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HUMAN RIGHTS IN ARMENIA



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HUMAN RIGHTS IN ARMENIA 2018 REPORT

The REPORT has been drawn up by

Helsinki Committee of Armenia

in cooperation with

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

Helsinki Citizens' Assembly Vanadzor Office
(Armed Forces Subsection of Tortures and Violence Section)

Collaboration for Democracy Center
(Freedom of Thought, Conscience and Religion Section)
and

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

Helsinki Committee of Armenia

2019

Human Rights *in Armenia in 2018*

As a result of protest rallies and peaceful civil disobedience actions that were launched on 13 April 2018 in Yerevan and then were taking place throughout the country, Serzh Sargsyan, who had been the Armenian President in 2008-2018 and on 16 April 2018 had been elected as Prime Minister of Armenia, one week later, on April 23, tendered his resignation. Was the revolution that took place in Armenia in April-May 2018 unexpected? At first glance, it was unexpected both for political forces, political scientists and the society at large as well as for the international community. But did the revolution start all of a sudden and become a success? Let us try to present as concisely as possible the then socio-political situation in Armenia and the analysis of the factors that secured success for the revolution.

Thus, in the 1990s, after the collapse of the Soviet Union, the new rulers who had come to power in Armenia on the wave of the revolution kept declaring their commitment to human rights and democratic values. However, the temptation to stay in power turned Armenia into an authoritarian State very quickly. In 1995, the first parliamentary elections and the Constitutional referendum were held in Armenia. The elections were held with various violations, including violence, ballot-box stuffing, the forging of protocols, etc.

At the same time the Constitution, the logic of which excluded the separation of powers, was imposed on the nation. Thus, as per Article 49 of the Constitution, the

President of the Republic of Armenia is a head of the State. The President of the Republic of Armenia shall uphold the Constitution and ensure normal functioning of the legislative, executive and judicial authorities. The RoA President shall not only appoint Prime Minister and, at the suggestion of the Prime Minister, all Ministers but shall also appoint, at his own discretion, the RoA Minister of Defense and his Deputies, Heads of the Police, National Security Service, Investigations Committee and Special Investigations Service and their Deputies. He shall nominate Prosecutor-General and shall appoint, at his own discretion, judges from the list of candidates suggested by the Justice Council.

Thus, in the absence of the separation of powers, human rights violations in Armenia were systemic. May be that was the main reason why in independent Armenia there has not yet been a turnover of power through elections. Since independence, 5 parliamentary and 5 presidential elections were held in Armenia. None of those met the international standards. While in the 1990s elections were falsified with the use of the harshest methods such as violence, ballot-box stuffing and the forging of protocols, during recent elections the “perfected technologies,” such as vote buying, administrative resources, “inflated” voter lists and unknown persons registered at different addresses, were resorted to.

There was a widespread distrust of the election processes on the part of the general public. The system and the political culture that were developed in the course of almost

27 years led time and again to political crises, especially in post-election periods. They were also the reasons behind the palace coup of 1998 and the terrorist attack committed in the Parliament in 1999 as well as the bloody event of 1 March 2008 and the *Sasna Tsrer's* 2016 attempt of an uprising.

However, what was the key to success of the revolution?

While not a democracy, Armenia nevertheless was not a dictatorship either. We enjoyed certain freedoms such as freedom of speech, of association and of peaceful assembly, etc. Besides, there was a turnover of power in Armenia twice, albeit not through elections. There was a provision in the Constitution that the same person may not be elected for the post of the country's President for more than two consecutive terms. When in 2013 he assumed the post of the President for the second time, Serzh Sargsyan initiated constitutional amendments to make a transition to a parliamentary system of government. Of course, it was clear to many people that the goal was not to make Armenia more democratic and to ensure separation of powers by amending the Constitution but to remain in power, this time by assuming the post of a Prime Minister. By the way, the Constitution that was forced on people in 2015 through a rigged referendum is not even close to the classical parliamentary system of government. All powers of the President were merely transferred to Prime Minister.

So, Serzh Sargsyan's presidential term was expiring on 11 April 2018 and till the election of a Prime Minister on April 18 a real holder of power in Armenia was *de jure* absent. When Nikol Pashinyan initiated a protest march with his supporters and arrived in Yerevan on April 13, no one, including the authorities, took the movement seriously. Probably the authorities, including Serzh

Sargsyan, were confident that the movement would subside on its own, as was the case in the past. On the other hand, prior to assuming the post of a Prime Minister, Serzh Sargsyan did not want to come to power, as in 2008, through violence for the second time. However, surprisingly, already on April 17, tens of thousands of protesters flooded the streets of Yerevan. On April 20, normal functioning not only of Yerevan but also of other localities throughout the country was paralyzed. The use of brutal force on the part of the authorities became practically impossible. Thus, on April 23, caving in to popular pressure, a Prime Minister of one week Serzh Sargsyan resigned. On that day entire Armenia was bursting with incredible joy.

We believe that another factor of success was that the rhetoric used by the revolution was new for Armenia. Thus, since the 1990s, the Armenian opposition used radical rhetoric when targeting powers that be, such as "eliminate," "imprison," etc. Regardless of the sympathy felt by the general public for the opposition, on the one hand, not all groups of the public would join the opposition and on the other hand the opposition's radical slogans would consolidate the powers that be who would temporarily put aside their internal disagreements. In 2008, Nikol Pashinyan himself was the toughest opposition politician in terms of his speeches. Most probably he heeded the lessons learned from the past and during the entire revolutionary period he spoke only about love and harmony and gave assurances that there would be no vendettas. That kind of rhetoric played a major role in consolidating the public. Thus, the main reasons for the revolution were Serzh Sargsyan's desire to perpetuate his grip on power and probably Nikol Pashinyan's accurate political calculation.

* * *

After the April Revolution and Nikol Pashinyan's coming to power, criminal cases were instituted against a number of former officials and several businessmen, including second RoA President Robert Kocharyan, Secretary General of the Collective Security Treaty Organization (CSTO) Yuri Khatchaturov, Head of the Investigations Group dealing with the March 1 case Vahagn Harutyunyan, former Deputy Prime Minister Armen Gevorgyan (on the basis of *WikiLeaks* publications), businessman, owner of *H2 TV* Company Samvel Mayrapetyan, Member of the RoA Parliament, Chairman of the *Yerkrapah Union of War Veterans* Manvel Grigoryan and some other high-ranking officials. For the most part, to be held on remand was selected for them as a measure of restraint. However, at times courts would release them on bail but some time later they would be arrested again.

In September 2018, a wiretapped conversation between Arthur Vanetsyan, the Director of the National Security Service, and Sasun Khachatryan, the Head of the Special Investigations Service, during which they discussed the issue of an arrest of Robert Kocharyan and Yuri Khatchaturov within the framework of the *March 1* case, was disseminated via the Internet. During the conversation in question the NSS Director said that the judge, who was examining the Robert Kocharyan's arrest case, had called him and said that after reviewing the case he would call again and report, while he said that he would look into the case but would have to apply arrest either way¹.

Several months after the publication of the wiretapped conversation another wiretapped conversation, this time between the SSN and SIS Heads and Prime Minister Nikol Pashinyan, was posted on the Internet.

The conversation revolved around a measure of restraint to be selected in Yuri Khatchaturov's case. In this conversation, addressing Sasun Khachatryan, Arthur Vanetsyan expressed an opinion that in his view a bail option is the best so as to avoid a focus on the main suspicion. Then he says, "I don't know what to do," and asks, "Shall I tell the judge?" In response Sasun Khachatryan declares that they will tell the judge what needs to be told. That is not the issue. What they needed was to understand what they were doing².

As regards the application of a measure of restraint by courts in some of the above-mentioned criminal cases, at times, both prior to and during court sessions various groups in the society were bringing pressure to bear on courts in social media as well as through rallies. The two above-mentioned factors gave rise to concern for some segments of the public regarding independence of courts.

1 See <https://bit.ly/2DybxBF>

2 See <https://armtimes.com/hy/article/149924>



Electoral Rights

As a result of the protest rallies that were held in April 2018, the RoA Prime Minister S. Sargsyan tendered his resignation on April 23 and N. Pashinyan was elected as Prime Minister on May 8. On July 9, the Yerevan City Mayor T. Margaryan too submitted his resignation.

