ESR (see e.g., Carranza 2008). This thesis argues that it is only possible to speak of attempts to create more just societies if measures substantially address political and economic violence (Muvingi 2009); thus, stressing the apparent limits of TJ because of its 'legalistic' nature, as Waldorf states, is counter-productive and contradicts the ICESC. Third, 'pragmatic' arguments that refer to technical questions of limited time and skills are then especially unconvincing, given that governments are tasked with achieving societal change rather than accomplishing a political project (Anonymous A1 2020). Fourth, questions of good governance are an essential part of TJ (Kirakosyan 2020). Consequently, excluding ESC (1) contradicts the understanding of TJ as a human rights concept (Muvingi 2009, Sharp 2014), (2) prevents the acknowledgement of groups and individuals whose social and economic rights were violated and (3) reinforces the continuation of a state's authoritarian political economy, which is mostly excluded from the TJ discourse (Carranza 2008, Franzki/Olarte 2014: 208).

Finally, TJ should be regarded as distinctive from other terms that lie within its semantic field (a similar set of meaning) but are analytically different and often confused for it. Transitional justice is *not* the same as retrospective or post-transitional justice. The terms 'retrospective justice' and 'post-transitional justice' differ from TJ in terms of temporality. Whilst retrospective justice addresses human rights violations that occurred before the transition under analysis (in this case, violations that occurred before 2003 in Georgia and before 2008 in Armenia), post-transitional justice refers to measures of accountability and reconciliation implemented long after the end of as transition (Pettai/Pettai 2015: 30).[2] Furthermore, TJ is distinct from but contains elements of retributive, restorative and distributive justice, which are reflected in the different dimensions of the TJ matrix (see Chapter 2.2). Retributive justice, which "takes its start from the foundational underpinnings of the criminal justice system in many Western countries" (Mohamed 2016: 4), aims to hold perpetrators accountable and punish them; thus, it is a part of TJ but does not include the victim

[2] In practice, this would refer to Georgia since the 2020 elections and in Armenia to the period after the next parliamentary elections, which were announced to take place this year.

dimension. Restorative justice is “fundamentally non-retributive” (ibid.: 5) and aims to bring victims and perpetrators of crimes back into harmony with the community (Quinn 2009: 333). Accordingly, measures include rehabilitation, particularly in the form of truth commissions and compensation (Grodsky 2011: 14). Redistributive justice, which is often excluded from liberal discourses on TJ, aims to the return of rewards and a new redistribution of social and economic goods.

2.2 Conceptualizing a matrix of transitional justice implementation

The following model, which served as the measurement tool for the depth of TJ, combines Pettai and Pettai’s model with Sharp’s (2014, 2018, 2019) critical approach reflecting a certain utopianism of critical theory. Vello and Eva-Clarita Pettai (2015: 32) developed a 12-field matrix that enables the measurement of *three* dimensions of post-communist TJ: the criminal-judicial, political-administrative and symbolic-representational dimensions. The dimensions measure, as introduced by Jon Elster, in the ‘perpetrator’ and ‘victim’ side (Elster 2004). This translates to the categories ‘accountability’ towards perpetrators and ‘reconciliation’ towards victims. This dichotomy has been criticized by some researchers, who have argued that (1) perpetrators can simultaneously be victims, and vice versa (Borer 2003), and that (2) this binary thinking reinforces unequal power structures through victimization (Franzki/Olarte 2014). This thesis agrees with that criticism and does not ignore that the two sides are ideal types but underlines that governments, political leaders and the close associates of elites remain the reference point in post-authoritarian states, since they exercised authoritarian practices (acts of political and economic violence) that made them responsible for the diagnosed human rights violations. Furthermore, the intention is not to reduce victims of human rights violations to passive objects of compensation, which would uphold unjust structures; rather, the thesis underlines that ‘victim’ is defined as an individual or a collective that was a deliberate target of rights violations. For the purposes of the present research, a victim is not solely understood as an individual whose political and civil rights were violated but also an individual, group or society whose social and economic rights were broken (Sharp 2014: 12). Thus, TJ can, contrary to Meister’s statements, become a revolutionary project (Meister 2011: 21). However, this *requires* that ESR are included as a serious category of TJ measures, as Sharp (2014) has frequently argued. Consequently, the matrix contains a fourth dimension – the socio-economic dimension – to address a state’s political economy and to illustrate redistributive measures that either tackle former violations of ESR or are found within the realm of restoring these rights.

2.2.1 Legal-judicial dimension

The legal-judicial dimension (*boxes 1a and 1b, p. 14*) encompasses TJ measures from the so-called 'first generation' of TJ, which focused on criminal punishment and individual accountability (Teitel 2003) – namely, retribution and legal rehabilitation. Instruments in the perpetrator dimension consist of investigations and legal prosecutions. Prosecutions have been used as a response to violations of international and humanitarian law (political violence), but they have been used far less as a response to economic crimes. An example for the latter is the prosecution and criminal charges against former Liberian president Charles Taylor for war crimes related to his direct involvement in controlling diamond mines in Sierra Leone (Duthie 2014: 186). The scale of investigations can vary from the opening of cases to a lack of convictions and actual criminal charges (Pettai/Pettai 2015: 35). One main challenge in all investigations and prosecutions concerns how to deal with the old legal system, which served as a basis for legitimizing decisions made by elites that caused and reinforced political and economic violence. After transitions, the judiciary often becomes a target for political contestation and may be in complete disarray (Hayner 2011: 9). In terms of reconciliation, the thesis echoes Pettai and Pettai in viewing the release of political prisoners and the legal rehabilitation of former victims as crucial TJ measures. The recognition of an individual as a victim means that they can either obtain a legal status of former repression or access judicial remedies based on special laws that outline legal procedures for individuals that the new government views as formerly oppressed. Pettai and Pettai (2015: 27) have underlined that the "righting of […] [political prisoners] criminal record […] [carries] greater import, since other legal restrictions may continue to apply to them as long as these prior convictions remain on the books". Thus, the release of political prisoners is considered to be a central TJ measure in the victim dimension.

2.2.2 Political-administrative dimension

The political-administrative dimension (*boxes 2a and 2b, p. 14*) encompasses instruments that lead to changes in the architecture of the political system. Instruments in the perpetrator dimension comprise purges, office bans and vetting. Purges can be equated with the term lustration, which means the direct deprivation "[…] of a livelihood in positions of public trust" (Pettai/Pettai 2015: 36) for those who have committed human rights violations. Vetting is a specific mechanism that aims to assess "[…] the integrity of individuals - including adherence to relevant human rights standards - to determine their suitability for public employment" (ICTJ 2020c). It can take different forms, from conducting surveys and

questionnaires to controlling financial assets. Another mechanism related to legal rehabilitation is the introduction of reparation programmes or the possibility of being awarded monetary benefits or advantages within the new political system to balance the injustice inflicted by the previous regime. As a form of restorative justice, reparations can be realized through administrative programmes (e.g., in post-1985 Brazil, where workers obtained payments as a form of compensation for political persecution resulting from their labour activism), be apart from monetary also non-financial and be individual or collective in nature (Magarell 2007). Examples of non-financial reparations include social forms of rehabilitation (e.g., individual or collective therapy), whilst collective reparations include the provision of infrastructures, such as community centres, roads or school buildings (Roht-Arriaza 2014: 119). However, they are often "the last-implemented and least-funded measure of transitional justice" (ICTJ 2020c). This form of compensation differs from mechanisms that impact a state's political economy, as "the main goal of a reparations program is not to resolve poverty and inequality" (Duthie 2014: 194).

2.2.3 Socio-economic dimension

The socio-economic dimension (*boxes 3a and 3b, p. 14*) encompasses instruments and measures that aim to control states' social and economic equality and, if implemented, lead to changes in the political economy (Franzki/Olarte 2014: 202, Sharp 2014, 2017, 2018). Within the perpetrator dimension, the act of returning illegally confiscated property and financial assets – which are both forms of redistributive justice – is conceptualized (Carranza 2008: 318). This is based on the idea that the right to property is itself a socio-economic right and related to a state's economic system. As for the victim dimension, the socio-economic dimension encompasses a mechanism of property restitution along with re-obtaining basic social security in order to eliminate most pervasive forms of economic violence, which manifest as systemic social inequality and/or endemic corruption. This normatively aligns with the UN's Committee on Economic, Social and Cultural Rights, which states that any failure to guarantee "a minimum core obligation to ensure the […] minimum level of each of the rights […]" (ICESC) constitutes a *prima facie* violation (Albin-Lackey 2014: 145). As stated by Roht-Arriaza, "[…] social protection programs […] become part of transitional planning, not something to be put off until normality has returned" (Roht-Arriaza 2014: 138). Economic violence can't easily be overcome by legal-judicial or political-administrative processes; instead, it must be tackled through economic and distributive policies that realize

the justice principle of equality. Miller describes this process as making the “invisibility of the economic” visible (Miller 2008). As De Greiff underlined,

> “[…] transitional justice is interested not merely in correcting isolated, “token” abuses, but […] in correcting systematic violations, which […] requires systemic reform, development should not be thought to be interested merely in distributing already existing material goods and possibilities, but must take seriously how existing goods and possibilities came about. […] [T]he “distribution” of life chances must heed not just end points but starting points as well” (2009: 63).

Duthie has argued for an approach that focuses “on only the most serious and widespread crimes, which are likely to have the greatest negative impact on economic and social rights” (Duthie 2014). It is challenging to define a threshold for the most profound impact on social and economic rights without being arbitrary. Since the thesis centres on distributive justice, it focuses on means to achieve or maintain basic economic value – namely, labour. Consequently, a minimum threshold would consist of the protection of labour rights, which relate to the right to physical security and the right to work. For those individuals in society who cannot work, the state’s protection of their social security status is considered.

2.2.4 Symbolic-representative dimension

The symbolic-representative dimension (*boxes 4a and 4b, p. 14*) refers to measures, which do not change the political or economic structure of a system but symbolically and rhetorically address the nature of the *ancien régime*. Their aim is to achieve a normative shift and a non-material turning point away from previously violent practices. Instruments on the perpetrator side include rhetorical condemnation by new members of the government and non-judicial investigations that reveal the nature of old abuses (Pettai/Pettai 2015). Non-judicial mechanisms can include reports or commissions. A truth commissions is a “temporary body established with an official mandate to investigate past human rights violations, identify the patterns and causes of violence and publish a final report through a political autonomous procedure” (Bakiner 2016: 24). Truth commissions are different from criminal proceedings, as they usually do not have the power to make criminal judgments. Truth commissions are also different from investigations, as they are bound by a timeframe and a mandate (ibid.). They have been used to address political violence. For example, the 1990 Chad truth commission identified the financial operations and bank accounts of former president Hissène Habré and his associates (Carranza 2008: 321), the 2003 National Reconciliation Commission in Ghana examined property and labour rights violations (Sharp 2014: 94) and the 2011–2012 Truth and Dignity Commission in Tunisia analysed political repression resulting from corruption under former president Ben Ali (Carranza 2020). In addition to uncovering the

names of perpetrators, symbolic-representative mechanisms are also about societal healing. Consequently, the implementation of related measures must be contextualized and evaluated in relation to normative criteria, which ensure the protection of the human rights of those who committed human rights violations in the *ancien régime*. Societal healing for victims of human rights abuses can be achieved through individual or collective apologies, stated by new governmental officials for old abuses and through public remembrance. Apologies are "[…] a formal, solemn, and in most cases public acknowledgement that human rights violations were committed in the past, that they caused serious and often irreparable harm to victims, and that the state, group, or individual apologizing is accepting some or all of the responsibility for what happened" (Carranza/Correa/Naughton 2015: 1). Public remembrance includes commemorations, for example in public events, often related to initiating commemoration days, monuments, public practices such as reading out or publishing victims' names, commemoration meetings between governmental officials and victims' successors or the establishment of museums and educational activities. All of these practices play a role in the myth-building of states, which however won't be analysed in this thesis.

The conceptual framework can be summarized in the following table:

	Accountability	**Reconciliation**
Legal-judicial	-(Criminal) investigations -Prosecution of perpetrators 1a	-Legal rehabilitation of victims -Release of political prisoners 1b
Political-administrative	-Purges, office bans and vetting of former regime officials 2a	-Political rehabilitation of victims through awarding of special compensation 2b
Socio-economic	-Return of illegally obtained property -Return of corrupted financial assets 3a	-Restitution of property -Obtention of basic social security 3b
Symbolic-representative	-Rhetorical condemnation of former authoritarian regime by new governmental officials -Non-judicial investigations revealing mechanisms of abuse 4a	-Public remembrance -Official apology towards subjects whose human rights were violated 4b

Table 1: Matrix of transitional justice measurement (Source: own image).

2.3 Developing a model to understand transitional justice implementation

The current section develops a theoretical framework for the implementation of TJ as a consequence of three factors: authoritarian legacy, the influence of civil society and international external elites. It critically reflects on other scholars' ideas and provides the conceptual basis for understanding patterns of implemented TJ measures, which are conceptualized in Section 2.2 and later empirically identified in the thesis. Three hypotheses were developed, which were later not strictly tested but served as exploratory tools.

To date, the literature on TJ and the few attempts at a complex theorization of TJ implementation (most notably Grodsky 2011, Hansen 2013) have revealed little on how broader structures, both domestic and international, affect TJ implementation. Initially, the literature on TJ was significantly influenced by intuitively appealing balance of power approaches from the 1990s, which have become increasingly contested in recent years and rightly criticized for their enforced binary thinking (Hansen 2013). Representatives of the balance of power theory (e.g., Huntington 1991) have underlined that TJ, in particular criminal prosecution, is a "function of the decision-making process of the new [domestic] elites" (Kim 2012: 307). The actor-focused balance of power approach centres on an assessment of relative 'power' (seen as military and economic resources) of the ruler (often simplified as 'good incoming elites') and the opposition ('bad outgoing elites'; Grodsky 2011: 20). It is assumed that the relative weakness of the old elites would increase the likelihood of TJ implementation. However, this black-and-white actor-centred approach can't withstand four main points of criticism and thus, has to be incorporated in more structural approaches. First, whilst the thesis aligns with the idea that the post-transition government is the most central actor in the TJ implementation process, it underlines that the influence of civil society is crucial in government decisions. Second, elites are neither coherent groups nor black boxes with constant convictions and codes of behaviour. Consequently, the almost artificial distinction between 'old' and 'new' elites with regard to the temporal point of the transition fails to account for empirical complexity. Moreover, new elites can still rely on political and economic violence after the transition and/or make conscious decisions to avoid TJ measures (e.g., post-Franco Spain). Third, TJ as a process has, as previously mentioned, become increasingly internationalized and is now often co-designed and implemented or prevented by external actors. Balance of power approaches can't precisely reflect these dynamics. Finally, balance of power approaches underestimate historical authoritarian legacy in institutions and political ideology, which prevail over single temporal points of 'change'. Based on these four

factors, a TJ system that serves as a starting point to understand the analysed TJ patterns was developed.

2.3.1 Approaching the authoritarian legacy

Any new post-transitory government that rises to power does not encounter a tabula rasa but "inherit[s] an economy, a system of property rights, a class of wealth holders, and a range of pre-existing organizations and institutions – not the least of which are constitutions, legislatures, political parties, oppositional political movements, trade unions [and] police forces […]" (Haber 2006: 696) – in other words, the legacy of an authoritarian past. The latter manifests as (a) a set of beliefs, values and attitudes; (b) agencies and institutions; and (c) the behaviour comes from (a) and (b) Morlino 2010: 508). Morlino concluded that "the greater the number of dimensions that persist, the stronger will be their legacy and the slower and more difficult their passing" (ibid.). Furthermore, Hite and Morlino (2004) have argued that the institutional innovative legacy of regimes critically influences TJ implementation. Innovation, which is neither a 'positive' nor a 'negative' term, is understood as the degree of institutionalisation of authoritarian rules, patterns and norms symbolized in a constitution, the creation of new institutions and the degree to which identities and interests are strengthened or weakened (Morlino 2010: 512). According to this logic, authoritarian regimes that have modernized state institutions and societies would cause stronger constraints on new governments than authoritarian regimes that have not introduced such substantial transformative projects. To date, this hypothesis has only been examined in a few case studies, and the exact causal inference requires further analysis. In her analysis of Peru's TJ trajectory, Ulfe (2015) demonstrated that neoliberal economic models in pre-war Peru contributed to hardening the implementation of post-war recovery programmes, since ideological practices related to the improvement of macroeconomic structures prevented economic redistribution. In a more general analysis on the influence of the economies of authoritarian systems on TJ, Addison (2009: 116) concluded that authoritarian legacies related to political economy, in particular high economic inequality, constrained the ability of new governments to implement TJ. Thus, a first hypothesis based on the factor of authoritarian legacy was developed:

H1: The more prevalent the legacy of the authoritarian ancien régime, the less likely it is that transitional justice will be implemented.

2.3.2 Making civil society's influence visible

Since the beginning of the 2000s, when TJ's statist bias was admitted, 'bottom-up' approaches[3] have gained more attention in mainstream TJ analyses. These approaches underlined the idea that governments, particularly the executive branch, would not be the only instance of TJ implementation (Hansen 2013). For the purpose of the study, civil society is defined as "a set of organisations and institutions […], which mediate between the individual and the state" (Gready/Robins 2017: 3). Whilst the thesis acknowledges that a more nuanced definition would enable more complex civil society actions to be illustrated, it relies on the definition of 'old' civil society, which excludes 'uncivil' and illiberal actors[4] and focuses on NGOs rather than social movements. Gready and Robins identified different modes of civil society interaction in TJ processes, which range from advocacy/persuasion to technical, logistical to financial support for the government and substitution/independent action/spaces for alternative modelling (ibid.: 5). There are examples of countries in which single TJ measures were implemented by civil society groups (e.g., in Kyrgyzstan, South Africa and Indonesia) due to government inactivity, but their actions didn't impact the government's general strategy because of a lack of political will (Appendix III, van Vuuren 2019, p. 112). Hayer stated, "The strength of civil society in any country - how many and how well organized the non-governmental advocacy, community-based, research, and other such organisations are, will partly determine the success of any transitional justice initiative" (Hayer, in Duthie 2009: 11). Thus, it is assumed in the thesis that governmental approaches to implementing TJ are influenced by civil society actions targeted at the government. Civil society actions that are not directly aimed at the government or less well-organized are expected to be less influential for TJ implementation. Consequently, a second hypothesis was formulated:

H2: The more directly civil society is involved in governments' TJ process, the more likely it is that TJ will be implemented.

[3] The division between top-down and bottom-up as well as endogenous and exogenous frameworks is an ideal type, since this categorization doesn't fully hold true from an empirical perspective due to, for example, the influence of international actors on domestic actors and vice versa. However, it helps to illustrate the different approaches to exchange and policy development within a political system. For criticism on Elster's endogenous exogenous typology (2004), see Dolidze (2015).

[4] The narrow definition of civil society logically impacts the empirical analysis. For an example of a theoretically fruitful and empirically interesting analysis of 'uncivil' civil society, see Wallis (2019) on Bougainville (Papua New Guinea) and Timor-Leste.

2.3.3 Thinking about the impact of external elites

Within the last ten years, the role of external actors on governments' TJ implementation has received greater attention, particularly international organizations. However, causal interference on TJ implementation has remained significantly under-analysed. Grodsky refers to both international organizations and other states "international elites" (Grodsky 2011: 27), which is also the terminology used in this thesis. He elaborated: "States [and] intergovernmental organizations […] in the past decades have openly expressed preferences for particular types of justice and provided tangible and nontangible pressures to pursue these ends" (ibid.). Examples are international resolutions[5] or governmental strategy papers such as the German government's 2019 *Interministerial Strategy to Support "Dealing with the Past and Reconciliation (Transitional Justice)"* (The Federal Government 2019). Whilst external actors can foster and support governments' domestic TJ processes, they can also actively contribute to or prevent them (Reiter 2015: 35). Whether governments accept or resist external influences is a policy decision that can be approached through different schools of thought. Constructivists, who underline the effects of immaterial norm diffusion, view foreign mechanisms of influencing TJ implementation as an enforcement of external values. Empirical examples show the limits of these approaches; thus, they are excluded in this research. For example, procedural democratic governments, such as the United States in Iraq, have tried to prevent external investigations as TJ tools (Amnesty International US 2011) by using material leverage. Similarly, authoritarian regimes such as Russian one, have tried to prevent prosecutions abroad (e.g., in South Africa, where Russian and South African officials during the Jacob Zuma administration were closely connected; Appendix III, van Vuuren 2019). Levitsky and Way (2006), who recognized the limits and inconsistency of constructivist explanations, developed the linkage versus leverage approach to deliver an alternative explanation for external democratization. They defined leverage as a post-transitory government's vulnerability to external pressure for democratization, which can be exercised through positive conditionality (e.g., memberships in international organizations such as the European Union (EU)), punitive sanctions (e.g., withdrawn aid or trade sanctions) or military force. Linkage is seen as the density of ties and cross-border flows between countries, which include geographic proximity, social ties, communication and transnational civil society linkages. Whilst Levitsky and Way formulated the concept of democratization in

[5] One example is the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, which legally codifies states' obligations to guarantee victims the right to prompt, adequate and effective reparation (UNOHCHR 2005).

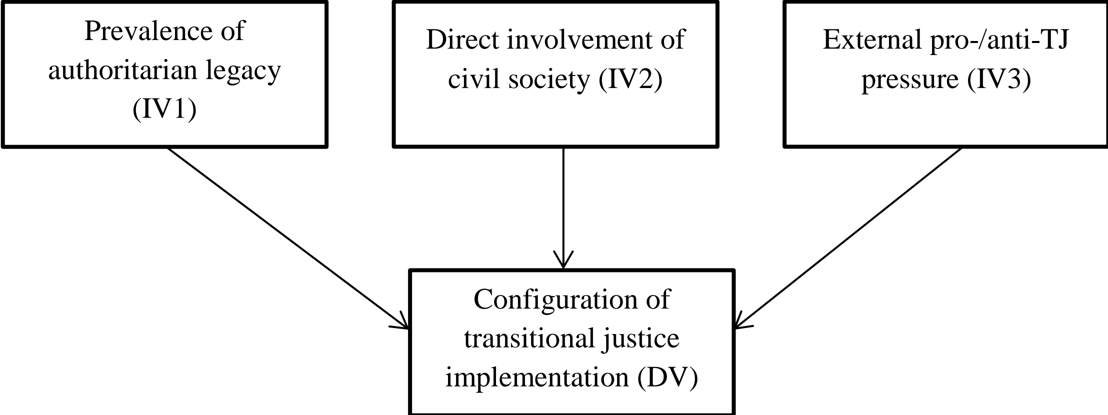
a broader sense, the present thesis posits that the factors linkage and leverage can be specifically related to TJ and seen as pressure to implement TJ. Consequently, linkage and leverage that contribute to TJ implementation are called 'pro-TJ pressure and mechanisms'; conversely, linkage and leverage that seek to undermine it are called 'anti-TJ pressure'.

The third hypothesis was formulated as follows:

H3/1: The higher the external pro-TJ pressure on a transitory government, the more likely it is that TJ will be implemented.

H3/2: The higher the external anti-TJ pressure on a transitory government, the less likely it is that TJ will be implemented.

All three hypotheses can be summed up in a simple model that enables an understanding of the configuration of TJ patterns (DV):



Graphic 2: Model for an understanding of post-authoritarian transitional justice (Source: own image).

Chapter 3: Methodology

3.1 Research design

This thesis's scientific pursuit, or the path to how we came to know something, is embedded in an epistemological perspective of post-positivism. Post-positivists have moved beyond debates on interpretive versus causal approaches to state that all theory is fallible. As Trochim (2020) wrote: "[T]he goal of science is to hold steadfastly to the goal of getting it right about reality, even though we can never achieve that goal". Post-positivists are convinced that ultimate objectivity can never be achieved, only approached; thus, hypotheses can neither be falsified nor verified but solely used as an exploratory tool in order to make the reality speak.

Because of this general assumption, it is necessary to establish theoretical models (as in Chapter 2) that can serve as flexible research tools.

The thesis focuses on two cases; thus, it is a small-*n* analysis. This approach is based on two main reasons: First, the study aims to collect new data by studying two cases in order to contribute to widening the scholarship on TJ in the South Caucasus. Thus, its research design corresponds with the research gaps identified in Section 1.2. Secondly, it wants to compare the TJ trajectories of two governments with relatively similar pre-conditions. Reconstructing exact TJ trajectories through a comparative, then single-case approach simultaneously contributes to demonstrate the theoretical model's exploratory potential. The time period it compares is 1 October 2012 to 28 February 2015 in Georgia and 17 May 2018 to 27 September 2020 in Armenia. The latter date marks the beginning of the second Nagorno-Karabakh War, which represents a break in the temporal coverage. Furthermore, the thesis examines developments in Georgia from March 2015 until today.

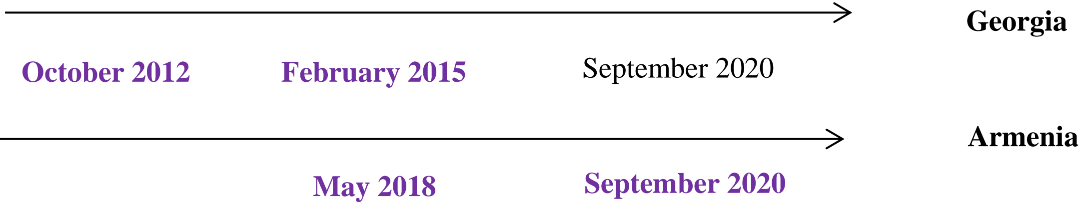


Figure 3: A comparison of timelines for the analysis of measures of post-authoritarian TJ (Source: own image).

