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ARMENIA

Summary of Amnesty International's concerns

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Armenia, one of the republics of the former Soviet Union, has taken many steps towards building a democratic and civil society, and reforming its judicial and legal systems, since achieving independence. It soon became a party to a number of important international standards in the field of human rights. A new Constitution including basic rights and freedoms was adopted in 1995, a Constitutional Court was established later the same year, and parliament is currently debating a new criminal code to replace that inherited from the Soviet era.

Many problems remain, however, and as Armenia stands on the threshold of accepting a further set of human rights obligations, in connection with its application for membership of the Council of Europe, Amnesty International remains concerned that some of the guarantees and laws already adopted to protect human rights are not being fully implemented or observed. Within its remit Amnesty International's concerns include young men imprisoned as prisoners of conscience owing to the lack of a civilian alternative for conscientious objectors to compulsory military service; allegations that political prisoners have been subjected to unfair trials; and persistent reports of ill-treatment in detention, of both criminal and political prisoners, including cases in which such treatment is said to have led to deaths in custody. In addition, although there have been no executions in Armenia since independence, the death penalty has yet to be abolished in law and there are believed to be at least 25 men currently on death row.

This document presents a summary of these current concerns in Armenia, and includes Amnesty International's recommendations.

(38)

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This report summarizes a 34-page document (14,500 words): *ARMENIA: Summary of Amnesty International's concerns* (AI Index: EUR 54/01/98) issued by Amnesty International in January 1998. Anyone wishing further details or to take action on this issue should consult the full document.

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Summary of Amnesty International's concerns

Armenia, one of the republics of the former Soviet Union, has taken many steps towards building a democratic and civil society, and reforming its judicial and legal systems, since achieving independence.[1] It soon became a party to a number of important international standards in the field of human rights.[2] A new Constitution including basic rights and freedoms was adopted in 1995, a Constitutional Court was established later the same year, and parliament is currently debating a new criminal code to replace that inherited from the Soviet era.

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Imprisonment of conscientious objectors

At least five young men are currently imprisoned in Armenia because their conscience has led them into conflict with the law that makes military service compulsory for young males, and offers them no civilian alternative. Four of these men are named as John Martirosyan, Yerem Nazaretyan, Tigran Petrosyan and Samvel Manukyan (little substantive is known about the fifth man at present). Their stories, described below, illustrate how Armenia is not respecting the internationally-recognized right to conscientious objection. Other rights are said to have been violated also. One of these young men, for example, is said to have been forcibly conscripted and beaten severely when he refused to don military uniform.

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[1]Armenia became a member of the United Nations in March 1992.

[2]These include the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, and the four Geneva Conventions together with their Additional Protocols (all in 1993).

The father of another was reportedly illegally detained as a hostage by military officials, in order to force his son to report for conscription. Amnesty International regards these young men as prisoners of conscience, and is calling for their immediate and unconditional release.

Background to military service

Military service in Armenia is currently compulsory for all young men between the ages of 18 and 27, and there is no civilian alternative for those who cannot perform this military service because of religious, moral, ethical or other objections. There have been regular reports in recent years that some young men who refused to carry out military service on grounds of conscience were being imprisoned for lack of such an alternative. These reports have related mainly to adherents to the Jehovah's Witness religion.

The Jehovah's Witnesses are said to have been active in Armenia since 1975, and they have faced various forms of problems with the authorities since then. They are still refused official registration in Armenia,[3] in connection with their position on military service. The religious beliefs of Jehovah's Witnesses do not permit them to bear arms or to swear the oath of allegiance required by army conscripts in Armenia, thereby bringing them into conflict with the Armenian law requiring all young men to perform compulsory military service. The current penalty for refusing conscription is from one to five years' imprisonment, under Article 75 of the Criminal Code.

Up until 1994 it appears that in some cases local military enlistment agencies in Armenia continued from the Soviet era an unofficial practice of reaching a certain accommodation with religious conscientious objectors, rather than prosecuting them. In such cases conscripts with conscientious objections were not required to take the normally compulsory oath of military allegiance, for example, and were sent to serve in capacities where they were not required to bear arms, such as drivers, cooks or as members of construction battalions. There was said to have been a change in this more lenient approach from 1995, however, resulting in an increase in prosecutions of conscientious objectors.

According to a report in the newspaper *Ayzhm* in April 1996,[4] for example, this change in approach had resulted in the imprisonment of 15 Jehovah's Witnesses for various periods. The four still imprisoned at the time the article was written were named as Sarkis Arakelian, who was sentenced to one year's imprisonment, Karen Simonian, who received

[3] Religious organizations must be registered with the authorities in order to be able to carry out certain activities. Those refused registration are not allowed, for example, to publish their own newspapers, rent a meeting place, or sponsor the visas of visitors to Armenia.

[4] Article by Vahan Ishkanian in the Armenian newspaper *Ayzhm*, issue No. 10 (27 March to 2 April), 1996.

two years' imprisonment, and Shahum Nahapetian and Grigor Dayan who were both sentenced to 18 months' imprisonment. One of those already released was named as Tigran Mardoyan, said to have completed his second sentence for refusing to serve in the army. Two others, Artur and Artak Hovhannissian, had reportedly left the country on their release to avoid the same situation, of being called up again, once more refusing to serve on conscientious grounds, and so facing a repeat prosecution and imprisonment.[5]

Prosecutions have continued, and one unofficial source has reported to Amnesty International that as of January 1998 there were at least five Jehovah's Witnesses imprisoned for refusing on religious grounds to perform compulsory military service. The four cases currently known to Amnesty International are described below. The actual figure of imprisoned conscientious objectors is probably higher.

Prisoner of conscience John Martirosyan


John Martirosyan

John Martirosyan is a Jehovah's Witness. On 1 March 1997, around three months before his eighteenth birthday, he was notified of his forthcoming conscription for compulsory military service at the autumn call-up[6] and was ordered to go to the Shahumyan District Military Registration and Enlistment Office (DMREO) to undergo a medical examination. John Martirosyan did so, passed the medical, and handed over a written statement to the District Military Commissar. In this statement he notified the authorities of his inability to perform compulsory military service on religious grounds, and wrote that - in the absence of any alternative, non-military service - he understood that such a refusal would result in criminal prosecution.

When he turned 18 on 21 June 1997, and knowing that his statement would most probably be ignored, John Martirosyan decided to leave his home - not to avoid prosecution, but to avoid being taken forcibly into military service by the army (as happened in the case of Samvel Manukyan described below, for example). Like others who have described being in a similar situation, John Martirosyan preferred to await a summons from the public prosecutor in connection with the institution

[5] Such repeat prosecutions were also reported in the past from various parts of the Soviet Union, where some young Jehovah's Witnesses faced an almost continuous cycle of call-up and imprisonment until they reached the upper age of conscription at 27.

[6] There are usually two call-up sessions a year, in spring and autumn.

of criminal proceedings, and subsequently be tried as a civilian, rather than be forcibly conscripted into a military unit. What happened next in John Martirosyan's case - the detention of another family member, in effect as a hostage in an effort to force him to present himself at the DMREO - has also been widely alleged in other cases.

Two days after John Martirosyan's eighteenth birthday, at around 6.30am, two men from the DMREO went to his house and asked about his whereabouts. His father, Levon Martirosyan, replied that John had already written a statement about his beliefs to the Military Commissar, but went with the men back to the DMREO in order to hand over a further copy of the statement which John had prepared in advance for this eventuality. Once at the DMREO, however, officials reportedly ripped up this statement and ordered Levon Martirosyan to be detained in a solitary confinement cell until his son agreed to present himself there for military service. This was around 7.00am on 23 June.

The following day Levon Martirosyan's wife went to the DMREO to seek an explanation as to why he was being detained, and she was also told that he would be kept until John Martirosyan came to take his place. When she protested that her husband was unwell, having reportedly suffered an attack of radiculitis while detained, and that she was calling an ambulance, the Military Commissar himself was said to have told her that in that case they would detain her instead of her husband. Eventually the parents were allowed to leave the DMREO at around 5.00pm on 24 June.

Representatives of the DMREO called repeatedly at the house after that, and are said to have searched the premises on several occasions without any official sanction. Eventually, on 18 August, the public prosecutor's office rang summoning John Martirosyan to appear. His parents went to the office and were told that their son must agree to perform military service, or face prosecution. The following day John Martirosyan himself went to the prosecutor's office, and was placed under arrest.

The trial took place on 21 September, at the People's Court of Shahumyan District of Yerevan, the capital. John Martirosyan was convicted of "evading regular call-up to active military service" under Article 75 of the Armenian Criminal Code, and sentenced to 18 months' imprisonment. He is serving his sentence at the Kosh ordinary regime corrective labour colony[7], and will be due for release on 19 February 1999 (the time spent in pre-trial detention counting against the sentence), should he serve his term in full.

[7] Ordinary regime is the least severe of the four categories of corrective labour colony inherited from the Soviet era.

