

ARMENIA

Further allegations of ill-treatment in detention

Introduction

A year ago Amnesty International issued two documents detailing the organization's concerns about allegations of ill-treatment and beatings in custody in Armenia. The reports also covered claims that several opposition journalists, lawyers and members of religious minorities had been physically assaulted by persons whom they strongly believed had links with official structures, and in incidents which they felt had not been sufficiently rigorously investigated by the police.¹

Since then Amnesty International has received no substantive response to its repeated expressions of concern, and the organization also greatly regrets that further allegations of ill-treatment have come to light. This paper examines developments since the organization's previous two publications.

The United Nations Committee against Torture

The Armenian Constitution prohibits the use of torture, and Armenia is a party to a number of international human rights treaties which also outlaw such practices. One of these is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), to which Armenia acceded on 13 September 1993. The Convention against Torture prohibits torture in all circumstances. It obliges States Parties to make torture a punishable offence and provides for universal jurisdiction over alleged torturers. It forbids the return of people to countries where they would risk being tortured, it insists that victims of torture are entitled to compensation and rehabilitation, and it prohibits the use as evidence in court of confessions or statements extracted under duress.

Implementation of the Convention against Torture is monitored by a body of independent experts, the United Nations Committee against Torture, which examines periodic reports from States Parties about the measures they have taken to implement the convention.

In April 1996 the Committee against Torture examined Armenia's Initial Report under this convention.² The committee noted positive aspects, such as the integration of prohibitions against torture into the new Constitution adopted last year, but recommended among other things that torture be mentioned in penal law as a crime in itself, and that it be clearly defined; that measures should be taken to guarantee that persons could not be expelled or extradited to other states where they were in danger of being subjected to torture; and that the authorities should investigate and report back on allegations of ill-treatment of detainees. Members of the Committee had raised Amnesty International's reports of such allegations at the session and, although these were denied by the Armenian delegation, the Committee recommended that they should receive a report back after a due investigation of the claims.³

¹ See *Armenia: Comments on the Initial Report submitted to the United Nations Committee against Torture*, AI Index: EUR 54/04/95 of October 1995, and *Armenia: Allegations of ill-treatment - an update*, AI Index: EUR 54/05/96 of November 1995.

² The examination was initially set to take place in November 1995, but was postponed to the following session.

³ UN Press Releases HR/CAT/96/04 and HR/CAT/96/05 of 30 April 1996.

Amnesty International hopes that the Armenian authorities will act fully on all of the Committee's recommendations, and has requested a copy of any report prepared for the Committee detailing the procedures undertaken to investigate the allegations of ill-treatment raised at the session.

Official reluctance to investigate comprehensively allegations of ill-treatment

In spite of the recommendations of the Committee against Torture, it appears that the Armenian authorities are continuing to show great reluctance to conduct prompt, impartial and comprehensive investigations into all allegations of torture or ill-treatment in custody (as required, for example, under Articles 12 and 13 of the Convention against Torture).⁴ In addition, it appears that testimony allegedly obtained under duress has not been excluded as evidence in court (in violation of Armenian criminal procedure and of Article 15 of the Convention against Torture).⁵

Allegations of ill-treatment in political trials⁶

Amnesty International has already reported several times, for example, on its concerns about claims that beatings were used to extract confessions in the so-called "Dro" case (known officially as case No. 62200395), in which 11 men are currently on trial in connection with their alleged membership of a

⁴ Article 12 states that: "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction." Article 13 states: "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." Article 16, which prohibits cruel, inhuman or degrading treatment or punishment, makes it clear that the obligations under Articles 12 and 13 also apply to such treatment.

