



ARMENIA

**Based on a Joint Submission by a Group of Civil Society Organisations to the UN Human Rights Council
35th Session of the Universal Periodic Review (20 – 31 January 2020)**

PREVENTION OF TORTURE AND OTHER ILL-TREATMENT, AND RIGHT TO LIFE

The state has not undertaken significant efforts towards the implementation of recommendations received during the second cycle of the UPR. Particularly, no progress was registered to ensure effective investigation of torture complaints.

Gaps in prevention and punishment of torture and other ill-treatment

Torture remains a legislative and practical problem. The Criminal Code provides the definition of torture in line with UNCAT standards, while other cruel, inhuman and degrading treatment and punishment are not criminalised.¹ The cases falling under ill-treatment are usually qualified as abuse of power. Until now, no official has been convicted for torture, despite numerous reports about torture happening during arrest and interrogation. The testimony, allegedly obtained through torture, is not rejected immediately from the case materials, but remains until the verdict is published.² The state does not provide adequate rehabilitation for torture victims. Law enforcement officers and judges are unaware of international standards of documentation and investigation of torture and other ill-treatment (Istanbul Protocol). Regardless of the investigation outcome, there is no mechanism to compensate torture victims.

Recommendations

- Criminalise ill-treatment and ensure documentation of injuries for persons subjected to torture or other ill-treatment based on the Istanbul Protocol;

- Ensure adequate qualification of cases of torture and other cases of ill treatment;
- Exclude the use of evidence extorted through torture at any stage of proceedings, provide effective mechanisms for review and redress with no statute of limitations;
- Provide adequate rehabilitation services to victims of torture and other ill-treatment, including medical, psychological, social and legal;
- Introduce mechanisms to provide pecuniary and non-pecuniary damages to torture victims regardless of the investigation outcome.

Police, military police and detention centres

During the reporting period up until May 2018, police widely practiced “inviting” people for informal talks and then charging them with crimes using violence to extort self-incriminating evidence. The practice of holding people in apprehension over the prescribed maximum of three hours without sufficient grounds and an arrest warrant were used extensively to restrict freedom of movement and isolate active participants and organisers of protests.³

Police violence was registered during the trial of the “Sasna Tsrer” (an armed opposition group) in June 2017. Police officers beat four persons in the basement of the courthouse. The attorneys of victims and the Ombudsman documented various physical injuries on the defendants’ bodies. The Commander of the Yerevan escort police battalion was charged in June 2018.⁴

Torture and other ill-treatment have been used against witnesses and suspects by the Military police.⁵ This is due to the lack of legislative clarity concerning the functions and powers of the Military police in disciplinary cells or in battalions, lack of civilian oversight mechanisms. Torture and other ill-treatment have also been reported in military, however, no military commander has been held liable until now. There is no civilian monitoring in the detention centres of the National Security Services.⁶

Recommendations

- Install audio-video recording in interrogation rooms of all detention centres and investigation rooms;
- Increase the effectiveness of early release mechanisms;
- Ensure legislative clarity on the functions of Military police in military battalions and disciplinary cells;
- End impunity for the torture and ill-treatment in military and punish high level responsible personnel.

Penitentiaries

Civil society monitors reported a number of torture and ill-treatment cases in penitentiary institutions, which were not investigated effectively. LGBTI inmates and other vulnerable groups face isolation and humiliation in prisons.⁷ In 2018, 612 cases of self-harming and 430 cases of hunger strike were registered in prisons, which was lower than in 2017.⁸ Authorities failed to effectively prevent and investigate suicide and self-harming cases in prison. Penitentiary Monitoring Group⁹ has regularly encountered obstacles in visiting certain inmates. Access to healthcare, including psychiatric care is impeded for many prisoners. Access to methadone substitutional therapy is impeded for many drug-using prisoners. Moreover, the beneficiaries of this therapy are not eligible for early conditional release.

Recommendations

- Carry out independent and effective investigation into the cases of ill-treatment and self-harming in penitentiaries that would lead to the identification and punishment of responsible persons;
- Ensure access to remedy for torture victims and their representatives;
- Transfer the prison healthcare under the Ministry of Health and ensure the quality and accessibility of medical services for inmates;
- Undertake legislative and other measures to eradicate criminal culture in prisons and discriminatory policies towards inmates;
- Improve the access to methadone substitutional therapy for prisoners.