Prisoner of Conscience Yerem Nazaretyan

Yerem Nazaretyan, who was born on 20 September 1976, received notification of his call-up papers in autumn 1994. He underwent the medical examination, and also straightaway notified the Zod District MREO in Ararat Region that he was unable to perform compulsory military service on religious and conscientious grounds. He repeated these statements at various intervals, asking either to be able to perform alternative service or to be prosecuted for his refusal to perform military service. Like other young men in such a situation Yerem Nazaretyan left his home, to avoid being forcibly taken into the army, and went into hiding. At one point he was caught and taken to a DMREO Assembly Point, but managed to escape. He married in August 1997 and went to live at the home of his father-in-law. He was eventually arrested there on 22 October - at around 10.00pm that evening some men are said to have gained entrance to the home saying they were plumbers, and then detained him.

Yerem Nazaretyan

On 23 October Yerem Nazaretyan wrote to the public prosecutor of Vedi district, again explaining the reasons which underlay his inability to perform compulsory military service. Yerem Nazaretyan stated that after studying the Bible and considering himself a true Christian, his conscience did not allow him to serve in the army. He was prepared to bear criminal responsibility for this, but emphasized that he was also willing to perform alternative work. "Article 23 of the Constitution of the Armenian Republic guarantees each the right to freedom of conscience and religion", he wrote, "Respect my human dignity".

Yerem Nazaretyan was tried by Ararat District People's Court in the city of Vedi on 24 November 1997, and sentenced to two years' imprisonment under Article 75 of the Criminal Code for evading military service. As of December that year he was held at the Sovetashen investigation-isolation prison, awaiting transfer to a corrective labour colony. Yerem Nazaretyan will be due for release by October 1999 at the latest.

Prisoner of conscience Tigran Petrosyan

Tigran Petrosyan was born on 16 April 1977 and was notified of his call-up to compulsory military service on 25 September 1996. He immediately sent a written statement to the Military Commissar of the Sovetsky (Khorhrdayin) District of Yerevan explaining that as a Jehovah's Witness he was unable to perform compulsory military service on religious


Tigran Petrosyan

and conscientious grounds, and asking for the opportunity to perform a socially-useful, non-military alternative service. By the beginning of October 1996 Tigran Petrosyan had received no response and so repeated his statement in writing to the public prosecutor of the Sovetsky District. As in the case of John Martirosyan, his parents were reportedly harassed by representatives of the DMREO, who also threatened to hold his brother as a hostage to force Tigran Petrosyan to appear at their office.

On 2 June 1997 the prosecutor's office instigated criminal proceedings against Tigran Petrosyan, who was allowed to remain at liberty pending his trial. The hearing took place on 21 August 1997 in the People's Court of the Sovetsky District of Yerevan, and Tigran Petrosyan was sentenced to 18 months' imprisonment for evading call-up (Article 75 of the Criminal Code). He is serving his sentence at the Kosh ordinary regime corrective labour colony, and will be due for release by 21 February 1999.

Prisoner of conscience Samvel Manukyan


Samvel Manukyan

The young men in the cases described above went to considerable lengths to avoid the possibility of being forcibly conscripted into the army, preferring to stand trial and serve a prison sentence instead of finding themselves in a military unit and a situation of great conflict with their conscientiously-held beliefs. Samvel Manukyan, also a Jehovah's Witness, was not able to follow this option: he was taken by force to a military unit and then tried under military law when he escaped - the only way he could remove himself from the military demands his conscience forbade him to carry out.

Samvel Manukyan was born on 15 November 1978 and left Armenia in April 1996, before he reached the age of conscription. He lived in Russia for a while, before returning home of 28 November 1996. He was at liberty for only a few days, as representatives of the DMREO detained him at his home on 4 December and took him by force to military unit 63853 in Vanadzor. He reports that he was severely beaten there, and forcibly dressed in a military uniform after his own clothes were torn from him, in spite of his written statements that he wanted to be tried as a civilian for refusing military service (under

Armenian law the offence of "evading regular call-up to active military service" does not fall under the separate section of military crimes, because the person concerned, having avoided conscription, had not legally fallen under army jurisdiction at that point).

After two days at the military unit Samvel Manukyan managed to escape, and spent the next five months staying with a friend. During this time he sent several statements to relevant officials noting his refusal to perform military service, and the reasons for it, and requesting to be brought to trial rather than face forcible conscription. His family contacted the procurator's office and believed they had reached an agreement for him to face prosecution, so Samvel Manukyan eventually returned home around 15 days before the trial was due to take place. On 16 May 1997, however, eight representatives of the DMREO detained him at his home and Samvel Manukyan was held for the next two months in military custody in solitary confinement. He was also reportedly beaten severely during this time. He stood trial on 15 July 1997 in Vanadzor, and was sentenced to three years' imprisonment for the military crime of desertion (Article 255 part a) of the Armenian Criminal Code). Samvel Manukyan is serving his term in Kosh ordinary regime corrective labour colony, and will be due for release on 16 May 2000, should he serve his term in full.

International law and conscientious objection

The right to conscientious objection is a basic component of the right to freedom of thought, conscience and religion - as articulated in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (to which Armenia is a party), and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It has been recognized as such in resolutions and recommendations adopted by the United Nations Commission on Human Rights, the United Nations Human Rights Committee, the Council of Europe and the European Parliament.[8]

These bodies have all urged governments to guarantee that individuals objecting to compulsory military service because of their conscientiously held beliefs are given the opportunity to perform an alternative service. They have stated explicitly in a number of resolutions that this alternative service should be of a genuinely civilian character and of a length which cannot be considered as punitive. They have also recommended that individuals be permitted to register as conscientious objectors at any point in time before their conscription, after call-up papers have been issued, or during military service. Likewise, the United Nations Commission on Human Rights, the Council of Europe and the European Parliament have emphasized that information about how to seek recognition

[8] For further information on the issue of conscientious objection in general see *Out of the margins: The right to conscientious objection to military service in Europe*, AI Index: EUR 01/02/97, April 1997.

as a conscientious objector should be readily available to all those facing conscription into the armed forces - as well as to those already conscripted.

In October 1997, the importance which the Council of Europe attaches to the recognition of the right to conscientious objection and the provision of a genuinely civilian alternative service in each of its member states was reflected in the decision of the Council's Steering Committee for Human Rights to convene a Group of Specialists to assist member states with the drafting and implementation of appropriate legislation in this area and to raise public awareness of the issue. This group is expected to hold its first meeting in Strasbourg in April 1998.

Likewise, in November 1997, both the Council of Europe and the European Union reminded participating states in the Organization for Security and Co-operation in Europe (OSCE) - including Armenia - at the OSCE's Human Dimension Implementation Meeting in Warsaw that recognition of the right to conscientious objection to military service is an important part of the Organization's commitment to upholding freedom of thought, conscience and religion for all people living in the OSCE region.

Amnesty International considers a conscientious objector to be any person liable to conscription for military service who refuses to perform armed service for reasons of conscience or profound conviction. Their profound conviction may arise from religious, ethical, moral, humanitarian, philosophical, political or similar motives. But regardless of their objection, the right of such individuals to refuse to carry weapons or to participate in wars or armed conflicts must be guaranteed. This right also extends to those individuals who have already been conscripted into military service, as well as to soldiers serving in professional armies who have developed a conscientious objection after joining the armed forces. Wherever such a person is detained or imprisoned solely because they have been refused their right to register an objection or to perform a genuinely alternative service, Amnesty International will adopt that person as a prisoner of conscience.

Amnesty International does not question the right of governments to conscript individuals into the armed forces, nor does it agree or disagree with the motives of individual conscientious objectors. In keeping with the international standards mentioned above, however, Amnesty International insists that all those liable to conscription are given the opportunity to perform an alternative to armed service on the grounds of their conscience or profound conviction. On this basis, Amnesty International campaigns for the development of law and procedure which make adequate provision for conscientious objectors, and for the release of all those imprisoned solely on those grounds.

To this end Amnesty International is continuing to urge the relevant authorities in Armenia to take all appropriate steps to introduce the necessary legislation guaranteeing conscientious objectors their fundamental rights without delay, and to ensure that no one is imprisoned solely for exercising their right to conscientious objection, in violation of international standards to which Armenia is a party.

Allegations of ill-treatment in detention

Torture and cruel treatment is prohibited under the Armenian Constitution[9], and evidence obtained through violation of legal proceedings has no legal force.[10] It is also a criminal offence for investigators and others to force a person to give testimony by use of threats or other illegal actions.[11] These provisions are, of course, in addition to the guarantees against torture contained in the international standards to which Armenia is party.

Nevertheless, in recent years Amnesty International has received persistent allegations that prisoners have been beaten and otherwise ill-treated by law enforcement officials. In some cases it is alleged that the beatings were carried out intentionally to obtain information or a confession, in others the motivation is said to have been intimidation. In some cases it is alleged that the victim died as a result of the beatings received. Amnesty International's concern about these reports has been compounded by the apparent reluctance on the part of the authorities in many cases to conduct prompt and comprehensive investigations, or to initiate proceedings against those alleged to be responsible.

