



HUMAN RIGHTS IN ARMENIA

2015 REPORT





HUMAN RIGHTS IN ARMENIA



Diora

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Human Rights in **Armenia** 2015 R E P O R T

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in cooperation with

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Human Rights in

Armenia in 2015

On 12 January 2015, the public felt deep indignation and anger because of a murder of 7 members of Avetisyan family, including two young children, in the city of Gyumri. According to law enforcement agencies, Russian border guards detained the suspect in that murder Valery Permiakov, a military serviceman from the Russian military base stationed in Gyumri, while he was trying to cross the Armenian-Turkish border. On 13 January 2015 the Office of the RoA Prosecutor General issued a statement, which said, *inter alia*, that the murder suspect Valery Permiakov is a Russian Federation (RF) citizen and is held under the control of the RF law enforcement agents; therefore, the issue of handing him over to the RoA law enforcement agencies is not discussed. That statement further inflamed the public, whereupon a mass protest action was launched in Gyumri on 15 January 2015 with a demand that Valery Permiakov be handed over to the RoA law enforcement agencies. A similar protest action was also held in Yerevan in support of the action staged in Gyumri.

Probably the most significant developments of 2015 were protest actions organized by the civic initiative "*No to Plunder!*" against the decision made by the Public Services Regulatory Commission of the Republic of Armenia to increase electricity tariffs. The civic initiative's call unexpectedly drew a considerable response, especially from young people. On June 22, about 5,000 rally participants marched towards the RoA presidential palace. However, encoun-

tering a police wall the protesters turned rally into a sit-in and stayed on Baghramyan Avenue. Despite the participants' great excitement the rally went on without any calls for disturbance or violence. The next day, early in the morning the police dispersed the rally by resorting to violence against the protesters and forcibly taking them to police departments.

The public response was not slow in coming and the very same day in the evening over 20,000 protesters again "captured" Baghramyan Avenue. Numerous parliamentarians, politicians, public figures and people of art showed up from time to time in the area between the protesters and the police. Numerous journalists provided 24-hour coverage of the sit-in, and foreign media regularly reported about the developments.

Demanding that the decision to increase electricity tariffs be canceled, the rally participants rejected Serzh Sargsyan's invitation to meet and to hold negotiations. Subsequently, on June 27, the Armenian President made a decision to have an international audit carried out of the *Electric Networks of Armenia* Company. It was announced that until the end of the audit the burden of the increase of the electricity tariffs will be taken care of by the RoA Government. Even though the President's decision did not satisfy fully the protesters, their numbers dissipated. By July 6 there were only 500 participants of the sit-in and the police dispersed them easily.

The 12 February session of the Executive Council of the ruling *Republican Party of Armenia* (RPA) was probably the most significant political development, which was broadcast live by various TV Companies. The entire focus of the session was on the *Prosperous Armenia* political party Chairperson, a member of the National Assembly, the Chairperson of the RoA National Olympic Committee, big businessman Gagik Tsarukyan. The *Prosperous Armenia* political party was the driving force in the opposition Alliance that had been set up back in 2014 (the Alliance consisted of three political parties that had parliamentary caucuses, viz. *Prosperous Armenia*, *Armenian National Congress* and *Heritage* parties, and political forces that were not represented in the Parliament). The Alliance staged large rallies both in Yerevan and in various regions of the country, during which harsh criticisms were leveled at the Government policies as well as at the proposed Constitutional amendments. Serzh Sargsyan subjected Gagik Tsarukyan to severe criticism at the Council session making mention of the nickname, accusing him of ignorance, of a stance that was not appropriate for a politician and recalling the rumors that implicated Gagik Tsarukyan in various criminal actions, including tax evasion, etc. Serzh Sargsyan also declared that he would task the law enforcement agencies and tax bodies to check the facts¹. One day later Gagik Tsarukyan responded to Serzh Sargsyan with a speech that contained quite a few harsh words.

On February 15, a meeting of the leaders of the *Prosperous Armenia*, *Armenian National Congress* and *Heritage* parties Gagik Tsarukyan, Levon Ter-Petrosyan and

Raffi Hovhannisian was held, where a decision was made to hold a rally by the opposition triad in Liberty Square at 4 p.m. on February 20. The City Hall announced that it had not taken into consideration the notification submitted by the three political parties about holding an urgent rally. On February 18, the Political Council of the *Prosperous Armenia* party issued a statement to declare cancellation of the rally scheduled for February 20 taking into consideration extremely tense emotional state of the public and to avoid possible clashes. Then Gagik Tsarukyan announced his withdrawal from politics. A number of members, including Vahe Hovhannisyan, Vardan Oskanyan and others, left the political party.

The Alliance disintegrated, while the *Prosperous Armenia* party ended its opposition stance and subsequently took part jointly with the ruling Republican Party of Armenia in the campaign to advocate adopting Constitutional amendments.

In 2013, right in the first year of his second term in office the Armenian President Serzh Sargsyan unexpectedly for many citizens initiated the process of Constitutional amendments and set up a professional commission for Constitutional amendments. In 2014, the Commission submitted the Concept Paper for the Republic of Armenia Constitutional amendments that proposed transition to a parliamentary system of government. What was the motivation for this initiative, given the fact that the powers that be do not, as a rule, voluntarily limit their power, if there is no pressure from below?

It should be noted that having de facto unlimited powers the Armenian President has limitations on the term in office. As per

¹ Video material is posted at <https://www.youtube.com/watch?v=E1rTWeVndhw>

Article 50 of the RoA Constitution, "the same person may not be elected for the post of the President of the Republic for more than two consecutive terms."

Thus, having served two terms in office the President retires to enjoy a well-earned rest but loses all levers of power. We believe that this was probably the sole motive for Constitutional amendments since there is no limitation on the term in office in the parliamentary system of government and the same political forces can, in theory, stay in power and their leader hold the position of the Prime Minister for an unlimited period of time.

It is noteworthy that a similar statement was made by the PACE (Parliamentary Assembly of the Council of Europe) delegation that carried out an observation mission: "The core of the constitutional change - the shift from a presidential to a parliamentary system - was understood by too many citizens as being a means for the current president to remain in power after the end of his second (and what would have been final) term."²

Do Constitutional amendments really guarantee democratic developments and separation of powers in Armenia? In its 2013 annual report Helsinki Committee of Armenia addressed Armenia's political system and showed that the main cause of human rights violations was the absence of separation of powers³.

As per Article 89 of the proposed Constitutional amendments, the election outcome should secure the formation of a stable

parliamentary majority. If a stable parliamentary majority is not formed as a result of the election, a second round of the election shall be conducted.

Given a "sad electoral tradition," which has been established in Armenia, it is easy to visualize what methods will be used by the ruling Republican Party to secure the required stable parliamentary majority. As regards the formation of other bodies of power (5 members of the Supreme Judicial Council, Prosecutor General, Head of the Special Investigation Committee, Human Rights Ombudsman, Central Electoral Commission, Cassation Court judges), they will be appointed by at least a three-fifths majority vote of the total number of parliamentarians of the National Assembly. Considering the fact that the three-fifths constitute 60% and that the stable parliamentary majority required as per Article 89 will in all likelihood also constitute 60%, we will in fact get not the classical parliamentary system of government but a system of government by one political party. In addition, the judicial and law enforcement systems will be subordinated to that political party.

The Draft Amendments to the Armenian Constitution were made public on 15 July 2015. After brief debates, on October 5, the National Assembly of the Republic of Armenia adopted the decision "On giving consent to holding a referendum on the Draft Amendments to the Constitution of the Republic of Armenia." Based on that decision, on October 10, the Armenian President issued an order setting 6 December 2015 as the referendum date. The referendum campaign was officially launched on 10 October 2015.

The public was given only about 2.5 months to discuss the draft amendments to

² Source: <http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=5932&lang=2&cat=31>

³ See: <http://armhels.com/wp-content/uploads/2014/01/Ditord-2014-01armNew.pdf>

the Constitution. Were 2.5 months really sufficient to discuss the draft supreme law of the land? What was the reason for this rush in adopting the new Constitution? May be the reason was the next elections to the RoA National Assembly scheduled for 2017 so that the elections could be conducted according to the Electoral Code amended in line with the new Constitution. According to the Council of Europe Venice Commission's *Code of Good Practice on Referendums*⁴, the Electoral Code should not be open to amendment less than one year before a referendum.

