

## 1. JUSTICE, CORRUPTION AND ELECTIONS

*1.1. The state has not undertaken significant efforts towards the implementation of recommendations received during the second cycle of the UPR. Particularly, no progress was registered to ensure the independence of judiciary, effective investigation of torture complaints and reformation of the electoral law.<sup>i</sup>*

## 2. RIGHT TO FAIR TRIAL

2.1. Public trust in the justice system and particularly in the judiciary is still extremely low even a year after the Revolution and parliamentary elections. The reason is the fact that the justice system, unlike the executive and legislative branches, has remained the same both in the structure and regulations, which have reportedly lacked accountability and independence both externally and internally. While human rights and anti-corruption activists have expressed their mistrust, the public and the authorities came on board to demand systemic change only when due process violations by the presiding judge were illustrated during former President Kocharyan's trial. The trial judge and the higher courts failed on a number of issues during the very first week of trial. The same judges and prosecutors who marred themselves in grave corruption and politically motivated investigations and trials remain in control. The problems that accumulated in the course of almost two decades of state capture remain vis-a-vis the justice system.

2.2. Previous judicial reforms did not contribute to the eradication of corruption. The law does not ensure the independence of judges, transparency of their appointment and promotion, case assignment mechanism, effective data collection to enable monitoring of court decisions' consistency. There is no disclosure of interests by the judges. Many judges have acquired huge volumes of property and assets, disproportionate to their salary. Objective vetting of judges, particularly those in the Supreme Judicial Council and the Constitutional Court, is believed to be the most important measure for ensuring the integrity of the judiciary.

2.3. The self-governing judicial body, formerly the Justice Council, now Supreme Judicial Council (SJC), has long served as an internal control mechanism.<sup>ii</sup> According to the law, five SJC members are nominated and elected only by the leading political party in the parliament, without an option of getting proposals from academia or civil society. This scheme does not guarantee the independence of the judiciary. The disciplinary, appointment and dismissal decisions of SJC, cannot be appealed, which limits access to justice for judges. Disciplinary decisions are unsubstantiated and, as a rule, made in closed-door sessions of the council. The law allows the Minister of Justice to launch disciplinary proceedings against judges and request explanation from judges concerning the ongoing cases.

2.4. The law enforcement and security agencies have long been exploited by the executive to suppress citizens and conceal government abuses. The 2015 Constitutional Amendments and subsequent legislative revision stipulated the subordination of law enforcement, investigation and security bodies to the prime minister, depriving the parliament of the mechanisms to exercise oversight of these institutions. The effectiveness of investigation is significantly compromised by ambiguous functional distribution between different investigative bodies. There are no sufficient guarantees for impartiality and accountability of the prosecutor's office. There are no objective criteria for the nomination and selection of candidates for General Prosecutor.

### **3. Recommendations**

- 3.1. Carry out vetting of judges, prosecutors, investigators and police officers based on law and objective, non-discriminatory criteria;
- 3.2. Provide mechanisms for appealing the Supreme Judicial Council's disciplinary, appointment and dismissal decisions, restrict the Council's discretionary powers and increase its accountability;
- 3.3. Establish anti-corruption courts with a corpus of specialised and high-integrity judges elected through transparent procedures;
- 3.4. Secure constitutional mechanisms of parliamentary and civil oversight of security bodies and police, including their reporting to the parliament, election of the institutions' heads by the majority vote in the parliament;
- 3.5. Secure institutional independence of the security, investigative bodies and police from the executive through the election of the heads of these bodies by parliament;
- 3.6. Unify all investigative agencies of different state institutions under the framework of the Investigative Committee.

### **4. Politically motivated persecutions**

- 4.1. The right to a fair trial has been consistently violated in Armenia. Former authorities invariably persecuted political opponents, using fabricated evidence, restricting their due process rights, applying excessive pre-trial detention<sup>iii</sup> and disproportionate prison terms.<sup>iv</sup> Many persons were arbitrarily deprived of liberty for exercising their right to freedom of expression and assembly and were recognised as political prisoners.<sup>v</sup> They were released shortly after the 2018 Revolution, nevertheless, many of the criminal cases are still underway.

### **5. Excessive use of detention**

- 5.1. Excessive use of pre-trial detention persists as a major problem. The motions of investigative bodies and decisions of courts are not substantiated with solid facts. The systemic nature of the problem is reflected in a number of judgements of the European Court of Human Rights (ECtHR) against Armenia. The use of stereotyped formulae of imposing and extending detention is a persistent problem, which violates the right to liberty and security.<sup>vi</sup> The number of motions for pre-trial detention has decreased since 2018, however, the ratio of court decisions concerning application of detention has not been changed. The courts are mainly inclined to grant the motions for detention.