In many instances it has been difficult to corroborate such allegations for a variety of reasons. Many detainees in pre-trial detention, for example, are denied access to family members while the investigation is continuing and have also reported problems in obtaining full and prompt access to a defence lawyer or medical practitioner of their own choice. This reduces the opportunities for an independent examination of alleged injuries. Many detainees are also said to fear reprisals if they make an official complaint, or to have no faith in the commitment of the authorities to conduct an impartial investigation.

Allegations of ill-treatment have been persistent, however, and come from a wide variety of unrelated sources. An example is the wave of beatings reported after the disputed presidential elections held in September 1996. A few of the many allegations from this time are given below. Although the events took place over a year ago, it is helpful to outline them briefly in view of the prosecutions which took place in 1997, and which are touched on in the following section on alleged unfair trials of political prisoners.

Allegations of widespread beatings following the September 1996 presidential elections

The main contestants in the presidential elections held on 22 September 1996 were the incumbent, President Levon Ter-Petrosyan, and Vazgen Manukian of the National

[9] Article 19 of the Constitution.

[10] Article 42 of the Constitution.

[11] Article 193 of the Criminal Code.

Democratic Union. Vazgen Manukian's supporters alleged irregularities in both the voting procedures and the subsequent count, and disputed the official results which gave President Ter-Petrosyan victory. In the days following the election tens of thousands of people gathered in Yerevan, in protest at the results. On 25 September events turned violent when sections of a crowd gathered outside the National Assembly (parliament) building, which also housed the Central Electoral Committee, launched an apparently spontaneous attempt to storm the premises after it was assumed, wrongly, that Vazgen Manukian had been arrested. Before order was restored some of the crowd managed to enter the parliament building and assaulted various individuals, including the speaker of parliament, Babken Araktsian, and his deputy, Ara Sahakian, who were subsequently hospitalized with concussion.

Unofficial sources reported that over 100 people were subsequently detained for a short period (frequently, it is claimed, because of their known or perceived political views rather than any direct connection to the violent events), and there were numerous allegations that law enforcement officials beat or otherwise ill-treated people both while taking them into custody and also when they were in detention.[12] For example four women are said to have been among those assaulted when uniformed men entered the building of the opposition National Self-Determination Union (NSDU) in Yerevan on 26 September. Garine Stepanian, president of a children's charity which has offices next to the headquarters of the NSDU, described the events as follows:

"*...uniformed troops, suddenly and without warning or provocation, entered our headquarters...and proceeded to ransack the premises, to confiscate all vehicles, equipment, files and supplies, and to break into the safe containing our funds for distribution to our 'children without parents'.*

"President Garine Stepanian and staff members Ina Konstantian, Sophia Neshanian and Anahid Garabedian were beaten with rifle butts and soldiers' boots when they tried to object to the attack. We were bruised and terrified, but our injuries did not require hospitalization. We were in shock....Men in the vicinity and members of the NSDU who came to our defence were beaten mercilessly and hauled off to prison by the troops."[13]

[12] For more information see the Amnesty International report: *Armenia: Further allegations of ill-treatment in detention*, AI Index: EUR 54/03/96.

[13] In a letter received by Amnesty International on 5 November 1997, the Prosecutor General of Armenia states that Garine Stepanian, Ina Konstantian and Anahid Garabedian did not lodge a complaint with the local procuracy in the Spandaryan district of Armenia about these events. The only approach to the procuracy was from Sophia Neshanian, to the effect that on 26 September 1996 she was struck by one of a group of armed people who had run into the building. In a statement she is said to have noted that she suffered no bodily injuries and did not wish to undergo a medical examination.

Among the opposition politicians reportedly ill-treated was Ruben Akopian, a member of parliament from the currently suspended Armenian Revolutionary Federation (ARF or Dashnak Party). He was detained on 25 September at the National Assembly building, where he was said to have been kicked and beaten with gun butts to the point of unconsciousness by officials who detained him until a parliamentary session the next day. At that session, which was televised, he and seven other opposition members of parliament were stripped of their deputy's immunity, and viewers saw Ruben Akopian together with three other deputies being assaulted by their fellow members of parliament.

On 9 October the National Assembly issued a statement condemning such behaviour (along with the storming of parliament and the beating of the parliamentary speaker and his deputy), but to Amnesty International's knowledge no criminal case has been opened against those members of parliament responsible - even though events were televised and the then Procurator General was present. This contrasts strongly with criminal proceedings instigated against a number of people said to have been involved in the beating of the parliamentary speaker (see below in the section on alleged unfair trials of political prisoners). It also underlines the recurring complaint from others who made allegations of ill-treatment against law enforcement officials at the time of the September events, to the effect that there have been no impartial, comprehensive investigations into their allegations, even though in some instances the alleged victims have given the name and rank of those they say were responsible.

Deaths in custody

Many of the detailed reports of ill-treatment obtained by Amnesty International (such as those described in the document *Armenia: Further allegations of ill-treatment in detention*, AI Index: EUR 54/03/96) have come from political prisoners[14], or their relatives or supporters. Far fewer allegations are ever publicized by purely criminal prisoners, mainly it seems through fear of reprisals (with those concerned lacking the support base, for example people willing to campaign and demonstrate publicly, that is frequently available to political prisoners). The allegations that Amnesty International does learn of in criminal cases therefore tend often to relate to instances when the reported ill-treatment or torture has led to the grimmest of outcomes - that of the death of the victim. One of the most recent

[14] Amnesty International uses a broad interpretation of the term "political prisoner" so as to cover all cases with a significant political element, for example criminal offences committed with a political motive or within a clear political context. Amnesty International does not call for the release of all political prisoners within this definition, nor does it call on governments to give political prisoners special conditions. Governments are, however, obliged to ensure that such prisoners receive a fair trial in line with international standards, and Amnesty International opposes the use of torture and the death penalty in all cases - both political and criminal - without reservation.

such allegations is that regarding the death in custody some nine months ago of Manvel Virabyan, aged only 17.

Manvel Virabyan was detained on 5 April 1997 at his home in Yerevan, by police from the Sovetsky District Department of Internal Affairs who were investigating a robbery a few days earlier. Unofficial sources[15] allege that police were actually looking for his brother Mamikon Virabyan, and in his absence detained Manvel instead. Mamikon, who has a previous conviction, was detained later that day when he went to the police station to inquire about his brother. In addition two other men named Meruzhan Arutyunyan and Varazdat Avetisyan (also with previous convictions) were detained that day in connection with the robbery. All were subsequently brought to trial for a range of criminal offences, except Manvel Virabyan who died in police custody in the early evening of 13 April.

According to unofficial sources, Manvel's death was a result of the severe beatings and ill-treatment which were meted out to all four detained men in order to force them to confess (Mamikon Virabyan, Varazdat Avetisyan and Meruzhan Arutyunyan are said to have confessed to around 10 crimes as a result, although Meruzhan Arutyunyan reportedly claimed later at his trial that he was in prison for a previous offence at the time of one of the alleged crimes. The men were said to have been beaten often to the point of unconsciousness, and Meruzhan Arutyunyan was reportedly still passing blood in his urine a month after the alleged attacks).

Manvel Virabyan's family reported that his face was so disfigured when they went to see him in the morgue that they did not recognize him, and that his body also bore signs of other serious wounds. His mother also alleges that she dropped her initial protests over Manvel's death as a result of intimidation by officials who issued threats against her other son Mamikon.[16]

Official sources have denied the reports of beatings, and have stated that Manvel Virabyan died as a result of cardiac and pulmonary insufficiency with generalized infection particularly affecting the heart, kidneys and liver - the diagnosis given on his death certificate. However, such a diagnosis does not in itself rule out the possibility that the fatal illness could have resulted from a beating, as well as from other more natural causes. Amnesty International has asked for further information on the case, for example what medical assistance Manvel Virabyan was afforded while in detention and the results of any investigation conducted into the alleged beatings, as well as for a copy of the autopsy report and the results of any inquest.

[15] See the article entitled "Butchers" by Armenian journalist Mikael Danielyan, published in the Moscow-based weekly *Ekspress Khronika*, No. 43, 22 November 1997.

[16] An Amnesty International delegate was told by unofficial sources about the alleged threats during a visit to Yerevan in May 1997. According to Mikael Danielyan (see above footnote), it was not until September that the three mothers of those arrested approached a non-governmental organization in Armenia about the alleged beatings, as they had previously felt too afraid of reprisals.

The United Nations and allegations of beatings, torture and deaths in custody

Among those examining and reporting on the allegations of ill-treatment and beatings in Armenia in recent years have been various bodies of the United Nations. For example in April 1996 the United Nations Committee against Torture examined Armenia's first periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[17] The Committee against Torture, a body of independent experts, periodically reviews the measures taken by States Parties to implement the convention, and publishes its comments and recommendations.