In 2015, yet another high-profile incident occurred with the involvement of the Syunik Regional Governor Surik Khachatryan's family. In the past, too, various incidents of violence with the involvement of Surik Khachatryan and his family members were known to the public. In 2013, the former mayoral candidate in the town of Goris Avetik Budaghyan was killed and his brother, a commanding officer of a military unit Colonel Artak Budaghyan sustained serious wounds from gunshots fired from the area of Surik Khachatryan's house. Surik Khachatryan and his family members have not a single time been brought to criminal justice⁵.

On May 2, two brothers Harut and Mushegh Zakaryan, residents of Goris, sustained severe bodily injuries as a result of the brawling in an area called "Sdghi gyol" in Goris, with Surik Khachatryan's son Tigran Khachatryan being one of the participants. Harut Zakaryan sustained loss of vision in one eye, while Mushegh Zakaryan sustained fractures of maxillofacial, nasal and cheek bones. A criminal case was opened on May 4 in connection with the incident of hooliganism.

In November 2015 the investigation of the said case was finished and the case was sent to court. As per the indictment, one person was charged for committing an action punishable under Articles 112 (Infliction of willful heavy damage to health) and 113 (Infliction of willful medium-gravity damage to health) of the RoA Criminal Code and other 5 persons were charged for committing an action punishable under Article 113 of the RoA Criminal Code. No charges were pressed against Surik Khachatryan's son Tigran Khachatryan. What is more, on 2 November 2015, Tigran Khachatryan was appointed an assistant to the Director of Hayantar State non-commercial enterprise⁶.

4 See: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2007\)008-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2007)008-e)

5 See: <http://armhels.com/wp-content/uploads/2014/01/Ditord-2014-01armNew.pdf>

6 For a detailed description see: <https://www.youtube.com/watch?v=3nf-i6rKpRk>, <http://www.aravot.am/2015/05/05/568624/>, <http://www.aravot.am/2015/05/11/570450/>, <http://www.azatutyun.am/content/article/27010396.html>, <http://www.azatutyun.am/content/article/27012288.html>, <http://www.aravot.am/2015/06/02/577892/>, <http://www.lragir.am/index/arm/0/right/view/115354>, <http://168.am/2015/10/02/544672.html>, <http://www.aravot.am/2015/11/26/633113/>

Referendum on Constitutional Amendments

AS in the previous (parliamentary, presidential and local) elections conducted in Armenia, during the campaign prior to the Constitutional amendments referendum held on 6 December 2015 the misuse of administrative resources and the abuse of power by the authorities made a significant impact on the outcome of the referendum.

- *At the 19 October 2015 session of the executive body of the Republican Party of Armenia (RPA) the RoA Prime Minister Hovik Abrahamyan was appointed a chief of the RPA campaign headquarters for the constitutional referendum. He was tasked with organizing the referendum campaign activities. According to the statement made by the RPA spokesperson, the Prime Minister will not take a vacation and will combine the responsibilities of the Prime Minister and of the chief of the RPA campaign headquarters⁷. At the first meeting of the RPA campaign headquarters for the constitutional referendum other top-level officials, who are not members of the Republican Party, were appointed as Deputies of the headquarters' chief Hovik Abrahamyan⁸.*
- *There were media reports that from the very first days of the campaign the Regional Governors had meetings with Village heads and imposed on them an obligation to secure a certain number of "yes" votes⁹.*
- *On 6 November, during a discussion organized in the town of Meghri by Transparency International Anticorruption Center NGO the Mayor of the town of Meghri made a statement to the effect that the town residents do not need the*

awareness raising campaign conducted by NGOs because he is an elected Mayor and that his community residents will vote as he will tell them to. 3 hours after the meeting 3 earlier registered observers refused from the observation mission reasoning that their participation can result in the loss of their jobs¹⁰.

- *Syunik Regional Governor Surik Khachatryan made statements to the effect that in the region headed by him he will decide the percentage of "yes" votes¹¹.*
- *On 22 October, a discussion of the Constitutional amendments was held in the Law department of Yerevan State University. Only supporters of the proposed amendments were on the panel, including Gagik Ghazinyan and Gevorg Danielyan, members of the commission that produced the Draft Amendments to the Armenian Constitution, who presented only the positive aspects of the Draft. In his interview in the aftermath of the discussion the Yerevan State University President Aram Simonyan declared that there would be a follow-up to the event and that it was the University professionals' duty to raise the teaching staffs and students' awareness but that he would not let anyone from outside the University to come and advocate to vote "no."¹²*

7 Source: <http://www.azatutyun.am/content/article/27315713.html>

8 Source: <http://armlur.am/436691>

9 Source: <http://www.chi.am/index.cfm?objectid=7CE13620-72A6-11E5-81980EB7C0D21663>

10 Source: <http://www.media-center.am/hy/1448031890>

11 Ibid.

12 <http://www.azatutyun.am/content/article/27316749.html>, <https://www.youtube.com/watch?v=cHcNnR7gZ5w>, <http://www.azatutyun.am/content/article/27321152.html>

The results of the Armenia Helsinki Committee's observation conducted in Electoral District No. 7 of the referendum held on 6 December 2015

According to data compiled by observers, the referendum was held with gross violations¹³.

The following irregularities were recorded during the observation mission:

- ♦ *unscrupulous work or inaction of the commission members in 22 polling stations,*
- ♦ *numerous instances of voting for another person or of multiple voting in 18 polling stations,*
- ♦ *ballot-box stuffing or attempts at stuffing in 6 polling stations,*
- ♦ *fake additional voter lists in 1 polling station,*
- ♦ *pressure on and threats to observers, proxies and reporters as well as obstruction of observers' activities in 10 polling stations,*
- ♦ *an election recount: the process of repeat tabulation was initiated when initial results were reported from the polling*

13 <http://armhels.com/2015/12/14/helsinkyan-komitei-zekuycy-hanrakvei-veraberyal/>, <http://armhels.com/2015/12/06/ditordneri-grancats-khaktumneri/>, <http://armhels.com/2015/12/08/lconvel-e-aynkan-vorkan-anhrazhesht-e-eghel/>, <http://armhels.com/2015/12/15/tesaketneri-khachmeruk-3/>, <http://armhels.com/2015/12/10/hanrakven-petutyanyan-himkeri-kaykayum/>, <http://armhels.com/2015/12/08/lconvel-e-aynkan-vorkan-anhrazhesht-e-eghel/>, <http://armhels.com/2015/12/08/kveneri-hraparakman-zhamanak-anjatvats-elektraenergian/>, <http://armhels.com/2015/12/08/ps-haghordman-hyury-avetik-ishkhanyann-e/>, <http://armhels.com/2015/12/06/yntrateghamaseric-mekum-yntrogghy-glkharky-pokhel-e/>, <http://armhels.com/2015/12/06/aghjiky-khostovanel-e-vor-patrastvum-e-mek-ayl-tegh-kvearkel/>

stations and it became clear that the number of voters who had voted "No" in the referendum was greater than that of those who voted "Yes." Subsequently the observers registered that some commission members experienced health-related problems and several polling stations experienced rolling blackouts. All that led to a change in the voting results: the recount of votes in several polling stations brought about an increase of "Yes" votes in 13 polling stations;

- ♦ *discrepancy in 3 polling stations between the number of voters who cast a ballot and the number of those who received ballot papers,*
- ♦ *violation of the principle of voter's secret will expression by commission members or proxies in 8 polling stations;*
- ♦ *presence of unauthorized persons in a voting room in 9 polling stations;*
- ♦ *bringing people to polling stations by taxi cabs, minivans and other vehicles, overcrowding, "instructing" voters and campaigning in 21 polling stations;*
- ♦ *vote buying with food stuffs in 1 polling station,*
- ♦ *inaccuracies in voter lists (voter lists contain names of deceased persons) in 3 polling stations,*
- ♦ *policeman's presence in a voting room in 3 polling stations.*

Taking into consideration the above irregularities, Helsinki Committee of Armenia noted in its report that those irregularities had made an essential impact on the outcome of the referendum.