### **6. Access to justice**

- 6.1. The law does not allow non-governmental organisations (NGO) to apply to court for the protection of public interest. In 2010, this regulation was proclaimed unconstitutional.<sup>vii</sup> As of now, NGOs can apply to court only for the protection of environmental rights. Meanwhile, *actio popularis* mechanism is important for questioning government actions and by-laws that may result in social injustice, discrimination, exploitation of natural resources, misuse of public funds, etc.
- 6.2. Response by justice system to domestic violence cases and cases with participation of persons with intellectual and psychosocial disabilities lacks sensitivity and is not accommodated to needs of the parties involved. This as a rule leads to the violation of equality before the court and the right to be heard.

## **7. Recommendations**

- 7.1. Swiftly adopt new Criminal and Criminal Procedure Codes, providing effective alternatives to pre-trial detention and extend the mandate of the Probation service to cover the pre-trial stage;
- 7.2. Revise the law on NGOs to allow them apply to court for the protection of public interest;
- 7.3. Establish specialised pool of judges to hear domestic violence cases; develop separate guidelines for judges on accommodation of hearings on domestic violence cases and cases with the participation of persons with intellectual and psychosocial disabilities in administrative, criminal and civil courts.

## **8. TORTURE AND OTHER ILL-TREATMENT**

### **8.1. Gaps in prevention and punishment of torture and other ill-treatment**

- 8.2. Torture remains a legislative and practical problem. The Criminal Code provides the definition of torture in line with UNCAT standards, while other cruel, inhuman and degrading treatment and punishment are not criminalised.<sup>viii</sup> The cases falling under ill-treatment are usually qualified as abuse of power. Until now, no official has been convicted for torture, despite numerous reports about torture happening during arrest and interrogation. The testimony, allegedly obtained through torture, is not rejected immediately from the case materials, but remains until the verdict is published.<sup>ix</sup> The state does not provide adequate rehabilitation for torture victims. Law enforcement officers and judges are unaware of international standards of documentation and investigation of torture and other ill-treatment (Istanbul Protocol). Regardless of the investigation outcome, there is no mechanism to compensate torture victims.

## **9. Recommendations**

- 9.1. Criminalise ill-treatment and ensure documentation of injuries for persons subjected to torture or other ill-treatment based on the Istanbul Protocol;
- 9.2. Ensure adequate qualification of cases of torture and other cases of ill treatment;
- 9.3. Exclude the use of evidence extorted through torture at any stage of proceedings, provide effective mechanisms for review and redress with no statute of limitations;
- 9.4. Provide adequate rehabilitation services to victims of torture and other ill-treatment, including medical, psychological, social and legal;
- 9.5. Introduce mechanisms to provide pecuniary and non-pecuniary damages to torture victims regardless of the investigation outcome.

## **10. Police, military police and detention centres**

- 10.1. During the reporting period up until May 2018, police widely practiced “inviting” people for informal talks and then charging them with crimes using violence to extort self-incriminating evidence. The practice of holding people in apprehension over the prescribed maximum of three hours without sufficient grounds and an arrest warrant were used extensively to restrict freedom of movement and isolate active participants and organisers of protests.<sup>x</sup>
- 10.2. Police violence was registered during the trial of the “Sasna Tsrer” (an armed opposition group) in June 2017. Police officers beat four persons in the basement of the courthouse. The attorneys of victims and the Ombudsman documented various physical injuries on the defendants’ bodies. The Commander of the Yerevan escort police battalion was charged in June 2018.<sup>xi</sup>
- 10.3. Torture and other ill-treatment have been used against witnesses and suspects by the Military police.<sup>xii</sup> This is due to the lack of legislative clarity concerning the functions and powers of the Military police in disciplinary cells or in battalions, lack of civilian oversight mechanisms. Torture and other ill-treatment have also been reported in military, however, no military commander has

been held liable until now. There is no civilian monitoring in the detention centres of the National Security Services.<sup>xiii</sup>

## **11. Recommendations**

- 11.1. Install audio-video recording in interrogation rooms of all detention centres and investigation rooms;
- 11.2. Increase the effectiveness of early release mechanisms;
- 11.3. Ensure legislative clarity on the functions of Military police in military battalions and disciplinary cells;
- 11.4. End impunity for the torture and ill-treatment in military and punish high level responsible personnel.