The study's research design is based on Mill's logic of Most-Similar-System with Most-Different-Outcome (MSDO), which implies that the characteristics of authoritarianism in Georgia and Armenia are more similar than different; thus, their outcome and the dependent variable (i.e., patterns of TJ implementation) are simultaneously more different than similar. As the research will show, Armenia demonstrates a relatively 'higher' scale of TJ implementation than Georgia. By following a "theory confirming" (Lijphart 1971: 683) variable-oriented approach, the research aims to illustrate the logic of the governments' chosen TJ trajectories. Its final goal is to understand differences in patterns of TJ implementation. Thus, the study is *outcome-oriented*, since it assumes that "insight into causal mechanisms is more important than insight into causal effects" (Robert 1994: 352). Unlike a *factor-oriented* study, it doesn't assume that factor X causes factor Y but that patterns can be traced to a combination of variables.

3.2 Case selection

The cases of Georgia and Armenia were selected based on four mains aspects: (1) similar character of pre-transitory governments' authoritarianism; (2) similar types and scale of diagnosed rights violations; (3) mutual promises to introduce 'transitional justice' and (4) different outcomes of scale of TJ implementation. Both Saakashvili's (2003–2012)[6] and Sargsyan's (2008–2018)[7] governments completely differed from the most prominent examples of TJ implementation (e.g., post-1945 Germany; apartheid South Africa; Chile, Brazil and Argentina in the 1970s and 1980s; and post-communist countries in the 1990s), in which dictatorships committed mass murders and crimes against humanity. Viewed through the lens of post-authoritarian TJ, neither 2003–2012 Georgia nor 2008–2018 Armenia were examples of countries where mass atrocities had taken place[8]. This is related to the authoritarian nature of their political systems. First, the quality of authoritarianism was considered to be "soft" (Iskandaryan 2020) or "semi-authoritarian" (Avedissian 2020, also Mazmanyan 2020), with tendencies of hardening authoritarianism during the second half of the regimes: after 2008 in Georgia (Anonymous G2, Khoshtaria 2020) and after 2014 in Armenia (Khachatryan 2020). In his description of the Sargsyan regime, Liakhov (2020) elaborated that there were "violations of society"; although large in quantity, they did not translate to the same quality, "they were not incredibly intense" (ibid.).[9] The same holds true for Georgia under Saakashvili. Authoritarianism in both countries was softer than that in Azerbaijan, which features a consolidated authoritarian regime (Denis 2020). The factor of soft authoritarianism explains the exclusion of hard authoritarian post-Soviet Russia, Belarus and four of the five Central Asian states (Kazakhstan, Uzbekistan, Tajikistan and Turkmenistan) and the democratic Baltic States. Another reason why the cases of Georgia and Armenia were selected is the similarity between the promises of the heads of state to introduce TJ measures after the countries' respective transitions (Armenpress 2018). This explains why Kyrgyzstan and Moldova, which are more similar in terms of authoritarianism than the other mentioned post-Soviet states, were not chosen as case comparisons.

[6] After Saakashvili's party United National Movement (UNM) lost the 2012 parliamentary elections, Saakashvili stayed in power as president for one more year until November 2013.

[7] From 2008 to 2018, Sargsyan was president and had a "short cameo appearance as […] [PM] [in 2018]" (Kopalyan 2020a), which catalysed the beginning of the 2018 Velvet Revolution.

[8] Large scale atrocities did place during the 2008 war in Georgia and the 2016 four-day war in Nagorno-Karabakh. Here post-conflict TJ, which is not part of the analysis, should have been implemented.

[9] Liakhov (2020) elaborated: "[W]hat I think […] matters with regards to transitional justice is that when you have a regime, let's say apartheid South Africa, or any of these right-wing dictatorships in Latin America, we have endemic mass torture. In Armenia, you don't have that […] it's just not at the same quality, but certainly, there is large quantity".

The political systems in Georgia under Saakashvili and Armenia under Sargsyan are similar in terms of their authoritarian nature, despite the leaders' very different roles in modernization and state-building processes. Both governments committed political and economic violence; Saakashvili and Sargsyan formed de facto super-presidential systems with exceeding executives whose anti-pluralistic drive to maintain elite power undermined the independence of the legislative and the impartiality of the judiciary (Anonymous G1, G2 2020, Imnadze G. 2020). The absence of legally enforced, equal and democratic rules benefited those close to the elites. "The judiciary [in Georgia] was nothing but the rubber stamp of the government" (Gvilava 2020); the same was true in Armenia (Karapetyan 2020, Kirakosyan 2020). Investigatory and prosecutorial agencies were subordinated to the elites' wishes or at least had no will to properly examine political and economic crimes (Anonymous G4).[10] Perhaps the best-known examples in Georgia are the unresolved death cases of Amiran (Buta) Robakidze, who was shot by the patrol police in 2005, and that of Aleksandre (Sandro) Girgvliani, a 28-year-old bank clerk who in 2006 was "tortured and killed by police officers after an altercation witnessed by senior officials in the Interior Ministry" (Dolidze/de Waal 2012). In Armenia, there were dozens of cases of property rights violations, most notably on Yerevan's Northern Avenue and in Firdusi District, and the mysterious non-combatant deaths in the Armenian Army (Safe Soldiers 2020); the lack of investigations imposed psychological violence upon victims' successors. Saakashvili's zero tolerance policy– an authoritarian mission of violently cracking down on petty corruption – led to an acquittal rate of approximately 0.1% (Anonymous G2); in other words, anyone accused of a crime would be punished with nearly 100% certainty (Chanturia 2020). In Armenia, arrest rates were around 90% (Karapetyan 2020). The police, which served as the main arm of both governments, relied heavily on violence against its own people, in particular in prisons, pre-detention and anti-government protests, but also in everyday situations that often directly involved officials (e.g., the case of Valery Gelashvili in Georgia).[11] So-called 'law enforcement' agencies brutally dissolved anti-government protests in 2007,[12] 2009 and 2011[13] in Tbilisi and illegally

[10] One interlocutor who remained anonymous explained: "During the old ten years of power [in Armenia], […] nobody and no crime was ever [properly] heard or examined and there was never a complete sense that there is anyhow a fair and impartial judiciary in the country" (Anonymous A1 2020).

[11] In 2005, former Member of Parliament (MP) Gelashvili published an article in which he expressed dissatisfaction towards Saakashvili, because he had been deprived of his property. In the same article, he attacked Saakashvili's personal life. After the publication of the article, Saakashvili ordered Gelashvili to be physically punished, which was carried out by members of the Ministry of Internal Affairs (MoIA; Georgian Journal 2014).

[12] Anti-governments protests in 2007 were triggered by the dismissal and arrest of then minister of defence Irakli Okruashvili (2004–2006) at the end of September of the same year. On 2 November 2007, at the peak of the protests, as many as 100,000 protestors demanded the resignation of Saakashvili. Arkadi (Badri) Patarkatsishvili – the owner of Imedi TV, a private television station, disseminated critical reporting on the government –

arrested and sentenced protestors (Anonymous G2). Armenians vividly remember the traumatic events of 1 March 2008[14] on Yerevan's Republic Square, in which eight civilians and two police officers were killed after protests started because of electoral falsifications (Avedissian 2020).[15] In Armenia, electoral fraud was symptomatic until 2018 (OSCE/ODIHR 2012, 2015, 2017) and also in Georgia, irregularities were - less severe in quality and quantity - frequently noticed between 2003 and 2008 (OSCE/ODIHR 2004 a, b, 2008 a, b). Police violence and torture became a state policy in Georgia's prisons (Varney 2017) and were also used in Armenia to press confessions in criminal cases (Simonyan 2020). In Georgia, there is evidence to suggest that officials themselves directly coerced civilians. In 2006, Bachana (Bacho) Akhalaia, the former head of the Ministry of Justice's Penitentiary Department (2005–2008), cracked down on prisoners in an uprising, where seven inmates were killed. In 2011, B. Akhalaia, who by then was Georgia's defence minister, and Alexandre Mukhadze, the former head of the Military Police Department and the director of No. 8 Correction Facility, tortured Reserve Lieutenant Sergo Tetradze, Lieutenant-Colonel Davit Londaridze and citizens Sergey Chapligin and Giorgi Gorelashvili in order to oppress confessions on spying (Agenda.ge 2014a). Tetradze died as a result of the torture and sexual abuse. Whilst such cases have not surfaced in Armenia, Sargsyan's government failed to harmonize its definition of torture in the Criminal Code until 2015, when it finally joined the *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1993* (Simonyan 2020). "Before 2015, the ECHR [European Court of Human Rights] case log against Armenia showed that the main problem was […] the [lack of] effective investigation of torture and ill-treatment cases, and also their deaths in custody" (ibid.).

The violence that both societies encountered was not only political in nature but also economic. In fact, economic violence has been a driving factor in authoritarianism. Whilst

announced that he would finance the protests. On 7 November, "a special-purpose detachment from the […] [MoIA]", led by Merabishvili, broke into Imedi TV's headquarters "without any legal warrant" (ibid.); the invaders damaged equipment, shut off the broadcast and expelled employees from the building by physically assaulting them […]" (Transparency International (TI) Georgia 2017).

[13] During new anti-government protests, which were co-organized by the Democratic Movement-United Georgia party and led by former Saakashvili ally and ex-parliamentary speaker Nino Burjanadze, protesters demanded Saakashvili's resignation. On 26 May 2011, the protests were brutally dissolved by Davit Akhalaia and other members of the MoIA, which left 250 injured and two dead. A 2016 video shows Akhalaia telling his staff from the Department of Constitutional Security of the Republic of Georgia (CSD) to arrest as many protestors as possible and promising them monetary rewards (Agenda.ge 2016a).

[14] During and in the aftermath of 1 March 2008, hundreds of people were arrested. Some were released, but others remained political prisoners until 2011 (Zolyan 2020).

[15] Avedissian (2020) stated: "March 1 was such a big trauma, it was very traumatic. Civil society activity completely died for years after that because people were so afraid. […]".

political elites easily obtained access to wealth and businesses, which they often owned (Rimple 2012), resources were distributed in an extremely unequal manner in society. Saakashvili's political embrace of radical neoliberalism, which was initiated to modernize the endemically corrupt state inherited from former president Eduard Shevardnadze (1997–2003), led to massive violations of social and economic rights. Whilst Saakashvili's administration contributed to the drastic decrease of petty corruption and embezzlement, it also consolidated corruption amongst elites by guaranteeing political advantages to businesses and individuals close to UNM (Kupatadze 2013). Deeply hostile to trade unions and their leaders, all labour administration systems and even basic labour regulations were completely abolished (Ghvinianidze 2020). Statistics from Georgia's Ministry for Interior and the Georgian Trade Union Confederation (GTUC) reveal 305 deaths of workers between 2003 and 2012; the number of causalities significantly increased after 2006, when labour inspection was abolished (Tchanturidze 2018). Consequently, Saakashvili's labour code became one of the most deregulated in the world (Jobelius 2011). The government's informal practices of newly invented capitalism and privatization interfered with property rights (Anonymous G3). Human rights NGOs documented waves of governmental property rights violations directly committed by the Ministry of Economic Development, particularly between 2006 and 2007 (TI Georgia 2007). Massive amounts of money, real estate and gifts, which had a total value of around 100 million GEL, made their way to the government through different companies and individuals (ibid.). Restaurant and small shop owners were particularly affected (ibid.). "Only those who obeyed or had close connections to the government were able to maintain their property and therefore corruption developed on mass scale" (Mshvenieradze 2020). The intended trickle-down effect of market liberalization, which is often cited today as a normative justification for UNM's violent policies, has not become a reality (Gabitshinashvili 2019). Social security – and thus the right to work and basic social welfare – was not achieved.

In Armenia, Sargsyan's economic policy, whilst less aggressive than Saakashvili's, was aimed at protecting the business interests of oligarchs (Anonymous A2 2020). Endemic corruption, a legacy of former Armenian president Robert Kocharyan's (2000–2008) governance, was perpetrated by oligarchs and the "socio-economic elite" (Kopalyan 2020a) and preserved at all levels in society (Karapetyan 2020). Patronage networks distributed resources to politicians and their clientele (Iskandaryan/Mikaelian/Minasyan 2016), not to society. Oligarchs such as Gagik Tsarukyan, who "embodies the epitome of the oligarchic standard" (Kopalyan 2020b), and Gagik Khachataryan held exceptional financial resources

and “penetrated into government structures in order to maintain their power” (Petrosyan 2013: 11). The right to social security was absent. The Armenian legislature didn’t provide opportunities to investigate labour rights violations (Sakunts 2020), and labour rights protection was practically non-existent (Anonymous A2 2020). Civil servants and members of the government couldn’t have collective agreements with their employer and were often “obliged to refuse to join trade unions” (ibid.). The Armenian government did not adopt legislation regarding the formation of independent unions that could operate outside of the leading HHK party (Sakunts 2020). Similar to Georgia, there was no functioning labour inspection system. The “protection of labour rights would [have] entailed freedoms, which would be against the oligarchs who formed the fundament of their power” (ibid.). Workers could easily get fired if they supported the ‘wrong’ candidate during elections (Anonymous A1 2020). Despite Article 37 of the 2005 Armenian constitution guaranteeing social security in case of unemployment (later changed to Article 83 on social security and Article 84 on well-being and minimum wage), concrete measures were not introduced. Thus, there was no minimum wage or protection against unemployment. Unemployment allowance was abolished completely under Sargsyan. “People […] [were] dying because of the political system, and the way it […] [was] treating its citizens […]” (Avedissian 2020). Despite these similarities, the post-transitory governments in Georgia and Armenia implemented TJ on different scales, which completes the research puzzle and provides the basis for examining the reasons (Chapter 5) that underlie the identified TJ patterns in Chapter 4. The similarities in the countries’ authoritarianism and level of rights violations are illustrated in Table 4.

Name of the human right	***Examples of violations in Georgia (2003–2012)***	***Examples of violations in Armenia (2008–2018)***
Right to life, liberty and security of person (Article 3 of the UDHR)	Police murder of Buta Robakidze (2004), governmental murder of Sandro Girgvliani (2006)	Deaths of eight civilians and two policemen on 1 March 2008, at least 298 cases of non-combatant deaths in the Armenian Army (Safe Soldiers 2020)
Right not to be subjected to torture and other inhuman treatment (Article 5 of the UDHR)	Government attack on Valery Gelashvili (2005), torture as a state policy under Saakashvili (Chanturia 2020), torture case of Sergo Tetradze and subsequent death (2011)	Ill treatment in custody and pre-detention, lack of ratification of *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1993) until 2015

Right to effective remedy (Article 8 of the UDHR)	Acquittal rate of over 99% (Chanturia 2020), illegal arrests during protests	Arrest rate of over 90% (Karapetyan 2020), illegal arrests during protests
Right to free vote (Article 21 of the UDHR)	Major electoral rights violations in 2003 and 2008	All elections falsified
Right to peaceful assembly (Article 20 of the UDHR)	Violent dispersal of mass protests in 2007, 2009 and 2011	Violent dispersal of protests in 2008, 2011 and 2015
Right to property (Article 17 of the UDHR)	Deprivation of property on a massive scale (TI Georgia 2007)	Lack of investigations of property rights violations
Right to social security (Article 22 of the UDHR)	Complete lack of social security for civilians	Complete lack of social security for civilians
Right to work, favourable conditions at work and protection against unemployment (Article 23 of the UDHR)	Complete absence of legal and political protection of labour rights (Ghvinianidze 2020), 305 deadly fatalities at workplaces (Tchanturidze 2018)	Complete absence of legal and political protection of labour rights, number of deadly fatalities at workplaces unknown

Table 4: Comparative overview of examples of human rights violations in Georgia (2003–2012) and Armenia (2008–2018) (Source: own image).

3.3 Operationalization

Operationalization refers to how a concept can be made measurable. The operationalization used in this thesis is based on two mechanisms that refer to the DV and the IVs. The DV was measured according to each of the 16 indicators in the four respective theoretical dimensions. Similar to Pettai and Pettai's analysis, one measurement focuses on the criterion of 'governmental activity'. Thus, the overall *quantity of measures* and their defining characteristics in Georgia and Armenia are compared. Consequently, the question *'(How) is the measure (complete and exhaustive)?'* defines the core measurement criterion for each of the indicators. However, it is impossible to precisely assess the relative 'success' of each measure, since I can't evaluate the absolute number of 'necessary' investigations, prosecutions or purges (amongst other TJ mechanisms) to assess whether a measure was fully implemented. Instead, the assessment of each category was developed in an abductive and comparative manner. This demands a reflection on the initiated measures to 'make the data develop' narratives and allow conclusions regarding relative implementation. Furthermore,

quantity of measures doesn't translate into quality of measures. For instance, it could be the case that governments conduct a very high number of prosecutions but frequently disregard the right to a fair trial and thus continue to commit human rights violations. Because of these many, not determinable challenges any government faces after transitions, a catalogue of *quality* criteria, which could condition the scale of TJ implementation wasn't be pre-developed. Instead, repeated patterns, mentioned by interviewees and found in the literature, were documented. Furthermore, the IVs are operationalized. All of them are traced in politicians' speeches, governmental strategies, policy analyses, news articles, laws and interviews. Unlike the DV, the IVs were only loosely operationalized and centred on the categories of civil society-government relations, the influence of external elites and authoritarian legacy in order to collect narratives.

3.4 Data collection

Data was collected between December 2018 and September 2020. Excessive literature review between in the first year helped to construct an overview of the TJ situation in both countries. Text and other non-reactionary sources included governmental strategies, laws, videos, policy analyses and online articles on TJ details and interviews. These sources contained elements that were relevant to the theoretical conceptualization of the IVs and the DV. By September 2020, 209 sources were collected, five were translated from Georgian into English, and six were translated from Armenian into English (see Bibliography, p. 75-100). Additional data were gathered during a two-day field trip to Yerevan with Ruben Carranza in 2020 and from two online debates; all events were documented as memos and analysed.

Type of source	**Number on Armenia**	**Number on Georgia**
Law draft/law/governmental strategies/announcements	22	18
Videos	1	2
Online news articles	70	68
Policy analyses	12	16
Total	**105**	**104**

Table 5: Comparative overview of the number and type of sources in analysed (Source: own image).

Between March 2019 and October 2020, I interviewed 19 individuals on post-authoritarian TJ in Georgia and 15 individuals on post-authoritarian TJ in Armenia. Twenty out of the 34 total interviews were conducted via Skype or Zoom, mostly due to travel restrictions and the ethics

commission's guidelines.[16] Two interviewees answered the questions in written form. The selection of respondents was based on four main criteria: (1) the respondent was committed to the protection of human rights, (2) the respondent was a practicing expert (e.g., consultant, lawyer, politician, human rights activist or member of the state apparatus), researcher, analyst or commentator on TJ or a long-term observer of the human rights situation in Georgia or Armenia, (3) the respondent didn't belong to a group or a collective whose human rights were (to the researcher's knowledge) violated during the *ancien regime*[17] and (4) the respondent did not belong to the *ancien régime*. Not including members of the *ancien régime* was a conscious decision that I took after some reflection. Whilst I originally planned to interview members of UNM and HHK in order to ensure balance between the political views of various interlocutors, I later decided (after collecting most of the data) that the research question did not require the inclusion of individuals whose policies I consider as unethical. There is no justification for researchers to give voice to individuals or groups who have committed or were involved in human rights violations, unless the research specifically strives to answer related questions related to such topics. Almost all of the interviews, both physical and online, were audio recorded on a phone; only one participant did not consent to being recorded. In total, the recorded material amounted to 38 hours; due to a phone malfunction, 30 minutes of one interview were lost. However, I noticed the loss immediately after the interview and put together a memo; due to its incompleteness, it wasn't included in the content analysis. All interviews, except for one, were conducted in English; this interview was conducted using Armenian-English simultaneous interpretation and later translated by Meline Margaryan into English.

3.5 Methods of analysis

Post-positivists believe that the triangulation of methods can increase the likelihood of achieving research validity (Denzin 2010). Thus, the thesis combined four different methods of analysis during the research process in order to answer the central research question and the sub-question:

(1) Process tracing
(2) Content analysis
(3) Semi structured interviews
(4) Semi-participant observations

[16] On 14 March 2020, the Georgian-Armenian border was closed due to COVID-19. I had planned to move to Armenia on 16 March, which was no longer possible as a consequence.
[17] The exclusion of victims was agreed upon with the ethics commission of the University of Glasgow before the research was approved in 2019.

Based on the concept's theory, operationalization and research aim, the thesis considered qualitative methods of analysis first and foremost. All methods of analyses relate to the theoretical matrix and model developed in Chapter 2. The 16 TJ categories and the three-factor model provide the organizational framework for the data collection and evaluation.

The first method used for the thesis was process tracing, which is "an analytical tool for drawing descriptive and causal interferences from diagnostic pieces of evidence – often understood as temporal sequence of events or phenomena" (Collier 2011: 824). Whilst it is impossible to really get into the TJ actors' minds, the thesis has tried to approach them as closely as possible by tracing their actions "unfolding over time" (ibid.) through official documents and information provided by interlocutors, some of whom were in close proximity to the government. Process tracing was invaluable for the evaluation of 64 criminal prosecutions of former officials in Armenia and Georgia. The categories developed in the conceptual framework enabled me to "gather recurring empirical evidence" (ibid.) and to illustrate different patterns of TJ implementation. Causal interference was achieved by evaluating the two countries' TJ patterns and analysing empirical details in the theoretical model.

The second method used for the research was content analysis, which was applied to both reactionary and non-reactionary data. The goal was not to evaluate participants' opinions; thus, interviewees were not regarded as objects of the research. Rather, the aim was to answer a theoretically guided research question by combing through and evaluating data as exhaustively as possible. Thus, interviews as a method of analysis were necessary, but they were not the sole point of analysis, representing only one out of four important methods. The 16 theoretical categories and the three IVs served as a framework for analysing the written content. The results of the content analysis for the interviews can be found in Appendix I-II.

The questionnaires for the semi-structured interviews were, apart from the first two interviews, which were, unlike the other interviews, not oriented on the defined categories, designed accordingly, and theoretically separated in two blocks: (1) analysis of TJ measures (Section 2.2) and (2) analysis of reasons for implementation depth (Section 2.3). The interviews were conducted in three waves, and the questionnaires were gradually refined. The first wave took place during the initial phase of the field research (October 2019 to May 2020), the second wave took place in the middle phase of the field research (June to July 2020), and the third wave, which was very short, took place towards the end of the field research (August to October 2020), when the data collection process was almost complete.

The last three interviews focused on the situation in Armenia, where the TJ process has been ongoing and the domestic situation has been very volatile. This approach aimed to trace and 'verify' the logic developed for the thesis and uncover potential analytical contradictions. The questionnaires aimed for personal and in a later stage for comparative assessment of the respective categories. In many cases, the interviews had traits of discussions, during which I tried to verify and test the narratives, which were created during the research process. A list of all interlocutors can be found in Appendix VI (p. 122).

The semi-participant observations included a field trip to Yerevan from 28 to 30 October 2019, in which I accompanied Ruben Carranza, ICTJ's senior associate and the Armenian government's consultant on the TJ process. Accordingly, the field trip enabled me to combine theory and practice. The events that I attended focused on civil society exchange and on assessing victims' needs (ICTJ Internal Document 2019). They included a public discussion called '*Transitional justice, corruption and state capture: Lessons for Armenia*' organized by Open Society Foundation (OSF) Armenia and the ICTJ (OSF Armenia 2019) and a meeting with victims of human rights violations (mothers whose sons were killed in non-combatant situations and individuals who were illegally deprived of their property). Whilst the latter event wasn't documented due to mentioned restrictions, the discussion contributed to expanding data on the IV civil society, which subsequently became part of the empirical evaluation (see Appendix III, p. 112). Furthermore, data were collected from two online debates on TJ: one about the necessity of vetting in the Armenian judiciary, which was jointly organized by the Armenian Media Center and ICTJ on 8 May 2020, and one called '*Transitional Justice in Central Asia and Georgia'* hosted by the Geneva Academy of International Humanitarian Law and Human Rights on 14 July 2020. None of the semi-participant observations were audio recorded due to data protection considerations and the sensitivity of the content; instead, I wrote memos to reflect key points (see Appendices III–V).

Chapter 4: Transitional justice measures in post-2012 Georgia and in post-2018 Armenia

This chapter presents the analysed patterns of TJ measures in Georgia from October 2012 to spring 2015 and in Armenia from May 2018 to September 2020. It will also elaborate on the developments since spring 2015 until today in Georgia without considering them for the

comparison. The analysis of the five years since 2015 will provide a useful basis to later demonstrate the explanatory viability of the IVs (Chapter 5).

