

***Submission to the Human Rights Council at the 35<sup>th</sup> Session  
of the Universal Periodic Review:  
Armenia***

**A Joint Submission by:**

The Non-Discrimination and Equality Coalition of Armenia; and  
The Equal Rights Trust

**The Non-Discrimination and Equality Coalition (NDEC)** unites organizations and individuals aiming to contribute to the realization and protection of human rights and to promote respect for equality and human dignity in Armenia. The coalition aims at streamlining the efforts of NGOs having expertise and experience in different areas of discrimination towards the development of a comprehensive and effective approach to combat systemic discrimination. The goal of the Coalition is to reduce manifestation of discrimination in policies, laws, societal norms, and practices by advocating for the adoption and enforcement of effective anti-discrimination legislation, by challenging the dominant discourse of inequality, exclusion and institutionalised discriminatory practices, as well as by empowering groups subjected to discrimination.

**The Equal Rights Trust (ERT)** is an independent international organisation whose mission is to eliminate discrimination and ensure that everyone can participate in society on an equal basis. Over the course of the last decade, we have worked in partnership with civil society in more than 40 different countries, supporting efforts to secure the adoption and implementation of comprehensive equality laws.

## **Introduction**

1. This submission focuses on the enjoyment of the rights to equality and non-discrimination in the Republic of Armenia (RA). It presents examples and patterns of discrimination arising on the basis of a range of different grounds in various areas of life; it is not intended to provide an exhaustive account of patterns of discrimination arising in the country, but rather to highlight particular issues identified through monitoring by the authors of this submission and our partners. It is the view of the authors and our partners that the various instances of discrimination and inequality discussed below, and others not discussed herein, will only be fully addressed through the adoption of comprehensive equality legislation. As such, we urge states participating in the review of Armenia to recommend that the state enacts such legislation, in consultation with civil society organisations and other stakeholders.
2. This report is based on data provided by NDEC member and partner organisations as supplemented by relevant legal analysis, and desk-based research conducted by the partners.<sup>i</sup> Each contributing organisation works with and on behalf of discriminated groups within Armenia, including LGBT persons, persons with disabilities, and women (amongst others); monitoring rights implementation at the domestic level.
3. Armenia's second Universal Periodic Review took place on 22 January 2015. The state received 189 recommendations and accepted 155 of them, many of which had an important bearing on the rights to equality and non-discrimination. Despite these recommendations, as illustrated below, discrimination continues on the basis of a wide range of grounds and in many different areas of life.

## **I National Legal Framework**

### The Status of Human Rights Treaties.

4. Armenia (hereafter, RA) has ratified eight of the nine core UN human rights treaties, with the notable exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. RA has accepted the competence of just two UN committees – the Committee on the Elimination of Discrimination against Women, and the Human Rights Committee - to receive individual complaints alleging a violation of Convention rights.
5. According to Article 5 of Armenian Constitution, in case of conflict between the norms of international treaties ratified by the state and domestic law, the norms of international treaties shall apply. Under Article 81 the practice of bodies operating on the basis of international human rights treaties ratified by the Republic of Armenia shall be taken into account when interpreting those provisions of the Constitution concerning basic rights and freedoms.<sup>ii</sup>

## Need for Comprehensive Equality Law

6. Despite some limited protections, the Armenian Constitution does not adequately protect rights to equality and non-discrimination. Under Article 29, discrimination is prohibited on an open list of grounds. However, the provision does not explicitly list several personal characteristics, such as sexual orientation, that are recognised under international law.<sup>iii</sup> Discrimination is not defined, leaving the scope of protection and the forms of discrimination which are prohibited unclear. The Constitution does not specifically require the adoption of positive action measures to address substantive inequalities, in line with international standards,<sup>iv</sup> and best practice.<sup>v</sup> Whilst several other laws contain individual non-discrimination guarantees, contrary to the recommendations of states<sup>vi</sup> and UN treaty bodies<sup>vii</sup> Armenia has failed to adopt comprehensive equality legislation in line with its international human rights obligations.<sup>viii</sup> In the absence of such legislation, many individuals are forced to rely on a patchwork of non-discrimination provisions which, together, fail to provide comprehensive protection.
7. In 2017, the Ministry of Justice of Armenia published for public consultation a draft “Law on Ensuring Equality”.<sup>ix</sup> In March 2018, the Equal Rights Trust published a legislative analysis of the draft law, which highlighted flaws, gaps and inconsistencies with international standards, that would undermine protection of the rights to equality and non-discrimination in practice.<sup>x</sup> Later in 2018, the NDEC commissioned an expert research report on identifying the best model of equality body in Armenia.<sup>xi</sup> Following the completion of this research, and a series of civil society consensus discussions on the draft law, held in December 2018, a policy paper was adopted, which collating the issues identified by civil society and made a series of direct recommendations to government regarding anti-discrimination law.<sup>xii</sup> Through various engagements during 2019, NDEC shared its recommendations – and those of ERT - with relevant stakeholders, including the Ministry of Justice and the office of the Human Rights Ombuds.
8. On 15 July 2019, the Ministry Justice published a new draft of the Law on Ensuring Equality.<sup>xiii</sup> Despite some positive changes (notably the removal of Article 6 of the previous draft which stated that the law should be interpreted in light of, *inter alia*, the “mission of the Armenian Apostolic Holy Church”), an initial review of the new draft Law indicates that it remains largely unchanged from the previous draft. The partners are concerned that the draft law is not consistent with international legal standards, and fails to address the issues raised by civil society in significant respects.