## **12. Penitentiaries**

- 12.1. Civil society monitors reported a number of torture and ill-treatment cases in penitentiary institutions, which were not investigated effectively. LGBTI inmates and other vulnerable groups face isolation and humiliation in prisons.<sup>xiv</sup> In 2018, 612 cases of self-harming and 430 cases of hunger strike were registered in prisons, which was lower than in 2017.<sup>xv</sup> Authorities failed to effectively prevent and investigate suicide and self-harming cases in prison. Penitentiary Monitoring Group<sup>xvi</sup> has regularly encountered obstacles in visiting certain inmates. Access to healthcare, including psychiatric care is impeded for many prisoners. Access to methadone substitutional therapy is impeded for many drug-using prisoners. Moreover, the beneficiaries of this therapy are not eligible for early conditional release.

## **13. Recommendations**

- 13.1. Carry out independent and effective investigation into the cases of ill-treatment and self-harming in penitentiaries that would lead to the identification and punishment of responsible persons;
- 13.2. Ensure access to remedy for torture victims and their representatives;
- 13.3. Transfer the prison healthcare under the Ministry of Health and ensure the quality and accessibility of medical services for inmates;
- 13.4. Undertake legislative and other measures to eradicate criminal culture in prisons and discriminatory policies towards inmates;
- 13.5. Improve the access to methadone substitutional therapy for prisoners.

## **14. Life prisoners**

- 14.1. There are 95 life prisoners in Armenia while the total population is around 3 million.<sup>xvii</sup> The situation is due to the presidential decree of 2003, which 'sentenced' 42 persons, previously sentenced to death penalty, to life imprisonment; the possibility of sentencing 18-20-year old persons to life imprisonment; ineffective early release mechanisms;<sup>xviii</sup> unjust convictions based on the evidence extorted through torture. Amnesty of 2018 did not include any life prisoners. Imprisonment without any hope of release amounts to torture and ill-treatment.<sup>xix</sup>

## **15. Recommendations**

- 15.1. Repeal part of the 2003 presidential decree and ensure appropriate remedies for the abuse of due process;
- 15.2. Raise the age of life imprisonment from 18 to 21 years;
- 15.3. Ensure the application of early release mechanisms to the cases of life prisoners;

- 15.4. Ensure the effective application of early release mechanisms to the cases of life prisoners by a) setting clear criteria for person's correction evaluation, b) intensifying the rehabilitation work with inmates, and c) ensuring the quality and impartiality of reports prepared by the Probation service.

## **16. Denial of pain treatment as torture or other ill-treatment**

- 16.1. Armenia has integrated palliative care into the national health system, registered and imported oral morphine, removed complex procedures and bureaucratic barriers for prescribing opioids for people with life-threatening diseases. However, police continue illegitimate control over prescription process and access to patients' personal data (including photos and passport registration in the police), which results in violation of the right to privacy, the right to confidentiality and the rights of medical providers. Many patients still end their days in unbearable suffering, which goes against international standards on pain management, represents a violation of the right to health and creates a risk of cruel, inhuman or degrading treatment.<sup>xx</sup> Reports and available data show that the consumption of morphine by cancer patients in Armenia does not exceed 2.5% of the total demand; hence, almost 98% of patients continue bearing the suffering pain.<sup>xxi</sup>

## **17. Recommendations**

- 17.1. Put an end to excessive police interference in the prescription process;
- 17.2. Ensure access to adequate pain medication for all palliative care patients suffering of moderate to severe pain.

## **18. RIGHT TO LIFE**

### **18.1. Non-combat deaths**

- 18.2. There are no accurate numbers of deaths in the armed forces. The government and civil society reports provide conflicting data.<sup>xxii</sup> According to the Helsinki Citizens' Assembly-Vanadzor, from January 2012 to October 2018 the number of deaths in the armed forces was 506, 225 from them resulted from cease-fire violation (77 occurred in a result of April 1-5, 2016 hostilities), 281 were non-combat deaths.<sup>xxiii</sup> There were 63 cases of death in the army during 2018.<sup>xxiv</sup> No adequate measures have been taken to ensure effective and objective investigation into these cases. No state representative was held responsible for any of the cases. Several non-combat deaths that previously had not been effectively investigated, were reopened after the 2018 Velvet Revolution.<sup>xxv</sup> However, even during the reopened stage, the investigation into these cases is not carried out effectively.

