

PARTNERSHIP FOR OPEN SOCIETY INITIATIVE'S
JOINT SUBMISSION TO THE UN COMMITTEE AGAINST
TORTURE ON THE FOURTH PERIODIC REPORT OF THE
REPUBLIC OF ARMENIA REGARDING THE IMPLEMENTATION
OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT

THE 59TH SESSION OF THE UNITED NATIONS COMMITTEE AGAINST TORTURE, 7 NOVEMBER TO 7 DECEMBER, 2016



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7/1 Cul-de-sac # 2 off Tumanian Street
0002 Yerevan, Armenia
www.osf.am

FOR MORE INFORMATION CONTACT:

David Amiryan
Open Society Foundations-Armenia
Deputy Director for Programs
E-mail: adavid@osi.am

Karine Ghazaryan
Open Society Foundations-Armenia
Civil Society Program Coordinator
E-mail: karine@osi.am

PHOTOGRAPHY:

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PARTNERSHIP FOR OPEN SOCIETY

UNITED NATIONS COMMITTEE AGAINST TORTURE

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October 17, 2016, Yerevan,
Armenia

Hereby, the Partnership for Open Society Initiative,¹ representing more than 60 civil society organizations, presents a joint submission prepared by the following civil society organizations, public monitoring groups, human rights lawyers and attorneys:

1. Coalition to Stop Violence Against Women;
2. Center for Rights Development NGO;
3. Committee to Protect Freedom of Expression;
4. Foundation Against the Violation of Law NGO;
5. Helsinki Citizens' Assembly–Vanadzor;
6. Helsinki Committee of Armenia Human Rights Defender NGO;
7. Journalists' Club Asparez;
8. Open Society Foundations – Armenia;
9. Protection of Rights without Borders NGO;
10. Rule of Law Human Rights NGO;
11. Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of the Republic of Armenia;
12. Public Monitoring Group at the Detention Facilities of the Police of the Republic of Armenia;
13. Davit Khachatryan, Justice Group, Open Society-Foundations-Armenia, Expert, Ph.D;
14. Inessa Petrosyan, Attorney;
15. Tigran Hayrapetyan, Attorney;
16. Tigran Safaryan, Attorney;
17. Vahe Grigoryan, Attorney, Legal Consultant at EHRAC (Middlesex University).

¹ <http://www.partnership.am/en/index>

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INTRODUCTION

In 2015 several legislative changes were made in the RA Criminal Code (CC) in line with recommendations of both the international bodies and Armenian human rights organizations. Namely, the definition of torture was brought into compliance with the Article 1 of the UNCAT. However, legal regulations, related to all aspects of torture are still deficient as they do not provide sufficient legislative tools to combat it comprehensively. Moreover, some legislative provisions, combined with existing investigative and judicial practices, create a vicious circle that makes torture an inseparable part of the criminal justice in Armenia.

The judiciary and law enforcement bodies, working hand in hand and successfully meeting each others' demands, provide no guarantees for effective examination into allegations of torture. Thus, not only does the system fail to effectively investigate torture complaints, but also prevents allegations from being raised. This situation in itself does not serve the purposes of prevention of the crimes of torture, and creates feeling of hopelessness within the victims of torture, by the same token – further sharpening the feelings of immunity and impunity among the perpetrators. Below we provide the links of the chain that create this perpetuating practice.

I. SYSTEMIC PROBLEMS WITH REGARD TO PREVENTION AND EFFECTIVE EXAMINATION OF TORTURE IN ARMENIA

Criminalization of torture and all other forms of ill-treatment

Despite the changes made in the Criminal Code in June 2015, Armenian legislation still fails to criminalize all forms of ill-treatment. While, Article 309, prime 1 of the Criminal Code brought definition of torture into compliance with Article 1 of the UNCAT, it did not criminalize inhuman and degrading treatment, despite the fact that these acts fall within the scope of Article 3 of the European Convention of Human Rights (ECHR, ‘Prohibition of torture’). This essentially makes Article 309, prime 1 inapplicable in reality, since there are no legally prescribed criteria for differentiation between the mentioned three forms of ill-treatment. Under these circumstances, the alleged perpetrators are given the benefit of doubt, and thus their actions are considered as either inhuman or degrading treatment, which are not criminalized under Article 309, prime 1. In addition, in the same Article, the circumstances aggravating guilt are defined so as to undermine criminalization. In particular, commissioning or perpetrating torture with the purpose to conceal another crime is not considered to be an aggravating circumstance; similarly, making an innocent person criminally liable through torture is not considered as aggravating circumstance. Alternatively, the Article considers severity of consequences of torture as aggravating circumstance and provides increased liability for the acts of torture, which have caused severe consequences by negligence. Not only does this give the judges undue discretion, which is incommensurate with the seriousness of the crime of torture, but it also contradicts the principle

of legal certainty, as nowhere in the Code these ‘severe consequences’ are defined, which again gives the criminals the benefit of a doubt. Finally, the Criminal Code does not prohibit application of amnesty for those convicted under Article 309, prime 1, which is a widely recognized reflection of the absolute nature of prohibition of torture.

Effective investigation into allegations of torture

The national legislation as well as judicial and law enforcement practices are designed and established in a way that effectively precludes any possibility of calling the perpetrators of torture to criminal liability. Stark absence of any case of effective prosecution of torture speaks in support of such assertion. However, even more telling is the way the judges choose to interpret and apply the principle of presumption of innocence to perpetrators of torture. The following analysis illustrates the point.

a. **Crime does pay: Judiciary is sending messages of demand of evidence obtained via torture and of immunity for compliance with such a demand.** The Armenian judges never exclude evidence obtained via torture. In response to motions to exclude such evidence², the judge either postpones the examination of such motion in order to address it in the judgment (which results in conviction in 98% of cases), or relinquishes his/her jurisdiction to the law enforcement, namely to the Special Investigation Service, a designated body to investigate crimes allegedly committed by the state officials. *In the first scenario*, the allegedly inadmissible evidence is admissible throughout the entire trial, making it available to prosecutor to refer to it and the judge to base decision on such references. It is only in the final judgment that admissibility is addressed. All such evidences are unavoidably ruled admissible³. Such judicial practice serves as yet another “link” of the vicious circle, preventing from proper investigation and prosecution of torture. Namely, if the Special Investigation Service initiates a separate investigation into alleged torture, the guilty verdict, which had already “cleared” the use of the evidence, does retroactively remove any doubt over legitimacy of the law enforcement’s action in obtaining the evidence. Thus, the judges use evidence obtained via torture, effectively consuming for conviction the supplied evidence and sending the messages of both demand of such evidence, and pre-granted immunity for compliance with such a demand.

b. **The last say always belongs to the law enforcement: Judiciary denies justice by relinquishing its jurisdiction over the evidence admissibility issues back to the law enforcement.** *In the second case scenario*, the judge sends the allegation of torture to the Special Investigation Service for investigation, while postponing the trial until the Special Investigation Service concludes the investigation. Remarkably, in 100% of the cases the investigation of the Special

² Confession or inculpatory witness testimony.

³ In all such cases the judges rule that the allegation of torture by the defendant “merely pursues the aim of exemption from criminal liability”, and that “the guilt is established by the totality of evidence”. The latter is estimated according to the so-called “inner belief” of the judge.

Investigation Service results in either non initiation of a criminal case or quick termination right after initiating one. The decision to terminate is based on the results of the Special Investigation Service's own investigation, which lacks any procedural safeguard (discussed below in par. (c)). The Special Investigation Service's decision is then accepted by the judge and serves as a basis for declaring admissibility of evidence and thus the guilt of the defendant. By default this is a one-way process, i.e. the judge never expects the Special Investigation Service to support allegation of torture and thereafter exclude the evidence. It shall be further noted that the Special Investigation Service's conclusion is not a legally established fact of the crime of torture, since it is not obtained in the result of a separate court hearing that has entered into force. However, under Article 21 of the Criminal Procedure Code (CPC), conveniently enough, such conclusions of the Special Investigation Service on the absence of the fact of torture and the guilt of the alleged perpetrators create the presumption that no crime of torture has been committed. Namely, Article 21 states that the investigators' decisions on termination of criminal cases, which took legal effect, provide for protection against double jeopardy, meaning in particular that the same persons cannot be charged again for the same alleged crimes.⁴ **Thus, the hypocrisy and intellectual dishonesty of the Armenian judiciary effectively gives the final say on the admissibility of evidence back to the investigators.**

c. Investigation of allegations of torture and lack of effective judicial control

Both when the report on a crime is sent to the Special Investigation Service by the court examining a criminal case on the merits, and when such reports are filed with the Special Investigation Service in general way by the victims of torture, the Special Investigation Service and the judiciary work hand in hand to exclude any possibility of torturers to be called to justice. The courts employ an interpretation of presumption of innocence that is unique to torture cases, corruption and electoral fraud allegations. Taking into account that the Special Investigation Service is not provided with operational mechanisms to conduct impartial investigation, when receiving a report on crime of torture, the Service conducts investigation which does not comply with the ECtHR requirement for efficiency, i.e. conducting investigation so that it gives reasonable prospects for establishment of the facts and calling those responsible to criminal liability. In particular, the Special Investigation Service's investigation relies on the alleged perpetrators' story either by underestimating the evidence, submitted by the alleged victim, or precluding the latter from obtaining of such evidence. In particular, Article 243 of the CPC does not empower the alleged victim to independently obtain forensic evidence on physical or psychological traces of ill treatment. Rather, the alleged victim

⁴ Article 21 of CPC ("Inadmissibility of Repeated Conviction and Criminal Prosecution for the Same Crime") states that these investigatory decisions can be voided (par 4) within a week by a prosecutor, and after that only by the Prosecutor General within 6 months after their delivery, or by a court within the judicial control mechanisms, when these decisions are appealed (discussed in par (c)). In Armenian reality, so far there has been only one case, where the judge found the confession of the defendant to be inadmissible and exonerated the defendant under burglary charges, based on the fact that the torture allegations were not examined in compliance with Armenia's positive obligations under Article 3 of ECHR. This acquittal was annulled by the Appeal Court which mentioned that the judge had exceeded his jurisdiction by making legal assessment on alleged crime of torture whereas the subject matter was a crime of burglary. The judgment in case of Felix Gevorgyan, delivered by the Court of Common jurisdiction of Ajapnyak and Davtashen districts of Yerevan, 2010.

should apply to the investigator with the respective motion, who then decides whether or not to appoint examination, which is time-sensitive. The independently obtained expert assessment by the victim is not considered as a source of evidence under the Armenian CPC. This situation, which creates procedural barrier (i.e. investigator's discretion) between the victim and the source of evidence, is in drastic contrast with the ECtHR case law.⁵ In practice this creates an insurmountable barrier for victims to even initiate a criminal investigation.⁶ The discriminatory attitude of the Special Investigation Service (SIS) makes the victim even more vulnerable; oftentimes the victims prefer not to pursue protection of their violated rights, since the investigation of torture allegations (as well as allegations of corruption and electoral fraud) is conducted also from the viewpoint of possible perjury crime committed by victim via reporting (which is never done in other cases). Hence, the waivers of the right to pursue criminal complaint or withdrawal of accusations are usually tainted by intimidation of a victim.

