



UPR Submission

Armenia

November 2009

Summary

This submission highlights several key areas of concern regarding Armenia's compliance with its international human rights obligations, including election-related and post-election violence; lack of accountability for excessive use of force by law enforcement officials; violations of the right to freedom of assembly and expression; torture and inhuman and degrading treatment in custody; official harassment and attacks on human rights defenders; and the right to access to controlled medicines.

Election-related and post-election violence

Armenia has a history of violent elections. Although the Council of Europe's Congress of Local and Regional Authorities (CLRAE), stated that the May 31, 2009 Yerevan City Council elections were broadly in compliance with European standards, it also documented cases of intimidation of party proxies and observers by unidentified persons. Unidentified assailants attacked opposition journalists Gohar Veziryan (*IV Estate*), Tatev Mesropyan (*Hayq*), and Marine Kharatian (*Zhamannak*), and prevented them from accessing polling stations. The government failed to investigate and prosecute the assailants.

Violence and irregularities also marred the February 2008 presidential elections. Then-Prime Minister Serj Sargsyan won with 52.8 percent of the vote, defeating the opposition candidate Levon Ter-Petrossian (21.5 percent). Human Rights Watch documented nine cases of assailants intimidating, threatening, and even violently attacking opposition party activists, journalists, and observers who had complained about what they believed to be electoral fraud and other violations of election rules.¹

¹ For more details, please see <http://www.hrw.org/en/news/2008/02/20/armenia-violence-polling-stations-mars-elections>.

Opposition supporters who claimed that Sargsyan's victory was the result of fraud began a continuous protest immediately after the election, with daily rallies and an overnight encampment on a city-center square. The authorities initially tolerated the protesters. However, on March 1, special police forces confronted them. As a result of clashes between protesters and police, at least 10 persons were killed—eight civilians and two police officers—and scores were injured. While in some instances, the use of force may have been legitimate (such as in response to a small group of violent protesters), in many others it was unprovoked and excessive.²

In the aftermath of the violence there were more than 100 arrests. Human Rights Watch documented physical abuse and ill-treatment of detainees during their arrests as well as while they were being transported to the police department. In some cases, both verbal and physical abuse continued in police custody. We have documented 38 detention cases, in 27 of which the detainees alleged ill-treatment. We have also documented serious due process violations, including incommunicado detention and lack of access to a lawyer of one's choosing.

Lack of accountability for excessive use of force

Armenian authorities have yet to ensure a meaningful investigation into and accountability for excessive use of force by security forces during clashes with protestors on March 1 and 2, 2008. Their response has focused on identifying and prosecuting those responsible for organizing the demonstrations and on prosecuting others for participating in "violent" disorder. The government prosecuted more than 50 civilians on charges arising from the demonstrations and sentenced some to lengthy prison terms. Although a June 19, 2009 presidential pardon released many, local human rights groups maintain that 17 opposition supporters remain imprisoned on politically-motivated charges.

Soon after the March events the police dismissed several top officials, although none was charged in relation to the violence. Officials claimed to have opened 200 internal inquiries into police conduct, and four police officers have been charged in two separate cases for excessive use of force. As of this writing the trial was ongoing.

² For more details, please see <http://www.hrw.org/en/reports/2009/02/25/democracy-rocky-ground-0>.

In September, a parliamentary commission investigating the March 2008 events and dominated by the ruling party concluded that despite isolated incidents of excessive force, law enforcement actions were legitimate and adequate. A separate fact-finding working group, with opposition participation, was dismissed by President Serj Sargsian in June.

Freedom of Assembly

Armenian authorities continue to restrict freedom of assembly by frequently banning rallies from taking place, usually on technical grounds. Of 84 times when opposition groups lodged notification of plans to hold demonstrations and rallies in 2009, only 28 were allowed to proceed. Opposition parties allege particular difficulties in securing meeting venues for indoor events.

In July, three youth opposition activists, Tigran Arakelian, Sahak Muradyan and Herbert Gevorgyan, were hospitalized after persons they believed to be plain-clothed security officials attacked them in downtown Yerevan. The activists were publicizing a rally for the opposition Armenian National Congress. Arakelian was later charged with hooliganism and grave abuse against law enforcement officials and held in pre-trial custody, but released in October pending the trial. In September Gevorgyan was convicted on charges of minor bodily injury and sentenced to one year in prison and fined, but was subsequently amnestied. As of this writing, Muradyan was under investigation on hooliganism charges.