## **19. Recommendations**

- 19.1. Conduct effective investigations to hold state representatives responsible for non-combat deaths.
- 19.2. Ensure transparency and accuracy of reporting about deaths in the army;
- 19.3. Ensure genuine investigation of reopened cases of non-combat deaths, provide remedies to victims' families;
- 19.4. Enact legislative mechanisms to ensure pecuniary and non-pecuniary compensation to soldiers who suffered health problems during the military service.

## **20. Deaths in Penitentiaries**

- 20.1. 112 inmates died in Armenian prisons during 2014 - 2017.<sup>xxvi</sup> This is one of the highest rates among the Council of Europe member states.<sup>xxvii</sup> In 2017, 17 prisoners died in prisons, two of them committed a suicide. During 2018, 18 inmates died in penitentiary institutions, two of them died

from committing a suicide.<sup>xxviii</sup> Though some of these cases were investigated, no prison administration was held accountable.<sup>xxix</sup>

## **21. Recommendation**

- 21.1. Conduct effective investigations into the deaths of prisoners; provide remedies to the families of victims.

## **22. RIGHT TO FREE ELECTIONS**

- 22.1. For over two decades, electoral rights were violated during every election in Armenia through massive fraud, vote-buying, abuse of administrative resources, violation of labour and economic rights, violent crackdown on each post-electoral protest and violation of access to justice. The previous regime, along with the judiciary, guaranteed impunity for electoral crimes through meticulously developed legislative loopholes and poor enforcement. The Electoral Code has a number of deficiencies, including but not limited to the regulations on electoral system and formation of elected bodies, work of territorial and precinct electoral commissions, campaign financing and use of administrative resources, complaint procedures, limitations on the work of media representatives and observers. The voters' list is published after the parliamentary and several city council elections. The Electoral code does not prescribe this requirement for local self-government elections, undermining the transparency of elections in small communities. The two major elections held after the Revolution were the first undisputed and widely trusted elections<sup>xxx</sup> that need to be consolidated through comprehensive and ambitious electoral reforms.

## **23. Recommendations**

- 23.1. Initiate a comprehensive electoral reform to adopt a new Electoral Code, developed in close consultation with civil society organisations, taking into consideration the recommendations of international and local observation missions.

## 24. ANTI-DISCRIMINATION

24.1. *The majority of recommendations related to the issues of discrimination and gender equality issued during the second cycle of UPR remained unaddressed. The state failed to adopt an effective domestic violence and anti-discrimination legislation and ratify the Istanbul Convention and CRPD Optional Protocol. Furthermore, no effective actions were taken towards combating hate speech and hate crime against LGBTI persons, and fighting discrimination against ethnic minorities and people with disabilities.*

### 25. Anti-Discrimination law

25.1. The lack of comprehensive anti-discrimination legislation in Armenia deprives citizens of effective legal protection from discrimination. In March 2018, the government introduced a new draft law on discrimination. The draft law addresses the gaps in current legislation, including definition of discrimination and its types, shifting of the burden of proof. However, it fails to provide effective mechanisms for victims to seek legal redress and effective remedy and does not establish an effective and independent national equality body.<sup>xxx1</sup>

### 26. Recommendation

- 26.1. Adopt a comprehensive and effective anti-discrimination legislation, which will provide effective mechanisms for protection, access to justice and effective remedies for victims of discrimination, and will establish an independent and effective national equality body empowered with support and litigation competences;
- 26.2. Conduct awareness raising campaigns, including through public television, targeting harmful stereotypes and discriminatory practices against marginalised groups.

### 27. Freedom of religion

27.1. The secular foundation of the state and the freedom of religion and expression are undermined by increasingly interventionist stance of the Armenian Apostolic Church (AAC). Abusing the declarative constitutional provision for the AAC's "exclusive mission,"<sup>xxxii</sup> both state authorities and the AAC present and promote the AAC as a 'state church.' Not only does it hold a monopoly of access to education and armed forces by law, but it also abuses its position by interfering in these institutions jeopardising their secular nature. The content and instruction of the mandatory "AAC History" in public schools does not convey information and knowledge in an objective, critical and pluralistic manner and amounts to indoctrination.<sup>xxxiii</sup> There is mass baptising of conscripts and daily morning prayers in the army, claimed to be voluntary.<sup>xxxiv</sup> At the same time, the legislation stipulates prohibitions for the personnel of police, National Security Service and Rescue service, as well as limitations for Armed Forces concerning the membership to religious organisations, which in practice does not refer to the membership to AAC. Statements by former and current government officials expressing their allegiance to the AAC or extensively criticising other religious organisations, often crossing the threshold of hate speech, contribute to the further extension of the gap.