Snap Yerevan City Council elections

The snap Yerevan City Council elections were held on 23 September 2018. 12 political forces, including 4 alliances (*Bright, Yerevan Public, My Step and Yerevantsiner/Residents of Yerevan Alliances*) and 8 political parties (*Reformists Party, Heritage party, Prosperous Armenia party, Hayk (Haykazuns) party, Yerkir Tsirani (Apricot Country) party, Democratic Way Party, Country of Law party and Armenian Revolutionary Federation–Dashnaktsutjun party*) were nominated for participation in the elections.

662 observers from 8 organizations were accredited by the Central Electoral Commission to observe the snap Yerevan City Council elections³.

During the election campaign the participating political forces for the most part preferred the format of meetings with residents. It is noteworthy that Prime Minister Nikol Pashinyan took part in almost all major meetings and personally presented the candidates from *My Step Alliance*.

The results of the monitoring conducted by the *Independent Observer Civic Alliance* of media coverage of the election campaign demonstrated that the most often mentioned political forces by the monitored 5 TV channels⁴ were *Prosperous Armenia party, My Step Alliance and Armenian Revolutionary Federation–Dashnaktsutjun party*, whereas the *Yerevan Public Alliance* of political parties received least coverage⁵.

In contrast to systemic violations registered during the elections held in previous years, in the course of the observation mission performed by Helsinki Committee of Armenia of the voting in the snap Yerevan City Council elections significant or systemic violations were not registered⁶.

The registered violations were for the most part technical and were equipment- and accessibility-related in polling stations. In some cases violations were accounted for by the lack of adequate knowledge of their functions on the part of commission members or of the voting procedure by voters.

Other local organizations that carried out an observation mission of the elections too

3 The NGOs performing the observation mission: <https://www.elections.am/council/election-27551/>

4 Public TV Company, Ararat TV, Armenia TV, Yerkir media TV and Kentron TV.

5 See Media monitoring of media of the Yerevan City Council elections at <http://uicarmerenia.org/4956>

6 Results of the Observation of the Yerevan City Council snap elections held on 23 September 2018 see at <http://armhels.com/publications/erevani-avaganu-artahert-yntrutyunner/>

registered that the elections were free and competitive⁷.

The snap Yerevan City Council elections resulted in the Bright Alliance getting 4.99%, the Prosperous Armenia party 6.95% and My Step Alliance 81.06% of votes. Even though the Bright Alliance did not overcome the threshold to get seats in the City Council (the threshold is set at 8% for an alliance and at 6% for a political party), nevertheless, it made its way to the City Council as a political force that got the third largest number of votes⁸.

Snap Parliamentary Elections

- One of the priorities set in the program of the new Government formed in May 2018 was to conduct snap parliamentary elections within one year at the most and to make amendments to the Electoral Code. In October, the Government submitted to the Parliament the Draft Law on making changes in and additions to the RoA Electoral Code. The most important proposed amendments were to abolish the use of regional candidates lists in elections and to adopt a straightforward proportional representation format, to lower the threshold of the percentages of votes necessary for political parties and their alliances to make it to the Parliament and to introduce a mandatory provision that at least 4 political parties (and/or their alliances) are represented in the Parliament, etc.

However, the Parliament did not adopt the Draft Law. With a view to paving the way to the snap parliamentary elections the RoA Prime Minister Nikol Pashinyan tendered his resignation on October 16, whereupon on November 1 the Parliament was dissolved by virtue of law after failing twice to elect a Prime Minister⁹. December 9 was set as a

Voting day for the snap parliamentary elections. 11 political forces, viz. 9 political parties (*Republican Party of Armenia*, *Citizen's Decision party*, *Armenian Revolutionary Federation-Dashnaktsutiun party*, *Bright Armenia party*, *Christian-Democratic Rebirth Party*, *National Progress Party*, *Rule of Law Country party*, *Sasna Tsrer (Daredevils of Sassoun) Pan-Armenian Party and Prosperous Armenia party*) and 2 alliances of political parties (*My Step Alliance* and *We Alliance*) were nominated to participate in the parliamentary elections.

17,813 observers from 22 local organizations and 505 international and foreign observers were accredited to observe the elections.

Election Campaign

The election campaign was of 12-day duration. The main competition during the election campaign was between *My Step Alliance* and the *Republican Party of Armenia*, which for the most part boiled down to both parties trading accusations and very often sidelining the discussion of their election platforms.

The *Independent Observer Civic Alliance* and the *Akanates/Eyewitness* observer mis-

7 See Akanates/Eyewitness observer mission's assessment of the Yerevan City Council elections at <https://www.aravot.am/2018/09/24/982933/> The Independent Observer Civic Alliance presented conclusions of the short-term observation mission. See: <https://armenpress.am/arm/news/948407.html>

8 See paragraph 3 of Article 141 of the RoA Electoral Code.

9 As per paragraph 3 of Article 149 of the RoA Constitution, in case Prime Minister is not elected, a new election of Prime Minister shall be held seven days after voting, wherein the candidates for Prime Minister nominated by at least one third of the total number of the Parliament members shall be entitled to participate. In case Prime Minister is not elected by majority of votes of the total number of the Parliament members, the Parliament shall be dissolved by virtue of law.

sion conducted monitoring of the election campaigning. According to the results of the monitoring¹⁰, the pre-election phase of the parliamentary elections was generally free and competitive and it provided an opportunity for a peaceful campaign.

The *Yerevan Press Club* (YPC) conducted monitoring of media coverage of the parliamentary elections¹¹, which included also 12 days of the election campaign. At that stage, the YPC monitored six TV Channels¹² and two online media outlets¹³. According to the results of the monitoring, of all the competing political forces it was *My Step Alliance* that drew most attention of the TV Channels. The Alliance was a leader in terms of both the number of times it was mentioned and the amount of air time the Channels allocated to it. This was accounted for by the fact that Acting Prime Minister Nikol Pashinyan was directly involved in the campaigning by *My Step Alliance*. The second political force after the Alliance in terms of the number of times it was mentioned and the amount of air time the Channels allocated to it was the *Republican Party of Armenia*. The least attention was paid by the TV Channels to *National Progress Party*.

Within the framework of the election campaign the Public TV Company organized a high-level TV debate with the participation of the politicians, who topped their political forces' candidates lists, from all 11 political parties and alliances taking part in the elections.

Voting in the snap parliamentary elections

On a Voting Day in the snap parliamentary elections, Helsinki Committee of Armenia performed an observation mission in the city of Gyumri and in the towns of Masis, Chambarak and Sissian. The regis-

tered violations were for the most part technical and were equipment- and accessibility-related in polling stations as well as related to the operation of Voter Authentication Devices. In some polling stations, crowds outside the polling station (within a 50-meter radius) were observed.

Registered were instances of the individuals present in polling stations who did not have their authorizing IDs visible (the said individuals were observers from the *United Leaders' Chamber* and *Abovian Students' Council* organizations or proxies of the Prosperous Armenia political party). In 5 of the observed polling stations, more than one observer from the same organization was present or made an attempt to enter the polling station (*Institute for Development of Legal Culture*, *United Leaders' Chamber* and *Institute for Democracy and Peace*). In some polling stations, not all Precinct Electoral Commission members had adequate knowledge of their functions¹⁴.

An observation mission on the Voting Day of the snap parliamentary election was also carried out by the Independent Observer Civic Alliance and the *Akanates/Eyewitness* observer mission. According to the results of the observation by the *Akanates/Eyewitness* observer mission, serious violations and incidents were few¹⁵, whereas the voting throughout the entire country was on the whole peaceful and in line with the law. In the

10 See *Akanates/Eyewitness* observer mission at <https://transparency.am/hy/news/view/2569>

11 See the *YPS Interim Report on the Armenian media coverage of the snap parliamentary elections* at <https://www.aravot.am/2018/12/11/1000220/>

12 *Public TV Company, Armenia TV, Yerkir media TV, Kentron TV, H2 TV and Shant TV.*

13 *1in.am and News.am*

14 See *Snap parliamentary elections in the Republic of Armenia. Helsinki Committee of Armenia's Report on its observation mission* at <http://armhels.com/publications/artahert-yntrutyunner-aj/>

15 *Press Release, 10 December 2018, at https://transparency.am/hy/press/view/48*

OSCE/ODIHR Interim Report the elections are also described as having enjoyed broad public trust¹⁶.