## **Recommendation**

9. Armenia should adopt comprehensive equality legislation appropriate for the implementation of the rights to equality and non-discrimination. Such legislation should *inter alia* prohibit all forms of discrimination, on all grounds recognized at international

law and in all areas of life regulated by law; require the adoption of positive action measures to address substantive inequalities; and provide the procedural safeguards necessary for the effective functioning of the rights protected therein. The state should engage in further meaningful consultations with civil society in the development of such a law, and establish an independent equality body with a large mandate and institutional guarantees to secure its enforcement.

## **II Patterns of Discrimination and Inequality**

10. In the absence of an effective legal framework on equality, patterns of discrimination and inequality persist. The following section has been compiled on the basis of information provided by NDEC member and partner organizations. Whilst the examples of discrimination recounted below are not intended to be comprehensive, they serve to illustrate both the spread and severity of discrimination within the state.

### **Discrimination Based on Sex**

#### *Recommendations Received with Regard to the Issue*

*120.24; 120.25; 120.26; 120.51; 120.53; 120.54; 120.56; 120.57; 120.58; 120.59; 120.60; 120.61; 120.62; 120.63; 120.64; 120.65; 120.66 (noted); 120.67; 120.68; 120.69; 120.70; 120.71; 120.72; 120.73; 120.74; 120.75; 120.76 (noted); 120.77; 120.78 (noted); 120.100; 120.101; 120.102; 120.103; 120.104; 120.105; 120.106; 120.107; 120.108; 120.109; 120.110; 120.111; 120.112; 120.113; 120.114; 120.115; 120.121; 120.122; 120.156; 120.157; 120.158; 120.159.*

#### Domestic violence

11. During the 2014 Universal Periodic Review, Armenia accepted multiple recommendations related to gender equality and domestic violence.
12. Armenia continues to lack comprehensive protection for victims of domestic violence and trainings for law enforcement and judges.
13. During the 2014 UPR, Armenia accepted three recommendations to ratify or accede to the Istanbul Convention.<sup>xiv</sup> While Armenia signed the Istanbul Convention in 2018, and the governing party publicly reiterated its political will to ratify it, the process of harmonization of Armenian legislation with the requirements of Istanbul Convention is not visible yet.
14. During the 2014 UPR, Armenia received and accepted a number of recommendations recommending that the State adopt comprehensive, stand-alone legislation criminalizing domestic violence and protecting victims and their families.<sup>xv</sup> In 2017, Armenia passed its first law on domestic violence, the *Law on Prevention of Violence*

*within the Family, Protection of Victims of Violence within the Family and Restoration of Peace in the Family.* However, the law does not criminalize domestic violence, and places to great an emphasis on reconciliation and traditional values rather than individual rights of victims. Moreover, the Law does not adequately cover all those who may be perpetrators or victims of domestic violence. In particular, intimate partner violence falls outside of the scope of the Law.

15. Victims face problems when trying to obtain short-term housing, as the number of beds in safe houses is insufficient. The only shelter currently operating in Armenia has space for no more than 15 women at a time. These services exclude other gender-based minorities who fall outside of the gender binary.
16. NGOs working in the field of women's rights have informed the NDEC that, despite the requirement to conduct a risk assessment when responding to domestic violence cases,<sup>xvi</sup> the police often fail to do so and are therefore failing to identify risks within families.
17. A 2016 report on domestic violence in Armenia indicated that, since 2010, a majority of perpetrators had not been charged or sentenced to prison.<sup>xvii</sup> Despite the fact, that the Law mentions economic and psychological violence as forms of domestic violence (in line with physical and sexual violence), criminal responsibility is provided only for very limited forms of psychological and economic violence (causing strong pain or mental suffering to a person, or abetment to suicide).<sup>xviii</sup>
18. Currently, police do not undergo gender sensitivity trainings. According to the Danish Immigration Service, on some occasions, male police officers (particularly in rural areas) may be friends with the perpetrator of violence, and are more likely to engage in victim-blaming behavior.<sup>xix</sup> In 2018, Armenia did not hire sufficient numbers of female police officers and investigators to adequately and sensitively investigate domestic violence cases.<sup>xx</sup>
19. For women with physical or mental disabilities, obtaining accessible and competent resources can be difficult. Most domestic violence services are not accessible for women living with disabilities or women whose children are living with disabilities, including shelter spaces.<sup>xxi</sup>