4.1 Legal-judicial dimension: From procedural rights violations during prosecutions to lack of victims' legal rehabilitation

The empirical results concerning investigations and criminal justice (*box 1a*) have differed in four qualitative aspects. First, investigations and prosecutions in Georgia were mostly directed toward high-ranking UNM officials for political crimes, while a very low number were directed toward law enforcement staff (mostly relating to single cases of torture and police ill-treatment). In Armenia, investigations have addressed former high-ranking HHK officials, related oligarchs and members of law enforcement for political and economic crimes (Appendices I and II). Second, in Georgia, prosecutions led to several acquittals in 2012 and 2013, which were followed by quick trials and lengthy prison penalties for former high-ranking political officials. Prosecutions of former officials are still ongoing. In Armenia, many investigations and prosecutions have shown frequent dissonance between prosecutorial units and courts and have so far remained without any criminal sentences in all high-level cases. Third, while this thesis does not have sufficient evidence to draw conclusions on the influence of executives on the prosecutions in Armenia after 2018, there has been evidence that the prosecutions' results in Georgia were in a series of cases accompanied by new human rights violations, which illustrated political pressure on the prosecuted (Georgia Democracy Initiative 2015, TI Georgia 2017). This suggests that TJ in the legal-judicial dimension was more 'retributive' in post-2012 Georgia than in Armenia. Under both governments, investigations have not revealed the full scale of torture and ill-treatment in prison and detention (Chanturia 2020, Simonyan 2020). Nor have they revealed the extent of social and economic rights violations (especially labour rights violations) committed under the previous regimes (Anonymous A2 2020, Ghvinianidze 2020). Fourthly, none of the post-transitory governments has set up independent investigatory mechanisms; each has mostly preserved and reformed the investigatory and prosecutorial institutions inherited from the past regimes. There are two central results for the victim side (*box 1b*). First, victims of human rights violations have had little opportunity to access legal rehabilitation since neither government has set up legal guidelines on the definition of victim status. Second, political prisoners in both countries were released after the transitions. In Georgia, this process caused legal incoherence. These observations will now be more analysed in detail.

Lack of independent investigative mechanisms

Because of distrust towards the investigatory and prosecution units (rooted in the post-transitory government's rightful estimation that they directly contributed to criminal impunity and political crimes under Saakashvili) some parliamentary members of the newly elected majority party Georgian Dream proposed the creation of large-scale investigative mechanisms (Kurashvili 2012) as a pre-condition to later formulate criminal charges against individuals who committed human rights violations between 2003 and 2012. It was only in the 2014–2016 Human Rights Action Plan, two years after the transition, that the Georgian government announced "the creation of a professional, independent, powerful and trustworthy mechanism to deal with cases of offences committed by public prosecutors, police officers" (The Government of Georgia 2014). Draft legislation in 2015 proposed a commission to investigate human rights violations committed by "law enforcement agencies, including police, security forces, prosecutors, and prison officials" (Varney 2017: 24; see also OSF Georgia 2015) and prosecute those found guilty; however, this legislation has never been adopted by the Georgian parliament. On 1 November 2019, more than seven years after the transition, a so-called independent investigative agency, known as the State Inspector Service was set up (Legislative Herald of Georgia 2018a). Its mandate only covers criminal investigations from the date of its inception (Anonymous G3), which makes it impossible to investigate crimes of the previous regime. This removes any element of transitional justice accountability.[18] The State Inspector Service is part of the Prosecutor's Office and the Ministry of Internal Affairs (OSF Georgia 2019). According to some interviewees, this undermines its independence (Chanturia 2020, Imnadze G. 2020). Consequently, it does not have authority "[…] to investigate crimes committed by the Minister of Internal Affairs and by the Head of State Security Service" (Imnadze N. 2020).

As in Georgia, investigations in Armenia have been carried out without establishing specific and independent investigative TJ units. In Armenia, crucial institutions for investigations, inherited from the old regimes, have been the Special Investigation Service (SIS),[19] the Investigative Committee (IC),[20] Armenia's "biggest investigative body" (Investigative

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[18] A row of interviewees mentioned it was notable that the SIS's mandate excludes human rights violations between 2012 until 2019 (e.g. Chanturia, Imnadze 2020). Consequently, violations during the Gavrilov's Night (20 June 2019), when thousands protested the visit of the Russian MP Sergey Gavrilov in the Georgian parliament, which was met with massive police violence, which left 240 individuals injured with two losing their eyesight, didn't become part of SIS's mandate (OC Media 2020c).

[19] The SIS's task is to investigate corruption, organized and official crimes; torture and crimes against person; crimes of general character, to collect evidence, arrest accused and then transfer the case to the prosecutorial units (Kopalyan 2018, SIS 2020a).

[20] The IC consists, among other units, such as the regional investigative departments, of the general military investigative department, which is supposed to investigate the cases of non-combatant deaths (Investigative Committee of the Republic of Armenia 2020b).

Committee of the Republic of Armenia 2020a) and the National Security Service (NSS), which is the successor of the former Committee for State Security (KGB). None of these units are observed by separate bodies; such observation may have helped "[…] to alleviate accusations of politicization […]" (Kopalyan 2018). There is no evidence that the Armenian government intends to establish such units.

Incoherent prosecutions in Georgia vs. "soft" prosecutions in Armenia

After the 2012 parliamentary elections in Georgia, the Prosecutor's Office initiated numerous investigations and prosecutions focusing on *political* crimes of former office-holders of the UNM administration, among them Saakashvili himself (Popjanevski 2015). At least 11 out of the 32 individuals prosecuted (almost 35%) have fled Georgia to avoid criminal responsibility. Appendix II (p. 106) shows that five prosecutions (Dzimtseishvili 2013, Kezerashvili 2014, Ninua 2014, Ugulava 2015, and Saakashvili 2014) focused on embezzlement and one focused on property rights violations (Adeishvili 2016) as forms of *economic* violence. Between 2012 and 2013, shortly after the transition, several prosecutions ended not in immediate criminal charges but in court acquittals (Tsikarishvili 2020). One illustrative case is the prosecution of former defence minister (2009–2012) and head of the Military Police Department (2005–2008) Bacho Akhalaia (Popjanevski 2015: 28). He was arrested in November 2012 and accused by the Prosecutor's Office for the torture of prisoners in 2006 and sexual violence against four individuals in 2011 (among them Reserve Lieutenant Sergo Tetradze, who died as a consequence of this incident). After a five-month trial, Akhalaia was acquitted of all charges in August 2013 by the Tbilisi Court; however, he remained in detention. Then President Saakashvili called the acquittal a "restoration of justice" (Human Rights House Foundation 2013) and pardoned Akhalaia, (along with former Minister of Justice Zurab Adeishvili) shortly before the end of his term in November 2013. Only after Saakashvili left office in 2013 was Adeishvili sentenced to two years in prison (later increased to five years) for the 2007 raid on ImediTV, the closure of IberiaTV and the illegal confiscation of property (Appendix II). Shortly after Saakashvili left his position, and after the Prosecutor's Office appealed the court's decision in January 2014, Akhalaia was charged and sentenced to seven and a half years in prison in October 2014 together with employees from the Ministry of Internal Affairs.[21] In July 2019, the Supreme Court of Georgia upheld his 2018 sentence of nine years in prison (The Prosecutor's Office of Georgia 2019). Other illustrative cases of TJ approach adopted by the post–2012 government are those

[21] Other convicts were Levan Kardava and Giorgi Mazmishvili (11 years of prison sentences for murder) and Megis Kardava (7,5 years of prison, sentenced for torture as Akhalaia, appendix II).

of two former close Saakashvili allies; the former mayor of Tbilisi, Giorgi Ugulava, and the former Minister of Internal Affairs, Vano Merabishvili. They were charged with criminal offences after Saakashvili's departure as president and have now been prosecuted. While their initial prosecutions immediately after the transition were justified based on overwhelming evidence of grave human rights violations, they correlated with a row of procedural rights violations in pre-detention (TI 2017). This led to the assumption that the prosecutions were "[…] often motivated by one aim only – to achieve the use of imprisonment as a measure of restraint […]" (Georgia Democracy Initiative 2015). Ugulava's pre-detention lasted one and a half years; since the Georgian Constitution proscribes a maximum of nine months, this was unconstitutional (Art. 18, Legislative Herald of Georgia 2018b). He was sentenced to four and a half years in autumn 2015 and was released in 2017. At the beginning of 2020, Ugulava (who now leads the party European Georgia) was again sentenced to three years and two months for embezzling around 15 million USD as part of the Tbilisi Development Fund; however, he had been found guilty of this crime before (Stöber 2020: 78). He was pardoned by Georgian president Salome Zourabishvili in May 2020.

Similarly, the prosecution of Merabishvili has shown legal irregularities. In February 2014, he was sentenced to six years and nine months in prison for the brutal dispersal of the 2011 protests, the murder of Sandro Girgvliani and the physical attack on former MP Gelashvili. He was released in 2020. In 2016 and 2017, the ECHR ruled that his lawful pre-trial detention, during which he was pressured to deliver details on other UNM members (European Human Rights Advocacy Center 2016), "lacked reasonableness", constituting a "particularly broad restriction of [his] rights" (European Court of Human Rights 2016). Criminal proceedings against Saakashvili himself were launched shortly after the end of his term in October 2013.[22] He was prosecuted for involvement in the cases of Girgvliani and Gelashvili, the 2007 crackdown on Imedi TV, and other incidents. In 2018, he was sentenced to three years of prison in absentia for illegally pardoning Bacho Akhalaia in Girgvliani's murder case. Later in the same year he was sentenced to six years in prison in absentia for ordering the attack on Gelashvili (OC Media 2018b). Saakashvili, who has announced his return to Georgia multiple times, has remained on Georgia's national wanted list (along with at least 11 other high-ranking officials) and would face immediate detention if he entered

[22] Saakashvili left Georgia after the end of his presidency in November 2013, first went to the United States of America, and then to Ukraine. He accepted Ukrainian citizenship in 2015 and took the post of Odessa's governor until he resigned in November 2016, which led to a political conflict with then Ukrainian president Petro Poroshenko. Afterwards, he was stripped off his Ukrainian citizenship, became stateless and moved to the Netherlands. In 2019, Ukrainian president Volodymyr Zelensky (2019-today) restored his citizenship. Saakashvili returned to Kyiv in 2019 and has headed Ukraine's National Reform Council since May 2020.

Georgia (Appendix II, p. 106). While prominent UNM representatives were detained shortly after 2012, prosecutions of senior officials and of police and prison guards took place selectively and on a smaller scale (Imnadze G. 2020, Popjanevksi 2015: 28, Ramishvili 2020). Chanturia confirmed that not all those officials who were involved in torture or detention were brought to justice; "some of the former perpetrators operate in law enforcement agencies until today" (Chanturia 2020). The 2017 ICTJ report concluded that "[d]espite numerous complaints of torture and mistreatment, only four prison officials were convicted of mistreatment in 2015" (Varney 2017). Research into the empirical details (Appendix II) shows that these included three officials (who were involved in the torture of Sergo Tetradze) and the notorious former head of the penitentiary department, Davit Chakua. In 2014, Chakua was charged with torture and involvement in the 2006 uprising in the Ortachala prison near Tbilisi, during which seven inmates died; he was extradited to Georgia in 2020 (Democracy & Freedom Watch 2020). While prosecutions of political crimes have been ongoing since 2012, prosecutions of economic crimes played a very marginal role in the TJ process and the structures of economic crimes were not examined. Although a small unit to investigate property rights violations was established in 2015 in the Prosecutor's Office (Anonymous G3, 4), the scale of property rights violations across Georgia remained unexamined (Gvilava 2020). Rights violations and workplace fatalities between 2003 and 2012 (numbering at least 305 cases) have not been re-investigated after 2012, nor has anyone been prosecuted for them.

In post-2018 Armenia, as in post-2012 Georgia, prosecutions have become one of the most central TJ tools. Unlike in Georgia, where many prosecutions ended in trials and prison sentences, prosecutions in Armenia have been rather "soft" (Soghomonyan 2020). Since May 2018, they have mostly concerned former high-ranking HHK officials, among them two former heads of state, related family members,[23] former influential oligarchs and representatives of law enforcement. Out of 32 analysed cases, only four (Serzh and Narek Sargsyan, Kocharyan and Khachaturov) have so far led to criminal trials without final convictions; all other prosecutions remain in limbo (CivilNet 2020, Appendix I, p. 101). In his August 2018 speech, Pashinyan highlighted two aspects of the prosecutions: the events of 1 March 2008 and the schemes of corruption (Armenpress 2018).

The analysed cases demonstrate that most prosecutions (24 out of 32) are based on the grounds of embezzlement, large schemes of corruption and unfair competition such as vote

[23] This concerns first and foremost family members of the Sargsyan 'clan' (Kopalyan 2020a). Eight of Sargsyan's family members and direct relatives have been prosecuted for various political and economic crimes (Appendix I).

buying (all of which constitute economic crime). Eight prosecutions have been related to political crimes (Appendix I, p. 101). So far, no single official has been put on trial in relation to the hundreds of non-combatant fatalities (Khachatryan 2020). Several former governmental officials related to the violence of 1 March 2008 have been prosecuted for overthrow of constitutional order. Among them are Robert Kocharyan, Armenia's second president (1998–2008); former Chief of Defence Staff Seyran Ohanyan (2008–2018); former Chief of the General Staff of Armenian Armed Forces and former Head of the Collective Security Treaty Organisation (CSTO) Yuri Khachaturov (2017–2018); former Secretary of the Security Council (2007–2008) and Deputy Prime Minister (2018) Armen Gevorgyan and former Prosecutor General Gevorg Kostanyan (2013-2016). None of these individuals have received legal sanctions at the time of writing.[24] Kocharyan's prosecution has been ongoing since his first arrest in July 2018. It clearly shows the dissonance between the prosecutorial units (which have demanded his arrest) and the courts (which have released him twice, the last time in July 2020 based on a bail of around four million USD).[25] Dissonances between the prosecutorial units and the courts have also become evident in the case of Serzh Sargsyan, Armenia's third president. In December 2019, the SIS charged him with organising a scheme for a private company "to supply diesel fuel for the government's agricultural assistance programme at a deliberately inflated price [in 2013 during his presidency]" (Euractiv 2020). The scheme was worth around one million USD. His trial is ongoing and has been postponed because of COVID-19; he has not been criminally charged. In addition to the two heads of state, several related families and individuals have been prosecuted for economic crimes. These prosecutions have uncovered the tight intertwining between state structures and business interests.

Some individuals remained untouched during the first year of the post-revolutionary transition (e.g., Sargsyan's son-in-law, Mikayel Minasyan; the former mayor of Yerevan). However, in 2020, more networks of economic crimes were examined. Most notable are the cases of the Khachataryan family, one of the former most influential families in Armenia. They own Armenia's largest Internet and cable TV provider (Ucom). Another notable case is that of business tycoon Gagik Tsarukyan and his aide Sedrak Arustamyan. In August 2020, Gagik

[24] Others are former defence minister (2007-2008) and former Chief Military Inspector of the Republic of Armenia (2008-2018) Mikayel Harutyunyan. Reportedly, Harutyunyan and Gevorg Kostanyan are currently both in Russia, but remain wanted in Armenia. Russia has refused to extradite Harutyunyan. Kostanyan, who has been teaching at Russia's State Prosecutor Academy, announced his to return to Armenia, and however has not come back as of September 2020 (Armenpress 2019c).

[25] On 29 September 2020, it was reported that Kocharyan's, Ohanyan's, Khachaturov's and Gevorgyan's trials, which were planned for the end of September 2020, would be postponed since Ohanyan went to Nagorno-Karabakh because of the war (Armenpress 2020c).

Khachataryan was arrested because of multiple crimes committed during his position as head of the State Revenue Committee (SRC, 2008–2014) and minister of finance (2014–2016), which range from abuse of state power to tax evasions and “illicit structuring of monopolies” (Kopalyan 2020a). He has remained in detention since 27 August 2020. Khachataryan’s son Gurgen, who also held a post in the SRC, has been prosecuted for accepting a bribe of 22.4 million USD from Sedrak Arustamyan, the CEO of the Multi Group Company. This company is owned by Armenia’s wealthiest man and head of the oppositional party Prosperous Armenia, Gagik Tsarukyan,[26] who has attempted to avoid prosecution by initially allying with the post-2018 Armenian government. He has been accused of illegal economic activities including allegations of voter fraud in the 2017 parliamentary elections, involvement in land allocation and illegal commercial activities through his gambling firms (Kopalyan 2020b). After being deprived of his parliamentary immunity by a vote in the Armenian National Assembly in June 2020, Tsarukyan was detained from September to November 2020.

Lack of access to legal rehabilitation and unclear release of political prisoners

Individuals and collectives who stated that their rights were broken under the governance of Saakashvili or Sargsyan could directly address the prosecutorial units to request investigation into their cases. However, they had little chance to obtain legal rehabilitation. Since the transitions in both countries, governments have not implemented legislation that would define criteria for victim status and allow access to legal recognition. Therefore, there has not been any assessment of how and to what extent the previous governments violated peoples’ rights. In October 2012 the new Prosecutor General Archil Kbilashvili called “upon any person considering him/herself a victim of a crime committed prior to the Parliamentary elections […] to submit a complaint to the Chief Prosecutor’s Office” (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment 2012: 7). Within two weeks of this announcement, citizens reported approximately 20,000 cases to the Prosecutor’s Office (Chugoshvili 2020, Anonymous G4 2020). The cases largely related to police ill-treatment, torture and illegal confiscation of property (Anonymous G4 2020). A series of interviews underlined that both case selection and investigations appeared to be selective (e.g., Khoshtaria 2020, Mshvenieradze 2020). The lack of investigations and the lack of legal rehabilitation were of particular concern in relation to ill-treatment and torture in

[26] While Tsarukyan has, similar as Khachataryan or Minasyan painted himself as a victim of the Pashinyan administration (Elliot 2020), investigations had started before Tsarukyan entered in open conflict with Pashinyan in spring 2020.

prison. Tsira Chanturia (2020), the director of Prison Reform International for the South Caucasus, commented that

> "[…] there was a complainant that he or she was subjected to torture, but the Prosecutor's Office would not start a case, or they would stop or abandon this case shortly after because they said there was lack of evidence. So, one of the problems […] during this impunity period, during Saakashvili's term, but also afterwards was that the Prosecutor's Office or other investigative bodies didn't take enough care to gather evidence, because for any crime, they need evidence to prosecute the perpetrator. But it wasn't done, it wasn't done timely, and as you of course know, torture documentation needs to be done immediately or shortly after, in order for the signs of torture to be still visible […]."

In 2014, the Public Defender reported that several cases concerning grave violations, which he had forwarded to the Public Defender, remained uninvestigated (Public Defender (Ombudsman) 2014).[27] Due to the limited activity of law enforcement, victims' access to legal rehabilitation further decreased. Furthermore, legal victim status was solely given to former political prisoners and to those individuals who were recognised as victims of property rights violations (Chanturia 2020, Muskhelishvili 2020).

The release of political prisoners was one of the earliest TJ measures; it was implemented by GD shortly after the elections. The process was rushed and led to legal inconsistencies (Gvilava 2020, Nanuashvili 2020). On 21 December 2012, the Georgian parliament adopted a draft law on the release of political prisoners, which was vetoed by President Saakashvili. However, this veto was overridden by parliament on 28 December 2012. When Saakashvili refused to sign the bill on political prisoners into law, it was passed by the Chair of the parliament, Davit Usupashvili. On 13 January 2013, 190 "persons incarcerated on political grounds" and four "persons persecuted on political grounds" (Venice Commission 2013a) were released. The law was based on flawed and non-transparent criteria that did not include a legal definition of 'political prisoner' (Venice Commission 2013a).[28] In spring 2013, the Venice Commission criticised the law on amnesty in relation to several aspects. First, the judiciary did not elaborate on a legal abstract definition for 'political prisoner'; instead, parliament "took the place of the [j]udiciary which should, in principle, have been entrusted by decision of [p]arliament to decide whether individuals were fulfilling the criteria [p]arliament would have determined" (ibid.). Consequently, challenging parliament's decision was "extremely difficult" or "perhaps not possible" (ibid.). This was particularly relevant for individuals who were not released from prison despite claiming to have been imprisoned on

[27] The report doesn't mention the extent and unfortunately, based on the data, a more precise assessment, isn't possible.

[28] The issue of legal terminology of political prisoner in Georgia has been well assessed by OSF and Human Rights Center in a 2012 report (Open Society Foundation/Human Rights House 2012).

political grounds. Finally, the way in which the list was put together was not based on transparent criteria and therefore seemed "arbitrary" (ibid.). Overall, the Venice Commission concluded that the "[…] measure was taken irrespective of the rule of [l]aw […]" (ibid.). An in-depth legal analysis of the list has so far not taken place.[29] This was also not possible as part of this current study. In summer 2020, the Georgian parliament no longer had the case files of those individuals who were listed as political prisoners (Tsikarishvili 2020).

The Armenian government has also not yet developed any legal framework for how victims of past human rights violations might access justice. There has been no systematic legal assessment on which forms of human rights violations define victim status. So far, ten individuals killed on 1 March 2008, 63 individuals who were injured during these events and a few individuals who qualify as political prisoners have been legally recognised as victims (Caucasian Knot 2019b, Soghomonyan 2020). Investigations concerning violations of social and economic rights, including the right to social security and labour rights, have not been initiated (Anonymous A2 2020). Victims' successors of non-combatant fatalities have not received legal rehabilitation. In February 2019, the IC established a public working group,[30] which consisted of IC staff, eight Armenian NGOs and one foundation.[31] The group promised to reopen investigations of suspended proceedings involving cases of non-combatant fatalities. The unit's task is to "reveal possible omissions during preliminary investigation of separate criminal cases initiated on servicemen's death during military service, to disperse public interest on disputable circumstances, as well as to exclude various comments on those circumstances" (Investigative Committee of the Republic of Armenia 2020c). However, in June 2019, it became public that the IC staff did not consider materials and documents sent by NGOs that revealed irregularities and crimes during investigations before 2018. This actively hindered the reopening of cases (Khachatryan 2020).

"Some of the criminal cases launched, […] have been dropped or suspended during the judicial process. Meanwhile, some are still in the preliminary stages of investigation. Victims' successors

[29] A legal analysis has also not been carried out by the Venice Commission: In its 2013 opinion, it stated that it "[…] does not intend to take a stand on whether or not the people included in the list set by the Parliament of Georgia are political prisoners, whether on the basis of the works of the Parliament of Georgia or on the basis of the definition given by the Parliamentary Assembly in its Resolution 1900 (2012)" (Venice Commission 2013a).

[30] The working group is called: Public monitoring group for revealing the faults in the preliminary investigation of certain criminal cases initiated on fatalities during military service and assisting to the proper examination of the aforementioned cases.

[31] Originally, members of the working group were the following: For Rights NGO, Helsinki Citizen's Assembly Vanadzor Office, Sexual Assault Crisis Center NGO, "Fides" Human Rights Protection NGO, Soldiers' Defense Committee NGO, Law Development and Protection Foundation, Foundation against the Violation of Law NGO, Peace Dialogue NGO, Center for Legal Initiatives NGO (Peace Dialogue NGO 2019a).

cannot find out the real causes of their relatives' death, and it has become common practice that those responsible for these criminal acts go unidentified and are not punished" (Peace Dialogue 2019b).

As in post-2012 Georgia, the release of political prisoners was one of the earliest promises made by the Armenian government. On 26 April 2018, before he became prime minister and shortly after Sargsyan stepped down, Pashinyan announced that the release of all Armenian political prisoners would be one of his most important immediate political reactions (Azatutyun 2018). Unlike in Georgia, where a list elaborated by parliament led to the release of around 200 individuals after the transition, the process in Armenia was led by the executive and referred to individual cases, which were widely known in public and related to individuals recognised as political prisoners by local human rights NGOs (Helsinki Citizens' Assembly Vanadzor 2018). Releases in May and June 2018 included members of the political party Founding Parliament,[32] their leader and Karabakh war hero Jirayr Sefilyan and six individuals who belonged to the group Sasna Tsrer, who initiated the 2016 hostage crisis (Atanesian 2018).[33]

4.2 Political-administrative dimension: From personal continuities in law enforcement, absence of vetting to lack of compensations

In order to ameliorate the violent structure of the old authoritarian political system, TJ includes dismissals, office bans and vetting of former officials (*box 2a*) who worked under these systems. The empirical data showed four main results. First, the post-2012 Georgian government's political and administrative approach has been more retributive, while the Armenia government has so far widely kept the same structure and has retained most members of law enforcement agencies. Second, after 2012, GD did not formulate any cohesive strategy on dismissals or office bans; both measures were implemented on an *ad hoc* basis. In Armenia, dismissals were also carried out on an *ad hoc* basis and without a visible strategy, and office bans have not been initiated. Third, general vetting has not been conducted in Georgia. In Armenia, vetting among judges has been introduced in a "soft"

[32] Founding Parliament was formed in 2012 by a group of Karabakh veterans and "civil activists, artists, lawyers, journalists". They demanded a radical transformation of Armenia's political system because of "a moral, psychological, social, economic, demographic and administrative crisis in the country which threaten[ed] the Armenian state" (Lragir 2012). The group refused to run for elections because of violence and non-transparence in the electoral systems. Among Sefilyan, the members Garegin Chugaszyan, Garo Yegnukian and Gevorg Safaryan were released.