Following its review of Armenia's report the Committee noted positive aspects, such as the integration of prohibitions against torture into the new Armenian Constitution adopted in 1995, but recommended among other things that torture be mentioned in penal law as a crime in itself, and that it be clearly defined; that measures be taken to guarantee that persons could not be expelled or extradited to other states where they were in danger of being subjected to torture; and that the authorities investigate and report back on allegations of ill-treatment of detainees. Members of the Committee had raised Amnesty International's reports of such allegations at the session and, although these were denied by the Armenian delegation, the Committee recommended that they receive a report back after a due investigation of the claims.[18] Amnesty International has approached the relevant authorities asking what steps have been taken to implement the Committee's recommendations, and also requesting a copy of any report prepared for the Committee detailing the procedures undertaken to investigate the allegations of ill-treatment at the session.

The concerns of the Committee against Torture about alleged ill-treatment in Armenia were repeated by the United Nations Special Rapporteur on Torture, Nigel Rodney, in his general report of January 1997 to the United Nations Commission on Human Rights.[19] The report states *inter alia*:

[17] The Convention against Torture prohibits torture in all circumstances. It obliges States Parties to make torture a punishable offence and provides for universal jurisdiction over alleged torturers. It forbids the return of people to countries where they would risk being tortured, it insists that victims of torture are entitled to compensation and rehabilitation, and it prohibits the use as evidence in court of confessions or statements extracted under duress. Armenia acceded to the Convention against Torture in September 1993.

[18] UN Press Releases HR/CAT/96/04 and HR/CAT/96/05 of 30 April 1996.

[19] UN reference: E/CN.4/1997/7, 10 January 1997. In UN report E/CN.4/1997/7/Add.1, the Special Rapporteur reports that in a letter dated 12 June 1996 he had raised with the Armenian authorities the cases of several defendants in the so-called Dro case (see the section in this document on alleged unfair trials) who had reportedly been beaten for the purpose of coercing confessions during pretrial detention; the case of two lawyers connected with the Dro case who had been beaten

"In the light of the information he has received, the Special Rapporteur shares the concern expressed by the Committee against Torture "about the number of allegations it has received with regard to ill-treatment perpetrated by public authorities during arrest and police custody" (A/51/44, para. 95) and shares the Committee's "doubts about the effectiveness of the provisions for the safeguard of persons in police custody" (para.94). He urges the government to give serious consideration to the Committee's recommendations (paras. 96-101)."

The United Nations Special Rapporteur on Extrajudicial, summary or arbitrary executions has also raised several cases of deaths in custody with the Armenian authorities, as described in the addendum to his report dated 23 December 1996 to the Commission on Human Rights.[20] Among these was the case of Rudik Vartanian, who died in custody in Yerevan on 21 January 1993 after being beaten by police officers. Seven officers are said to have used chairs, batons and other objects,[21] causing injuries including three fractures to the skull inflicted with a blunt instrument. Two police officers were eventually sentenced to imprisonment in connection with his death, although this trial only took place in January 1996, three years after Rudik Vartanian died, and neither of the officers was actually convicted of homicide.[22] Unofficial sources have alleged that the authorities were dilatory

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by persons who were allegedly public officials or who were acting at the instigation of such officials; the case of 19 devotees of the Hare Krishna religious organization said to have been beaten by a paramilitary organization with close links to the Ministry of Defence; and the case of Razmik Grigorian who was said to have died after a severe beating in police custody.

[20] UN reference: E/CN.4/1997/60/Add.1, 23 December 1996. The other cases raised were that of Ardavast Manukian, a defendant in the so-called Dro trial who died in custody in 1995, and the case of eight Azerbaijani prisoners of war who died at the Armenian Ministry of Defence prison in 1994 (see *Amnesty International Reports 1995* and *1996).*

[21] See *Armenia: Further allegations of ill-treatment*, AI Index: EUR 54/03/96, October 1996.

[22] According to the Armenian Prosecutor General, a criminal case was initiated on 22 January 1993, the day after Rudik Vartanian's death. Three officers - Samvel Dzhaginian, Artur Atarbekyan and Ruben Antonyan - of the Spandaryan District Department of the Interior Ministry, were taken into custody on charges of premeditated, aggravated murder (Article 99 of the Criminal Code) and exceeding their authority or official powers (Article 183) (Ruben Antonyan, for example, was said to have been responsible for the order to take Rudik Vartanian to the district Interior Ministry department "where he was illegally kept for 10 hours, grievously beaten up and died as a result of injuries received"). The murder charge was later dropped against all three, leaving only that under Article 183, but subsequently reinstated and the case sent to the Supreme Court for trial. On 5 November 1993, however, the Supreme Court returned the case for further investigation on the grounds that the preliminary investigation had been incomplete.

The three were released from custody, but arrested again on 2 February 1994. Samvel

in pursuing the prosecution, the continuance of which owed more to the tenacity of Rudik Vartanian's relatives, and that his parents received threatening telephone calls and offers of money to try to persuade them to drop their campaigning efforts in the case.[23]

Response of the new Prosecutor General of Armenia

On 5 November 1997 Amnesty International received a long response from the new Prosecutor General of Armenia, Henrik Khatchatryan, to many of its concerns, including that of ill-treatment and beatings in detention. The Prosecutor General stated that he was constantly implementing measures to deal with the issue of torture, including by visits to places of detention; by setting up a confidential telephone line at the Armenian procuracy for those who wish to report abuses; and by issuing instructions to procuracy offices throughout the country to raise their level of supervision of cases and to carry out objective, comprehensive criminal investigations of human rights abuses within strict time limits. The Prosecutor General stated that investigations were initiated whenever an incident of ill-treatment occurred, giving as an example the case of Galust Dilanyan, aged 23, who had been detained at Interior Ministry premises in the town of Gyumri, "subjected to physical violence" and who had then committed suicide by using his shirt as a rope to hang himself. Three Interior Ministry officers were placed in custody on the Prosecutor General's orders in connection with these events, and criminal proceedings have been instituted.

Incidents of ill-treatment in the army were dealt with in a similar fashion, according to the Prosecutor General. Eight cases of beatings of conscripts had been recorded from the beginning of 1996 up until the time of his letter, and criminal proceedings instituted by the procuracy in these cases had resulted in the conviction of 13 persons, one of whom was an officer.[24] In the case of conscript Amayak Oganesyan, said

Dzhaginian was charged under Article 183, Article 184 (negligence) and Article 203 (escape from place of detention) of the Criminal Code, and Artur Atabekian under Articles 183 and 184. The case was sent for trial to the Supreme Court, which once again sent it back for further investigation. The charges under Article 184 were dropped, and the Supreme Court eventually sentenced Samvel Dzhaginian to four years' imprisonment and Artur Atabekian to three-and-a-half years' imprisonment. The case against Ruben Antonyan was sent back for further investigation, eventually being referred again to the Supreme Court for trial on 15 September 1997. The charges of murder against Samvel Dzhaginian and Artur Atabekian were dropped at the end of 1996 and on 4 February 1997 the criminal investigation into the death of Rudik Vartanian was closed, on the grounds that it could not be determined which of the police officers involved had caused his death.

[23] See the article "Murder or exceeding one's authority" by Mikael Danielyan in *Ekspress Khronika*, No. 14, 1996.

[24] The charges against them were under Articles 252 ("violation of the regulations on the relations between servicemen") and 268 (misuse of authority , exceeding authority or failure to

to have been beaten and physically assaulted by or at the instigation of senior or non-commissioned officers (see *Armenia: Further allegations of ill-treatment in detention*, AI Index: EUR 54/03/96, October 1996, for more details), the Prosecutor General wrote that no evidence was found to support the allegations of ill-treatment and the criminal case was closed for lack of evidence on 15 April 1997.

Some other responses of the Prosecutor General to specific allegations are given at the appropriate points in this document. In several cases the Prosecutor General highlights two specific problems that hinder attempts by his office to address the issue of ill-treatment in detention. The first is that detainees often do not lodge official complaints about their ill-treatment at the time it is alleged to have taken place, thus making any subsequent investigations more problematic owing to lack of supporting medical evidence. The second is that some victims in cases where an assault clearly has taken place are unable or unwilling to identify the alleged perpetrators, thus making it difficult to continue criminal proceedings. While Amnesty International acknowledges these difficulties, the organization believes that specific measures can and should be taken to address aspects that many unofficial sources say underlie the problem - fear of reprisals, and lack of confidence that the authorities will pursue rigorously all allegations of torture and ill-treatment. Amnesty International welcomes the commitments expressed by the Prosecutor General, and the dialogue he is obviously willing to engage in on this subject, and urges him together with other relevant authorities to implement the recommendations given in the last section of this document.

Alleged unfair trials of political prisoners

Allegations of ill-treatment have figured widely in claims that political prisoners have been subjected to unfair trials. Since 1995 three major groups of political prisoners - over 50 people - have stood trial in Armenia. Many of the defendants have alleged that they were beaten or otherwise ill-treated in order to force them to confess, that their relatives have received similar treatment as a way of exerting pressure, and that statements extracted under duress have not been excluded as evidence in court. Some of their lawyers have complained that they were denied access at times to their clients and to materials of the case, and that these and other procedural violations have called into question the fairness of the trials in line with international standards. These claims are especially serious in view of the death sentences handed down on four of the defendants. The major trials are outlined below.

exercise authority") of the Criminal Code.