Other non-governmental organizations that carried out an observation mission on the day of the referendum conducted in Armenia (primarily the *Citizen Observer Initiative* which consists of about 18 NGOs and *Civil Society Institute* NGO) also registered the

above-mentioned irregularities. During the referendum conducted on December 6 the observers from the *Citizen Observer Initiative* and reporters videotaped numerous violations¹⁴.

Also registered were numerous violations of the rights of media people who were covering the referendum, including physical violence and obstruction of legitimate professional activities. According to the *Committee to Protect Freedom of Expression* (CPFE), two representatives of mass media (Rafael Afrikyan from *iLur.am* news web-site and Eduard Avetisyan from *Asparez* daily) were subjected to violence. In other 13 incidents reporters' legitimate professional activities were obstructed. 10 journalistic organizations issued a statement condemning those incidents¹⁵.

After the referendum, Karpis Pashoyan, a teacher at school # 145 and a member of the "No" movement who on the referendum day had opposed the violations at polling station # 9/22, was dismissed from his job. In his words, prior to the referendum he had from time to time received a warning from the school administration because of his participation in the "No" movement and of his notes of a political nature posted in social net-

works. According to him, he did not fit into many people's image of an acceptable teacher¹⁶.

The representatives of the *European Platform for Democratic Elections* (EPFD) who were among the international observers declared that they had registered acts of physical violence against reporters and expressed an opinion that due to the high number of electoral violations and crime, including intimidation of voters and ballot box stuffing, the referendum results do not reflect the free will of the citizens and should not be considered legitimate¹⁷.

- 14 <https://www.youtube.com/watch?v=leEvj9-Pywwhttps://www.youtube.com/watch?v=0jn67v-plkQhttps://www.youtube.com/watch?v=Ab7eiu33ZUs>
<https://www.youtube.com/watch?v=eylKA3UjtV4http://armhels.com/2015/12/11/teghamasum-kvearkel-ein-bacakayoghneri-pokharen/>
<http://www.aravot.am/2015/10/28/623247/>,
<http://www.ilur.am/news/view/50014.html>,
<http://www.ilur.am/news/view/45738.html#sthash.CEKelYQP.dpuf> <http://hetq.am/arm/news/64321/zaruhi-muradyan-kes-zham-pahanjvec-or-stipem-ardzanagru-tyun-kazmel.html10/23https://www.youtube.com/watch?v=Ab7eiu33ZUs&index=1&list=PL1LMnaKfGUzv-mUHBEldDxDxVtTx5dSsE>
- 15 Source: <http://hetq.am/arm/news/64328/lragroxakan-10-kazmakerputyunneri-haytararutyuny.html>
- 16 Source: <http://www.a1plus.am/1424438.htmlhttps://www.youtube.com/watch?v=1k4aj9459BA>
- 17 Source: <http://newsline.am/am/news/view/20487.html>

The Right to

Freedom of Speech

Year 2015 was a tense and complicated period for Armenian media and journalists. The year was unprecedented in terms of acts of violence against media people, of numerous instances of pressure and of impediments to legitimate professional activ-

ities and other unfounded restrictions that pose a threat to freedom of expression.

In recent years the *Committee to Protect Freedom of Expression* (CPFE) identified a pattern of increased pressure brought to bear on media outlets and on reporters and of vio-

lations threatening freedom of speech in the environment of rising domestic political tensions, particularly at the time of elections, rallies and civic movements.

From that perspective, year 2015 was no exception. During that year there were numerous movements and rallies of civil protest and it was in the course of those events that the media and reporters found themselves in an extremely unfavorable situation. It should be noted that as in the past the problems were for the most part a result of actions of various Government entities, including law enforcement agencies.

On the whole, in 2015, the CPFE registered 8 instances of physical violence against reporters. It is noteworthy that 23 media representatives were victims in those incidents.

In particular, physical violence used against reporters in the course of the police actions undertaken in early hours of June 23 against the demonstrators protesting in Baghramian Avenue in Yerevan over electricity price increase was unprecedented. On that day 13 representatives of various media outlets were subjected to physical violence. Other 11 media representatives encountered other unlawful obstacles.

Besides those acts of mass violence, 4 more incidents of physical violence against reporters took place. In the course of those incidents 7 media representatives became targets of an assault.

Thus, at least 20 reporters and cameramen were assaulted in the first six months of 2015 during 5 registered incidents of physical violence.

The number of attacks on media representatives exceeds even the number of attacks over the same period of time in 2008, when 18 reporters became targets of assaults while covering the clashes in the aftermath of the presidential elections that took place that

year, especially the 1 March events.

Three instances of physical violence were registered in the second half of this year. That period of time was not favorable either for media representatives. The conditions under which reporters worked deteriorated both during the campaign leading to the constitutional referendum and on the referendum day.

In particular, on 6 December 2015, the day that the constitutional referendum was held, 15 incidents were recorded. As mentioned above, 3 of those incidents were acts of physical violence, while 12 incidents were other obstacles to reporters performing their lawful professional activities. One instance of obstructing reporters' performance of their lawful professional activities was also registered during the referendum campaign.

On the whole, in 2015, the CPFE registered 67 instances of various forms of pressure brought to bear on mass media and its representatives. That number is bigger by 24 as compared to year 2014. 36 instances were registered in the first six months of 2015 and 31 instances were registered in the second six months.

In 2015, the CPFE registered 30 instances of violations of the right to receive and impart information (i.e. 17 instances more as compared to year 2014). Of these, 13 instances were registered in the first half of 2015, while 17 instances in the second half of the year.

Freedom of Peaceful Assembly

Year 2015 was marred by numerous violations of the right to freedom of assembly. As compared to 2014, the number of incidents when police dispersed or obstructed peaceful assemblies and used excessive force and violence against the participants increased. The police made unjustified detentions of the participants of peaceful assemblies. The detentions aimed to disrupt the assembly in question as well as to obstruct the participants' participation in future rallies. During the rallies observed in 2015, 483 instances of the participants being forcibly taken to police departments were registered. 30 instances occurred during the 15 January candlelight ceremony held in Liberty Square, 237 on June 23, 46 on July 6 and 48 on September 12, when the police were dispersing the rallies staged against electricity price increases. In all those cases the police terminated the rallies by forcibly taking the participants to police departments. Other instances of detention were not related to the termination of rallies.

Both the civic initiative "No to Plunder!" (which was founded in 2014) and new civic initiatives ("Rise up, Armenia!", "You won't hold it!" etc.) as well as political associations ("Constituent Parliament", "The Front of 'No'") and groups that have the same social and legal problems (employers of "Nairit" factory and "Vanadzor-ChemIndust" enterprise, tradesmen protesting against the *Law on turnover tax*, etc.) were main organizers of the rallies.

From January to December 2015, the Helsinki Committee of Armenia observed 111 peaceful assemblies. As regards 55 of those assemblies notifications were submit-

ted, as regards 48 notifications were not submitted, while 8 assemblies were spontaneous. Numerous instances of violence were observed in the months of January through June.

On January 15, in Gyumri the participants of the rally that was staged near the building of the Prosecutor General's Office in Shirak region started marching towards the Consulate of the Russian Federation with a demand that the Russian side should hand over to the RoA law enforcement agencies Valery Permiakov who had been charged with a murder of the Avetisyan family committed in Gyumri on January 12. The police wall blocked the marchers near the Consulate building thereby triggering clashes. As a result, 14 individuals (9 rally participants and 5 policemen) were taken to healthcare institutions¹⁸ and 21 rally participants were forcibly taken to police departments¹⁹. 2 criminal cases were instituted in connection with the incident and charges were brought against the resident of Sarnaghbyur village Mnatsakan Alexanyan²⁰. On the same day, in the course of the candlelight ceremony held in Liberty Square in Yerevan to commemorate the murdered Avetisyan family the detentions made by the police were accompanied by numerous acts of violence against the par-

18 Source: <http://www.a1plus.am/1359946.html>

19 Source: <http://www.azatutyun.am/content/article/26797509.html>

20 Source: <http://hetq.am/arm/news/58496/mnacakan-aleqsanyanin-mexadranq-e-arajadrvel.html>

21 For detailed description of the incident see <http://armhels.com/2015/01/21/haytarutyun-hunvari-15in-teghi-unecats-boghoki-zangvatsayin-mijocarumneri-veraberyal/>

ticipants²¹. Some rally participants were detained by plainclothes policemen. In connection with the incident, on 28 January 2015 the RoA Special Investigation Service instituted a criminal case, which, however, was dismissed on 14 October 2015.

