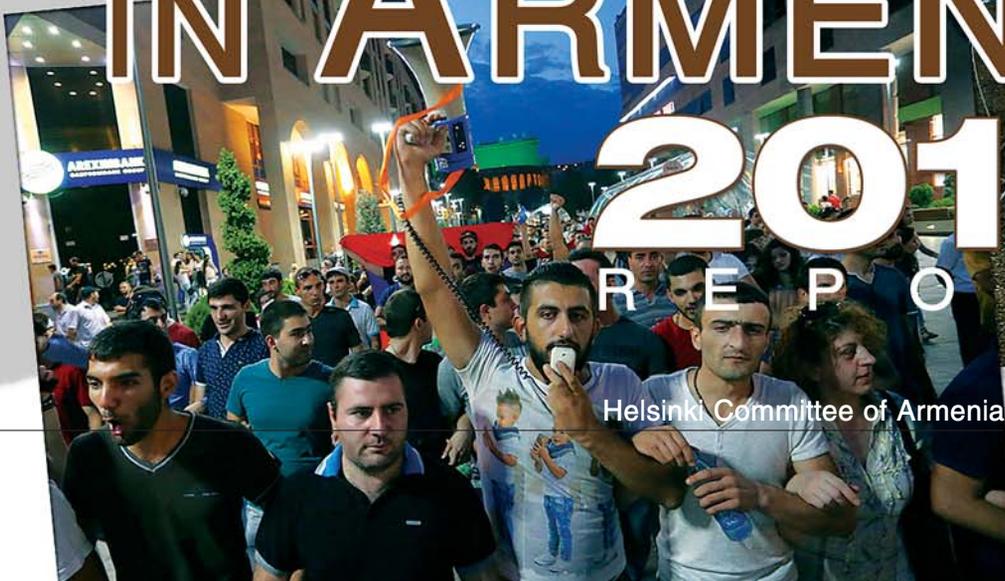


HUMAN RIGHTS IN ARMENIA 2016

R E P O R T

Helsinki Committee of Armenia





HUMAN RIGHTS IN ARMENIA



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Human Rights in **Armenia** 2016 R E P O R T

The REPORT has been drawn up by

Helsinki Committee of Armenia

in cooperation with

Committee to Protect Freedom of Expression NGO (Freedom of Expression Section)

Collaboration for Democracy Centre (Freedom of Conscience and Religion Section)

Save the Children Charity (The Rights of the Child Section)

Coalition to Stop Violence against Women (Women's Rights Section)

Public Information and Need of Knowledge NGO (Rights of LGBTI People Section)

Helsinki Committee of Armenia

2017

Human Rights in Armenia in 2016

Even though 2016 was not a year of general elections, nevertheless, it was a year of political upheavals and mass-scale human rights violations. As in earlier political crises, during the July 2016 events even though the state of emergency had not been declared the elementary rights and laws were no longer in effect and Armenia seemed to become a police State.

On the night of 1 April and early morning of 2 April 2016, the armed forces of the Republic of Azerbaijan launched a large-scale military operation along the entire border with Nagorno Karabakh. High-intensity military actions went on till April 5, when a ceasefire agreement was signed between the two States. Numerous types of military equipment were used during the military actions. As a result of the Azerbaijani military actions 78 Armenian military servicemen¹ and numerous civilian residents of borderline localities were killed. The Azerbaijani armed forces seized 800 hectares² along the contact line. The military actions, which were subsequently dubbed "the 4-day war," shocked the society and powers that be as they demonstrated numerous problems and shortcomings in the defense system. Various representatives of the public and of civic initiatives voiced their concern and complaints blaming the authorities for bad governance and corruption and for the victims and losses sustained during the military actions as a result of outdated military equipment³.

Representatives of current and former authorities called for unity⁴, while the attempts by the public at large to express discontent were suppressed⁵. The tensions were running high in the country and affected subsequent events.

On July 17, the *Daredevils of Sassoun* group, which was composed of civic activists and Karabakh war veterans, seized the Patrol Police regiment, which is located in Erebuni district in Yerevan, and demanded the release of the *Constituent Parliament* member Jirayr Sefilian and the resignation of country's President as a person responsible for social injustices and military operations' failures. The general public as well as public, political and cultural figures immediately reacted to the situation. From the day of the regiment seizure on, mass rallies, marches and sit-ins took place in the capital city and in other regions of the country. The response was mixed as positions were at times mutually exclusive and varied from highly critical of the group's actions and labeling them terrorists to mass-scale public support and demands that the situation be resolved peacefully. The rallies that were for the most part peaceful were subjected to unprecedented police brutal and unlawful interference as hundreds of people were forcibly taken to

1 For more details see the 'Armed forces' section

2 <http://www.panarmenian.net/arm/news/212454/>

3 For more details see the 'Armed forces' section

4 <http://www.ilur.am/news/view/53478.html>

5 For more details see the 'Freedom of peaceful assembly' section

police departments with their various rights being violated in the process, were detained and criminal cases were instituted against many of them⁶. On 31 July, the armed group members surrendered and were arrested. Various charges were pressed against them,

including seizure of buildings, hostage taking and deaths of 3 policemen. The situation in the country remained very tense.

6 For detailed description of the events see <http://armhels.com/2016/08/08/hulisi17ic-ogostosi5y-teghi-unecats-iradardzutyunneri-veraberyal/>

Electoral rights

After the Constitution had been amended through the 6 December 2015 referendum, it was a constitutional requirement that a new Electoral Code should be adopted. It was adopted on 25 May 2016 and took effect on 1 June 2016.

The new Electoral Code requires that the lists of voters who have voted should be published (except the signed lists drawn up in military units, penal institutions and police detention facilities). That was a main demand put forth by the opposition and civil society during all previous general elections. Another important change is the videotaping (and the simultaneous internet broadcasting online through specially created web-site(s) that is to be carried out by professional organizations selected through request for tenders) of the entire process of voting and vote count at polling stations⁷.

At the same time, the new Electoral Code placed limitations for observers and mass media representatives. It states that by a two-thirds majority vote the precinct electoral commission has the power to remove an observer or a media representative from the commission session or from the polling sta-

tion, if the commission believes that the observer or the media representative has violated the Electoral Code requirements and to set the upper limit (of up to 15) to the number of observers and reporters who can be present in the polling room simultaneously^{8,9}.

Alongside the amendments to the Electoral Code, there were also suggestions to amend those Articles of the RoA Criminal Code that deal with electoral violations. On 19 October 2016, the National Assembly discussed an issue of criminalization of a false report about election fraud. Five political parties represented in the National Assembly (*Republican Party of Armenia, Armenian Revolutionary Federation - Dashnaktsutyun, Rule of Law Party, Prosperous Armenia Party and Armenian National Congress*) reached an agreement to include a provision that a fine of 200,000-800,000 AMD or a prison term for up to 2 years shall be imposed for a deliberate or

7 Some of those provisions took effect as amended on 20 October 2016.

8 RoA Electoral Code. Article 65. The beginning and procedure of voting

9 RoA Electoral Code. Article 32. The rights, duties and activities' guarantees of an observer, media representative and a visitor.

10 Source:<http://www.tert.am/am/news/2016/10/19/assembly/2167748>

careless action¹⁰. This provision gives rise to serious concerns. A person or an observer who witnesses election fraud will beware of reporting it taking into consideration the fact that the judicial system in Armenia is not independent. One gets an impression that the powers that be seek not to improve the election processes but to silence the public.

