

Submission to the Universal Periodic Review of Armenia July 2019

Introduction

The new government that came to power following popular protests in April and May 2018 inherited a country plagued with corruption and myriad human rights problems. Many of the accepted recommendations from the previous two UPR cycles remain unfulfilled, including those that called for addressing accountability for law enforcement abuses, domestic violence, violence and discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) people, lack of access to quality education for children with disabilities, and institutionalization of people with psychosocial and intellectual disabilities. There have still been no effective investigations into the past violence and excessive use of force by law-enforcement. Violence and discrimination based on sexual orientation and gender identity and lack of effective investigation persists. Domestic violence remains a serious problem. The authorities have successfully transformed some residential institutions for children into community-based service centers and are committed to making education fully inclusive, but children with disabilities have not yet equally benefitted from the reforms and continue to often face segregation and stigma.

Non-discrimination: Sexual Orientation and Gender Identity

During its 2015 UPR, Armenia accepted a number of recommendations to “combat all forms of discrimination,” adopt a comprehensive anti-discrimination legislation, and “provide effective protection of LGBT persons from discrimination.”

In 2018, the government of Armenia introduced a draft law on equality, intended as comprehensive anti-discrimination legislation. The bill, however, does not include sexual orientation and gender identity (SOGI) as grounds for protection from discrimination. Officials have said that “other grounds” noted in the bill could cover SOGI. The same language is included in Armenia’s constitution, but in blatant discrimination cases that LGBTI people have brought to courts, no court has used this—or any other—language to recognize sexual orientation and gender identity as a protected ground against discrimination. Furthermore, the criminal code does not recognize homophobia and transphobia as aggravating criminal circumstance.

LGBTI people often face harassment, discrimination, and violence in Armenia. Fear of discrimination and public disclosure of their sexual orientation prevents many LGBTI people from reporting crimes. When reported, such acts almost always go unpunished. For example, in August 2018, a mob of about 30 people attacked nine LGBT activists in a village in southern Armenia. The assailants ran after Hayk Hakobyan and his fellow activists, as they tried to escape, hitting, kicking, throwing stones, and shouting profanities, injuring six. The investigation was dropped after the parliament adopted an amnesty bill in November 2018 but reopened following appeal by the victims. No one has been held accountable at this time.

On April 2019, during a parliamentary hearing on Armenia's implementation of UPR recommendations, a transgender activist, Lilit Martirosyan, took the floor to highlight the discrimination and violence transgender people face in the country. A serious transphobic backlash followed her address, including hate speech and death threats directed at Martirosyan. Despite the complaints, the law enforcement refused to launch a criminal case, claiming that the threats had not been serious.

In February 2019, Max Varzhapetyan, a 24-year-old gay activist was assaulted and beaten while walking down the street at night in Yerevan. Three men chased him, shouting profanities and homophobic slurs. The men beat him and told him that he had no right to call himself an Armenian. Varzhapetyan told Human Right Watch the men broke his tooth and injured his mouth and nose. Police started a criminal investigation, but no one has been charged at this writing.

Openly gay men fear for their physical security in the military, and some seek exemption from serving in the army. An exemption, however, requires a medical conclusion finding them "psychologically or mentally unfit" to serve. In Armenia, a finding of "psychological or mental disorder" could be an obstacle to employment or obtaining a driver's license.

Recommendations:

- End discrimination against LGBTI people;
- Ensure prompt, thorough, and effective investigations into all cases of violence against LGBTI people;
- Amend the criminal code to include homophobia and transphobia as an aggravating criminal circumstance;
- Explicitly include sexual orientation and gender identity as protected grounds in the draft Law on Equality.

Accountability for Abuses Committed by Law Enforcement Officials

During previous UPR reviews, Armenia supported a number of recommendations related to media freedoms and the rights to freedom of expression and assembly and to "fully and thoroughly investigate and prosecute incidents and violence against human rights defenders and journalists." However, the government has a long record of police impunity for using excessive force to break up largely peaceful protests, including in March 2008, June 2015, and July 2016.

The new government revived an investigation into the March 2008 deadly clashes between protesters and security forces. In June 2019, the authorities brought charges against a high-ranking official, accusing him of murdering one of the protesters during 2008 violent breakup of protests.

In June 2018, the authorities brought charges against a policeman accused of seriously ill-treating, in a court basement, four defendants in a trial concerning the violent takeover of a Yerevan police station in July 2016. However, the investigation is still pending a year later, and the case has not yet been sent to a court.

In July 2018, authorities brought criminal charges against a policeman for abuse of office during the July 2016 protests. However, in September 2018, authorities suspended the investigation into police actions on July 29, when they used excessive force against largely peaceful demonstrators and journalists, claiming inability to identify alleged perpetrators. Courts previously convicted 21 protesters on various criminal charges, while no officials faced prosecutions then.

In March 2019, authorities also suspended the investigation into police actions during June 2015 protests, but reopened it upon appeal by journalists. No new charges have been brought at this writing.

According to the Committee to Protect Freedom of Expression, a local media monitoring group, pressure on media from the authorities has decreased in 2018, but there were concerns regarding undue interference into media freedom. In September 2018, law enforcement officials conducted searches at *Yerevan.Today*, an online news agency, removing an editor's computer and the hard drives, which they returned 3 months later. Officials claimed the search was part of an ongoing investigation into a secret audio recording between two high-level security officials, disseminated by the news agency.

In December 2018, during a parliamentary election campaign, law enforcement officials visited another online media agency, *News.am*, and demanded live-video recordings of one of the candidates. Earlier, in November police visited editorial offices of another news agency *Aysor.am* demanding video recording of a press conference.

