

Towards Armenia's Review within UPR: Outstanding Concerns



With Armenia due to undergo a second Universal Periodic Review in early 2014, 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.

Electoral malpractice. Five years ago, during the first UPR review, Armenia was in the midst of a political and human rights crisis caused by fraudulent elections and deadly post-election violence. Since then, Armenia has gone through another round of presidential, parliamentary, and local elections, all of which reinforced the corrupt practices witnessed and documented by civil society over the past 15 years, including vote-buying, harassment and intimidation of voters, observers and proxies, multiple and “carousel” voting, criminals supervising polling stations, and ballot-box stuffing. Civil society organizations believe that as long as the public is unable to scrutinize voter lists the ruling party will maintain an unconditional ability to manipulate election results.

Lukewarm legislative and judicial reform. A number of important and long-awaited reforms were announced by the authorities following the first cycle of UPR. Despite some modest progress, the overall reform process has been delayed due to the government’s lack of commitment, lacked transparency, and determination to consider civil society recommendations. Important reforms are underway in the criminal justice field with overhaul of two main codes. The Criminal Procedure Code was to be enacted in early 2013 but it is still pending adoption by the National Assembly. Approval of the National Strategy for Protection of Human Rights and its Action Plan was a positive step forward but the documents were adopted without consideration of the vast majority of civil society recommendations. Additionally, no funds were allocated by the government for implementation of the Strategy. Two other important laws that would provide protection against discrimination and domestic violence were initiated but later put on hold by the authorities.

Torture and impunity. The current reform process needs to address the issue of impunity by introducing safeguards against reliance on torture to coerce confessions. As a minimum standard, a legal definition of torture in line with international standards should be adopted so that public officials can no longer charge officials with lesser crimes in order to avoid prosecution for torture. Lack of judicial independence leads judges to avoid excluding evidence obtained through torture, further weakening torture victims’ trust in the system and their willingness to apply to the courts for redress and reaffirming the use of torture as an acceptable investigative practice.

Lack of an independent judiciary. In general, popular trust in the judiciary remains very low¹. Despite numerous reforms aimed at strengthening the institution the authorities have not shown political will to

¹ As per 2013 GCB data 69% of respondents felt that judiciary was corrupt/extremely corrupt

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safeguard the judiciary's independence from the executive and prosecution officials. Dependence on the executive is embedded in the president's discretionary power to appoint, promote and dismiss judges. The profoundly low rate of acquittals, amounting to 2-5% of total verdicts highlights the strong standing of the prosecution within the justice system. The established practice of consultations among judges of the same court or the Court of Cassation prior to rendering a verdict further strips them of independence in adjudication. Unless the authorities address the fundamental issues that cripple the justice system, the judiciary cannot fully perform its function. Independence of the judiciary is particularly important at the rise of restrictive practices by the authorities that curtail citizens' exercise of their rights and limit their ability to challenge government decisions and policies.

Limits on fundamental rights. The right to protest, to freely seek, receive, and impart opinions continues to be restricted in the face of the government's complete grip on broadcast media, despite numerous legislative improvements. Use of force against peaceful demonstrators is justified by a lack of "authorization" for public meetings and administrative penalties are used in an attempt to curtail any dissent. Moreover, civil society actors that attempt to challenge government practices are singled out and intimidated.

Gender equality and domestic violence: The adoption of the Law on Ensuring Equal Rights and Opportunities for Men and Women was a welcomed initiative and an important move forward for gender equality. Nevertheless, the government's commitment for implementation of this Law is dubious. Thus, the Law triggered fierce opposition and a smear campaign against women's organizations from certain groups. The controversy and even hate speech are seconded by some ruling party MPs. Currently, representation of women in executive and legislative branches remains below MDG targets. The continued refusal to adopt a standalone Law on Domestic Violence strips victims of effective protection and a means of redress. The government promoted solution of diffusing regulation for this issue is viewed by civil society as ineffective. Narrative in media and clearly biased education content exacerbates misbalance.

High level of discrimination. Discrimination is widespread, particularly in health, education, and labor settings while there is no government commitment to either adopt a standalone law or take measures to counter the increase in hate speech and intolerance towards these groups. The World Values Survey found that intolerance towards others Armenia is at a level of 56,3% with the highest levels of intolerance towards homosexuals (92,7% would not want to have them as neighbors), people who have AIDS (76,9%), people of a different religion(56,6%) and people with disabilities(37,0%).In parallel, when it comes to protection of cultural rights and the right to a healthy and safe environment, affected communities are stripped of the possibility of inclusion and participation in decision-making processes that affect their livelihoods and non-governmental organizations are denied the right to represent affected individuals in courts.

It is in this atmosphere that Armenia embarks on the second cycle of UPR review. We believe that this review is an opportunity for the Armenian government to show political will and a commitment to address longstanding human rights issues. We believe that the following recommendations are the minimum standard that the authorities need to acknowledge and implement to gain public trust and to safeguard mechanisms for democratic development.

RECOMMENDATIONS FOR IMPLEMENTATION BY THE ARMENIAN GOVERNMENT

- Amend electoral legislation to ensure publication of voter lists after an election in order to prevent multiple voting and ballot stuffing, and to support civil society oversight of the election process.
- Remove the president's discretionary power to appoint, promote and dismiss judges by stipulating that president's signature is simply a matter of protocol; introduce a conflict of interest procedure between the judiciary and the prosecution.
- Provide a comprehensive framework to criminalize and prevent torture by amending domestic legislation to bring it into line with Article 1 of the UN Convention against Torture; open up police investigator's

Towards Armenia's Review within UPR: Outstanding Concerns

rooms for public oversight; carry out full and impartial investigations into all allegations of torture; and introduce a procedure to review the admissibility of evidence allegedly obtained through torture.

- Amend the Law on TV and Radio to ensure the 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.
- Adopt standalone legislation and an effective mechanism for combating discrimination; set up a comprehensive system of laws criminalizing hate speech and discouraging homophobic statements by public officials; conduct broad consultations on and adopt a new Law on Religious Organizations that will address the dominance of the Armenian Apostolic Church; Adopt a standalone law on domestic violence.

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