Life prisoners

There are 95 life prisoners in Armenia while the total population is around 3 million.¹⁰ The situation is due to the presidential decree of 2003, which 'sentenced' 42 persons, previously sentenced to death penalty, to life imprisonment; the possibility of sentencing 18-20-year old persons to life imprisonment; ineffective early release mechanisms;¹¹ unjust convictions based on the evidence extorted through torture. Amnesty of 2018 did not include any life prisoners. Imprisonment without any hope of release amounts to torture and ill-treatment.¹²

Recommendations

- Repeal part of the 2003 presidential decree and ensure appropriate remedies for the abuse of due process;
- Raise the age of life imprisonment from 18 to 21 years;
- Ensure the application of early release mechanisms to the cases of life prisoners;
- Ensure the effective application of early release mechanisms to the cases of life prisoners by a) setting clear criteria for person's correction evaluation, b) intensifying the rehabilitation work with inmates, and c) ensuring the quality and impartiality of reports prepared by the Probation service.

Denial of pain treatment as torture or other ill-treatment

Armenia has integrated palliative care into the national health system, registered and imported oral morphine, removed complex procedures and bureaucratic barriers for prescribing opioids for people with life-threatening diseases. However, police continue illegitimate control over prescription process and access to patients' personal data (including photos and passport registration in the police), which results in violation of the right to privacy, the right to confidentiality and the rights of medical providers. Many patients still end their days in unbearable suffering, which goes against international standards on pain management, represents a violation of the right to health and creates a risk of cruel, inhuman or degrading treatment.¹³ Reports and available data show that the consumption of morphine by cancer patients in Armenia does not exceed 2.5% of the total demand; hence, almost 98% of patients continue bearing the suffering pain.¹⁴

Recommendations

- Put an end to excessive police interference in the prescription process;
- Ensure access to adequate pain medication for all palliative care patients suffering of moderate to severe pain.

RIGHT TO LIFE

Non-combat deaths

There are no accurate numbers of deaths in the armed forces. The government and civil society reports provide conflicting data.¹⁵ According to the Helsinki Citizens' Assembly-Vanadzor, from January 2012 to October 2018 the number of deaths in the armed forces was 506, 225 from them resulted from cease-fire violation (77 occurred in a result of April 1-5, 2016 hostilities), 281 were non-combat deaths.¹⁶ There were 63 cases of death in the army during 2018.¹⁷ No adequate measures have been taken to ensure effective and objective investigation into these cases. No state representative was held responsible for any of the cases. Several non-combat deaths that previously had not been effectively investigated, were reopened after the 2018 Velvet Revolution.¹⁸ However, even during the reopened stage, the investigation into these cases is not carried out effectively.

Recommendations

- Conduct effective investigations to hold state representatives responsible for non-combat deaths.
- Ensure transparency and accuracy of reporting about deaths in the army;
- Ensure genuine investigation of reopened cases of non-combat deaths, provide remedies to victims' families;
- Enact legislative mechanisms to ensure pecuniary and non-pecuniary compensation to soldiers who suffered health problems during the military service.

Deaths in Penitentiaries

112 inmates died in Armenian prisons during 2014 - 2017.¹⁹ This is one of the highest rates among the Council of Europe member states.²⁰ In 2017, 17 prisoners died in prisons, two of them committed a suicide. During 2018, 18 inmates died in penitentiary institutions, two of them died from committing a suicide.²¹ Though some of these cases were investigated, no prison administration was held accountable.²²

Recommendation

- Conduct effective investigations into the deaths of prisoners; provide remedies to the families of victims.

Endnotes

¹ Partnership for open society initiative's joint submission to CAT on the fourth periodic report of the RA regarding the implementation of the Convention, 2016; <https://goo.gl/uh5nhG>.

² *Harutyunyan vs. Armenia*, ECHR, Application no. 36549/03, 28 June 2007.

³ CPT report on the visit to Armenia (CPT/Inf(2016) 31), 22 November 2016, <https://rm.coe.int/16806bf46f>.

⁴ "Armenia: Ill-Treatment Reports Mar High-Profile Trial," Human Rights Watch news release, July 9, 2017, <https://www.hrw.org/news/2017/07/09/armenia-ill-treatment-reports-mar-high-profile-trial>.

⁵ Quarterly report on the human rights situation in the Armenian armed forces (Vol. 3), April 14, 2017, https://peacedialogue.am/en/2017/04/14/hrmf_eng_vol_3/#chapter4.

⁶ National Security Services is a security institution under the prime minister that has powers to conduct intelligence, counter-intelligence, operative-search activities, arrest, investigative functions, possesses and/or uses detention centers.

