Republic of Armenia

NGO report on the implementation of the International Covenant on Civil and Political Rights in the Republic of Armenia in relation on the review of Armenia at the United Nations Human Rights Committee

The report was prepared with contribution from Armenian human rights organizations, which are members of the South Caucasus Network of Human Rights Defenders:

- Armenian Helsinki Association
- Asparez Journalists' Club
- Shahkhatun Women's Democracy Promotion NGO
- Public Information and Need of Knowledge NGO (PINK)

In cooperation with and with the support of the Human Rights House Foundation

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HUMAN RIGHTS VIOLATIONS IN THE CONTEXT OF THE MARCH 2008 EVENTS

1. Following the Presidential election of 19 February 2008, the opposition held nine days of round-the-clock demonstrations in Freedom Square accompanied by marches through the centre of Yerevan, in the Liberty Square.

2. The above mentioned protests were peaceful and legal. Protesters were women and men civilian manifestly non-violent and unarmed.

3. In the early hours of 1 March 2008, the police dispersed the protesters, alleging that they were conducting a search operation of weapons.

4. Police operations rapidly turn violent as protesters, many of whom were still asleep at the time, were brutally beaten and their tents destroyed by the police forces. Forced out of the square, protesters sought safe haven in the area near the French, Italian, and Russians Embassies.

5. Opposition supporters and other concerned citizens spontaneously gathered alongside the protestors. Simultaneously, individuals and groups with more dubious motivations also arrived in the area.

6. In the evening of 1 March, police and military forces surrounded the area. Clashes between protestors and police and military forces left 10 protestors killed, dozens of them physically injured and hundreds of them arrested. More than one hundred demonstrators were imprisoned for different periods of time, a dozens of them were prosecuted.

7. More than three years after the events of 1 March 2008, death circumstances of citizens remain unrevealed. Upon the suggestion of Thomas Hammerberg, Council of Europe Commissioner for Human Rights on 23 October 2008, the President of Armenia signed an order to establish a Fact-finding Group to examine the events of March 2008[1]. The Fact-finding Group provided results only for the death of one of the 10 victims, Hamlet Tadevosyan[2]. Details of the case and interviews of investigation witnesses and medical employees revealed obvious inconsistencies in the criminal procedure.

8. Relatives of killed 1 March protestors were recognized as assignees 5 months after the tragic events and action scenes were not examined.

9. In April 2010, human rights lawyer Artak Zeynalyan, the representative of assignees of 9 victims of 1 March 2008, appealed the inaction of the Special Investigation Service on the ground of failure to disclose anything related to the 1 March killings. A. Zaynalyan represented the claims of deceased Grigor Gevorgyan, Hovhannes Hovhannisyan, Samvel Harutyunyan, Tigran Abgaryan, Tigran Khachatryan, Armen Farmanyan, Gor Kloyan, Davit Petrosyan, Zakar Hovhannisyan, all of them killed on 1 March 2008. All national court instances have dismissed

[1] The Fact-finding Group was dissolved on the reason that there were disagreements between the members of the Group. In 2009, the Group presented its report, as well as reports of individual members.

[2] See: http://hahr.am/images/stories/cases/march1/TadevosyanEngTrans_May18.doc.

the appeal. Recently Artak Zeynalyan submitted a claim to the General Prosecutor's office in order to reactivate the Special Investigation Service. However, the claim was qualified as ungrounded and rejected.

10. Despite the report of the United Nations Special Rapporteur on the Situation of Human Rights Defenders[3], and the repeated demands of international organizations, including international NGOs and local human rights groups, for real investigation of the deaths and injuries resulting from the 1 March 2008 clashes between the protestors and the police and military forces, and the thorough study of allegations of ill-treatment and violations of due process, the Government asserts that satisfactory investigations into the allegations of police ill-treatment have already been completed. As an unresolved issue, this and other concerns including corruption, impartiality of the judiciary, lack of independence of the media and restrictions to freedom of assembly and association have formed the basis of a lingering resentment towards the authorities."[4]

11. With parliamentary and presidential elections on the horizon, there is serious reason to fear that the problem of politically motivated arbitrary detention and arrest may grow worse in the near future.

Arbitrary detention (Article 9 ICCPR)

12. In connection with the presidential election of 19 February 2008 and the demonstrations that followed, more than 100 supporters of the opposition candidates were arrested, dozens of whom spent more than a year in jail. The arrests of these people were regarded as politically motivated and their trials as flawed by local and international observers, as discussed below.