According to the voting results in the parliamentary elections, 3 political forces, viz. the *Bright Armenia* party, the *Prosperous Armenia* party and *My Step* Alliance were

elected to the RoA Parliament receiving respectively 6.37%, 8,26% and 70,42 % of the of votes.

16 See *International Election Observation Mission. Preliminary Conclusions at* <https://www.osce.org/odihr/elections/armenia/405890?download=true>



Freedom of Speech

According to the results of the monitoring conducted in 2018 by the *Committee To Protect Freedom of Expression*, the majority of violations of the rights of media personnel were registered in April. Thus, 18 incidents of physical violence against reporters and cameramen and 8 incidents of obstruction of their professional activities were registered in that month only.

Criminal cases were instituted in connection with 15 of those incidents. One of those criminal cases was instituted only in connection with the pressure that had been brought to bear. 4 cases (in connection with violence against *Radio Liberty* reporter Arus Hakobian, *Lragir.am* reporter Tehmineh Yenokian and with 2 incidents of violence against Tirayr Muradyan, a reporter with the *Union of Informed Citizens* NGO) were taken to the court of law. So far, judgments have been handed down only in 3 of those cases.

In connection with other incidents of physical violence criminal cases either were not instituted or after the case materials had been examined a decision was made to not institute a criminal case or to dismiss already instituted criminal cases.

During the Yerevan City Council elections, one incident of physical violence against media people and one incident of obstruction of their professional activities were registered. Not a single incident of physical violence against staff members of media outlets was registered during the snap parliamentary elections, while several minor incidents in connection with obstruction of their professional activities were resolved on the spot.

Nevertheless, incidents of pressure brought about on media outlets were registered during the campaign in snap parliamentary elections. Thus, on December 7, two days prior to the snap elections, clearly abusing his official powers, a representative of the Directorate-General of the Criminal Investigations of the RoA Police committed an unlawful act in the office of the editorial board of the *News.am* news website. Law enforcement officers demanded that the media outlet submit evidence that would prove the content of an online speech of a politician. Their actions constituted a clear violation of the media outlets' operation rights and of freedom of speech. Earlier, on

November 20, a similar unjustified demand was presented also to the editorial board of *Aysor.am*, when policemen visited the office and demanded a copy of a videotaped interview of businesswoman Silva Hambardzumyan. In its official written response the editorial board pointed out that Silva Hambardzumyan had not given interview to *Aysor.am* website but had held a press conference which had been attended by representatives of scores of media outlets, while the video recording of the press conference was accessible via the *Google* search engine.

On September 17, officers from the 6th Division of the RoA Police and from the Investigations Committee conducted a search in the office of the editorial board of the *Yerevan.today* information and analytical website. According to circulating rumors, the funding of the website is attributed to the second RoA President Robert Kocharyan¹⁷. Since the law enforcement agencies did not provide hard facts to the general public that would have justified the necessity of such tough actions, the *Committee To Protect Freedom of Expression* (CPFE) together with partner organizations issued a statement, which noted that unless serious justification is provided those actions could “be regarded as interference with operation of the media outlet and jeopardize protection of sources.” 1.5 months after the incident the CPFE submitted a letter to the Investigations Committee asking why the equipment of the editorial office had not been returned. According to the Investigations Committee, the equipment was to be returned after necessary actions have been taken. The Investigations Committee returned the computer equipment of the *Yerevan.today* editorial office only on December 28, whereupon the website issued a statement wherein, in

particular, noted that “it took the Investigations Committee 100 days to conduct an expert examination of one computer and four hard drives.”

13 new lawsuits were brought against reporters and media outlets in 2018. All of them cited Article 1087.1 of the RoA Civil Code (“Insult and defamation”). In 2018, courts handed down 9 judgments against media outlets and reporters and 10 judgments for them.

Throughout the year the CPFE continued to monitor the criminal case related to the developments that took place in Khorenatsi Street and in Sari Tagh neighborhood in the country’s capital in the second half of July 2016 and that were accompanied by large-scale violence against and obstruction of professional activities of reporters and cameramen. On 25 September 2018, the Special Investigation Service terminated the proceedings in the *Sari Tagh* case on the grounds of “the person to be involved as an accused being unknown.” The CPFE lodged a complaint with the Prosecutor’s Office regarding this decision and when the complaint was rejected, it took the matter to court.

On the whole, in 2018, registered were 21 incidents of physical violence against reporters and cameramen, 67 incidents of pressure brought to bear on media outlets and their staff and 98 incidents of violation of the right to receive and disseminate information.

17 <http://armtimes.com/hy/article/144390>



Freedom of Peaceful Assembly

In terms of the number of assemblies held and of their participants, year 2018 was unprecedented as compared to earlier periods of time. As a result of the protest rallies and peaceful civil disobedience actions that were launched on 13 April 2018 in Yerevan and then were taking place throughout the country and that became a foundation for political events and changes occurring in the country the then Prime Minister and the Government¹⁸. *My Step* initiative headed by N. Pashinyan, a leader of the opposition party group in the National Assembly, was a main organizer and coordinator of those assemblies. While as to their legal status those assemblies were spontaneous, nevertheless their participants followed the civil disobedience actions undertaken by *My Step* initiative and the *logic* of the movement. The number of participants varied from one assembly to another and reached 90,000 - 100,000 in case of some assemblies attended by many people.

It should be noted that numerous assemblies and protest rallies against the RoA third President S. Sargsyan assuming the position of Prime Minister were organized since early 2018. Those were organized by the *Country of Apricot political party*, *For the State of Armenia* Front and *No pasaran!* Initiative. However, the events in April were triggered

by the protest journey on foot that was initiated by M. Pashinyan on March 31 in the city of Gyumri and that reached Yerevan on April 13. Until April 23, the slogan of *My Step* Initiative was “*Take a step, Reject Serzh!*”, whereas after Prime Minister Serzh Sargsyan resigned on April 23, the slogan was changed to “*Take a step, Reject RPA (Republican Party of Armenia)!*” and “*RPA, Go away and forget Armenia!*”

Numerous incidents of disproportionate use of force, the use of violence and uncalled-for interference with peaceful assemblies on the part of the police were observed in the course of the rallies and actions that followed the protest journey on foot. During two assemblies the police used flash grenades and acoustic flash grenades as well as other special means as a result of which numerous people, including reporters, sustained injuries of varying severity. Over 1,000 incidents of participants being forcibly taken to police departments occurred during the assemblies. Numerous demonstrators were held in police departments with violations of legal requirements set for administrative detention, while procedures and activities of the attorneys who were engaged in protection of their rights were obstructed. In some cases pressure was brought to bear on numerous rally participants and reporters by police or as a result of police inaction.

In the course of 2018, Helsinki Committee of Armenia observed 225 assemblies and marches. It should be noted that

¹⁸ As regards those events, see *Report On observations of the events that occurred and of the assemblies that were held in the Republic of Armenia in April-May 2018*. <http://pana-defenders.info/wp-content/uploads/2018/08/Armenia-HCA-Report-2018-ENG.pdf>

according to our tentative conclusions, a degree of protection and accessibility of the right to freedom of assembly improved considerably as a result of the political changes brought about by the assemblies that had been held in April. In the second half of 2018, there was an increase in the number of assemblies held as compared to the same period of time previous year. The change of the Government was followed by protest rallies where residents of numerous communities (Yerevan, Echmiadzin, Maralik, Norakert, Urtsadzor, Tegh, etc.) demanded that Heads of their communities should resign. In June, several representatives of the Armenian Apostolic Church established the *New Armenia, New Patriarch Initiative*, which held rallies and marches demanding resignation of Karekin II, Catholicos of All Armenians. During an assembly, which was held on December 15, members of the Initiative and supporters of the Catholicos clashed. The police intervened trying to separate the parties.

Other assemblies with various opposing parties present were also held in 2018, and again the police intervened appropriately. For example, on November 29, a group of citizens in Yerevan were holding a rally and a march dedicated to the 98th anniversary of Soviet Armenia, while another group that held an opposing view regarded Sovietization as colonization and demanded that Military base # 102 of the Russian military contingent in the South Caucasus be removed from the territory of the Republic of Armenia. The participants of the two rallies converged in the *Children's Park* (formerly *Kirov Park*) and started trading accusations and insults. However, policemen intervened and prevented potential clashes.