The Electoral Code also changed the procedure for community authorities' formation in the cities of Gyumri and Vanadzor. However, until 1 September 2017, the Community Heads' and Local Councils' elections there will be organized and held in conformity with provisions of the Electoral Code of 2011 (elections in the cities of Gyumri and Vanadzor shall be held as to the Regulations for the elections of Yerevan Local Council)¹¹.

The first phase of local elections took place on September 18 in 317 communities of five RoA regions (Aragatsotn, Ararat, Armavir, Syunik and Tavush) and on October 2 in 375 communities of six RoA regions (Gegharkunik, Lori, Kotayk, Shirak, Syunik and Vayots Dzor), including the country's second and third largest cities by population, Gyumri and Vanadzor respectively.

In contrast to earlier local elections, in 2016 political parties took an active part in the elections. That was manifested most prominently in local Council elections in the cities of Gyumri and Vanadzor, where political parties tried to assess their chances before the 2017 parliamentary elections. In Vanadzor, seven political parties and in Gyumri ten political parties and one alliance ("Balasanyan"), which was backed by the authorities, nominated their candidates.

20 domestic non-governmental organizations carried out an observation mission during the local elections, including the Citizen

Observer initiative and Helsinki Citizens' Assembly Vanadzor Office jointly with Helsinki Committee of Armenia, Union of Informed Citizens, Goris Press Club and Martuni Women's Community Council. The organizations that had carried out an observation mission issued a statement in the aftermath of the elections noting that the local elections of 2016 were neither free nor fair and registered the following violations¹²:

- **vote buying during a pre-election period and on election day,**
- **abuse of administrative resources,**
- **in some cases voters (especially older people) were directed inside the polling station and outside it to vote, numerous instances of "assistance" to voters,**
- **the use of carousel voting (bringing blank ballot papers from a polling station),**
- **instances of open and multiple voting,**
- **inaccuracies in voter lists (voters' names missing or voter lists contain names of deceased persons),**
- **violations of observers' and media representatives' rights, obstruction of their activities or refusal to record irregularities in the journals,**
- **overcrowding or a large number of vehicles, voters' transportation by vehicles,**
- **presence of unauthorized persons in polling stations.**

Incidents of violence, intimidation and beating were recorded both during the pre-election and post-election periods in the local elections.

11 RoA Electoral Code. Article 144.

12 Source: <http://hcav.am/publications/26-12-2016-04/>

In Echmiadzin, almost on the eve of the Election Day, on the night of September 16, one of the principal mayoral candidates Arthur Tumanyan and his team members were subjected to violence by supporters of the incumbent Town mayor Karen Grigoryan, the son of General Manvel Grigoryan. According to Arthur Tumanyan, on Yerevan-Echmiadzin highway blows were dealt to their vehicle, then a fight broke out between the parties during which Tumanyan and local Council member candidate Stepan Abgaryan got injured. Arthur Tumanyan claims that several dozen people, including Karen Grigoryan and his brother, beat them up¹³.

Following the incident, a criminal case was instituted against Karen Armenakyan and Aram Grigoryan under Article 113 (causing harm of medium gravity to health), Article 117 (causing light harm to health) and Article 235 (illegal acquisition, sale, possession, transportation or carrying of weapons, ammunition, explosives or explosive devices), while against Arsen Karapetyan under Article 113 of the RoA Criminal Code¹⁴. It should be noted that within the framework of the criminal case no charges were pressed against Karen Grigoryan and his brother Arman who had on the eve of the elections subjected the former Echmiadzin mayoral candidate Arthur Tumanyan and local Council member Stepan Abgaryan to beating¹⁵.

Another criminal case was instituted in connection with kidnapping of and violence against local Council member candidate Kirakos Bazhakyan. On 16 September 2016, the latter was kidnapped and beaten by Karen Grigoryan's team members¹⁶. Two persons were charged and detained. The case is now in the court of law¹⁷.

According to the 18 September elections in the town of Echmiadzin, Arthur Tumanyan lost to the incumbent mayor Karen Grigoryan.

On September 20, the son of Vardevan Grigoryan, who headed the 'Prosperous Armenia' political party list in the Gyumri City Council proportional elections, received a mortal gunshot wound in the so-called "Poligonner" area in the city of Gyumri¹⁸. On the same day, the political parties that were taking part in the Gyumri City Council elections suspended their election campaigning because of a mysterious death of Vardevan Grigoryan's 25-year-old son Arshak. On September 25, the 'Prosperous Armenia' political party resumed its campaigning in Gyumri and went on with it vigorously¹⁹.

On October 2, an electoral violation was observed during the vote count in polling station # 34/3 in Gyumri. Among the ballot papers that were taken out of the ballot-box there were 99 ballot papers that bore signatures of only two Precinct Commission members. That was regarded as negligence on the part of the Commission. The Precinct Election Commission in polling station # 34/3 admitted in writing that the rights of 99 voters were violated through its fault and recognized those ballot papers as null and void. 'Hamakhembum' (Solidarity) political party lodged a complaint against the voting that had taken place in polling station # 34/3 and demanded that a new voting take place in that polling station. However, the Territorial Electoral Commission in Gyumri rejected that complaint and only carried out the vote recount²⁰.

13 <http://armtimes.com/hy/article/93323>

14 <http://www.tert.am/am/news/2016/09/22/Artur-Tumanyan/2141023>

15 <http://www.tert.am/am/news/2016/11/04/hraparak3/2182713>

16 <https://www.youtube.com/watch?v=hQiKZm6-KCg>

17 <http://www.tert.am/am/news/2016/11/08/KirakosBajakyan/2186281>

18 <http://yerkirimedia.am/emergency/gyumri-bhk-vardevan-grigoryan/>

19 <http://armlur.am/584923/>

20 <http://www.7or.am/am/news/view/115204/>

On October 4, the pastor of Armenian Apostolic Church Raphael Grigoryan was subjected to brutal beating in Vanadzor. In his words, he was assaulted by Arkady Peleshyan who represents 'Armenian Renaissance' political party and who is currently a member of the City Council. The victim believes that the brutal attack was politically motivated²¹.

According to the *Committee To Protect Freedom of Expression* (CPFE), 4 instances of obstruction of media representatives' professional activities (including 2 that were accompanied with physical violence) were registered during the local elections. On September 17, in polling station # 18 in Nor Kyank community the Precinct Electoral Commission chairperson Khazhak Aghabekyan assaulted Tigran Mazmanyanyan, a photo reporter with Armtimes.com, struck the camera and hurled insults at him. In Vanadzor, on October 2, Shoghik Galstayn, a reporter with Araratnews.am web-site, was attacked and her cell phone was broken²².

Notwithstanding the efforts put forth by the powers that be, the Republican Party of Armenia did not succeed in getting an absolute victory in Gyumri and Vanadzor.

While presenting the results of the Gyumri City Council elections held on October 2, the Central Electoral Commission made reference to Part 5 of Article 141 of the Electoral Code and declared that the "absolute majority" of mandates should be given to the Balasanyan Alliance because the total number of Gyumri City Council members is 33, in which case 15 mandates of the *Balasanyan Alliance* account for over 40% of seats. As per Part 5 of Article 141 of the Electoral Code, in such case the absolute majority of places should be given to the *Balasanyan Alliance*, whereas the remaining 16 mandates should be divided among 3 other political parties that overcame the 6% barrier. Therefore the man-

dates were divided in the following way²³: the first place went to the *Balasanyan Alliance* that got 17 mandates, the second place went to *Prosperous Armenia* party that got 8 mandates, while the third places went to *Armenian Renaissance* party and *GALA* party that got 4 mandates each.