13. Although as of June 2011 they had all been released, for time served or as a result of two amnesties, their convictions still continue to stand. In addition, they have not received any financial compensation for their detention.

14. Starting on 1 March 2008 and continuing for the next week, thousands of people were interrogated, more than a hundred opposition leaders and activists were arrested, and as many more went into hiding. The political motivation of these arrests can be inferred from a 5 March directive of the Special Investigation Service addressed to the prosecutors of Vayots Dzor, Gegharkunik and Aragatsotn regions, the police, and the National Security Service (NSS) calling upon them to identify and question rally organizers and participants, with the aim of eliciting information on "any conversations at political rallies about foreign assistance, activists' perceptions about instability being advantageous to foreign agencies or states, and any talk of eliminating Russia's influence in the country."[5] The directive also called for:

- Gathering personal information on rally participants and their family members, including property, obtaining telephone numbers of local Ter-Petrosyan campaign officials along with permission to wiretap them;
- Obtaining copies of their passports;

[3] Report of the United Nations Special Rapporteur on the Situation of Human Rights Defenders on Armenia, 23 December 2010 (UN Doc.: A/HRC/16/44/Add.2).

[4] Report of the United Nations Special Rapporteur on the Situation of Human Rights Defenders on Armenia, para. 16.

[5] US State Department Country Report, Armenia, 2008

- Indentifying the drivers of the minibuses and taxis who had had transported people to Yerevan for the rallies, and finding out who had accompanied their passengers, who had paid their fares, and what they had said about the rallies.[6]

15. Arrests and detentions were accompanied by beatings, mistreatment, and procedural and substantive violations. At the same time, phones were tapped, houses were searched without warrants, and families were threatened and harassed. As documented in a report by Council of Europe Commissioner for Human Rights Thomas Hammarberg first published on 20 March 2008, people were routinely detained on the same charges regardless of their particular circumstances and actual involvement[7]: "The Prosecutors have applied standardized language in the charges against the arrested. The judges seemed not to have entered into a serious test of the charges, the legality of the apprehension and the proportionality of deprivation of liberty vis-à-vis the gravity of the crime."[8]

16. On 17 April 2008, in the first of several resolutions, the Parliamentary Assembly of the Council of Europe criticized the arrest and continuing detention of opposition supporters on seemingly artificial and politically motivated charges. In particular the resolution stated that "in the absence of adequate judicial control, the arrests and continuing detention of persons on seemingly artificial charges after contesting the fairness of the presidential elections or their participation in the protests after the elections could only point to the political motivation of such acts."[9]

Right to fair trial (Article 14 of ICCPR)

17. Those arrested during the March 2008 events were kept in detention and tried, and the trials almost always resulted in conviction. Hence, during his second fact-finding mission to Armenia on 20-22 November 2008, Commissioner Thomas Hammarberg characterized the prosecution of the opposition as "political vendetta" and told reporters, "I am critical about some of the trials that have already been concluded and about the preparation of the major case against the seven prisoners[10]… I have not so far seen any strong evidence which would make it possible for an independent court to sentence these seven for attempting to change power in this country with violence."[11]

18. The politically-motivated arrests were followed by investigations and trials that gave rise to serious doubts about their independence, impartiality, and fairness.

19. The Trial Monitoring Project conducted by the Office for Democratic Institutions and Human Rights (ODIHR) from April 2008 to July 2009 found serious shortcoming with regard to the right to liberty, presumption of innocence, equality of arms, the right not to be compelled to testify, the obligation to exclude unlawfully obtained evidence, the right to defense, excessive

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[6] Idem.

[7] Charges under Article 225(3) of the Criminal Code of the Republic of Armenia (organising mass disturbances accompanied by violence and possession or use of firearms or explosives that led to murder) and Article 316 of the Criminal Code (violence against a representative of authorities).

[8] See the follow up report on the special mission to Armenia on 12-15 March 2008 by the Council of Europe Commissioner for Human Rights Thomas Hammarberg.

[9] Council of Europe Parliamentary Assembly Resolution 1609.

[10] A reference to the "Case of Seven", which began as a joint trial of seven oppositionists including three MPs and Levon Ter-Petrosyan's campaign manager.