A large number of assemblies were held during the campaign for snap Yerevan City

Council elections to be held on September 23 and snap parliamentary elections to be held on December 9. There was not a single instance observed of uncalled-for intervention by the police in the course of those assemblies.

The course of criminal investigations

The RoA Special Investigations Service opened an investigation of over 50 criminal cases of policemen's abuse of power accompanied by violence during the assemblies held in the Republic of Armenia from April 13 on. Later on those cases were merged into a single criminal case and an investigative group was established¹⁹. Charges were also brought against L. Yeranosyan, a former Deputy RoA Chief of Police, on the grounds that standards for the use of special means had been violated when the police used special means against assembly participants on April 16 and 22²⁰. In fact, that was the first instance in recent years that a criminal investigation was launched of a high-ranking police officer who had committed violations of law during assemblies. Nevertheless, the criminal cases that were instituted are still at an investigation stage, whereas final results of the criminal cases are necessary to evaluate effectiveness of the outcome of bringing police servicemen to justice.

The criminal case, which was instituted with regard to obstruction of reporters' professional activities and to violence against them in the course of the assembly held in Sari Tagh neighborhood in the city of Yerevan on 29 July 2016, was discontinued on the grounds that perpetrators cannot be identified. Nevertheless, the RoA Special Investigations Service announced that within the framework

19 <http://www.ccc.am/hy/1428493746/3/5859>

20 <http://www.ccc.am/hy/1428493746/3/5946>

of the said criminal case charges were brought against 9 individuals, including a policeman. In case of 8 of those indicted individuals the judgment took effect and one person was still on trial, while investigative and operative-tracking activities to find other perpetrators were in progress²¹.

The Draft Law on amendments to the Law on Freedom of Assembly

In its report published last year²² Helsinki Committee of Armenia discussed a substantial *Draft Law on Amending and Supplementing the “RoA Law on Freedom of Assembly”* that was submitted by the Armenian Government in 2017. The Draft Law contained a number of wordings that aroused concern. Taking into consideration the fact that the Draft Law is still accessible and is posted on the Unified website for publication of Legal Acts’ Drafts²³, we believe it is necessary to discuss in detail the provisions and the existing risks in the Draft Law.

Article 18 of the Draft Law states that “*Any successive assembly which is staged in connection with the same phenomenon or event cannot be regarded as spontaneous and should be held in line with the established notification procedure.*”²⁴ This wording is a supplement to the spontaneous assembly-related provision of the currently active Law. According to the provision, a spontaneous assembly is the one that is conducted with the aim of reacting to an event immediately. The procedure, which is established by the Law currently in force for assemblies conducted with notification, stipulates that the notification may be presented no later than 7 and no earlier than 30 days prior to the planned assembly.

The supplement proposed by the Draft Law is problematic in the context of those events that are of a long-term nature and the intention to conduct an assembly in connection with those events may arise in different groups of people or at different stages through the period of the event (*for example, during the entire period of seizure of the Erebuni police regiment by Sasna Tsrer (the Daredevils of Sassoun) armed group on 17-31 July 2016 massive spontaneous demonstrations were held in Yerevan*). In such situations assembly participants or organizers cannot reasonably comply with the required deadline for notification, which will result in the assembly violating the procedure established by the law and will bring about an administrative liability²⁵.

In some cases the European Court of Human Rights (ECHR) stated a position, according to which failure to comply with the obligation to submit in advance the notification for conducting an assembly as an exception for a general rule is justified if an immediate reaction to some event might be delayed as a result of postponing an assembly. Likewise, the decision to terminate an assembly, if that decision was made only on the grounds of non-compliance with the procedure for advance notification, while participants did not manifest unlawful behavior, is disproportionate²⁶.

The Draft Law also addresses the issue of the start of an assembly (Article 28 of the currently active Law) and proposes the fol-

21 <http://www.ccc.am/hy/1428493746/3/5947>

22 See Ditord # 1 (72). *Human Rights in Armenia in 2017*, pp. 10-12. <http://armhels.com/wp-content/uploads/2018/02/Ditord-2018Eng-Web.pdf>

23 <https://www.e-draft.am/projects/106/about>

24 See Article 18 of the Draft Law.

25 See Article 1801 of the RoA Administrative Violations Code.

26 See *Éva Molnár v. Hungary, Bukta and Others v. Hungary cases*.

lowing supplement *“an assembly cannot be launched if no organizer has shown up.”*²⁷ This provision gives rise to various interpretations because it is not clear what legal assessment should be given to a crowd of people present in the assembly venue in the absence of the assembly organizer. As per the law currently in force, *“an assembly is a temporary peaceful and unarmed presence of two or more individuals in any location for the purpose of formulating or expressing common opinion on issues of public interest.”*²⁸ (As per the proposed Draft Law, an assembly *“is an intentional and temporary presence of two or more individuals in a public place with the intention to form or express a shared opinion.”*²⁹) This wording makes it clear that the Law defines assembly as presence of two or more individuals in a certain place with a certain intention regardless of the organizer’s presence. In that context, Article 28 of the Draft Law arouses serious concern given also the fact that as a result of some events the organizer or the organizers mentioned in the notification may fail to show up at the assembly venue because of circumstances beyond their control, which, in its turn, may affect the individuals who are already present in the venue of the proposed assembly.

One of the proposed recommendations in the Draft law that raise serious concerns is a replacement of provisions with regard to a ban on holding an assembly. According to the currently active Law, an assembly conducted with notification shall be banned by the Authorized Body, after having organized hearings, if *“the assembly purpose is to forcibly overthrow the constitutional order, to incite ethnic, racial, or religious hatred, or to advocate violence or war.”*³⁰ The said provision applies to those cases when the purpose of the assembly as stated by the person sub-

mitting notification boils down to above-mentioned actions, which automatically leads to the ban placed on the assembly by the Authorized Body. The Draft Law proposes that an assembly be banned, if *“there are well-founded suspicions that the assembly’s purpose is to forcibly overthrow the constitutional order, to incite ethnic, racial, or religious hatred, or to advocate violence or war.”*³¹

It should be noted that similar legislative amendments were submitted and adopted in 2008 and hence incorporated into the RoA Law on Conducting Meetings, Assemblies, Rallies and Demonstrations that was in force at that time³². Prior to the said amendment, as per the former Law, the Authorized Body could ban the conduct of an assembly³³, if it *“is aimed at forcibly overthrowing the constitutional order, or inflaming ethnic, racial or religious hatred, or preaching violence or war.”* After the Law was amended in 2008, the said grounds for banning an assembly were reworded as follows: *“if there are credible data that the conduct of the event creates imminent danger of violence or real threat to the national security, the public order, the health and morality of society, life and health of persons, the constitutional rights and freedoms of others or is aimed at forcibly overthrowing the constitutional order, or inflaming racial, ethnic, or religious hatred, or preaching violence or war, or may lead to mass disorder or cause a substantial material harm to the State, community or natural and legal persons.”*

27 See Article 19 of the Draft Law.

28 See Article 2 of the RoA Law on Freedom of Assembly.

29 See Article 2 of the Draft Law.

30 See Article 19 of the RoA Law on Freedom of Assembly.

31 See Article 14 of the Draft Law.

32 The Law was adopted in 2004 and ceased to be in force in 2011.

33 The wording used in the Law is “public event.”

That amendment was made on 17 March 2008 during the 20-day period of the state of emergency declared after clashes between the opposition and the police in the aftermath of the RoA presidential elections³⁴. Regarding the legislative amendment, in their Joint Opinion no. 474/2008, the Venice Commission and the OSCE/ODIHR expressed serious concerns³⁵. The Joint Opinion notes that the Draft Law provides for the Police or National Security Service to issue “a justified official opinion” for data concerning forcible overthrowing of the constitutional order, threats of violence, threats to health and morality or to encroachments on some of the constitutional rights and freedoms of others to “considered credible” and therefore that the assembly may be prohibited. Then the Joint Opinion states that a hypothetical risk of public disorder is not a sufficient basis for restricting an assembly and that the burden of proof should be on the public authority to show that the restrictions imposed are reasonable in the circumstances.