### Sexual violence

#### *Consent Based Definition of Sexual Violence*

20. Definitions of sexual violence crimes in the Criminal Code of the Republic of Armenia do not include all forms of non-consensual sexual acts and do not include a definition of consent, but require specific coercive circumstances: use of violence, threat of violence, abuse of the victim's helpless state, use of blackmail, threatening destruction

of property or abusing authority over or dependence by the victim. During their input for this submission, the Sexual Assault Crisis Center (SACC) noted that law enforcement bodies lack a full understanding of consent, which is usually equated to an absence of violence or mental health issues.

*Lack of Victim-Centered Approaches Amongst Law-Enforcement Agencies*

21. The biggest challenge noted by the SACC is the lack of a victim-centered and gender-sensitive approach amongst law enforcement agencies in cases concerning sexual violence. Many harmful interviewing practices and legal procedures are frequently carried out, which fail to take into consideration the psychological state and needs of the survivor and thus result in double victimization. SACC representatives highlighted, that in some of their cases, police interviewed previous sexual partners of the victim and prepared a “moral description” document, which was subsequently used by the accused party to discredit the victim.
22. The SACC noted that there is a widespread belief that false accusations in rape cases are common in Armenia, when in reality, such cases are rare. Ostensibly to avoid false accusations, investigatory bodies may treat victim’s as perpetrators, asking non-sensitive and victimizing questions over the course of dozens of interviews, which can make the process of investigation unbearable and affect access to justice for survivors of sexual violence.

Situation in Penitentiary Institutions.

23. Penitentiaries are not customized to the needs of women. As a result of the absence of female personnel, prisoners are the under supervision of male personnel 24 hours a day and are deprived of personal space.
24. Unlike penitentiaries for male prisoners, there are no acting laundries in women penitentiaries and prisoners have to wash their clothes themselves.

**Recommendations:**

25. Ratify the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence, also known as the Istanbul Convention and adopt a framework for its implementation.
26. Ratify the Council of Europe’s Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse, also known as the Lanzarote Convention.
27. Amend the Armenian Criminal Code to classify domestic violence as an aggravated offence. Establish specific and gender-sensitive procedures for domestic violence investigations.

28. Amend the 2017 Law on Prevention of Violence within the Family, Protection of Victims of Violence within the Family and Restoration of Peace in the Family to remove references to traditional values and the emphasis on reconciliation.
29. Organize trainings for law enforcement bodies on identifying cases of sexual violence. Trainings should emphasize a lack of voluntary, genuine and willing consent as a constituent element of sexual assault and adopt a victim-centered approach.
30. Increase the number of female personnel and eliminate discriminatory practices in female penitentiary institutions.

### **Discrimination Based on Disability**

#### *Recommendations Received with Regard to the Issue*

120.52; 120.84; 120.167; 120.168; 120.169; 120.170; 120.171.

#### Legal Framework Relating to Disability

31. As a party to the UN Convention on the Rights of Persons with Disabilities (hereinafter: CRPD), Armenia is obliged to ensure the equal participation of persons with disabilities without discrimination on any ground. Under the CRPD, the state is required to undertake appropriate legislative, administrative and other measures to ensure implementation of rights recognized under the Convention.
32. Armenia has not taken any steps towards ratification of the Optional protocol to the CRPD. Moreover, specific legislation addressing the needs of persons with disabilities has yet to be adopted by the state.

#### Legal Capacity

33. Draft amendments to the Republic of Armenia “Law on Psychiatric Care” were published on the Ministry of Justice online platform for public discussion on 26 June 2018.<sup>xxii</sup> The draft provides for a procedure of involuntary hospitalization of persons with mental disabilities. According to the procedure, a person with a “mental disorder” can be hospitalized against their will or, where relevant, against the will of their legal representatives in order to prevent any dangerous act by them; where treatment cannot otherwise be effectively organized; or where a delay in treatment could lead to harm of the individual’s, or others’, life or health.
34. As has been stated by CPRD Committee in several concluding observations, forced treatment by psychiatric and other health and medical professionals is a violation of the right to equal recognition before the law and an infringement of the rights to personal

integrity (art. 17); freedom from torture (art. 15); and freedom from violence, exploitation and abuse (art. 16). This practice denies the legal capacity of a person to choose medical treatment and is therefore a violation of article 12 of the Convention.<sup>xxiii</sup>

