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Submission to the Human Rights Committee Review of Armenia 133rd Session September 2021

We write in advance of the 133rd session of the Human Rights Committee regarding Armenia's compliance with the International Covenant on Civil and Political Rights (ICCPR). This submission relates to arts. 6, 7, 19, 26, of the ICCPR and includes information about several issues that Human Rights Watch has been closely following. These are: gender-based violence, freedom of expression, discrimination against people with disabilities, and the lack of sexual orientation and gender identity (SOGI) as grounds for protection from discrimination. We hope to see the Committee take up these issues as part of its examination of the Armenian government's implementation of the ICCPR.

For further analysis of some of these issues, please see the following Human Rights Watch reports:

"Armenia: Little Protection, Aid for Domestic Violence Survivors"

<https://www.hrw.org/news/2018/01/12/armenia-little-protection-aid-domestic-violence-survivors>

"When Will I Get to Go Home?": Abuses and Discrimination against Children in Institutions and Lack of Access to Quality Inclusive Education in Armenia

<https://www.hrw.org/report/2017/02/22/when-will-i-get-go-home/abuses-and-discrimination-against-children-institutions>

Gender-Based Violence (Art. 6, 7, and 26)

Domestic violence is a persistent problem in Armenia. In its January 2018 report, Human Rights Watch documented how the government's failure to ensure the protection of women and children who have survived domestic violence jeopardized their lives and well-being.¹ Despite some positive government steps, for example the adoption of a law on family violence, women and girls remain at risk until the government improves legal protections, comprehensively changes how

¹ "Armenia: Little Protection, Aid for Domestic Violence Survivors," Human Rights Watch news release, January 12, 2018, <https://www.hrw.org/news/2018/01/12/armenia-little-protection-aid-domestic-violence-survivors>.

police respond to complaints of domestic violence and provides accessible quality services for survivors.

The Coalition to Stop Violence against Women, a union of local women's rights groups, receives thousands of calls about domestic violence incidents each year.² According to official data, during 2020, authorities investigated 730 criminal domestic violence complaints. Of the 730 investigations, charges were brought in 345 cases and in 200 of those the husband was identified as the alleged perpetrator; 144 cases went forward to trial.³ According to the 2017 Demographic and Health Survey in Armenia, four out of 10 women who are domestic violence survivors never report the violence against them to the authorities.⁴

Women who spoke with Human Rights Watch for our 2018 report described severe domestic abuse—beatings, rape, forced confinement, attempted killings, stalking, and the like --at the hands of their husbands or male partners.⁵ They said that when they reported abuse to police or other authorities, the authorities did nothing to prevent further violence, investigate cases, or hold the attackers accountable. In some cases, the authorities encouraged women to drop complaints and reconcile with their abusers. The authorities did not refer the women for services or assistance.

Lack of Legal Remedies

Domestic violence is neither a stand-alone felony nor an aggravating criminal circumstance in the criminal code.⁶

² Annual Newsletter of the Coalition to Stop Violence Against Women, https://coalitionagainstvviolence.org/en/newsletter_en/.

³ Investigative Committee of the Republic of Armenia, "Information on the Results of the Investigation of Domestic Violence Cases in the Proceedings of the RA Investigation Committee in 2020." February 19, 2021, <https://www.investigative.am/news/view/2020yntanekan-brnutyan-veraberyalo.html> (accessed June 9, 2021)

⁴ "Challenges and Gaps in Armenia's Response to Domestic Violence," Coalition to Stop Violence against Women, Yerevan, 2020, https://coalitionagainstvviolence.org/wp-content/uploads/2020/11/DOMESTIC-VIOLENCE_ENG_30_06.2020.pdf (accessed September 13, 2021).

⁵ "Armenia: Little Protection, Aid for Domestic Violence Survivors: New Law Should Enhance Safety, Services, Justice," Human Rights Watch news release, January 12, 2018, <https://www.hrw.org/news/2018/01/12/armenia-little-protection-aid-domestic-violence-survivors>.

⁶ Anahit Chilingaryan, "Countering Domestic Violence Myths in Armenia: European Rights Body Issues Key Opinion," commentary, Human Rights Watch dispatch, October 24, 2019, <https://www.hrw.org/news/2019/10/24/countering-domestic-violence-myths-armenia>.

In December 2017, Armenia's parliament passed a law on violence in the family, putting in place a legal framework to address violence against women.⁷ The adoption of the law was an important step, but it is not implemented in a manner to provide effective protection to survivors of domestic violence.

The law defines domestic violence as “a physical, sexual, psychological, or economic act of violence” between family members, including spouses in unregistered marriages. It is not clear whether the law applies to intimate or romantic partners who are not in either registered or unregistered marriages.