The concerns on the dismissal of torture cases by the Special Investigation Service without an official criminal investigation are based on the performance of law enforcement agencies to apply higher standard of proof for the cases of torture, demonstrating discriminatory approach towards the cases where public officials are involved. The investigators usually bring charges against public officials only provided his/her guilt is already proved. So, unlike lay citizens, it is more difficult to question the presumption of innocence of the public officials.

As for the judicial control over the lawfulness of the criminal proceedings (decisions of the investigation to refuse launching criminal proceedings, suspend or terminate the initiated criminal proceedings), it is extremely ineffective from the perspective of protection of citizens from torture or ill-treatment. The content of the Court decisions on those cases was pre-decided and unchangeable despite the difference of the factual circumstances of different cases. In the course of the 2015 monitoring, not a single case on torture or ill-treatment (under Articles 119, 309 (para.2, 3) 341 of the then/previous Criminal Code) was reviewed in the court. Thus, instead of controlling the lawfulness of the investigation's action, the courts filtered the cases and ratified all the appealed decisions, subsequently hindering access of any torture cases to the judicial review stage. Overall, during 2015 all the cases on torture allegations were denied by the first instance court, and appellations of the cases were also unsuccessful.

What is of a greater concern, there is a well-established case law led by the Cassation Court ⁷ and followed by the lower courts, which considers that bringing accusations against alleged torturers violates their presumption of innocence and counts as false evidence. This contains risk for the victims of torture to be accused if the fact of torture is not established.

⁵ Barabanshchikov v. Russia, Judgment of 8 January, 2009, par 59.

⁶ Helsinki Citizens' Assembly Vanadzor Office conducted monitoring of the Special Investigation Service activities for the years of 2013-2015, the result of which showed that out of dozen cases not a single one ended at least with bringing criminal charges against an alleged perpetrator of torture, let alone – with sending a case to the court. All the Special Investigation Service's decisions were either on non initiation of a criminal case or termination of it.

⁷ Decision of the Court of Cassation no. ԵԷՊ/0058/01/10, December 22, 2011.

Recommendations

- *Amend Criminal Code to criminalize all forms of ill treatment, namely – inhuman and degrading treatment;*
- *Provide the Special Investigation Service with the capacity to conduct operational-search activities, such as surveillance, wiretapping and others to guarantee functional independence and impartiality of their work;*
- *Ensure transparent and accountable process of the appointment of the Head of the Special Investigation Service;*
- *Exclude the discriminatory approach in application of standard of proof while launching criminal proceedings and charging a public official committing torture or ill-treatment;*
- *Introduce legislative safeguards to prevent bringing charges of perjury against the victims of torture.*

Redress for the victims of torture

On November 5, 2013 the RA Constitutional Court made a groundbreaking decision ruling that the existing legal regulations of types of damages were unconstitutional for not stipulating redress for moral damages to an individual. Following the decision, a new legislative framework was developed and entered into force in October 2014, with the aim to safeguard the right of individuals for moral compensation.

However, the systemic problems leave no opportunities for victims of torture to receive remedies (including compensation) for the damages and traumas suffered, as the torturers are not convicted. Meanwhile, according to the international standards, the victims of torture can seek compensation even if there is no conviction against the perpetrator.

Ratification of the European Convention on the Compensation of Victims of Violent Crimes by the Armenian government could address the abovementioned issues; however the ratification process was suspended by the President of Armenia in January 2014, after it was signed in 2001.⁸

Besides, there are no state run rehabilitation services for the victims of torture to receive psychological and medical support to overcome the trauma and suffering.

Recommendations

- *Ratify the European Convention on the Compensation of Victims of Violent Crimes;*

⁸ Source: <http://parliament.am/drafts.php?sel=approved&lang=arm>

- *Amend the RA Criminal Procedure Code and Civil Code to provide rights to compensation and rehabilitation for non-pecuniary damages for cases which are unsolved or acquitted due non-meeting "beyond reasonable doubt" standard;*
- *Provide adequate, accessible, affordable and high quality rehabilitation services for the victims of torture; and/or in case of non-availability of qualified rehabilitation services in the state owned health care system, provide adequate funding for non-governmental rehabilitation services to provide rehabilitation to the victims of torture, without interfering in the rehabilitation process.*

Prevention of torture during the interrogation

No accountability mechanisms, such as video/audio recording of the facilities and interrogation places are put in place. Furthermore, all the facilities, where a person may be detained, specifically the investigators' rooms, are not open to monitoring through independent civilian oversight. It is noteworthy that the study of the international experience of audio-visual recording of interrogations and submission of a proposal regarding the appropriateness of introducing such system was envisaged by the National Human Rights Action Plan (2014) (NHRAP), point 36, the deadline for which is third quarter of 2016. Nevertheless, nothing was implemented in this regard as of October 2016.

Recommendations

- *Provide civilian oversight to ensure transparency and accountability of all premises of the police and investigative bodies, where people are detained;*
- *Ensure accountability of investigator's activities through audio and/or video recording of interrogation facilities; provide access to records on the basis of interrogated person's request or strong ground for the suspicion of torture/ill treatment, in full respect of national legislation and international standards of data protection.*

Documentation and investigation of bodily injuries

Persons who have sustained bodily injuries in police detention facilities are often pressured by the police to make a written statement that they had been accidentally injured before detention. This under-reporting practice is exacerbated by the fact that there are no effective mechanisms for documentation of injuries either in police or in penitentiaries. Law enforcement bodies fail to adhere to respective international standards, i.e. those defined by the Istanbul Protocol, leading to loss of the relevant evidence and thus, undermining the opportunity to prove the fact of torture. Particularly,

about 40% of detainees registered bodily injuries upon admission to the police detention facilities in 2014 and 2015. None of these injuries has become a case in the court. Besides, the police statements on “accidental injuries” contradict the observation of the Police Monitoring Group,⁹ which has repeatedly mentioned in its reports that the specific injuries registered at the detention facilities are common for the police station/department where it was obtained, which indicates the torture nature of the injuries.¹⁰

Recommendations

- *Amend the RA Criminal Procedure Code (Article 243) to ensure that the victim is eligible independently to apply to an expert and use the expert’s opinion as evidence;*
- *Implement the effective investigation and reporting mechanisms of torture and, in particular, the UN Istanbul Protocol requirements for multidisciplinary documentation of torture and ill treatment;*
- *Establish an adequate referral mechanism of torture reports to exclude the conflict of interest.*

Reform of the Criminal Procedure Code

The Draft Criminal Procedure Code was elaborated 6 years ago and is referenced to in many reports by the government as a compendium of measures, which would effectively prevent torture or provide substantive guarantees of effective investigation. While it is true, that the CPC implies some novelties, such as so called “CPT rights” (arrested person's right to lawyer, right to medical examination, etc.), and introduction of stronger safeguards against prevailing use of detention, the envisaged mechanism contains certain risks.

The draft of CPC prescribes for deposited statements to secure in-trial examination of testimony of witnesses and defendants. The drafters mentioned that taking a confession in presence of a judge is necessary to exclude any pressure or torture against the accused, because in presence of the judge the accused will be able to testify more freely and in greater confidence, and later at trial will not recant his pre-trial statements. Even if one accepts the legitimacy of the rationale behind having deposited confessions, its efficiency as a remedy against the investigatory pressure and torture is questionable since nothing can prevent the investigator to first exercise pressure and torture the

⁹ Public Monitoring Group at the Detention Facilities of the Police of the Republic of Armenia was established in 2006 with a mandate to provide independent civilian oversight and report on the human rights situation and conditions of detention facilities of the police in Armenia. The Group members have full access and power to conduct unannounced visits to all police detention facilities. The Group is represented by members and experts of non-governmental organizations.

¹⁰ The Police Monitoring Group studied the character of detainees’ bodily injuries in all detention facilities and found that most of detainees coming from police stations have identical bodily injuries. Thus, in 2015 in about 70% of cases the detainees of the studied 11 detention facilities had similar injuries of limbs, in 30% of cases there were injuries of head and respectively 25% were injuries to waist. Further examination revealed that the specific injuries are distinctive to a particular police station/department, obviously indicating non-accidental origin of them.

accused and then take him to the court to testify.

The judicial role is only a formal one, whereas the testimony taken in presence of the judge in practice will be considered as more reliable, unchallengeable evidence even if later at trial the accused submits reliable facts on psychological pressure exercised against him/her.

While deposition of the **witness** statements is acceptable, (as approved under the CPC Concept paper), it is highly questionable why should the investigator need deposition of the confession of the defendant who will inevitably be present at trial and be in a position to testify and if guilty, admit his/her guilt in the court hearing. Deposited confessions, thus, are aimed at enhancing the role of extrajudicial statements and may result in unacceptable and dangerous practice of substitution of the questioning in court.

Recommendation

- *Revise the RA Criminal Procedure Code draft to exclude the deposition of testimony of the accused person.*

Corruption in the judiciary system

Corruption in Armenia has systemic and pervasive nature exacerbated by merger of a highly consolidated political power with monopolistic economy. Though anti-corruption policy has been on the political agenda for recent years, as evidenced by different studies, the issue of integrity of the judiciary still remains worrisome. Armenia ranks 95 out of the 167 countries assessed by Transparency International's Corruption Perceptions Index 2015, with a score of 35 on a scale from 0 (highly corrupt) to 100 (very clean)¹¹. It is not surprising, therefore, that 82 per cent of people in Armenia believe that corruption in the public sector is a problem or a serious problem, with the judiciary and the civil service perceived to be the sectors most affected by corruption¹².