There is no mechanism for partial deprivation of legal capacity for persons with intellectual and psychosocial disabilities and supported decision making institutions do not exist in Armenia.<sup>xxiv</sup> As noted in the NDEC's Midterm report, persons with mental disabilities may be recognized legally incapable and thus be deprived of the possibility to fully exercise their rights, make decisions and act independently and bear responsibility for acts committed. The Armenian Constitutional Court has recognized the need to address this issue within the framework of legislative amendments to exclude disproportionate interventions into a person's legal capacity and to specify the lawful grounds of such intervention.<sup>xxv</sup> Moreover, according to article 48 of Armenian Constitution, people with no active legal capacity cannot implement their rights to elect or to be elected. This Constitutional regulation itself can be considered discriminatory, and contrary to Armenia's obligations under the CPRD. According to CPRD Committee General Comment No. 1, a person's decision-making ability cannot be used to justify any exclusion of persons with disabilities from exercising their political rights, including the right to vote, the right to stand for election and the right to serve as a member of a jury.

#### Situation in Penitentiary Institutions.

- 36 Only one out of 12 penitentiary institutions is provided with proper conditions for persons with disabilities. There are partial solutions in two other penitentiaries. This situation causes problems not only for detainees' who have mobility problems but also for visitors with such disability.
- 37 Bathrooms are not customized to meet the needs of persons with disabilities.<sup>xxvi</sup>

#### **Recommendations:**

- 38 Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.
- 39 Abolish legislation authorising involuntary hospitalization and treatment of a person with mental health problem.
- 40 Ensure respective environment for the persons with disabilities in penitentiary institutions.

#### **Discrimination on the Grounds of Sexual Orientation and Gender Identity.**



*Recommendations Received with Regard to the Issue*

120.52; 120.64; 120.72; 120.80; 120.81; 120.83; 180.84; 120.85; 120.86.

- 41 Despite recommendations made during the 2014 Universal Periodic Review on the adoption of legislative regulations on prohibiting discrimination on the grounds of sexual orientation and gender identity, these grounds are missing from the list of protected characteristics defined in the draft of the Law on Ensuring Equality. Whilst proposed amendments to the Criminal Code, which aim to criminalize forms of discrimination, include sexual orientation in the list of prohibited grounds, as discussed in further detail elsewhere, with narrow exceptions, the criminal law is an inappropriate vehicle for discrimination law: requiring a criminal (rather than civil) standard of proof; maintenance of the burden of proof (which ought to be reversed in discrimination claims); and an intent requirement, that is absent in civil discrimination proceedings.<sup>xxvii</sup>
- 42 Recommendations made by civil society organisations to provide particular steps in the action plan towards implementation of the Human Rights Protection National Strategy 2017 - 2019 action plan in this regard was rejected by the Ministry of Justice. These recommendations included *inter alia* adoption of a comprehensive anti-discrimination law providing effective protection for LGBT.
- 43 LGBT issues have come to the fore in Armenia since the time of the 2018 revolution, as previous governing party representatives have expressed their concern on the imminent “danger” of homosexuality in a perceived attempt to discredit the new authorities. As a result of protests, including from the Armenian Apostolic Church, the international forum of LGBT Christians, which was due to take place in Armenia in November 2018 was cancelled. The police explained that it was inexpedient to organize such an event. In a briefing with the journalists, head of police, Valery Osipyan, was quoted: "Given certain risks, such a forum will not take place in Armenia. At the moment I myself find it not appropriate given security conditions. We have made some explanations so that this does not take place on the territory of Armenia. We've seen what happened in neighboring Georgia. If such an event was to take place, the police would have ensured the safety of all."<sup>xxviii</sup>

Discrimination in the Healthcare System.

- 44 In Armenia, there is no legislation regulating the legal change of gender and gender reassignment procedures are not legally available in the country. Article 4 of the RA law “On Medical Care and Services of the Population” stipulates that everyone has a right to medical care and services without discrimination based on nationality, race, sex, language, religion, age, the status of health, political and other opinion, social origin, property and other status. However, RA Government Decision N 276, dated 27.03.2008, which provides for the types of medical care and services that are conducted for the population of the Republic of Armenia, does not include sex/gender

reassignment as a type of healthcare service available in the country.<sup>xxix</sup> Due to the lack of regulation, such surgeries are officially registered by healthcare professionals as “corrections” of body deformations. At the same time sex reassignment is required to change gender markers in the documents.