Three political parties that took part in local elections in Gyumri, viz. *Prosperous Armenia* party, *Armenian Renaissance* party and *GALA* party, signed a statement²⁴ thereby demanding that Territorial Electoral Commission # 34 and the Central Electoral Commission should distribute mandates correctly.

The statement says: "As per Part 4 of Article 141 of the Electoral Code, the mandates for 33 City Council seats should be distributed in the following way: 15 mandates to the *Balasanyan Alliance*, 9 mandates to *Prosperous Armenia* party, 5 mandates to *Armenian Renaissance* party and 4 mandates to *GALA* party. Representatives of three political forces declared that this is a fight for justice and for respecting the city voters' choice."

At the first session of the Gyumri City Council that was held on October 10, Samvel Balasanyan, the candidate from the *Balasanyan Alliance*, was declared mayor of Gyumri.

5 political parties overcame the passing threshold in the City Council elections that were held in Vanadzor on October 2, viz. *Republican Party of Armenia*, *Bright Armenia* party, *Armenian Renaissance* party, *Prosperous Armenia* party and *Armenian Revolutionary Federation - Dashnaksutyun*

21 <http://hetq.am/arm/news/71470/khachaknqvelov-mardkanc-shan-tssets-tal-el-inch-grosh-uni-qo-khachaknqvelov-asum-e-vanadzorum-tssetsi-entarkvats-hogevorakany.html>

22 <http://armhels.com/2016/10/06/iragroxakan-kazmaker-putyunnery-ishxanutyunic-hamarjeq-qayler-en-aknkalum/>

23 <http://www.yerkir.am/news/view/114707.html>

24 <http://galatv.am/hy/news/165920/>

25 <http://www.tert.am/am/news/2016/10/03/TIM/2151093>

party (ARF)²⁵. *Bright Armenia* party, *Prosperous Armenia* party and *Armenian Renaissance* party obtained 18 seats out of 33 seats in the Vanadzor City Council, while Republican Party of Armenia and ARF together got 15 seats. *Bright Armenia* party, *Prosperous Armenia* party and *Armenian Renaissance* party issued a joint statement and signed a memorandum of support for a nomination of Krist Marukyan who tops the *Bright Armenia* political party list.

As a result of a vote by secret ballot at the

first session of the newly-elected Vanadzor City Council held on October 10 Mamikon Aslanyan who tops the Republican Party of Armenia political party list was elected mayor as got 19 votes. In other words, some of the City Council members from opposition political forces did not vote in conformity with an earlier negotiated agreement. Thus, even though the opposition constitutes a clear majority in the City Council due to the election results, it did not make use of an opportunity to take power into their hands.

Freedom of expression

Year 2016 was a tense period for Armenian media and their employees. Numerous facts of violence against media people and obstruction of their professional activities clearly indicate that reporters often worked under adverse conditions. The tense socio-political situation in the country brought about by an armed attack of the *Daredevils of Sassoun* group on the RoA Patrol Police regiment and by subsequent rallies and clashes was aggravated by police violence against media representatives and obstruction of the latter's legitimate professional activities. It should be noted that police actions were unprecedented in terms of the use of special means of crowd control against reporters and cameramen. As regards the scale, those actions were comparable to the events that unfolded on Baghramyan Avenue in Yerevan on 23 June 2015 (during the rallies organized by the *Electric Yerevan Initiative*), when police used

brute force also against media employees, while dispersing the peaceful rally.

The first instances of violence and obstruction of reporters' professional activities were observed on July 17, the day of the attack on the Patrol Police regiment. According to the data provided by the *Committee To Protect Freedom of Expression* (CPFE), 3 media representatives were targeted by attack over the period of 17-29 July. The attacks on media personnel by the police and by individuals directed by the police peaked on the night of July 29 and in the early hours of July 30, while taking action against rally participants. On that day 16 employees of various media outlets were subjected to physical violence (i.e. on the whole, during the July events 19 reporters and cameramen were subjected to physical violence). Professional activities of other 8 media people were unlawfully obstructed, even though without the use of violence.

According to victimized journalists, media representatives were brought to one place and were attacked with sound- and light-emitting devices and tear gas grenades. Then media representatives were subjected to assault and battery, persecution and various obstructions. As a result of violent actions, a number of reporters and cameramen sustained bodily injuries.

RoA President Serzh Sargsyan addressed those violent acts against journalists, while in the past he had kept silence in similar situations. Serzh Sargsyan said: "I ... apologize to our journalists for the events that occurred on the night of July 29 and in the early hours of July 30. Those were our worst lapse during those days. Of course, all conclusions will be drawn. Asking for your forgiveness, I ask reporters but not law-enforcement agencies to forget about those events because I am indeed confident that no such thing will happen again. I also want that those incidents would not make any subconscious influence on freedom of your *modus operandi*."

After the President's apology, the RoA Special Investigations Service became somewhat more energetic in its preliminary investigation related not only to the July events but also to the events that unfolded on Baghramyan Avenue on 23 June 2015. 1 year and 2 months after it had instituted a criminal case related to the # *Electric Yerevan* the Special Investigations Service finally decided to press charges against 4 policemen who had obstructed the work of the journalists who had been covering the rallies. However, within the framework of the same criminal case 21 reporters and cameramen were recognized as aggrieved parties and numerous videos posted on the Internet provide evi-

dence that there were at least scores of those who obstructed the activities of media employees and who committed acts of violence.

In connection with the July events, the Special Investigations Service instituted a criminal case and already brought charges against 8 individuals. The preliminary investigation of the parts that were separated from the main criminal case and that deal with 7 of those individuals who had obstructed legitimate professional activities of personnel of *Radio Liberty*, *Armenia TV Company* and *News.am* web-site has been finalized and sent to court with an indictment. However, again it is clear that the scale and scope of violence committed against media people and the number of persons held accountable are disparate. Besides, no high-ranking policeman who had organized and coordinated those actions has been held adequately liable.

In addition to the July events, 6 more instances of physical violence against reporters were recorded in 2016, with 7 media people becoming a target of an attack.

Thus, on the whole, in 2016, the *Committee To Protect Freedom of Expression* (CPFE) registered 10 instances of physical violence against 26 reporters and cameramen. Besides, The CPFE also registered 52 facts of pressure brought to bear on media outlets and their personnel and 30 facts of violation of the right to receive and impart information.

On December 14, the Outline show at Kentron TV Company hosted the well-known actor and comedian Sergey Daniyelyan. The genre of this episode of the show was political satire and elicited a considerable public response. Subsequently Outline show was discontinued.

Freedom of of peaceful assembly

In 2016, Helsinki Committee of Armenia observed 142 rallies in the cities of Yerevan, Gyumri and Vanadzor. The rallies were accompanied by numerous violations and interference by police. Interference took various forms such as constraining free movement of rally participants or forcing them from carriageways in the streets to another location, prohibiting rallies near some buildings (the RoA President's Palace, Office of Republican Party of Armenia, *Nubarashen* penal institution, Embassy of the Russian Federation, etc.) as well as forcibly taking rally participants to police departments and using unnecessary and disproportionate force and violence.

In 12 of the observed rallies the police forcibly took rally participants to police departments, in 4 instances they dispersed the rally and in 2 instances the police used special means of crowd control. During the rallies organized by opposition political and civic initiatives the number of policemen was always considerably big given the number of rally participants; on numerous occasions their number even exceeded that of rally participants. Often, police officers arbitrarily interpreted the provisions of the RoA *Law on Freedom of Assemblies*, while in some cases the police exercised powers assigned to other bodies²⁶.