As GRECO stated in its 4th evaluation round report, the independence of the judiciary – both from external actors such as the executive and from internal judicial actors – is unsatisfactory. Improper influence upon judges through bribes and gifts was reported not only by the Ombudsman (2014), but also later raised by the Commissioner for Human Rights of the Council of Europe in the framework of his visit to Armenia (2014). Ombudsman's report, *inter alia*, touches upon the problem of using unfair disciplinary proceedings against judges as a means of pressure aimed at influencing their decisions or retaliating against them. The recommendations put forward by the report were not followed up by the authorities. Moreover, the report was harshly attacked by both the representatives of the executive and legislative branches.

According to TI's Global Corruption Barometer, 68% of respondents of the study considered the

¹¹ Transparency International, Corruption Perceptions Index 2015: <http://www.transparency.org/cpi2015#results-table>

¹² Transparency International, Overview of Corruption and Anti-Corruption in Armenia: <http://transparency.am/storage/overview-of-corruption-in-armenia-en.pdf>

judiciary corrupt/extremely corrupt (global average: 56%), while 18% of respondents reported that they or a member of their household had paid a bribe to the judiciary in the preceding 18 months¹³.

Recommendations

- *Strengthen the role of the judiciary in the procedures for the recruitment, promotion and dismissal of judges, reducing the role of the RA President;*
- *Eliminate the possibility of using the disciplinary proceedings for influencing or retaliating against judges;*
- *Provide possibility for judges to challenge disciplinary decisions before the court;*
- *Deprive the Cassation Court Chairman of the authority to initiate disciplinary proceedings against a judge.*

Corruption in the penitentiary system

The Penitentiary Monitoring Group¹⁴ raised the issue of corruption in the penitentiary institutions in the framework of their visits to different prisons of Armenia. The interviewees (inmates and prison staff) pointed out to the involvement of the prison administration in the corruption schemes of these institutions; nevertheless, no prison employee has been dismissed on the grounds of bribery or any other crime so far.

In-prison corruption becomes specifically vivid in the organization and implementation of public procurement there. For example, in one of the uncovered cases certain type of food was purchased from a private entity which was no longer in existence. In another example, recorded by Penitentiary Monitoring Group, the providers agreed to deliver food at a lower than market average price in exchange for smaller portions of the delivered goods. Penitentiary Monitoring Group also mentions serious problems related to food procurement due to corruption in the system. This is reinforced by the absence of reliable and properly budgeted arrangements and documentation of the provision and waste of food in penitentiary institutions.¹⁵ Besides, similar risks are in place for the procurement of medications in prisons. The observers testify that public expenditures in that sphere are seriously exceeding the real needs of the prisoners.

¹³ Source: <http://www.transparency.org/gcb2013/country/?country=armenia>

¹⁴ 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.

¹⁵ Source: http://pmg.am/images/2014-2015_PMG_Annual_report.pdf

Recommendations

- *Conduct effective and independent investigation into the allegations of corruption by penitentiary staff;*
- *Revisit the public procurement system for the prisons, especially in the sphere of food and medication, to match it with the real needs and the number of prisoners;*
- *Review the food procurement system and document food consumption and waste.*

II. ALLEGATIONS OF TORTURE AND OTHER FORMS OF ILL-TREATMENT IN INSTITUTIONS AND DIFFERENT SPHERES OF LIFE

Penitentiary Institutions

a. Material conditions of detention

Despite some efforts made by the government to address overcrowding in prisons, namely through closure of certain old penal institutions, construction of a new one in Armavir and introduction of pilot probation service, the issue still persists and amounts to torture in some penitentiary institutions.

The data published by the Penitentiary Monitoring Group show that 9 out of 12 operating penal institutions were overcrowded in 2014 and four in 2015 respectively. Nubarashen, Vardashen and Kosh institutions are in the gravest situation, about which the Monitoring Group has been reporting since 2008. In one of the registered cases 14 inmates lived in the cell designed for 4 persons¹⁶. Similarly, despite the legal ban on keeping more than 6 inmates¹⁷ in one cell in a semi-closed prison, up to 45 inmates lived in one cell/dormitory in Artik and Kosh institutions at the time of the monitoring visits. Penitentiary Monitoring Group's observations of 103 cells in all prisons during 2014-2015 show that the cells, where the conditions were good had been renovated by prisoners on their own means, while the cells or dormitories, where the prisoners did not have adequate financial resources (8%) were found in poor condition.

The quality of food in penitentiaries is not in line with national and international standards. For example, in 2014 in average 40% of prisoners of Nubarashen refused to take the food made in the institution and used the food sent with handovers by relatives. The daily food for each inmate amounts to 1.2 USD. Prisoners who have health issues (e.g. people with diabetes) are not provided with relevant food as required by their special diet, thus deteriorating their health.

b. Factors leading to overcrowding: probation service and conditional release

The hidebound practice of considering imprisonment as a primary measure of restraint remains, as the judiciary grants almost all the motions for pre-trial detention.¹⁸ In 2015, out of 2452 initial detention motions only 154 (6.28 %) were rejected and out of 1610 detention extension motions – 97.64% were approved.

Introduction of the probation service, which was also aimed to overcome the overcrowding, does not serve its purpose, as it has no involvement in selection of preventive measures at pre-trial stage. Particularly, in the Concept of Probation Service, developed in 2014, it was envisaged that the

¹⁶ According to the RA Penitentiary Code, Article 73, each person should be provided not less than 4m² of living space in the penitentiary institutions.

¹⁷ RA Penal Code, Article 104.

¹⁸ According to penitentiary department the total number of detainees (as a primary measure) as of 01.01.2016 constituted 1114 people, out of 3873 total number of imprisoned.

scope of powers and functions of the Probation Service would include, inter alia, an advisory influence on selection of the preventive measure via preparation of reports. Yet, in the legislation adopted in 2016 its functions were limited to control over the implementation of the appointed alternative measure.

Apart from probation, conditional release could have diminished the incarceration rate essentially, but its rate is very low, which is explained through absence of clear criteria for decision making, lack of judicial review mechanisms over the denials issued by penitentiary and the inter-departmental commissions. For instance, in 2014 only 184 (4.1%) and in 2015 only 153 (3.4%) prisoners were conditionally released. In addition, a person should not have any disciplinary penalty while serving a sentence and should compensate the pecuniary damages to the victims to become eligible for early release. The last impediment clearly violates the universally recognized standard that a person cannot be imprisoned for non-compliance with his civil monetary obligations. Corruption is also among the major factors of the inefficient use of early or conditional release institutions. Prison administrations and early release commissions are interested in retaining large inmate populations to raise more money from the state budget and to have a larger pool of convicts from whom the bribes could be extorted.

It should be noted that under the Armenian legislation the decisions of independent commission are not subject to appeal in court (Article 115, RA Penitentiary Code). Despite the fact that the Constitutional Court declared this provision unconstitutional¹⁹, Parliament has still not made any corresponding amendments effectively preventing the prisoners' early release, since the mentioned commission's endorsement is a necessary stage for go through to get a final decision on early release by court.

The same problems persist with the release of prisoners due to medical reasons²⁰. The interagency medical commission in charge of considering the early release of prisoners on health grounds does not have clear procedures and does not react adequately and timely to applications.

c. Healthcare system in penitentiaries

Health services in penitentiary system are not adequate and accessible as the institutions have neither sufficient and qualified medical staff nor up-to-date equipment.²¹ This situation leads to serious health-related problems for inmates. Most of the deaths in penal institutions are linked to health issues, which were not handled timely²². During 2015, twenty eight people died in penitentiaries, twenty five of which for health-related reasons. At the same time there are no effective complaint mechanisms in these institutions for inmates to report the cases of torture.

¹⁹ RA Constitutional Court decision no.733, 2008.

²⁰ According to statistics by the Human Rights Defender, as many as 85 prisoners died in Armenia from 2012 to 2014, out of which 14 convicts had diseases incompatible with serving imprisonment; (source: http://www.forrights.am/?ln=1&id_=19&page_id=79). During 2015, twenty eight people died in penitentiaries, of which twenty five for health related reasons.

²¹ The structural problem is illustrated in Case of Aram Manukyan in Annex I.

²² Assessment is based on official inquires of Penitentiary Monitoring Group. In the period of 2011-2016 overall 167 deaths were registered in the prisons related to health problems.

Another problem is the structural dependence of the medical service of penitentiaries to the jurisdiction of the Penitentiary Department of the Ministry of Justice, which leads to conflict of interests in cases of reporting instances of torture, as well as to poor qualification of the medical servicemen, who are outside of the general system of the healthcare.

There is no access to mental health services in majority of these institutions. There is a psychiatrist in the staff only in Nubarashen and Artik institutions and the psychiatric ward in the Hospital for Convicts, yet quite often the prisoners with severe mental disturbance are not transferred there to get professional services, which leads to ill-treatment.

d. Life-sentence prisoners

The situation with the life-sentence prisoners has not improved since the last monitoring cycle. There are about 100 persons sentenced to life imprisonment, the vast majority of them are kept in Nubarashen, and fewer are in Kentron, Armavir and Artik penal institutions. Life-sentence prisoners are kept separately from other convicts, except for a few who have already been imprisoned for twenty years and were moved to semi-closed penal institutions. Two life-sentence prisoners in Kentron institution are kept in solitary confinement for many years. As per national legislation, the life-sentence prisoner may be conditionally released after 20 years of imprisonment. Although there are 20 life-sentenced prisoners who have passed the threshold of 20 years, no one has been released yet.

e. LGBT people in prisons

LGBT people remain the most vulnerable group in penitentiaries. Homosexual prisoners face physical and psychological violence, degrading treatment and discriminatory attitude displayed both by prison officers and inmates. Specifically, most often they are segregated in penitentiaries, being placed in separate cells which are usually in worse conditions. The food is also served to homosexual people separately. They have no permission to use the same kitchen or tableware as others.