⁵ Article 15 of the Convention against Torture states that: "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

⁶ Amnesty International uses a broad interpretation of the term "political prisoner" so as to cover all cases with a significant political element, for example criminal offences committed with a political motive or within a clear political context. Amnesty International does not call for the release of all political prisoners within this definition, nor does it call on governments to give political prisoners special considerations. Governments are, however, obliged to ensure they receive a fair trial in line with international standards, and Amnesty International opposes the use of torture and the death penalty in all cases - both political and criminal - without reservation.

clandestine terrorist group within the opposition Armenian Revolutionary Federation (ARF) party.⁷ On 9 April 1996 the prosecution completed its case by calling for the death penalty for four of the men - Arsen Artsruni, Armenak Mnjoyan, Armenak Zakarian and Armen Grigorian - but the trial had not been completed at the time of writing.

Similar claims of ill-treatment have also come to light since the opening on 5 March 1996 of the trial of a senior member of the ARF, Vahan Hovanesian, and 30 others accused of attempting to stage an armed coup. Charges range from illegal possession of firearms to treason, which carries a possible death sentence. As in the "Dro" case, the defendants have alleged they were beaten or otherwise placed under physical and mental duress to sign confessions, and that they have been denied full and proper access to a defence lawyer of their own choice, especially in pre-trial detention. Manvel Yeghiazarian, for example, alleges that he was assaulted during his arrest on the night of 29 to 30 July 1995, and was interrogated immediately after he had been taken to a prison hospital suffering from concussion, bruising, and fractured ribs. He also claimed that his wife and children had been assaulted by law enforcement officials.⁸ Ashot Avetisian repudiated all his statements made during the preliminary investigation of the case, stating that they had been made under extreme physical and psychological duress. It is claimed that he was beaten with metal rods and subjected to electric shocks, and that six of his relatives were detained in order to put pressure on him to confess.⁹ Others, such as Gagik Karapetian, allege that pressure was exerted on them via threats to their families, and have also retracted their previous testimony.¹⁰ In Vahan Hovanesian's case his lawyer reported that between August and October last year she had only been able to meet her client three times, and never in private.¹¹

Amnesty International is not aware of any prompt, comprehensive and impartial investigations of any of these complaints and reports of ill-treatment which have been made public. In addition, to Amnesty International's knowledge no statements signed by the defendants, which they allege were made under duress, have been excluded from trial proceedings in either case. The organization is continuing to urge the authorities to ensure that the defendants receive a fair trial in line with international standards, and that all allegations of ill-treatment are subject to prompt, comprehensive and impartial investigation, including an examination by a medical professional. Such investigations are of special importance when defendants face a possible death sentence if convicted.

⁷ See for example AI Index: EUR 54/05/95.

⁸ *Asbarez-on-line*, 7 May 1996.

⁹ *Asbarez-on-line*, 28 May and 5 June 1996.

¹⁰ *Asbarez-on-line*, 8 July 1996.

¹¹ Interview with Amnesty International delegates, October 1995.

Allegations of ill-treatment in the army

Among the allegations that Amnesty International has continued to receive are reports that army conscripts have been beaten by, at the instigation of, or with the knowledge of, superior officers. Usually such allegations, including claims that conscripts have been beaten to death or have died as a result of lack of basic medical care following beatings, have been generalized. Many alleged victims apparently fear reprisals, or have no faith in the authorities to conduct an impartial, or any, investigation.

One specific incident which was publicized in detail earlier this year, however, concerned a young man named Amayak Oganessian, who was called up into the army on 1 May 1995.¹² According to his father, Vardazdat Oganessian, the ill-treatment began after the new recruits had taken the military oath (following 45 days' initial training) and had been assigned to a unit. There a sergeant, whom he named, is said to have verbally abused his son, inflicted a knife wound to the area of his ribs and hit him around the head with a spade. Amayak Oganessian, according to the account, was not taken to the medical unit and instead the threat was made that "if you complain we'll blow you up on a mine". A group of soldiers is said to have beaten Amayak Oganessian at the instigation of the sergeant at least twice over the following days, to the point where he lost consciousness. Eventually he was removed when the company commander, a former neighbour, became aware of events and Amayak Oganessian was transferred to hospital.