The Dro case

In the so-called Dro case (known officially as case No. 62200395), 11 men from a larger number originally arrested stood trial on charges ranging from withholding information to murder. They were accused of membership in a clandestine terrorist group known as Dro within a major opposition party known as the Armenian Revolutionary Federation (ARF or Dashnak Party). In a televised address on 28 December 1994 President Levon Ter-Petrosyan cited the alleged existence of such a group within the ARF as the reason for ordering the suspension of that party.[25] The case assumed major political dimensions, with many supporters of those detained claiming that much evidence of an alleged terrorist group had been fabricated in order to facilitate the removal of the ARF from the political arena (its suspension precluded the ARF from contesting as a party the elections for parliament in 1995 and president in 1996). The trial began in July 1995, and concluded over a year later on 10 December 1996 when three defendants were sentenced to death and the rest to terms of imprisonment of from three to 15 years.

Several of those originally held (see box overleaf for a list of detainees who eventually stood trial) reported great difficulties in meeting freely and promptly with a defence lawyer of their own choice,[26] especially in the period immediately after their arrest in late 1994 or early 1995. David Kaprielian, for example, was arrested on 25 December 1994 but was reportedly not seen by a lawyer until four days later. Mikael Manukian, Armen Grigorian and Gagik Manukian are among others said to have been refused visits on occasion from their lawyers. Arsen Artsruni claimed that he had tried during February and March 1995 to inform the relevant authorities that he wished to change his legal representative, but that he was not given paper on which to write a statement to that effect nor told to whom he should address his request (which was eventually granted at the end of March). As most defendants in Armenia are not permitted to meet with family members until the prosecution has completed the investigation of their case, access by defence lawyers is of great importance as a safeguard against ill-treatment and coercion. Indeed, several of the defendants alleged that they had been beaten and otherwise ill-treated in pre-trial detention in order to extract confessions.

[25] In January 1995 the Armenian Supreme Court granted the Ministry of Justice (with whom political organizations must be registered) permission to suspend the ARF on the grounds that it did not fulfil the requirements governing the organization of political parties as set out in the 26 February 1991 law "On Civic and Political Organizations". The ARF remains suspended at the time of writing.

[26] Information on allegations by defendants in the trials described in this section has come mainly from non-governmental organizations in Armenia such as Avangard and the Committee for the Defence of Political Prisoners, as well as from meetings Amnesty International delegates held in Armenia in October 1995 and May 1997 with defendants' relatives and defence lawyers.

The Dro defendants

Arsen ARTSRUNI was born in Beirut, Lebanon, but has been based in Armenia since 1990. He was judged to have established the Dro group and was sentenced to death after being convicted of complicity in premeditated, aggravated murder (Article 99 of the criminal code), complicity in premeditated murder (Article 100) and banditry (Article 72, "organization of an armed band aimed at attacking enterprises, institutions, organizations or individuals, and also taking part in such bands and in the attacks committed by them"). The sentence was upheld on appeal.

Armenak MNJOYAN was sentenced to death for banditry. The sentence was upheld on appeal.

Armen GRIGORIAN was sentenced to death for banditry, but his sentence was reduced on appeal to 15 years' imprisonment.

Armenak ZAKARIAN's sentence of 15 years' imprisonment for banditry and premeditated, aggravated murder was upheld on appeal.

Hovhanes MKRTCHIAN was detained in Moscow on 3 December 1994 and transferred to Armenia in February 1995. He was sentenced to 10 years' imprisonment, upheld on appeal, for banditry, complicity in premeditated murder, and concealing a crime (Article 205).

Hrant MAKARIAN was born in Iran but moved to Armenia in 1990, and is a high-ranking member of the ARF. He was cleared of original charges of premeditated murder and banditry as part of the Dro group, but convicted of possession and use of a counterfeit passport (Article 213), and of illegal possession of arms (Article 232). His five-year sentence was upheld on appeal.

Ara HARMANDAYAN was born in Lebanon, moving to Armenia in 1991. His six-year sentence for banditry was cut on appeal to five years' imprisonment.

Edik SIMONIAN was convicted of banditry. His sentence of five years' imprisonment was cut on appeal by one year.

Gevorg ALAVERDIAN had his three-year sentence for banditry upheld on appeal.

Tatul GABRIELIAN was initially accused of withholding information, then charged with banditry. The appeal court upheld his sentence of three years' imprisonment.

Gegam MANUKIAN was accused of withholding information on a state crime (Article 84) and sentenced to three years' imprisonment. He was released on 13 May 1997 under an amnesty, although his conviction was upheld on appeal by the Supreme Court.

Among those making such allegations was Arsen Artsruni, who was subsequently sentenced to death. Arsen Artsruni alleges he was beaten on 27 December 1994 and on 9 January 1995, as a result of which he gave testimony. On 11 April 1995, however, he repudiated this testimony in the presence of his new lawyer on the grounds that it had been extracted under duress. On 22 or 23 April (sources differ) he was reportedly again subjected to physical pressure - it is said with the aim of forcing him to retract his repudiation of 11 April and of getting him to implicate another ARF member named Vahan Hovanessian (see account of the second trial below). On 26 April 1995 Arsen Artsruni's lawyer requested a medical examination of his client, but accounts differ as to when it took place. According to the Prosecutor General of Armenia,[27] the medical examination was carried out on the same day, Arsen Artsruni stated to the medical expert that no physical violence had been used against him, and the conclusion of the examination was that Arsen Artsruni had suffered no bodily harm. Arsen Artsruni's lawyer, however, claims that the medical examination was conducted formally only eight days after his original request, and without the lawyer being present, by which time traces of the alleged beatings were no longer visible. In court Arsen Artsruni repudiated much of his testimony, on the grounds that it had been extracted under duress.

Defendant Gegam Manukian, interviewed by an Amnesty International delegate in Yerevan days after his release under an amnesty on 13 May 1997, reported that he was not physically abused but was subjected to psychological blackmail - the investigators allegedly told him that if he did not testify they would pressurize his fiancée to give evidence. He also said that when he was first arrested (on 5 January 1995) he was kept for three to four months on his own in a cell which was so damp that he had to wring his towel dry each time before using it. Gegam Manukian also said that he had not had access to papers, or his relatives, for the five months he was held before the trial began. Another prisoner named Armen Momjian, arrested in connection with the case but released a year later, is said to have sustained a broken lower jaw and right arm as a result of ill-treatment in detention; the investigator is also alleged to have threatened to put him in a cell with homosexuals (ie implying a threat of rape) in order to force him to confess. No confessions said by the defendants to have been extracted under duress were known to have been excluded as evidence during the trial proceedings.[28]

It was also alleged by unofficial sources that negligence had contributed to the death in pre-trial detention of Ardavast Manukian, one of the 12 defendants originally set to stand trial in the Dro case. Ardavast Manukian had been detained in Moscow, Russia, on 2 December 1994, and died on 16 May 1995 in an Interior Ministry hospital in Yerevan

[27] Details given in a letter received by Amnesty International on 5 November 1997.

[28] In his letter received on 5 November 1997, the Prosecutor General wrote that the accused in this case had not made any verbal or written statement during the preliminary investigation to the effect that any violence had been used against them.

(without seeing any family members for the whole period of his detention). He had been transferred to that hospital on 5 May, from the infirmary at the Interior Ministry investigation-isolation prison.

At a press conference on 17 May lawyer Ruben Saakian reported that Ardavast Manukian had suffered among other things from bleeding from the rectum, headaches and dizziness, but that two requests from Manukian's lawyer for court-supervised medical and psychiatric examinations of his client had been turned down without explanation in March (with a third lodged just three days before Artavast Manukian's death). A request to release Ardavast Manukian on health grounds had also been rejected.

Ardavast Manukian had been eventually transferred on 2 March 1995 from a prison of the State Department for National Security, where he had been kept since his return from Moscow, to the infirmary at the Interior Ministry prison in Yerevan. Ruben Saakian alleged, however, that the infirmary lacked the necessary medical personnel and medication to treat Ardavast Manukian, and a non-governmental organization named the Committee for the Defence of Political Prisoners has also claimed that he was sent to the prison infirmary in spite of instructions from the procuracy that he should be transferred to an actual hospital attached to the Interior Ministry.

Responding to the United Nations Special Rapporteur on Extrajudicial, summary or arbitrary executions, who had raised this case with them, the Armenian authorities stated[29] that two autopsies had been carried out on Ardavast Manukian, from which it had been concluded that he died of natural causes, and that medical files showed his treatment to have been appropriate. The authorities also stated that criminal investigations carried out by the office of the public prosecution service had established no unlawful acts on the part of the medical personnel, officials or other persons.