On January 31, 2015, a car convoy to Mountainous Karabagh organized by the '*Constituent Parliament*' political movement was stopped in Berdzor village by the police and a group of unknown persons. A video recording posted on the Internet clearly shows how the police and the above-mentioned unknown persons blocked the convoy's entry to Mountainous Karabagh, submitted the participants to brutal beating using truncheons and smashed the glass of the participants' cars²². The car convoy participants Anushavan Shahnazaryan, Mkhitar Avetisyan and Kerob Ghazaryan sustained bodily injuries and were taken to a hospital. The police of the Republic of Mountainous Karabagh (RMK) explained their actions by the fact that the general public in Artsakh reacted negatively to the *Constituent Parliament's* car convoy and the police actions aimed to prevent possible violations of law²³.

In the morning of February 5, members of the *Constituent Parliament* wanted to bring to Republic Square the cars damaged in Berdzor. It was planned to hold an open-air press-conference in Republic Square. The police removed the cars and forcibly took two members of the *Constituent Parliament* Gevorg Safaryan and Hayk Grigoryan to the police department²⁴.

On March 28, 2015, during an assembly held in Gyumri by the *Constituent Parliament* a group of people started obstructing the assembly by whistling and

throwing eggs at the participants. Despite the demonstrators' calls the police did not intervene. The police intervened only when Hrachik Mirzoyan, one of the demonstrators, was stabbed with a knife²⁵. He was taken from the assembly location to a hospital and then to a resuscitation unit. H. Mirzoyan underwent surgery and his spleen was removed. A criminal investigation of the case was launched under Article 112 of the RoA Criminal Code ("Infliction of willful heavy damage to health").

Within the framework of its initiative "The Centennial without the regime" the *Constituent Parliament* announced that it would hold an assembly on April 24. The member of the *Constituent Parliament* Varuzhan Avetisyan submitted notification to the Yerevan City Hall about holding an assembly in a square close to Erebuni museum from 3 to 10 p.m. on April 24. The Yerevan City Hall took note of the information about the assembly but at the same time put a restriction. However, on 7 April, 5 members of the *Constituent Parliament* were detained and their apartments searched. According to the statement issued by the RoA Investigations Committee, a criminal investigation was launched against them under Article 225 of the RoA Criminal Code ("Mass disturbances) and remand in custody was chosen as a measure of restraint²⁶. Subsequently, on May 4, the measure of restraint was changed and they were released on the condi-

22 The video material is posted at <https://www.youtube.com/watch?v=nbF33yx8jpo>

23 The official statement by the police is posted at <http://www.police.nkr.am/news/view/%D5%B0%D5%A1%D5%B5%D5%BF%D5%A1%D6%80%D5%A1%D6%80%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B65.html>

24 Source: <http://www.aravot.am/2015/02/05/539238/>

25 Source: <http://www.aravot.am/2015/03/28/555514/>

26 For details see: <http://www.aravot.am/2015/04/07/558706/>

tion that they would not leave the city.

The next incidents of violence, this time against parents of the military servicemen whose deaths were not combat-related, were registered on **February 11** and **May 13**, 2015. Policemen forcibly drove them away from the RoA presidential palace to the opposite sidewalk of the street²⁷.

Mass-scale police violence against participants of peaceful assemblies was registered when policemen were dispersing the rally and the sit-in staged on **June 22-23** to protest against electricity price increases. The police used special means, including water cannon, to disperse the rally and to forcibly take 237 rally participants to police departments using excessive force and violence in many instances. Plainclothes policemen also took part in detaining the protesters. The rally participants who had been forcibly taken to police departments announced later that they had been detained on suspicion of having committed acts of hooliganism but had been interrogated as witnesses and had been held in police departments for up to 12 hours. Policemen also brought forcibly 11 reporters to police departments. 9 of those reporters were subjected to violence. The reporters who had been forcibly taken to police departments noted that many of them were hit and in some cases their video cameras and badges had been taken away. In some cases the video cameras were returned without memory sticks, while in some other cases the video cameras were smashed or seized. Even though the RoA Special Investigation Service instituted a criminal case on 2 July 2015 in connection with the use of violence by the police and obstructing the professional activities of journalists, so far not a single policeman has been brought to criminal justice.

As in previous years, the police pursued the policy of concentrating the maximum possible number of policemen on rally sites and in nearby areas. In some cases the number of policemen even exceeded that of rally participants.

During the rally and sit-in staged by *Rise up, Armenia!* civic initiative and launched on July 27 there were 30 participants and 350 policemen on site, while on September 1 during the rally staged by *No to Plunder!* civic initiative in Baghramian Avenue there were 100 participants and 340 policemen.

A disproportionately large number of policemen was on site of the rally-sit-in launched on December 1 in Liberty Square by the *New Armenia* public Salvation Front. From time to time the rally participants would organize marches towards the Central Election Commission office, the RoA Government Building and the office of the Republican Party of Armenia. However, the police would block the roads and thus restrict the movement of the participants and would not allow them to approach those buildings. Plainclothes policemen were present almost all the time on the sit-in site. Even though the RoA *Law on Police* states that while ensuring maintenance of public order, it is mandatory for policemen to always wear a uniform and identification insignia, non-uniformed policemen were present at numerous rallies and during the dispersal of the January 15 and June 23 rallies they even detained the participants.

27 For detailed description of the incidents see: <http://armhels.com/2015/05/13/brmutyun-havaki-masnakicneri-nkatmamb/>

28 Դեղի մանրամասն նկարագրությունը՝ <http://armhels.com/wp-content/uploads/2015/07/%D5%80%D5%A1%D5%BE%D5%A5%D5%AC%D5%BE%D5%A1%D5%AE.pdf>

Torture, Violence and Political Persecution

Police

The Criminal Code definition of the *corpus delicti* of torture was not consistent with the criteria proposed by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. That was also one of the reasons why no criminal cases were opened in Armenia regarding the *corpus delicti* of torture. Under earlier legislative regulation, an official could not be regarded as a person committing torture. Therefore, even if criminal investigation was launched, it was launched on the grounds of abuse of power. In a number of its judgments concerning Armenia (Virabyan v. Armenia, Nalbandyan v. Armenia and in a number of others) the European Court of Human Rights (ECtHR) recognized violation of Article 3 of the Convention making it incumbent on the Republic of Armenia authorities to take measures aimed at enhancing effectiveness in combating tortures. To comply with the commitments, on 9 June 2015 the RoA Criminal Code was amended and a new Article (309.1) was added. This term "torture" defined in this Article is in line with the definition contained in the UN Convention.

As Helsinki Committee of Armenia stated in its *Treatment of detained persons in police departments Report* published in 2013, in police departments persons are subjected to torture and inhuman or degrading treatment, which take the form of physical as well as psychological violence²⁹. The Head of the

RoA Police as well as other top-ranking police officials often declare that they instructed police department to no longer use violence and that instances of violence have disappeared. Helsinki Committee of Armenia conducted a study in February-April 2015 targeting the detainees held in penal institutions of the RoA Ministry of Justice. The objective of the study was to find out whether the situation in police departments had changed as compared to 2013. 60 arrested individuals were surveyed. The study showed that violence is still used in police departments. Physical violence or psychological pressure was used against 15 respondents while they were in police or investigations departments. The detainees were beaten, shoved, handcuffed, kicked and punched and violence was accompanied with verbal abuse and threats. In 11 cases violence was used to extract a confession, while in 4 cases it was used for retaliation. 30 respondents did not have a defense attorney.