The above comparison of the former and currently active Laws raises serious concerns regarding real objectives for the submission of the Draft Law and gives grounds for a

strong suspicion that the real reason behind its submission is not to harmonize the Law with the RoA Constitutional amendments (as stated in the Draft Law) but to introduce new restrictions on the right to freedom of assembly. Just like the adoption of the legislative amendment in 2008 was related to the rallies staged by the opposition in February and March of that year and to the subsequent clashes, the Draft Law submitted in 2017 too was related to the rallies staged in July 2016³⁶.

The Draft Law was not submitted to the National Assembly. Neither was an expert opinion of the Venice Commission and the OSCE/ODIHR sought. During the discussion held on 21 May 2018 by the Civil Council affiliated with the RoA Ministry of Justice, Helsinki Committee of Armenia expressed its concern and suggested that the Draft Law be withdrawn.

34 See the RoA President's Order "On Declaring a State of Emergency." 1 March 2008.
<http://www.irtek.am/views/act.aspx?aid=42297>

35 See the Joint Opinion no. 474/2008 of the Venice Commission and the OSCE/ODIHR endorsed by the Venice Commission at its 75th Plenary Session (Venice, 13-14 June 2008).

36 See Report on the events that occurred in the Republic of Armenia from July 17 through August 5, 2016.
<http://armhels.com/wp-content/uploads/2016/08/HCA-Report-July-17-Aug-5-Eng.pdf>



Tortures, Violence

Police

In 2018, numerous incidents of police violence against and ill treatment of persons were registered in the Republic of Armenia.

Helsinki Committee of Armenia sent a written inquiry to the RoA Special Investigations Service to find out how many criminal cases were instituted in 2018 on the charges of the use of torture. With its official letter No. 28/18, the RoA Special

Investigations Service notified HCA that 49 criminal cases regarding accusations of torture were investigated by the RoA Special Investigations Service in the period of time from 1 January through 20 December 2018. Of those cases:

- **1 criminal case regarding 1 person was sent with an indictment to court,**
- **investigation of 33 criminal cases was terminated,**
- **investigation of 4 criminal cases was suspended,**
- **1 criminal case was sent for further investigation,**
- **1 criminal case was merged with another criminal case,**
- **investigation of 9 criminal cases is in progress.**

In the course of the assemblies held in the period of time from 16 through 23 April 2018³⁷, while forcibly removing people from assembly venues and taking them to police departments, police servicemen committed various acts of violence inflicting injuries of varying severity. On 22 April 2018, a criminal case was instituted with regard to those incidents and 104 persons were recognized as an aggrieved party.

On 23 April 2018, policemen committed violence against Gagik Buniatyan who was present at the assembly venue. They broke his arm and inflicted various bodily injuries and also badly damaged his car. On 16 November 2018, the RoA Special Investigations Service made a decision to suspend the criminal case on the grounds that the perpetrator could not be identified. This decision was appealed against with the Prosecutor General but the appeal was rejected.

On 21 April 2018, at the intersection of Shiraz and Silikian Streets in the city of

Yerevan attorney Avag Lalayan noticed that a group of policemen were trying to forcibly take a person (who seemed to the attorney to be a minor) to a police department. The attorney attempted to find out the reason for the incident. As a result, 7 or 8 policemen assaulted the attorney and dealt blows with their hands and feet to various parts of his body inflicting bodily injuries. On 21 April 2018, with regard to the violence committed against attorney A. Lalayan, the RoA Special Investigations Service instituted a criminal case for abusing official powers and misusing official position.

On 7 October 2018, in the town of Sevan three policemen forcibly brought citizen Ara Muradyan from the *Toto Gaming* bookmaker office to the police department and beat him up with truncheons. They dealt blows to his head and back, abused him verbally and pulled down his clothes in the presence of the Deputy Head of the police department. The RoA Special Investigations Service instituted a criminal case for the use of torture. The Head and two police officers from the Investigations Unit of the Sevan Department of the Gegharkunik region Division of the RoA Police were detained and the investigation is in progress³⁸.

On 7 October 2018, an altercation took place in one of the neighborhoods of Kanaker-Zeytun administrative district in the city of Yerevan. One of its participants was a minor. Arriving to the site, policemen forcibly took the minor to the police department, beating and verbally abusing him in the process. Beating and other acts of violence took place also in the police department. On 19 October 2018, the RoA Special Investigations Service instituted a criminal

37 See *Freedom of Peaceful Assembly Section of the Report*.

38 See <http://www.ccc.am/hy/1428493746/3/5953>

case as per paragraph 4 of Part 2 of Article 309.1 of the RoA Criminal Code with regard to an alleged crime of torture of a minor. The preliminary investigation is in progress³⁹.

Penal Institutions

In its annual Report for 2017, the Observers' Group that exercises civilian oversight of penal institutions and bodies of the RoA Ministry of Justice⁴⁰ identified a number of problems, some of which are of a permanent nature. The problems that were mentioned included, *inter alia*, issues related to criminal hierarchic/inter-personal relations in penal institutions, absence of adequate facilities for persons with disability and discriminatory treatment of vulnerable groups as well problems of female convicts serving time, etc. Those problems were urgent in 2018 too.

The Group faced obstacles to its activities in 2018 too. In particular, staff members of penal institutions would not let members of the Group meet with those arrested individuals that the investigator had placed a limitation or ban on visits⁴¹. In the past, Group's activities were not obstructed on such grounds. Group's activities started to face obstacles on those grounds since 2016 because of some cases with political resonance.

For years, overcrowding remains a major problem in Armenia's penal institutions system. For example, in *Nubarashen* penal institution, 20 inmates can be placed in a cell intended for 8 inmates. The Minister of Justice posted a statement in his Facebook page that overcrowding is no longer a problem in Armenia's penal institutions⁴². About 600 convicts were released from prisons due to the amnesty declared in connection with the 2,800th anniversary of the foundation of

Erebuni-Yerevan and the centennial jubilee of the First Republic of Armenia (the *Law on Amnesty* took effect on 6 November 2018).

According to the indictment, on 16 March 2018, Armen Hovhannisyan, a 1st-category specialist of a duty group in *Nubarashen* penal institution together with a group of persons tortured Armen Aghajanyan with the aim of punishing the latter for some action committed in *Nubarashen* penal institution and inflicted severe pain on Aghajanyan and then perpetrated a fraud with a group of officials. The preliminary investigation of the incident has been carried out and the criminal case is being tried in court⁴³.

With a view to punishing convict H.B. held in *Armavir* penal institution staff members of the penal institution assaulted him and dealt blows with hands and rubber truncheons inflicting bodily injuries. They punished him for communicating with a convict in a neighboring cell using rope. The RoA Special Investigations Service instituted a criminal case in connection with the incident of torture⁴⁴.

Issues of convicts sentenced to life in prison

The number of life-termers in Armenia has been about 100 in recent years. By the number of life-termers as per 100,000 residents Armenia is among "leading" countries that are Council of Europe member States. It is noteworthy that several dozens of those life-term-

39 See <http://www.ccc.am/hy/1428493746/3/5950>

40 See <http://pmg.am/images/PMG-Annual-report-2017.pdf>

41 See <http://pmg.am/hy/news/successful-cases/2018-08-28-11-17-17>

42 See <https://www.panorama.am/am/news/2018/10/05/%D4%B1-%D4%B6%D5%A5%D5%B5%D5%B6%D5%A1%D5%AC%D5%B5%D5%A1%D5%B6/2014090>

43 Case No. YC/0558/01/18

44 See <http://www.ccc.am/hy/1428493746/3/5841>

ers have already served more than 20 years and are therefore entitled to an early conditional release.

Back in 2017, having reviewed the issue of an early conditional release of life-termers Arsen Artsruni and Stepan Grigoryan, the court of first instance decided to reject their petitions. In both cases, the reasons for the court decisions were penalties imposed on the life-termers during a period of time of over 20 years in prison. Arsen Artsruni had 3 penalties (2 for the use of a cellular phone and 1 for the use of a modem for Internet), while Stepan Grigoryan had 2 penalties (for the use of a cellular phone). Complaints were lodged in those cases first to the Court of Appeals and then to the Cassation Court. The courts rejected the complaints and upheld the judgment rendered by the court of first instance. By making reference to the penalties, the courts essentially established an insurmountable threshold for an early conditional release. In *Kafkaris v. Cyprus* case the European Court of Human Rights noted that it is inhuman to imprison a person for life without any hope of release.