The political and civic initiatives that emerged in 2014-2015 were organizers of the majority of the peaceful rallies staged in 2016. As a result of the dispute between the participants of a peaceful assembly held on January 1 in Liberty Square and the police Gevorg

Safaryan, a member of the *New Armenia Initiative*, and 5 other rally participants were forcibly taken to police departments. G. Safaryan was charged under Article 316 of the RoA Criminal Code²⁷ and arrest was chosen as a measure of restraint. According to G. Safaryan's lawyer, in the course of the trial that decision remains unchanged, even though the grounds indicated earlier for arrest to be chosen as a measure of restraint do not exist any longer²⁸. Members of the *New Armenia and Armenian Women's Front Initiatives* organized numerous rallies demanding that G. Safaryan and Vardges Gaspari as well as earlier convicted activists be released (V. Gaspari was released on February 26). Rallies were held in front of *Nubarashen* penal institution, the RoA President's Palace and court houses as well as in other locations in the city. On March 21, the rally that was held in *Republic Square* by the *Armenian Women's Front Initiative* featuring the slogan "Freedom to political prisoners" was terminated by the police, while rally participants were forcibly taken to police departments. The reason was, the police claimed, that it is prohibited to hold a rally in the central section of *Republic Square*. On March 23, the same Initiatives staged another rally featuring the same slogan in the street in front of *Mashtots* small public garden. Policemen

26 On July 27, the police declared banned the rally that was to be held near the intersection of *Khorenatsi* and *Kristapor* streets and all presumed participants of the rally were forcibly taken to police departments, even though the power to ban a rally rests with the *Community Head*.

27 Violence against a representative of authorities

28 Source: <http://www.azatutyun.am/a/28046309.html>

attempted to remove rally participants from the street who had chained themselves to the ground. Rally participants got into a scuffle with the police; as a result, 14 participants were forcibly taken to police departments, while Ruzanna Yeghnukyan, a member of the *Armenian Women's Front* Initiative, was taken to hospital with a head injury. In connection with the incident, the RoA Special Investigations Service instituted a criminal case on the grounds of abuse of official powers but later on the case was discontinued²⁹.

The military clashes that took place between Artsakh and Azerbaijan in April 2016 (also known as "the four-day war") were followed by numerous protest actions whose organizers' main demand was *resignation* of various public servants and improvement of the country's foreign policy. On April 22, a rally-march organized by the "*We are owners of our country*" Initiative was terminated by the police. Rally participants wished to approach the RoA President's Palace and to submit a letter with their demands. However, policemen whose number exceeded by many times that of rally participants stopped the march at the beginning of Baghramyan Avenue and resorting to brute force they forcibly took rally participants and one reporter to police departments. According to the statement issued by the police, "not a single media representative was subjected to administrative detention or was forcibly brought to police department; merely their movement at the rally site was limited for a brief period of time and several minutes later they were released from police control"³⁰.

The *Anonymous Armenia* Facebook group planned to conduct a flash mob on 25 June 2016. Its goal was to raise posters with **FREE POLITICAL PRISONERS IN ARMENIA**

inscription during a public ceremony to be officiated by the Pope and to be held on Republic Square and to videotape how the flash mob is performed. Police prevented the event by forcibly taking 6 members of the Initiative to police departments on the suspicion that their actions fall under Article 225.1 of the RoA Criminal Code³¹.

The seizure of the RoA Patrol Police regiment in Erebuni district in Yerevan by the *Daredevils of Sassoun* armed group on 17 July 2016 was followed by rallies that drew big crowds in Liberty Square, around the cordoned-off sections of the streets leading to the regiment territory (primarily at the intersection of Khorenatsi and Kristapor streets) as well as in other locations in the capital and in the city of Gyumri. In those rally locations police clashed with rally participants, used special means of crowd control and resorted to unprecedented acts of violence. 17 rallies were organized from July 17 through August 4. During 7 rallies, quite a few rally participants were forcibly taken by police to and then kept in locations that are not intended for undertaking administrative actions, were subjected to cruel treatment and beating and were denied the right to make use of attorney's services. Numerous journalists and even individuals who were not rally participants were subjected to violence during the actions taken by the police to stop rallies. Very many citizens who were members of various civic or political initiatives were taken to police departments from their homes³².

29 Source: <http://www.azatutyun.am/a/27939960.html>

30 Source: <http://www.azatutyun.am/a/27692327.html>

31 Organizing and conducting a rally in violation of the procedure established by law.

32 A detailed description of those incidents are presented in the Report of Helsinki Committee of Armenia. See: <http://armhels.com/2016/08/08/hulisi17ic-ogostosi5y-teghi-uncats-iradardzutyunneri-veraberyal/>

Findings of the monitoring conducted in 2016 demonstrate that notwithstanding the favorable legislative framework and numerous statements made by high-ranking officials and the RoA President about improving the way the police operate, protection of the right to freedom of assembly is still dependent on the political will of the powers that be. In 2016, the criminal cases instituted in connection with violence committed while dispersing

protest actions and with obstruction of journalists' professional activities, as in previous years, including *Electric Yerevan* protest action staged in 2015, were either discontinued or trials are still in progress³³ and not a single policeman has so far been criminally prosecuted.

33 See: <http://www.media.am/Electric-Yerevan-journalists-lawsuit-developments>

Torture, violence, persecution

Police

In 2016, numerous incidents of police violence against and cruel treatment of people, abuse of power and use of violence while forcibly taking citizens to police departments were observed in the Republic of Armenia.

According to the studies conducted by the group of civic observers conducting monitoring of the RoA Police detention facilities, they met a large number of individuals in the detention facilities who had been subjected to brutal beating prior to being taken to the detention facilities and it was only after the intervention of the observers' group that those individuals were taken to a hospital³⁴.

Mr. Karen K., an arrested person held in *Artik* penal institution of the RoA Ministry of Justice, made a statement that on 7 February 2016 he had been forcibly brought to Kumayri department of the Police in the city of Gyumri and had been subjected to violence by policemen in order to wrest a self-recriminatory con-

fession from him³⁵. Khachik M. told the RoA Special Investigations Service that he, his son Arkady M. and his grandson Harutyun M. had been forcibly taken to the RoA Police department in Artashat, where the department policemen beat up his son and grandson demanding that they incriminate themselves by confessing to a burglary³⁶. In both instances the RoA Special Investigations Service instituted a criminal case as per Article 309.1 of the RoA Criminal Code ("Torture").

In the days that followed the seizure of the RoA Patrol Police regiment in Erebuni district in Yerevan by the *Daredevils of Sassoun* armed group on 17 July 2016 numerous incidents of cruel treatment of and violence against peaceful rally participants by policemen were registered. In some cases those acts could be qualified as torture. In those days, Helsinki Committee of Armenia was alerted dozens of times about mass-scale

34 Source: <http://www.aravot.am/2016/09/28/810064/>

35 Source: <http://www.ccc.am/hy/1428493746/3/5240>

36 Source: <http://www.ccc.am/hy/1428493746/3/5238>

police violence against citizens. Those individuals who were visibly very active civilly were targeted with excessive cruelty.

On 17 July 2016, at 4:30 p.m., policemen came to rallies' active participant Vaghinak Shushanyan's work place and forcibly took him to a police troops unit. There he was punched and kicked for several minutes, receiving blows to his face, head and abdomen; then one of the policemen kicked V. Shushanyan in the chest so severely that the latter choked.

On the morning of July 17, family members of Mikael Nazaryan, a former member of the Constituent Parliament, were taken to a police department in the town of Ashtarak and were released only after he came there. After he had been held for 12 hours, the police said that he had been forcibly brought on the suspicion of having committed theft. However, later on no charges were pressed. He spent an entire night in the police department without getting a single meal and had to sleep sitting on a chair. His lawyer's entry was blocked. He spent about 32 hours in the police department. The police told him that the reason for holding him there was to prevent him from participating in the rallies that were held in Yerevan.