The system of penal institutions

Overcrowding has been a problem for many years in penal institutions in Armenia. The situation is particularly grave in *Nubarashen* penal institution, where up to 20 inmates are held in the cells designed for 8 inmates.

In April 2015, the group of civic observers for conducting monitoring in the RoA Ministry of Justice penal institutions

²⁹ The Report is posted at <http://armhels.com/wp-content/uploads/2013/04/zekuyc-2013.pdf>

met with G. Safaryan, who was held in Nubarashen penal institution, and then issued a statement that in the cell, where G. Safaryan was kept, there were 8 beds and 1 divan for 15 inmates.

The *Nubarashen* penal institution inmate Hayk Kyureghyan's father³⁰ made a statement on 11 December 2015, in which he noted, *inter alia*: "Hayk Kyureghyan has been on a hunger strike for 24 days already. While in prison, Hayk has acquired serious health problems. Even though a non-smoker, Hayk acquired chronic cough and developed an allergy to smoke because he has been held in an overcrowded and closed cell, where the number of inmates (17) three times exceeds the norm, the inmates sleep in turns and proper ventilation is absent, resulting in air hunger. After relatives lodged a request, Hayk received insufficient medical treatment, which was terminated on the grounds that the institution "does not have a relevant specialist."

In 2015, inmates Volodya Avetisyan and Liparit Petrosyan held in Nubarashen penal institution in overcrowded cells turned to court with the demand to recognize the fact of violation of rights and to restore the violated right. In Volodya Avetisyan's case up to 8 inmates were held in a cell with an area of 15-20 square meters, while in Liparit Petrosyan's case up to 15 inmates were held in a cell with an area of 30 square meters. In both instances the courts did not accept the cases and did not review them. The superior courts rejected appeals to take cases for review.

Issues of life-termers

On 22 October 2015, Soghomon Kocharyan, who had been serving a life imprisonment sentence, was released from prison by the court judgment handed down on the grounds of serious diseases that he had. That was the first time in the history of independent Armenia that a life-termer was released from prison and did not have to serve the remaining part of the sentence. He was diagnosed with a serious disease that, according to the Government Decree № 825-N of 2006, impedes serving the sentence. Soghomon Kocharyan died 15 days after he had been released from prison. Over the last year his family from time to time spoke publicly about the necessity of transferring him to a hospital. However, he was taken to Erebuni medical center for treatment only on 18 August 2015³¹.

Another inmate sentenced to life in prison, Karen Boyajyan, died in *Erebuni* medical center on 10 November 2015. Karen Boyajyan had been in the *Convicts' Hospital* penal institution since July 2014. He had a chronic disease that, according to the Government Decree № 825-N of 2006, impedes serving the sentence. However, he was not released from prison³². Those two cases prove that the system for releasing convicts who have a disease incompatible with serving the prison term does not operate efficiently in Armenia.

As per the RoA Criminal Code, in case of criminal offenders of up to 18 years of age the maximum prison term is set at 18 years. In case

30 For information about Hayk Kyureghyan see *Violence and Political Persecutions* section.

31 See: <http://armhels.com/2015/11/09/soghomon-kocharyany-15-or-apres-azatutyany-mej/>

32 See: <http://armhels.com/2015/11/11/yerek-mahacats-dapartyaly-evs-petk-e-minch-ayd-azatvats-liner/>

of an older person the latter can be sentenced to life in prison. We believe that in Armenia, like in many civilized countries, a juvenile justice system should start functioning and the RoA Criminal Code should be amended so that young people would not be given a sentence of life in prison but would be sentenced to a certain time in prison for up to 20 years.

Article 102 of the RoA Penitentiary Code outlines the cases when the type of penal institution for executing the sentence can be changed. As per the Article, the convict who has been sentenced to life imprisonment and who is serving his sentence in a closed penal institution can be transferred to a semi-closed penal institution upon serving at least 20 years of the imposed sentence. We believe that shorter periods of time should be set for changing the type of penal institution. For example, a life termer should have an opportunity for transfer to a semi-closed penal institution after serving 15 years of his sentence and to a semi-open penal institution after serving 18 years of his sentence. The draft law has been discussed for about 4 years in the RoA National Assembly but has yet to be passed. The proposed amendment is substantiated by the fact that at present a life termer can be transferred to a semi-closed penal institution upon serving 20 years of his sentence and that the same 20-year period of time is set for a conditional early release. The necessity of changing the type of prison regime can be accounted for by the fact that by the time they will have served 20 years of their sentence the life termers would have been through semi-closed and semi-open regimes. That would give an opportunity for their gradual integration into the society as well as an opportunity to assess their behavior.

In Armenia, the conditional early release system is not applied to life termers, even

though the legislation establishes that a life termer is entitled to a conditional early release upon serving 20 years of his sentence. About 10 life termers have already served that period of time; however, not a single one of them has been granted a conditional early release. We believe that clear-cut mechanisms should be designed for the conditional early release system that would give an opportunity for life termers to get a conditional early release. An obligation to compensate the damage to an aggrieved party could be incorporated in those mechanisms.

So far in Armenia the material evidence in criminal cases is destroyed after the judgment takes effect. That does not make it possible to make a DNA analysis based on the latest progress in science and to re-open the criminal cases of potentially innocent convicts on the grounds of new evidence. Even though the Draft RoA Criminal Procedure Code includes a new provision (in Article 100 paragraph 2), according to which in case of crimes that endanger life or health the material evidence shall be preserved, and even though the Draft Code has been in circulation for about 3 years, nevertheless, it has not taken legal effect so far, while material evidence is destroyed as before.

Armed forces

In 2015, Helsinki Committee of Armenia conducted in the armed forces a study of prevalent customs and of the conformity of relations to the Regulations. The goal of the study was to find out how prevalent customs affect servicemen's behavior and what consequences they might lead to. In line with the study goal, interviews were conducted with 25 demobilized servicemen who served in different military units in

2012-2015. The findings indicate that in their everyday lives the servicemen had for the most part striven to avoid complying with the requirements set by the Regulations and followed instead the unwritten rules that exist in that environment. When a serviceman would comply with the requirements of the Regulations of his own will that would be met with opposition from his fellow servicemen and would cause rows with them. The same attitude is shown towards those servicemen who report arguments and incidents to commanding officers. It is noteworthy that the higher the rank of the commanding officer the graver the "misdeed" the reporting is regarded.

The customs prevalent in the army are often used by officers by cultivating the so-called "privileged soldiers." Those soldiers who are a respected authority among fellow servicemen are often granted numerous privileges by commanding officers in exchange for maintenance of order in the military unit and controlling servicemen's behavior. In the course of the interviews numerous incidents were mentioned when commanding officers had not so much as reprimanded the "privileged soldier" who had taken part in a row between servicemen. In fact, with the use of "privileged soldiers" commanding officers transfer the servicemen's behavior from the Regulations field to that of the customs prevalent in the unit, establish non-statutory subordination between them and control it.

The prevalent customs have a considerable impact on how responsibility is apportioned to the servicemen who have committed an offence. The most widespread are beatings and prohibiting or obligating servicemen to do something through the use of harshly insulting language and threats. 25

percent of the interviewed demobilized servicemen pointed out that they had been beaten by a commanding officer and that beatings had been accompanied with harshly insulting language.

In his Report published on 10 March 2015, the Council of Europe Commissioner for human rights Nils Muĩnieks discussed the facts relating to gross violations of human rights in the army and to unfair trials. The Commissioner noted with regret that acts of non-combat violence, sometimes resulting in deaths, continue to occur in the Armenian army. He called upon the Armenian authorities to intensify their efforts to tackle this problem effectively. According to the Report, the Commissioner was concerned by the persisting reports regarding the lack of effective investigation of military servicemen's deaths and the fact that in some cases the investigations take an extremely long time³³.

From 1997 on, the parents of the military servicemen who died non-combat deaths have been staging from time to time protest actions near various government agencies demanding that a fair and impartial trial be held of cases of their dead sons. The criminal cases opened in connection with deaths of military servicemen, in particular Arayik Avetisyan (2001), Tigran Ohanjanyan (2007), Arthur Ghazaryan (2009), Valerik Muradyan (2010) and Arman Muradyan (2013), have not been brought to successful completion yet, while perpetrators of crimes have not been identified yet.

According to the official data, 57 deaths of military servicemen were registered in 2015. Of those, 38 deaths were caused by the violation of the ceasefire regime (sniper

33 Source: <http://forrights.am/?ln=1&page-id=14&id=-4>:

shots, enemy special forces incursions and other actions), 2 deaths were the result of a car accident and 2 deaths were caused by a disease. Other deaths include 1 murder and 6 cases of suicide or causing a person to commit suicide, 4 accidents, 3 cases of violation of the rules of an active military service and 1 landmine explosion³⁴.

According to Helsinki Citizens' Assembly Vanadzor Office, in the period from January to December 2015, 76 deaths of military servicemen were registered in the RoA armed forces and in the Defense Army of the Mountainous Karabakh Republic. As compared to year 2014, the number of deaths increased by 30. Of the deaths registered in 2015, 41 deaths occurred as a result of the violation of the ceasefire regime, 3 deaths were cases of homicide (1 murder and 2 cases of violation of the rules of an active military service), 6 deaths were cases of suicide or causing a person to commit suicide, 1 case was related to violation of the rules of an active military service, 21 deaths were the result of accidents (including 19 deaths because of a vehicle crash, 1 because of hand grenade explosion, 1 under the circumstances that have not been ascertained yet) and 4 deaths were health problems-related.

Violence and political persecution

During 2015, a number of acts of violence were committed by police and by unknown persons against civic activists.

In the evening of 17 January 2015, a group of masked people physically attacked civic activist Vilen Gabrielyan in Koghbatsi Street who goes by the name of "boat rocker" in social networks. Blows were dealt largely to his face and head. Vilen Gabrielyan was taken

to a hospital, where stitches were put in his head. In a conversation with reporters Vilen Gabrielyan claimed that the incident was related to his civic activism and political views and pointed out his severe criticisms of the authorities and particularly Head of the Police Vladimir Gasparyan. He also said that threats of revenge for criticizing Vladimir Gasparyan were disseminated through Facebook social network. He learned about it from his friends. In connection with the assault, Vilen Gabrielyan notified the police. On 30 January, the Yerevan city Kentron and Nork-Marash administrative districts Investigations Department of the Investigations Division of the city of Yerevan opened a criminal case in connection with the physical attack on Vilen Gabrielyan. Talking to reporters in March, Vilen Gabrielyan said that there was no progress in solving the case and that only experts examinations were made. Later on, the criminal case dealing with violence against Vilen Gabrielyan was dismissed³⁵.

During the Pan-Armenian Games held in August 2015 23-year-old activist and student Suzy Gevorgyan was disseminating leaflets which said that the country was subjected to forced emigration, that "white" Genocide was taking place and that we will soon lose the motherland. Using the leaflets she urged young people from the Diaspora to join the *Constituent Parliament* movement. In Suzy Gevorgyan's words, she was followed for several days by policemen, while at 11 p.m. on August 31 several individuals in civilian clothes physically attacked her near the entrance to her home and then threatened her and ran away. Suzy Gevorgyan claims that it was plainclothes policemen who assaulted her. Even though there was media coverage

34 Source: <http://www.azatutyun.am/content/article/27498714.html>

35 Source: <http://www.aravot.am/2015/03/09/549613/>

of the incident, the police, however, did not open a criminal case³⁶.

On 7 February 2015, masked men kidnapped the *Prosperous Armenia* political party member Artak Khachatryan and for several hours submitted him to beatings. Unconscious and with numerous bodily injuries Artak Khachatryan was found near his home. Artak Khachatryan was a coordinator of the *Suspension civic* movement and was taking an active part in protest actions against the *Law on turnover tax*. While a criminal case was opened in connection with the incident, it was subsequently suspended. In the aftermath of the incident Artak Khachatryan left Armenia³⁷.

On September 21, the *Freedom Fighters Alliance* member Smbat Hakobyan was physically attacked after the march staged by *Hayazn* political party. He was discovered covered in blood in Abovian Street. In connection with the incident a criminal case was opened Under Article 113 part 2 paragraph 3 of the RoA Criminal Code (*Infliction of willful medium-gravity damage to health by a group of persons or by an organized group*). Three individuals who had assaulted him were detained. One of them was released on the grounds of having health-related problems. The perpetrators explained their actions by the fact that Smbat Hakobyan had allegedly used offensive words as regards the RoA President Serzh Sargsyan. However, Smbat Hakobyan denies doing that. Smbat Hakobyan also declared that the President of the Football Federation of Armenia Ruben Hayrapetyan had called and threatened him. Smbat Hakobyan claims that that was politically motivated retribution. He accused Ruben Hayrapetyan of the attack. Ruben Hayrapetyan was recognized as a witness in

the case. On November 3, a confrontation meeting was organized for Smbat Hakobyan with Ruben Hayrapetyan, during which the latter accused the former of giving a false testimony. Details about the meeting were not reported³⁸.

Smbat Hakobyan keeps as evidence the transcript of the telephone call with threats against him. He left the investigation of his case to relevant bodies³⁹.

The follow-up on the 2014 court cases

On 27 November 2014, at about 6 p.m. a group of unknown individuals attacked the *Constituent Parliament* member Gevorg Safaryan in Khanjyan Street and hit him from behind. As a result of the assault, Gevorg Safaryan was taken to a hospital injured and unconscious⁴⁰. The criminal case opened in connection with the incident was suspended "on the grounds that the individuals who would be investigated as the accused are not known."⁴¹

On 11 December 2014, Aram Manukyan, the parliamentary group Secretary of the Armenian National Congress political party, was physically attacked near the entrance to his home. He received an out-patient medical treatment for several months to restore his health. However, according to the conclusion of the

36 Source: <http://www.aravot.am/2015/08/22/601660/>

37 Source: <http://www.a1plus.am/1404717.html>

38 Source: <http://www.aravot.am/2015/11/04/625468/>

39 Source: <http://www.azatutyun.am/content/article/27281792.html>
<http://www.aravot.am/2015/10/01/614534/>

40 For details see Violence section of the HCA Human Rights in Armenia in 2014 Annual Report
<http://armhels.com/wp-content/uploads/2015/02/Ditord-69-Arm.pdf>

41 <http://www.aravot.am/2015/12/23/642575/>

expert examination, Aram Manukyan had received light bodily injuries. A criminal case was opened in connection with the incident under Article 117 of the RoA Criminal Code (*Willful infliction of light damage to health*). In this case Arshak Svazyan was charged and tried. On 22 June 2015, the court handed down a judgment of arresting him for one month. However, Aram Manukyan declared that the preliminary investigation of the case had been flawed because the details of the crime were concealed, in particular, those who had commissioned the crime were not identified⁴².

On the day of Shant Harutyunyan's and his friends' trial, Hayk Kyureghyan⁴³ climbed on one of the vehicles parked near the court building and declared that there were explosives in the vehicle and then fired shots from an air pistol in the direction of policemen. Charges were pressed against Hayk Kyureghyan under Article 316 part 2 (Violence against a representative of authori-

ties) and Article 258 part 4 (Hooliganism) of the RoA Criminal Code. On 15 September 2015, the first instance court sentenced Hayk Kyureghyan to 9 years in prison. The sentence given to him is extremely not commensurate to what he did. Such severe punishment can be regarded as persecution⁴⁴.