On 16 October 2018, having reviewed the case related to an early conditional release of Karen Oganessian, who had been sentenced to life in prison, the court of first instance for the first time in the history of Armenia made a decision to grant him an early conditional release. It should be noted that Karen Oganessian got his life sentence in the USA. From 1996 to October 2009 he served his sentence in the USA and in 2009 he was transferred to Armenia⁴⁵. So far not a single person sentenced to life imprisonment by Armenian courts has been granted an early conditional release.

On 25 December 2018, having reviewed the issue of remitting the life sentence of Vahagn Marukyan on the grounds of his having a very serious disease, the court of first

instance reached a decision to release Marukyan in the courtroom⁴⁶.

The amnesty, which was announced in 2018, has not affected life-termers in any way.

Armed Forces

According to the results of the monitoring conducted by Vanadzor Office of Helsinki Citizens' Assembly, 56 fatalities were registered in the RoA Armed Forces and in the Defense Army of the Republic of Artsakh in 2018. 7 of those incidents were the result of the violation of the ceasefire regime, 5 incidents were homicides (1 was a violation of the rules of the military service, 1 was premeditated murder and 3 were the result of the violation of the rules of handling weapons), 5 were accidents (1 was carbon monoxide gas poisoning, 1 serviceman was killed by a falling tree, 1 serviceman drowned and 2 were killed by a snowslide). 11 servicemen committed suicide and 28 servicemen died as a result of car accidents (16), health-related problems (9), violation of the rules of the use of a military drone (2) and negligent attitude to the rules of military service leading to a landmine explosion (1).

Political persecution

In the aftermath of the change of power that occurred in May 2018 the individuals who had been convicted for political reasons and serving their prison term or who had been arrested for those reasons were released on various grounds⁴⁷.

On 13 June 2018, the RoA Criminal Court of Appeals replaced the Founding Parliament

45 See <https://hetq.am/hy/article/92704>

46 See <http://galatv.am/hy/news/25-112/>

47 See Political persecution and political prisoners section of the Report at <http://armhels.com/wp-content/uploads/2018/02/Ditord-2018arm-Web.pdf>

leader Jirair Sefilian's arrest as a measure of restraint with a release on MPs' personal guarantees. The Court also replaced arrest as a measure of restraint for Gevorg Safaryan, Hrayr Topchyan, Nerses Poghosyan, Sasun Kirakosyan and Galust Grigoryan, the defendants in the same criminal case, with a signed obligation not to leave the country. Jirair Sefilian and the others were released in the courtroom. At the same time the Court of Appeals reduced the prison terms given to those individuals by the first instance court⁴⁸.

On 7 May 2018, the court changed the measure of restraint for Andrias Ghukasyan, who had been arrested because of participation in the protest rallies that followed the seizure of the Patrol Police regiment by *Sasna Tsrer (Daredevils of Sassoun)* armed group, to a signed obligation not to leave the country and he was released in the courtroom.

Shant Harutyunyan, a leader of *Tseghakron* ("Carrier of ethnos") political party, who had been convicted to 6 years in prison in 2014⁴⁹, was released through amnesty. The defendants in the same case Liparit Petrosyan, Vardan Vardanyan, Avetis Avetisyan and Vahe Mkrtchyan were granted an early conditional release.

Hayk Kyureghyan, who had fired an air shotgun in the direction of policemen in the yard of the court on the session day in Shant Harutyunyan's case and who had been sentenced to 9 years in prison, was released through amnesty.

On 15 June 2018, the RoA Court of Cassation replaced arrest as a measure of restraint for former Commander of the Defense Army of the Republic of Artsakh Samvel Babayan and the defendant in the same criminal case Sanasar Gabrelyan with a release on MPs' personal guarantees and released Armen Petrosyan on bail. At the same time the Court of Cassation overturned the ruling of the Court

of Appeals and sent the case to the first instance court for retrial⁵⁰.

Besides the above-mentioned individuals who had been targeted by political persecution and then released, at different times members of the *Sasna Tsrer (Daredevils of Sassoun)* armed group were released in the courtroom (on the grounds of MPs' personal guarantees or on bail). The *Law on Amnesty* of 2018 contained a special provision regarding members of the *Sasna Tsrer (Daredevils of Sassoun)* armed group. As per that provision, the amnesty was to be granted to all members of the group, except to those who were accused of manslaughter. As a result, the criminal cases of members of the *Sasna Tsrer (Daredevils of Sassoun)* armed group were terminated with the exception of Armen Bilyan and Smbat Barseghyan who had been accused of killing a policeman.

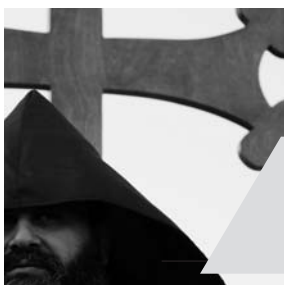
On 25 November 2015, the National Security Service detained in Yerevan a group of individuals suspected of organizing a major crime. The general public dubbed it as the "armed group of Nork." In connection with the group's activities a criminal case was instituted on charges of establishing a criminal group and participating in it and of unlawfully acquiring and keeping arms, ammunition and explosives⁵¹. According to the materials of the case, the group aimed to overthrow the Government in Armenia using arms. It should be noted that in contrast to the *Sasna Tsrer (Daredevils of Sassoun)* armed group this group had not undertaken any action. However, the amnesty did not apply to them.

48 See <https://hetq.am/hy/article/90125?fbclid=IwAR3USTzTAVvSR5E2QrBcsowTVe6ZU-U2IFyNG3C6IniotEmNY8mewtrf-O>

49 See <https://www.tert.am/arm/news/2018/11/06/shant-harutyunyan/2837198?fbclid=IwAR2zjpgfCOfo4laKsapQo2u7o49YdVUL-cqOkU-GVOZiyiV29d2pbQxexKI>

50 See <https://hetq.am/hy/article/90219>

51 See <https://news.am/arm/news/407636.html>



Freedom of Thought, Conscience and *Religion*

The radical political changes that occurred in Armenia in 2018 made their impact on public perceptions of freedoms of thought, conscience and religion as well as on the Government's policies in that field. However, it is too early to evaluate the situation in that regard. Positive changes notwithstanding, certain developments that raise concern were also observed.

In May 2018, a movement was launched within the Armenian Apostolic Church with a slogan of “New Armenia, New Catholicos.” Its goal was to depose the incumbent Catholicos on charges of conducting an ineffective campaign against corruption and “sectarians.” There were clashes between the two parties. However, the law-enforcement agencies and in general the Government did not provide support to either party to the conflict. Prime Minister Pashinyan declared publicly that the Church and the State are separate and that he will not interfere with the conflict. That approach was unprecedented for Armenia. On the other hand, the Prime Minister displayed an opposite approach on another occasion. In the aftermath of the regime change in Armenia as well as during the election campaign prior to the parliamentary elections held in December religious issues were exploited time and again. One of the core pillars of the election campaigning by the former ruling Republican Party of Armenia was preservation of “traditional national values,” with the central idea being

the protection of the Armenian Apostolic Church against “sects.” The party was accusing the new Government of protection of “sectarians.” Prime Minister Nikol Pashinyan too got “dragged” into that rhetoric and used the term “sectarian” to defend himself against similar accusations. *“I wish to express here our allegiance to Christianity and to the essence of our identity and our allegiance to the values of the Armenian Apostolic Church. I myself am a member of the Armenian Apostolic Church but I also stand by our Catholic and Protestant brothers. We should remain loyal to our Christian roots and we should reject totalitarian sects that deprive human beings of freedom and sovereignty”*⁵². This stance clearly contradicts the principle of separation of Church and State. Those two examples demonstrate that the new Government has not yet formulated a clear-cut policy in this field.

Alongside other segments of the public, members of various religious organizations too took an active part in mass rallies that were staged in April. That was a good example of their integration into the society. Prior to that, religious organizations were marginalized and they kept their distance from the political and public life. In particular, last May, a member of the *Word of Life* Church was appointed as a manager of the Office of the Prime Minister. That was the first instance of a member of the Protestant Church to be appointed to such a high posi-

52 <http://armtimes.com/hy/article/149691>

tion in Armenia. However, about two months later he tendered his resignation⁵³. Prior to that, many media outlets had criticized the new Government for that appointment⁵⁴.