### 28. Recommendations

- 28.1. Revise current Law on Religious Organisations in line with Venice Commission Recommendations (2011 and 2018) particularly in regards to the dominance of the AAC, the high threshold for the registration of organisations and labelling of preaching as "soul hunting" (proselytism);
- 28.2. Align the public school course "History of the Armenian Church" with OSCE Toledo Principles;

- 28.3. Prohibit forceful participation of soldiers in religious rituals by AAC clergy;
- 28.4. Remove legislative limitations and restrictions upon law enforcement and military units regarding the membership to religious organisations;
- 28.5. Address the propaganda and hate speech against other religions and hold perpetrators accountable.

## **29. Discrimination on the ground of SOGI**

- 29.1. During 2015-2017, the civil society organisations documented 35 incidents of hate crimes against LGBTI persons,<sup>xxxv</sup> but the lack of appropriate regulations limits legal recourses for many crimes committed.<sup>xxxvi</sup> The police do not conduct effective and comprehensive investigation into the cases of threats and violence against them. LGBTI persons and those defending their rights become targets of hateful rhetoric and threats on social media, by public figures, including representatives of political parties and members of parliament.<sup>xxxvii</sup> LGBTI persons are frequent targets of discrimination in closed institutions such as prisons and the army. Homosexual prisoners face violence, sexual abuse, degrading treatment and discriminatory attitude displayed by both prison officers and inmates. They are segregated in penitentiaries, placed in separate cells, usually of worse conditions, and are forced to perform degrading labour.<sup>xxxviii</sup> Gay men who served in the army reportedly faced physical and psychological abuse and blackmail.<sup>xxxix</sup> Gender reassignment is not regulated as a health service in Armenia. As a result, transgender persons undergo reassignment surgeries secretly by doctors invited from abroad with no further access to relevant medical services.<sup>xl</sup>
- 29.2. LGBTI persons face challenges in exercising their rights to freedom of expression and assembly. In July 2017, two LGBTI-themed movies were withdrawn from the program of Golden Apricot International Film Festival in an act of censorship and discrimination by the Union of Cinematographers of Armenia.<sup>xli</sup> In November 2018, the Forum of LGBT Christians of Eastern Europe and Central Asia was cancelled in Yerevan, justified by the police inability to provide guarantees for the safety of forum participants.<sup>xlii</sup> In April 2019, a transgender activist spoke about hate crimes against transgender people during the public hearing on Armenia's implementation of the UPR recommendations at the National Assembly. The speech was followed by an aggressive reaction of the Chair of the SC on Human Rights Commission presiding the hearing. The chair's act fuelled online hate speech and actions of protest outside the National Assembly. "Prosperous Armenia" parliamentary fraction initiated legislative amendment in the Criminal Code of the republic of Armenia in May, 2019, to introduce criminal liability for "Propaganda of non-traditional sexual orientation among people under sixteen".

## **30. Recommendations**

- 30.1. Include sexual orientation and gender identity as protected grounds in the anti-discrimination legislation;
- 30.2. Criminalise hate speech by state officials based on SOGI and make SOGI-motivated bias an aggravating circumstance in criminal law;
- 30.3. Conduct effective and comprehensive investigation into the cases of homophobic and transphobic attacks as hate crimes;
- 30.4. Adopt a legislation recognising and regulating gender reassignment as a health service.

## **31. Ethnic minorities**

- 31.1. The government does not have a comprehensive strategy towards protection and promotion of the culture, language and the identity of ethnic minorities. The government does not maintain disaggregated data on economic and social indicators by ethnicity and nationality to understand better the impact of state policies on ethnic minority communities.<sup>xliii</sup> Around 70% of children in

Armenia are not enrolled in preschool education, because of the lack of relevant services or the poor quality of infrastructure. Due to the lack of kindergarten facilities in communities with ethnic minority population, ethnic-minority children have limited access to pre-school education.<sup>xliiv</sup> School enrolment and attendance rates for children from ethnic minority groups, in particular Yezidis, Kurds, and Molokans, were significantly lower than average, and dropout rates after the ninth grade were higher.<sup>xlv</sup> The government took no steps to address harmful customs and traditions among ethnic minorities. Particularly, the Yezidi girls remain vulnerable to early marriage and its consequences, including reduced access to education and reproductive healthcare services. Statistical information on early marriages is limited as most child marriages are not registered officially or are registered only after the couple reaches the legal age of marriage.<sup>xlvi</sup>