There, a medical attendant is said to have beaten Amayak Oganessian when the latter was too weak to perform cleaning tasks required of him in the ward. Two days later Amayak Oganessian was reportedly further beaten with sticks and an iron when he refused another soldier's demand for his clothes. He was eventually transferred to a civilian hospital in Yerevan, the capital, where he was diagnosed as suffering from lymphosarcoma and eventually discharged from the army.

Vardazdat Oganessian reports that he made his first complaint regarding his son's ill-treatment to the Chief Military Prosecutor of Armenia on 18 August 1995 and was informed that the complaint had been passed to the military prosecutor of the Zangezur district. No response from them was forthcoming; Vardazdat Oganessian was told by the central authorities that they had no communications with Zangezur and that he would have to travel there himself for a reply. On 30 October 1995 Vardazdat Oganessian approached the Minister of Defence, but subsequently received only a verbal response from the director of the ministry's medical department that there was no documentation available on the case. Still lacking any substantive response, on 4 March 1996 Vardazdat Oganessian appealed to the Procurator General to intervene, but no further significant developments are known at the time of writing.

Amnesty International has written to the authorities urging a swift, thorough and comprehensive investigation into the allegations, with the results made public and that any alleged perpetrators identified be brought to justice.

¹² Article by Mikael Danielyan in *Express Khronika*, 15 March 1996.

The death in custody of Rudik Vartanian

One case in which moves have been made to bring alleged perpetrators of ill-treatment to justice is that of Rudik Vartanian, who died aged 21 on 21 January 1993 while in police custody.¹³ Two police officers were eventually each sentenced to six years' imprisonment earlier this year in connection with his death. Unofficial sources allege, however, that the authorities were dilatory in pursuing the prosecution, whose continuance owed more to the tenacity of Rudik Vartanian's relatives. Rudik Vartanian's parents were also said to have received threatening telephone calls and offers of money to persuade them to drop their campaigning efforts in the case.¹⁴

Rudik Vartanian had been detained early in the morning of 21 January by police investigating a theft, and been taken to Spandaryansky district police station. There he was allegedly beaten by seven police officers using chairs, batons and other objects. He subsequently died of his injuries, including three fractures to the skull said to have been inflicted with a blunt instrument.

Two officers from the police station, Samvel Dzhaginian and Artur Atabekian, were initially charged with premeditated murder, although at their trial in late 1993 the judge sent the case back for further investigation on the grounds of insufficient evidence. A different charge of negligence was then brought: it was alleged that the officers had not taken sufficient care to ensure that Rudik Vartanian was properly guarded, and that he sustained his injuries after falling during a resulting escape attempt. The case on this charge was also sent back for reinvestigation by the court.

After various developments the two officers finally stood trial beginning on 30 January 1996, charged once more with murder (Article 99 part 6 of the Armenian Criminal Code) and exceeding their authority (Article 183 part 2). On 29 March the court once again sent back the case under the charge of murder for further investigation, but convicted the two of the latter charge.

Allegations of widespread beatings following the September 1996 presidential elections

The most recent wave of ill-treatment allegations followed events at the end of September, when opposition protests over disputed elections to the presidency of Armenia turned violent and a number of people were detained.

The main contestants in the election held on 22 September were the incumbent, President Levon Ter-Petrosyan, and Vazgen Manukian of the National Democratic Union (NDU). Vazgen Manukian's supporters alleged irregularities in both the voting procedures and the subsequent count, and disputed the official results which gave President Ter-Petrosyan some 52 per cent of the vote -

¹³ See AI Index: EUR 54/05/95.

¹⁴ "Murder or exceeding one's authority?", article by Mikael Danielyan in *Express Khronika*, No. 14, 1996.

sufficient for outright re-election, avoiding a second round - as opposed to 41 per cent for Vazgen Manukian (observers from the Organization for Security and Co-operation in Europe were also among those to voice concern that the election had been marred by irregularities which could affect the outcome of the vote¹⁵).