- 45 LBT women lack information on puberty, sexual upbringing, sexual relations, sexual harassment, sexually transmitted diseases and HIV. LBT women often avoid visiting a gynecologist based on reasons including a lack of trust towards medical confidentiality and a fear of unprofessional or discriminatory conduct.<sup>xxx</sup>
- 46 According to the research conducted by “Society Without Violence” NGO, the root causes of discrimination against LGBT patients are the following:
- Impunity caused by lack of legal regulations, as currently, there is no law protecting the LGBT people from violence and discrimination;
  - Education of doctors who have no appropriate knowledge on LGBT specific issues and sexuality; and
  - Homophobia and transphobia widespread in society which is hardly overcome by medical personnel.

#### Discrimination in Educational Institutions

- 47 LGBT people risk being subjected to discrimination at school and at universities when their sexual orientation or gender identity is disclosed, which may result in lower levels of educational attainment and thereby damage future career opportunities. According to information provided to the partners, many transgender people engage in sex work in order to make ends meet.
- 48 A survey conducted by Pink Armenia, which consisted of participants completing online anonymous questionnaires, indicates that LGBT children are subject to bullying at school. There have been reported cases not only physical violence but also blackmail. 82% of respondents had been subjected to bullying, 35% of which had been victims of bullying multiply times.<sup>xxxi</sup> Further research lead by the “Society Without Violence” NGO, indicates that LGBT students are subjected to bullying not only by other pupils/students but also by teachers.<sup>xxxii</sup>

#### Discrimination in Penitentiary Institutions

- 49 According to information provided to the partners, GBT people may face violence, sexual harassment and assault in penitentiaries by other prisoners. At the same time,

such persons often face discrimination and inhuman treatment by penitentiary personnel.

Cells where GBT people are housed are separated and targeted by other prisoners. Conditions of these cells are worse than general, as there are anti-sanitary environment, broken beds and windows, unstable room temperature etc.<sup>xxxiii</sup> GBT people are reportedly subject to violence by other prisoners, with the implicit consent of penitentiary personnel.

### Domestic Violence

50 Reported cases of domestic violence on the grounds of sexual orientation and/or gender identity have been identified as occurring between parents and children. According to Pink Armenia, parents usually discover the sexual orientation of their child by hacking (accessing without permission) their social media accounts and reading their personal correspondence.<sup>xxxiv</sup>

51 There are cases when a person's sexual orientation or gender identity is revealed by family members who decide to kick the person out of home, often keep them under house arrest, and often deprive them of the opportunity to attend an educational institution. Parents sometimes threaten to take their children to a psychiatric hospital, and often they do so if the child persists that they are indeed gay.

52 These case are almost never brought to law enforcement bodies, as the person does not want to call the police against their family members. Additionally, the fear of increasing the frequency and intensity of violence is also a reason for not contacting the police.

### Hate Crimes on the Grounds of Sexual Orientation and/or Gender Identity.

53 RA legislation does not provide for comprehensive substantial and procedural regulations for prevention, investigation, and responsibility for hate crimes.

54 It should be noted that Article 63 of the Criminal Code provides for criminal responsibility and circumstances aggravating the punishment for the crimes on the grounds of ethnic, racial or religious hatred, fanaticism.<sup>xxxv</sup> Hate crimes committed on the basis of a person's sexual orientation and/or gender identity are not included in the criminal legislation, and therefore are not taken into consideration during the investigation of criminal cases, and not regarded as circumstances aggravating the crime and punishment. This, in turn, means that no effective remedies have ever been available to LGBT victims of hate crimes.

### Hate Speech on the Grounds of Sexual Orientation and/or Gender Identity.

- 55 Law-enforcement bodies reject complaints of hate speech on the grounds of sexual orientation and gender due to a lack of appropriate legislative regulations. Hate speech provisions provided for in national legislation are quite limited, and often overbroad – entrenching a risk of discriminatory application. Under the Constitution the use of fundamental rights and freedoms to overthrow the Constitutional order, to spread ethnic, racial and religious hatred, or to incite violence or war, is prohibited.<sup>xxxvi</sup> Article 226 of the Criminal Code defines national, racial or religious hatred.<sup>xxxvii</sup> National legislation does not provide for protection for incidences of hate speech on grounds other than those stated in this article. The only exception is Article 397 of the Criminal Code, which, in addition, provides criminal liability for denial, mitigation, approval or justification of genocide and other crimes against peace and humanity on the grounds of race, skin color, national or ethnic origin and religious belief.
- 56 At the same time the amplitude of hate speech appears to be widening. A wave of hate speech followed the attack in the Armenian village Shurnukh, where 9 young people were beaten and evicted from the village because of their real or alleged sexual orientation.<sup>xxxviii</sup> Authors of hate speech are not only private individuals but also State officials, who not only express degrading irreverent speech but, on occasions, have also called for discrimination and violence.
- 57 Research conducted by the Helsinki Committee during the second half of 2018, which covered the pre-electoral periods of Yerevan Municipality elections and Parliamentary elections, found several instances of hate speech.<sup>xxxix</sup> Monitoring the speech of State officials, medias and other public decision makers in 5 printed medias and 6 TV channels, research revealed instances of hate speech<sup>xl</sup> in 21 editorials and 35 quotations; and harmful<sup>xli</sup> speech in a further 14 editorials and in 18 quotations.
- 58 The research shows that the main target groups of hate speech from July to December 2018 were LGBT people and religious groups, who, as explained below, are increasingly targeted, including by persons opposed to the ruling government.<sup>xlii</sup>

### **Recommendations:**

- 59 In line with the overarching recommendation, ensure that any comprehensive equality legislation explicit identifies sexual orientation and gender identity as protected characteristics. Such law should provide the possibility for non-governmental organizations to bring claims to the courts in cases of supreme public interest (*actio popularis*).
- 60 Review and amend Armenian legislation on hate crimes in accordance with international human rights standards, as a means to ensure Armenia's compliance with its international obligations. Define the bias of sexual orientation and gender identity as circumstances aggravating the crimes and punishment.

- 61 Amend domestic laws to define the concept of hate speech, in line with international standards,<sup>xliii</sup> and best practice.<sup>xliv</sup> The state should ensure that such legislation prohibits hateful speech committed on the grounds of sexual orientation and gender identity.
- 62 Organize and implement trainings for law-enforcement bodies concerning the investigation of hate crimes, as well as the specificities of work with the victims and witnesses of hate crimes, including on the grounds of sexual orientation and gender identity.
- 63 Create ethics committees examining the cases of hate speech displayed by State officials.
- 64 Adopt a law on legal gender recognition which will provide the opportunity for transgender people to change gender markers in their official documents without any medical or surgical intervention requirement.
- 65 Make appropriate legislative amendments to authorize sex reassignment surgeries, hormonal therapy and other relevant medical interventions requested by transgender persons, and elaborate a system of transgender care during these procedures *inter alia*.
- 66 Include education on human rights and equality issues in school educational programs to promote tolerance among minors.
- 67 Provide social worker services at public schools.
- 68 Ensure that domestic violence victims envisage effective mechanisms for the protection of human rights, which will exclude the risk of victimization, ensure the safety of the individual and provide comprehensive compensation mechanisms for damages.

### **Human Rights Defenders**

- 69 Several organizations that contributed towards this submission had expressed concern regarding a rise in attacks on human rights defenders over the course of the past year. The main target groups are women and LGBT human rights defenders, who, as explained below, have been subject to verbal attacks by both private groups and parliamentarians. In some instances, harmful speech has descended into calls for violence.
- 70 Members of organizations working with women and LGBT people expressed that they have received death and rape threats, with some being threatened with being burned alive, causing great apprehension among their family members and friends, as well as the organization's beneficiaries and stakeholders. Threats have also been made via social media, yet – in part due to deficiencies in the domestic legal framework on hate

speech – driven by a lack of political will – complaints to the police have largely gone unheeded.

- 71 In some instances, attacks on human rights defenders has been responded to positively by members of Parliament. Following a series of attacks on the SACC and the Women’s Resource Center, Minister of Labor and Social Affairs, Ms. Zaruhi Batoyan released a statement condemning the fact that SACC’s legal activities were being hindered. This was the first time an official statement was made after this kind of incident. After making the statement, Ms Batoyan was also targeted with sexist, misogynistic and ableist attacks. On other occasions, particularly in respect of LGBT issues, support from MPS has not been forthcoming.
- 72 Within the national Parliament, homophobia and transphobia has escalated from attempts to have “propaganda” concerning "non-traditional sexual orientation", and same-sex marriages banned,<sup>xlv</sup> to dangerous attacks on human rights defenders invited to speak before the National Assembly. In April 2019, Lilit Martirosian, a transgender woman who made a speech concerning hate crimes to which transgender people have been subjected in Armenia, received death threats after multiple members of Parliament made denounced members of the LGBT community.<sup>xlvi</sup> Notably, during a briefing with the journalists, MP Vardan Ghukasyan called for persons like Lilit to be “burned alive.”<sup>xlvi</sup>
- 73 In the partners submission, specific legislation, alongside comprehensive equality laws, is required to protect human rights defenders.

**Recommendations:**

- 74 Adopt a legislative amendment to protect human rights defenders from associated discrimination.

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<sup>i</sup> Including Pink Armenia, Women’s Resource Center, Helsinki Citizens Assembly Vanadzor, Society Without Violence, New Generation, Helsinki Committee, Center for Legal Initiatives, Sexual Assault Crisis Center, and the Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of RA. The contact details for each of these organizations is attached as an Annex to this submission.

<sup>ii</sup> Republic of Armenia Constitution. Available at: <https://www.president.am/en/constitution-2015/>

<sup>iii</sup> Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc. E/C.12/GC/20, 2009, Para 32.

<sup>iv</sup> See, for instance, Convention on the Elimination of All Forms of Discrimination against Women, Article 4; International Convention on the Elimination of All Forms of Racial Discrimination, Article 1(4).

<sup>v</sup> *Declaration of Principles on Equality*, Equal Rights Trust, London, 2008, Principle 3.

<sup>vi</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Armenia*, UN Doc. A/HRC/29/11, 13 April 2015, Recommendation 121.1.

<sup>vii</sup> See, for instance, Committee on the Rights of Persons with Disabilities, *Concluding Observations: Armenia*, UN Doc. CRPD/C/ARM/CO/1, 8 May 2017, Paras 7-8; Committee on the Elimination of Discrimination against Women, *Concluding Observations: Armenia*, UN Doc. CEDAW/C/ARM/CO/5-6, 25 November 2016, Paras 8-9.

<sup>viii</sup> See Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, UN Doc. E/C.12/GC/20, 2009, Para 37; Committee on the Rights of Persons with Disabilities, *General Comment No. 6: Equality and Non-Discrimination*, UN Doc. CRPD/C/GC/6, 2018, Para 22.

<sup>ix</sup> A version of the draft is available at: <https://www.e-draft.am/projects/770/about>.

<sup>x</sup> Equal Rights Trust, *Draft Law of the Republic of Armenia “On Ensuring Equality” Legislative Analysis*, 2018, available at: [https://www.equalrightstrust.org/ertdocumentbank/180311%20Equal%20Rights%20Trust%20-%20Law%20on%20Ensuring%20Equality%20-%20Armenia%20-%20Legislative%20Analysis\\_0.pdf](https://www.equalrightstrust.org/ertdocumentbank/180311%20Equal%20Rights%20Trust%20-%20Law%20on%20Ensuring%20Equality%20-%20Armenia%20-%20Legislative%20Analysis_0.pdf).

<sup>xi</sup> Aleksanyan, N., *Research on Identifying the Best Model of The Equality Body in Armenia*, 2018, available at: [http://www.havasar.am/wp-content/uploads/2019/02/Research\\_Effective-model-of-Equality-body-in-Armenia-Eng.pdf](http://www.havasar.am/wp-content/uploads/2019/02/Research_Effective-model-of-Equality-body-in-Armenia-Eng.pdf).

<sup>xii</sup> Non-Discrimination and Equality Coalition, *Policy Paper: On Effective Anti-Discrimination Legislation in Armenia*, 2018, available at: <http://www.havasar.am/wp-content/uploads/2019/02/Policy-Paper-English.pdf>.

<sup>xiii</sup> Ministry of Justice of the Republic of Armenia, *Draft Law on Ensuring Equality*, 2019, available at: <https://www.e-draft.am/projects/1801/about>.

<sup>xiv</sup> *Report of the Working Group on the Universal Periodic Review: Armenia: Addendum*, (June 5, 2015), U.N. Doc. A/HRC/29/11/Add.1, ¶¶ 120.24, 120.25, 120.26.

<sup>xv</sup> See, e.g., *Report of the Working Group on the Universal Periodic Review: Armenia: Addendum*, (June 5, 2015), U.N. Doc. A/HRC/29/11/Add.1, ¶¶ 120.100, 120.105, 120.106, 120.107, 120.108, 120.109, 120.111, 120.112, 120.113.

<sup>xvi</sup> *Police Response to Violence against Women and Domestic Violence in Armenia: A Practical Handbook for the Armenian Police*, by Anthony Wills, Arshak Gasparian, & Maro Matosian (Yerevan, 2018), 26.

<sup>xvii</sup> Coalition to Stop Violence against Women & Open Society Foundations Armenia, *Femicide in Armenia: A Silent Epidemic*, by Ani Jilozian (2016), 27.

<sup>xviii</sup> RA Criminal Code, available in Armenian: <https://www.arlis.am/DocumentView.aspx?DocID=125137>

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<sup>xix</sup> The Danish Immigration Service, *Armenia: State Actors, Political Situation, Vulnerable Groups and Citizenship: Report from a Fact Finding Mission to Yerevan, Armenia* (Copenhagen: Danish Immigration Service, 2016), 42.

<sup>xx</sup> United States Department of State, *Armenia 2018 Rights Report*, (2019), 30.