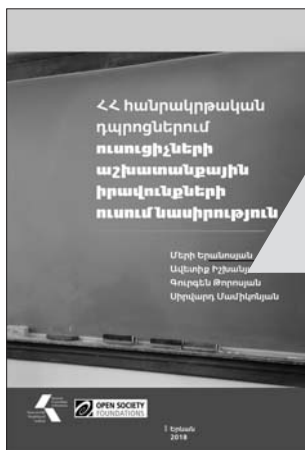
The discriminatory provisions in the religion-related legislation are still there. In 2017, the Government prepared a package of amendments for the religion-related legislation. While the package was criticized by the Venice Commission and by OSCE experts, it, nevertheless, contained positive initiatives. In particular, the limitations placed on members of religious organizations by a number of laws (*On Military Service, On Police Service, On Service in National Security Bodies, On Armenian Rescue Service* and by several other Laws) in terms of their hiring by the agencies regulated by the said Laws were to be removed as clear manifestations of discrimination. However, the amendments to those Laws and to the *Law On Religious Organizations* remain at issue for reasons

beyond the Parliament's control (the Parliament became non-functional as a result of political instability).

From time to time, complaints were expressed as regards the teaching of the History of the Armenian Church subject in schools. Teachers forced students to take part in religious ceremonies or students who are members of other various religious organizations were subjected to discriminatory treatment. Arayik Harutyunyan, the Minister of Education in the new Government, declared that the Government wanted to remove that subject from schools. However, on another occasion he said that the question remains open because it is impossible to change the curriculum at short notice. The educational policies of the new Government lack clarity in this regard as well.

53 <https://www.shantnews.am/news/view/71136.html>

54 <https://bit.ly/2RlcsYZ>



Labor Rights

Study of labor rights of teachers in general-education schools in the Republic of Armenia

From October 2017 till May 2018, Helsinki Committee of Armenia implemented the *Study of labor rights of teachers in general-education schools in the Republic of Armenia* Project and presented its findings in a Report that

bears the same title⁵⁵. A number of issues related to education and to educators' labor rights in general-education schools were addressed within the framework of the study,

55 See <http://armhels.com/wp-content/uploads/2018/12/Project1-Layout-1-New.pdf>

for example, inadequate remuneration of teachers' work, the wording in legal regulations about indefinite and fixed-term labor contracts, strained relations among teachers, knowledge of the Labor Code, School Charter and Internal Regulations, operation of trade unions as well as civil servants' discriminatory and intolerant attitudes toward religious dissent, political party affiliation or other beliefs.

120 general-education schools in the Republic of Armenia were selected for the purpose of the study and then in each school 5 teachers were randomly selected from the school staff list to participate in the survey. Both quantitative and qualitative research methods were used in the study. 200 teachers from Yerevan, regional centers and local communities in the regions were surveyed. In-depth interviews were conducted with 34 teachers (17 former teachers and 17 currently teaching) from general-education schools in Yerevan and in the regions.

Hiring practices/experiences

According to the study findings, there are *three* main hiring *mechanisms*, viz. *contest*, *interceding* and *money (bribe)*. Interceding by “in-laws, acquaintances and friends” and USD 1,500-2,000 bribes were mentioned most often. Among the “acquaintances” who provided interceding were school principals, employees of Mayors' and Regional Governors' Offices (usually dubbed by participating teachers as “office holders”). The contests for the most part were a mere formality that disguised or legitimized the interceding or bribe thereby making teachers even more distrustful of contests.

Labor contracts, knowledge of the RoA Labor Code, School Charter and Internal Regulations

The study results indicate that not all teachers are knowledgeable about the RoA Labor Code or its individual Articles, about the School Charter and Internal Regulations as well as about the type of their contracts and terms and about the demands that they can present to their employers.

Also registered were instances of teachers performing work above and beyond their contractual terms of reference (for example, participation in rallies, collection of votes for a political party during an election campaign, cleaning school premises, doing additional unremunerated work, selling tickets to theater performances, collection of money for the School fund, for the principal or vice-principal as well as for other purposes).

Allocation of teaching hours

The study results give grounds to conclude that allocation of teaching hours is one of the issues of most concern to teachers. The approach taken to allocation of teaching hours as well as the allocated classrooms and shifts define the climate prevalent in the school and the image of the school principal. In order to not lose their job, some teachers get along with unfair allocation of teaching hours as they believe that arguments would do no good.

Work schedule

Most teachers had to **work on weekends and holidays** and most of them were not remunerated for that work. Every fifth

teacher always took part in the so-called “subbotniks” (unpaid weekend work) as **demand by the principal**. Besides, over half of the teachers worked overtime and for the most part that work went unpaid. While all surveyed teachers were given a paid extended annual leave every year, nevertheless most of them were not aware of the fact that they are also entitled to an unpaid leave during an academic year.

Some teachers receive additional pay for being a **class teacher** and/or for grading **thematic class papers**. However, in some schools the issue of remuneration is left to the principal’s discretion.

Salary, salary deductions, expenses

According to the study findings, the overwhelming majority of teachers believe that the remuneration that they get is not adequate to the work done. The salary of most teachers suffices only for paying for food, utilities and clothes. It is a clear indication that the level of teachers’ well-being is low.

Salary deductions are not always visible to teachers and most of them are not aware that they can demand an explanation.

Disciplinary penalties and encouragement

The teachers who had been subjected to **disciplinary penalties**⁵⁶ regard those as ungrounded. It is not always that prior to subjecting a teacher to a disciplinary penalty the principal obtained a written explanation from the teacher. Teachers were not satisfied with the results of their appeals.

56 *Disciplinary penalties are reprimand, severe reprimand and dismissal, for instance for being late, etc.*

In schools, there are also various forms of **encouragement** for teachers. The prevailing form of encouragement is expression of gratitude, which, however, is not regarded by teachers as a sufficient incentive as compared to one-time monetary reward. The latter form of encouragement entails corruption risks and it was applied to only one-third of the surveyed teachers. Yet another encouragement mechanism is the **selection of the best teacher**, which, again, according to teachers, is not made fairly.

Working conditions

Safe and harmless-to-health working conditions. In the Republic of Armenia not all schools have conditions that are necessary for ensuring an adequate academic process. There are problems related to the physical plant of schools, accessibility of school buildings (for persons with disability), heating of classrooms and restrooms, conditions of laboratories, etc. The schools that are located in regional centers and in rural communities are in the worst shape.

Conflicts, complaints, climate of fear and problems that need to be made public

Conflicts and disputes in working relations arise due to a number of problems, such as patronage, bribes, discriminatory treatment, salary size, failure to provide a leave, dismissal without providing a reason, allocation of teaching hours, assigning a class teacher position, quality of textbooks, school timetable, finding students for private tutoring as well as compulsory events that are held instead of classes, low grades given to their relatives’ children and other problems. The

respondents mentioned incidents when school principals purposefully and intentionally provoked conflicts with targeted teachers. In-depth interviews indicate that danger of losing one's job contributes to the creation of the climate of fear. Some teachers also spoke about instances of discriminatory treatment, when the same faults were treated in different ways.

Trade unions in education and science sectors

The study findings reveal that some teachers became members of a trade union because membership was mandatory, while some other teachers noted that the trade union is not a reliable entity and therefore it does not make sense to become its member. Some teachers were not aware that they pay a membership fee monthly, whereas some other teachers noted that they *"did not even remember that there is a trade union."* The membership did not give them anything. It did not defend their rights, for example, in terms of reinstating dismissed teachers. Teachers would like the trade union to perform its function of defending teachers' rights but not only organize events, leisure and excursions. There are schools where some teachers refused to become members of the trade union.

Disappointment about trade unions is accounted for also by the fact that, as teachers put it, *"they are elected not by the Council of Educators but by those who have administrative levers and they serve exclusively shady embezzlements"*.