In the days following the election tens of thousands of people gathered in Yerevan in protest at the results. On 25 September events turned violent when sections of a crowd gathered outside the National Assembly (parliament) building, which also houses the Central Electoral Committee, launched an apparently spontaneous attempt to storm the premises after it was assumed, mistakenly, that Vazgen Manukian had been arrested. Riot police responded with water cannons and fired over the heads of the crowd. According to official figures 59 people were injured in the fighting, including the speaker of parliament, Babken Araktsian, and his deputy, Ara Sahakian, who were beaten by elements in the crowd and subsequently hospitalized with concussion.

Large numbers of people were detained, mainly briefly, following the violence. Unofficial sources speak of over 100 people picked up, frequently, it is claimed, because of their known or perceived political views rather than any direct connection to the events at the parliament building.¹⁶ Tens of people are said to have been beaten or otherwise ill-treated during their detention, or while in the custody of law enforcement officials.

For example, several people were reportedly beaten and a number of them detained on 26 September when uniformed men entered the building housing the premises of the opposition National Self-Determination Union (NDSU) in Yerevan. A *Reuters* television producer reports that she saw armed people in camouflage dress break into the building, and drag people out while punching and kicking them: at least seven severely beaten men were taken away in a police van.¹⁷ Inside the building four women were said to have been among those attacked by the uniformed men. Garine Stepanian, President of the ASDA Children's Fund¹⁸ which has offices next to the NDSU headquarters, describes the events as follows:

¹⁵ The final report of the OSCE on the elections concluded "... discrepancies between the number of voters who signed and received ballot papers and the number of voter coupons in the official results, along with the breaches in the law cited throughout this report, can only contribute to a lack of confidence in the integrity of the overall election process. The results of the first round of balloting could even be questioned until a thorough review and assessment of the irregularities and discrepancies are conducted".

¹⁶ On 18 October 1996 the non-governmental Armenian Council for the Defence of Political Prisoners issued a list compiled from their own research of 108 people detained at some point after the events of 25 September. In 20 of the cases for which details were available it is alleged that the person had been beaten.

¹⁷ *Reuters*, 26 September and 30 September 1996.

¹⁸ ASDA Children's Fund is a charity founded by members of the NDSU.

“...uniformed troops, suddenly and without warning or provocation, entered our headquarters...and proceeded to ransack the premises, to confiscate all vehicles, equipment, files and supplies, and to break into the safe containing our funds for distribution to our ‘children without parents’.

“President Garine Stepanian and staff members Ina Konstanian, Sophia Neshanian and Anahid Garabedian were beaten with rifle butts and soldiers’ boots when they tried to object to the attack. We were bruised and terrified, but our injuries did not require hospitalization. We were in shock...Men in the vicinity and members of the NDSU who came to our defence were beaten mercilessly and hauled off to prison by the troops.”¹⁹

Also among those who report that they were beaten at the NDSU premises that day was member of parliament Aramazd Zakarian. He describes how soon after he entered the building on 26 September he was attacked by a group of armed men who began punching him and beating him with batons. He was detained, and alleges that he was again beaten while in police custody. Aramazd Zakarian was held for two days before being transferred to hospital with injuries said to include a fractured skull, a broken rib and facial lacerations.²⁰