[11] See Radio Liberty: http://www.azatutyun.am/content/article/1598507.html.

application of sanctions for contempt of court, and judges' impartiality and professional conduct.[12]

Freedom of expression (Article 19, ICCPR)

20. During the run-up to the elections, journalists were beaten and arrested and the access to the press was limited. During the 20-day emergency rule, censorship was applied only to independent newspapers, online media and Radio Free Europe. Newspapers, such as *Chorrord Ishkhanutyun* and *Zhamanak Yerevan*, were closed. Access to online media was also limited, for example, *You-tube* was blocked[13].

[12] Trial Monitoring Project in Armenia (April 2008-June 2009), OSCE/ODIHR Final Report

[13] See: http://www.caucasusnetwork.org/admin/editor/uploads/files/pdf/World%20Press%20Freedom%20Day%20Statement.pdf.

PART II
MOST RECENT HUMAN RIGHTS VIOLATIONS IN THE REPUBLIC OF ARMENIA

Non-discrimination of LGBT people (Article 2 ICCPR)

21. Discrimination toward lesbian, gay, bisexual, and transgender (LGBT) people begins with the family. Discrimination toward LGBT people by family members manifests itself through breaking off all contact, kicking them out of the house and disowning them. Afterwards, discrimination continues in nearly all stages and facets of life: study and work, military service, healthcare and other services, media, entertainment, and so on. Cases of violating anonymity and confidentiality, which more often take place in establishments that provide healthcare services and psychological support, legal bodies or military, are not uncommon.

22. The more an individual's external appearance or the way he carries himself reveals his sexual orientation or gender identity, the more serious the level of discrimination can become. Discrimination can manifest itself not only through articulating offensive statements, but also by carrying out physical, sexual and psychological violence.

23. There is lack of trust towards professionals in different spheres, for example, healthcare, to overcome the situation, and LGBT people avoid seeking professional help (a fear of not preserving anonymity and confidentiality).

24. Neo-Nazi movement in Armenia are spreading hate and intolerance toward LGBT people, distributing flyers and disseminating heinous messages to the citizens, which content seek to reject homosexuality. Those movements promote also hate crimes and they have never been band by the Government or legal bodies.

Right to an effective remedy: Human Rights Obudsman of Armenia (Article 2 ICCPR)

25. Armenian civil society is concerned about the effectiveness of the Institute of the Human Rights Ombudsman of Armenia. Despite the fact that the national law provides for the mentioned Institute to consider complaints of individuals regarding human rights violations and fundamental freedoms in Armenia, its liabilities are limited undermining its effectiveness in practice.

Right to fair trial (Article 14 of ICCPR)

26. Concerns about judicial impartiality and prosecutorial bias were a focus of the Report of the United Nations Working Group on Arbitrary Detention on its September 2010 mission to Armenia. This report found that "problems of deprivation of liberty in Armenia are linked to the lack of independence of its magistrates and judges and the lack of impartiality of its prosecutors. Many judges fear that they would face retribution should they return an acquittal on sensitive cases… Judges are clearly perceived as being under the influence of prosecutors." The report stated that "violations of the right to a fair trial seem to be systematic and have distorted the role of judges and magistrates as impartial arbiters," and reiterated the need for fair trial

guarantees. [14] The Working Group also noted the targeting of opposition supporters, during the events of February-March 2008 and in the years since then, which raised concerns about the right to freedom of opinion and expression and the right to peaceful assembly and association, and it called for "improvement in the situation of those who wish to exercise these rights, particularly during significant milestones such as governmental elections."[15]

27. Harassment and detention of opposition supporters has continued, most recently with the case of Tigran Arakelyan and six other youth activists. Young opposition activist Tigran Arakelyan was arrested on 5 July 2009 by the Armenian Police based on a charge of hooliganism.

28. Recent cases show continuing shortcomings of judiciary system in the regions of Armenia.

29. Journalists' Club "Asparez" and Helsinki Assambly Vanadzor office sent 4 statements to State Chief Prosecutor concerning the limitation of freedom movement for people participating in meetings in Gyumri, Shirak region, and Vanadzor. By blocking their cars, police *de facto* hindered those people access to the protests.

Freedom of expression (Article 19, ICCPR)

30. In Armenia, there is an emerging tendency to use the legal system to silence independent media.

31. Notwithstanding the Government commitment at the Universal Periodic Review (UPR) to create an environment that fosters freedom of expression[16], TV channels and most of Internet based media remain until this date under Government control. Furthermore, Armenian authorities use harassment and intrusive application of bureaucratic measures to intimidate and retaliate against opposition activists and critical voices. In recent years, TV stations and radios became a central target and tool of public repression.