On 18 July, participants of a peaceful assembly in *Liberty Square* Artush Chibukhchyan and Levon Zakaryan sustained various bodily injuries as a result of police actions and a scuffle and were taken to a hospital. The same day, after making a speech using a loudspeaker, David Sanasaryan, a participant of a peaceful assembly in *Liberty Square*, was forcibly taken to a police troops unit at about 7:30 p.m. and held there. While he was forcibly taken to a police troops unit, he was handcuffed and was subjected to severe

beating and degrading treatment by policemen from the 3rd battalion of the Police Patrol Service. Policemen kicked his head. David Sanasaryan sustained multiple bodily injuries and was diagnosed with concussion.

On 29 July 2016, policemen used special means for crowd control (explosive devices, light-emitting devices, etc.) and violence against protesters who assembled in *Sari Tagh* neighborhood in Yerevan. Policemen subjected rally participants and journalists to beating. The police also used other special means for crowd control (shields and stun grenades), while plain-clothes individuals, who were armed with metal bars and truncheons, assisted policemen in those actions. Many rally participants and journalists were taken to *Surb Grigor Lussavorich* hospital with bodily injuries of various degrees of severity. As a result of the events that occurred on July 29, a total of 73 individuals went to healthcare institutions in Yerevan with various injuries.

The penal institutions system

Overcrowding has been a problem in penal institutions in Armenia for many years. The situation is particularly grave in *Nubarashen* penal institution.¹⁵ and more inmates are held in a cell, which is intended for 8 persons. In penal institutions there are hierarchic relations, violence is committed against individuals under the guise of the use of special means, vulnerable groups get discriminatory treatment, etc.

In 2016, the group of civic observers who conduct monitoring of penitentiary institutions and bodies of the RoA Ministry of Justice published its annual report for 2014-2015³⁷, which presents numerous problems existing in that

³⁷ <http://pmg.am/images/2014-2015-PMG-Annual-report.pdf>

field. According to the Report, in *Nubarashen* penal institution 15 inmates were held in a cell, which is designed for 8 persons; however, in the cell there were only 8 beds and 1 sofa. As at 1 January 2016, in *Nubarashen* penal institution there were 942 inmates, while the maximum planned capacity of the institution is 820 inmates. The group also registered the fact that in penal institutions inmates are not evenly distributed between cells, which is accounted for by the existing hierarchic relations. In *Nubarashen* penal institution, in one cell there may be 18 inmates, while in another cell, which has the same surface area, there may be only 5 inmates.

The study conducted by the group has demonstrated that all those arrested and convicted individuals who have an opportunity to get foodstuff and personal hygiene products through parcels do not take meals provided by penal institutions because of inadequate quality of food and unvaried menu. The only exception was *Arnavir* penal institution, where a cook was hired on a contractual basis.

The group also registered that in penal institutions representatives of some groups are most vulnerable, *viz.* individuals that have health-related problems, individuals that violated 'unwritten laws', homosexuals, etc. Such individuals are for the most part held in separate cells. As a rule, those cells differ from other cells for inmates of a given penal institution by their unsightliness and poor sanitary and hygienic conditions. One of the most vulnerable groups are those individuals who break informal 'laws' and norms. Such individuals are labeled by other convicts and by penal institution's staff with various negative and degrading names. Homosexuals can be regarded as the most vulnerable group. It should be noted that it is not always that a

person belongs to that groups because of his sexual orientation. In many cases it is merely a status. Representatives of that group too are subjected to psychological pressure and, in some cases, to sexual violence, assaults and exploitation by other convicts. These persons are given various negative and degrading names and they do the work that is regarded in penal institutions as degrading. Even though penal institutions' staff members claim that those individuals voluntarily engage in such work, almost in all penal institutions their status and the types of work done by them are the same, which is an indication that those individuals do not do that work voluntarily.

The issue of an early conditional parole is also problematic. The criteria that are established by law and that would provide grounds for a decision to grant an early conditional parole to a convict are non-existent. That is the reason why the decisions remain unfounded and rejections unsubstantiated. 184 convicts were granted an early conditional parole in 2014 and 153 in 2015, even though in 2014-2015 there were about 3,900 inmates in penal institutions. Thus, a conclusion can be drawn that only a small percentage of convicts are granted an early conditional parole. It should also be noted that there is a list of some Articles (which has been in reality drawn upon the basis of the RoA Criminal Code, even though not established by law) that preclude granting an early conditional parole. The list includes Articles dealing with murder, infringements on sexual inviolability of a person, etc.

In Armenia, the institution of an early conditional parole is not applied at all to prisoners serving life terms. Even though the law states that having served the prison sentence

for 20 years life-termers are entitled to an early conditional parole. According to the 17 March 2016 note received by Helsinki Committee of Armenia from the Penal Institutions Division of the RoA Ministry of Justice, as at 15 March 2016, of the convicts serving life terms in penal institutions of the RoA Ministry of Justice 16 already served their prison sentence for 20 years. The cases of 13 of those convicts were submitted for consideration to grant an early conditional parole, while the cases of 3 convicts were not submitted because the latter are malicious infringers of the established order for serving the prison sentence. The Ministry officials also stated that all cases for an early conditional parole of 13 life-termers were rejected and that there are no prisoners serving life terms who were granted an early conditional parole. This statistics proves that in Armenia an early conditional parole mechanism does not function in case of prisoners serving life terms.

According to the 26 January 2016 statement issued by the observers' group, the safety of Gevorg Safaryan, an inmate of *Nubarashen* penal institution, conditions of detention and violence committed against him raise concern. As regards the incident, the group requested an urgent report from the RoA Ministry of Justice. As a result, G. Safaryan was moved to another cell where his safety was ensured³⁸.

On 12 June 2016, a special means (rubber truncheon) was used against inmates of *Nubarashen* penal institution T.E., A.H. and S.M. According to the arrested persons, they were taken to another room and beaten with truncheons. One arrested person got his finger broken, while the other two sustained serious bodily injuries.

During the 23 July 2016 visit to *Yerevan-Kentron* penal institution the administration of the penal institution seriously obstructed the observers' group activities. In particular, the administration did not provide information on the number of arrestees and convicts held in the penal institution at the time of the visit, did not let the observers enter any cell intended for arrested persons and carry out observation and did not let the observers observe the conditions in the cell or talk to convicted persons without presence of staff members. Besides, the administration refused to organize a separate conversation outside the cell with any person who was held in the penal institution at that time, including a conversation with a certain person who had been admitted to penal institution with bodily injuries. As a result, the observers were unable to find out whether the arrestee had been subjected to torture or inhuman treatment or not. A representative of the penal institution administration explained their prohibitive position by claiming that in all cells for arrestees there may be an inmate regarding whom an investigator made a decision to prohibit that person contacts with the outside world, while the entry of the observers (who exercise oversight) into the cells in order to inspect the conditions and the situation with treatment of inmates would amount to a visit. Since the establishment of the group, i.e. since 2005, there had never been such large-scale obstacles and this bad tendency has been gaining momentum recently³⁹. As per paragraph 7 of Article 48 of the RoA *Law on Treatment of Arrestees and Detainees*, civic observers who carry out oversight of how arrestees are held have without

38 <http://pmg.am/hy/news/announcements/92-2016-03-09-11-48-46>

For more information on Gevorg Safaryan see Political persecution section of this Report

39 <http://www.pmg.am/hy/news/257-2016-07-23-18-29-17>

special permission the right of free entry into and exit from the facility where arrestees are held.