Complaints about the conduct of the investigation and court proceedings in this case have also been made by many of the defendants' lawyers. Several, for example, reported problems in gaining full access not only to their clients but to relevant case materials during the investigation. Hrant Makarian's lawyer, for example, reported that he and his client were given only 10 working days to get acquainted with 18 volumes of material prepared by the prosecution, after which the material was removed and sent to the court on the grounds that they "were dragging things out". Armenak Zakarian was said to have been given only one day, and his lawyer only nine days, to acquaint themselves with the 18 volumes of case materials after the preliminary investigation. Lawyers have alleged numerous other procedural violations such as inaccurate custody records (Arsen Artsruni, for example, was said to have been detained on 3 December 1994, although the protocol of the preliminary investigation records that he was detained two days later). At

[29] UN reference: E/CN.4/1997/60/Add.1, 23 December 1996

Leading ARF member Hrant Makarian, left, with other Dro trial defendants in the courtroom cage during their trial.

least three lawyers connected with the Dro case were also physically assaulted in the first half of 1995, by people they strongly believed had links with official structures and in incidents they felt were not sufficiently rigorously investigated by police. The experience of two of these lawyers, Rafael Safarian and Zhora Khachatarian, who were beaten up by men in military uniform at their office in Yerevan on 21 March 1995, is described in more detail in the Amnesty International document *Armenia: Allegations of ill-treatment - an update* (AI Index: EUR/05/95, November 1995). Responding to Amnesty International on this incident, the Prosecutor General said that a criminal case had been initiated on 23 March 1995 by the Spandaryan District Procuracy under Article 222 of the Criminal Code (malicious hooliganism). The victims had stated during the investigation, however, that they had not recognized who had beaten them, and so the criminal case was closed on 23 May 1995 on the grounds that the perpetrators could not be identified.

All 11 of the defendants who finally stood trial before the Supreme Court of Armenia were convicted in December 1996, and three - Arsen Artsruni, Armen Grigorian and Armenak Mnjoyan - were sentenced to death. On 4 July 1997 the Supreme Court, which had heard appeals from all the defendants, reduced the sentence passed on Armen

Grigorian to 15 years' imprisonment and cut the prison sentences of two other men, but left the rest of the sentences without change. Arsen Artsruni and Armenak Mnjoyan remain on death row at the time of writing.

The trial of Vahan Hovanessian + 30

Arrests in the Dro case were followed in mid-1995 by a further round of arrests of known or suspected ARF supporters. They included senior ARF member Vahan Hovanessian, who was brought to trial with 30 others (some *in absentia*) on charges of attempting to stage an armed coup in 1995. This case has also prompted allegations that the accusations of a conspiracy aimed at the forcible overthrow of the government were fabricated, in order to discredit the ARF and remove its leading figures from political life and influence in Armenia. The trial before the Supreme Court opened on 5 March 1996 and ended on 12 December 1997. Twenty eight defendants were convicted, with one sentenced to death and the others given sentences of imprisonment (in some cases suspended). One defendant was acquitted (the cases of the two remaining defendants from the original 31 had been separated earlier from the main case).

As in the Dro case, this trial has also thrown up numerous allegations that defendants and their relatives were beaten or otherwise placed under physical or mental duress in order to extract testimony; that some defendants were denied full and prompt access to a defence lawyer of their own choice, especially in pre-trial detention; and that there were numerous other procedural violations in breach of international fair trial standards. Such allegations are especially serious because, as with the Dro case, many of the defendants faced charges which carried a possible death sentence.

With regard to allegations of duress, defendant Manvel Yeghiazarian, for example, reported in court[30] that he was assaulted during his arrest on the night of 29 - 30 July 1995, and was interrogated immediately after he had been taken to prison suffering from concussion, bruising and fractured ribs.[31] He also claimed that his wife and children had been assaulted by law enforcement officials. Defendant Ashot Avetisian repudiated all his statements made during the preliminary investigation of the case, stating that they had been made under extreme physical and psychological duress. He claimed in court that he was beaten with metal rods and subjected to electric shocks, and that six of his relatives were

[30] Asbarez-on-line, 7 May 1996

[31] According to the Procurator General in his 5 November 1997 letter to Amnesty International, the prison custody record showed that Manvel Yeghiazarian was treated at the prison's infirmary from 1 to 29 August 1995 for traumatic haematomas on the left side of his body and that his thoracic cavity was drained of fluid, but that Manvel Yeghiazarian had not disclosed during the investigation how the wounds had been sustained.

detained in order to put pressure on him to confess.[32] Gagik Karapetian alleged that pressure was exerted on him to give evidence via threats to his family, and repudiated his previous testimony.[33] Lev Sarkisyan reported that his brother was detained for several days, and that investigators threatened to charge the brother with illegal arms possession unless Lev gave evidence.

Defendants' relatives have also given evidence in court that they were threatened in order to coerce them into giving evidence against the accused. On 19 February 1997, for example, Zaven Karapetian, father of defendant Gagik Karapetian, testified that he, his son and his pregnant daughter-in-law had been subjected to physical and psychological pressure at the police station of Mashtots district, Yerevan. On 25 February 1997 Lilit Khachakian testified in court that Interior Ministry employees from the Mashtots district forced her to give evidence against Vahan Hovanessian by beating her and subjecting her to psychological pressure. On the same day Aghavni Karapetian, wife of Gnel Hovanessian, told the court that she was also beaten severely by Interior Ministry employees from Mashtots district and that she subsequently miscarried. She said that in addition her two sisters and disabled brother were also beaten. Gnel Hovanessian's sister-in-law, Angin Karapetian, also reported when she gave evidence to the court on 4 March 1997 that she and other members of her family had been beaten by Interior Ministry officials from Mashtots district. These assertions have been disputed by the Prosecutor General of Armenia, however, who has stated[34] that there are no custody records showing that the relatives named above were held at the Mashtots district department of the Interior Ministry.

There were also numerous allegations of other violations of due process during the investigation and trial in this case. Those in relation to defendant Vahan Hovanessian, the prominent ARF leader, may serve as examples. Lawyers and the unofficial Committee for the Defence of Political Prisoners allege among other things that:

- Vahan Hovanessian was not told of the reasons for his arrest when he was being detained;
- the search of his apartment took place without a warrant, and only one copy of the search protocol was made which the police officers took with them, without leaving a copy as required for Vahan Hovanessian's wife;
- his family and friends were not told where he was being held for several days after his detention;

[32] Asbarez-on-line, 28 May and 5 June 1996.

[33] Asbarez-on-line, 8 July 1996.

[34] in his letter to Amnesty International received on 5 November 1997.

- although Vahan Hovanessian was detained on 29 July 1995 he was held incommunicado until 2 August that year and was denied the right to communicate with his defence lawyer. When he was first able to meet with his lawyer on 2 August, the latter was denied access to the evidence and materials of the case (Vahan Hovanessian's lawyer also told Amnesty International delegates visiting Yerevan in October 1995 that between August and October that year she had only been able to meet her client three times, and never in private);
- there were several official statements issued around the time of Vahan Hovanessian's arrest treating him as guilty as charged, thereby violating the presumption of innocence;
- during the trial the metal cage in which Vahan Hovanessian and the other defendants were held in the courtroom impeded their access to their legal representatives, who could not be seated adjacent to their clients nor advise them directly during proceedings.

When the trial opened on 5 March 1996, 20 of the defendants, including Vahan Hovanessian, were accused of treason in the form of "a conspiracy for the purpose of seizing power" (Article 59 of the Criminal Code), organizing especially dangerous crimes against the state (Article 67) and preparing terrorist acts (Articles 15 and 61). One man, Tigran Vardkesi Avetissian, was charged with the murder of two police officers. Other charges against the defendants included being accomplices to murder, illegal possession of weapons, concealing a crime and withholding information on a crime.

Leading ARF member Vahan Hovanessian

With the trial drawing towards its close, the prosecution decided that there was insufficient evidence to support the accusation of

treason, thus undermining previous assertions that there had been a widely-based and organized conspiracy with plans to seize power. Some charges were also requalified into "calling for the violent overthrow or change of the state and social order" (Article 65) and "calling for the commission of crimes against the state" (Article 65-1).

The trial ended on 12 December 1997, with the conviction of 28 defendants (see box). Tigran Vardkesi Avetissian was sentenced to death, Vahan Hovanessian was sentenced to four years' imprisonment (under Articles 65, 65-1 and 67), and others received sentences of up to seven years' imprisonment. Eleven of those sentenced did not receive custodial sentences because of a previously-declared amnesty of April 1997, because they had already served the length of the sentence given while they were detained on remand and during the trial, or because their sentences were suspended.