42 <http://www.azatutyun.am/content/article/26822125.html>
<http://www.azatutyun.am/content/article/27014184.html>

43 *http On 31 October 2013, Shant Harutyunyan and his adherents declared a sit-in in Liberty Square against the policies pursued by the Armenian authorities. On November 5, they attempted a march, which was blocked by the police and demonstrators clashed with the police. As a result, over 30 individuals were detained. Criminal cases were opened against 14 of them. On 17 October 2014, Shant Harutyunyan and his friends were convicted by the court. The court meted out punishment to them ranging from fines to 7 years in prison. For details see "Political persecutions" section of the HCA Human Rights in Armenia in 2014 Annual Report <http://armhels.com/wp-content/uploads/2015/02/Ditord-69-Arm.pdf>: <http://www.azatutyun.am/content/article/26822125.html>
<http://www.azatutyun.am/content/article/27014184.html>*

44 Source: <http://www.aravot.am/2015/09/15/608864/> and <http://armhels.com/wp-content/uploads/2015/02/Ditord-69-Arm.pdf>

Freedom of Conscience and Religion

The main event of year 2015 was the Constitutional amendments adopted on the basis of the referendum held on December 6. Those amendments give rise to serious concern regarding matters of freedom of thought, conscience and religion.

The amendments contain statements that are ambiguous. Besides, if we take into consideration Articles of some laws that are in effect and some statements in the Draft RoA Law on Religious Organizations prepared by the Government in 2011 (which is now

"frozen" because of criticism from the Venice Commission) as well as obvious facts of merger of church and State, then those new statements are indeed problematic.

Thus, Article 17 of the new Constitution states that freedom of activity is guaranteed for religious organizations and that there is separation between religious organizations and the State. The next Article (Article 18) recognizes the "exclusive mission" of the Armenian Apostolic Holy Church.

"Article 17. The State and Religious Organizations

1. *The freedom of activity shall be guaranteed in the Republic of Armenia for religious organizations.*
2. *In the Republic of Armenia, religious organizations shall be separate from the State.*

Article 18. The Armenian Apostolic Holy Church

1. *The Republic of Armenia shall recognize the exclusive mission of the Armenian Apostolic Holy Church as the national church in the spiritual life of the Armenian people, in the development of its national culture, and in the preservation of its national identity.*
2. *The relationship between the Republic of Armenia and the Armenian Apostolic Holy Church may be regulated by a special agreement."*

In Article 17 of the proposed draft Constitution the provision "religious organizations shall be separate from the State" replaces the provision in the currently effective Constitution "the church shall be separate from the State."

There are grounds to believe that an attempt was made in the above-mentioned Draft Law on Religious Organizations prepared by the Government to separate through legislation the legal status of "a religious organization" from the legal status of the Armenian Apostolic Church. Probably, it is not incidental that a separate Article is devoted to the Armenian Apostolic Church (Article 18) in the draft Constitutional amendments, which indicates the "exclusive mission" of the Armenian Apostolic Church. That is an attempt is made to separate the concepts of a "religious organization" and the "Armenian

Apostolic Church" that in fact become different legal categories. If the relevant Article of the 2011 *Draft Law on Religious Organizations* (where division is made between the Armenian Apostolic Church and other religious organizations) is retained in the future Draft, it will further strengthen the contention that Armenia is not a secular State and that the provision that religious organizations are separate from the State will not apply to the Armenian Apostolic Church. That contention becomes even more tenable, if we study a number of laws currently in force and the policies pursued by the Armenian Government in the field of religion.

For example, the laws on military service, on service in police force, on service in national security agencies and on Armenia's rescue service as well as a number of other laws place a restriction on servicemen of those agencies. It is prohibited for them to be a member of a religious organization (it is obviously an unlawful restriction, which contradicts the UN and European human rights conventions). However, essentially this provision does not apply to followers of the Armenian Apostolic Church. It applies only to followers of other religions. The leaders of the above-mentioned agencies take part in religious ceremonies of the Armenian Apostolic Church and publicly declare that they are members of the Armenian Apostolic Church.

There is yet another problematic provision in the draft Constitutional amendments.

Article 41, which is devoted to freedom of thought, conscience and religion, states that the expression of that freedom may be restricted for reasons of national security, which contradicts the judgments of the European Court of Human Rights."However, unlike the second paragraphs of Articles 8, 10, and 11, paragraph 2 of Article 9 of the (European) Convention

(on Human Rights) does not allow restrictions on the ground of national security."⁴⁵

In that respect it should also be borne in mind that clergy of the Armenian Apostolic Church often make public statements urging that the rights of other religious organizations be restricted and justifying those calls by "national" and "spiritual" security.

However, it is noteworthy that similar statements are publicly made also by the officials from the ruling Republican Party even from the National Assembly podium. It gives grounds to assume that religious intolerance becomes the policy adhered to by the Government.

Thus, on 3 November 2015, 24 non-governmental organizations issued a statement to condemn the Deputy Speaker of the National Assembly as well as the head of the parliamentary group of the ruling Republican Party for the statements made from the National Assembly podium.

"On October 7, when reviewing the report submitted by the Chairman of the Council of Public TV and Radio Company to the National Assembly, the Deputy Speaker of the National Assembly Eduard Sharmazanov declared that functions of the Public TV and Radio Company should include first and foremost the spiritual education of citizens and suggested that religious broadcasts be organized. The Deputy Speaker of the National Assembly thus explained the goal of religious broadcasts: "in the context of a fight against sects." The Chairman of the Council of Public TV and Radio Company replied that the Company has capacity to do that and that they will try to produce such broadcasts.

45 CASE OF NOLAN AND K. v. RUSSIA (Application no. 2512/04) <http://legislationline.org/documents/action/popup/id/15785>

The same idea was expressed by Vahram Baghdasaryan, the head of the parliamentary group of the Republican Party. It could be assumed then that that is the policy of the ruling party. Mr. Baghdasaryan said: "It is no secret that under the guise of democracy quite large amounts of money enter this country and that money is used to undermine our national values, our traditions, sturdiness of our families, and our church, and the Public TV and Radio Company has very much to do to counter that." According to him, quite large amounts of money are allocated to "sects" so that those would be able to split "our Holy Apostolic Church." When top-ranking representatives of the parliamentary majority level such grave accusations against "sects," they do not specify their understanding of what a "sect" is and do not point out what religious organizations get "quite large amounts of money" from abroad to undermine the "national values."

We, the organizations that have signed this statement, regard the use of the Public TV and Radio Company air time for religious purposes as unacceptable. We also condemn the statements of the above-mentioned officials that declare Armenia's religious organizations the enemy of the nation.

We wish to remind that under Article 226 of the Criminal Code currently in force, "Actions aimed at the incitement of national, racial or religious hatred" shall be considered a criminal offense and shall entail sanctions."⁴⁶

The restrictions on the activities of religious organizations on the grounds of "national security," as indicated in the draft Constitutional amendments as well as the above-mentioned statements by leaders of the ruling political party give rise to serious concern.

46 Source: <http://www.aravot.am/2015/11/03/624854/>

The changes in and additions to the *Law on Alternative Service* made in 2013 were a positive development. After their adoption members of *Jehovah Witnesses* religious organization go into an alternative service. *Jehovah Witnesses* did not lodge a single complaint. In 2015, the organization's members continued to serve without any serious incident. The Defense Ministry's National Conscription Board accepted all the requests for alternative service submitted in 2015 and granted them.

Members of *Jehovah Witnesses* religious organization place billboards in the streets with campaign materials. In contrast to previous years, there were no serious incidents. What is more, in a number of instances some passers-by tried to obstruct *Jehovah Witnesses'* campaigning, however, policemen interfered and normalized the situation. According to the *Jehovah Witnesses'* data, in contrast to previous years, there were no obstacles to bringing publications into Armenia and customs house imposed no duties on those publications. There are problems related to the charges established for publication of periodicals; however, the problem needs to be solved through legislation.

The Yerevan City Hall turned down applications submitted by *Jehovah's Witnesses* for construction of three buildings for worship. While the judgments rendered by courts were not in their favor, the organization will continue to appeal to higher courts against those judgments.

The situation remains problematic in general-education institutions, in particular the teaching of the *History of the Armenian Church* subject. In contrast to previous years, involvement of the Armenian Apostolic Church clergy in schools has occurred on a mass scale. At schools, children are forced to pray and to perform religious rites. The sec-

tions wherein ethnic and religious identities are regarded as identical and members of other religious organizations are presented as not full-fledged Armenians have not been removed from recently reissued textbooks of that academic subject.