[33] On 17 July 2016, a group of armed men, calling themselves Sasna Tsrer ('Daredevils of Sassoun') stormed the Erebuni police station in Yerevan and demand the release of Sefilyan and the resignation of president Sargsyan. They took nine people as hostages, killed one policeman and injured at least two; one died later in a hospital. The Sasna Tsrer members held the police station for two weeks and released all hostages on 23 July 2016.

(Soghomonyan 2020) format. Lastly, financial and social compensation of victims (*box 2b*) as a form of political recognition has not yet been a priority for any government.

Dismissals in the ministries and personal continuities in the judiciary

The majority electoral wins by GD led to major personal changes in political institutions. This was especially the case in the former power ministries and in the Prosecutor General's office. Former officials were either dismissed, became subjects of criminal prosecutions or fled the country. The key ministries in Georgia under Saakashvili were the Ministry of Internal Affairs (Marat 2013), the CSD Georgia (Corso 2013) and the Ministry of Justice (Tsikarishvili 2020). After the 2012 parliamentary elections, the Special Operations Department and Constitutional Security Department (CSD), the "two most powerful police agencies" were closed down and their power transferred to the Anti-Corruption Agency, the State Security Agency and the Criminal Police special investigations unit (Corso 2013). The new PM Ivansivhili appointed Irakli Garibashvili, who had previously run Ivansivhili's Cartu foundation and managed a record label for his son to Minister of Internal Affairs (2012-2013). Between October 2012 and March 2013, 897 civil servants in the Ministry of Internal Affairs were dismissed. Of these, 302 are alleged to have resigned voluntarily and 1,012 were later newly hired (TI Georgia 2013: 5-8). It has not been possible to find out whether the newly hired individuals had previously worked in the ministry.[34] TI Georgia stated that the majority were hired "on the basis of kinship, friendship, party-specific or discriminatory grounds" (ibid.: 6). On October 15 2012, Ivanishvili appointed Tea Tsulukiani as the new minister of justice. This occurred after the former Minister of Justice Adeishvili was dismissed and fled Georgia before his criminal prosecution started. In the Ministry of Justice, 99 employees were dismissed; 467 were appointed to positions within the Ministry of Justice (ibid.: 9). Again, it cannot be stated whether they were rehired or not. Further purges in Georgia took place in the Prosecutor's Office within the first year of transition (TI Georgia 2013). Immediately after the 2012 elections, Ivanishvili appointed Archil Kbilashvili, who had before worked as Ivanishvili's former lawyer, as new Prosecutor General. He was followed by Irakli Shotadze (2013–2014, 2015–2018, 2020–present), who had worked in the Prosecutor's Office under Saakashvili (Reuters 2013) and by Shalva Tadumadze (2018–2019), who was Ivanishvili's personal lawyer. Kbilashvili initiated significant changes of staff. Out of 333 prosecutors and 43 investigators of the Prosecutor's Office, 50 prosecutors and six investigators were dismissed (Anonymous G4). Simultaneously, 148 new prosecutors and 48 new investigators

[34] I e-mailed the Georgian MoIA and asked for more precise details. It responded it couldn't provide them. I was not able to obtain data from anywhere else.

were appointed. This included all deputies of chief prosecutors, heads of all departments in the Chief Prosecutor's Office and their deputies, all regional prosecutors and the Tbilisi city prosecutor and his deputies. This process led to a 33% renewal of the prosecutorial staff (ibid.). All chief prosecutors have been criticised by local human rights NGOs for lack of integrity (Georgia Today 2019) or for their direct relationships with Ivanishvili (Human Rights Center 2020, Kapanadze 2020).

In terms of office bans, the Georgian government has never outlined a strategy nor elaborated guidelines that could define related criteria. Specific office bans have been implemented against leading former officials during prosecutions, most notably against Saakashvili in 2018 for two years and three months (OC Media 2018b), Merabishvili in 2014 for one year and six months (Agenda.ge 2014d) and Adeishvili in 2019 for two years and three months (Report.ge 2019) and in 2020 for another two years (Agenda.ge 2020a).

Dismissal and vetting processes were not conducted within important area of law enforcement, such as the police (Imnadze G. 2020), prison guards,[35] and the judiciary. In the 2014-2020 National Strategy for the Protection of Human Rights, the Georgian government outlined its strategic plan for human rights, which included the "complete overhaul of the judiciary", which would "ensur[e] the independence of judges and the development of an effective system for conducting genuine investigations and proceedings" (The Government of Georgia 2014). Several interviewees confirmed that it failed to do so (Chugoshvili 2020, Elbakidze 2020, Khoshtaria 2020). There were two main reasons for this failure. Firstly, GD did not conduct a thorough process to check the integrity of judges and law enforcement staff (Chanturia 2020, Elbakidze 2020). Secondly, separation of powers was deliberately not achieved; the new executive has continued to influence the judiciary (Gvilava 2020, Imnadze G. 2020). One interviewee and long-term observer of the Georgian judiciary, who has been made anonymous in this research, elaborated as follows:

"[…] [O]ne of the main demand[s] […] [towards] 2012 for Georgia Dream [GD] was to start the prosecution of all former officials who committed some of the crimes at that time and these judges, […] when they started acquittal, they started to show them [GD] their power. And of course, GD […] became more and more frightened, because if they would have all former officials acquitted, this will be absolutely damaging for their political agenda. And by that time, they started to negotiate with these influential judicial groups. And after the negotiation, they managed to [settle] quite well […] with [them]. […] There is no accountability as such. […] [There are] clear sign[s] that they negotiate with the government and they have some agreements on some of the topics and […] [that] is a real threat" (Anonymous G1 2020).

[35] As mentioned, four prison guards were reportedly prosecuted for committed crimes.

Despite the fact that four waves of judicial reform were officially implemented, influential judges (who were already appointed under Saakashvili and heavily criticised for miscarriage of justice) stayed in the post-2012 judicial system and even got empowered (Chanturia 2020, Ramishvili 2020), Tsikharishvili 2020). As Elbakidze (2020) explained,

> "No one touched the court system, I mean […], no one touched the judges. […] The judges stayed there and they continued to work. Even the judges […] against whom was […] a [decision by the] European Court [of Human Rights]. […] When the court mentioned that there is [a human rights] violation […] these judges [continued] working in the court system and no one touched them, [...] and it's not easy to talk about because when you are touching the justice system […], you are crossing the lines. And it was the reason why […] [the Georgian government] decide[d] to leave them alone, leave them in the system, and they are still working there."

In Armenia, as in Georgia, all high-ranking political HHK officials in the ministries were replaced with members of the new governing party after the 2018 December elections. Unlike in Georgia, office bans have not been introduced against former political officials (Soghomonyan 2020, e-mail correspondence). Pashinyan's statement that "[…] We will not have a "personnel massacre" during this process, the ministries will be consolidated with their positions" (Pashinyan, in: Avetisyan 2019a) overlaps with the empirical evidence collected. While the heads of the key ministries in the police (the former Ministry of Internal Affairs until its abolishment in 2003[36]) and the Ministry of Justice were changed,[37] civil servants were retained. The structure and staff of the prosecutorial service and investigative units has, unlike that of post-2012 Georgia, remained mostly unchanged (Kirakosyan 2020, Sakunts 2020). While the heads of investigatory services were replaced (e.g., the head of the NSS Georgy Kutoyan was fired and the former IC chair Avghan Hovsepyan[38] resigned in June 2018), they were replaced by individuals who had served under Sargsyan (Khachatryan 2020, Sakunts 2020). Furthermore, most of the prosecutors were appointed under Sargsyan (The Prosecutor General's Office of the Republic of Armenia 2020a, b, c) and have continued to work under the new government (Khachatryan 2020, Sakunts 2020). This lack of reform and of political and administrative changes has created a feeling of continued impunity. Edgar Khachatryan (2020), a lawyer who represents victims' successors of non-combatant fatalities and heads the NGO Peace Dialogue, stated

[36] Pashinyan announced that a Ministry of Internal Affairs (abolished in 2003) would be re-established, which would lead to a separation between the police and the respective ministry (Armenpress 2020a).
[37] The former head of the police, Vladimir Gasparyan, who held the position since 2011, was dismissed in May 2018 based on a presidential decree and replaced with Vahe Ghazaryan, who had worked in the Department of the Tavush Marz of the RA Police.
[38] He was also former Prosecutor General (1998-1999, 2004-2013).

“It is kind of, how to say, a corruption pyramid, you know, where all the old representatives of the old system, in that sphere, in investigations sphere, are still there. That means that they are still trying to cover and support each other in order to keep the status quo” (Khachatryan 2020)

The main difference between Georgia and Armenia in the political and administrative dimension has been in terms of vetting, in particular among the judiciary. In May 2019, shortly after Kocharyan was released from custody, which Pashinyan associated with the assumption that the courts were dominated by old elites, he called on the population to block the court entrances (Caucasian Knot 2019a) and officially announced the need for vetting among the judiciary. This proposed vetting would encompass measures for revealing judges' political connections, property status and qualifications (The Prime Minister of the Republic of Armenia 2019). Judges would then either resign or be removed from their positions. So far, the Armenian government's efforts in reference to political and administrative changes among the judiciary have mainly focused on the Constitutional Court (CC) and on the dismissal of judges in the CC who were appointed by Sargsyan. The government planned to hold a referendum on 5 April 2020 enabling Armenia's citizens to vote on the removal of these judges. The referendum was seen as a crucial tool to increase legitimacy for TJ (Liakhov 2020). However, the referendum was cancelled indefinitely on 18 May 2020 due to the state of emergency surrounding the COVID-19 pandemic. Instead, the government enacted a law in June 2020, which changed the 2015 constitutional amendments through a “grandfather clause”. Judges who had served over 12 years were dismissed and could serve only up to a maximum age of 70 years (OC Media 2020a). As a consequence, three judges (who were among the nine leading judges in the CC) had to leave their posts. In addition, Hrayr Tovmasyan, former Minister of Justice (2010–2013) and head of the CC (appointed in May 2018 under Sargsyan) was removed from this position and now serves as a CC member.[39] In September 2020, the National Assembly voted three new judges in to the posts in the CC; against one of those judges at least 13 cases were handled in the ECHR and all of them were ruled against Armenia.

The actual implementation of vetting has focused on declarations of income, property and good conduct (which includes educational background and relationships with criminal subculture). A specific commission, the Commission for the Prevention of Corruption, which is independent from the executive and the judiciary and had been planned before the 2018 revolution, has been tasked with examining judges' profiles. Vetting has faced resistance

[39] The three judges were Alvina Gyulumyan, Feliks Tokhyan and Hrant Nazaryan. Their appeal together with Tovmasyan to the ECHR to freeze the implementation of the constitutional changes was rejected as it didn't see “risk of serious and irreparable harm” (Massispost 2020a).

among large sectors of the Armenian judiciary. Indicative of this were elaborations by Grigor Bekmezyan's, one of the Supreme Judicial Council's members, who stated that vetting would be a heavy blow to all judges in Armenia since checking their integrity could lead to a 30–40% loss of judges (Appendix V, p. 119). The *de facto* process refers only to declarations on or after 1 July 2017 and excludes acting and CC judges, prosecutors and investigators. Vetting, which solely refers to new judges, has remained very "soft" (Soghomonyan 2020). According to TI Armenia (2020), it was "[…] for the future but not for the past […]", formalistic and selective. Consequently, judges who were for instance responsible for concealing the 2008 crimes or the 2016 hostage crisis won't be involved in the integrity check. Furthermore, the approach does not overlap with the official TJ strategy, which focuses on human rights violations since 1991. "Here we register a step back from the principles provided by the program" (Sakunts 2020).

Coming to political-administrative answers to those, whose human rights were violated (*box 2b*), it has to be concluded that both governments have so far done very little to compensate victims. In Georgia, no systematic form of compensation has taken place since 2012 (Chugoshvili 2020, Khoshtaria 2020). This correlates with the absent framework for legal rehabilitation and is, according to some interviewees, an indirect consequence of the rejection of establishing non-judicial tools. These include the planned Commission on the Miscarriage of Justice (Chanturia 2020, Tsikarishvili 2020), which will be discussed in detail in Chapter 4.4. Chanturia (2020) stated that many victims of gross violations were not recognised as such (and thus compensation was not achieved). This point was reiterated by Jishkariani (2020), who underlined that the Georgian government's focus after 2012 was on political prisoners, but not on victims of torture. There has also not been any compensation for individuals whose rights to a fair trial were violated (Khoshtaria 2020). Individuals who lost their property started getting politically partly rehabilitated once they received the status of victims, which was the case starting from 2015. However, as mentioned, a high number of cases remain uninvestigated (Chanturia 2020, Nanuashvili 2020). When it comes to workers and victims' successors, there has not been any attempt at reconciliation since 2012. Rehabilitation of those whose labour rights were violated was "not […] part of transitional justice, which was discussed and debated […] in Georgia. It was not at all part of the discussion. […] And even now, it's not acknowledged, that it was part of political agenda of the previous government" (Ghvinianidze 2020). Labour rights violations from 2003 to 2012 "were not something, that should de described, assessed or deserves to have restoration of justice and fairness" (ibid.). Social compensations were implemented on a very low scale. In December 2012, the Ministry

of Justice set up the rehabilitation and resocialization programme as part of the Legal Entity Under Public Law (LEPL) Center for Crime Prevention. Its programme has focused "[…] on former prisoner's physical and mental health problems, promotion of vocational education and employment support in the appropriate direction" (Crime Prevention Center 2020). During the current research process it was not possible to collect exact results on the outcome of the programme. However, a 2020 report states that the programme involved "16 mediators, 13 social workers and 1 psychologist […]" (Georgian Centre for Psychosocial and medical rehabilitation of Torture Victims 2020: 15), which suggests that the programme was small. Jishkariani has stated that *Empathy*, an NGO focusing on psychological rehabilitation of victims of state violence, cooperated with the Crime Prevention Center. Until 2015 financial support for establishing a rehabilitation programme was provided by the EU, UN Volunteer Fund and USAID, but not by the Georgian government.

In Armenia, financial compensation since 1 March 2008 has focused on victims and victims' successors. In June 2019, a respective bill came into force. The successors of all ten individuals killed received around 63,000 US dollars, and each victim who was severely injured (63 in total) received more than 31,500 US dollars (Caucasian Knot 2019b). Artur Sakunts (2020) said: "Let me tell you one thing, as long as we do not have the fact-finding commission to say what will be done or how it would be, we cannot […] [speak about reconciliation]". Therefore, all forms of compensation are planned to be designed as a consequence of the results of a planned fact-finding commission (which is discussed further in Chapter 4.4). Political prisoners, survivors of torture and victims of economic violence have so far not been part of the small-scale compensation process. As in Georgia, efforts of social rehabilitation of victims of torture and ill-treatment have been led by civil society. Since December 2018, the newly established Armenian Survivors' Rehabilitation Center, which is run by the Armenian Scientific Association of Psychologists, has provided medical, psychological and social support to survivors of torture or ill-treatment (Helsinki Citizens' Assembly Vanadzor 2019).[40] Within the first 10 months, 150 individuals were supported (ibid. 2018). Furthermore, the NGO Peace Dialogue has provided social services to victims' relatives (Khachataryan 2020).

4.3 Socio-economic dimension: From partial return of illegal financial assets and property to lack of societal redistribution

[40] The project is funded by the EU project Combatting Torture and Ill Treatment in Georgia, Armenia and Ukraine and jointly implemented by Helsinki Citizens' Assembly Vanadzor and Georgian Centre for Psychosocial and Medical Rehabilitation of Torture Victims.

The empirical results concerning the socio-economic dimension (*box 3a and 3b*) have differed in two qualitative aspects. First, addressing authoritarian economic injustice has been a higher priority for the Armenian government after 2018 than for the Georgian government after 2012. The latter has excluded redistributive justice from TJ in general and has paid little attention to the human rights violations committed under Saakashvili because of its economic policy. In Armenia, where the post-transition debates have focused on anti-corruption solutions, measures to return illegally obtained property and financial assets have been formally introduced. Second, 149 individuals have received their property back in Georgia, while no property has been returned in Armenia. In terms of basic social security, basic rights have still not been fulfilled despite the fact that the general labour legislation has improved in Georgia since 2012. The situation has been similar in Armenia, where broad labour reforms are still awaited and social security has only slightly improved since 2018.

Redistribution as a 'no go' in Georgia and as a possibility in Armenia

Ghvinianidze (2020) has underlined that since 2012 no "[…] changes in [terms of the] economic development course of the country" have taken place in Georgia, "[…] we [only] see some changes on basic legal frameworks in terms of legislation, policies and practices". This correlates with the fact that there has not been a governmental assessment of (or reaction to) past elite corruption or deprivation of financial assets. GD has not – apart from a few investigations and prosecutions on economic crime (e.g., in the cases of Dzimtseishvili, Saakashvili and Ugulava) – taken any meaningful measures to make perpetrators return past corrupted financial assets and illegally obtained property (Appendix II). An independent anti-corruption agency, which would not, unlike now be part of prosecutorial units or ministries,[41] has not been established. In 2015, GD released its first anti-corruption strategy and action plan (Stöber 2020: 69); the task of combating corruption was transferred from the Ministry of Internal Affairs to the newly established State Security Service. However, the latter does not investigate corruption crimes that happened before 2015. This forward-looking approach did not function as a TJ tool. The Inter-Agency Coordination Council to Combat Corruption, which was established in 2008 under Saakashvili, does not have any retrospective function; thus, it does not look into economic crimes committed between 2003 and 2012. Despite proof

[41] So far, there has not been any institution in Georgia, whose *main* task is to fight corruption. Prevention, defection and investigation of corruption and economic crime has been carried out by the Anti-Corruption Agency of the State Security Service, the division of Criminal Prosecution of Corruption Crimes, the Investigative Service of the Ministry of Finance, the Investigative Department of the Ministry of Corrections, General Inspection Units of the Ministries of Defense and Justice and State Audit Office (SAO) (Tutberidze 2017: 5).

of ongoing high-level corruption manifested in embezzlement of financial assets, a monitoring and control mechanism (related to imposing fines) was only established in 2017 (Tutberidze 2017). Again, this did not have a restorative effect.

The Armenian government has been more active in initiating socio-economic TJ measures; however, they have lacked concrete outcomes. In May 2020, the Law on Confiscation of Illegal Property was passed in the National Assembly along with 14 related laws. Based on this legislation, law enforcement agencies can petition the courts if they suspect that property was acquired through illegal means (e.g., abuse of power, money laundering or extortion) in or after 1991 (Dovich 2020). Prosecutorial units can confiscate the property if a difference of 52,400 USD or more is found between the declared income over time and the total value of the property (Nalbandian 2019a). This is only the case if the prosecutorial agencies can prove evidence for these rights violations within six months and defendants cannot prove legality of acquisition to the courts. Afterwards, the courts are tasked to return the property to the state without prosecuting the respective individuals. If a person has unknowingly purchased property that was illegally obtained, the property itself does not have to be returned. Instead "the value of that property will be confiscated" (OC Media 2020b). In September 2020, a Department for Confiscation of Illegal Property was formed by the Prosecutor's Office. So far, it has not been publicly stated how the unit will work. One central problem concerning the implementation of the law is that owners need to deliver documentation to justify their property ownership; however, it has remained unclear how the government will act if owners are not able to show evidence (Poghosyan 2020). Official property registration in post-Soviet Armenia only began in 1998–99 (Nazaretyan 2020).

Along with anti-corruption laws, the Armenian government has undertaken steps to facilitate the return of illegal financial assets. In May 2020, a Law on the Confiscation of Illegally Acquired Assets (Armenian Legal Information System 2020) came into force, which "aims to confiscate and nationalize the illicit assets of former officials accused of corruption" (Nazaretyan 2020). A special unit within the General Prosecutor's Office has been tasked to investigate illegally acquired assets. Cases can go back until 21 September 1991. Prosecutions can only be initiated once a criminal case has already been opened before and shows "sufficient ground to suspect" (Armenian Legal Information System 2020) that the convicted individual, a family member, relative or close business associate possesses illegally acquired assets. Only assets, which are valued of over 100.000 USD more than their lawful income, can be confiscated. The cases, which will be carried out as civil proceedings, will be overseen

by judges from the Supreme Judicial Council until a special anti-corruption court is set up in spring 2021 (Nazaretyan 2020). In November 2020, the Armenian Justice Minister Rustam Badasyan announced that first criminal cases would be finalised in 2021 (Arka 2020a).

Small-scale restitution of property and lack of social security

The collected data indicates that the Georgian government has started returning property to Georgians on a very low scale after 2015. Social security has slightly improved, however even formally still does not fulfil basic human rights standards. The Armenian government has not yet returned victims' properties; it widened basic social and labour rights, which however still are not sufficient to guarantee basic security.

In 2015, GD set up a unit on the return of extorted property in the Prosecutor's Office, which Chanturia (2020) regards as "[…] relatively more successful than other transitional justice instruments". The entity is part of the Department for the Investigation of Offences Committed in the Course of Legal Proceedings in the Prosecutor's Office, which was added as a structural unit in 2015. It applies to cases where the owner is the Georgian state. The value of returned property encompassed approximately 13.9 million USD according to the Ministry of Economy and Infrastructure. Properties included 80 cars, 21 agricultural plots, six flats, two resort houses, office and commercial spaces, a Gori-based hotel and swimming pools, a boarding house in Shovi (Svaneti), two aeroplanes and 13 helicopters (Human Rights Center 2018: 23). While exact statements on the relative success of these measures are not possible (Ghvinianidze 2020), the actual success rate has to be considered as low (Nanuashvili 2020): Until 2018, only 149 out of thousands of reported cases were resolved successfully (Human Rights Center 2018). Furthermore, the methodology was considered as incoherent and non-transparent (Gvilava 2020) and the selection principles and prioritization remain unclear. In Armenia, victims' restitution of property has been assigned to the truth commission, which will be set up in spring 2021. So far no reconciliation has been achieved in this regard and victims have not yet regained their property (Sakunts 2020).

In terms of social security, it can be stated that Armenians' basic social security has slightly improved since 2018. Mechanisms of redistributive justice have, unlike those of post-2012 Georgia, been discussed in Armenia as part of TJ. However, they remain vague and without a strategy for how returned illegal financial assets will be distributed to citizens (Mazmanyan 2020). In November 2019, a law on the increase of the minimum wage of 23% (from around 115 USD to 142 USD) was voted in by the Armenian National Assembly. While this measure

is a small improvement in terms of socio-economic rights, it is still below the European standard. According to this standard, the net minimum wage should be at least 60% of the net national average wage, which would be at least 220 USD (Avetisyan 2019b). Furthermore, there is no unemployment insurance, which could "fuel longer periods of unemployment for benefit recipients" (International Monetary Fund 2019: 56). Nor are there any unemployment benefits, and thus protection against unemployment is not guaranteed. The Georgian government has not yet introduced a minimum wage. A law on minimum wage, which dates back to 1999, directs a legal monthly standard of nine USD. In 2016, former Public Defender Ucha Nanuashvili and GTUC recommended that the Georgian government set a minimum wage of at least 30% of the average salary (Messenger 2016); this proposal was ignored by the government. A proposal on the introduction of a minimum wage in November 2019 by GTUC and Solidarity Network was vetoed in the Georgian parliament, and in February 2020, a similar suggestion by seven members of parliament was rejected by the Economy and Economic Policy Committee on the basis that the introduction of a minimum wage would force companies to cut jobs (Kincha 2020). According to GTUC Vice President Raisa Liparteliani and MP Beka Natshvlishvili, the bill was not supported by any political group in the Georgian parliament (ibid.). The post-2012 government has continued Saakashvili's social policies, which still do not guarantee basic security (Darsavelidze 2019: 36). So far, neither unemployment insurance nor any unemployment benefits have been introduced. Consequently, if a person becomes unemployed, no monetary security is provided.

In both post-2012 Georgia and post-2018 Armenia, past labour rights violations were not recognised as serious human rights violations, which undermined people's right to life and rights of economic and social security. In Georgia, there has been gradual (but limited) progress in terms of labour rights protections, which are still not exhaustive enough to guarantee workers' physical safety. While the number of deaths in the workplace has decreased since 2012, at least 211 individuals still died in the workplace between 2012 and 2018 (Tchanturidze 2018). In 2015, three years after the transition, the Labour Conditions Inspection Department (abolished under Saakashvili) was re-established as an agency under the Labour and Health Ministry. While its original mandate was limited to monitoring occupational safety after permission by a court and warning the working place, its remit was extended in 2019 to allow inspection of all work places without permission or prior warning (OC Media 2020d). Attempts to extend the inspector's mandate, brought forward by seven members of parliament, failed in 2020. The situation on labour safety has not notably improved in Armenia since the 2018 Velvet Revolution. The Health and Labour Inspectorate,

newly set up in April 2018, has remained without legal ability to enforcing workers' safety or employment relations (European Commission 2020a: 13). A law on a reformed inspection system will be developed by October 2021.

4.4 Symbolic-representative dimension: From apology to lack of truth telling

Symbolic and representative TJ measures have been implemented on different scales in post-2012 Georgia and in post-2018 Armenia. While the Georgian government has frequently condemned human rights violations committed by UNM, it has not implemented non-judicial measures to examine past abuses and has neither apologised to nor commemorated the individuals and groups who became victims of Saakashvili's regime. The Armenian government has condemned the politics of the past regimes and started working on a draft law aimed at establishing a fact-finding commission to examine past systemic abuse. Pashinyan apologised to victims of political repression and commemorated them. To date, a much-demanded official legal examination of the past regime has not been finalised.