Recommendations:

- Ensure that there are no impediments to freedom of opinion and expression-,
- Promptly, thoroughly and effectively investigate all incidents of use of force by law enforcement officers, and attacks against peaceful protesters and journalists in March 2008, June 2015 and July 2016-,
- Refrain from such actions which could be considered as unlawful interference in the activity of media outlets and threaten the protection of information sources.

Gender-based violence and Domestic Violence

The Armenian government supported a number of recommendations during its 2015 UPR regarding combating domestic violence. Among them were recommendations to adopt legislation that would make domestic violence a discrete offence subject to prosecution, and to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

On a positive move, in December 2017, the Armenian parliament adopted a law on violence in the family that provides a definition of domestic violence. However, the law also includes notions of “strengthening traditional values” and “restoring family harmony” as key principles, raising concerns about those principles reinforcing obsolete and problematic gender roles and stereotypes to the detriment of protections and justice for survivors of domestic abuse. Domestic violence is not a standalone felony under the criminal code, nor it is an aggravating criminal circumstance.

Earlier in 2019, the authorities announced their intentions to further amend the domestic violence legislation to improve protections for survivors, and to ratify the Istanbul Convention. Amendments to the law have not been made public as of this writing.

Despite the 2017 law, domestic violence persists as a serious problem in Armenia. The authorities fail to ensure the protection of women and children survivors of domestic violence, jeopardizing their lives and well-being. Though the law requires police to urgently intervene “when there is a reasonable assumption of an immediate threat of repetition or the continuation of violence” in the family, law enforcement bodies lack awareness and training on protection mechanisms envisaged by the 2017 law, such as protection orders, and do not adequately use them. Authorities sometimes

pressure survivors who do file domestic violence complaints to reconcile with their abusers. Many women continue to live with their abusers for years because they have no means of escape. Armenia has only one shelter for domestic violence survivors, run by a non-governmental organization. While there are plans to open another shelter, with an overall capacity for 10-13 persons, Armenia falls far short of the Council of Europe recommendation of one shelter space per 10,000 people.

Recommendations:

- Ensure adequate protection of survivors of domestic violence:
 - Ensure prompt, thorough, and impartial investigation of all domestic violence incidents, using methods that mitigate risks for survivors, and prosecute and punish the attackers;
 - Ensure availability of shelter spaces and services for survivors in line with European and international standards, including shelters and services operated by the state and in rural areas;
 - Revise the criminal code to include an aggravating circumstance covering crimes committed within the family or domestic unit or between former or current spouses or partners, whether or not the abuser shares or has shared the same residence with the victim, in line with the Istanbul Convention;
 - Include domestic violence as a standalone criminal offense in the Criminal Code. This can provide an optimal response particularly in cases of abusive patterns of behavior in which isolated acts of violence do not reach the criminal threshold;
 - Continue campaigns to educate the public about the new domestic violence law, how to file complaints, and the availability of services;
 - Ratify without delay Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).

Right of Persons with Disabilities

During prior UPR review, Armenia accepted several recommendations related to persons and children with disabilities, including “adopting the law on protection of the rights of persons with disabilities,” and “ensuring inclusive education for children with special needs.”

The authorities have been making progress in transforming some residential institutions for children into community centers and supporting family-based care. They are committed to ending institutionalization of children with disabilities and to ensuring adults currently living in institutions can transition to live independently in their communities with support as necessary. The government has expressed a commitment to draft a law on the rights of people with disabilities that is consistent with the Convention on the Rights of Persons with Disabilities (CRPD). However, existing legislation allows for deprivation of legal capacity of persons with psychosocial or intellectual disabilities, and there are no supported decision-making mechanisms yet in place.

Authorities continue to implement their commitment to full inclusive education by 2025. Inclusive education involves children with and without disabilities studying together in community schools. Despite some progress, children with disabilities continue to face segregation in separate schools or classrooms, and do not always receive reasonable accommodations at schools to enable them to study on an equal basis with other children in community schools.

Recommendations

- Ensure the rights of persons with disabilities:

- Adopt a Law on Protection of the Rights of Persons with Disabilities in line with the CRPD. Ensure meaningful participation of civil society organizations working on disability rights in development of the draft law, including by inviting persons with disabilities to review and discuss the draft law and provide reasonable accommodations during such discussions.
- Strengthen efforts to end the institutionalization of children with disabilities and prioritize family-based care and community-based services;
- Ensure that services are accessible, including in remote or less-populated areas, such as through mobile teams of service providers and by other means;
- Implement programs to prepare children, including those with disabilities, who are nearing adulthood, to leave institutions, to live independently, with support as necessary, and prohibit their placement in adult institutions without their informed consent;
- Ensure quality, inclusive education for children with disabilities in mainstream classrooms, not in segregated settings, including through the provision of reasonable accommodations;
- Continue to advance inclusive education at all levels, including in preschool education and in higher education;
- Capture and utilize data on students with disabilities, including disaggregated data and other evidence on the barriers that prevent persons with disabilities from having access to inclusive quality education in mainstream schools.
- Develop legislative amendments to replace legal provisions that permit adults with intellectual or psychosocial disabilities to be deprived of legal capacity and placed under guardianship, with guarantees for legal capacity for all persons with disabilities and a system of assisted decision-making;
- Create a procedure, including for people with high support requirements, to access supported decision making for all decisions.
- Develop a comprehensive plan for the deinstitutionalization of adults with disabilities and the development of community-based support services, including through assessment and reform, if necessary, of existing programs supporting adults with disabilities in community settings in Armenia.
- Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD).