

Recommendations by a group of civil society organizations for Armenia's review within UPR

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With Armenia due to undergo a second Universal Periodic Review in early 2015, we would like to raise the following critical areas that need to be addressed in the second cycle of UPR review if Armenia is to create practical safeguards necessary to improve human rights conditions. Full reports are available at www.osf.am

ACCESS TO JUSTICE AND RULE OF LAW

Remove the President's discretionary power in endorsing the list of judges from the Judicial Code; the list proposed by the Justice Council should be deemed as final and the President's signature should simply be a matter of protocol.

Ensure internal independence in adjudication by removing the pressure placed on first instance courts by the Court of Cassation.

Modify the grounds for disciplinary liability of judges by establishing clear and precisely defined criteria, in compliance with well-recognized international standards and best practice, including an appeal procedure.

Abolish depositions of defendant confessional testimonies during criminal proceedings

Provide effective access to the Court of Cassation, so that private parties of criminal or administrative cases are able to bring complaints to the Court of Cassation without a licensed attorney.

Eliminate conflict of interest by introducing a procedure to resolve possible conflicts between the judiciary and the prosecution.

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Carry out a complete, thorough, and effective investigation into the murders on 1 March 2008, punish perpetrators, and provide adequate reparation.

Amend the Law on Free Legal Aid in order to increase capacity and access to free legal aid.

Ensure that education and training courses for judges include a special focus on the rights of vulnerable groups.

RIGHT TO LIFE

Carry out effective investigation of each violation of right to life and bring those responsible to account.

Adopt legislative provisions stipulating state liability for deaths of persons under the responsibility of the State, in the newly developed Criminal Procedure Code, and in the Criminal Code currently being developed.

RIGHT TO BE FREE FROM TORTURE AND CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Provide criminal liability for torture in line with Article 1 of the UN Convention against Torture.

Open investigator's rooms of the police for civic oversight.

Carry out a full and impartial investigation into all torture allegations and punish the perpetrators.

Safeguard the transparency and accountability of the appointment process for the Head of Probation Service and its activities.

Improve conditions of places of detentions in accordance with CPT standards and make efficient use of alternatives to imprisonment.

RIGHT TO LIBERTY

Establish in legislation and in practice the right to an effective remedy in court and other state bodies every time the right to liberty is violated.

Eliminate abuse of administrative apprehension and detention as a measure of restraint, particularly for politically sensitive cases.

Stop arbitrary isolation of military servicemen during pre-trial investigation for extortion of evidence.

FREEDOM OF ASSEMBLY

Shorten the 7-day notification requirement prior to an assembly to set a reasonable framework for notification of an event.

Stop police interference and obstruction of peaceful assemblies under the pretense of "not authorized" events.

Conduct impartial and transparent investigations of incidents where freedom of assembly has been restricted and police has used force; identify and prosecute police officers for excessive use of force, provide effective remedies to the victims.

FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

Resolve the problematic issues in the current Law on Religious Organizations, specifically on the issue of the dominance of the Armenian Apostolic

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Church, the high threshold for registration of organizations and the labeling of preaching as “soul hunting”, along with its criminalization; conduct broad consultations on the new draft law.

Preclude preaching in public schools and kindergartens by teachers and/or representatives of any religion or church.

Address the propaganda and hate speech against other religions and beliefs, and hold perpetrators accountable.

THE RIGHT TO FREEDOM OF OPINION AND MEDIA

Amend the Law on TV and Radio to ensure transparency of media ownership, a transition to a simplified licensing procedure, transparency and fairness of tenders, and independence of the national regulator through reforms of the member selection and appointment process.

Ensure transparency of the digital switchover by informing the public about the most important technical, financial, and social problems and their solutions.

Reform Article 1087.1 of the Civil Code with a view to preventing its potential use as a pressure tool against the mass media, namely by considerably reducing the cap on the amount of compensation for slander and offence.

Carry out a full and impartial investigation into attacks against journalists, issuing a public report on the results of each investigation.

THE RIGHT TO NON-DISCRIMINATION

Adopt standalone legislation and effective mechanism on combating discrimination.

Adopt standalone legislation on Domestic Violence and set up a referral system for victims of domestic abuse.

Ratify the Optional Protocol to CRPD.

Set up a comprehensive system of laws criminalizing hate speech and discouraging homophobic statements by public officials.

Organize trainings for police, medical and other professionals on rights of minorities and individuals belonging to vulnerable groups.

WOMEN'S RIGHTS

Amend Election Code, raising the quota for women's representation in political party lists in the proportional representation elections to 30 percent, and including a provision to the effect that in case an elected female MP resigns her mandate shall be transferred to the next woman on the party list.

Adopt a standalone law to combat domestic violence, wherein violence against women will be qualified as a criminal and civil offense subject to prosecution and punishment.

Adopt specific legislative norms to expedite the elimination of employment discrimination against women and to attain de facto equal opportunities for women at all levels of the labor market.

Introduce quotas in line with the principle of positive actions to ensure adequate presence of women at the top level of management in economy

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and state-run organizations and in companies' boards of directors with the involvement of the state and communities.

RIGHTS OF THE CHILD

Implement all recommendations of concluding observations in the CRC review.