Since 2012, various GD members such as Ivanishvili and former PM Irakli Garibashvili (2013–2015) have heavily condemned UNM's eight years of authoritarian governance and rhetorically fully distanced themselves from UNM as a political party (Agenda.ge 2014b, Netgazeti 2014a). Furthermore, several high-level political officials have criticised the political and civil (not economic and social) rights violations committed by Saakashvili's UNM. In 2014, Garibashvili called Saakashvili a "dictator" (Netgazeti 2014b), described the time of UNM's governance a "dark past" and referred to GD's new governance as "bright" (ibid.). He stated that GD would "[…] never allow [the old times] […] again" (ibid.). Ivanishvili named the party forces "that shamefully ruled […] [the] country […]" (Netgazeti 2018). Radical criticism towards UNM, which has been GD's main political opponent since 2012, has become part of GD's past and present political agenda. Under GD, several leading UNM officials were publicly shamed. Examples include the exposure of Bacho Akhalaia's apartments, vehicles and private property by the Committee of Defence and Security of the Parliament of Georgia to contrast them to the poor living conditions of ordinary soldiers in 2012 (Georgian Journal 2013a). In 2014, when Saakashvili was charged with embezzling state funds, the Prosecutor's Office published copies of some of Saakashvili's invoices exposing his expensive private lifestyle (Agenda.ge 2014c).[42] While the Georgian government

[42] Additionally, in October 2012, the print newspaper Asaval Dasavali published the names, dates of births and addresses of employees of the Gldani Prison No. 8. It is unknown who forwarded the names to the newspaper; the act was criticized by leading Georgian NGOs and the Ministry of Corrections for breaking privacy rights (Vardiashvili 2012).

has condemned perpetrators and publicly shamed them, systemic non-judicial measures as a form of *real* manifestation of this rhetorical criticism and an end to a past regime of abuse have not been introduced. This became evident when the suggested Temporary State Commission on the Miscarriage of Justice (TSCMJ) was not brought into practice (Anonymous A1). Despite the fact that the Georgian parliament could not agree on the TSCMJ's topics, conceptualisation and methodology (Imnadze G. 2020), lawyers developed a draft law on the TSCMJ until May 2013. It was planned for a span of three years and would have been an explicitly non-judicial examination mechanism that was focused on formulating resolutions based on citizens' reports on miscarriage of justice from 1 January 2004 to 1 November 2012. If the TSCMJ found cases of miscarriage of justice, these would have been transferred to the courts for review. While the Georgian government asked for the Venice Commission's opinion on the commission in spring 2013, by November 2013 Justice Minister Tsulukiani announced that the idea would be put on hold due to financial reasons (Tsikarishvili 2020), stating that the country was "[…] financially [not] ready" (Civil.ge 2013). Former Public Defender Nanuashvili criticised the government for this decision and argued that a monetary justification was not a "valid argument" (ibd.)[43]. Other alternative forms of revealing abuse, such as political or historic documents, were neither discussed nor brought into practice (Gvilava 2020, Muskhelishvili 2020).

Unlike GD's rhetoric of condemnation, the Armenian government's referred to authoritarian practices and the political system instead of individual perpetrators, which underlined its willingness to achieve a normative shift from the past system. In 2019, Pashinyan stated:

"[…] I would like to clearly record that there cannot be a return to the morals and relationships of the past. Armenia will not return to the times of corruption, political persecutions, political violence, violation of rights, impunity and obscenity" (Armenpress 2019a).

This profound rhetorical distancing has so far not been followed by a legal or political assessment of the previous regime; a form of "political commitment to transitional justice" (Sakunts 2020) that Pashinyan promised to issue in March 2020 (ibid.). Such a measure could have helped to formulate and create a new narrative as an alternative to the past mono narrative, which was acclaimed under HHK (Liakhov 2020). One non-judicial measure (which, according to the government's TJ strategy, is at the heart of the TJ process) is a fact-

[43] In addition, victims of human rights violations and inmates, who regarded themselves as unlawfully imprisoned and those, who lost their property, perceived a lack of establishing an independent investigatory mechanism as the source of new injustice (Chanturia 2020).

finding commission,[44] which was tasked to study and review specific cases of corruption and human rights violations from 1991–2018 (Carranza 2020: 2). Reportedly, it will encompasses investigations into schemes of corruption, electoral rights and property rights violations, cases of non-combatant deaths and "cases of expropriation for public interest" (Ministry of Justice of the Republic of Armenia 2019b). The commission could help TJ to outlast Pashinyan and disconnect it from him ideologically (Liakhov 2020). Based on the results of the commission, victim groups could be identified, strategies for compensations developed and further prosecution initiated. According to the judicial strategy, rights would be restored "based on the summary of the [r]eport of the [f]act-[f]inding [c]ommission and institutional reforms" (Ministry of Justice of the Republic of Armenia 2019a). The commission is planned to be set up in spring 2021. The exact working mechanisms, the weight of victims' voices and information on measures of compensation have not been made public. Maria Karapetyan, an MP and a member of the National Assembly Standing Committee on Human Rights Protection and Public Affairs, stated her belief that "a multi-volume archive" would be formed and that "[…] the final result, the analysis of the document conclusion prepared by the Commission" would be ratified by "the National Assembly as an assessment of that past" (Aravot 2020).

Similar as in Georgia, law enforcement agencies publicly shamed former officials or businessmen related to HHK by exposing their wealthy lifestyle. The most notable cases have included the NSS's 2018 raid of Manvel Grigorian's residence exposing weapons, food, field rations for soldiers (RFE/RL 2018c) and the 2020 raid of Tsarukyan's residential palace, after which the former posted a video showing alleged evidence of voter bribery (NSS 2020).

The most significant differences between the Georgian post-2012 government and the Armenian post-2018 government lie in the attempts at symbolic-representative TJ measures towards victims. This is particular true of measures related to official truth-seeking and apologies. In Georgia, there have been several attempts to motivate the Georgian government to establish mechanisms of truth-seeking; however, these were abolished by GD. The idea of establishing a truth commission after 2012 was formulated by Georgian human rights lawyer Ana Dolidze and promoted together with political science researcher Thomas de Waal (Dolidze/de Waal 2012). The purpose of a 'Georgian Truth, Justice and Reconciliation Commission' would have been to achieve "a definite break with the past by confronting the root causes of an abusive system and providing a historically grounded narrative about it"

[44] Before giving its official name in fall 2019, other terms, such as 'memory commission', proposed by MyStep candidate Maria Karapetyan or 'truth commission' were discussed (Liakhov 2019).

(ibid.). Dolidze envisioned that the commission could have contributed to a larger narrative; something which has not happened in Georgia since the end of the Soviet Union until today (appendix IV, p. 118).[45] According to Gvilava (2020), a memory culture of Georgia's authoritarian past does not really exist in Georgia as there has been no legal or systematic evaluation of the past. This point was reiterated by a number of other interviewees (e.g., Jishkariani 2020, Khoshtaria 2020, Nanuashvili 2020), who underlined that Georgia lacked a culture of truth and justice with reference to the Soviet past and the post-independence period (including Gamsakhurdia and Shevardnadze). Due to the fact that the Georgian government hasn't established truth measures that could have illustrated past violence, civil society actors themselves became active. This is particularly relevant to understanding the scale of torture and mistreatment in prisons. In 2014, OSF Georgia (together with the Public Defender and several researchers) launched a study in which more than 1,200 inmates were interviewed regarding practices of torture and ill-treatment in prison. The report concluded that torture was a state policy between 2003 and 2012 (Slade et al. 2014). So far, this has been the only truth-finding measure focused on victims of Saakashvili's regime. Furthermore, GD has not yet delivered any apology to the members of the Georgian population who were affected by UNM's governance. Audits from the Supreme Council confirm that current judges, who served under Saakashvili, don't see any necessity for an apology towards victims of human rights violations (Internal Document 2019[46]). Chanturia (2020) stated that "there hasn't been any […] formal contemplation about what measures to be emplaced in order to prevent such things [torture] from reoccurring again […]". While human rights violations committed under Saakashvili are today widely known to the public, GD has not publicly commemorated victims.[47] Events related to abuse of perpetrators, such as the crackdown on the protests on 7 November 2007 and 26 May 2011, were remembered in political speeches and in social media by GD officials (Kvirikashvili 2017, Garibashvili, in: Georgian Journal 2013b). While the political violence was mentioned, the victims were not. Furthermore, there have been occasions where governmental members have instrumentalised past abuses (Khoshtaria 2020): In March 2015, theatres and venues in Poti, Zugdidi, Senaki and Khobi municipalities

[45] Certainly, civil society has in comparison to post-Soviet governments greatly contributed to truth-telling about Soviet Georgia. One initiative is the Soviet Past Research Laboratry Georgia (SovLab), founded in 2010.

[46] The researcher received the document by one of the interviewees. Since it is an internal sensitive document from the Supreme Council, it cannot be described more precisely.

[47] An exception were single individuals, who were in a governmental coalition with GD, however themselves not members of the party. In 2016, former defence minister (2015-2016) Tinatin Khidasheli (Republican Party until 2016), deputy defence minister (2015-2016) Ana Dolidze (no political party affiliation back then, today Movement for People party), advisor Maia Kavtaradze and Buta Robakidze's mother Ia Metreveli commemorated the 10th anniversary of Sandro Girgvliani's death by laying a wreath on his grave (Ministry of Defence of Georgia 2016).

(GYLA 2015) held screenings of a documentary called *The Bloody Chronicle of the Saakashvili Regime.* According to TI Georgia, it depicted "[…] stories of murder, people dying in suspicious circumstances, protest rallies dispersed using force by the police, unlawful imprisonments, video footage discovered in secret hideouts, and inhumane treatment, rape and torture of inmates in prisons during the […] [UNM] government" (TI Georgia 2015). The screenings were supported by local government representatives, local educational resource centres and local public schools.

Unlike the Georgian PM(s), Pashinyan strived for reconciliation with the Armenian population, issuing an official apology on the 11th anniversary of the March 2008 events. Pashinyan apologised to "all victims of March 1, 2008, all victims of political murders that took place in Armenia since independence, all citizens and political powers that were subjected to political persecutions", which were, as he stated, an "eruption of unlawfulness, electoral fraud, political murders, persecutions and impunity that has depressed Armenia and its people for many years". He also expressed regret for "all election riggings, unlawfulness coordinated and organised by the government elite, corruption, political murders". This apology, which he issued "on behalf of the [s]tate", not only included the victims of the March 1st 2008 protest, but also "[…] the victims of all political killings that have occurred in Armenia since independence, as well as […] to all those citizens and political forces subjected to political persecution" (Armenpress 2019a). Thus, Pashinyan did not explicitly mention the different societal groups who were concerned by the Sargsyan administration's authoritarianism, such as family members of soldiers, who died in non-combatant death or collectives, who lost their property. Instead, Pashinyan's apology was targeted towards "[…] the fraud fostered and coordinated by the ruling elites, […] illegalities, corruption and political murders". Simultaneously, he declared "[…] the page of violence […] in Armenia" as closed (Massispost 2019a). This apology was followed by a commemoration march from Liberty Square to Myasnikyan Statue in Yerevan, which was dedicated "to the victory of Armenian citizens, directed against violence, vote rigging, corruption, illegalities and persecutions" (Armenpress 2019a).

4.5 Summary

A summary of the research results, based on the theoretical framework, is presented here:

	Accountability	**Reconciliation**

Legal-judicial (1a/b)	-No independent investigatory mechanism -Prosecutions with procedural rights violations and long prison sentences for former high-level officials	-No legal rehabilitation -Release of political prisoners, process arbitrary
Political-administrative (2a/b)	-Purges in the prosecutorial services and among civil servants -No vetting among judges	-No financial compensation -No governmental social compensation (only by civil society)
Socio-economic (3a/b)	-No return of illegal state property or financial assets	-No restitution of property -No changes in terms of provision of social security and labour rights
Symbolic-representative (4a/b)	-Frequent condemnation and public shaming of old elites -Lack of non-judicial measures	-No governmental victim commemoration -No apology

Table 6: Overview of transitional justice measures from 2012 to 2014 in Georgia; white: no TJ measure; grey: TJ measure (Source: own image).

	Accountability	**Reconciliation**
Legal-judicial (1a/b)	-No independent investigation mechanism -Prosecutions into political crimes and schemes of economic crimes	-No legal rehabilitation, victim status only for 1 March 2008 cases -Release of political prisoners
Political-administrative (2a/b)	-No office bans -Small-scale dismissal in the prosecutorial services -Soft vetting among judges	-Financial compensation to victims and victims' successors of 1 March 2008 -Social compensation by civil society
Socio-economic (3a/b)	-Law on return of financial assets -Law on return of illegal property	-No restitution of property (mandate to truth commission) -Changes in terms of social security, weak labour rights
Symbolic-representative (4a/b)	-Condemnations of old elites during major events and public shaming -Draft law on fact-finding commission	-Major commemoration event -Apology to victims of political violence and 1 March 2008

Table 7: Overview of transitional justice measures from 2018 to 2020 in Armenia; white: no TJ measure; grey: TJ measure (Source: own image).

	Accountability	Reconciliation
Legal-judicial (1a/b)	-State Inspector’s Service as investigatory tool -Prosecutions and long prison sentences of former high-level officials	-No legal rehabilitation 1b
Political-administrative (2a/b)	-Selective office bans on low scale -No vetting among judges 2a	-No financial compensation -Social compensation by civil society 2b
Socio-economic (3a/b)	-No return of state property or financial assets 3a	-Restitution of property on low scale -Little changes on provision of social security and labour rights
Symbolic-representative (4a/b)	-Frequent condemnation and public shaming -Lack of non-judicial measures 4a	-No victim commemoration -No apology to victims 4b

Table 8: Overview of transitional justice measures from 2015 to 2020 in Georgia; white: no TJ measure; grey: TJ measure (Source: own image).

The analysed data leads to two core conclusions: (1) the post-2012 Georgian and post-2018 Armenian governments’ TJ implementation has remained low in both countries; (2) the Armenian government has implemented more measures in all four dimensions than the Georgian government in the compared period of time. The Georgian government’s perception of “restoration of justice” was, apart from the release of political prisoners immediately after the transition, almost completely reduced to retributive justice measures (Ramishvili 2020) by simultaneously frequently failing to meet human rights standards for fair and impartial trials (Anonymous G1 2020, Imnadze G. 2020). The leading staff in the prosecutorial units and ministries were purged; the courts, however, have remained without vetting and transitional integrity checks. Since 2015, GD has implemented redistributive measures on a very low scale and has returned property in only 149 cases out of thousands. Violations of labour and social rights were not perceived as serious rights violations and have remained without governmental attention. The collective situation of social security in Georgia has only slightly improved since the end of Saakashvili’s rule. The Georgian government has not yet implemented any symbolic-representative measures, such as commemorations of victims or apologies, which would technically be of less material cost than measures in the other three dimensions.

The TJ situation has been rather different in Armenia. The Armenian government’s TJ understanding has (albeit on a low scale) traits of restorative, redistributive and retributive

forms of justice. While prosecutions of former high–ranking officials and related businesspeople have been of high priority, they have remained on a low scale. Unlike in Georgia, the data cannot prove any executorial influence on the investigations and prosecutions. Prosecutorial and judicial units have remained in dissonance. As with the Georgian government, the Armenian government has not established independent investigatory mechanisms but has continued to operate within the "old" investigatory structures. Redistributive justice has generally been of much higher priority; this has been reflected in new legal frameworks on the return of illegal property and financial assets. The social security situation has slightly improved since 2018. The main difference between the TJ approaches of both governments consists in the usage of symbolic-representative measures. Pashinyan has, unlike any other Georgian head of state after 2012, apologised to victims of human rights violations and thus has attempted to achieve reconciliation between the people and the state.

Chapter 5: Understanding two different paths of post-authoritarian transitional justice in Georgia and Armenia

This last chapter tries to understand the patterns of TJ that were found in Chapter 4. A combination of structural factors has led to different patterns of and a relatively higher implementation of TJ within the first two years after the Velvet Revolution in Armenia. The three hypotheses are as follows: *'the more prevalent the legacy of the authoritarian ancien régime, the less likely that transitional justice will be implemented' (H1); 'the more directly civil society is involved in governments' TJ process, the more likely it is that TJ will be implemented' (H2)*; and *'the higher the external pro-TJ pressure on a transitory government, the more likely it is that TJ will be implemented' (H3/1)* or *'the higher the external anti-TJ pressure on a transitory government, the less likely it is that TJ will be implemented' (H3/2).* These hypotheses were used as exploratory tools to trace a logic of analysis.

5.1 Continuation of authoritarian neoliberal legacy vs. resistance to authoritarian past

The data indicates that the two post-transitory governments reacted to the authoritarian legacies in different ways: while the post-2012 Georgian government continued and maintained structures of authoritarianism, the post-2018 Armenian government initially showed more resistance. The research identified two central factors of Saakashvili's governance which correlate with the low level of TJ implementation in Georgia: (1) the prevalence of neoliberal ideology as part of Saakashvili's state-building project, manifest in

ideas and institutions (Ghvinianidze 2020); and (2) Ivanishvili's continuation of practices of informal governance, in particular in courts as a heritage of UNM's authoritarian institutionalism (Anonymous G1 2020, Tsikarishvili 2020). In Armenia, the slightly higher TJ scale seems to be impacted by (1) a lack of prevalent political ideology during Sargsyan's regime (Iskandaryan 2020) with the 2018 revolution as an ultimate starting point to embed new ideological foundations and (2) the new government's initial resistance to old practices of structural informal governance. The latter has in fact contributed to the set-up of a row of formal TJ measures.

One factor that differentiated Saakashvili's governance from Sargsyan's was the strong institutional enforcement of the guiding political ideology of neoliberalism as central to state-building, rhetorically equalized with the 'liberalization' of the market and crackdown on petty corruption, which were the two core principles of UNM's authoritarian governance. These principles, broadly encouraged by the liberal parts of civil society which initially supported UNM's governance after 2003, enabled the institutionalization of state capitalism (Muskhelishvili 2020) which made economic violence in the eyes of the elites invisible. Lina Ghvinianidze (2020) stated:

> "[…] Saakashvili's government, they were neoliberals. They were believers in this ideology. It was not just that they read something and they just follow[ed], or it was like the guide from […] Western […] economic intellectuals, as it happened after the collapse of the Soviet Union. They [Saakashvili's government] were really believers of this economic policy".

UNM's basic neoliberal principle to avoid state intervention into the market economy and the assumption of a trickle-down effect has, despite increased social discourses and significant changes in terms of social and labour policy, been maintained in GD's governance from 2012 until today (Gabitsinashvili 2019). This has been evident in a row of policy decisions, for example, the continuation of the Liberty Act in the Georgian Constitution., the most prominent symbol of Saakashvili's anti-social economic policy, "which outlawed progressive taxation and tightly capped social spending" (Japaridze 2020), the privatisation of public assets stock (Gugushvili 2016: 4) and rejection of laws on the introduction of a minimum wage (Kincha 2020). The latter, itself a continuation of economic violence, directly relates to the absence of socio-economic TJ in the analysed period of time. Shortly before the 2012 transition in 2011, Ivanishvili, who later was elected as Georgia's PM and has remained the party's informal leader until today, stated that while he wanted to strengthen democratic institutions, his political goal was that the state would stay away from the economy (Stöber 2020: 69). Not surprisingly, while GD abandoned the zero tolerance principle associated with

police violence and torture (political violence), the logic of UNM's economic policy, which caused profound social and economic rights violations, has not been questioned:

> "[…] It was not even part of the idea of transitional justice, which was discussed and debated […] in Georgia. It was not at all a part of the discussion. And even now, it's not acknowledged, that it was a part of political agenda of the previous government or it was something that should be described, something that should be assessed or something that deserves to have restoration of justice and fairness. […]" (Ghvinianidze 2020).

Furthermore, there has been no understanding among GD's elite that there was an inherent functional connection between political and economic violence during Saakashvili's governance, and that the former was essentially a consequence of the latter. This is reflected in GD's narrow TJ concept, which solely encompassed the release of political prisoners, the prosecution of perpetrators and judicial reform that was mainly focused on technical changes, and less on political-administrative reforms (Tsikarishvili 2020). Going after single criminal individuals, which was GD's most chosen TJ tool, certainly does not eliminate the full legacy of an authoritarian system, as indicated in Chapter 4. The ideological structures of Saakashvili's state-building project were kept after 2012, and have been only gradually ameliorated. The continuation of neoliberal ideology explains why GD has reduced TJ to solely tackling political violence (still in a very fragmented way and mostly on the perpetrator side), but has made such low-level reforms in the socio-economic dimension. As demonstrated, the restitution of property was carried out only on small-scale level, which benefited only a few of those whose property was confiscated. These observations prove that UNM's continued influence in the form of actors active after 2012, in particular through Saakashvili's presidency, suggested as one explanation for the low TJ implementation, did not prevent GD's TJ implementation to the extent that its predecessors' *ideology* did. Furthermore, this indicates that balance of power approaches or claims that UNM tried to *effectively* sabotage[48] GD's TJ cannot explain the patterns analysed in Chapter 4.

Another structural trait of UNM's authoritarian legacy which has prevailed under GD is the government's partial informal governance with members of the judiciary and law enforcement agencies (Anonymous G4, Kapanadze 2020). Actors from the old regime in the judiciary have continued to influence the post-2012 government's TJ policies (Tsikarishvili 2020). In 2012 and 2013, the Georgian government repeatedly announced its plan to achieve an overhaul of

[48] In 2012, Saakashvili strongly opposed Georgian Dream's TJ concept, which impacted the de facto TJ implementation in the legal-judicial dimension. He vetoed the 2012 law draft on the release of political prisoners and related amnesty, which was, in his eyes, illegal. His decision was overruled by parliamentary speaker David Usupashvili. He, unsurprisingly, called prosecutions against former UNM officials politically motivated and illegal (Muskhelishvili 2020).

the judiciary based on the explanation that it was still in the hands of Saakashvili (Popjanevski 2015). Tsulukiani promised the set-up of the TSCMJ. Interestingly, in November 2013, the Ministry of Justice had already decided not to send the draft on the commission to the parliament, allegedly because of proclaimed financial difficulties. However, it did not yet fully abolish the idea publicly (Civil.ge 2013). The interlocutors agreed that after 2012, judges were strongly opposing TJ measures, in particular the vetting and set-up of the TSCMJ. They assessed that GD's decisions on the implementation of TJ were influenced by this resistance from judges, who were powerful under Saakashvili and maintained their positions after 2012 (Anonymous G1, Khoshtaria 2020, Gvilava 2020, Tsikarishvili 2020) and acquitted UNM officials who were put on trial. One interviewee underlined:

> "Now, when they [the judges] started acquittal, they started to show them [the government] their power. And of course, Georgia Dream […] became more and more frightened, because if they would have [acquitted] all former officials […] this […] [would have been] absolutely damaging for their political agenda" (Anonymous G1).

Furthermore, Guram Imnadze (2020) stated:

> "[…] The restoration of fairness also meant that extremely quite active reforms should be implemented in [the] judiciary and those judges who were taking unlawful […] or unfair decisions should be dismissed. This clan inside this system sensed this kind of situation and they started dealing with GD [Georgian Dream]. At the beginning of the Georgian Dream's government, they started with acquittals in very sensitive cases […] against former high officials [who] […] have conducted some serious crimes. But this clan started acquitting them. So […] [GD] had double interest to control the judiciary for further interest, but also to control the judiciary to make decisions, proper decision on these cases. […] With [these] negotiation[s], this clan gained the power within the whole system. […] [I]n 2013, there […] [were] lots of judges, who were protesting these former procedures, Saakashvili's regime, and they had an alternative union of judges [and] they were trying to gain [real] […] independence [from] both parties. But then, this alternative union weakened because they had no power on these political proceedings, and individual judges saw that if they were not with [the] clan, there would be high risks of dismissal".

Judges in the Georgian Judicial Supreme Council and in the High Council of Justice who had served under Saakashvili – and thus were in the majority used to practices of direct negotiation with the executive branch – subsequently formed, as confirmed by a number of interviewees (Gvilava 2020, Imnadze G. 2020, Khoshtaria 2020, Tsikarishvili 2020), a so-called 'clan', or a group of "interconnected people occupying high administrative or judicial positions in judiciary and controlling the judges through various formal or informal tools" (Tsikarishvili 2019). Most notable was probably Levan Murusidze, a "holdover of Saakashvili's regime" and a "pillar of Saakashvili's regime within the judiciary" (Khatiashvili, in Civil.ge 2015a) who presided over Girgvliani's death case in 2006, and Mikheil Chinchaladze, who was a prosecutor under former Justice Minister Adeishvili and

served as the Deputy Chair of the Supreme Court from 2007 to 2017 (TI 2019a). Kakha Tsikarishvili elaborated:

> "[…] [One of the reasons] for not creating the commission for the miscarriages of justice, but it was an unofficial reason, was that the judiciary was against it, because the judges, they were afraid that their sentences would be revised, and the judges would be found in violation of [the] European Convention and Georgian law, and the judges would be guilty of miscarriages of justice. Judges, they were very afraid of that. […] So, the judges, they were categorically against it, and simultaneously there was ongoing negotiation with the leadership of judiciary and the government about, you know, negotiating about who is going to get what. […] The judges could have united themselves towards different angles, like restoring the trust of the judiciary, like recognizing the past. They could have made a statement to say, "We apologize to the public. We were not […] [independent] under Saakashvili. We apologize," like judges in Chile. But, no, they reunited to survive, and their only way of survival was to make a deal with the government. So, they made a deal with the government and they survived. Not a deal with the public, but with the government" (Tsikarishvili 2020).