The verdicts in the case of Vahan Hovanessian + 30

Tigran Vardkesi AVETISSIAN was sentenced to death; Gagik KARAPETIAN and Artur KAZARIAN were sentenced to seven years' imprisonment; Gnel HOVANESSIAN and Arsen YERITSYAN were sentenced to six years' imprisonment; Manvel YEGHIAZARIAN, Ashot AVETISSIAN and Karapet KAZARIAN were sentenced to five years' imprisonment; Vahan HOVANESSIAN, Sergey HOVANISSIAN and Ashot KHACHATRIAN were sentenced to four years' imprisonment; Armen RUSTAMIAN, Tigran Mher AVETISSIAN, Karen Hazarepti KARAPETIAN, Martin KARAPETIAN, Suren SAHAKIAN and Arkady SARDARIAN were sentenced to three years' imprisonment.

The following defendants received non-custodial sentences: Andranik AMBARTSUMIAN, Gagik GEVORKIAN and Ofik ASSIKIAN, who were sentenced to three years' imprisonment, suspended for three years; Harutiun SARGSSIAN, Nairi MANUKIAN and Gagik VANIAN who were sentenced to 28 months' imprisonment and had already served this term in custody,: Gagik ASSIKIAN and Gevorg KAZARIAN who were sentenced to one year's imprisonment; suspended for one year, and Vagif AVETISSIAN, Karen Evaldi KARAPETIAN and Armen AGHAJANIAN who were released as a result of the amnesty.

The "September 25" trials

Between January and July 1997, 12 people stood trial in six separate hearings on charges linked with events at the end of September 1996, when opposition protests over disputed presidential elections turned violent, the building of the National Assembly was stormed by a section of the crowd, and the parliamentary speaker and his deputy were among those beaten (see section above on ill-treatment). The defendants were charged with "organizing or participating in mass disorders" under Article 74 of the Criminal Code;[35] some also had further charges laid against them, for example in connection with the beatings of the parliamentary speaker and his deputy. Some did not deny being present in the National Assembly building or its grounds during the events (journalist Argishti Kivirian, for example, claimed he was there purely in a professional capacity), but did deny any part in the physical assaults and also claimed that the disorders were spontaneous and not part of an organized plan.

As in the cases described above, many of the defendants in these series of trials alleged that they had been beaten in the period immediately after their detention (as did many others who were subsequently released without charge, see for example in the section on ill-treatment above, and AI Index: EUR 54/03/96), and in court withdrew their initial testimony on the grounds that it had been extracted under duress. In the first trial which began on 6 February 1997 before the Armenian Supreme Court (and known as September 25/1), for example, Abet Petrosian testified that he had been beaten by various officials after his detention on 29 September 1996, and that threats had been made against his mother and wife in order to force him to confess. He withdrew in court the testimony he had given during pre-trial detention. Abet Petrosian's four fellow defendants made similar claims, with Seyran Massoyan and Mkrtich Meghavorian, for example, testifying that they had written down their testimony at the dictation of the investigators after they had been subjected to physical and psychological duress. The court reportedly did not take these allegations into account, or order any investigation on the grounds that the defendants had not lodged complaints about their treatment during pre-trial detention, although Argishti Kivirian claims that he had done so and Abet Petrosian said that he was unwilling to name those involved in his ill-treatment for fear of reprisals against his family (a reaction common in the allegations brought to Amnesty International's attention).

There were also allegations of procedural violations. Argishti Kivirian and Abet Petrosian, for example, allege that they were denied prompt access to a lawyer in the period immediately following their arrest. Vahe Beknazarian was said to have been held for the first 20 days of detention in a very small temporary holding cell of the district police

[35] Article 74 states: "The organization of mass disorders accompanied by pogroms, acts of destruction, arson, and other similar actions, or the direct commission of the aforementioned crimes by participants in them, or the offering by such persons of armed resistance to authority, shall be punished by deprivation of freedom for a term of two to 15 years".

station, where the maximum limit is supposed to be three hours, rather than being transferred to an investigation prison. Lawyers for the defendants in this trial also claim that none of the alleged victims of beatings who actually appeared in court (three out of the 10 from whom statements had been taken) identified the defendants as being among those who had assaulted them. Lawyers for Kim Balayan, in the trial known as September 25/2, claim that during the search of his home neighbours summoned to be lay witnesses (and in whose presence by law the search must be conducted) were not shown a warrant for the search, and also that they did not witness the police allegedly finding gun cartridges in the apartment. The cartridges were also allegedly not packed and sealed as evidence, as required by law.

All but one of the defendants in these trials were convicted, but given sentences or released under an amnesty. A review of the cases is given below. Like the Dro and Vahan Hovanessian trials, many of the proceedings were regarded as politically motivated - with the government prosecuting some known or suspected opposition supporters in connection with the attack on the parliamentary speaker and his deputy, but not taking any steps to institute criminal proceedings against those members of parliament seen on television (indeed, as noted above, in the presence of the then Prosecutor General) assaulting their opposition colleagues. Amnesty International is also not aware of any comprehensive and impartial investigations into allegations that the defendants in these series of trials were beaten and ill-treated in detention.

Review of the September 25 trials

September 25/1. The defendants were *Vahe Beknazarian, Abet Petrosian, Seyran Massoyan, Argishti Kivirian* and *Mkrtich Meghavoryan*, who were detained in September and October 1996. All were accused of mass disorders under Article 74 of the Criminal Code, and all allege that they were beaten in custody. The trial began before the Armenian Supreme Court on 6 February 1997, and ended on 6 June. All were convicted, although the charge against Vahe Beknazarian, Argishti Kivirian and Mkrtich Meghavoryan was changed to the lesser one of organizing or participating in public disorders (Article 206). Abet Petrosian and Seyran Massoyan received sentences of 30 months' and two years' imprisonment respectively, suspended for two years, and were released from the courtroom. Mkrtich Meghavorian, Argishti Kivirian and Vahe Beknazarian were each sentenced to 18 months' imprisonment, but were released from custody under an amnesty declared in April. On 12 September the Supreme Court heard appeals in the cases of Mkrtich Meghavorian and Argishti Kivirian, but left the sentences unchanged.

September 25/2. *Kim Balayan*, the head of the ARF's Yerevan office, was detained on 26 September 1996, and charged with mass disorders (Article 74), failing to render assistance to a person in danger (Article 128 - he was accused of not coming to the aid of the parliamentary speaker), and illegal possession of ammunition (Article 232 - 28 cartridges were found during the search of his apartment). His trial began at the end of May 1997,

and ended on 9 June. Kim Balayan was acquitted of charges under Articles 128 and 232, but found guilty of organizing mass disturbances and given a two-year suspended sentence.
September 25/3. Defendants *Vahe Varsanian, Onik Hunanian* and *Seryozha Melkonian* were arrested at the end of October 1996 and charged with mass disorders under Article 74. Seryozha Melkonian claimed that he had been beaten while being questioned, and Vahe Varsanian said that he had been subjected to duress but declined to elaborate. All three were convicted at their trial which began on 4 June 1997 in the Armenian Supreme Court, but were released from custody in the courtroom as their two-year sentences of imprisonment were suspended for two years. On 10 September the Supreme Court turned down an appeal by Seryozha Melkonian and Vahe Varsanian, but Onik Hunanian's sentence was reduced to one year's imprisonment, suspended for two years.
September 24/4. Defendant *Mannik Sargssian* was arrested on 10 December 1996 and charged with mass disorders (Article 74) and terrorist acts against the parliamentary speaker (Article 61). She claimed that her testimony had been given under great psychological duress, as investigators had threatened to arrest her son. Mannik Sargssian's trial began on 11 June 1997 at the Supreme Court, and ended with her conviction on 27 June on both charges. She was sentenced to five years' imprisonment but the judge made this a conditional sentence with three years' probation, having taken into account various mitigating factors, and Mannik Sargssian was released from the courtroom at the end of the trial.
September 24/5. The trial of defendant *Arsen Yeghiazarian* on charges of mass disorder (Article 74) and kidnapping (of the parliamentary speaker, Article 130) began at the Supreme Court on 26 June 1997. Arsen Yeghiazarian claimed that he was present in the National Assembly building, but that he had stood on a table calling for the crowd to stop the physical assaults and that he had helped the parliamentary speaker out of the building. On 1 July the court acquitted him under Article 74 and returned the case for further investigation on the second charge, releasing him from custody pending these developments. The subsequent investigations produced no further evidence, and the case under that article was dropped.
September 26/6. Defendant *Serob Manukian* was arrested on 1 October 1996 and charged with mass disorders under Article 74 and theft of state or public property (Article 86). He was convicted at his trial before the Supreme Court in early July 1997 and given a two-year sentence of imprisonment suspended for one year. He was released from the courtroom. The Supreme Court upheld the sentence on appeal in August.
Awaiting trial and currently in custody are three other men facing charges in connection with the September 1996 events: *Arshak Sadoyan* and *Albert Baghdasarian* (both members of parliament) and *Armen Khachatrian*. Arshak Sadoyan and Albert Baghdasarian emerged from almost a year in hiding on 11 September 1997 and presented themselves voluntarily at the office of the Prosecutor General. They have been charged with mass disorders under Article 74 (earlier charges against Sadoyan of treason and planning serious anti-state crimes were dropped). The charge or charges against Armen Khachatrian are not known to

Amnesty International at present. His health is said to be poor, and his lawyer alleges that she is experiencing difficulties in obtaining permission to meet with him.