32. On 17 February 2011 Shirak region General Jurisdiction Court again decided to satisfy the claim of Gyumri Municipality against GALA TV company – to demount the latter's broadcasting antenna from the 55-meter TV tower belonging to the Municipality. Oddly, no case was initiated from the Municipality against numerous other antenna owners working on the same tower and who were acting without any legal contract. On 17 July 2011, Armenian Court of Cassation refused the claim of "CHAP" LTD -- the founder of the TV Company, according to which the verdict of RA Appeal Court taken on 26 April remains valid -- in favor of Gyumri Municipality.

33. A similar decision was taken earlier in 2008, then the Appeal Court left it valid, and the Court of Cassation overturned it. Thus, the Shirak region General Jurisdiction Court ignored the fact that in the license given to GALA TV company by National TV and Radio Commission the address of location of the TV tower is defined as the broadcasting point. According to this new

[14] Report of the Working Group on Arbitrary Detention on its mission to Armenia, 17 February 2011 (UN Doc.: A/HRC/16/47/Add.3).

[15] Idem, p .3.

[16] Recommendation made by Norway (recommendation 94.25, UN Doc: A/HRC/15/9, page 20).

decision GALA TV company has to demount its equipment from the city's old tower during 1 month[17].

34. In 2010-2011, 17 claims were submitted by Armenian Deputies against journalists and mass media professionals,. They demand to confiscate from 2 to 6 million drams from mass media and journalists in their favour as reimbursement for publicly insulting and slandering them. In the majority of these cases the claimers represent their own opinions and qualifications as such. Besides the above, they also demand the reimbursement of the Court expenses, which are equivalent to about from 3 to 6 million drams.

35. The TV company A1+ lost its broadcasting license in a controversial tender in 2002 and has been unable to regain it in the twelve consequent tenders ever since. A1 + has after this provided news online. After the March events in 2008, A1+ journalists have been hiding and the editor of A1+ has been questioned in the Armenian parliament concerning the credibility of the documentary videos, as the agency was among the few filming the violence of police and the army.

36. European Court of Human Rights decided in its ruling concerning refusal of broadcasting licenses of A1 + that the company's right to freedom of expression had been violated. However, the amendments of 10 September 2008 to the Armenian Law on Television and Radio, introducing a moratorium on the granting of broadcasting licenses until mid-2010 due to the planned digital switchover have further prevented the TV station A1+ from returning to air.

37. Smear campaigns against human rights defenders, including representatives from the member organizations of the South Caucasus Network of Human Rights Defenders, were carried out in 2010. Several political parties, pro-governmental organizations and mass media continue to call human rights defenders spies, agents and people who receive grants but do not use the funds properly.[18] The above obstruct the proper work and development of human rights defenders and put at risk the personal security and physical integrity of their members.

38. On 7 July 2010, the pro-governmental daily newspaper *Hayots Ashkharh* published an article referring to human rights defenders Melissa Brown, Nune Sargsyan, Mika Danielyan, Boris Navasardyan, Arthur Sakunts, Artak Zeynalyan, and others, as grant takers*:* "It became clear that in our country 'civil society' starts and ends with grantee organizations, activists of radical opposition and agents of Ter-Petrosyan". "Of course, we don't know by whom and how these representatives of the 'civil society' had been chosen, however, the reality is that these personalities, with their antinational activities, have not the first but the last places in our society".

39. On 13 December 2010 unknown people broke in to the office of Artak Zeynalyan, a human rights lawyer and coordinator of the NGO Jurists against Torture, which is a member organization of the South Caucasus Network of Human Rights Defenders. Unknown people entered the office, broke the locks of the shelves where important documents were kept. They took the computer monitor and the device that unlocks the satellite TV channels. On 10 January 2011, Artak Zeynalyan's office had been attacked again. Artak Zeynalyan has defended more than nine political prisoners in the courts of the Republic of Armenia and in European Court of Human Rights.

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[17] See: http://khosq.am/2011/07/2268; http://asparez.am/news/news2011feb/18.02.2011-galatv.htm.

[18] See also Report the United Nations Special Rapporteur on the Situation of Human Rights Defenders on Armenia, para. 56.