<sup>xxi</sup> *Ibid.*

<sup>xxii</sup> <https://www.e-draft.am/projects/982/digest?page=2>

<sup>xxiii</sup> CRPD/C/ECU/CO/1, p. 29 d), CRPD/C/NZL/CO/1, p. 30, CRPD/C/SWE/CO/1, p. 36

<sup>xxiv</sup> Human Rights Watch Submission on Armenia to the Committee on the Rights of Persons with Disabilities

Show More Services, March 2017. Available from: [https://www.hrw.org/news/2017/03/01/human-rights-watch-submission-armenia-committee-rights-persons-disabilities#\\_ftn2](https://www.hrw.org/news/2017/03/01/human-rights-watch-submission-armenia-committee-rights-persons-disabilities#_ftn2) [accessed 05 November 2017].

<sup>xxv</sup> Decision of the Constitutional Court, 7 April, 2015, N UՂՌ-1197

<sup>xxvi</sup> Monitoring Group Conducting Public Oversight in the Penitentiary Institutions and Entities under the RA. Ministry of Justice, report, 2017. Available at: <http://pmg.am/images/PMG-REPORT-2017.pdf>

<sup>xxvii</sup> See, for instance, Equal Rights Trust, *A Past Still Present: Addressing Discrimination and Inequality in Egypt*, 2018, pp. 53-54; 65-66, available at: [https://www.equalrightstrust.org/ertdocumentbank/Egypt\\_EN\\_online.pdf](https://www.equalrightstrust.org/ertdocumentbank/Egypt_EN_online.pdf).

<sup>xxviii</sup> Available in Armenian at: <http://hayastan24.com/hy/hasarakutyun/lgbt-forum-ci-anckacvelu-osipyan>

<sup>xxix</sup> RA Government Decision N 276, dated 27.03.2008, on types of medical care and services that are conducted for the population of the Republic of Armenia, Available from: <http://www.arlis.am/DocumentView.aspx?DocID=69784> (in Armenian) [accessed 05 November 2017].

<sup>xxx</sup> “Invisible right of women” research. Available in Armenian at: <http://www.yso.am/files/%20%D5%AB%D6%80%D5%A1%D5%BE%D5%B8%D6%82%D5%B6%D6%84%D6%8A%D5%AB%D6%80%D5%A1%D5%BE%D5%AB%D5%B3%D5%A1%D5%AF%D5%AB%20%D5%BE%D5%A5%D6%80%D5%AC%D5%B8%D6%82%D5%AE%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6.pdf>

<sup>xxxi</sup> <http://www.pinkarmenia.org/hy/2017/04/dos2017/>

<sup>xxxii</sup> “Society without violence”, research “Practical assessment of LGBT human rights in Armenia.” <http://www.swv.am/attachments/article/1184>

<sup>xxxiii</sup> Monitoring Group Conducting Public Oversight in the Penitentiary Institutions and Entities under the RA. Ministry of Justice, report, 2017. Available at: <http://pmg.am/images/PMG-REPORT-2017.pdf>

<sup>xxxiv</sup> Pink Armenia, Human rights situation of LGBT people, annual reports. Available at: <http://www.pinkarmenia.org/en/publications/reports/#.XS47HJMzZE4>

<sup>xxxv</sup> RA Criminal Code, Article 63.

<sup>xxxvi</sup> RA Constitution, Article 17.

<sup>xxxvii</sup> RA Criminal Code, Article 226.

<sup>xxxix</sup> <https://bit.ly/2WGz7Tr>

<sup>xl</sup> <https://rm.coe.int/1680505d5b>

<sup>xli</sup> Berkman Klein Center for Internet & Society, “Harmful Speech Online project”: <https://cyber.harvard.edu/research/harmfulspeech>



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xlii *Ibid*, page 10

<sup>xliii</sup> In particular, Articles 19 and 20 of the International Covenant on Civil and Political Rights.

<sup>xliv</sup> See Article 19, The Camden Principles on Freedom of Expression and Equality, 2009; Article 19, *'Hate Speech' Explained A Toolkit*, 2015, available at: <https://www.article19.org/data/files/medialibrary/38231/'Hate-Speech'-Explained---A-Toolkit-%282015-Edition%29.pdf>; See also: Committee on the Elimination of Racial Discrimination, *General Comment No. 35: Combating Racist Hate Speech*, UN Doc. CERD/C/GC/35, 2013.

<sup>xliv</sup> Waldman, E., "Despite Death Threats, Armenia's LGBT Activists Are Fighting for Recognition", *World Politics Review*, 20 June 2019, available at: <https://www.worldpoliticsreview.com/trend-lines/27965/despite-death-threats-armenia-s-lgbt-activists-are-fighting-for-recognition>.

<sup>xlvi</sup> *Ibid*.

<sup>xlvii</sup> *Ibid*.