## **32. Recommendations**

- 32.1. Develop a national strategy for protecting the ethnic, cultural, religious and linguistic identity of minorities and creating conditions for the promotion of that identity in line with the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;
- 32.2. Improve legislation and enforcement mechanisms to prevent underage marriage;
- 32.3.** Establish an effective mechanism for identification and referral of out-of-school children.

## **33. Gender-based violence and reproductive rights**

- 33.1. Gender-based violence remains prevalent as on average 10 women are killed every year in Armenia. After the law on domestic violence went into force in July 2018, the police documented more than 1500 cases over the period of nine months. Though the law accords the police the authority to intervene in cases of domestic violence through protective measures, the efficiency of immediate response remains low. In most of the cases police only issues a warning to the perpetrator as a protective measure, which does not increase the safety of the victim. There are no follow-up visits by the police and social workers to monitor the behavioural change. The police also fail to address the violations of protection orders by the perpetrators, and the burden of proof in such cases is on the victim, who has to provide evidence to the police in a written form. The government has recently announced its intention to adopt the Istanbul Convention, which has sparked an aggressive campaign from radical groups labelling it as a green light for same sex marriages.
- 33.2. In 2017, a comprehensive research<sup>xlvii</sup> on the cases of sexual violence against women for the period of 2015 – 2016 revealed serious gap in law and practice. The lack of gender sensitive and victim-centred approach and further victim-blaming by the law enforcement and judiciary undermines access to justice for women victims of sexual violence and assault. Marital rape is not recognised as a separate crime and type of sexual violence despite the fact that in 38% of the cases the suspects or accused were the partners of the victims.
- 33.3. The new legal regulations initiated by the government aimed at preventing sex-selective abortion (SSA) threaten to create undue burdens for women seeking safe abortion, including three-day waiting period and mandatory counselling.<sup>xlviii</sup> While the stated purpose of the law was to reduce the prevalence of SSA, its effect is primarily to restrict women’s reproductive choices due to the lack of accessibility of reproductive services.

## **34. Recommendations**

- 34.1. Ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) without any reservations and amend the national legislation, including the Criminal Code; conduct awareness-raising on the Convention;
- 34.2. Develop the capacities of the judiciary, law enforcement and social workers to secure effective response to cases of gender-based violence and enforcement of protective measures;
- 34.3. Adopt a comprehensive legislation on sexual violence and harassment, and establish effective mechanisms for preventing and addressing the cases of sexual assault; provide a definition of consent;
- 34.4. Repeal the legislative requirement of mandatory waiting period and mandatory counselling for women seeking abortion, and provide impartial counselling on family planning.

## **35. People with disabilities**

- 35.1. In July 2015, the European Court of Human Rights found a violation of the right to a fair trial in the case of *Shamoyan v Armenia*, where Ms Shamoyan, who uses a wheelchair, was denied access to the Court of Cassation. The government fails to provide effective mechanisms against disability-based discrimination. A study published in 2013 cites a 92% rate of unemployment among persons with disabilities.<sup>xlix</sup> The most significant barriers to employment are employers' negative attitudes, the failure to provide reasonable accommodation, lack of state-provided incentives. Major cultural, sport, leisure and recreation venues, and many governmental buildings remain inaccessible to persons with disabilities. Most public facilities, e.g. educational and healthcare institutions, are widely inaccessible much like polling stations during elections, which disenfranchise persons with disabilities, hindering their political participation. Measures taken by the state and local authorities usually address the needs of people only with physical disabilities.

## **36. Recommendations**

- 36.1. Adopt an effective law on the rights and inclusion of persons with disabilities and ensure that the Ministry of Labour and Social Affairs overseeing its implementation has the legal standing to demand its implementation in court;
- 36.2. Ensure the implementation of legal guarantees to accessibility in all areas, including appropriate sanctions in the Code on Administrative Offences for breaches of accessibility norms and standards; set up a monitoring mechanism based on reporting to ensure the effective implementation of such norms and standards;
- 36.3. Introduce effective quotas and incentive measures for employers in public and private sectors to employ people with disabilities;
- 36.4. Ensure that women with disabilities have access to medical services and facilities, including sexual and reproductive health.

## **37. FREEDOM OF ASSEMBLY AND ASSOCIATION, FREEDOM OF MEDIA, AND PROTECTION OF HUMAN RIGHTS DEFENDERS**

37.1. *The majority of recommendations issued during the second cycle of UPR with regards to the freedom of assembly and association, of media, and protection of human rights defenders have remained unaddressed.*

## **38. FREEDOM OF ASSEMBLY AND ASSOCIATION**

38.1. During the period of January 2015 - April 2018 numerous cases of administrative and criminal prosecution of assembly participants and organisers made an adverse impact on the protection of the right to freedom of assembly. The violations of the right included unlawful police interference, use of excessive force and arbitrary detention, and instances of the use of police riot gear without proper precautions which have not been adequately addressed. There were 472 (380 by other sources) peaceful protesters apprehended in 2015; the overwhelming majority referred to the protests against electricity price hikes. In 2016, over 700 people were apprehended during the protests held from July 17 to 30 to support Sasna Tsrer armed group having seized the Police Patrol Service Station in Yerevan.

38.2. Violence against peaceful protesters and reporters was often carried out by policemen in civilian clothing or other individuals affiliated and coordinated by the police. During peaceful protests in April 2018 that led to the Revolution, over 1200 protesters were apprehended between April 16-23 among them 10% underage persons. 127 people applied for medical treatment for various injuries. After the Revolution, the freedom of peaceful assembly is ensured, but the investigation into past violations is regularly suspended and resumes only in response to public pressure. The right to peaceful assembly in practice is very limited for LGBTI persons. Major concerns rose when the Forum of LGBT Christians of Eastern Europe and Central Asia, scheduled to take place in November 2018, was cancelled for safety reasons following severe threats and hate speech disseminated by a part of society, Armenian Apostolic Church and several public officials.

## **39. Recommendations**

39.1. Carry out within a reasonable time a comprehensive and impartial investigation of criminal cases of violence against assembly participants and reporters during the assemblies of June 2015, July 2016 and April 2018 and identify all perpetrators;

39.2. Enhance negotiation skills of the policemen involved in the administration of assemblies; their strict compliance with the standards of using physical force and special means during assemblies; their wearing of uniform and identification insignia when performing duties; authorise the use of special means in the police gear only to specially trained service persons;

39.3. Ensure protection of the right to freedom of assembly for vulnerable groups providing additional security measures if needed;

39.4. Develop taxation and accounting requirements for public organisations based on the peculiarities of their activity.

## **40. FREEDOM OF MEDIA**

40.1. Media freedom and pluralism have traditionally been limited both in legislation and practice. The broadcast legislation does not safeguard the independence of the national regulatory authority, its activities lack transparency and fair competition procedures in broadcasting. The main shareholders of television companies and online media are representatives of the former political elite or large businesses keeping online media and commercial advertising under their control. This

control is manifested in deliberate dissemination of discrediting disinformation and manipulation often targeting the current government that has publicly denounced the practice of controlling media. The smear campaigns carried out by such media have led to the increase of lawsuits filed against media outlets for defamation and libel. The need for transparency and disclosure of information on the owners and funders of the mass media has become even more urgent.

40.2. TV companies operate in unequal conditions. In 2016, a full transition from analogue to digital broadcasting was implemented, and over 10 local TV channels operating in marzes have appeared on the brink of closure due to the absence of digital broadcasting licenses.

40.3. Journalists have performed in unfavourable conditions. Numerous cases of physical abuse and hindering to professional activity have been registered against them: 23 journalists were injured when covering the protests against electricity price hikes, 19 reporters were injured when covering the protests held from July 17 to 30, and 22 reporters received injuries covering the April 2018 events. No effective and reliable investigation of attacks on journalists were carried out, with minor steps taken for loud cases.

#### **41. Recommendations**

41.1. Prescribe by law the requirement of publicity of the actual and formal owners of mass media, ownership share and funding sources;

41.2. Develop mechanisms to dismantle the monopolisation of advertising industry and its impact on media;

41.3. Promote self-regulation and ethical standards for media but refrain from legal regulations that could be misused for arbitrary censorship;

41.4. Amend the Law on Television and Radio by clarifying the broadcast licensing procedure, ensuring transparency and fairness of competitions;

41.5. Clarify the status of marz TV channels without a digital broadcasting license;

41.6. Ensure actual independence of broadcasting regulatory body by establishing public control mechanisms;

41.7. Carry out a full and impartial examination of all cases of physical violence against journalists and hindering to their professional activities.