40. In the country report of the Special Rapporteur on the Situation of Human Rights Defenders on Armenia, the attacks on journalists in 2009 and 2010 are mentioned as a particular concern. The report also takes note of the police and the judiciary failing to investigate these incidents and to bring the perpetrators to justice.

41. The above-mentioned cases illustrate the new emerging trend to use media in order to discredit and suppress human rights defenders critical to the Armenian authorities.

Right of peaceful assembly (Article 21, ICCPR)

42. Since March 2008, public gatherings continue to be restricted. In her report, the United Nations Special Rapporteur on the Situation of Human Rights Defenders noted that "indoor gatherings have been hindered since March 2008, and the difficulties experienced by NGOs in renting meeting space appear to be systematic. Many NGOs attempting to organize events in venues such as hotel conference rooms have been refused due to unavailability. In the year 2009 alone, five such instances were reported to the Special Rapporteur. The justification was that owners of such conferences halls in Yerevan have allegedly been reluctant to rent out their facilities to avoid any problems. However, it was reported that hotel employees had to get approval from the State for each request for hall rental made by certain organizations."[19]

43. Shahkhatun Women's Democracy Promotion NGO, which mostly focuses on the problem of political prisoners in Armenia, systematically faces such problems, as well as Public Information and Need of Knowledge NGO (PINK) -- a local NGO that focuses on LGBT rights. In April 2010, unidentified individuals broke into PINK's office.

44. On 8, 10, 15, 16 and 17 February 2011, actions of protest against the Customs Legislation were organized by more than 450 people from Shirak and Lori regions, who held peaceful meetings and marches of protest in the cities of Gyumri and Vanadzor.

45. The authorities knowing that on 8 and 10 February activists who own cars with Georgian registration numbers are planning to gather in the Conference Hall of Journalists' Club Asparez in Gyumri to work out the activities and organize a press conference, blocked access to 16 districts (1 sq. km) to Georgian cars. To implement this massive measure, authorities counted with the assistance of about 200 policemen. Only cars with Georgian registration numbers were stopped, Police allowed all other cars to pass. Police force explained that the measure was implemented to prevent incidents from alleged deficient gas balloons in the cars with Georgian registration numbers. According to the Police, these could explode when exposed to ice and cold weather. However, policemen did not check any car boot[20].

46. On 16 February 2011, near the village of Jajur at 10 kilometres from Gyumri, the police blocked cars with of activists from Vanadzor to Gyumri that were going to Gyumri to participate in protest actions.[21] "I think the police did this intentionally so that the drivers wouldn't be able

[19] Report the United Nations Special Rapporteur on the Situation of Human Rights Defenders on Armenia, para. 78.

[20] See: http://asparez.am/news/news2011feb/10.02.2011-gyumri-drivers-2.htm, http://asparez.am/news/news2011feb/08.02.2011-gyumri-drivers.htm and http://asparez.am/news/news2011feb/11.02.2011-jcastatement.htm.

[21] See: http://asparez.am/news/news2011feb/16.02.2011-drivers-6.htm.

to make it to Vanadzor and participate in the protest," said Levon Barseghyan chairperson of the Journalists' Club "Asparez".[22]

47. On 17 February 2011, about 150 policemen blocked Gyumri central Sayat-Nova Avenue from all sides, blocking 6 cars and minibuses with Georgian registration numbers, as well as one car with Armenian registration numbers – the car of the Council chairperson of Journalists' Club "Asparez". These people were going to Yerevan to hold a protest march with 40-50 participants in front of the Government Building during the Session of the Government. The policemen not only illegally blocked them, but also in fact non-officially seized their cars for more than 10 hours. No official explanation was given to the drivers, to the citizens leaving for protests.[23]

Freedom of association (Article 22 of ICCPR)

48. On 5 August 2010 the Government of Armenia adopted its decision establishing the Department of Control over Illegality of Activities of Non-Commercial Organizations, clearly aiming for control over Non Governmental Organisations. It is considered be a part of efforts of the Armenian authorities to increase control over civil society. Further alarming draft amendments to the Law on Non-Governmental Organizations of the Republic of Armenia, have been submitted in 2009 and criticized by local NGOs in 2010. Although the amendments have not been approved yet, they show the attempts of increasing legal pressure built up against civil society.

[22] See: http://www.a1plus.am/en/social/2011/02/15/gyumri.

[23] See: http://asparez.am/news/news2011feb/18.02.2011-drivers-7.htm and http://asparez.am/news/news2011feb/18.02.2011-drivers-7-eng.htm.