The exploitation of homosexual detainees remains a major issue. They are forced to implement the most ‘humiliating’ duties in penitentiaries, such as cleaning of penitentiary territories, toilets and restrooms, and dumping of garbage, which at the same time violates their right to maintain their personal hygiene. Even though the prison officers claim that homosexuals are involved in such activities willingly, based on their applications, the mere fact that similar situation is widespread in all penitentiaries proves the opposite. Homosexuals are also subjected to hate speech by the prison officers, while most of the prisoners do not talk to them.

f. Criminal culture in penitentiaries

According to the Penitentiary Monitoring Group’s observations, the problem of widespread application of criminal culture and hierarchy between inmates remains in prisons, resulting in violence and potential suicides. The criminal sub-culture sometimes has more decisive role for operation of the penal institutions than the domestic and international law, and becomes a threat

to the life and health of prisoners. In 2015 a case was registered when the criminal system of the prison was applied to intimidate a person, who, according to human rights defenders' opinion, was imprisoned due to his political views²³.

Sometimes the criminal sub-culture in prisons leads to suicides of inmates. During the period of 2011-2016, 22 cases of suicide were recorded in the prisons. Consequently, no proper investigation was carried out and no one was subjected to any liability for those accidents. The psychological service, which might have preventive role for suicides, is undeveloped. There is only one position of psychologist for hundreds of inmates.

Recommendations

- *Incorporate mechanisms mandating the use of measure of restraint alternative to detention in the RA Criminal Procedure Code;*
- *Extend the mandate of Probation Service to the pre-trial stage;*
- *Transfer the medical service of penitentiary institutions to the oversight of the RA Ministry of Health;*
- *Address the exploitation of homosexual prisoners by assigning the cleaning duties to civilian workers;*
- *Address the intolerance, discrimination and hate speech against homosexual prisoners by increasing the awareness and sensitivity of penitentiary staff on LGBTI rights and LGBTI issues;*
- *Decrease overcrowding by introducing more avenues for application of alternative measures of criminal punishment and preliminary restraint, as well as suspended sentences;*
- *Put the early release system, including release on medical reasons dependant on the law, into line with international standards;*
- *Ensure that the decisions of the Commission on Early Release are substantiate and are subject to appeal to the court;*

²³ In January 2015 a detained civic activist and member of an oppositional New Armenia movement Gevorg Safaryan was detained with other three activists during clashes with the police, when the policemen did not allow them to install a Christmas tree in the Liberty Square of Yerevan. Later all detained activists except G. Safaryan were released. Safaryan was charged with using violence against the police and detained by a court for two months in pretrial custody. During custody in Nubarashen prison G.Safaryan's lawyer announced about concerted threats, psychological and physical violence against G.Safaryan. After the Monitoring Group's intervention, G.Safaryan was transferred from one cell to another for many times until the threats were neutralized. The, Human Rights Watch, has also called on Armenia's authorities to release activist Safaryan. <https://www.hrw.org/news/2016/01/08/armenia-opposition-activist-jailed>

Similar situation was in the case of another activist Vardges Gaspari who unlike G.Safaryan was eventually released. After his release Gaspari told reporters how he had been beaten in Nubarashen prison on the night of February 23, 2016. <http://hetq.am/eng/news/66034/activist-gaspari-released-from-detention-calls-nubarashen-prison-a-slaughterhouse.html>.

- *Abolish the illegitimate impediments to the eligibility for early release, such as the requirement of absence of any disciplinary penalty while serving a sentence and the compensation of any pecuniary damages to the victims.*

Armed Forces

a. Non-combat deaths in armed forces

According to studies by the Helsinki Citizens' Assembly-Vanadzor, the death rate in the armed forces during the period of 2012 to 2016 October is 349, out of which 189 is resulting from ceasefire violation (of which 77 during the hostilities from the period of April 1 to 5, 2016), 160 are not related to the ceasefire violations.²⁴

In the course of last years the number of non-combat deaths at armed forces has grown. Thus, during 2015 there were 35 non-combat deaths out 76 not related to the ceasefire violations. During the period of January - October 2016, 43 Armenian soldiers died in comparatively non-combat situations.

No adequate measures are undertaken for cases of deaths at armed forces to ensure complete, comprehensive and objective investigation, *inter alia*, the thorough investigation of the factual circumstances within reasonable period of time, the conduction of the necessary investigative actions. Moreover, as a rule, the only persons charged with the direct action of the crime are the ones who committed the crime or inflicted harm to health, but not the state representatives who were responsible for the life and health of the soldiers.

²⁴ Reports on death cases in RA Armed Forces and NK Defense Army (available in Armenian) 2012 <http://hcav.am/publications/16483/>; 2013 <http://hcav.am/publications/teghekanq2013/>; 2014 <http://hcav.am/publications/09-01-2015/>; 2015 <http://hcav.am/publications/%D5%BF%D5%A%D5%B2%D5%A%D5%AF%D5%A1%D5%B6-09-01-2016/>; 2016 <http://hcav.am/publications/04-10-2016-03/>

Number of death cases in RA Armed Forces and NK Defense Army in 2012-2016

according to HCA Vanadzor study

Month	Ceasefire violation	Breach of the rules for handling weapons	Suicide/ causing somebody to commit suicide	Breach of combat service rules	Murder					Accident									Health problems	Unclear circumstances	Total	RA MOD data	RA Prosecutor's office/ Military Prosecutor's office						
					Deliberate	Violation of statutory relations	Breach of combat service rules	Still unclear circumstances	Breach of the rules for handling weapons	Car accident	Mine/ grenade explosion	Breach of the rules of driving and operating vehicles	Still unclear circumstances	Run over	Electric shock	Dugout collapse	Flood	Avalanche											
2012	12	0	12	0	3	0	0	0	1	11	1	0	1	1	1	0	0	0	0	6	0	49	36	36	36	36	36	RA Prosecutor's office	
2013	5	3	8	0	1	2	1	0	0	5	0	0	0	0	1	0	0	0	0	4	0	30	30	30	30	30	30	RA Prosecutor's office	
2014	26	1	3	0	2	0	3	0	2	4	2	0	0	0	0	0	0	0	0	3	0	46	45	44	44	44	44	RA Prosecutor's office	
2015	41	0	6	1	1	0	2	0	0	19	1	0	1	0	0	0	0	0	4	0	0	76	57	-	-	-	-	RA Prosecutor's office	
2016 October 11	105	0	10	2	1	3	0	3	5	7	1	2	0	0	1	2	3	1	1	1	1	148	-	-	-	-	-	RA Prosecutor's office	
Total	189	4	39	3	8	5	6	3	8	46	5	2	2	1	3	2	3	1	18	1	349								

b. Hazing and other mistreatment

Hazing and other mistreatment of conscripts by officers and fellow soldiers still remains an issue in the armed forces. Recent study²⁵ on effects of prevalent customs and relations in the armed forces on servicemen's behavior and consequences thereof shows that the prevalent customs have a considerable impact on how responsibility is apportioned to the servicemen who committed an offence. Overall, among the non-statutory sanctions beating has often been used for disciplinary purposes by the command officers. The study shows that 25 percent of the interviewed demobilized servicemen (conscripted into army from 2012-2015) pointed out that they had been beaten by a commanding officer and that beatings had been accompanied with harshly insulting language. All of the interviewees testified that parallel to formation of a “prerogative group” another, more vulnerable, group of conscripts is often subjected to degrading treatment in the armed forces.

Recommendations

- *Conduct effective investigation of deaths in non-combat conditions, ensuring the state responsibility for the health and life of the soldiers in the armed forces;*
- *Develop and implement effective programs to eradicate the practice of hazing and other mistreatment of conscripts by officers and fellow soldiers.*

Psychiatric Institutions

The legal regulations do not provide safeguards to prevent use of physical restraints in institutions providing government-supported care and treatment services. The manner and place of use of physical restraints as well as the range of users and lack of supervision over their use is not clearly regulated by law. As a result, ill-treatment, including inhuman and degrading treatment, is prevalent in institutions providing care and treatment services to persons with mental health issues which are manifested through the arbitrary use of physical restraints. Physical restraints are used not only by a physician's decision for treatment of the person concerned, but also as a punishment and a method to intimidate other patients.

Persons with psychosocial disabilities are subjected to psychological and physical violence in form of beatings, threats, harassment, anger not only by the staff of psychiatric institutions, but also by other residents.²⁶

²⁵ Helsinki Committee of Armenia; Study on the statutory relations of the conscripts and internal customs, 2015.

²⁶ HUMAN RIGHTS SITUATION IN NEUROPSYCHIATRIC MEDICAL INSTITUTIONS IN 2013, HCAV, http://hcav.am/wp-content/uploads/2014/09/hogebuj_report-eng.pdf

There are still problems with unnecessary and arbitrary deprivation of liberty of persons with psychosocial disabilities. Some people with actual or perceived psychosocial disabilities are confined in institutions without their informed consent. Persons often undergo “compulsory treatment” and deprivation of liberty without a court decision, because in practice the person’s consent to treatment is obtained under pressure and threats by relatives and the staff of the medical institution.²⁷

The lack of independent civilian oversight over the institutions providing care and treatment services also leads to the inefficiency of the protection of the right of persons with psychosocial disabilities to be free from torture and abuse.

Recommendations

- *Adopt regulations permitting the use of physical restraints only for medical purposes and with medical justification;*
- *Develop educational courses for persons providing psychiatric services and develop and introduce regular training courses in educational institutions;*
- *Introduce legislative provisions requiring the participation of an advocate from the very beginning of the process of admitting a person to a psychiatric medical institution;*
- *Ensure independent civilian oversight over the institutions providing government-supported care and treatment services.*

Denial of Pain Treatment

Armenia has the world's highest cancer mortality rate in males (210 per 100,000) and registered 17.8% increase in cancer deaths from 2006 to 2012.²⁸

Thousands of patients with advanced cancer still suffer from severe pain as they cannot get adequate pain medications to prevent suffering and improve quality of life due to complex procedure for prescribing injectable opioids and tight police control. All oncologists provide monthly written reports to the police with details on identity and diagnosis of patients who receive opioid painkillers, in violation of patient’s confidentiality rights. According to the Human Rights Watch report on Armenia, in the period of 2010-2012 an average of 1.1 kg of morphine was consumed per year. This is sufficient to adequately treat moderate to severe pain in about 180

²⁷ Ibid

²⁸ INBC, World Health Organization population data. Pain Policy Studies Group, University of Wisconsin/WHO Collaborating Center.

patients with terminal cancer or AIDS, which is about 3 percent of those estimated to require such treatment in Armenia.²⁹

Injectable morphine consumption has declined each year since 2006 and is down 60%. Oral morphine is not registered in the country.

Recommendations

- *Register oral opioid analgesics; promptly make them available in the healthcare system;*
- *Simplify the opioid analgesics prescription procedure;*
- *Cease the police interference in the prescription process in violation of patient confidentiality.*

Deprivation of Liberty

Arbitrary detentions and deprivation of liberty is a widespread practice of pressure and intimidation aimed at suppressing any kind of civic activism. Since 2013 more than 1100 people were detained while exercising their right to peaceful assembly.³⁰ In all of these cases no element of the *due process* was respected and no public official was held accountable for brutal violations.

In June 2015, after the Electric Yerevan protests³¹, when 237 people were illegally detained, as a result of criminal case opened to examine the lawfulness of police actions, only four police officers were criminally charged and mainly on the grounds of hindering lawful activities of journalists³². On July 17-30, 2016 police exerted disproportionate violence towards participants of peaceful assemblies, who gathered in different parts of Yerevan, to prevent use of force against armed group “Sasna Tsrer” (“Daredevils of Sasun”). Throughout this period around 729 citizens were apprehended by police and some of them remained in police custody for up to 32 hours without food, water and opportunity to satisfy other basic needs. At least 20 lawyers reported that state officials hindered their work to provide legal assistance to their clients, threatened and humiliated them.³³ Such detentions are applied mostly under the administrative procedure.

²⁹ Human Rights Watch, World Report 2015.

³⁰ Helsinki Committee of Armenia, *Report on monitoring of peaceful assemblies, Chapter 13 Cases of intervention into the right to peaceful assemblies*, 214-2015 June, available at <https://goo.gl/ByZeJy>

³¹ Civilnet, *237 people were detained: police*, 23 June 2015, <http://www.civilnet.am/news/2015/06/23/police-comment-electricity-protest/272702>

³² Civilnet, *Two more police is criminally charged for making obstacles for implementation of the professional duties of journalists in Baghramyan street*, 02 August 2016, <https://goo.gl/3czxcU>

³³ OSCE/ODIHR Human dimension implementation meeting 2016, *Statement on the right to freedom of peaceful assemblies in Armenia*, <http://www.osce.org/odihr/266281>

The detention and especially the practice of arrest under the criminal procedure are applied in accordance to the legal interpretation of the Cassation Court (the decision of the Court of Cassation's from 18.12.2009). The cassation court established that the duration of the arrest should be calculated not from the moment of detention of the person but from the moment when the arrest protocol is presented to a person. In practice, there were several cases, where a person was detained, taken to the police station and deprived of liberty for up to 17 hours; however this was not calculated within 72 hours duration of lawful arrest prescribed by the law. The 72-hour restriction was not followed also in the cases of transferring persons deprived of their liberty from a police station to a detention facility or to the court. This pattern of conduct by police was vividly demonstrated during the peaceful protests of July 2016, as well as June 2015.

Recommendations

- *Undertake prompt, thorough, impartial and independent investigations into all allegations of unlawful conduct by law enforcement officials in connection with the dispersal of the protests, including events in June 2015, and July 2016;*
- *Ensure that the practice of calculation of duration of arrest starts from the moment of factual deprivation of liberty, in accordance with international standards.*

Domestic Violence

Domestic violence remains one of the most serious social issues in Armenia. From 2010-2015, 30 known murder cases involving domestic violence have been reported by authorities, and several more have gone unreported or wrongly recorded as suicides or accidents³⁴. The police registered 784 cases of domestic violence in 2015 and opened criminal cases for 150 of them. In 2014, 678 cases were registered and 76 criminal cases were opened.

Though adoption of law on domestic violence was due in 2010, a commitment undertaken by Armenia during UPR's first cycle, there is yet no such. The government rejected the draft law developed by NGOs several years ago, claiming that there is no need for a stand-alone law on domestic violence, as the new Criminal Code and Law on Social Protection would address the issue. In 2012, a coalition of women's rights NGOs submitted a revised version of the draft law that addressed the government's concerns. Though government authorities confirmed that the law on domestic violence, which is now being drafted by the inter-sectoral group under the supervision of the Ministry of Justice, would be adopted by 2017, civil society participation in the process has long been protracted.

³⁴ Coalition to Stop Violence Against Women, 2016, "Femicide in Armenia: A Silent Epidemic".

Absence of the relevant legislation leaves victims unprotected and allows perpetrators to act with impunity. Manifestations of domestic violence which do not result in death or serious bodily injury imply criminal responsibility in the form of fine or imprisonment of not more than 5 years. These are qualified as crimes of ‘private accusation’, which can be initiated upon the victims’ reports and are terminated if the victim reconciles. To illustrate this on practice, a husband was fined by 100USD for 11 years of abuse and physical violence against his wife. Factually, investigators are often reluctant to initiate these cases and try to mediate between the parties or press the victim to withdraw complaints, since domestic violence is considered as a family matter by the law enforcement. This not only leads to impunity of perpetrators but also to further victimization of women subjected to domestic violence.

Though a special police department is functioning for around 3 years, it does not possess any tools to prevent domestic violence, as the police are not legally allowed to detain a batterer, intervene in situations of violence, remove an abuser from home or offer basic protection to victims and their children. Moreover, in cases when the police have the power to intervene, it is reluctant to assist the victims, considering domestic violence a “family matter”. In one of the cases victim reported acts of violence at home at least three times before it was considered and registered as domestic violence. Practice shows that instead of taking a report about a crime, police categorize those cases as “irreconcilable families”.

Though provision of temporary shelters up to 12 months for victims of domestic violence is envisaged in the RA Law on Social Assistance (Article 12), there are no such in practice, leaving the burden of providing main services (including shelters) to the victims on NGOs.

Recommendations

- *Sign and ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention);*
- *Adopt a comprehensive and effective standalone law on domestic violence in line with Istanbul Convention and CEDAW General Recommendation N19;*
- *Amend the CPC to proscribe the veto power of victims of domestic violence over the investigations into domestic violence and to mandate the law enforcement (investigators/prosecutors) to continue investigation regardless of non-reporting or withdrawal of criminal complaints by the victims;*
- *Amend the legislation providing police with necessary powers to intervene, prevent and respond to the acts of domestic violence;*

- *Establish a multi-sectoral referral mechanism to assist victims of domestic and gender based violence through timely and appropriate support services (medical, social, legal, protective, psychological);*
- *Ensure that all women who have been subjected to violence are provided with access to full redress and reparation, including compensation and psycho-social and medical rehabilitation;*
- *Ensure the provision and availability of adequate and safe housing for victims of domestic violence and their children for both short-term and long-term needs;*
- *Compile disaggregated and accurate statistics on domestic violence in Armenia and analyze the reason of underreporting.*

Juvenile Justice and Rights of the Child

There is no comprehensive juvenile justice system in Armenia, lacking courts and comprehensive law on the access to justice for children.

According to the current legislation, children can be detained during the pre-trial investigation for lengthy periods and, while serving the sentence, they can even be subjected to solitary confinement for up to 10 days as a punishment measure. At the same time, the “Abovyan” penitentiary institution, where juveniles are kept, does not provide them with adequate education and lacks effective rehabilitation and reintegration programs for those who leave the prison.

Rights of the children in residential child care institutions

From the perspective of prevention of possible ill-treatment or violence against children in the institutions, it is necessary to open those for the public oversight. However, only in the first quarter of 2016 two requests by the Helsinki Citizens’ Assembly – Vanadzor to get permission for monitoring the special schools under the Ministry of Education and Science were rejected with questionable justifications.³⁵ Such policy of the Ministry impedes the establishment of public oversight over the institutions that are under its supervision, leading to a higher risk of violence there.

The legislation does not regulate complex services for the care, rehabilitation and return to society of children subjected to violence or abuse, which would allow for psychological healing and full

³⁵ In the official letter from the Ministry it was stated that taking into account the transformation projects of the special schools (from special schools to pedagogical-psychological support centers) and the fact that those institutions were already being monitored by Human Rights Defender’s NPM, it is not desirable for the CSO to conduct child rights monitoring there.

socialization of the children. Meanwhile, the past several years have seen an increase of reports of child abuse, but these do not get adequate, credible, and speedy response from the authorities. For instance, child abuse and violation were reported by a group of teachers of Byureghavan residential school in 2014. An open letter described all types of violation, ill treatment and abuse against the children in Byureghavan institution. Later, journalists' investigations revealed that the director of the institution was under the patronage of state officials from the Ministry of Labor and Social Issues who were actively trying to push children and institution staff to take back their testimony. Human rights NGOs and activists demanded transparent and impartial investigation of the case. As a result several officials of the Ministry of Labor and Social Issues got severe reprimand and the school principal was fired. However, the scope of the investigation in the further criminal proceedings did not cover the instances of abuse and ill treatment against children in the school.

In light of increasing child poverty in Armenia³⁶, there is a pressing necessity to establish referral and social protection mechanisms and policy for the support to families in social needs in order to promote the deinstitutionalization of children. Specifically, approximately 4000 children, majority of whom are from socially vulnerable families, live in residential care institutions, including 10 orphanages, 8 state-run night care centers, and 23 special educational institutions.

Monitoring reports show that physical and psychological violence and ill-treatment (standing at the corner, slapping on the face, shouting, ear trailing, beating, insulting, isolating, prohibiting the meeting with family/parents, sexual violence, etc.) are still systematic in various residential care institutions.³⁷

Recommendations

- *Establish a comprehensive juvenile justice system, including juvenile courts, on the basis of a comprehensive legal framework, as well as diversion measures;*
- *Amend the RA Penitentiary Code to eliminate solitary confinement for children;*
- *Ensure that the pre-trial detention of children is used as a last resort and for the shortest time possible;*
- *Elaborate effective rehabilitation and reintegration programs for children who leave the penitentiary institutions;*
- *Provide unhindered access for civilian oversight to monitor child rights and conditions at the residential institutions;*

³⁶ 34% of children in Armenia, and 50% of children in Shirak and 43% of children in Lori marzes are poor. Also, 55% of the families with 3 and more children and 37% of the families with 2 and more children are poor. <http://www.armstat.am/am/?nid=81&id=1718>

³⁷ Monitoring Report of Special Educational Institutions, Public Monitoring Board for Special Educational Institutions under the Ministry of Education and Science and Ministry of Territorial Administration in Armenia, 2013.

- *Conduct effective investigation into all reported cases of child abuse, including in the residential institutions, and inform public about the results and process of the investigation;*
- *Ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure;*
- *Accelerate deinstitutionalization of children through providing children with alternative family and community based care services.*
- *Establish a system of kinship and foster care as alternative measures of family-based care for children.*

III. OTHER ISSUES

Investigation of 10 deaths on March 1, 2008

The investigation into the circumstances of the deaths of at least 9 persons³⁸ was not independent and expeditious, lacked impartiality.

Throughout 8.5 years of the investigation of March 1, 2008 events, the family members of 9 victims (victims' successors) have been denied access to information and documents of this case and have not been involved in or informed about the progress of the investigation.

Moreover, up to now no one was held responsible for 9 casualties (1 conscript of police troops and 8 civilians), which were caused by the excessive and lethal force used on March 1, 2008 by the police troops and unidentified persons under the supervision and control of police. No police or other law enforcement agency representative has been prosecuted for killing or ill-treatment of protesters and other civilians during the events occurred on 1 March, 2008.

What is of even greater concern, the following circumstances that give rise to individual responsibility of the high ranked state officials were totally ignored in the course of the investigation:

- a. Unauthorized use of Cheremukha-7, type of special means, which caused the death of at least Mr. Armen Farmanyan, Mr. Tigran Khachatryan and Mr. Gor Kloyan on March 1st, 2008. According to the expert's opinion, the death of Mr. Samvel Harutyunyan is also likely attributable to the use of Cheremukha-7;
- b. Lack of planning and control of the police operation, resulting in extensive and indiscriminate use of firearms by the police forces, which led to the deaths of at least 4 individuals and to the injuries of many more;
- c. Failure to protect the life of Mr. Tigran Abgaryan, a police conscript, who was assigned to participate in a dangerous police operation without full ballistic protection, while the authorities assert that they were aware about possession of firearms by the protesters; and
- d. Failure to provide access for medical emergency services to attend and treat the injured at the scene, thereby potentially resulting in reducing the possibility of survival of at least two victims, Mr. Gor Kloyan and Mr. Davit Petrosyan.

Failure to provide compensation to the victims' families is justified by the Government with the CPC regulations, which at the material time would not provide any possibility for compensation until the accused had not been convicted. However, even then, the right to compensation under Armenian CPC would be limited only by lodging the claim against the perpetrator.

³⁸ No information is available about the investigation into the circumstances of the death of 1 police officer.

Recommendations

- *Provide effective and expedient investigation and establish command responsibility of senior police and security officials in connection to the 10 deaths of March 1, 2008;*
- *Ensure that the families of victims receive adequate redress, including compensation.*

Protection of human rights defenders

The state has not undertaken necessary steps to protect human rights defenders, including women and LGBTI rights' defenders, civic activists, and journalists from violence and intimidation.³⁹ Due to their projects aimed at human rights promotion and funding received from international donor organizations, defenders are often labeled as “Western agents” or “provocateurs” in an attempt to destroy their reputation and denigrate their work.

The cases of hate speech and incitement for violence against defenders were not addressed adequately, and there was no effective investigation into the reports about attacks and pressure on them, which can possibly imply that such acts are led and encouraged by the authorities. For instance, examination of many reports on police brutality against human rights defenders and journalists ended up with issuing a disciplinary punishment against the perpetrators. Moreover, there is an established practice of initiating parallel criminal proceedings against human rights defenders on allegations of perjury, non compliance with the lawful demands of the police officers and violence against the representatives of authorities,⁴⁰ when they file reports about violence by police officers. In some of these cases the only witnesses during the judicial hearings were the police officers, which according to the Council of Europe standards render the investigation ineffective and partial.⁴¹

Recommendations

- *Implement the recommendations of the UN Special Rapporteur on the Situation of Human Rights Defenders published after her visit to Armenia in 2010;*
- *Ensure the protection of human rights defenders, especially those advocating for the rights of vulnerable groups, such as LGBTI persons;*

³⁹ Situation on Human Rights Defenders in Armenia, January 2011-December 2012: <http://hcav.am/wp-content/uploads/2013/02/Report-English.pdf>; Situation on Human Rights Defenders in Armenia 2013: <http://hcav.am/wp-content/uploads/2014/09/HRD-Eng-Final2.pdf>; Situation on Human Rights Defenders in Armenia 2014-2015 (Armenian) <http://hcav.am/wp-content/uploads/2016/06/HRD-report-Arm-2014-2015.pdf>

⁴⁰ Such case was initiated against Argishti Kiviryan in 2013 when participating in public rallies to boycott construction of an apartment building on Komitas street in Yerevan.

⁴¹ According to the PACE Resolution 1620 (2008) on Implementation by Armenia of Assembly Resolution 1609 (2008), a verdict based solely on a single police testimony without corroborating evidence is not acceptable.

- *Launch an objective, transparent and effective investigation into infringements against HRDs including libel and defamation.*

Implementation of Action Plan of the National Strategy for the Protection of Human Rights

Action Plan of the National Strategy for the Protection of Human Rights program for 2012-2016 consists of 119 activities in 20 areas. There are 13 activities which are particularly directed to prohibition of torture and other forms of ill-treatment.

According to the monitoring of the implementation of the Action Plan conducted by the Helsinki Citizens Assembly-Vanadzor, upon the date of end 2015,⁴² 4 actions related to prohibition of torture were implemented partially, and 9 actions were not implemented at all, including two that were delayed till the last quarter of 2016.

Recommendations

- *Provide justification for insufficient implementation of Action Plan of the National Strategy for the Protection of Human Rights;*
- *Include outstanding recommendations into the next Action Plan, taking into account the civil society recommendations.*

⁴² Source: http://hcav.am/wp-content/uploads/2016/09/ՄԻՊԱՌՄՕ-Տեղեկատվ-ՀՔԱՎ_2.pdf

ANNEX I

CASES OF TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT THROUGHOUT THE YEARS OF 2012-2016

Group I: Cases of ill-treatment towards the participants of peaceful demonstrations following the takeover of police station by the armed group “Sasna Tsrer” (“Daredevils of Sasun”) on 17 July 2016

Melikset Panosyan

On 30 July 2016 about 7-8 police officers approached Panosyan in the vicinity of Sayat-Nova Street in Yerevan and demanded to show them his identification documents. In his turn, Panosyan demanded to inform him about the reason of such a demand in response to which the police officers took him to the police car, and then started committing violent actions against Panosyan. They hit in various parts of his body, tried forcing him to get into the police car by all means to take him to the police station. Then, continuously hitting him, they handcuffed Panosyan by holding his arms and legs and dragged him to the police car. After they pushed him into the car, two police officers sat by his sides and harassed him, swore at him and humiliated his dignity. He was brought to the central division of Yerevan police department, where they continued violation against him as well as swearing at him and humiliating him. A complaint has been submitted to the Special Investigative Service of RA where he was recognized a victim. Investigation is still underway.

Momik Vardanyan

M. Vardanyan has been a witness to the violations committed against Melikset Panosyan on 30 July 2016 (see section 10) and has undergone violations himself the very same day. When the police was committing violations against M. Panosyan, M. Vardanyan tried taking pictures of the process of forcefully dragging M. Panosyan to the police car. When the police officers noticed this they approached him, demanded his cell phone and decided to take him to the police station. By dragging from his arms, hitting him in various parts of his body and swearing at him they forced him into the police car. They continuously hit him in the police car and demanded to delete the picture which he took when the police was committing violence against his friend. During the whole period M. Vardanyan demanded from the police officers to release him, to introduce the grounds for hitting him and transporting him to the police station: He stated that he was afraid of police officers and that it was quite possible for him to faint. The police officers took him to some street where they met Ashot Karapetyan, head of Yerevan City department of RA Police, who, after seeing Vardanyan and M. Panosyan and talking to the police officers ordered to take M. Panosyan to the police station and release M. Vardanyan. During the investigation of the case filed with the Special Investigative Service of RA M. Vardanyan was recognized as a victim. A forensic medical examination was ordered. Investigation is still underway.

Hovhannes Ghazaryan

H. Ghazaryan also took part in the demonstrations following the takeover of the police station by «Sasna Tsrer» on 17 July 2016. On the same day at Freedom Square police officers tortured and battered H. Ghazaryan, hit and kicked in various parts of his body which resulted in different corporal injuries. They broke his glasses and illicitly deprived him of freedom and then transported him to military unit 1033 of RA police forces. They released him after keeping him there for about 20 hours.

Ghazaryan has been apprehended during the following days based on provision 2 of article 225 of the Criminal Code of the Republic of Armenia on the charges of committing violence, carnage or arson, destruction or damage to property, using fire-arms, explosives or explosive devices, or by armed resistance to a representative of the authorities.

H. Ghazaryan gave testimony about his corporal injuries and was recognized as a victim. Investigation is still underway.

Movses Shahverdyan

On 20 July 2016 he went to Khorenatsi street, met his friends and when he was about to leave he noticed that there was turmoil by the wall made of police officers. There was an explosion during the tumult because of which his shirt got burnt. After that he tried quitting the area when 7-8 policemen in uniforms came up to him and started beating him with blackjacks as well as kicking him and beating him with fists. The policemen stopped battering him only when they noticed that reporters are hurrying towards them. The policemen quit, leaving Shahverdyan to bleed in the street. He was rushed to a hospital where he was kept in intensive care unit for one day, then received in-patient care for two days and was released from the hospital. During the investigation of the case filed with the Special Investigative Service of RA H. Harutyunyan was recognized as a victim. The investigation is still underway.

Hovhannes Haroutyunyan

On 29 July 2016 H. Haroutyunyan took part in a peaceful demonstration in Sari Tagh district of Yerevan. During the demonstration the police forces flung explosives and grenades on the demonstrators as a result of which Haroutyunyan got shrapnel wounds in his limbs as well as burns on his foot.

To receive medical assistance H. Haroutyunyan turned to university hospital No1 and underwent surgery. According to the information provided by doctors, 5-6 fragments have been removed from his body.

A criminal case was filed with the Special Investigative Service of RA and H. Haroutyunyan was recognized as a victim. The investigation is still underway.

Silva Arshakyan

On 29 July 2016 she took part in a peaceful demonstration in Sari Tagh district of Yerevan. She reached there when the clashes between the police and citizens had already started. Arshakyan climbed on the wall of one of the near-by houses and videotaped how the police officers were beating up the demonstrators. Then there were flashbang explosions. She was injured in her back during this explosion and was unable to move and walk. Then she was taken to the hospital in an ambulance and was discharged from there in a few hours. During the investigation of the case filed with the Special Investigative Service of RA S. Arshakyan was recognized as a victim. The investigation is still underway.

Sayad Haroutyunyan

On 29 July 2016 Sayad Haroutyunyan, a minor, was on his way to Sari Tagh district of Yerevan when the clashes between the police and citizens began. He was hit by the fragments originating from the flashbang explosions initiated by the police and lost his eye as a result.

David Sanasaryan

In July 2016 peaceful demonstrations took place in Yerevan following the seizure of police station in Yerevan by “Sasna Tsrer” armed group. On 18 July 2016 David Sanasaryan who was taking part in the demonstration was apprehended and taken to the police station where he underwent torture, was beaten up ruthlessly. The police officers even hit him with their boots after which he lost his consciousness. In addition to multiple corporal injuries D. Sanasaryan also got brain concussion. SIS has filed a lawsuit; however, no policeman had been held accountable for torturing D. Sanasaryan.

Tigran Khachaturyan

Tigran Khachaturyan has taken part in the spontaneous gathering by the police station on 20.07.2016 during which he got injured in his limbs as a result of use of disproportionate force by the police: the policemen threw an explosive device which exploded right between his legs burning his clothes and causing shrapnel wounds.

Aram Manukyan

On 17 July 2016 members of “Sasna Tsrer” (Daredevils of Sassoun) armed group seized the Police Station in Yerevan. On 27 July 2016 at about midnight Aram Manukyan, member of the armed group, was wounded by the officers of the National Security Service (NSS). Later he was transported to the “Erebuni” Hospital and was operated on. After the operation he was taken to the Department of the Intensive Care of the hospital, and his health state was considered as heavy. 17 hours later, Manukyan was transferred to the “Hospital for Convicts” Penitentiary Institution where he was left absolutely without medical care. On 28 July 2016, Manukyan’s lawyer visited him at the “Hospital for Convicts” Penitentiary Institution, where she found him without minimal conditions that are requested for a medical institution. Manukyan was deprived not only from the medical assistance, but also from food. Specifically, he was not provided any proper nutrition after

the operation and starved for more than a day after a serious operation. On 29 July 2016, the lawyer found out that Manukyan was not given medicine and cockroaches were on his open wounds and he could do nothing because of his poor health state.

Later, though Manukyan was moved to a ward with better hygienic conditions, no medical assistance was provided to him by the “Hospital for Convicts” Penitentiary Institution due to the lack of specialists. The rare visits of medical workers were organized by medical personnel of the “Erebuni” Medical Centre. At that time Manukyan was under imminent threat without adequate medical assistance. His second surgery, as planned beforehand, took place on August 30, 2016 in “Erebuni” Hospital, after which he was transported to the “Hospital for Convicts” Penitentiary Institution, where he remains until now.

Group II: Cases of torture and ill-treatment during the years of 2012-2016

Rouzanna Yeghnukyan

On March 24 2016 a number of citizens organized demonstrations in protection of political prisoners. Some of them had chained their limbs, locked the chains and nailed the chains down in the ground as an action of protest. A number of women stood by the heads of these people holding placards.

Unexpectedly, police officers started using force against these women. They threw down the women holding the placards, and as a result of this action Rouzanna Yeghnukyan found herself under the feet of police officers. They punched her in her head inflicting an open head injury - cerebral injury. Rouzanna was first transported to hospital in an ambulance where she underwent surgery. After this she was unable to open her eyes and talk for a few hours as she was in semi-conscious state.

The criminal proceeding initiated by SIS was dismissed on the basis of lack of corpus delicti. The decision of the investigator has been appealed and currently the case is with the Court of First Instance.

Armineh Arakelian

On 17 May 2016 Armineh Arakelian, founder of Institute of Democracy and Human Rights (IDHR) NGO had entered into the fountain pool at the Republic Square and was refusing to get out. The police officers and officers of rescue services handcuffed her and took her in an ambulance to a psychiatric hospital where she was beaten ruthlessly. They took her into some room dragging her on the floor and tied her up tightly on a bed, so tightly that her blood circulation was affected. Then they started beating her up, hitting her in various parts of her body.

HCAV filed a criminal complaint with the prosecutor’s office about A. Arakelian’s case, the case is under investigation.

Artyom Abrahamyan

On July 23 2016 Abrahamyan and his friend were taken to Chambarak department of RA police where one of the police officers hit him on his soles and back with a rubber blackjack. Abrahamyan also mentioned that before that the officer was trying to strangle him. He had got the injuries on his forehead and upper limbs during his detention, when his arms were raised and they had pushed him down on the ground where dry coarse grass had wounded his forehead and upper limbs. They examined his body in police detention facility.

According to the expert's opinion the corporal injuries have been caused by blunt objects, possibly during the mentioned time period. In particular, getting the hematoma on his neck under the same circumstances is also not excluded, and this cannot be considered mild damage to health.

SIS initiated legal proceedings for Artyom Abrahamyan's case. Investigation is still underway.

Gharib Ghazaryan

Making use of the fact that G. Ghazaryan and his friends are under the influence of narcotic drugs the police officers of Armavir department of RA police demanded from G. Gharibyan to write down the testimony dictated by the police officers in 2016. They pressured Ghazaryan to testify that the confiscated narcotic drugs belonged to him and his friend. Since at that moment they were in drug dependence (withdrawal syndrome), they wrote down what the police officers dictated them to quickly finish the matter. Then they were released. After a few days G. Ghazaryan was taken to Armavir department of RA police. They gave him some documents and forced him to sign them. As he was in unhealthy condition he had signed those documents without reading them. A criminal case proceeding about the incident was filed with SIS, whose inactivity was later on appealed at all judicial instances. The First Instance Court and the Court of Appeal refused the complaint, and the Court of Cassation has not yet made a judgment.

Tatevik Michaelyan

On 2 August 2015 T. Michaelyan and her husband Levon Achinyan were illegally taken to the Erebuni police unit by the officers of 6th division of RA Police where they committed physical violence against L. Achinyan and psychological violence against T. Michaelyan in order to get self-incriminating testimonies from them. The police officers hit L. Achinyan in various parts of his body causing severe pains to him. From the adjacent room T. Michaelyan heard her husband shout "do not hit", and later on she saw him with red traces on his face. The investigator forced T. Michaelyan to provide a self-incriminating testimony threatening her that he would detain her and would take her ten-day-old child to an orphanage.

A criminal complaint about the incident was filed with the prosecutor's office, legal proceedings were initiated and preliminary investigation is underway.

Arthur Kocharyan

On 22 June 2015 A. Kocharyan took part in the protests in Baghramyan Street of Yerevan against the hike in electricity prices. The action participants decided on the spot to initiate sit-in demonstrations for an indefinite period. On 23 June 2015, at around 05:00 the police directed

powerful spurts of water from two street sprinklers right on those who had joined the sit-ins in order to disperse the participants. Without any need and with exertion of physical force and uttering lots of swearing and curses the police officers arrested the participants of peaceful sit-ins, including Kocharyan. Kocharyan was in police station for more than 9 hours in the state of panic and psychological disturbance, with no food and rest. His clothes were wet. Even though A. Kocharyan was arrested on the suspicions of hooliganism, no decision has been made regarding the measure of restraint. He was not made familiar with his rights; he did not have an advocate; the police officers confiscated his cell phones, wallet and data storage device. It is over a year since a criminal case has been instituted at SIS.

Hovhannes Ishkhanyan

On 22 June 2015 H. Ishkhanyan took part in the demonstrations in Baghramyan Street of Yerevan against the hike in electricity prices /See section 17/. The police officers took him to the police station forcibly where they kept him for over 8 hours without giving him the chance to eat or relax. His clothes were wet, too. It is over a year since a criminal case has been instituted at SIS about this incident.

Anton Ivchenko

Anton Ivchenko has taken part in “Electric Yerevan” demonstrations, and while being arrested by the police on June 23 2015 he had undergone disproportionate use of force during the action of dispersing the participants of sit-in demonstrations. As a result he has been inflicted injuries in his limbs. The preliminary investigation of SIS-initiated legal proceedings for these facts is underway.

Ani Boshyan

On 11 November 2014 two police officers went to A. Boshyan’s house and took her to Taron unit of RA Police where they prepared some documents which A. Boshyan had signed. After this they took her to the office of V. Torosyan, deputy head of the unit where they made indecent expressions about A. Boshyan and her family and accused her in dissemination of pornographic materials. The deputy head of the police unit instructed female police officers to search A. Boshyan. During the search **one of the police officers demanded from A. Boshyan to remove her clothes completely saying that they are looking for tattoos and scars on her body.** After she removed her clothes they demanded her to squat so that they can find out if she was hiding something in her internal organs or no. After the search V. Torosyan returned and together they went to the office of Sharmazanov, head of the unit. On the way V. Torosyan threatened and insulted her which also continued in the office of the head of unit. After a while the head of investigative division Galstyan joined them and threatened A. Boshyan that if she did not provide self-incriminating testimonies they would arrest her and would send her to female prison after keeping her in the police station for 72 hours. The purpose of ill-treatment manifested towards A. Boshyan was to get self-incriminating testimonies, and after all they could succeed in it through threats, exertion of violence and swearing.