While these developments will not be further analysed in detail, they correlate with the fact that the Georgian government after 2012 gradually rejected important TJ measures such as the TSCMJ, which had profound consequences on the lack of legal rehabilitation (*box 1b*) and financial and social compensation for victims (*box 2b*).

Sargsyan's authoritarian legacy on Armenia's TJ process was very different from Saakashvili's. The absence of a prevalent governmental political ideology, which was one of the factors that enabled the 2018 revolution (Zolyan 2019), seems to have contributed to a relatively broader scale of TJ implementation as a mechanism to resist the authoritarian past. As Morlino elaborated, authoritarian legacy does not just flow into new political orders in a linear away, but can cause a reverse effect. Asked about HKK's political ideology, Iskandaryan (2020) stated "[…] the political mission of Mr. Sargsyan was to survive […] for himself […] and for the state as well […]". He further elaborated, "What is the ideology of the Republican Party? Nothing. You do not have it. […]". Kopalyan underlined that "[…] their [Kocharyan's and Sargsyan's] policies were not shaped by ideology, but rather, by a drive to consolidate illegitimate power through patronalistic politics" (Kopalyan 2018). In a 2019 article, Zolyan pointed out that since 2016 the HKK had proclaimed a quasi-ideology, the so-called nation-army concept, which was introduced in the political discourse in 2016 and in particular promoted by Vigen Sargsyan, the former head of Sargsyan's administration. This concept, a combination of elements of defence and security, and the consolidation of the Armenian nation and army seemed to aim at "mitigating fallout from the April war […]" (Zolyan 2019: 5). However, it did not get *institutionalized* as a form of common belief. Sargsyan's administration has, similar as Saakashvili, certainly introduced neoliberal policies (such as deregulation and privatization for the creation of a free market). The modern Armenian state however is not built on this form of ideology, but is linked to the first

Nagorno-Karabakh War in 1994 (Iskandaryan 2020) and the idea of national unity. Sargsyan was, unlike Saakashvili in Georgia, not Armenia's state builder. While the face of neoliberalism in Georgia was the deregulation of the market related to the lack of social security, improvement of macroeconomic conditions and the aggressive dismissal of trade unions, neoliberalism in Armenia meant pervasive corruption and an oligarchic nexus between politics and economics as a principle of governance until 2018. In this year, the proclaimed ideological concept obviously failed, when Sargsyan's government and governance were overthrown by mass protests that had developed counter-narratives to the old governmental practices. According to Iskandaryan, what followed afterwards was the new government's mission to construct and build their own ideology ad hoc (ibid.). The absence of an innovative governmental ideology seems in fact to have initially positively contributed to Armenia's relatively stronger TJ implementation.

Famously, in May 2018, Pashinyan stated that his party Civil Contract would not follow any -isms and consequently was "[…] not liberal, […] not centrist, […] not social democrat", but a "civil party". This lack of proclaimed ideology, however, certainly does not equalize with its de facto absence. According to Kopalyan (2018), Civil Contract's ideology qualified as "aggressive centrism". He described this as based on eight factors, with three of them being connected to Armenia's TJ path: 1) reform of existing institutions and institutionalization of institutions, or "transitioning the country from patronalistic politics that [have] been highly personalized and corrupt to one of legitimate, legally-mandated institutions"; 2) a broad anti-corruption campaign with economic and legal implications and the goal of recovering funds for the national budget that were previously embezzled; and 3) alleviating the culture of immunity for entrenched political or political-criminal actors and dismantling extra-legal structures (ibid.). Consequently, Armenia's post-2018 TJ has been part of the government's political ideology. It directly overlaps with several implemented measures, such as the prosecution of perpetrators, mostly members of HKK and related oligarchs; re-vitalization instead of overhaul of investigative and administrative structures; and the return of illegal financial assets and property. Symbolic-representative measures also fit with the logic of the government's new ideological orientation, which acknowledges the past violence and demands a normative shift away from it.

A second aspect that distinguishes Armenia's from Georgia's authoritarian legacy, is the aspect of informal governance as a structural heritage. Unlike in post-2012 Georgia, informal governance, associated with corrupt structures of patronalistic politics, has been perceived by

the new Armenian elites as something which has to be overcome to end the past culture of impunity. Unlike in post-2012 Georgia, where the government upheld informal practices to control political procedures, there has thus far not been evidence that the post-2012 government would make use of such practices. While some critiques have interpreted Armenia's rather low rate of sentenced perpetrators as a result of personal continuities in investigatory and prosecutorial services, it could also be seen as an ideological shift towards establishing a separation of institutional competences, where the executive branch can no longer influence prosecutorial and legal-criminal spheres as in the past. The fact that former very influential elites of the *ancien régime*, such as Sargsyan, Kocharyan and Tsarukyan, have not (yet) been sentenced, but faced fair and impartial trials, indicates that the post-2018 government has functionally upheld what we might want to call formal governance. Pashinyan's government's belief in practices of the rule of law furthermore correlates with the setup of new TJ institutions, such as the anti-corruption office related to the recovery of financial assets and the planned fact-finding commission. Thus, the proclaimed and de-facto beliefs in formal and institutional governance are part of the counter-hegemony that the post-2018 government has initiated as a contrast to HKK's structural informal governance.

5.2 Confrontational vs. corrective relations with civil society

One factor which contributes to understanding the identified TJ patterns is the government's responsiveness to and interaction with civil society. Whilst the observation that Georgian civil society was underdeveloped after 2012 (Kopalyan 2018) can 't be verified, this thesis states that it was more crucial that the post-2012 Georgian government gradually decreased its responsiveness to and cooperation with civil society actors who were proposing concrete TJ measures and demands. In Armenia, governmental response has been, particularly in the first one and a half years after the transition, rather cooperative. Nevertheless, civil society's influence on governmental decision-making has stayed limited, and decreased during the second year after the revolution (Hovsepyan 2020).

Civil society's influence on the TJ process in Georgia was mostly channelled through the Coalition for an Independent and Transparent Judiciary, a coalition which united 31 local NGOs and OSF Georgia, a liberal network. It is crucial that civil society groups, in particular OSF and UNDP Georgia (Tsikarishvili 2020), prepared concrete draft laws on specific TJ mechanisms, precisely on the TSCMJ (GYLA 2013, Human Rights Center 2013) and the independent investigatory mechanism (OSF Georgia 2015). These, however, were ignored by the government. Civil society's active attempts to influence governmental decision-making

seem not to have impacted the government's TJ decisions since 2015. Guram Imnadze (2020) stated: "[…] there is [not] even a single active working process which give[s] us some […] realistic hope that […] the […] [TJ] process will be finalized with some tangible effects". A lack of effective cooperation between government and civil society was already visible in 2012: leading human rights NGOs, such as Article 42, GYLA, the Tbilisi Helsinki Group and the Human Rights Center (HRC) consulted the "working group on the deliberation of issues relating to the persons politically imprisoned or politically persecuted" in the Human Rights and Civil Integration Committee of Parliament, which was led by GD's MP Eka Beselia, and developed a list of political prisoners – approximately 69 individuals (Elbakidze 2020). The final list was however unilaterally agreed on by the parliamentary working group. Because of these irregularities, two NGOs (Article 42 and GYLA) left the group (Jomarjidze 2012). In May 2014, when the TSCMJ was already formally abandoned, the Human Rights House Georgia, an umbrella human rights organization, organized a conference to advocate for the TSCMJ. Reportedly, Deputy Minister of Justice Sandro Baramidze first planned to attend, but then decided not to join (Human Rights Center 2014). Thus, not a single governmental representative showed up to hear civil society's appeals. When in 2015 the Georgian government abolished the idea of the TSCMJ, GYLA called on the government to review its decision to analyse possible financial resources necessary for the initiation of TSCMJ, and "to work out the action plan with a view to issue compensations within reasonable terms and to direct its efforts for implementation of the plan" (GYLA 2013). This also remained without response.[49] The only TJ measure which was implemented due to civil society's persistent advocacy was the SIS Georgia in 2018, which was designed without retrospective effect (Imnadze G. 2020). The Georgian government not only ignored most of civil society's advocacy, but in some cases actively undermined alternative models. Mariam Jishkariani explained how GD actively discouraged international donors from financially prioritizing measures of TJ:

> "[…] And, again, our government, contacted our donor agencies and declared that they did not need any support on health care on rehabilitation because it is covered by the community healthcare system and many donors stopped [their] support to Georgia, like […] medical rehabilitation and psycho-social rehabilitation, not only […] [for] former prisoners […]" (Jishkariani 2020).

Finally, the government did not make use of international consultancy, despite civil society's efforts to connect the international non-profit organization International Center for Transitional Justice (ICTJ) to the Georgian government. In 2015, ICTJ representatives were

[49] In addition, after announcements of abolishing the TSCMJ, at least 1032 prisoners went on hunger strike with some sewing their mouth as a form of protest, which again remained un-responded by the government and showed that it didn't aim for reconciliation with society (GYLA 2013).

invited to Georgia by the OSF Georgia (Anonymous G1) and analysed the TJ situation with civil society and governmental representatives (Mshvenieradze 2020). In 2017, a final advisory report was published that assessed perspectives of TJ in Georgia (Varney 2017). However, the ICTJ did not advise the Georgian government on the development of a TJ strategy or related instruments (Anonymous G1 2020, Chugosvhili 2020). The ICTJ recommended avoiding "politicized vetting programs that exclude persons on the basis of membership or association in favor of competency-based and sector-driven vetting" (Varney 2017: 29). It warned that flawed lustration and vetting processes could "destroy public confidence in institutions of the state, in addition to constituting serious violations of human rights". Finally, by drawing on OSCE and UN recommendations, Varney and his team advised the Georgian government to assess staff competency case by case and to check "records for any history of human rights violations" (ibid.). None of these recommendations were put into practice. Thus, ICTJ's policy recommendations did not impact governmental decision-making because of GD's lack of responsiveness and reaction.

The Armenian government has, in comparison to the Georgian one, so far reacted more cooperatively towards civil society actors. It has formed an alliance of more direct cooperation between local civil society and the ICTJ. In spring 2020, Liakhov (2020) stated,

> "[…] In general, the Pashinyan government is very receptive in engaging with NGOs because, let's be real, many of the revolutionaries also come from that sector. Not only sort of, do they have the habitus that they care about what's happening in civil society. […] They got personal connections to it. […]"

Zolyan (2020) stated that the government's integration of specific forms of human rights violations (property rights violations and non-combatant deaths in the fact-finding commission) into the TJ agenda was influenced by civil society groups. The cooperation between civil society and the Armenian government has mainly been formed through OSF Armenia in Yerevan (Khachataryan 2020) and the Constructive Dialogue Network of Armenian CSOs, which unites 251 NGOs. A public hearing in May 2019 in the Armenian National Assembly signalized the cooperation between local NGOs (represented by the Armenian Lawyers' Association), the government and the ICTJ. It was in fact one local NGO, the Helsinki Citizens' Assembly, which enabled the partnership between the ICTJ and the Armenian government (Sakunts 2020). This is different from the Georgian case, where even if the ICTJ proposed a TJ strategy to the Georgian government, it did not supervise its TJ process (Chugoshvili 2020). In summer 2019, the Armenian government, precisely the MoJ, established a working partnership with the ICTJ, and governmental actors received

consultations on asset recovery and judicial reform, among other issues (ICTJ 2020a: 13). Moreover, based on ICTJ's and local civil society's recommendations, an inter-ministerial committee exploring TJ strategy and a parliamentary committee tasked to develop a strategy were set up (ibid.: 25). In March 2020, Armenian governmental officials and anti-corruption experts participated in a two-day conference called 'Truth, Accountability and Asset Recovery: How Transitional Justice Can Fight Corruption'. This conference was organized by ICTJ with the support of Tunisia's National Anti-Corruption Commission and the government of the Federal Republic of Germany (Carranza 2020). The ICTJ also formed more visible partnerships with local NGOs, assembled mostly by OSF Armenia, which conducted discussion events on vetting, anti-corruption and state capture. These were open to the general public and attended by governmental officials (Open Society Foundation Armenia 2019). Furthermore, NGO representatives have been part of working groups on specific TJ measures, for example, "On the Fact-Finding Commission" (Ministry of Justice of the Republic of Armenia 2019c). However, the government has not reacted responsively to certain civil society demands (Hovsepyan 2020). Investigations into non-combatant cases have, despite recommendations by civil society, remained selective, and sent materials which could foster the efficiency of investigations were reportedly ignored. As a consequence, Peace Dialogue, one of the member NGOs, which supports victims' successors for years, announced its suspension from the group in June 2019 (Peace Dialogue NGO 2019b). Peace Dialogue argued that the IC "did not take any steps to detect numerous instances of illegality, omissions, fraud and official inaction that were uncovered" (ibid.). As a consequence, suspected perpetrators were not brought to justice. Finally, Artur Sakunts underlined that some NGOs wanted to include torture as part of Armenia's TJ strategy, which led to a "[…] main disagreement with the government" (Sakunts 2020).

5.3 Lack of international pressure vs. active response to external elites' demands

The external influence (pro- and anti-TJ pressure) on both countries varied in terms of TJ implementation and was lower in post-2012 Georgia than in post-2018 Armenia. External elites that visibly attempted to impact TJ in Georgia were the EU and the US; in Armenia, it had been the EU and Russia. Data collected indicates that none of the actors had coherent understandings of TJ in either of the two countries and none of the external actors directly opposed or enforced TJ. Unlike in Georgia, where the EU exercised little TJ pressure until 2016 and the US had no impact, the Armenian government has from the beginning of the transition been confronted with EU and Russian elites' demands. While the latter contributed

to the prohibition of some criminal-judicial TJ measures, the former vaguely fostered the implementation of TJ as a concept. Binary statements such as, Georgia was pro-EU and pro-US and thus 'more democratic' and so more drawn to TJ, and Armenia was pro-Russian and critical towards the EU and thus 'less democratic' and not drawn to TJ, are, as data proves, factually wrong and can't help explaining the TJ patterns.

The research could not find any evidence that the EU impacted Georgia's TJ path until 2016. Shortly after the 2012 transition and in 2013 and 2014, EU officials exercised rhetorical pressure on the Georgian government concerning the criminal-judicial dimension and warned that selective and retributive justice would endanger domestic democratic stability. However, the EU only finalized its own comprehensive framework on TJ in 2015 (European Union External Service 2015), two years after its first announcement by then High Representative of the Union for Foreign Affairs and Security Policy Catherine Ashton (Council of the European Union 2012: 21). During and shortly after the transition, the Georgian government was consulted on further development of "[…] how to remedy problems of the past and to lay the ground for a future genuine human rights culture" (Hammarberg 2013: 2) by the EU Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia Thomas Hammarberg, whom the EU sent to Georgia in 2013 for one and a half years (Chugoshvili 2020). In Hammarberg's final report, he stressed the importance of a "comprehensive description of what really happened in the past which is factually correct […]" (Hammarberg 2013: 7). He recommended investigations into violations of freedom of expression in 2007, 2009 and 2011, which had contributed to "[…] a climate of impunity" (ibid.: 22) and warned the government not to implement politically motivated prosecutions or "selective justice" (ibid.: 7). While detailed recommendations for the future development of human rights culture (in particular on social and economic rights) have, as interlocutors stated (Anonymous A1, Chugoshvili 2020) positively impacted human rights policy development in Georgia, there is no evidence that the EU's consultancy influenced the government's TJ trajectory.

The lack of efficient impetus for TJ also holds true for the Venice Commission (European Commission for Democracy through Law), an advisory body of the Council of Europe. After 2012, the Georgian government requested the opinion of the commission on two specific TJ measures: the release of political prisoners (Venice Commission 2013a) and the set-up of the TSCMJ (ibid. 2013b). The Venice Commission underlined that "any decision on the determination of the criminal charges against plaintiffs having suffered a miscarriage of justice [should be] […] adopted by a court" (ibid.). Additionally, it advised that a full re-

examination of cases should be accompanied by a wider reform of the judiciary to strengthen its independence and impartiality. One interviewee, who was closely working with the government in 2012, stated

> "Actually it [the law on the TSCMJ] was criticized by the Venice Commission, but […] the government did not care very much about the Venice Commission, but then […] suddenly, the Minister of Justice, she came out on TV and she said, "No, actually, I care about the Venice commission. I think that they are not in favour of dismissing the active court presidents, so I changed my mind" (Anonymous 2020).

As mentioned, TJ as a foreign policy concept became part of the EU's reality only four years after the beginning of Georgia's transition. Until then, TJ as an idea had already been rejected among the Georgian elite. Furthermore, TJ implementation was not part of the EU-Georgia Association Agreement (AA), including the Deep Comprehensive Free Trade Agreement (DCFTA), which was signed in 2014 and has been in force since July 2016. Consequently, the EU lacked leverage to pressure the Georgian elite to initiate TJ. While the AA does not contain any note on TJ or the restoration of justice, it still underlines the commitment towards the UDHR as a guiding principle, and that the "respect for human rights and fundamental freedom […] [would] guide all cooperation on freedom, security and justice" (Eur-Lex 2020, Article 13, 3). Moreover, the AA explicitly references the International Labour Organization (ILO) principles, which guarantee the right to work (Article 229; see also articles 235, 239, 349). Ghvinianidze stated that,

> "Now, we have th[e] agreement with the EU, which […] includes some labour […] rights and [labour] policies and also some social economic rights, but mainly it's focused on labour issues, and especially its biggest part which is the DCFTA is trade relations between EU and Georgia. This chapter, which is quite crucial in the EU-Georgia association agenda, […] includes labour issues and improvement of labour rights legislations and policies. So Ivanishvili and his government were responsible for implementing some policies. So, [the] EU agenda was the main source to trigger some reforms in labour legislation and they did some changes. They established labour inspections and changed labour code and so on. […] as I said, one of the main source of their political will, it was not their leftist ideology or their understanding of basic human rights, but […] it was the EU Association Agenda and quite concrete messages from the EU officials and you have to deliver something because as I said, the labour issues are part of the trade agreement. This is the big basic difference between […] [the old and] this new government […]".

Another actor, the US, has, despite considerable leverage, not exercised meaningful impact on the post-2012 TJ implementation. Apart from single statements, such as by then U.S. Assistant Secretary of State for European and Eurasian Affairs Philip Gordon, who visited Georgia in November 2012 shortly after the transition and underlined that the new government should avoid selective justice and politically motivated prosecutions (Antidze 2012), the US has remained passive. Muskhelishvili (2020) shared the opinion that the US

government in fact exercised pressure so that Saakashvili would not get prosecuted immediately. She stated,

> "[…] So they didn't want him [Ivanishvili] to go too far. So he had to make compromise with international pressure on him and […] keep National Movement as the oppositional party. This is the most widespread social public opinion about the issue […]".

Unlike in the Georgian case, where the EU only had very limited influence on the TJ process and back in 2012 did not even have a TJ framework, the EU has, despite having comparatively less broad leverage than in Georgia, been more involved in the post-2018 Armenian TJ process. The EU has formed partnerships with local NGOs such as the Armenian Lawyers' Association (ALA) and hosted civil society-governmental public debates on TJ implementation (ALA 2019b), which have been attended by governmental members. As part of its Commitment to Constructive Dialogue program, which offers financial and technical assistance, the EU has funded the ALA's research programs enhancing strategies for implementing TJ in Armenia (ALA 2019c). The EU-Armenia Comprehensive and Enhanced Partnership Agreement (CEPA) was signed in November 2017 before the revolution, went into force in June 2018 and has, unlike in Georgia, contributed to bringing certain governmentally proposed TJ actions into reality. The EU has financially supported the development of the Armenian government's TJ strategy (European Commission 2020a) and Armenia's anti-corruption efforts, such as the establishment of the anti-corruption court and Armenia's vetting process in the judiciary (European Commission 2020b).

Finally, Russia's influence on Armenia's TJ strategy has been quite prominently discussed in the framework of Russia's foreign policy goals and its mission to prevent democratization in its so-called 'near abroad'. Accessible data shows that there have in fact been Russian attempts to limit TJ implementation, but its de facto influence stayed limited until September 2020. Sakunts underlined that the Kremlin was "very concerned with the realization of transitional justice in Armenia" (Sakunts 2020) and that it had "a restrictive meaning" on the process. Some prosecutions have been complicated or neglected because of Russia's uncooperative actions. For example, Moscow refused to extradite a row of prosecuted individuals, including the former Minister of Defence and former Chief Military Inspector Mikael Harutyunyan, former president of the Football Federation of Armenia Ruben Hayrapetyan and Chief Compulsory Enforcement Officer of Judicial Acts Mihran Poghosyan (Appendix I). However, while it is certainly true that the Russian government tried to prohibit prosecutions of individuals and dislikes that former Armenian president Kocharyan, Russian president Vladimir Putin's personal friend, is on trial (Liakhov 2020) and that Yuri

Khachaturov was dismissed from his position as CSTO Secretary General, prosecutions against these individuals have been ongoing, and TJ as a concept has continued to be implemented. In summer 2020, Iskandaryan stated that,

> "[…] sure you had ties between Kocharyan and Russia, he is an important person, but a lot of people in the media say that this is the core of the problem and I do not think so. I am not a supporter of such a level of personalization of politicians, not like that. It does not work like that. I do not think that for Russia it really interested in what type of regime you have in Armenia. […]".

This estimation was also shared by Mazmanyan, who underlined that Russia did not have an institutional interest in Armenia's TJ as long as changes did not trigger essential interests (Mazmanyan 2020), which are first and foremost trade and geopolitical relations. Russia's comparatively higher leverage and linkage in Armenia than that of the EU has become frequently visible: the Armenian government showed multiple times after 2018 that it did consider Russia's interests in Armenia. In 2018, Armenia's State Revenue Committee raided the offices of the Russian state-owned South Caucasus Railway (SCR), which had become a major investment for Armenia in 2008, as part of a tax evasion and started investigations into the company's investments within the last 10 years. In 2019, it became public that Russian Railways, which owns SCR, considered terminating the contract, as it has, according to Russia's Deputy Minister of Transport Vladimir Tokarev, created unfound accusations and conditions in which the SCR could not work. At the beginning of September 2020, both governments announced that they had settled the disagreement (Caucasus Watch 2020a). The investigations have not led to any charges. While the thesis cannot assess the investigations, it at least can be observed that there is a correlation between Russian pressure and developments in the legal-judicial dimension. However, as shown, it has not influenced the TJ process in other dimensions.

Chapter 6: Conclusion

This thesis aimed to illustrate and understand the different patterns of transitional justice observed in post-2012 Georgia and post-2018 Armenia.

Derived from a combination of Pettai/Pettai (2015) and Sharp's (2014) work, its theoretical framework proved to be useful in drawing on measures from the four dimensions of legal-judicial, political-administrative, socio-economic and symbolic-representative TJ. The analysis showed that, since 2018, Armenia has implemented more TJ measures in all four dimensions than Georgia has since 2012. Major differences in implementation fell within the symbolic-representative and socio-economic dimensions.

The Georgian government did not implement any redistributive measures after 2012. It has not ensured meaningful restitution of property, examined processes of corruption under UNM's governance or established measures that can profoundly secure the people's social rights. Furthermore, GD has not apologized to the Georgian population for its past crimes to signal a meaningful shift away from a violent past and build the foundations for societal healing. Victims of human rights violations have not found any role in the TJ process. This correlates with the fact that a fact-finding commission, which could have served as an important institution to collect information about past rights violations, was never established, which led to a failure of legal and political rehabilitation. Consequently, it is not fully clear to this day whose human rights were violated and to what extent. Post-2012, TJ measures initiated by GD focused on retribution and the prosecution of perpetrators – which is a crucial element of TJ – but this was associated with many new procedural rights violations, which didn't rebuild trust in the judiciary. The persistence of certain powerful judges who served under Saakashvili and were linked to grave human rights violations further strained the TJ process.

Whilst the Armenian government has implemented more TJ measures than its Georgian counterpart, the scale of implementation has remained low. Only victims and victims' successors in cases related to 1 March 2008 obtained legal rehabilitation and compensation. Multiple investigations and prosecutions have been conducted on main cases and addressed central actors; however, they have remained without result. TJ measures remain weak with regard to the political-administrative dimension: old prosecutors continue to serve, and vetting has been introduced in a soft form. Most implemented measures fall into in the symbolic-representative dimension: the head of state has apologized to the Armenian people for old political and economic crimes and commemorated those who suffered or died as a result of this violence. Furthermore, a clear normative shift away from the *ancién regime* has taken place.