On 19 December 2015, the former RoA Deputy Defense Minister Vahan Shirkhanyan was detained. While in *Yerevan-Kentron* penal institution, his health status deteriorated. He experienced dizziness, blurry vision and lung paralysis. According to his attorney, he does not receive necessary medical assistance in the penal institution. This statement was confirmed by the investigation conducted by the RoA Human Rights Ombudsman. Medical examinations that were necessary to improve V. Shirkhanyan's health were delayed and penal institution inmates participated in care provision to him. The Human Rights Ombudsman registered that the scope of medical assistance provided in penal institution (*Yerevan-Kentron and Hospital for Convicts*) is inadequate and V. Shirkhanyan's medical treatment needs to be administered in a specialized medical center⁴⁰. Notwithstanding the Human Rights Ombudsman's decision, V. Shirkhanyan is still held in *Yerevan-Kentron* penal institution.

Armed forces

From April 2 to April 5, 2016, large-scale military clashes took place between the armed forces of Nagorno Karabakh Republic and of the Republic of Azerbaijan. They were launched on the night of April 1 and early morning of April 2 along the entire contact line between the two States. During the clashes both sides sustained numerous casualties; various kinds of weaponry were used, including air force, artillery and other large-caliber weapons. After a ceasefire agreement was reached on April 5, the situation became relatively stable. According to the offi-

cial data, over the period of time from April 2 to 5 the Armenian side incurred 77 casualties during the military clashes.

According to the findings of the study conducted by the Helsinki Citizens' Assembly Vanadzor Office, 162 servicemen in compulsory military service and contract military servicemen died in the RoA armed forces and in the Defense Army of the Nagorno Karabakh Republic in 2016 as well as volunteers who took part in the 4-day war. On 2 April 2016, 4 civilian deaths caused by military actions in Talish were registered. 77 out of 162 casualties sustained in 2016 were a result of the military clashes over the period of time from April 1 to 5, while out of the other 85 cases 34 were deaths because of ceasefire violations and 19 because of accidents. 13 deaths were caused by homicide. 13 deaths were the result of suicide or of driving a serviceman to suicide, 4 of violating the rules of military service and 2 deaths were health-related⁴¹.

Political persecution

Political persecutions went on in Armenia since 2013. Taking into consideration incommensurate punishment for actions as well as political motives and criteria of fair trial, Helsinki Committee of Armenia presents a number of instances of political persecution.

On the night of 31 December 2015, Gevorg Safaryan, a member of the *New Armenia* political alliance, together with other activists attempted to put a Christmas tree in *Liberty Square*. That attempt ended in clashes with police. Five citizens were forcibly brought to police departments but

⁴⁰ See the RoA Human Rights Ombudsman's relevant decision of 10 November 2016

⁴¹ <http://hcav.am/publications/16-01-2016-06/>

later on were released, while Gevorg Safaryan was arrested on 3 January 2016 on charges of violence against a policeman. Gevorg Safaryan was charged under Article 316 Part 1 of the Criminal Code. At present the case is in the court of law, while Gevorg Safaryan is still under arrest.

On 20 June 2016, Jirair Sefilian, a leader of the *Constituent Parliament* political movement, was detained on suspicion of having organized illegal acquisition, transportation and possession of weapons and ammunition by a group of people. In connection with the incident a criminal case was instituted under Article 235 Part 2 of the RoA Criminal Code. According to the RoA Investigations Committee's communiqué, Jirair Sefilian with a group of people planned to seize buildings and structures, means of communication, including the Yerevan TV Tower by armed groups using weapons. Jirair Sefilian has since been under arrest.

Persecution became particularly relentless against participants (many of whom were political figures) of the peaceful rallies that were held in connection with the seizure of the Patrol Police regiment unit by the *Daredevils of Sassoun* group.

On 20 July 2016, Karo Yeghnukyan, a member of the *Constituent Parliament* political movement, was detained on charges of aiding and abetting the *Daredevils of Sassoun* group and of having telephone conversations with them. Karo Yeghnukyan was charged under Articles 218 and 219 of the RoA Criminal Code for assisting in taking hostages and in occupation of buildings, facilities, means of transportation or communication and other communication lines. Such actions are punishable by a prison term of 8 to 15 years.

On the night of 29 July 2016, in the aftermath of the events that took place in Sari Tagh neighborhood 40 rally participants were arrested for having committed acts punishable under Article 225 of the RoA Criminal Code (mass disturbances). Among them were opposition figures as well as rally organizers Hovsep Khurshudyan, Armen Martirosyan, David Sanasaryan and Andrias Ghukasyan. Later on, except Andrias Ghukasyan, the other three activists were released on bail.

On 30 July 2016, Davit Hovhannisyan, a participant of the events that took place in Sari Tagh neighborhood on 29 July 2016 and a member of *Arise, Armenia!* Initiative, was detained and then arrested. He was charged under Article 225 Part 2 of the RoA Criminal Code (participation in mass disturbances). On 24 October 2016, the Court of Appeals for criminal cases rejected the appeal against the arrest.

In connection with the criminal cases instituted following the seizure the Patrol Police regiment in Yerevan by the *Daredevils of Sassoun* group 30 more individuals were arrested on charges of occupying buildings and facilities and of aiding and abetting the occupation, of illegally acquiring weapons, ammunition, explosives or explosive devices, and of participating in mass disturbances. Court hearing of cases of 6 individuals has been completed. The defendants pleaded guilty and accelerated procedure of trial was used (Areg Sadoyan, Rafael Karagyozyan, Arman Mkhitarian, Hayk Hovhannisyan, Albert Avagyan and Narek Sargsyan). In all those cases the accused were given prison sentences. Only Arman Mkhitarian and Hayk Hovhannisyan went to prison; in all other cases a suspended sentence was given. One gets an impression that authorities and

the accused reached a special agreement: if the accused plead guilty, the accelerated procedure of trial will be used and a suspended sentence will be given.

The measure of restraint for 8 individuals was changed and they were released, while others are still under arrest.

Shant Harutyunyan and his 9 followers as well as Hayk Kyureghyan and Volodya Avetisyan remain in prison.

The RoA National Security Service (NSS) carries out covert persecution for political views. Thus, on 12 December

2016 well-known musician Vahan Artsrunie received a phone call from the NSS and was invited for a conversation. In Vahan Artsrunie's words, in the NSS he was given several questions related to his ties to the Constituent Parliament and his participation in the rallies staged in Khorenatsi Street in Yerevan in July as well as to his income. Vahan Artsrunie qualified the NSS actions as political pressure brought to bear on him because of his opposition views.⁴²

42 <http://www.aravot.am/2016/12/13/837042/>

Freedom of **conscience and religion**

Since Armenia's independence, the Armenian Apostolic Church has been trying to play a more prominent role in the life of the State and public at large and that has become a State policy. There are grounds to contend that the Armenian Apostolic Church and State officials have given rise to a discriminatory discourse on the right to freedom of conscience and religion. The merge of the Church and the State is reflected most prominently in the army and in the sphere of general education.

In October 2016, *Collaboration for Democracy* NGO received a letter from Jehovah's Witness G. Ananikyan, who lives in the city of Vanadzor. In his letter G. Ananikyan says that his son, who is an 8th-grader in Evrika school in Vanadzor and who refused to take part in the exercises with a weapon in the preliminary military training class, was threatened by the teacher that he

would be made to repeat the year. The school principal treats the boy in a markedly contemptuous way, while other teachers do not engage him in class. The NGO submitted a query letter to the Ministry of Education and Science and asked that a solution be found for this case and that a policy be formulated for such situations in line with the *Law on Alternative Service*. In its reply the Ministry noted that it is incumbent on the child to take part in classes and to comply with teacher's instructions and that there will be no special treatment. Only intervention of the Human Rights Ombudsman smoothed over the situation; however, the Ministry of Education and Science refuses to formulate a policy for such cases.