Develop indicators to measure the factual progress towards implementation of the 2013-2016 Strategy on the Protection of the Rights of Children and take necessary actions to enable operation of National Committee for Child Protection.

Establish and ensure operation of juvenile justice system, including specialized juvenile justice courts and properly trained judges.

Ratify the Optional Protocol to the Convention on the Rights of the Child.

RIGHT TO HEALTH

Ensure access to state alternative care services, guaranteed by RA Mental Health Strategy for 2014-2019 adopted on April 23, 2014, for people with mental health problems.

End the participation of law enforcement officials in the MST Selection Committee and harmonize MST National Clinical Guidelines with WHO¹ recommendations.

Register, purchase, and prescribe oral morphine for pain treatment of people with life-threatening illness.

Ensure access to state free quality health care for detainees and conscripts as guaranteed by the Government Decree N 318-N.

Ensure that allegations of the ill treatment of persons detained by the security/police forces are investigated and that perpetrators are held accountable (UPR 2010, rec. 26).

Ensure access to state free health care for socially vulnerable and specific groups of the population, as guaranteed by the Government Decree N 318-N.

Guarantee proper access to anonymous and confidential HIV testing and ensure ARV treatment.

RIGHT TO LIVE IN A HEALTHY AND SAFE ENVIRONMENT

Adopt legislation prescribing the right of environmental NGOs to access courts in matters of public interest litigation related to the environment.

Stop the unlawful operation of the Teghut Mine, in order to fulfill Armenia's international commitments reaffirmed by the decisions of the Compliance Committee.

Ratify the Protocol on Pollutant Release and Transfer Registers and create a publicly accessible database on the existing toxic pollutants in line with the Protocol.

Stop issuing permits for new metal mines until proper environmental impact assessment methodologies are developed.

Enforce Article 10 of the Law on Lake Sevan and prohibit any processing activity in the Sevan basin.

¹ Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence

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Adjust the small hydro-power plant development scheme by setting out clear limitations for their construction, taking into account the need for protecting water ecosystems and water quality.

Set a quota on the use of underground water resources in the Ararat Valley to safeguard against water use in excess of the renewable resource.

RIGHT TO EDUCATION

Adopt legislative and policy changes preventing executive control and corruption in education.

Establish participatory mechanisms to ensure transparency and accountability for education processes and decision making.

Adopt policy measure to ensure equal access to general education services, including access to high schools for all children, irrespective of geographical area, ethnicity and gender.

Ensure that all newly developed and/or revised education content reflect fundamental human rights values in addition to meeting academic subject requirements.

Guarantee academic independence, integrity, and research schemes by revising education financing mechanisms and methodology of allocation of financial resources to education institutions.

Ensure development of the strategy and action plan for realization of the mainstream education reform towards overall inclusiveness, and enable large civil society community to participate in this process.

RIGHT TO WORK

Create a separate government entity with a specific mandate for effective oversight over labor rights.

Amend the RA Labor Code to set clear criteria for concluding a specific-term employment contract.

Adopt measures that prevent discrimination in employment.

RIGHT TO PROPERTY

Amend the Law on Alienation of Property for Society and State Needs to clarify the grounds for recognition of the 'exclusive supreme public need', mandate due justification and stakeholder participation in the assessment of 'needs', ensure guarantees by the state for ensuring due compensation for alienation of the private property and compliance of developers with terms of contracts.

Ensure adequate redress to all persons affected by expropriation of private property through adequate compensation for loss and damage.

Provide legal standing to NGOs to challenge unlawful acts of respective administrative bodies related to alienation or misuse of public property.

CULTURAL RIGHTS

Redefine in the national legislation the concepts of cultural heritage and cultural rights in accordance with international standards, revise criteria for the inclusion of items within the list of protected monuments, and fill in the legislative gaps to strengthen the oversight of respective institutions and escalate the liability for destruction or damage.

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Amend RA Law on Protection and Use of Immovable Historical and Cultural Monuments and Historic Environment to prohibit the removal of any protected monument, in whole or in part, except where the material safeguarding of such monuments makes removal imperative, revise the criteria for inclusion of buildings within the list of protected monuments, strengthen the oversight over the use of historical and cultural monuments and strengthen the liability for destruction or damage of those.

Annul government decisions implying the removal, demolition and/or deformation of immovable monuments and ensure their exhibition in the areas of their historical location.

ELECTIONS, RIGHT TO VOTE

Amend the electoral legislation to safeguard publication of voter lists after an election, in order to mitigate against multiple voting and ballot stuffing, and to provide civil society oversight of the process.

Ensure the order and transparency of elections through recording and live-streaming the voting process inside and outside the precincts throughout the country.

Guarantee adequate investigation and condemnation of electoral violations through improving the procedures of appeals to electoral commissions, judicial and law enforcement bodies and allowing the voters and observer organizations to challenge the legality of electoral process.

Prevent the misuse of administrative resources by increasing restrictions on public officials during elections campaigns and voting processes, removing

the electronic voting mechanisms for diplomatic and consular representations and missions, and introducing liability measures for the abuse of administrative resources and for violating the electoral code by electoral commissions.

Ensure transparency of electoral processes through video-taping and online broadcast.

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