



*Parliamentary Immunity in Ukraine,
Armenia and Guatemala*

*Executive, Legislative and Judicial
Balance*



Parliaments facing a declining level of popularity in many countries

In public opinion polls, citizens linking immunity with opportunity for corruption

Many countries are reevaluating immunity laws, and trying to strike a better balance between appropriate protection and impunity

Immunity and Corruption



- *The protection offered by immunity may allow parliamentarians to pursue a vigorous oversight agenda, while diminishing opportunities for government reprisal*
- *The abuse of immunity may allow corrupt members to hide illicit activities, eroding public confidence in the integrity of the whole governing structure*

Study Methodology



- *Part of USAID Legislative Strengthening Research Effort*
- *Armenia, Ukraine and Guatemala all high on Transparency International's Corruption List*
- *Network of parliamentary projects and individuals with on the ground access to members of parliament, legal experts and civil society leaders*
- *Countries' represent range of immunity legal frameworks.....*



	Political System	Type of Immunity	Who strips Immunity?
Ukraine	Semi-Presidential with separately elected President. Unicameral parliament with 450 seats; 4-year terms	Broad: with protections from arrest, detention and prosecution without the consent of Parliament; no protection from searches or investigations	Parliament
Guatemala	Presidential system with an 158-member unicameral congress; 4-year terms	Broad: with protections from civil and criminal accusations, as well as protection from most types of investigation or evidence gathering	Supreme Court Magistrates
Armenia	Semi-parliamentary, unicameral system with separately elected President. Unicameral parliament with 131 seats; 4-year terms	Constitutionally narrow, but interpreted broadly	Parliament

Ukraine



- Case of Yulia Tymoshenko, opposition member of parliament, where accusations were politically motivated and immunity was ultimately protected
- Case of MP Pavlo Lazarenko, where immunity was first protected by political allies in parliament, then later revoked, because high-profile accusations led to public out-cry

Guatemala



- Case of Guategate – Supreme Court removed the immunity of former president of Congress, General Efraín Ríos Montt and 22 ruling party members, for essentially selling votes to powerful industry
- General review of cases of intimidation of opposition parliamentarians, violating the spirit of immunity

Armenia



- 1996 election protests – immunity of four opposition members of parliament was lifted after their participation in an opposition rally
- Murder case of Vano Siradeghyan – First attempt to lift immunity protected by allies in Parliament; second attempt succeeded after President threatened to dissolve parliament

Preliminary Lessons Learned



- *A country's politics (power of the majority party and or executive) are a stronger indicator of behavior or abuse of immunity than the legal scope of immunity.*
- *In countries with a strong executive (as in Armenia and Ukraine in the recent past), prosecutors are under political pressure to go after members of parliament who oppose the government (for both real and invented reasons), and/or ignore charges of corruption by government officials or members of parliament from the ruling party.*
- *Where parliament votes to remove immunity (or, in the case of Guatemala, where the supreme court members are beholden to particular political parties), votes to remove a fellow members' immunity tend to fall along party lines, rather than on the substance of the charges.*
- *Media and civil society organizations play a strong role in ensuring parliamentary immunity is lifted or alternately protesting when MPs are targeted unfairly, in egregious and high-profile cases.*
- *At times parliamentary immunity has served as a critical check on the power of the executive. **Despite weaknesses and abuses, we can't throw the baby out with the bathwater.***

Possible Actions – A Holistic Approach



- ***Parliaments and/or parliamentary associations*** should examine and promote the use of Codes of Ethics and/or laws that regulate disclosure of assets and income to counter the potential abuses of immunity.
- ***Political parties*** should be called upon to publicize the criteria for candidate selection and promote input from party members, and/or promote rules changes that allow for open party electoral lists.
- ***Civil society/media*** can be supported with training to journalists on the issue of parliamentary immunity, the specific rules and institutions involved, and how to conduct investigative journalism on the issue.
- ***Review of the Justice Sector*** -- Examine the method of appointment of prosecutors; advise on how to insulate prosecutorial decisions from political decisions; and train members of parliament on how to question and investigate prosecutorial offices through their oversight activities.
- ***Create Model Parliamentary Immunity Standards***