Freedom of Expression

Media freedoms in Armenia remain restricted, and several journalists have been attacked for their work in 2009. The assailants have not been identified and held accountable. On May 6, 2009 two unknown assailants attacked Nver Mnatsakanian, an anchor for the private television station Shant, near his home after work. A week earlier, Argishti Kvirikian, editor for the *Armenia Today* online news agency, was attacked in similar circumstances and hospitalized with severe injuries. On November 17, 2008, an unknown assailant attacked Edik Baghdasarian, the editor of the online newsmagazine *Hetq* and chairman of the Investigative Journalists' Association. He was hospitalized with a concussion. No arrests have been made in any of these cases.

In April 2009, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of Media, Miklos Haraszti, urged the authorities to swiftly investigate the attacks.

In June 2008 the European Court of Human Rights ruled that Armenia had violated Article 10 of the European Convention on Human Rights (guaranteeing freedom of expression) in relation to its regulation of the independent broadcast company A1+. The court held that laws regulating the awarding of broadcast licenses failed to protect against arbitrary government interference and that denials of a license to A1+ were unlawful. Despite this, A1+ had made over a dozen unsuccessful attempts to regain a license since going off the air in 2002. In September 2008, the National Assembly amended the law on television and radio to suspend all licensing until a digital switchover scheduled for 2010 occurs. These amendments were seen as a further attempt to deny A1+ a license.

In April, 2009, the Armenian parliament adopted a set of amendments to broadcasting laws. Some of them were seen as progressive, including those that ensure greater transparency regarding approval for broadcast licenses. However, the amendments failed to ensure political and ideological pluralism of the licensing body, the Council for Public Television and Radio, whose members are appointed by the president.

Torture and Ill-Treatment

Torture and ill-treatment in custody is widely reported by local civil society groups in Armenia. The government fails to ensure meaningful investigations into and accountability for those abuses. As noted above, many of the opposition supporters detained following the March 2008 events alleged physical abuse during apprehension, transfer to police station, and in detention. The Helsinki Association of Armenia reported at least four cases of torture of opposition supporters in custody in 2009 related to the investigation into the March 2008 events.

One of the most egregious cases of death in custody in 2007, allegedly due to torture, concerned Levon Gulyan, who died in custody after police arrested and interrogated him in May 2007. In 2008 a court ordered that the investigation into Gulyan's death be reopened, but in April 2009, prosecutors closed the case again. The authorities allege that while being held for questioning, Gulyan

jumped from a second-story window of a police station while trying to escape, a claim denied by Gulyan's relatives who believe he was tortured.

Attacks on human rights defenders

Official harassment and attacks on human rights defenders in Armenia often go unpunished. While monitoring the May 2009 Yerevan City Council elections, Arshaluys Hakobian of the Helsinki Association of Armenia was expelled from a polling station. A few days after filing a complaint about this incident with the authorities, police appeared at his home to summon him for questioning. After an argument over his signature on the summons, police arrested Hakobian for allegedly resisting authority. Hakobian alleged he had been beaten and ill-treated in custody. Although he had filed a complaint and testified to his ill-treatment during his September 2009 trial on the charges of resisting authority, the police failed to comprehensively investigate the claim.

In November 2008, Mariam Sukhidian, whose activism primarily relates to environmental concerns, publicized on national television a program about the case of two girls who alleged sexual harassment at their Yerevan school. Police charged Sukhidian with falsely reporting a crime. Human rights activists believe the charges are designed to intimidate Sukhidian in retaliation for her environmental work.

In May 2008 the chairman of the Armenian Helsinki Association, Mikael Danielyan, was wounded when an assailant shot him from a pneumatic gun, following an argument while both men were stopped at a traffic light. It was reported that the assailant was a former leader of the Armenian Progressive Party. A criminal investigation into the attack was halted the second time in April 2009, allegedly for lack of criminal intent. Danielyan's appeal against the decision to close the investigation was still pending at this writing.