⁷ Report on the Activities of the Group of Public Monitors Implementing Supervision over the Penitentiary Institutions and Bodies of the Ministry of Justice of Republic of Armenia in 2017, p. 71, <http://pmg.am/images/PMG-REPORT-2017.pdf>.

⁸ "Penitentiaries registered 612 cases of self-harm and 430 cases of hunger strike," (in Armenian) article published in *Aravot*, April 30, 2019, https://www.aravot.am/2019/04/30/1039662/?fbclid=IwAR027fJRNdoEwLsme8iclsMwyoV16hw70iEJ5eOVqXzfYXjKMQoNG4c_Pk.

⁹ Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of the Republic of Armenia was established in 2005 with a mandate to provide independent civilian oversight and report on the human rights situation and conditions of detentions in the penitentiary institutions of Armenia. The Group members have full access and power to conduct unannounced visits to all penitentiary institutions. The Group is represented by members and experts of non-governmental organizations.

¹⁰ "Perverved justice: 95 serving life sentences in Armenia," article published in *Hetq*, July 21, 2018, <https://hetq.am/en/article/91531>.

¹¹ The life-termers are entitled to apply for early release after serving 20 years of prison sentence. Only one life-prisoner, Soghomon Kocharyan, was released due to a severe illness who died 15 days after the release. The courts usually justify this with the existence of penalties imposed on them.

¹² *Kafkaris v. Cyprus case*, [GC] – 21906/04 ECHR, 12 February 2008.

¹³ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health on his visit to Armenia, 23 April 2018, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/116/45/PDF/G1811645.pdf?OpenElement>.

¹⁴ A study on the volume of drug import and usage in Armenia, 2018 (in Armenian) <https://bit.ly/30r868l>.

¹⁵ "Once again, we record that proper transparency regarding the provision of information on detailed conditions of fatalities in the armed forces is not ensured," Helsinki Citizens Assembly Vanadzor Office press release, March 7, 2019, <https://hcav.am/en/zu-hcav-07-03-2019/>.

¹⁶ Reports on death cases in RA Armed Forces and NK Defence Army: HCAV, "Information paper: updated information on the fatalities in the RA armed forces and NK defines army in 2017"; HCAV, "Report on the death cases in the armed forces of the Republic of Armenia and Nagorno-Karabakh in 2018," https://drive.google.com/file/d/1P78yzM_aS4yzVnmvUXAao6lj2kDQwr60/view; <https://drive.google.com/file/d/1I6uBfZjHMSOmXP3HQIVtUTaYDMgGCetP/view>.

¹⁷ Report on Death Cases in the Armed Forces of the Republic of Armenia and Nagorno-Karabakh in 2018, unpublished report by Helsinki Citizens Assembly Vanadzor Office, <https://drive.google.com/file/d/1I6uBfZjHMSOmXP3HQIVtUTaYDMgGCetP/view> and <https://drive.google.com/file/d/1gQik4QzwqgoMNX8NXWuoUq97alGnX3gW/view>.

¹⁸ The initial investigation of these cases took place from 2000 to early 2010s.

¹⁹ Report on the activities of the group of public monitors implementing supervision over the penitentiary institutions and bodies of the ministry of justice of Republic of Armenia in 2017, p. 90, <http://pmg.am/images/PMG-REPORT-2017.pdf>; 38 cases in 2014, 28 cases in 2015, 29 cases in 2016, 17 cases in 2017.

²⁰ Council of Europe Annual Penal Statistics: SPACE I – Prison Populations Survey 2015, updated on 25 April 2017, http://wp.unil.ch/space/files/2017/04/SPACE_I_2015_FinalReport_161215_REV170425.pdf.

²¹ Publication of Group of public monitors implementing supervision over the criminal-executive institutions and bodies of the Ministry of Justice of RA (in Armenian), May 10, 2019, <http://pmg.am/hy/news/successful-cases/2017-2020>.

²² Report on the Activities of the Group of public monitors implementing supervision over the penitentiary institutions and bodies of the Ministry of Justice of Republic of RA in 2017, p. 93, <http://pmg.am/images/PMG-REPORT-2017.pdf>; e.g. Hrachya Gevorgyan case, "Armenian Prisoner Subjected to Torture Before Death, Lawyer Insists," published in *Epress.am*, December 22, 2017, <https://epress.am/en/2017/12/22/armenian-prisoner-subjected-to-torture-before-death-lawyer-insists.html>.