Based on an own theoretical model (p. 19), the thesis attempted to understand the different patterns of TJ implementation by taking into account the following factors: the influence of civil society, external incentives and the prevalence of an authoritarian legacy. Due to its relative simplicity, the model is limited since it can only explain a comparatively relatively larger TJ scale; thus, it operates on an ordinal scale, not an interval scale. The research shows that the implementation of TJ cannot be traced to a single factor; rather, it is the result of a combination of three main aspects that impact the government's strategic thinking. The core

argument developed by the thesis is that Georgia’s prevailing authoritarian neoliberal legacy, which was not abolished in a popular uprising but survived through electoral change, persisted after the 2012 transition. Due to GD’s lack of cooperation with civil society – which elaborated clear TJ measures – and the absence of positive external pressure, very few TJ measures were implemented. Despite the relatively high number of selective prosecutions that took place (which by itself is not an indicator of TJ), the ideological and institutional legacy of the *ancién regime* has endured until the present day. One central reason for today’s dysfunctionality of Georgia’s judicial system can be found in the lack of vetting and investigation of old legal elites. The Georgian government considers engaging in negotiations and compromising with judges who belong to an old authoritarian system to be more beneficial than holding them accountable. Despite the fact that civil society actors, in particular NGOs such as GYLA, Human Rights Center and Transparency International Georgia, have repeatedly called on these judges to resign and on the government to initiate transparency and accountability measures, the government has remained inactive. As reported in the research, the government has even discredited some civil society actors and undermined their access to monetary resources or compensation. Thus, Georgia’s post-2012 approach can best be described as ‘non-transitional’ TJ; a ‘transition’ in the sense of establishing a human rights regime has not yet been achieved. Single measures, such as the unit in the Prosecutor’s Office on the return of illegally confiscated property and the slight improvements of labour rights since 2015, resulted from continued pressure from civil society and external incentives through an Association Agreement with the European Union.

Compared to the post-2012 Georgian government, the post-2018 Armenian government has implemented more TJ measures, though at a low scale. The differences between Georgia's and Armenia’s TJ implementation can be traced to the lack of a prevailing innovative authoritarian legacy, relatively greater state-civil society cooperation and positive external influences in Armenia. Although it has not been explicitly named, the new government has started to formulate a new dominant ideology, state centrism, that aims to develop strong political institutions and end the alienation between the government and the population, which was made possible by state capture under the country’s former elites. This logic might explain the implementation of symbolic-representative and socio-economic measures and the less retributive measures taken so far. The implementation of TJ had, in fact, become central to institutionalizing revolutionary politics and completing the transition in Armenia. However, these attempts were halted after the second Nagorno-Karabakh war. Additionally, the initially broader TJ implementation could be traced to cooperative behaviour with civil society, which

functioned as a transmission belt between the Armenian government and the international community. Unlike its Georgian counterpart, the Armenian government was consulted by the ICTJ due to an initiative from a local NGO. The ICTJ seems to have influenced the government's strategic thinking and provided direct technical assistance to establish a law on asset recovery and the fact-finding commission. However, the government's failure to fruitfully collaborate with civil society and consider information provided by the investigative commission on the case of non-combatant fatalities also demonstrates the limits of government-civil society cooperation. Moreover, the Armenian government's comparatively greater TJ implementation was influenced by the EU's initial more active involvement and TJ leverage within the analysed time period. Whilst the EU's foreign policy strategy suffered a profound blow after the Nagorno-Karabakh war and the EU lost leverage in Armenia, there is still potential for the Armenian government to further implement planned reforms. Certainly, Russia's leverage has increased, which could further negatively influence the TJ process, however doesn't have to mean the end of TJ in Armenia. As shown, Russia's de-facto influence on TJ in Armenia was one-dimensional.

It remains crucial to establish the planned fact-finding commission in order to (1) provide a legal and political assessment of the past, (2) understand whose human rights were violated and to what extent, (3) compensate those whose rights were violated and (4) introduce additional structural changes to prevent past violations from recurring. The second Nagorno-Karabakh War (which was not part of the present analysis but should be analysed in future research, particularly in relation to TJ) left thousands of Armenian dead or injured and created an existential crisis for Armenian state- and nationhood. The war decreased trust in the 2018 administration, which came to power with the task of restoring truth and justice. However, it is not the dissertation's task to make any assumptions about the future of TJ in Armenia. It should solely be reiterated that TJ is a process-oriented concept, which often lasts for decades, and can always be implemented as a form of 'post-transitional justice' (p. 9). Despite the current political crisis in Armenia, the potential to introduce basic social security, continue endeavours to return financial assets that were illegally obtained by old elites, prosecute those who committed crimes and compensate and remember those whose rights were violated remains. The same holds true for Georgia.

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Appendix I: Post-2018 prosecutions in Armenia

Dark red: Person is out of the country/location unknown; orange: Prosecution has been on-going without result; green: In detention; light blue: Trial has been on-going; white: Prosecution has ended (Results: September 2020).

No.	***Name of person***	***Position/Affiliation***	***Year/start of prosecution/Status of prosecution***	***Criminal charge(s)***	***Criminal sentence***	***Source***
1	Robert Kocharyan	Former president of Armenia (2000-2008), HHK	2018-today, trial on-going (suspended in September 2020), resumed in January 2021	***2018:*** Violent overthrow of the constitutional order (March 1st 2008)	Not sentenced, on trial since 2019	Kharatyan (2019), Reuters (2020), OC Media (2021)
2	Serzh Sargsyan	Former President (2008-2018) and PM (2018) of Armenia, HHK	2019-today, trial on-going	***2019:*** Embezzlement of one million USD ('Diesel affair')	Not sentenced, on trial since January 2020	Hetq (2020a)
3	Aleksandr (Sashik) Sargsyan	S. Sargsyan's brother, MP (2003-2012), HHK	2018-today, prosecution on-going	***2019:*** Fraud on large scale	Not sentenced, released on bail	OC Media (2018)
4	Narek A. Sargsyan	S. Sargsyan's nephew (extradited from Czech Republic to Armenia in 2019)	2018-today, trial on-going	***2018:*** Illegal acquisition and possession of weapons, arms, explosives and illicit drug trafficking	Not sentenced, plead guilty (1 December 2020)	Azatutyun (2020)
5	Hayk Sargsyan	S. Sargsyan's nephew (Narek's brother, Sashik's son)	2007-today, prosecution on-going	***2019:*** Attempted murder (in 2007) and illegal arms possession	Not sentenced, prosecutor asked courts for seven years of prison	Caucasian Knot (2020a)
6	Levon (Lyova) Sargsyan	S. Sargsyan's brother, MP, HHK	2018-today, prosecution on-going (wanted since August 2018, extradited from Russia to Armenia in August 2020)	***2018:*** Embezzlement, illicit enrichment, false asset declaration ***2019:*** Abuse of authority during construction of North-South highway	Not sentenced	Armenpress (2019b),
7	Ani Sargsyan	S. Sargsyan's nephew (Lyova's daughter)	2018-today, prosecution on-going	***2018:*** Illegal enrichment and tax evasion	Not sentenced	Special Investigation Service of the Republic of Armenia (2018a)
8	Narek L. Sargsyan	S. Sargsyan's nephew (Lyova's son)	2018-today, prosecution on-going	***2018:*** Illegal enrichment and tax evasion	Not sentenced	Special Investigation Service of the Republic of Armenia (2018a)

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9	Vladimir Gasparyan	Former head of the Military Police Department (1997-2011), former chief of Police (2011 to 2018)	2019-today, prosecution on-going	***2018:*** Embezzlement on an especially large scale from state funds ***2019:*** Abuse of power by tasking three servicemen as L. and A. Sargsyan's drivers	Not sentenced, April 2020: Court ruled on the payment of approx. 1,7 million USD to former owner of his house	Hetq (2019b), News.am (2020)
10	Mikael Minasyan	Sargsyan's son-in-law, former Armenian ambassador to the Holy See, to Sovereign Military Order of Malta (2013-2018) and Portugal (2016-2018)	2020-today, prosecution on-going, wanted (current location unknown)	***2020:*** Illegal enrichment, money laundering and the inclusion of false data in the income tax return	Not sentenced, court has ruled arrest in 2020	Arminfo (2020)
11	Ara Minasyan	M. Minasyan's father, former head of a hospital in Yerevan	2018-today, prosecution on-going, wanted, (current location unknown)	***2019:*** Embezzlement of hospital funds of around 1,8 million USD	Not sentenced, court has ruled arrest in 2019	Massispost (2019b)
12	Vachagan Ghazaryan	Former head of the NSS (2013-2017), Sargsyan's former bodyguard	2018-today, prosecution on-going	***2018:*** Illegal enrichment and tax evasion ***2020:*** Embezzlement of large sum	June 2018: Arrested, released on bail of around two million USD February 2020: All charges dropped August 2020: not sentenced, investigation on-going	Mamulyan (2020), Arka (2020b)
13	Mikael Harutyunyan	Former Chief Military Inspector of RA(2008-2018), presidential advisor (2008-2018), former Minister of Defense (2007-2008)	July 2018-today, wanted in Armenia (currently in Russia, extradition refused by Russia)	***2018:*** Violent overthrow of the constitutional order (March 1st 2008)	Not sentenced	Caucasian Knot (2018), Armenpress (2019d)
14	Yuri Khachaturov	Former Chief of the General Staff of the Armed Forces of Armenia (2008-2016),	July 2018-today, trial on-going	***2018:*** Violent overthrow of the constitutional order (March 1st 2008)	Not sentenced, on trial (August 2020)	Special Investigation Service of the Republic of Armenia (2018b), Aysor

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		former secretary of CSTO (2017-2018)				(2020a)
15	Seyran Ohanyan	Former Minister of Defense (2008-2016)	2018-today, banned from leaving Armenia, trial awaited	***2018:*** Violent overthrow of the constitutional order (March 1st 2008) ***2020:*** Embezzlement of more than two million USD	Not sentenced	RFE/RL (2020)
16	Armen Gevorgyan	Former Secretary of the NSS (2016-2018), former deputy PM (2018), HHK	2018-today, trial awaited	***2018:*** Violent overthrow of the constitutional order (March 1st 2008), large scale money laundering and bribery	Not sentenced	Special Investigation Service of the Republic of Armenia (2019)
17	Gevorg Kostanyan	Former Prosecutor General (2013-2016), assistant to Sargsyan (2008-2011)	2019-today, prosecution on-going, wanted (currently probably in Moscow)	***2019:*** Abuse of official power, inciting fraud and the concealment of a grave crime	Not sentenced, arrest warrant issued by SIS in 2019	Hetq (2019a)
18	Manvel Grigoryan († November 2020)	Former Chairman of the Yerkrapah Volunteer Union (1999-2020), former MP (2012-2018)	June 2018-November 2020	***2018:*** Illegal possession of weapons and ammunition, tax evasion, waste of state funds and embezzlement of property	2019-2020: in detention until January 2020 (released on medical grounds), prosecution on-going until his death	OC Media (2018c), Caucasian Knot (2020b)
19	Gagik Khachatryan	Former head of Armenia's Revenue Committee (2008-2014), former Minister of Finance (2014-2016)	2019-today, in detention until October 2020	***2019:*** Abuse of power, embezzlement or squandering, taking the bribe of 22.4 million USD (with son Gu. Khachatryan)	In detention from August 2019-October 2020, released on bail in October 2020	Aysor (2020b), Mejlumyan (2020)
20	Gurgen Khachatryan	G. Khachatryan's son, Chairman of Ucom LLC (2012-today), co-founder of Galaxy Group of Companies (2006-today)	2020-today, wanted, location unknown	***2020:*** Money laundering and embezzlement of three million USD, receiving bribe of 22.4 million USD (with father Ga. Khachatryan)	Arrest ruled by court in May 2020	Jam News (2020)
21	Gagik Tsarukyan	Founder and former leader of PAP (2006-2020), business tycoon, founder and owner of	June 2020-today, prosecution on-going	***2020:*** Vote buying during 2017 parliamentary elections, illegal gambling business, organising a fraudulent land transfer scheme	In detention from September to November 2020	Al Jazeera (2020), Elliot (2020)

Appendix I: Post-2018 prosecutions in Armenia

Dark red: Person is out of the country/location unknown; orange: Prosecution has been on-going without result; green: In detention; light blue: Trial has been on-going; white: Prosecution has ended (Results: September 2020).

		Multi Group holding				
22	Sedrak Arustamyan	CEO of Multi Group holding	April 2020-today	***2020:*** Giving 22.4 million USD bribe to the former Armenian finance minister Ga. Khachatryan	In detention since April 2020	Caucasus Watch (2020b)
23	Ruben Hayrapetyan	Former president of the Football Federation of Armenia (2002-2018), former MP (2003-2012), HHK	December 2019-today, wanted (currently in Russia, extradition refused)	***2019:*** Official negligence, large-scale appropriation, falsification of documents, and abuse of power	Arrest demanded by Armenian courts, rejected by Russia in July 2020	Aysor (2020c)
24	Robert Nazaryan	Former head of the Public Services Regulatory Commission (2003-2018), former mayor of Yerevan (2001-2003)	August 2020-today, in detention	No former charges yet, suspected for giving corruption and giving privileged treatment to companies	In detention since August 2020	Massispost (2020b)
25	Mihran Poghosyan	Chief Compulsory Enforcement Officer of Judicial Acts (2008-2012)	2019-today, prosecution (currently probably in Russia, extradition refused)	***2019:*** Money laundering of around 1,2 million USD and abuse of official authority	Arrest demanded by Armenian law enforcement agencies, extradition refused by Russian authorities	Armenpress (2019d), Hetq (2020b)
26	Vigen Sargsyan	Former Minister of Defense (2016-2018), deputy chief of staff at presidential office (2011-2016)	2019-today, investigation on-going (currently in the United States of America)	No charges, solely investigations and criminal proceedings launched, without result	-	Nalbandian (2019b), Sargsyan (2020)
27	Vahagn Harutyunyan	Ex-deputy head of the Armenian Investigative Committee	2018-today, wanted, (currently probably in Russia)	***2018:*** Abuse of power, resulting in negligent grave consequences and abuse of power, accompanied by violence, the use of weapons or special equipment related to events of 1st March 2008	Arrested in Moscow in March 2019, released the next day, no extradition	Armenpress (2020b), Lragir (2020)
28	Gagik Beglaryan	Former mayor of Yerevan (2009-2011), former Minister of Transport and	2019-today, wanted (location unknown, might be hiding in the Netherlands)	***2019:*** Illegal privatization of a kindergarten, property rights violations, abuse of power	Arrest demanded by Armenian law enforcement agencies in March 2020, not sentenced	Massispost (2020c)

Appendix I: Post-2018 prosecutions in Armenia

Dark red: Person is out of the country/location unknown; orange: Prosecution has been on-going without result; green: In detention; light blue: Trial has been on-going; white: Prosecution has ended (Results: September 2020).

		Communication (2013-2016)				
29	Gurgen Sargsyan	Former Minister of Transport and Communication (2008-2010)	2019-today	***2019:*** Fraud/legitimizing illegally obtained income in the North-South Road Corridor project	Since October 2019: In detention	Hetq (2019c)
30	Hovik Abrahamyan	Former Prime Minister (2014-2016)	2018-today, prosecution on-going	***2018:*** Illegal participation in entrepreneurial activity, threat to shut down a mine company and abuse of power	Not sentenced	Sargsyan (2020)
31	Surik Khachatryan	Governor of Syunik (2014-2016)	2019-today (location unknown, probably France)	***2019:*** Abuse of power related to property rights violations	Arrest demanded by Armenian law enforcement agencies	Sargsyan (2020)
32	Samvel Mayrapetyan	Businessman	2018-today, prosecution on-going (location unknown, Germany until spring 2020)	***2018:*** Facilitation of bribery, money laundering of property by criminal means (in Northern Avenue, among others) ***2020:*** Tax evasion of 12 million USD	***2020:*** Arrest warrant issued by Armenian law enforcement agencies	Sargsyan (2020), Arka (2020c)

Appendix II - Post-2012 prosecutions in Georgia

Dark red: Person is out of Georgia/location unknown; dark blue: Person has been imprisoned; light blue: Trial has been on-going; white: Prosecution has ended. (Results: September 2020)

No.	***Name of person***	***Position/Affiliation***	***Year/date of start of prosecution/Status of prosecution***	***Criminal charge(s)***	***Criminal sentence(s)***	***Source***
1	Mikheil Saakashvili	Former president (2003-2013), UNM	July 2014 – today, wanted (currently in Ukraine)	***2014:*** July: Abuse of power/Violent dispersal of November 2007 protests, unlawful raiding of Imedi TV by riot police and illegal take-over of property owned by Badri (Arkadi) Patarkatsishvili, organizing attack on Valeri Gelashvili; August: Embezzlement of 8,8 million GEL of state funds ***2018:*** January: Abuse of power/Cover up of evidence related to the 2006 murder case of Sandro Girgvliani; illegal pardoning of employees of the MoIA related to Girgvliani case; June: Abuse of power/Cover up of evidence related to the 2005 beating of Gelashvili	January 2018: Three years of prison in absentia June 2018: Six years of prison in absentia	Vartanyan/Herszenhorn (2014), Agenda.ge (2014c), OC Media (2018b), Radio Free Europe/Radio Liberty (2018a,b)
2	Ivane Merabishvili	Former Minister of Internal Affairs (2004-2012), former Prime Minister (2012), UNM	May 2013 – February 2020	***2014:*** February: Abuse of power/Dispersal of protests on 26 May 2011; misspending 5,2 million GEL from state employment program; bribing of voters October: Cover up of evidence of the murder case of Sandro Girgvliani and the physical abuse of Gelashvili	February 2014: Four years and six months of prison; five years of prison October 2014: Three years of prison Released from prison in February 2020	Agenda.ge (2014d), Civil.ge (2014), OC Media (2020e)
3	Bachana (Bacho) Akhalaia	Former head of Penitentiary Department of Ministry of Justice of Georgia (2005-	November 2012 – today, wanted (current location unknown)	***2013:*** Usage of excessive force in suppressing a 2006 prison riot (with Chakua, M. Kardava, Charabadze) ***2014:***	2013: Four years of prison (pardoned by Saakashvili) October 2014: Seven years and six month of prison in absentia	Agenda.ge (2014a, e, 2018b)

Appendix II - Post-2012 prosecutions in Georgia

Dark red: Person is out of Georgia/location unknown; dark blue: Person has been imprisoned; light blue: Trial has been on-going; white: Prosecution has ended. (Results: September 2020)

		2008), former Minister of Defense (2009-2012), former Minister of Internal Affairs (2012), UNM		Torture and ill-treatment of prisoners ***2018:*** Abuse of power and organizing sexual violence and torture of Sergo Tetradze	April 2018: Nine years of prison in absentia	
4	David (Dato) Akhalaia	Former head of the Constitutional Security of the MoIA (CSD), former Minister of Defense, UNM	2014 – today, wanted (current location unknown)	***2016:*** Abuse of power, murder in three cases and fabrication of evidence ***2018:*** Murder of Sandro Girgvliani and kidnapping of individuals	December 2016: Twelve years of prison in absentia October 2018: Seven and a half years of prison in absentia	Agenda.ge (2016b)
5	Giorgi Ugulava	Former mayor of Tbilisi (2005-2013), UNM (2005-2017), EG (2017-today)	August 2013 – 2020	***2015:*** Misspending public funds, embezzlement of more than 48 million GEL to create fictional jobs ***2020:*** Misusage of public funds	September 2015: Four and a half years of prison, released in January 2017 February 2020: Three years of prison (pardoned by president Zourabishvili in May 2020)	Civil.ge (2015b), Agenda.ge (2020b)
6	Zurab Adeishvili	Former Minister of Justice (2008-2012), former Prosecutor General (2004-2008), UNM	October 2012 -today, wanted (abroad, probably Ukraine)	***2014:*** Illegal raid of Imedi TV in 2007 ***2017:*** Illegal confiscation of Akura vinery in Kakheti Abuse of authority in Cartu Bank case ***2020:*** Illegal closure of Iberia TV	May 2017: Two years of prison December 2019: Five years and three months of prison in absentia	Agenda.ge (2020a, c)
7	Nikoloz Dzimtseishvili	Former deputy Minister of Defense (2009-2012)	2013-today, wanted (abroad, probably Hungary)	***2013:*** Embezzlement of coupons of a Georgian oil company ***2018:*** Murder of Sergo Tetradze	June 2013: Six years and nine months of prison in absentia (pardoned by Saakashvili in October 2013) April 2018: Four years of prison in absentia	Trend.az (2013), Agenda.ge (2018b)

Appendix II - Post-2012 prosecutions in Georgia

Dark red: Person is out of Georgia/location unknown; dark blue: Person has been imprisoned; light blue: Trial has been on-going; white: Prosecution has ended. (Results: September 2020)

8	Shota Khizanishvili	Former deputy Minister of Internal Affairs and deputy head of the Department of Constitutional Security (CSD) of MoIA	2013-2017	***2012:*** Illegal gain of private information	2016: Detention until 2017, then released	Caucasian Knot (2017)
9	Levan Kardava	Former deputy head of the Constitutional Security department (CSD) of the MoIA	2013-today, wanted (location unknown)	***2014:*** Murder in three cases (with D. Akhalaia, Dgebaduze, Mazmishvili) ***2020:*** Abuse of authority and illegal detention of a police officer in the case of Patarkatsishvili	October 2014: Eleven years of prison July 2020: Seven years and six months of prison	Radio Free Europe/Radio Liberty (2014), Agenda.ge (2020c)
10	Giorgi Dgebuadze	Former official at the Constitutional Security department (CSD) of the MoIA	2013-today	***2016:*** Abuse of authority and murder in three cases (with D. Akhalaia, L. Kardava, Mazmishvili) ***2020:*** Abuse of authority and illegal detention of a police officer in the case of Patarkatsishvili	2016: Nine years of prison July 2020: Seven years and six months of prison	Agenda.ge (2016c, 2020c)
11	David Kokiashvili	Constitutional Security department (CSD) of the MoIA	2020-today	***2020:*** Abuse of authority and illegal detention of a police officer in the case of Patarkatsishvili	July 2020: One year and six months of prison	Agenda.ge (2020c)
12	Ilia Gamgebeli	Constitutional Security department (CSD) of the MoIA	2020-today	***2020:*** Abuse of authority and illegal detention of a police officer in the case of Patarkatsishvili	July 2020: One year and six months of prison	Agenda.ge (2020c)
13	Megis Kardava	Former head of the Military Police Department	2014-today, wanted (location unknown)	***2014:*** Abuse of power, torture of Sergo Tetradze, humiliation of a person, coercion and putting a person in an inhumane position, liability of perpetrator and accomplice in torture, liability of perpetrator and accomplice in sexual abuse under violence and illegal imprisonment, organization of prison riot	2014: Nine years of prison	Civil.ge (2016)

Appendix II - Post-2012 prosecutions in Georgia

Dark red: Person is out of Georgia/location unknown; dark blue: Person has been imprisoned; light blue: Trial has been on-going; white: Prosecution has ended. (Results: September 2020)

				(with B. Akhalaia, Chakua, Charbadze)		
14	Alexandre Mukhadze	Former director of Prison No. 8 (Gldani)	2012-today, wanted (location unknown)	***2014:*** Torture and deprivation of liberty of Sergo Tetradze ***2016:*** Torture and deprivation of property of a businessman	2014: Nine years of prison in absentia 2016: No other criminal penalty, because of 2014 sentence	Agenda.ge (2014a), Georgia Today (2016), TV1 (2016)
15	Giorgi Mazmishvili	Former Minister of Internal Affairs	2014-today (imprisoned)	***2014:*** Murder of three individuals (with D. Akhalaia, L. Kardava, G. Dgebuadze, Chakua), abuse of power and falsifying evidence	October 2014: Elven years of prison	Radio Free Europe/Radio Liberty (2014)
16	Giorgi Udesiani	Former Deputy Minister of Culture (2007-2008)	2013-today, wanted (location unknown)	***2016:*** Torture and deprivation of property of a businessman	October 2016: Two months of prison	Georgia Today (2016), TV1 (2016)
17	Oleg Patsatsia	Former employee at prison No. 8 (Gldani)	2013-today (imprisoned)	***2014:*** Torture and deprivation of liberty of Sergo Tetradze	2014: Nine years of prison	Caucasian Knot (2014)
18	Viktor Kacheishvili	Former employee at prison No. 8 (Gldani)	2014-today (imprisoned)	***2014:*** Torture and deprivation of liberty of Sergo Tetradze	2014: Nine years of prison	Agenda.ge (2014a)
19	Davit Kezerashvili	Former Minister of Finance (2004-2006), former Minister of Defense (2006-2008)	2012-today, wanted (extradition refused in France 2014 and in Great Britain in 2016)	***2014:*** Embezzlement of 12,3 million USD, smuggling of ethyl spirit from Ukraine to Georgia between 2007-2012, misappropriation of state funds and money laundering	2014: Not found guilty	BCL Solicitors LLP (2016)
20	Giorgi Lortkipanidze	Former deputy Minister of Internal Affairs	2016-today, (currently probably in Ukraine)	***2016:*** Dispersal of 26 May 2011 protests	2016: Pre-trial detention, no further information on prosecution	Agenda.ge (2016d)

Appendix II - Post-2012 prosecutions in Georgia

Dark red: Person is out of Georgia/location unknown; dark blue: Person has been imprisoned; light blue: Trial has been on-going; white: Prosecution has ended. (Results: September 2020)

21	Davit Chakua	Former head of the penitentiary department	2013-today, extradited from Germany to Georgia in July 2020	***2014:*** Organization of 2006 prison riot (with B. Akhalaia, M. Kardava, Charbadze), Torture of prisoners, abuse of office, kidnapping of an individual	Sentence not known yet	Democracy & Freedom Watch (2020)
22	Alexander Khetaguri	Former Minister of energy (2007-2012) and finance (2012)	2012-2012	***2012:*** Accepting bribes, falsifying documents, and engaging in illegal commercial activities	2012: Released on bail, fine of approximately 18.000 USD	Democracy & Freedom Watch (2012)
23	Zurab Tchiaberashvili	Former mayor of Tbilisi (2004-2005), former minister of health, labour and social affairs (2012-2012), UNM (2005-2012), EG (2017-today)	2012-2014	***2014:*** Misspending of public funds to the advantage of UNM	2014: Released on bail, fine of approximately 30.000 USD	Matusiak (2014)
24	Geronti Alania	Former employee in the MoIA	2014 – today (imprisoned)	***2014:*** Torture	2014: October: Four years and six months of prison	Agenda.ge (2014d)
25	Valerian Metreveli	Former employee in the MoIA	2014-2018 (imprisoned)	Murder of Sandro Girgvliani	2014: October: Four years and six months of prison	Agenda.ge (2014d)
26	Oleg Melnikov	Former employee in the MoIA	2013-2014	***2013:*** Involvement in the murder of Sandro Girgvliani	Plead guilty, 2013-2014: Prison sentence, plea bargaining agreement led to release	Democracy & Freedom Watch (2014)
27	Alexander Ninua	Former head of the Procurement Department of the Defence Ministry (2007-2009)	2013-2017 (imprisoned)	***2015:*** Embezzlement of state funds (with Kezerashvili)	2014: Three years of prison	Georgian Democracy Initiative (2015)
28	Davit Iashvili	Former employee in the MoIA	2012-today (imprisoned)	***2018:*** Abuse of power in the murder case of Buta Robakidze	2018: Five years and three months	OC Media (2020f)
29	Zura Mikadze	Former employee in	2012-today	***2018:*** Abuse of power in the murder case of	2018: Five years and three	OC Media (2020f)

		the MoIA	(imprisoned)	Buta Robakidze	months	
30	Guram Donadze	Former employee in the MoIA	2012-today (imprisoned)	***2018:*** Abuse of power in the murder case of Buta Robakidze	2018: Five years and three months	OC Media (2020f)
31	Irakli Pirtskhalava	Former employee in the MoIA	2012-today (imprisoned)	***2018:*** Abuse of power in the murder case of Buta Robakidze	2018: Five years and three months	OC Media (2020f)
32	Zaza Bakradze	Former employee in the MoIA	2012-today (imprisoned)	***2018:*** Abuse of power in the murder case of Buta Robakidze	2018: Four and a half years of prison	OC Media (2020f)

Appendix III – Memo on field trip to Yerevan (28 to 30 October 2019)

The following memo documents two major events during the field trip to Yerevan: a public discussion on TJ and a meeting with civil society stakeholders and victims of human rights violations. None of the statements that were issued by victims will be published due to the ethics commission's restrictions and the sensitivity of the content.