Protection of teachers

An attempt was made during the study to find out whether teachers holding other reli-

gious beliefs (Muslims, Jehovah's Witnesses, etc.), teachers who are LGBT people, former convicts, refugees, socially vulnerable, young, inexperienced, etc. feel protected in the respondents' schools. According to the study findings, a teacher who is a LGBT person or who holds other religious belief or is a former convict would not feel protected in the respondents' schools. The majority of participating teachers noted that only teachers with representatives of the authorities as their "sponsors," teachers who had been hired by an order or mediation of the Community Head, Regional Governor, some other official or "local person of authority" or who have an in-law, acquaintance or friend with political-economic clout or enjoying authority in the neighborhood feel protected in the respondents' schools. Protected are also those teachers who "flatter, cozy up to" the school principal and/or are friends or relatives with the latter. Those teachers who are an authority for students and parents and for community residents and/or who are knowledgeable about laws are to some extent protected against principal's arbitrariness.

Distrust of the justice system has increased so much that some teachers believe that it makes no sense to go to court to protect their rights and to get violated rights restored through the court.

The lack of trust in independence of courts in the Republic of Armenia notwithstanding, the mechanism of judicial protection can be regarded as the most effective means for protection of rights. The only efficient mechanism for restoration of violated rights of workers is restoration of rights through courts since the culture and practice of attaining a worker's interests-based agreement through negotiations with employers are not yet developed in the Republic of Armenia.

On the whole, the law does not provide trade unions with real powers for effective protection and representation of workers' rights. It is essentially a declarative document, while some of its provisions are

absolutely not in line with the principle of legal clarity. In 2015, ten teachers sought judicial protection for their allegedly violated rights, ten teachers in 2016, eight teachers in 2017 and eighteen teachers in 2018.



Domestic Violence

Domestic violence remains an acute problem in Armenia.

In 2018, Armenia took significant steps to address the problem. However, positive results have yet to be seen.

In particular, in early 2018, Armenia signed the Council of Europe *Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)*. The signing of the Convention entails a number of obligations for the State, including harmonization of national legislation with the requirements of the Convention.

For the Istanbul Convention to take full effect it has to be ratified by the State. By ratifying the Convention Armenia will assume an obligation to ensure legal protection to women, to provide rehabilitation to victims, to keep statistics of incidents of violence and to raise public awareness regarding domestic violence-related issues. The Convention expands the number of acts qualified as crimes. It designates harassment, psychological pressure, forced abortion and marriage forced on a woman against her will as crimes. As per the Convention, authorities must

ensure that culture or traditions will not be used as justification for the above-mentioned acts.

One of the most important provisions of the Convention is the establishment of an independent expert body (GREVIO) in the field of combating violence against women and domestic violence. This body oversees fulfillment of obligations assumed by States.

Another important development in terms of the problem solution and which arises from the assumed international obligations is the RoA *Law on Prevention of Violence within the Family, Protection of Victims of Violence within the Family and Restoration of Peace in the Family* that took effect in 2018. Legislative initiatives to prevent domestic violence started in Armenia back in 2007 and laws were drafted by leading organizations and experts in the field prior to 2017. However, in 2017, within the framework of negotiations held with the European Union concerning a new Treaty the Armenian Government drafted the above-mentioned Law by itself and submitted it to the National Assembly, which subsequently adopted it.

For the protection of domestic violence victims the Law includes application of protection measures, including warning, emergency intervention and protection order. The use of those measures may result in the application of such limitations as:

- immediate and forcible removal of the perpetrator of violence from the residence of the victim of violence and prohibition of his return until the expiration of the term prescribed by the order,
- prohibition for the perpetrator to visit the victim and, if necessary, the persons in victim's care as well as places where they work, study, rest or live or other venues,
- prohibition for the perpetrator of violence to approach the victim of violence at such a distance that will raise in the latter a reasonable fear for personal safety.

Though the currently effective Law provides those measures, according to the data from the court information system, only 4 cases with applications for protection order were accepted for examination. 3 of the applications were granted and protection measures were applied. Within the framework of this Law 413 warnings were issued by the police, a decision of immediate intervention was made in 128 cases and registration cards were filled out regarding 541 perpetrators⁵⁷.

The adoption of that Law notwithstanding, the statistics of domestic violence incidents still arouses concern. Thus, according to the data reported by the RoA Police, over 1,200 domestic violence incidents were registered in 2018^{58,59}.

2018 was a year when shocking incidents of domestic violence became known. In

September, in a locality in Armavir region a 32-year-old resident of the city of Gyumri subjected his 30-year-old wife and 1-year-old son to beating. Sustaining fatal injuries, the child died⁶⁰.

Within the first 6 months of 2018, 9 incidents of women murdered by intimate partners were registered. In November 2018, a 20-year-old woman was murdered. The police department in Shengavit district in Yerevan was notified by a hospital that A. (born in 1998) had been brought to the hospital and diagnosed with multiple injuries. The Police took investigation and operational measures and found that during a heated argument at home I. (born in 1988) dealt blows to his wife. The same day I. was forcibly brought to the police department, where he confessed and was subsequently released. Without regaining consciousness, the woman died in the hospital⁶¹.

The above-mentioned incidents are those that became known to the public. However, numerous incidents occurring within the family are not reported. Findings of various surveys indicate that over 30 percent of Armenian women are subjected to physical violence in their families, while 66 percent are subjected to psychological violence⁶².

57 <https://news.am/arm/videos/21148.html>

58 <https://bit.ly/2G6CHCI>

59 <https://news.am/arm/videos/21148.html>

60 <https://bit.ly/2Gk5X7E>

61 <https://armeniasputnik.am/incidents/20181116/15702674/armenia-kin-amusin-spanutyun.html>

62 <https://bit.ly/2ARz3ru>



Rights of LGBT People

Manifestations of discrimination against LGBT people were observed also in 2018. In particular, *PINK Armenia* human rights NGO registered 29 offenses, including discrimination-based physical and psychological violence and violations of the right to inviolability of private and family life and to freedom of peaceful assembly.

The worst registered case of physical violence in terms of the number of victims and from the perspective of discussions in the media is an incident that occurred in Shurnukh village in Syunik region. In early August 2018, Hayk Hakobyan, a resident of Shurnukh village, hosted his friends, some of whom are LGBT people. When apprised of this fact, residents of the village and of the nearby town of Goris blocked Hayk's house, told the guests to come out and demanded that they leave the village. Then both parties got into a bitter argument, in the course of which several villagers beat those men up, hit them with stones and expelled them from the village. In the aftermath of the incident various social groups made statements justifying violence, including politicians and public figures, artists, lawyers, reporters and clergy. Even a protest caravan was organized followed by a feast in Shurnukh village in support of perpetrators of violence. A criminal case that had been instituted in connection with the incident was discontinued by the Investigations Department of Goris on the grounds of the

law on declaring amnesty, which was passed in October.

The *LGBT Christian Forum of Eastern Europe and Central Asia* was scheduled to be held in Yerevan on 15-18 November 2018, with *Nor serund/New Generation* humanitarian NGO being a coordinator in Armenia. About 40 persons from Armenia and other countries were to take part in the event. However, following threats made by anti-LGBT groups as well as by clergy from the Armenian Apostolic Church and some politicians and other public figures, the police announced that it was not advisable to hold the Forum and the latter was cancelled. In particular, the RoA Police Chief V. Osipyan justified that decision by "risks and by security considerations," failing, however, to ensure the fundamental principles of the right to peaceful assembly and to freedom of association.

The LGBT issues were also in the focus of discussions in the political life of Armenia. Deputy Speaker of the National Assembly Eduard Sharmazanov with several MPs from the *Republican Party of Armenia* party group came up with an initiative to make an amendment to the *Law on the Rights of the Child*. According to the proposed amendment, the "advocacy of homosexuality" among minors should be prohibited alongside "advocacy of drugs, psychotropic substances and obscenities". However, the Government did not approve the draft amendment. It should be noted that according to the position of the

European Court of Human Rights, the adoption of such laws violates the rights to freedom from discrimination as well as to freedom of expression⁶³.

On 10 December 2018, on the international Human Rights Day, the *Agency for Civil Acts Registration* under the RoA Ministry of Justice for the first time granted the requests submitted by two transgender persons to get their names changed without

an expert conclusion by psychologists confirming their being transgender persons. In the past, such a conclusion was a mandatory requirement, while prior to 2017, there was also a requirement of a testimony by 3 individuals who know the applying transgender person.

63 <https://bit.ly/2MvWVp7>





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