Just before submitting the law to parliament in mid-November 2017, the government revised it to include “strengthening of traditional values in the family” as a key principle. Authorities also changed the title to add the concept of “restoring harmony in the family.”

The Coalition to Stop Violence against Women expressed concerns that the new law's principle of “traditional values” could be used to reinforce obsolete and problematic gender roles and stereotypes. Activists also fear an emphasis on “restoring harmony” could be used to pressure women to remain in abusive relationships.

The family violence law requires police to intervene urgently “when there is a reasonable assumption of an immediate threat of repetition or the continuation of violence” in the family. But in practice, law enforcement bodies lack awareness of and training on protection mechanisms envisaged by the law, such as protection orders, and do not adequately use them.

The government signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in 2018, but the ratification process has stalled amidst a campaign by some government officials that promoted blatant falsehoods about the convention.⁸

Inadequate Shelter, Rehabilitation and Support Services.

Our 2018 research showed that many women said they lived with their abusers for years because they had no means of escape. Armenia has only two domestic violence shelters, both in the capital, Yerevan, run by nongovernmental organizations, each with a capacity for five women and their children. With a population of approximately 2.9 million, under regional standards that call for at least one shelter space per 10,000 people, Armenia does not have the requisite number of shelter spaces. Although the 2017 law mandates creating government-run shelters, it does not

⁷ “The Law on Prevention of Violence in the Family, Protection of Victims of Violence in the Family, and Restoration of Peace in the Family,” <https://www.refworld.org/pdfid/5a6b2e274.pdf> (accessed June 17, 2021).

⁸ Countering Domestic Violence Myths in Armenia.”

specify the number of shelters or their capacity, and the government has yet to establish them. Armenia also lacks a general hot-line service for survivors of domestic violence.⁹

The Committee should urge the government of Armenia to:

- Ensure prompt, thorough, and impartial investigation of all domestic violence cases, using methods that mitigate risks for survivors, and prosecute attackers and ensure non-repetition.
- Train all law enforcement agents and the judiciary about the 2017 family violence law and monitor its enforcement and impact.
- Ensure immediate access to protection for survivors of domestic abuse through increasing the availability of shelter spaces, including in rural areas, as well as ensuring that survivors and their children have access to comprehensive and quality medical, psychological, legal and other services.
- Monitor the enforcement and impact of the domestic violence law, including issuing and enforcement of protection orders; consider amending the law to remove references to the priority of “restoring harmony.”
- Educate the public about the family violence law, how to file complaints, and the availability of services.
- Increase resources and tools for the government officials to address comprehensively domestic violence, including funding for more shelters, trainings, and ensuring the criminal code specifically addresses domestic violence.
- Ratify the Istanbul Convention.

Freedom of Expression (Art. 19)

The recent war in Nagorno Karabakh and political crises triggered heated public debates, which often resonated with hateful speech that was at times directed against human rights defenders and civic activists. There were several attempts the government undertook, including by introducing legislative amendments, to tackle the spread of hateful and degrading narratives.

The government’s human rights program for 2021-2026 approved on August 26 commits to guaranteeing the unhindered work of human rights defenders and to avoiding restrictions of freedom of speech, expression and the work of the media. This is encouraging. However, several negative developments merit the committee’s concern.

⁹ “Armenia: Little Protection, Aid for Domestic Violence Survivors: New Law Should Enhance Safety, Services, Justice,” Human Rights Watch news release, January 12, 2018, <https://www.hrw.org/news/2018/01/12/armenia-little-protection-aid-domestic-violence-survivors>.

During the first six months of 2021, the Committee to Protect Freedom of Expression,¹⁰ a local media advocacy group, documented 15 cases, involving 17 victims, of physical violence against journalists perpetrated by public officials and private individuals alike.¹¹

The ongoing criminal prosecution of human rights activist Sashik Sultanyan, chairperson of nongovernmental group Yezidi Center for Human Rights, is concerning. On October 3, 2020, Armenia's National Security Service (NSS) opened an investigation into Sultanyan, allegedly for criminal incitement of national enmity among Yezidis, an ethnic minority in Armenia, stemming from an interview he gave to the website Yezidinews.am that was published in June 2020.¹²

On August 2, the case was sent to court. In the charge sheet, which Human Rights Watch reviewed, the investigator refers to several of Sultanyan's statements to justify the criminal investigation. The investigator referred to Sultanyan's statements alleging, among other things, that Yezidis experience discrimination in Armenia, that they cannot study their language or develop their culture, and that they are underrepresented in local government structures. The investigator also referenced Sultanyan's allegations that Armenians had seized Yezidi property, that authorities do not protect their rights, and that Yezidis live "in fear."