Other opposition members of parliament are also said to have suffered ill-treatment. David Vardanian, a member of the NDU who was detained at 4am on 26 September, was reportedly beaten severely at the 6th Department of the Armenian Ministry of Internal Affairs before being transferred the following day to the Ministry of National Security. Ruben Akopian, a member of parliament from the suspended ARF, was detained on 25 September at the National Assembly building. There he was reportedly kicked and beaten with gun butts to the point of unconsciousness by officials who detained him until a parliamentary session the next day which stripped him, and seven other opposition members of parliament, of their deputy’s immunity. Ruben Akopian’s lawyer later reported seeing numerous bruises, cuts and other injuries on his client’s body. At the 26 September parliamentary session, which was televised, fellow members of parliament could be seen assaulting Shavarsh Kocharian, a member of the NDU. On 9 October the National Assembly issued a statement condemning such behaviour (along with the storming of parliament and the beating of the parliamentary speaker and his deputy)²¹, but a month after the 26 September parliamentary session the Prosecutor General of Armenia is reported to have confirmed that no criminal proceedings had yet been instituted with regard to the assaults there.²² Ruben Akopian and Shavarsh Kocharian were subsequently held at the Ministry of National Security before being released after 17 and 15 days respectively.²³

¹⁹ ASDA announcement, 10 October 1996.

²⁰ *Reuters*, 30 September 1996.

²¹ “At the same time the National Assembly condemns the actions of some of the NA members in relation to some of the members of the opposition, manifested during the September 26 emergency session of the NA, which does not befit their high status as a member of the NA and lowers the image of the parliament”, as reported by *Noyan Tapan*, issue 135, 17 October 1996.

²² *Asbarez-on-line*, 25 October 1996.

²³ Various sources, including the Armenian Council for the Defence of Political Prisoners.

Other political activists in addition to opposition members of parliament have been detained and reportedly ill-treated following the September events. Gagik Mkrtchyan, for example, a reporter with the opposition Russian-language newspaper *Golos Armenii (Voice of Armenia)* and a leading member of the suspended ARF, was said to have been severely beaten during the first of his 10 days in detention. He was arrested at around 4am on 26 September and taken to the 6th Department of the Ministry of Internal Affairs. Interviewed on 15 October by *Reporters sans Frontiers* (a non-governmental organization campaigning against human rights violations of journalists), Gagik Mkrtchian said he offered no resistance when detained by Interior Ministry employees who did not produce a warrant, and describes his treatment at the 6th Department as follows:

“Those four at the Ministry at first did not recognize me but when told who I am they grew extremely furious and aggressive. ‘Aha’, they said, ‘You are that Gagik Mkrtchian from *Golos* that we are sick and tired of. Finally you have got into our hands.’ After that they assaulted me and began to severely beat me. I do not want to tell you the horrifying details of this beating. I just want to emphasize that, according to what they said, they were beating me for being a journalist, for my articles...I was beaten for being a journalist...and that was emphasized several times. About the severity of beating I will say only the following. When I was subsequently taken to the prison cell in the Ministry of National Security for the first five days I could neither lie nor move nor even sit properly. I just sat in a semirecumbent position leaning against the table.”

Gagik Mkrtchian was subsequently transferred to the Ministry of National Security, where he reports that he was treated correctly.²⁴

In some cases senior members of law enforcement agencies were said to have been present during ill-treatment, and even to have carried out some beatings themselves.

On 26 September Amnesty International approached the Armenian authorities with its concerns about the reports of beatings and ill-treatment, but at the time of writing had not received any response regarding what investigations, if any, had been instituted into these and other allegations of ill-treatment. Amnesty International emphasized that it did not dispute the right of law enforcement agencies to take all legitimate measures to maintain and restore public order, nor, of course, did it oppose all legal efforts to bring to justice those suspected of committing a recognizably criminal offence. However, Amnesty International was deeply concerned about the numerous reports of ill-treatment in detention and urged prompt, impartial and comprehensive investigation of allegations of ill-treatment by law enforcement officials. In the context of its ongoing concerns about ill-treatment Amnesty International is also calling on the Armenian authorities to:

C inform all detainees of their rights, including the right to complain to the authorities about ill-treatment;

²⁴ A year previously Gagik Mkrtchian had been assaulted by persons unknown in the entrance to his apartment block, in an attack during which nothing was stolen and which the police seemed reluctant to investigate. See the Amnesty International report *Armenia - Allegations of ill-treatment: an update*, AI Index: EUR 54/05/95.