As per Clause 3 of Article 4 ("National Policy in the Sphere of General Education") of the RoA *Law on General Education*, "The Republic of Armenia shall ensure the democratic and secular nature of education." However, Clause 8 of the same Article lays the groundwork for obviating that requirement: "Carrying out religious activities or advocacy in educational institutions shall be prohibited, with the exception of the cases stipulated by law." The Armenian Apostolic Church clergy and the Education Ministry officials point at that provision saying that the issue of religious preaching is regulated by the RoA *Law on Relations between the Republic of Armenia and the Armenian Apostolic Holy Church*. Actually, it, too, reflects the ideas that the Armenian Apostolic Church and other religious organizations have different statuses and that the provision about a secular nature of education applies only to religious organizations other than the Armenian Apostolic Church.

Celebrities and artists are periodically subjected to slander and persecution by Armenian mass media. The media continue publishing articles accusing individuals working in the field of culture of being "sectarians" and making public information about their private lives. However, there has not been a single case when law enforcement agencies would have launched an investigation on the basis of those statements⁴⁷.

In particular, provocative, unverified rumors are disseminated, for example, that

"sectarians' commit suicide, teach children how to engage in sexual activity and take part in anti-government rallies"⁴⁸. The goal of all that is to stir up animosity towards religious "sects."

Essentially, members of all religious organizations are declared "sects." "According to his [Head of the *Center of Rehabilitation and Assistance to Victims of Destructive Cults Alexander Amaryan's*] data, the number of registered religious entities in this country is 65, while the number of not registered ones, including those operating as psychological centers, is 200. The number of followers of churches other than the Armenian Apostolic Church is about 350,000, of those about 250,000 are involved in destructive religious cults."⁴⁹

Articles are published wherein membership in a religious organization is declared to be mental illness⁵⁰.

The materials stirring up religious animosity made their way also to the Armenian sector of Wikipedia, where many religious organizations are designated as "sects and organizations dangerous for the public."⁵¹

47 Աղանդավոր հայ աւսղերը. Մոր բացահայտումներ, <https://ordinarius.wordpress.com/2015/06/01/%D5%A1%D5%B2%D5%A1%D5%B6%D5%A4%D5%B6%D5%A5%D6%80%D5%AB-%D5%A1%D5%B6%D5%A4%D5%A1%D5%B4-%D5%B0%D5%A1%D5%B6%D5%A4%D5%AB%D5%BD%D5%A1%D6%81%D5%B8%D5%B2-%D5%B0%D5%A1%D5%B5%D5%AF%D5%A1%D5%AF%D5%A1%D5%B6/> (Armenian stars members of sects: New disclosures. <https://ordinarius.wordpress.com/2015/06/01/%D5%A1%D5%B2%D5%A1%D5%B6%D5%A4%D5%B6%D5%A5%D6%80%D5%AB-%D5%A1%D5%B6%D5%A4%D5%A1%D5%B4-%D5%B0%D5%A1%D5%B6%D5%A4%D5%AB%D5%BD%D5%A1%D6%81%D5%B8%D5%B2-%D5%B0%D5%A1%D5%B5%D5%AF%D5%A1%D5%AF%D5%A1%D5%B6/>, in Armenian).

48 «Աղանդների ճամբարներում սեփ են փարգում».
Ալեքսանդր Ամարյան, աղբյուրը՝ 9.07.2015, [newsbook.am](http://newsbook.amhttp://newsbook.am/?p=61429/axandnery+chambarerum+seqs+en+qarozum+aleqsandr+am+aryan&l=am) (*Alexander Amaryan. Sects preach sex in (summer) camps. Source: newsbook.am, http://newsbook.am/?p=61429/axandnery+chambarerum+seqs+en+qarozum+aleqsandr+amaryan&l=am* 9 July 2015, in Armenian).

49 Հայաստանում նոր կրոնական կառույց է գրանցվել, 30.10.2015, [aravot.am](http://www.aravot.am), <http://www.aravot.am/2015/09/30/614039/> (A new religious entity has been registered in Armenia. 30 October 2015, aravot.am, <http://www.aravot.am/2015/09/30/614039/>, in Armenian).

50 Աղանդից շեղվում են, բայց եկեղեցին դասրաւս է ընդունել. Տեր Աբել, 14.07.2015, <https://ordinarius.wordpress.com/2015/06/01/%D5%A1%D5%B2%D5%A1%D5%B6%D5%A4%D5%B6%D5%A5%D6%80%D5%AB-%D5%A1%D5%B6%D5%A4%D5%A1%D5%B4-%D5%B0%D5%A1%D5%B6%D5%A4%D5%AB%D5%BD%D5%A1%D6%81%D5%B8%D5%B2-%D5%B0%D5%A1%D5%B5%D5%AF%D5%A1%D5%AF%D5%A1%D5%B6/> (People are misguided because of a sect but the (Armenian Apostolic) Church is willing to accept them. by clergyman Ter Abel, 14 July 2015, <https://ordinarius.wordpress.com/2015/06/01/%D5%A1%D5%B2%D5%A1%D5%B6%D5%A4%D5%B6%D5%A5%D6%80%D5%AB-%D5%A1%D5%B6%D5%A4%D5%A1%D5%B4-%D5%B0%D5%A1%D5%B6%D5%A4%D5%AB%D5%BD%D5%A1%D6%81%D5%B8%D5%B2-%D5%B0%D5%A1%D5%B5%D5%AF%D5%A1%D5%AF%D5%A1%D5%B6/>, in Armenian).

51 Ազգային փոքրամասնությունները և կրոնական կազմակերպությունները Հայաստանում, [https://hy.wikipedia.org/wiki/%D4%B1%D5%A6%D5%A3%D5%A1%D5%B5%D5%AB%D5%B6-%D6%83%D5%B8%D6%84%D6%80%D5%A1%D5%B4%D5%A1%D5%BD%D5%B6%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6%D5%B6%D5%A5%D6%80%D5%A8-%D6%87-%D5%AF%D6%80%D5%B8%D5%B6%D5%A1%D5%AF%D5%A1%D5%B6-%D5%AF%D5%A1%D5%A6%D5%B4%D5%A1%D5%AF%D5%A5%D6%80%D5%BA%D5%B8%D6%82%D5%B6%D5%B6%D5%A5%D6%80%D5%A8-%D5%80%D5%A1%D5%B5%D5%A1%D5%BD%D5%BF%D5%A1%D5%B6%D5%B8%D6%82%D5%B4](https://hy.wikipedia.org/wiki/%D4%B1%D5%A6%D5%A3%D5%A1%D5%B5%D5%AB%D5%B6-%D6%83%D5%B8%D6%84%D6%80%D5%A1%D5%B4%D5%A1%D5%BD%D5%B6%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6%D5%B6%D5%A5%D6%80%D5%A8-%D6%87-%D5%AF%D6%80%D5%B8%D5%B6%D5%A1%D5%AF%D5%A1%D5%B6-%D5%AF%D5%A1%D5%A6%D5%B4%D5%A1%D5%AF%D5%A5%D6%80%D5%BA%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6%D5%B6%D5%A5%D6%80%D5%A8-%D5%80%D5%A1%D5%B5%D5%A1%D5%BD%D5%BF%D5%A1%D5%B6%D5%B8%D6%82%D5%B4) ("Ethnic minorities and religious organizations in Armenia." <https://hy.wikipedia.org/wiki/%D4%B1%D5%A6%D5%A3%D5%A1%D5%B5%D5%AB%D5%B6-%D6%83%D5%B8%D6%84%D6%80%D5%A1%D5%B4%D5%A1%D5%BD%D5%B6%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6%D5%B6%D5%A5%D6%80%D5%A8-%D6%87-%D5%AF%D6%80%D5%B8%D5%B6%D5%A1%D5%AF%D5%A1%D5%B6-%D5%AF%D5%A1%D5%A6%D5%B4%D5%A1%D5%AF%D5%A5%D6%80%D5%BA%D5%B8%D6%82%D5%B6%D5%B6%D5%A5%D6%80%D5%A8-%D5%80%D5%A1%D5%B5%D5%A1%D5%BD%D5%BF%D5%A1%D5%B6%D5%B8%D6%82%D5%B4>, in Armenian).





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