Analysis of this interview showed that the national security services wrongly characterized Sultanyan's statements as "incitement." the statements fall within the boundaries of legitimate speech protected under international law, in particular article 19 of the ICCPR. In their joint statement in August, three UN Special Rapporteurs called on Armenia to drop charges against Sultanyan.¹³

The Committee should urge the government of Armenia to:

- Ensure all incidents of alleged physical attacks against journalists are promptly and effectively investigated and, where the perpetrator is a public official, appropriate disciplinary sanctions are pursued in addition to any charges brought;

¹⁰ <https://khosq.am/en/goals/>.

¹¹ Quarterly report of CPFE on Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia (January-March, 2021) <https://khosq.am/en/reports/quarterly-report-of-cpfe-on-situation-with-freedom-of-expression-and-violations-of-rights-of-journalists-and-media-in-armenia-january-march-2021/>
Second Quarterly report CPFE on Situation with Freedom of Expression and Violations of Rights of Journalists and Media in Armenia <https://khosq.am/reports/հայաստանում-խոսքի-ազատության-վիճակի-26/>

¹² "Armenia: Malicious Prosecution of Activist," <https://www.hrw.org/news/2021/06/16/armenia-malicious-prosecution-activist>.

¹³ "Armenia must drop "intimidating" criminal charges against minority rights activist – UN experts," news release, OHCHR, August 10, 2021.
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27372&LangID=E>

- Ensure the charges against Sultanyan are dropped immediately, the investigation is closed, and that state bodies do not impinge on legitimate speech and human rights work in Armenia.

Discrimination against People with Disabilities (Art. 26)

Hundreds of children are in residential institutions in Armenia overwhelmingly due to disability as well as in some cases due to poverty or difficult family circumstances. Children with disabilities living in residential institutions, and in many cases children with disabilities who live in the community, are deprived of their right to a quality education.

The government has taken a number of positive steps to address this. In recent years, it took initiatives to reunite children in residential institutions with their families, reform and expand the foster care system, and transform or phase out the use of many residential institutions. The authorities have committed to making all schools in Armenia inclusive by 2025, with children with and without disabilities studying together in community schools.

The new government's human rights program commits to eliminating discrimination based on disability in all spheres of life; implementing the right of persons with disabilities to live independently outside of residential institutions and to be included in the community; including by transforming and creating new support services to ensure independent living with dignity. Currently, there is little opportunity for adults with disabilities to live independently in the community.

In May, parliament adopted the Law on the Rights of Persons with Disabilities, which includes guarantees of accessibility, independent living, and access to justice, and bans disability-based discrimination.¹⁴

However, a number of problems merit the Committee's attention.

A 2017 Human Rights Watch report found that children with disabilities have not all been included in the deinstitutionalization process, authorities' efforts to transform some special schools and residential institutions to community centers, and their support for family-based care.¹⁵

¹⁴ Important Progress for People with Disabilities in Armenia, <https://www.hrw.org/news/2021/05/11/important-progress-people-disabilities-armenia#>.

¹⁵ Human Rights Watch, *"When Will I Get to Go Home?"* (New York: Human Rights Watch, 2017) <https://www.hrw.org/report/2017/02/22/when-will-i-get-go-home/abuses-and-discrimination-against-children-institutions>. The report centers primarily on the rights of children with disabilities and children living in residential institutions.

This issue persists, with recent government data provided to Human Rights Watch showing 473 children with disabilities in five state-run orphanages. An unknown number of children live in 6 private orphanages, with minimal government oversight. There have been no plans to transform the three specialized orphanages for children with disabilities. In 2015, the government established a new institution for young adults with disabilities who have aged out of orphanages. Neither the government nor donors have set out plans to make funds available to support families to raise their children with disabilities at home with home and community-based support services.

Children with disabilities also frequently remain in institutions indefinitely and when they become adults, are stripped of their legal capacity. The May 2021 report by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted, among other things, the government's plans to close two institutions for adults with psychosocial disabilities (mental health conditions). The report also stated that "it would be indefensible if closure just resulted in residents [from one institution] being transferred to the [other]." The report included a number of recommendations regarding deinstitutionalization and the creation of accommodation and social support in the community.¹⁶

While some children with disabilities attend community schools, they often do not receive a quality education due to physical barriers and a lack of reasonable accommodations to facilitate their learning.¹⁷ Many other children with disabilities remain segregated in special schools or isolated at home with little or no education.