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- C *ensure that detainees under interrogation are informed promptly of the charge or charges against them, and that they are allowed prompt and regular access to a lawyer of their own choice, as well as to relatives and a medical practitioner;*
 - C *conduct prompt and impartial investigations of all complaints of torture or ill-treatment of detainees, as well as when there are reasonable grounds to believe that torture or ill-treatment has occurred even if no complaint has been made;*
 - C *as part of such investigations, ensure prompt, impartial and professional medical examinations of persons alleging torture or who may have been tortured;*
 - C *bring those responsible for torture or ill-treatment of detainees to justice in the courts;*
 - C *ensure that every victim of torture has access to the means of obtaining redress and an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible;²⁵*
 - C *ensure that information regarding the absolute prohibition against the use of torture and ill-treatment is fully included in the training of law enforcement personnel and other persons who may be involved in the custody, interrogation and treatment of any individual subjected to any form of arrest, detention or imprisonment;²⁶*
 - C *establish an effective system of independent inspection of all place of detention;*

Charges brought in connection with the events of 25 September 1996

As stated above, Amnesty International does not dispute the right of law enforcement agencies to take all legitimate measures to bring to justice those suspected of committing a recognizably criminal offence. However, the organization is concerned about allegations that the criminal proceedings instituted against some of those detained and subsequently charged may have been brought out of purely political, rather than legitimate law and order, considerations. Some of those detained are said to have been penalized by administrative arrest of up to 15 days' imprisonment (administrative arrest is a sanction for minor violations, and is imposed by a single judge based on materials presented by the police, without the participation of defence lawyer). Others, many of whom were subsequently released on bail, have been charged with more serious criminal offences such as state treason (Article 59 of the Armenian Criminal Code), attempted terrorist act (Article 61), calling for the violent overthrow or change of the state and social order (Article 65) and mass disorders (Article 74). The first two of these carry a possible death sentence on conviction.

Amnesty International is also concerned, especially in the light of the allegations outlined above in the "Dro" and Hovanessian trials, about issues of fair trial in line with international standards in relation to these latest detentions. In its previous two documents, for example, Amnesty International had

²⁵ Article 16 of the Convention against Torture states: "Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible."

²⁶ Article 10 of the Convention against Torture states: "Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment."

highlighted concern about the lack of prompt access to a lawyer of the defendant's own choice. The right to such access is guaranteed under international standards,²⁷ while denial of prompt access to relatives, a lawyer or an independent doctor is identified as one of the "preconditions" which can make torture or ill-treatment possible.²⁸ In at least two cases of those detained after 25 September it is alleged that there were delays in obtaining access to a defence lawyer. David Vardanian's lawyer, for example, is said to have been present during his client's first interrogation, but then denied permission to see him from 30 September until David Vardanian's release on 13 October. Ruben Akopian's lawyer also stated on 8 October that he had been unable to meet his client since 30 September (Ruben Akopian was released on 12 October). Access to a defence lawyer is of special importance in cases such as these, when both men have been charged with offences which carry a possible death sentence.²⁹

Amnesty International is seeking further information on the charge or charges against a number of those people detained following the events of 25 September, and the background to their detention, and will regard any people imprisoned solely for the non-violent exercise of their human rights as prisoners of conscience. The organization is also calling on the authorities to ensure that all detained are granted prompt and appropriate access to a defence lawyer of his or her own choice, and that any person brought to trial receives a fair trial in line with international standards.

²⁷ See for example Article 14 of the International Covenant on Civil and Political Rights, to which Armenia is party.

²⁸ See Amnesty International, *Torture in the Eighties* (AI Index: ACT 04/01/84).

²⁹ Both are said to have been charged under Articles 59, 61 and 74 of the Criminal Code.