From 2013 on, over 70 Jehovah's Witnesses have opted for the alternative non-military service. This is significant progress for Armenia. However, the same logic should be applied to the solution of the problem of

students who are Jehovah's Witnesses and therefore refuse to take part in the exercises with a weapon in the preliminary military training class in general-education schools.

Time and again, information is received about instances when school teachers force students to change their religious beliefs. In spring 2016, Ms. Yeghikyan, a teacher in basic school N 22 in Vanadzor, continuously subjected children of local Evangelical Church members to discrimination. It was only due to the intervention by *Collaboration for Democracy Center* that discrimination stopped. The teacher tried to force students who are members of the Evangelical Church to change their religion. As regards this situation the Ministry of Education and Science replied that such cases had not been registered by them. According to the information received from Vanadzor (our source is Pastor Rafael Grigoryan) the issue was resolved and the teacher changed her attitude. In all likelihood, she was unofficially given a warning

by the Ministry. The Ministry officially denied the occurrence of discrimination so that there would be no legal grounds for a court case.

During his press conference Mr. Sevan Aghajanyan, the Chairperson of the *Front for Preservation of National Values* NGO, made an appeal urging everyone to come together and to jointly fight religious entities⁴³. Numerous media outlets covered the press conference; however, law-enforcement agencies do not institute a criminal case when such appeals are made.

The Armenian Church continues to strengthen its position in the army. Military services are ordered to march to a church and are forced to take part in religious ceremonies. However, clergy from other religious denominations whose members serve in the army are not given an opportunity to visit military units.

43 <http://www.yerkir.am/news/view/103798.html>

The rights of the child

Right to education; children out of school

As per the RoA Constitution, everyone shall have the right to education⁴⁴ and compulsory basic education is guaranteed by the State. In its turn, Article 28 of the UN *Convention on the Rights of the Child* stipulates that States Parties recognize the right of the child to education and make primary education compulsory and available free to

all, encourage the development of different forms of secondary education, and make them available and accessible to every child. Findings of the studies conducted in Lori region in 2012 by Helsinki Committee of Armenia⁴⁵ and in 2014 by the UN Children's Fund (UNICEF)⁴⁶ indicate that

44 <http://www.parliament.am/parliament.php?id=constitution, RoA Constitution, Article 39>

45 <http://armhels.com/publications/usucumic-durs-mancats/>

46 <http://www.unicef.am/uploads/files/docs/OOSC%20Armenia%20Pilot-CaseStudy%20arm1.pdf>

the children who are mostly from socially vulnerable families and families that have internal problems or who have to help their parents in household work are to some extent denied the right to education. There are many instances when children do not attend school because of discriminatory treatment (both by teachers and by classmates) or because they have to repeat a year. Many children are formally enrolled in schools because general-education schools are funded based on the number of students. Therefore teachers often do not properly register attendance. Very few schools have psychologists and social workers who can work with children who are out of school or who have problems at school and with their parents. Besides, in many instances the trusteeship and guardianship bodies and commissions do not supervise in a timely and effective fashion the issues related to education rights of children who reside in their communities.

The results of the discussions held at the conference *Well-being and protection of the rights of the child in the Republic of Armenia* that took place on 18 November 2016 definitely demonstrate that there has been no significant progress as regards the solution of the problems existing in this field. A comprehensive study on children left out of school has not been conducted in Armenia. Besides, even now it is not clear which State entities are responsible for ensuring that children get compulsory education⁴⁷. It is also symptomatic that so far the definition of and criteria for children left out of school has not been provided in legislation.

Children with disabilities; inclusive education

Article 23 of the *UN Convention on the Rights of the Child* stresses that a disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

The *RoA Law on Education on Persons with special educational needs* that was adopted in 2005 introduced inclusive education in Armenia. In 2014, the *RoA Law on General Education* was amended to establish universal inclusive education⁴⁸ as a State policy in the Republic of Armenia. It is planned to complete the entire process of introduction of inclusive education system in 2022⁴⁹.

According to the data provided by the Ministry of Education and Science, in 2015 there were around 190 inclusive schools in Armenia, which were attended by about 5,000 children with special educational needs. Of those, 2,200 children went to special education schools, while 3,000 children to inclusive schools. In a number of schools that provide inclusive education inclusiveness is for the most part is limited to merely construction of ramps, whereas inclusive schools should be completely adjusted to the needs of children with disability. For instance, conditions of the physical plant of the school in the village of Argavand⁵⁰ in Armavir region do not make it possible to provide classrooms for inclusive education,

47 <http://armhels.com/video/dproc-chen-gnum-2/>

48 *Inclusive education is education for all regardless of the child's physical, social or mental problems and rules out discrimination against children, ensures equal treatment of everyone, and in the education system creates adequate conditions for persons with special educational needs.*

49 <http://hetq.am/arm/news/22130/hayastanum-nerdrvume-nerarakan-krtutyam-hamakargy.html>

specialists in the system of inclusive education give instruction in one classroom in different hours. Each child who gets education in an inclusive school has personal individuality; therefore educators' professional expertise, knowledge and skills as well as their attitudes and commitment to the mission are also very important. As an example, an incident in Yerevan school # 125⁵¹ can be pointed out, where the school principal refused to admit a 7-year-old child with cerebral palsy.

Institutionalization and alternative care

The main ideology underlying the RoA Government policy is provision of care and upbringing to children through family⁵². By its Decree N 303-N of 2014 *On approving the program of actions ensuing from the National strategy for human rights protection*, the RoA Government planned to make a required redistribution in the State budget and to increase the number of foster families. That, however, did not adequately solve the problem of the child's exercising the right to live in the family. However, the *Guidelines for the Alternative Care of Children* adopted by the General Assembly Resolution states that removal of a child from the care of the family should be seen as a measure of last resort⁵³ and that the State efforts should primarily be directed to enabling the child to remain in or return to the care of his/her parents, or when appropriate, other close family members⁵⁴. Furthermore, as per Article 13 of the RoA *Law on the Rights of the Child*, the care and upbringing of the child should primarily be provided in the family. With a view to ensuring adequate care and

upbringing of the child in the family the State and its relevant bodies should provide assistance to parents or other lawful representatives. According to the 1 November 2016 data, about 643 children⁵⁵ receive care in 6 orphanages, and about 640 children from socially vulnerable families get it in 6 boarding institutions for child care and protection⁵⁶. The data are almost the same as those for 2015 and give grounds to conclude that the main mode of organizing care for children in Armenia still remains organization of care for children through institutions. The study of children's needs demonstrates that the main reasons for children to be in those institutions are their families' socioeconomic problems as well as housing and other problems. Furthermore, the assessment findings indicate that the significant majority of children (65%) can return to their biological families if within the framework of the reforms alternative services will be created in the communities of children's residence in conformity with the children's assessed needs⁵⁷.