The government has yet to take steps to eliminate legal provisions that allow persons with intellectual and/or psychosocial disabilities to be stripped of their legal capacity and placed under guardianship and instead implement with a rights-respecting system of supported decision-making.¹⁸ The new Law on the Rights of Persons with Disabilities does not have a dedicated oversight body to help ensure the law's implementation.

The Committee should urge the government of Armenia to:

¹⁶ Report to the Armenian Government on the visit to Armenia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 12 December 2019.
<https://rm.coe.int/1680a29ba1>

¹⁷ The Convention on the Rights of People with Disabilities define "reasonable accommodations" as "the "necessary and appropriate modification and adjustments, not imposing a disproportionate or undue burden, where needed in a particular case," to ensure people with disabilities enjoy all human rights and freedoms on an equal basis with others

¹⁸ Advancing Access to Justice for People with Disabilities in Armenia,
<https://www.hrw.org/news/2019/01/26/advancing-access-justice-people-disabilities-armenia#>.

- Implement the 2017 recommendations made by the Committee on the Rights of Persons with Disabilities to the government of Armenia, including by prioritizing the development of community-based services and support for family-based care to ensure children with disabilities can grow up in a family and in the community.
 - End the segregation and isolation of children and adults with disabilities in institutions and develop a time-bound plan with concrete benchmarks to close or transform all residential institutions. Prohibit major non-essential renovation projects for existing institutions or construction of new institutions, consistent with standards set out in the Convention on the Rights of Persons with Disabilities.¹⁹
 - Immediately provide reasonable accommodations to ensure students, regardless of their disability, receive a quality, inclusive education. Support measures provided to children with disabilities should be individualized, based on each child's particular learning needs.
 - Ensure that home education is only used as a temporary measure and not as a substitute for inclusive education in a mainstream school. The government should also develop a concrete plan to make schools at all levels accessible.
 - Overhaul legislation allowing deprivation of legal capacity of persons with intellectual and psychosocial disabilities and develop a system of supported decision-making.
 - Develop and adopt a time-bound action plan on implementation of the Law on the Rights of Persons with Disabilities and monitor the effectiveness of measures to implement the law.
 - Develop state oversight mechanisms over private institutions for adults and children with disabilities and include those institutions in state deinstitutionalization plans. Allocate adequate resources for the development of support services, including for personal care assistance, that would facilitate independent living in the community for adults and in the family for children with disabilities.
 - Ensure the active participation of persons with disabilities, including through their representative organizations, in the planning, implementation, evaluation, and monitoring stages of all of these processes.
 - Encourage ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Sexual Orientation and Gender Identity as Grounds for Protection from Discrimination (Art. 26)

¹⁹ UN Committee on the Rights of Persons with Disabilities, General Comment No. 5, Living Independently and Being Included in the Community, CRPD/C/GC/5 (2017), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/5&Lang=en; see also, Jane Buchanan (Human Rights Watch), "Armenia Should Prioritize Children Over Orphanages" dispatch, May 21, 2017, <https://www.hrw.org/news/2017/05/21/armenia-should-prioritize-children-over-orphanages>.

Lesbian, gay, bisexual, and transgender (LGBT) people in Armenia continue to face harassment, discrimination, and violence.²⁰ The criminal code does not recognize animus due to sexual orientation or gender identity as aggravating criminal circumstances in hate crimes.

Fear of discrimination and possible humiliation due to public disclosure of their sexual orientation prevents many LGBT people from reporting crimes against them, even when these are clearly motivated by homophobia. But even when reported, investigations into such crimes are often inconclusive or ineffective. Gay men fear for their physical security in the military, and some seek exemption from obligatory military service.

During the 2021 June pre-election period, politicians made harmful public statements to advance their campaigns by painting LGBT people as a threat to the family, to national identity, and even national security. Some opposition forces accused civil society organizations of destroying national values and spreading LGBT “propaganda.”

The government program identified ensuring equality and preventing discrimination as a key area. This is encouraging. Nevertheless, Armenia still does not have comprehensive anti-discrimination legislation. The most recent draft of the “equality law” did not include sexual orientation and gender identity as protected categories. Some officials have argued they are implied in the draft’s “other grounds” for protection. However, this leaves the door open for administrative bodies and the courts to misinterpret or arbitrarily interpret this catch-all category, potentially leading to artificial barriers for victims of discrimination on those grounds to seek protection.

The Committee should urge the government of Armenia to:

- Ensure prompt, thorough, and effective investigations into all cases of violence against LGBT people.
- Adopt a Law on Equality with a dedicated oversight mechanism and with sexual orientation and gender identity explicitly included as protected grounds.

²⁰ Another Chance to Address Homophobic Violence in Armenia, <https://www.hrw.org/news/2020/08/28/another-chance-address-homophobic-violence-armenia#>.