Transitional justice, corruption and state capture: Lessons for Armenia

This section summarizes the most important discussion points made during the event entitled 'Transitional justice, corruption and state capture: Lessons for Armenia'. The discussion took place on 28 October 2019 at the DoubleTree by Hilton hotel (4/2 Grigor Lusavorich Street) in Yerevan, Armenia.

Levon Baseghyan (Asparez Journalists Club) – No title specified for short presentation

Basegehyan stated that there should be a public discussion about TJ on television to enable Armenian society to elaborate on the concept and its meaning. He underlined that Kocharyan's and Sargsyan's state capture could only be overcome through a revolutionary process. Whilst it was important to hold perpetrators accountable in order to prevent state capture from recurring, he underlined that a public apology would be equally important. However, he assumed that former officials would not apologize for state capture.

Hennie van Vuuren (human rights defender, Open Secrets, South Africa) – "What made state capture possible in South Africa after the Truth and Reconciliation Commission?"

Van Vuuren underlined that it was up to each country to find its own TJ path and that the outcome depended on the new regime's ability to challenge old structures. He illustrated the TJ process in South Africa. After the transition in 2018, more than 50% of South Africans still lived in poverty, and the level of inequality was extremely high. This was mainly attributable to endemic corruption, which was a result of 300 years of colonial and racist rule, a system which was designed to enrich the few and the civil war in the 1980s. The state was militarized due to all five members of the Security Council delivering weapons with a total value of 50 billion euros to the apartheid regime. Foreign companies were involved in corruption and central to maintaining corrupt structures. They continued to influence the South African government after the 2018 transition, which destabilized political institutions. Although South Africa underwent an official truth and reconciliation process and had a truth commission in 1995, the TJ process remained incomplete. According to van Vuuren, South Africa never

addressed economic crimes, and there was never an attempt to understand them. The post-2018 government has not been able to tackle the network of human rights abusers. Despite the fact that civil society groups people's hearings and tribunals, which were focused on economic crime, the state lacked political will to prosecute powerful interests and intelligence groups. The government's truth commission only examined state capture from a political point of view, not an economic one. This also led to bilateral state relations (e.g., between Russia and South Africa) largely remaining unknown. However, according to van Vuuren, there was still opportunity to hold accountable individuals in South Africa and abroad.

Artur Sakunts (human rights defender, Helsinki Citizens' Assembly, Armenia) – "What does state capture mean in Armenia?"

According to Sakunts, TJ meant to examine the past in order to gain knowledge about the future. In Armenia, TJ was not yet public knowledge; however, TJ implementation was necessary in order to avoid repeating the past. A first positive step was that PM Pashinyan apologized for violence that he himself didn't commit. Sakunts further elaborated on Armenia's violent past, underlining that the country hasn't yet experienced an election beyond the latest one in 2018, which would have been democratic. Until 2018, corruption was endemic in Armenia; 30% of Armenians lived in poverty, and access to resources was strictly limited to political and economic elites. In order to overcome the conditions of state capture, an overhaul of the political system was necessary. Sakunts highlighted the central role of a truth commission, which was not the same as a fact-finding commission. He didn't point out which model he considered to be more suitable for the Armenian TJ process but stressed that property rights violations, non-combatant death cases, electoral rights violations and privacy rights violations in particular should be examined. The commission should explicitly not be an investigation body but collect information that would allow them to derive human rights-related conclusions.

Ruben Carranza (lawyer and policy advisor, ICTJ) – "What can we learn from post-authoritarian transitional justice experiences addressing economic crimes?"

Carranza explained that TJ is often confused with legal reforms, under the assumption that TJ can be achieved from a distance. However, this is not the case. TJ is not about changing laws but about changing policies; it is about examining the past in that provides broader context about how these laws could be used in order so to protect human rights. It was certainly possible to have different state institutions; however there were always still political forces and economic interests behind these institutions. According to Carranza, it is particularly

important to regard economic violence, including corruption, as a human rights violation. TJ should not only address violations of physical integrity, such as torture, sexual violence, enforced disappearances and killings, but also violations of economic and social rights. It is important to unpack an authoritarian period of conflict, but conflict can be defined as structural violence, not only war. Carranza drew on TJ processes in Kenya and Tunisia to present some positive results. In Kenya, for instance, there were public hearings held on corruption; they demonstrated that corruption went beyond the direct involvement of individuals and included its structural impact. In Tunisia, the post-transitory government established a truth and dignity commission in 2013 whose mandate covered human rights violations that took place between 1956 and 2011. They launched investigations into corruption, embezzlement and bribery. Furthermore, an arbitration and reconciliation committee was created within the truth commission, which conducted negotiations with individuals who had committed large-scale corruption. The commission's value extended beyond the law, and the process showed that commissions could directly engage with the public in a way that courts were unable to. Carranza stressed the importance of the commission's name; translated from Arabic, it meant 'decent means of livelihood'. Similarly to Sakunts, Carranza underscored that state capture was an undemocratic way for governments and elites to gain private benefits. There is a mutual relationship between corruption and human rights violations in which the corrupt use resources without being held accountable. TJ could deliver solutions to state capture; however, these would not necessarily lead to a perfect society. It would not be able to hold everyone accountable, but it could prevent levels of impunity and human rights violations if applied broadly and wisely. A truth commission is an element of TJ that could attempt to publicly extract information. However, commissions were not designed to be investigatory in nature and were implemented in particular in states after revolutions. Finally, Carranza underlined the central role of victims of human rights violations, as they know part of the truth and could contribute to public truth-telling.

Edik Baghdasaryan (HETQ investigative journalist) – "What can activists do to end state capture in Armenia?"

Baghdasaryan underlined negatively that officials, who committed crimes, would not have been held accountable until today. He stated that law enforcement was not overly interested in facts and would put up defences. He elaborated on the important role of journalists during the TJ process. Journalists could contribute to impose accountability over the public majority. He

stressed that Armenia would need to find its own TJ path and could not copy Kenya's or Tunisia's approaches. However, implementing TJ in Armenia would be challenging since the government was not in an adequate state, as the banking sector and companies were still controlled by old elites.

Varuzhan Hoktanyan (TI Anti-Corruption Center) – No title specified for short presentation

In order for TJ to be meaningful to societies, Hoktanyan stated that it was necessary to begin documenting facts from the very beginning of the TJ process; this was particularly important from an efficiency perspective. There was still a high risk of systemic corruption in Armenia, since the *ancien régime* could not have survived without it in Armenia. He elaborated on Armenia's past state capture: business elites that belonged to ministries also became members of parliament. Thus, politics and economics were completely intertwined. The judiciary was not independent, and power would have been highly concentrated and shared by a few individuals in Armenia. They dictated economic and political interests, abused administrative resources and engaged in state capture.

Consultation of civil society stakeholders on key aspects of transitional justice

The following segments summarize the content of a consultation meeting that took place between local civil society groups and the ICTJ on 29 October 2019. The meeting was followed by a consultation with victims of human rights violations, which is only partly documented for data protection reasons.

Ruben Carranza (lawyer and policy advisor, ICTJ)

Carranza explained that a fact-finding commission would examine the human rights violations that have been committed since 1991. The commission's mandate would last two years, with a possible one-year extension. It would examine electoral fraud, political prosecutions, non-combatant death cases, corruption schemes and domestic abuse. Carranza underlined that the ICTJ had a meeting with the ministry of justice and would draw up proposals on what would be called a fact-finding commission in the future. The ICTJ would have been asked by the government for technical assistance. He further elaborated that the ICTJ would have supported the government with assistance on vetting and on asset recovery. Carranza illustrated the important role of the commission for the entire TJ process and underlined that it

would cover many issues, not only those related to corruption. Consultations should be held with citizens and in an inclusive environment.

The current TJ strategy would not define human rights violations but list events. Descriptions based on events could exclude events that were not covered by newspapers or not considered to be political. For instance, certain political detentions that were not significant in number would not appear as a thematic issue. However, such issues could be covered by the truth commission. Civil society would have a crucial role in overcoming the public's mistrust. TJ should not become a discussion between government and experts but rather between and within society. Carranza also broadly commented on the Tunisian case, which is not documented here since it was outside the purview of the thesis.

Hennie van Vuuren (human rights defender, Open Secrets, South Africa)

Van Vuuren underlined the significant negative consequences of the failure to address the past in South Africa. According to him, one of the most important TJ principles is to not only punish the previous government but to prevent human rights violations from happening again. Van Vuuren provided an overview of the mechanism of state capture in South Africa and the role of the Gupta family, which is not discussed here since it isn't particularly relevant for the present research. Van Vuuren presented lessons learnt for the Armenian case: a fact-finding commission would need to communicate with the public and should serve as a briefing room. An action plan should be pre-developed and, unlike in South Africa, not be ignored.

Meetings with Mothers in Black and victims of property rights violations

On 29 October 2019, the ICTJ representatives and some civil society actors met with members of the Mothers in Black, a collective of mothers, whose sons were murdered in non-combatant circumstances, and representatives from the NGO Victims of State Needs. The victims' statements are not documented in this thesis.

Ruben Carranza

Carranza briefly elaborated on the circumstances of the non-combatant deaths. Many cases have not been investigated. Mothers were regularly detained whilst protesting. Carranza underlined that the Armenian state would owe them and the killed soldiers the truth. Learning the truth could lead to a sense of justice, which could come not only from the courts but also from recognition and apology. He further reflected on the role of the truth commission. The development of the commission would be difficult, as evidence has been destroyed. The

information collected as part of the commission’s process could lead to decisions whether or not accused parties should face punishment; however, information and facts were different from how truth is being perceived.

Lawyer of victims of property rights violations

Despite the fact that the Armenian constitution prohibits the government from taking property from citizens, around 5,000 Yerevan residents experienced property rights violations, particularly under Kocharyan. To develop Central Avenue, the government forced out citizens who lived on Northern Avenue. Victims usually went to the European Court of Human Rights to have their rights restored; usually, they would not want money but the restitution of their property. Property rights violations have imposed psychological violence on affected families. However, a truth commission is not a court and could not determine the value of the lost real estate; it could only examine how state capture functioned and corruption in Armenia. However, victims would also want to receive individual judges, thus justice in courts.

Appendix IV – Memo on online debate 'Transitional Justice in Central Asia and Georgia' (14 July 2020)

The current appendix documents parts of a discussion entitled 'Transitional Justice in Central Asia and Georgia' held by the Geneva Academy of International Humanitarian Law and Human Rights on 14 July 2020. The participants were ***Anna Dolidze***, a Georgian lawyer, ***Ilya Nuzov***, head of Eastern Europe and Central Asia Desk for the International Federation for Human Rights and ***Alexei Trochev***, associate professor of political science at Nazarbayev University in Nur-Sultan. Only Dolidze's discussion points on Georgia are documented here, as they are directly relevant to the research topic.

A source for the debate recording cannot be provided here, but it can be obtained by directly contacting the Geneva Academy. A short summary can be found on the following webpage: Geneva Academy of International Humanitarian Law and Human Rights (2020) 'Students organized a panel discussion on transitional justice in Central Asia and Georgia', https://www.geneva-academy.ch/news/detail/356-students-organized-a-panel-discussion-on-transitional-justice-in-central-asia-and-georgia, checked on 30 December 2020.

Firstly, Dolidze elaborated on the Soviet repression in the former Georgian SSR and its impact on post-1990 Georgia, which is not documented here. She continued by describing the country's political circumstances and repression under former presidents Zviad Gamsakhurdia, Eduard Shevardnadze and Mikheil Saakashvili. According to Dolidze, Saakashvili's tenure in Georgia was often referred to as 'nine bloody years'. Despite these long episodes of repression, however, there has never been a truth and reconciliation process in Georgia. There has not been a truth commission, a public commemoration or a narration about the violent past. All governments have refused to take a clear stance on the predecessors' governance. There have been individual cases of property restitution and the release of political prisoners, but the latter have not been reconciled with or compensated.

Dolidze elaborated on why there has never been a truth and reconciliation process in Georgia. She presented two hypotheses. The first concerns the country's cultural context and social fabric. She stated that if governments had initiated large-scale prosecutions and truth processes, they might have discovered that perpetrators and victims belonged to the same families. The social fabric of Georgia is very insular and arranged around the latter. Consequently, the process could have been very painful and thus may have been avoided. The second hypothesis concerns avoidance as a form of convenience.

Currently, transitional justice is not a popular or oft-discussed topic in Georgia. It was in 2012 that TJ was the focus of attention. Dolidze recounted that she had co-authored a piece with Tom de Waal on the topic that asked the government to initiate a truth process. She wrote hat Georgia was now paying the price for a lack of TJ implementation; this was visible in, for example, the country's polarized political climate. Georgia was haunted by past human rights violations. However, there was no specific interest in TJ from scholars or NGOs. Dolidze mentioned that there was a minor discussion on TJ when the ICTJ came to Georgia, but not much has been done beyond that.

Appendix V – Memo on online discussion 'The Recovery of the Judiciary in the Context of Constitutional Amendments' (8 May 2020)

The documented event was organized by the ICTJ and the Armenian Media Center and supported by OSF Armenia. The participants were ***Anna Myriam Roccatello*** (deputy executive director and director of programmes at the ICTJ), ***Palmina Tanzarella*** (professor of Italian and European constitutional law and state-building and constitutional law researcher at the University of Milano Bicocca's School of Law), ***Grigor Bekmezyan*** (member of the Supreme Judicial Council) and ***Artur Sakunts*** (head of Helsinki Citizens' Assembly in Vanadzor).

The discussion, which was held in English and Armenian, can be accessed on the following webpage: Media Center (2020) 'The Recovery of the Judiciary in the Context of Constitutional Amendments', http://www.media-center.am/en/1588972028, checked on 30 December 2020.

Grigor Bekmezyan (member of Supreme Judicial Council)

Bekmezyan stated that judicial independence would need to be upheld during the TJ process and that courts would have to operate within the law. The Supreme Council could not carry out vetting of judges, as it was primarily tasked with guaranteeing the independence of the police. Domestic legal acts, adapted under the constitution, would prove that the judiciary functioned efficiently. To date, the Corruption Prevention Commission had been tasked with publishing income and assets of judges. The de facto implementation of TJ (Bekmezyan referred to the prosecution of judges) wouldn't be possible under the current domestic legislation. Furthermore, the members of the Supreme Council would not be able to vet judges themselves; however, the Supreme Council should have that power.

Artur Sakunts (head of Helsinki Citizens' Assembly)

Sakunts briefly reflected on the meaning of the 2018 Velvet Revolution. He called it a revolution in the strictest sense of the word, which happened because of a deficit of social justice. The courts in Armenia operated as the political elite wished and were in fact instructed by them. In general, it cannot be said that fair decisions are impossible; however, once political and economic interests are involved, such decisions cannot withstand these interests. Similarly, legislative and court practice were not always necessarily bad, but judges were vulnerable; they could be fired or disciplined for their judgements. Consequently, the judiciary lacked public trust. The new procedure to assess judges' incomes would be insufficient for verifying their integrity since it only covered the period from 2017 to the present. After 2018, civil society demanded deep and comprehensive vetting for the legal system. This would mean the initiation of political-administrative measures against all judges who violated Article 6 (right to fair trial) of the European Convention of Human Rights. Armenia would require a TJ toolkit, which it did not have. Without TJ, the only avenue was punitive. However, vetting would be more civilized, as it was the only way that remained to regain trust in the judiciary. According Sakunts, Armenia would not have a crisis of constitutional court but a crisis of constitution. The current constitution was at a deadlock, because it could not secure democracy. However, no amendments to the constitution have been published yet. The PM would have announced to publish a new draft of the constitution until the end of the year 2020; however, no concept paper or materials have been made available to make the process observable. Sakunts identified a certain reluctance to engage civil society in the wording of the constitution. Furthermore, he did not see any progress with regard to the truth commission. Finally, he expressed his regret in stating that the Armenian authorities have failed in all reforms that expected by civil society after the revolution.

Grigor Bekmezyan (Supreme Judicial Council)

Behmezyan responded that it was easier to criticize actions than to deliver them. If vetting was conducted as Sakunts described it, all judges would have to be eliminated. This would cause a heavy blow to the judiciary, as 30-40% of judges would have to be fired and the judiciary would collapse as a result. There was no legal ground in Armenia to do so and would trigger many cases in the European Court of Human Rights. Currently, the Supreme Council was working hard to elect new judges. Finally, Behmezyan asked whether it was more important to punish former judges or to work in a healthy manner within the existing legal framework.

Palmina Tanzarella (professor of Italian and European constitutional law and state-building and constitutional law researcher at University of Milano Bicocca's School of Law)

Tanzarella underlined the importance of speaking the same language when discussing vetting. Vetting was not a disciplinary reform procedure but a tool for sending a clear message that Armenia wanted to break with the past in order to ensure the sound functioning of justice. The purpose of a constitution was to rebuild power and trust in the political system. A new constitution needed to be both a starting point and a pillar and to express the culture of a society. It would have to operate as a matter of fact in the sense of a material constitution. In societies where this was not the case, it was necessary to purge the system that was in place in the past in order to initiate a new constitutional era. Therefore, dialogue and compromise were necessary.

Anna Myriam Roccatello (deputy executive director and director of programmes at the ICTJ)

Roccattello stressed that the vetting debate was a historic moment for Armenia. She outlined the process in detail. Vetting is a process that can and should take place in specific circumstances, when a country emerges from a historically problematic period that undermined critical state institutions and their credibility. Vetting was a response to a systemic issue which needed to be addressed to reform the state. It helps to assess the suitability of serving judges and the judicial personnel to perform the judiciary's function. Thus, the criteria for such an assessment were much broader than strict disciplinary processes. Vetting was intended as a holistic assessment that does not focus on singular cases but rather the cultural element of independence of behaviour and attitude. Transitional vetting was meant to be a one-time process that took place at a particular moment in time and attempted to re-create a judicial body that was credible, healthy, professional and independent. It demanded the involvement of civil society, which was not involved in the system of discipline but tackled the issue of the perception of the process. According to Roccatello, it may not be necessary to dismiss all serving judges, only 20-28%. Vetting usually started with higher placed and more senior decision-makers. The process of rewriting the constitution should involve all sectors in society; civil society had a key role to play. Normally, the constitution would come out of the Constitutional Assembly. It should include fundamental principles of Armenia forever.

Annex VI Interlocutors for interviews

In the following, you find an overview of all individuals I interviewed for the thesis. As mentioned, I conducted 19 interviews on Georgia (G) and 15 on Armenia (A). Two participants answered the questions in written form. They are marked.

No.	Name	Date	Profession/occupation at the time of the interview (Position might have changed afterwards)	Affiliation at the time of the interview (Affiliation might have changed afterwards)
1	Ruben Carranza (A)	29.10.2019	Lawyer, policy advisor	International Center for Transitional Justice (ICTJ)
2	Peter Liakhov (A)	24.02.2020	Journalist, documentary filmmaker	OC Media
3	Tsira Chanturia (G)	02.03.2020	Lawyer	Penal Reform International
4	Natia Imnadze (G)	04.03.2020	Lawyer	Institute for Democracy and Safe Development (IDSD)
5	Helene Khoshtaria (G)	10.03.2020	Politician	European Georgia (EG)
6	Mariam Jishkariani (G)	10.03.2020	Psychologist	Empathy
7	Anonymous G1 (G)	11.03.2020	Not disclosed	Not disclosed
8	Anonymous G2 (G)	11.03.2020	Not disclosed	Not disclosed
9	Guram Imnadze (G)	12.03.2020	Lawyer	Human Rights Education and Monitoring Center (EMC)
10	Lina Ghvinianidze (G)	12.03.2020	Lawyer	Human Rights Education and Monitoring Center (EMC)
11	Levan Ramishvili (G)	12.03.2020	Activist	Liberty Institute
12	Marina Muskhelishvili (G)	13.03.2020	Political scientist	Ivane Javakhishvili Tbilisi State University (TSU)
13	Anonymous A1 (A)	18.03.2020	Not disclosed	Not disclosed
14	Anonymous G3 (G)	24.03.2020	Not disclosed	Not disclosed
15	Edgar Khachatryan (A)	25.03.2020	Lawyer	Peace Dialogue
16	Giorgi Gvilava (G)	01.04.2020	Lawyer	Transparency International (TI) Georgia
17	Varser Karapetyan (A)	10.04.2020	Lawyer	Human Rights House Yerevan
18	Artur Sakunts (A)	13.04.2020	Human rights defender	Helsinki Citizens' Assembly Vanadzor

19	Gohar Simonyan (A)	17.04.2020	Lawyer	Head of the Department for the Prevention of Torture and Ill-treatment of the Human Rights Defender's Office of Armenia
20	Alexander Iskandaryan (A)	17.04.2020	Sociologist	Caucasus Institute
21	Giorgi Mshvenieradze (G)	17.04.2020	Human rights defender	Georgian Democracy Initiative (GDI)
22	Sergi Kapanadze (G)	28.04.2020	Politician	European Georgian (EG)
23	Artak Kirakosyan (A)	06.05.2020	Human rights defender	Civil Society Institute
24	Armen Mazmanyan (A)	07.05.2020	Lawyer	Apella Institute for Policy Analysis and Dialogue and its Center for Constitutional Studies Yerevan
25	Anonymous A2 (A)	26.05.2020	Not disclosed	Not disclosed
26	Karena Avedissian (A)	27.05.2020	Political scientist	American University of Armenia (AUA)
27	Mikayel Zolyan (A)	29.05.2020	Politician	My Step
28	Ucha Nanuashvili (G)	21.07.2020	Human rights defender, former Ombudsman of Georgia	Democracy Research Institute (DRI)
29	Tamar Chugoshvili (G)	22.07.2020	Politician	Independent, no party affiliation (former Georgian Dream)
30	Kakha Tsikarishvili (G)	21.07.2020 23.07.2020	Lawyer, former Assistant of Supreme Court Chief Justice	Article 42
31	Nino Elbakidze (G)	27.07.2020	Lawyer	Human Rights Advocacy and Democracy Fund
32	Anonymous G4 (G)	29.07.2020	Not disclosed	Not disclosed
33	Mamikon Hovsepyan (A)	29.08.2020	Human rights defender	Pink Armenia
34	Syuzanna Soghomonyan (A)	30.09.2020	Lawyer	Armenian Lawyers' Association (ALA)