The death penalty

On 19 March 1997 the National Assembly began discussing a new draft criminal code in which there would be no capital crimes, whether in time of peace or war, and in which the death penalty would be replaced by the maximum punishment of life imprisonment. Life imprisonment would not be imposed on women or minors. The draft version was passed in its first reading on 3 April, although the issue of abolition caused lively debates. The second reading had been expected when parliament reconvened after the summer recess, but at the time of writing it still had not passed into law.

Amnesty International welcomes these moves, as well as the continuing moratorium on executions in force as a result of the abolitionist stance of President Ter-Petrosian (for further detailed information on this issue see the Amnesty International report *Armenia: Time to abolish the death penalty*, AI Index: EUR 54/03/97, April 1997).[36] However, the organization still has a number of concerns about the death penalty in Armenia. One of the foremost of these is the possibility of judicial error, linked with allegations of unfair trials and with a number of reports that law enforcement officials have used physical and other means of duress in seeking to obtain confessions, including in cases where the offence carries a possible death sentence.

The Dro and Vahan Hovanessian trials are examples of such allegations. They also illustrate another current concern of Amnesty International, that of the lack of appeal to a court of clearly higher jurisdiction when the court of first instance is the Armenian Supreme Court. Although decisions of the Supreme Court sitting as the court of first instance may be appealed, such appeals are lodged with the Presidium or Plenum of the Supreme Court, that is the same body of people from which the original judges were drawn. International standards are clear that anyone convicted of a capital offence should have the right to their conviction and sentence being reviewed by a *higher* tribunal. In April 1997 the United Nations Human Rights Committee, reviewing Georgia's initial report under the International Covenant on Civil and Political Rights, commented on similar arrangements in that country and expressed concern that an appeal heard by other bodies within the Supreme Court, against a sentence passed by the Supreme Court, did not fully respect the right to have a case reviewed by a higher court.

[36] Further information on the death penalty as an issue in international law can be found in the document *International Standards on the Death Penalty*, AI Index: ACT 50/06/97, August 1997.

Finally, although there is a *de facto* moratorium on executions, courts have continued to pass death sentences and there are currently at least 25 men on death row.[37] The numbers on death row have steadily accumulated, in part due to the moratorium but also because, in the absence of any information on pardons, it appears that President Ter-Petrosian has not actually been commuting pending death sentences. This means that some of those currently on death row may have been waiting years without knowing when they may expect their clemency appeals to be heard and in a state of continued uncertainty as to their ultimate fate.

Repeal of legislation on homosexuality

The new draft criminal code is also said to abolish the criminalization of consenting homosexual acts between adult males. Under legislation inherited from the Soviet era, Article 116 punishes "sodomy", defined as "sexual relations of a man with another man". Part 1 of the article punishes consenting sex between adult males by up to five years' imprisonment. Amnesty International is continuing to seek further information on the progress of the new legislation. Pending its adoption, the organization has urged officials to initiate moves to repeal Article 116 part 1, and not to pursue criminal prosecutions of men for consenting same-sex relations between adults in private.

Amnesty International's recommendations

Amnesty International welcomes the various moves taken by Armenia since independence to strengthen the protection of human rights. The organization is calling for further measures, however, so that the rights provided for under the Armenian Constitution and legislation, as well as under the international standards to which Armenia is a party, are fully implemented, and so that those in official positions who violate human rights are called to account. Amnesty International's recommendations are as follows.

End imprisonment of conscientious objectors as prisoners of conscience

The right to conscientious objection to military service is not a marginal concern outside the mainstream of international human rights promotion and protection. The right to conscientious objection is a basic component of the right to freedom of thought, conscience

[37] In his letter received by Amnesty International on 5 November 1997, the Armenian Prosecutor General writes that there were 24 men under sentence of death at that time. Since then Amnesty International knows of at least one further death sentence, that passed on Tigran Avetissian in the Vahan Hovanessian case. In that letter the Procurator General also reported that he had visited prisons where those sentenced to death are held, and had observed no violations in the regulations governing detention nor any cases of illegal acts by prison personnel.

and religion - as articulated in the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. Bodies such as the United Nations Commission on Human Rights, the Council of Europe and the European Parliament have all urged governments to guarantee this right.

Amnesty International is urging the Armenian authorities to:

- release immediately and unconditionally John Martirosyan, Yerem Nazaretyan, Tigran Petrosyan, Samvel Manukyan and all others imprisoned for their refusal on conscientious grounds to perform military service, and refrain from imprisoning anyone else as a conscientious objector;

- introduce without delay legislative provisions to ensure that a civilian alternative of non-punitive length is available to all those whose religious, ethical, moral, humanitarian, philosophical, political or other conscientiously-held beliefs preclude them from performing military service;

- establish independent and impartial decision-making procedures for applying a civilian alternative to military service;

- ensure, after the introduction of a civilian alternative service, that all relevant persons affected by military service, including those already serving in the army, have information available to them about the right to conscientious objection and how to apply for an alternative service.

End torture, ill-treatment and deaths in custody

Torture and ill-treatment of persons under any circumstances are expressly prohibited under international agreements to which Armenia is party, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and the International Covenant on Civil and Political Rights. Amnesty International recognizes the problems that may exist within the law enforcement system, for example those caused by lack of funding for professional staff, training and infrastructure, or those caused by a lack of public confidence in the willingness of such a system to address abuses. These problems can never be used as an excuse, however, for torture and deliberate ill-treatment. Amnesty International recommends that the Armenian authorities:

- criminalize torture as a distinct crime with appropriate punishments under national law, as defined in the Convention against Torture;[38]
- inform all detainees of their rights, including the right to complain to the authorities against ill-treatment;
- ensure that detainees under interrogation are informed promptly of the charge or charges against them, and that they are allowed prompt and regular access to a lawyer of their own choice, as well as to relatives and an independent medical practitioner;
- implement prompt and impartial investigations of all complaints of torture or ill-treatment of detainees, as well as when there are reasonable grounds to believe that torture or ill-treatment has occurred even if no complaint has been made (in line with Article 12 of the Convention against Torture);
- as part of such investigations, ensure prompt, impartial and professional medical examinations of persons alleging torture or who may have been tortured;
- bring those responsible for torture or ill-treatment of detainees to justice in the courts;
- ensure that every victim of torture has access to the means of obtaining redress and an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible (in line with Article 14 of the Convention against Torture);
- ensure that information regarding the absolute prohibition against the use of torture and ill-treatment is fully included in the training of law enforcement personnel and other persons who may be involved in the custody, interrogation and treatment of any individual subjected to any form of arrest, detention or imprisonment;

[38] In his letter received by Amnesty International on 5 November 1997, the Armenian Procurator General stated on this point that the Criminal Code already envisages criminal responsibility for torture under Article 105 ("intentional infliction of severe bodily injuries"), Article 106 ("intentional infliction of less severe bodily injuries") and Article 110 ("torture"). None of these, however, contains the definition of torture as given under the Convention against Torture, including specific mention of torture as an act carried out "by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" (Article 1 of the Convention against Torture).

- establish an effective system of independent inspection of all places of detention;
- take steps to address the concerns and all the recommendations of the United Nations Special Rapporteur on Torture and the Committee against Torture.

Review alleged unfair trials of political prisoners

As mentioned earlier, Amnesty International's definition of a political prisoner is broad, encompassing for example those who are accused of criminal offences but whose actual or imputed motive for such crimes is political. Amnesty International does not call for the release of all such prisoners within this definition, but does urge that all receive a fair trial in line with international standards. In view of the many allegations of ill-treatment in detention and of various procedural violations in the trials described in this paper, Amnesty International is calling on the Armenian authorities to:

- conduct a full judicial review of all such cases in which it has been alleged, for example, that testimony was extracted under physical or psychological duress, or that there have been violations of international fair trial standards.

Abolish the death penalty

Amnesty International opposes the death penalty in all cases throughout the world, and without reservation, on the grounds that it is a violation of the universally guaranteed right to life and constitutes the ultimate cruel, inhuman and degrading punishment. The organization is calling on the Armenian authorities to:

- commute all existing death sentences, as well as any that may be imposed before formal abolition of the death penalty:
- give priority in parliament to the second and any further readings necessary of the draft criminal code, in order that complete abolition of the death penalty may be enshrined in law without further delay;
- sign the Second Optional Protocol to the International Covenant on Civil and Political Rights. Signing this instrument, the first treaty of worldwide scope aimed at abolition of the death penalty, would confirm Armenia's commitment to abolition.

End criminalization of consenting homosexual relations between adults in private

Under legislation inherited from the Soviet era, consenting sex between adult males is punishable by up to five years' imprisonment. Amnesty International is calling on the authorities to:

- repeal Article 116 part 1, which criminalizes consenting sex between adult males;
- refrain from criminal prosecutions of men for consenting same-sex relations between adults in private.