Access to Controlled Medicines

In its resolution 12/24 on "Access to medicine in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," the Human Rights Council encouraged states to consider including in their national reports to the Universal Periodic Review mechanism information on measures taken to promote access to medicines.

Armenia's low consumption of morphine and other opioid medicines, reported annually to the International Narcotics Control Board, indicates that access to medicine for pain treatment is very limited.³ Although morphine is safe, effective, and inexpensive, Armenia's consumption of morphine and alternative strong opioid medicines is sufficient to provide pain treatment to less than a quarter of its terminal cancer patients.⁴ As these medicines are also used to provide pain treatment for non-terminal cancer patients, people living with HIV/AIDS and patients with pain from surgery, injuries and other diseases, an estimate can be made that each year, thousands of people suffer from untreated moderate to severe pain.⁵

Recommendations

Regarding election-related and post-election violence and accountability for excessive use of force, the Armenian government should be urged to:

- Implement all outstanding recommendations from the reports of the Office of Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe (OSCE/ODIHR) on its observation of Armenian elections, including its final report on the February 19, 2008 presidential election;
- Ensure a thorough, independent, and transparent investigation into the excessive use of force by police on March 1, 2008 and into ill-treatment of detainees by police officials during the subsequent arrests and detentions. Such an investigation should comply with international standards and be capable of leading to the prosecution of abusive law enforcement officials.

Regarding freedom of assembly, the Armenian government should be urged to:

³ International Narcotics Control Board, *Narcotic Drugs: Estimated World Requirements for 2009 – Statistics for 2007*, E/F/S.09.XI.02 (New York: United Nations, 2009), pp. 219, 260. In 2007, the most recent year for which data are available, Armenia consumed 4kg of morphine, 8g of fentanyl, and no other strong opioids.

⁴ Human Rights Watch calculates that all of the morphine and fentanyl consumed in Armenia in 2007 was sufficient to provide adequate treatment to about 23% of Armenia's terminal cancer patients. The calculation is based on the following: WHO statistics indicate that at approximately 4400 people die of cancer in Armenia each year (World Health Organization Statistical Information System (WHOSIS) <http://www.who.int/whosis/en/index.html> (accessed July 15, 2009)); one authoritative study estimates that 80 percent of terminal cancer patients and 50 percent of terminal HIV/AIDS patients will develop moderate to severe pain symptoms, on average for a period of about 90 days, requiring treatment with 60 to 75 milligrams of morphine per day, or an equivalent dose of another opioid (K. M. Foley, et al., "Pain Control for People with Cancer and AIDS," in *Disease Control Priorities in Developing Countries*, 2nd ed., (New York: Oxford University Press, 2003), 981-994).

⁵ According to UNAIDS, in 2007 there were approximately 2400 people living with HIV/AIDS in Armenia and as many as 200 AIDS deaths: *2008 Report on the Global AIDS Epidemic* (Geneva: UNAIDS, 2008), pp. 219, 222. Thousands more people suffer injuries (WHOSIS) or have pain from non-terminal cancer or other diseases.

- Ensure that no arbitrary impediments are imposed on exercising the right to freedom of assembly;
- Investigate all allegations of attacks on peaceful demonstrators and hold the perpetrators accountable.

Regarding freedom of expression, the Armenian government should be urged to:

- Thoroughly and promptly investigate all attacks on journalists and hold perpetrators accountable;
- Implement the European Court of Human Rights judgement which found the government's denial of a license to A1+, an independent broadcasting company, a violation of Armenia's human rights obligations.

Regarding torture and ill-treatment, the Armenian government should be urged to:

- Ensure that allegations of torture and inhuman and degrading treatment are investigated promptly and efficiently and that perpetrators are brought to justice.

Regarding official harassment and attacks on human rights defenders, the Armenian government should be urged to:

- Conduct prompt and thorough investigations into all allegations of harassment and attacks against human rights defenders and bring perpetrators to justice.

Regarding the right to access to controlled medicines, the Armenian government should be urged to:

- Examine the reasons for its inadequate consumption of opioid medicines for pain treatment and develop a plan of action to improve access.