#### **42. HUMAN RIGHTS DEFENDERS**

42.1. During 2015-2018, human rights defenders in Armenia faced growing hate speech and smear campaigns, insults, intimidation and death threats coming from television and mostly from social media and discriminatory statements of political figures. No judicial and political actions were taken against perpetrators of such acts, creating a favourable climate and impunity for written and verbal attacks on human rights defenders and their families, for public incitement to violence and hatred against human rights defenders.

42.2. While the April - May 2018 events and the change of government did promote recognition of human rights defenders, the smear campaigns against them were relaunched in an unprecedented manner by those affiliated with the former political elite in an attempt to discredit the government by promoting myths about the activity of the Open Society Foundations in Armenia and its motives. The threats and hate speech have particularly targeted women human rights defenders and those working for the rights of women and LGBTI persons. The impunity for attacks and campaigns against human rights defenders continues as the authorities refrain from clear and vocal denouncement of anti-human rights defender rhetoric, threats, and disinformation.

### 43. Recommendations

- 43.1. Ensure immediate investigation of all threats and attacks against human rights defenders and bring the perpetrators to justice;
- 43.2. Ensure that the anti-discrimination legislation provides protection for human rights defenders and their family members from associative discrimination including mechanisms to counter hate speech, harassment and smear campaign against human rights defenders;
- 43.3.** Ensure that the rights and freedoms referred to in the Declaration on human rights defenders are effectively guaranteed; that political leaders publicly express support to human rights defenders and their work and condemn publicly and firmly the threats against them.

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<sup>ii</sup> Ad Hoc report of the Human Rights Defender on the Right to a Fair Trial, 2013, <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/8c6abc664ac32d0042d7476a67b4b899.pdf>.

<sup>iii</sup> "Armenian Activist Stuck in Detention," Human Rights Watch news release, January 30, 2017, <https://www.hrw.org/news/2017/01/30/armenian-activist-stuck-detention> (accessed May 10, 2019).

<sup>iv</sup> "Armenian NGOs' statement on trial verdicts of Jirayr Sefilyan and others' case" March 22, 2018, <https://transparency.am/en/statements/view/293>; "Letter to the Prosecutor General of Armenia on the Pretrial Detention of Gevorg Safaryan" Human Rights Watch statements, January 8, 2016, <https://www.hrw.org/news/2016/01/08/letter-prosecutor-general-armenia>; "Opposition Activist Imprisoned in Armenia After Protest," Human Rights Watch news release, January 18, 2017, <https://www.hrw.org/news/2017/01/18/opposition-activist-imprisoned-armenia-after-protest>; US Department of State, Country Reports on Human Rights Practices for 2016, <https://www.state.gov/documents/organization/265604.pdf>.

<sup>v</sup> "The definition of political prisoner," PACE Resolution no. 1900 (2012) Final version, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=19150&lang=en>.

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<sup>xi</sup> "Armenia: Ill-Treatment Reports Mar High-Profile Trial," Human Rights Watch news release, July 9, 2017, <https://www.hrw.org/news/2017/07/09/armenia-ill-treatment-reports-mar-high-profile-trial>.

<sup>xii</sup> Quarterly report on the human rights situation in the Armenian armed forces (Vol. 3), April 14, 2017, [https://peacedialogue.am/en/2017/04/14/hrmf\\_eng\\_vol\\_3/#chapter4](https://peacedialogue.am/en/2017/04/14/hrmf_eng_vol_3/#chapter4).

<sup>xiii</sup> National Security Services is a security institution under the prime minister that has powers to conduct intelligence, counter-intelligence, operative-search activities, arrest, investigative functions, possesses and/or uses detention centers.

<sup>xiv</sup> Report on the Activities of the Group of Public Monitors Implementing Supervision over the Penitentiary Institutions and Bodies of the Ministry of Justice of Republic of Armenia in 2017, p. 71, <http://pmg.am/images/PMG-REPORT-2017.pdf>.

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<sup>xvi</sup> Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of the Republic of Armenia was established in 2005 with a mandate to provide independent civilian oversight and report on the human rights situation and conditions of detentions in the penitentiary institutions of Armenia. The Group members have full access and power to conduct unannounced visits to all penitentiary institutions. The Group is represented by members and experts of non-governmental organizations.

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