50 <http://www.armradio.am/hy/2016/11/19/%D5%B6%D5%A5%D6%80%D5%A1%D5%BC%D5%A1%D5%AF%D5%A1%D5%B6-%D5%AF%D6%80%D5%A9%D5%B8%D6%82%D5%A9%D5%B5%D5%A1%D5%B6-%D5%B4%D5%A1%D5%BD%D5%B6%D5%A1%D5%A3%D5%A5%D5%BF%D5%B6%D5%A5%D6%80%D5%A8-%D5%B9%D5%B8/>

51 <https://news.am/arm/news/281658.html>

52 <https://www.e-gov.am/u-files/file/decrees/kar/2012/12/MAR-1694.pdf>

53 <https://www.unicef.org/protection/alternative-care-Guidelines-English.pdf> Part B, para. 14.

54 See: *Ibid.* Part A, para. 3.

55 According to the RoA Human Rights Ombudsman's Annual Report for 2015, as at December 2015, 660 children received round-the-clock care in round-the-clock child care institutions for social protection of population.

56 <http://www.mlsa.am/home/index.php?menu-id=110&child-id=128&code-id=194>

57 Draft RoA Government Decree *On approving the program and schedule of measures for reducing the number of children in institution for children's care and protection.*

Protection of personal data

Registered were instances of violation of protection of children's personal data. That causes psychological harm to the child and leads to discrimination and to negative treatment by other children in the same age cohort. On 28 February 2016, the www.shamshyan.com web-site posted first and last names and age of children in the boarding institution and the name of the institution as well as photos of children. Other media outlets disseminated the same information⁵⁸, which made possible to identify children. At the same time, during the TV

show 'Semi-open windows' instances were observed when a child would get emotional or a parent would quote a doctor who said that "your child will grow a moron"⁵⁹. In those instances the authors of the show did not edit those segments, which resulted in double victimization of the child. It should be noted that as per Article 34 of the RoA Constitution, everyone has the right to protection of data concerning him or her.

58 <https://armenia.savethechildren.net/news/position-statement-use-children%E2%80%99s-personal-data-mass-media>

59 *Media Monitoring Report on Ensuring minors' rights in Armenian broadcasting media. World Vision Armenia.*

Women's rights

On 1 October 2010, 20-year-old Zaruhi Petrosyan died as a result of severe beating. In the aftermath of this incident, 7 non-governmental organizations came together and established *Coalition to stop violence against women*⁶⁰. The Coalition's demands are prevention of domestic violence incidents, fair trial and adoption legislation that would prevent domestic violence. In 2016, the Coalition disseminated numerous informational materials, observed discriminatory attitude towards women in the judicial system and published a study addressing cases of murdered women *Femicide in Armenia: A Silent Epidemic*⁶¹.

According to the official data of the RoA Police, during the first 10 months of 2016, 563 instances of domestic violence were reg-

istered, including 370 instances of violence against woman committed by her husband or partner. 1,956 women contacted the RoA Police during the first 10 months of 2016 and informed about violence of various kinds. During the same period of time 10 women were murdered as a result of domestic violence and the Coalition member organizations received about 5,000 calls via hot lines. In 2010-2016, non-governmental organizations registered at least 40 femicide cases. The data that would adequately reflect the existing situation with domestic violence are lacking because of imperfect statistical tools

60 *The Coalition's web-page is <http://coalitionagainstviolence.org/en/home/>*

61 *The entire Report can be accessed at <http://coalitionagainstviolence.org/wp-content/uploads/2016/05/Femicide-Report-ARM.pdf?x24321>*

and law enforcement agencies' inaction and especially because women often do not notify the police.

The factual circumstances related to violence against women are hard-to-get for the law enforcement system since a prevalent view shared by most people is that it is best not to disclose them, while even when data are accessible, the connection between murders and violence preceding them is not confirmed because violent incidents are not documented or are not reflected in the results of a forensic examination. Not infrequently, death threats and other warning signs are ignored because law enforcement officers do not have relevant skills or do not want to properly assess risks. On numerous occasions, when women victims of violence ask policemen's help, necessary actions are not taken⁶². When used at a preliminary investigation stage of criminal cases instigated on the grounds of homicide or infliction of grave bodily injuries, the qualifications such as

"crime of passion" or "jealousy-motivated crime" result in a wrong characterization or inadequate presentation of the crimes, thereby affecting the entire trial process as well.

In contrast to relatively non-discriminatory gender-related legislative framework, in reality manifestations of discrimination are prevalent in judicial practices in Armenia such as blaming the victim and a markedly lenient attitude towards the crime committed by perpetrator, thereby undermining the opportunities provided by law and denies the woman the right to fair trial. The adoption of the law aimed to prevent domestic violence can make a considerable contribution to elimination of the above-mentioned problems. However, the law is still at a drafting stage.

62 *Heghineh Darbazyan (1977-2015). Mother of two children, Heghineh lived in the city of Yerevan, was subjected to psychological and physical violence during the entire period of her marriage. She went to police on several occasions; however, she did not get adequate help from police. She had separated from her husband one year prior to his stabbing her at her workplace.*

Rights of **LGBTI people**

Discrimination against LGBTI people on the grounds of their sexual orientation and gender identity⁶³ and resultant *other violations* of their rights went on in 2016 as well.

In 2016, violations such as discrimination and hate speech on the grounds of persons' sexual orientation and gender identity were registered in different spheres, *viz.* in work relations, armed forces, use of public servic-

es, educational institutions, etc. 13 instances of infringement of LGBTI people's rights were registered, with 3 being instances of physical violence. A transgender person⁶⁴ was a victim of two incidents of violence. In one incident he was assaulted and beaten in the street and in the second incident he was stabbed. In the third incident, minor's homosexuality became known at school and then in the family as a result of which that person

was subjected to violence and to limitation of freedom. In armed forces, two servicemen in fixed-term military service were subjected to denigrating treatment, when their sexual orientation became known. Reports about crime were submitted regarding 4 of the above-mentioned and other incidents. A criminal case instituted with regard to one of them was discontinued, no criminal case was instituted concerning two incidents and one incident is under investigation.

The nature of the complaints received by *Public Information and Need of Knowledge non-governmental organization* (PINK Armenia)⁶⁵ as well as testimonies of persons who are victims of violations clearly indicate that LGBTI persons often do not lodge a complaint. It is accounted for by their concern lest their sexual orientation and gender identity should be revealed to other people and lest they should be subjected to discriminatory treatment because of the complaint that they lodged. The same concern applies to protection of rights in a court of law owing to the fact that court and rights protection procedures are open to public.

Even though Article 29 of the Armenian Constitution bans discrimination on any grounds, a specialized law containing similar provisions has not been adopted yet, while the legislation currently in force has gaps. In particular, the norms of the Special section of

the RoA Criminal Code do not include person's sexual orientation or gender identity as a qualitative feature of hate speech crime. Likewise, Article 63 of the RoA Criminal Code, which outlines liability and an exhaustive list of aggravating circumstances, mentions only ethnic, racial and religious motives as aggravating circumstances for an act committed on the grounds of hate. It is a well-known fact that analogy is prohibited in application of the criminal law, i.e. the incidents of hate crime on the grounds of person's sexual orientation or gender identity cannot have an impact on qualification of crime and on the decision regarding punishment because of a legislative gap. During preliminary investigations such crimes are qualified according to the act without taking into consideration the motive behind the act, premeditation and intention and then drop the charges on the grounds of the absence of the elements of *corpus delicti*.

63 *Gender identity refers to person's individual experience and perception of their gender, which may or may not correspond with their birth sex, including perception of their own body and other gender manifestations, viz. clothes, speech and conduct.*

64 *Transgender are those transsexual persons who always live in conformity with their preferred gender, and medical intervention is not a necessary condition. Here the term is used as an umbrella one covering all those individuals whose gender identity and/or gender expression differ from their birth sex.*

65 *The organization's web-site is <http://www.pinkarmenia.org/>*





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