HCAV filed a criminal complaint with the prosecutor's office about this. Criminal proceedings were instituted which were later on dismissed due to absence of a corpus delicti in the actions of the police officers. This decision has been appealed in all instances of the court without any success. Following this a case was filed with ECHR.

Dvin Isanians

On 13 May 2014 the ceremony of renaming Mashtots park of Yerevan city was to take place. Dvin Isanians and a few other people had decided to organize an action of protest in the same park against its renaming. At the mentioned day police officers took Dvin Isanians and a few others to the police station, exerting force. While doing so the police officers committed violence against D. Isanians, hit him in his face and various parts of his body causing him to lose his consciousness. The violations against him resulted in corporal traumas in various parts of his body.

A criminal case proceeding about violations against Dvin Isanians and others was instituted with SIS, however, later on a decision was made about not launching a criminal pursuit. The mentioned decision was unsuccessfully appealed in all instances of RA court.

Arthur Dashyan

On 7 August 2014 Artush Dashyan, the father of Arthur Dashyan has submitted a plea to the head of Special Investigation Service about ill-treatment and violations that were committed against his son after which he was invited to SIS and provided detailed explanations about the circumstances known to him related to his son, Arthur Dashyan being mercilessly tortured by Armen Hovhannisyan, head of 2nd Garrison Investigative Unit of Criminal Service of the Ministry of Defense of RA on 27 November 2013.

A criminal case proceeding about the incident was filed with SIS, however, a few days later it made a decision to dismiss the case and not initiate a criminal pursuit.

Following this, by a judgment ruled for another criminal case on 23 October 2014 A. Dashyan was recognized a victim.

A. Dashyan provided a testimony and answering the question of the investigator in charge of the proceeding as to under what circumstances he had got the injury in his head and who inflicted that he had answered that he had got that injury in the investigative unit mentioning that Armen Hovhannisyan, head of 2nd Garrison Investigative Unit of Criminal Service of the Ministry of Defense of RA had inflicted that injury to him. He particularly mentioned that following that a decision was made about not initiating a criminal pursuit against Armen Hovhannisyan, head of 2nd Garrison Investigative Unit of Criminal Service of the Ministry of Defense of RA due to absence of a corpus delicti in his actions.

They appealed this judgment with the Prosecutor's office which rejected the plea. This judgment was also appealed with the court of General Jurisdiction of Arabkir and Kanaker-Zeytun district of Yerevan City and later with Courts of Appeal and Cassation. An application about this case has been submitted to ECHR which has already been registered.

Hrachya Gevorgyan

A convict kept in “Nubarashen” penitentiary of Ministry of Justice of RA who has a number of severe diseases including hepatitis C, chronic bronchitis, Parkinson’s syndrome, etc., and being in wheelchair has been enduring inhumane treatment since 2014, as he is not receiving appropriate medical care and assistance. A complaint has been filed with ECHR on his behalf, and the investigative unit of Central district of Yerevan is investigating a criminal case about the abrupt deterioration of his health condition /most probably intoxication/ while he was in “Hospital of Convicts” penitentiary institution.

Robert Muradyan

On 27 October 2013 Arthur Grigoryan, an officer of Mush unit of Gyumri Police went to Robert Muradyan’s house and told him that he must come to the police station. During the questioning at the police station Muradyan was taken from one room to another where various police officers swore at him and hit him, threatened to rape him and finally were able to extort testimony through violence. HCAV filed a crime report with the prosecutor’s office to protect the rights of R. Muradyan. They instituted criminal proceedings which were later on dismissed due to absence of a corpus delicti in the actions of the police officers. The decision to dismiss the criminal case was appealed with all instances of RA courts but no success could be ensured.

Julietta Amarikyan

On 30 May 2013 J. Amarikyan was forcefully and illegally taken to Avan district psychiatric hospital by the employees of the same hospital and officers of Yerevan City Malatia district police station where she was kept for a month. She had to sleep on the sofa of the cafeteria, was deprived of beddings and hygiene products and underwent violence and ill-treatment by the medical personnel.

A criminal complaint was filed with the Special Investigative Service of RA. During the investigation Amarikyan was acknowledges a victim, but later on the legal proceedings were dismissed. This decision has been appealed in all instances of the court without any success. Following this a case was filed with ECHR.

Armen Arsenyan

On 30 April 2013 A. Arsenyan was transported to the “Nubarashen” penitentiary of RA Ministry of Justice from the police detention facility of Yerevan City department of RA police. He had corporal injuries and declared that the mentioned injuries were inflicted upon him by police officers in the investigation unit of Arabkir district police department with the purpose to get self-incriminating testimony from him. On 13 May 2013 the Special Investigation Service received a notification from RA Prosecutor’s office about the corporal injuries of A. Arsenyan. Violations against him continued from 26 April 2013 onward but A. Arsenyan was examined by an expert only on 18 May 2013; i. e. more than three weeks later.

The Special Investigation Service decided to refuse instituting criminal proceedings for this case. The mentioned decision was unsuccessfully appealed in all instances of RA court.

Volodya Avetisyan

V. Avetisyan has been detained by the court and has been accepted to “Nubarashen” penitentiary on September 23, 2013. The ward where Avetisyan was kept has always been overcrowded. On January 1, 2015 a plea was submitted to the court of general jurisdiction of Shengavit district of Yerevan City requesting to acknowledge the fact of violation of rights stipulated by Article 3 of European Convention of Human Rights (prohibition of torture), restore the breached right and compensate for that. The Court of First Instance did not initiate any proceeding based on the plea. The Court of Appeal had overturned the judgment of First Instance Court and had sent the case to the same court. The First Instance Court did not initiate proceedings for the second time. The mentioned judgment was appealed in all instances of RA court without any success.

Liparit Petrosyan

L. Petrosyan has been detained by the court and has been accepted to “Nubarashen” penitentiary on December 8, 2013. The ward where Liparit Petrosyan was kept has always been overcrowded. On 04.03.2015 a plea was submitted to the court of general jurisdiction of Shengavit district of Yerevan City requesting to acknowledge the fact of violation of rights stipulated by Article 3 of European Convention of Human Rights (prohibition of torture), restore the breached right and compensate for that. The Court of First Instance did not initiate any proceeding based on the plea. The Court of Appeal had overturned the judgment of First Instance Court and had sent the case to the same court. The First Instance Court did not initiate proceedings for the second time. The mentioned judgment was appealed in all instances of RA court without any success.

Narek Apinyan

On 17 August 2012 police officers apprehended N. Apinyan in his office and took him to Vanadzor unit of Lori police department where he underwent violations. In particular, the head of the police hit him a few times on his head, the police officers present at the scene swore at him and threatened him in order to extort testimony. While being at the police station Apinyan was deprived of the right of getting an advocate's assistance. The police officers threatened to rape him, and then they threatened to beat him with a chair.

HCAV undertook protection of N. Apinyan's rights and filed a crime report with RA prosecutor's office. As a result of investigation based on the application it was decided to refuse to institute criminal proceedings which was appealed at courts of all instances of RA without any success.

R.K.

In 2012 police officers apprehended R.K. as a suspect. At the police station he underwent violations through which the police tried to get self-incriminating testimonies from him about the theft that happened several days before. While at the police station R.K. was being continuously hit in various parts of his body. He has always insisted that he will provide a testimony at advocate's presence, however pressure against him was continuous; he was not even allowed to visit the bathroom. The police released R.K. and stopped the violations against him only when he

provided a self-incriminating testimony about committing the robbery, without the presence of an advocate.

HCAV filed a crime report with appropriate state agencies to protect R.K.'s rights. Based on the report R.K. was then invited to provide explanations during which he denied the fact of police officers committing violations against him, with the purpose to get milder punishment within the criminal case that was instituted against him.

Alexader Tsverianov

On 30 November 2012 officers of criminal investigation department (CID) of Erebuni unit of RA police Artavazd Petrosyan, Armen Mkrtchyan, deputy head of CID Mamikon Hakobyan and a trainee burst into the apartment rented by Tsverianov from the window and started searching the apartment without presenting any document or having a search warrant from the court. Unable to find anything they handcuffed Tsverianov and took him to one of the rooms of CID of Erebuni unit. During his stay in the police station the head of CID, his deputy Mamikon Hakobyan and police officers Artavazd Petrosyan and Armen Mkrtchyan tortured Tsverianov cruelly. More precisely, he was being continuously hit and kicked in various parts of his body; they smashed his soles with a rubber blackjack, threatened to electrocute him and swore at him with the purpose to get self-incriminating testimonies from him about committing robberies. After being tortured for a long time Tsverianov provided a self-incriminating testimony. Later on the court declared Tsverianov innocent in 16 cases of robbery. Tsverianov filed a case with Special Investigative Service of RA for the inhumane treatment he had to endure but the legal proceeding was dismissed due to absence of a corpus delicti in the actions of the police officers.

The decision to dismiss the criminal case was appealed with all instances of RA courts without any success.

Arman Davtyan

On 14 July 2011 A. Davtyan, his wife and friend were taken to Mashtots department of RA Police. They did not allow them to make calls. A few police officers beat A. Davtyan with rubber blackjacks and pieces of parquet to extort testimony about robbery. The fingers of his left hand broke after they hit his hand with a piece of parquet, and he was then electrocuted in various parts of his body. Other than broken fingers Arman Davtyan also got a number of other corporal injuries. The police also committed violations against his wife and his friend. After getting a testimony from Armen they released his wife and friend within a day. He was taken to the police department in the morning of 14 June 2011, but he was admitted to the police detention facility of Yerevan at 03:15 on 16 June 2011. From 14-16 June 2011 he was in the police department and was undergoing ill-treatment by police officers. Investigative actions against Davtyan were of long and subsequent nature during which he was deprived of the chance to eat and rest. Investigative actions were also taking place during the nighttime the necessity of which has not been substantiated.

A criminal complaint was filed with SIS but the latter refused instituting criminal proceeding in the scope of this incident. The mentioned decision has been appealed in all instances of RA court. The First Instance Court and the Court of Appeal refused the complaints, while the Cassation Court

satisfied the complaint overturning the decisions of the lower courts. After the judgment of Cassation Court criminal proceedings were instituted but that was dismissed after a while. The decision about termination of criminal case proceedings were appealed in all instances of the court but the complaint was refused by all of them.

