

Armenia¹

IHF FOCUS: elections and referenda; freedom of expression and the media; peaceful assembly; fair trial and detainees' rights; torture, ill-treatment and police misconduct; prisons and detention facilities; religious freedom; conscientious objection; death penalty; homosexuals' rights; human rights defenders.

In 2003 Armenia adopted several important national laws and ratified a number of international legal documents in line with its commitments as member of the Council of Europe. The laws adopted included the new Criminal Code as well as laws "On the Ombudsman," "On Alternative Service" and "On the Mass Media." Armenia ratified, among other, Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty.²

Between 20 and 24 August, Ren? Andr? (France) and Jerzy Jaskiernia (Poland), members of the Council of Europe Committee on the Honoring of Obligations and Commitments by Member States, visited Armenia and a report was published on 12 January 2004.³ Despite the Committee's positive assessment regarding Armenia's adoption of several laws, the report also states: "...the Monitoring Committee cannot but express its profound disappointment at the conduct of the presidential and parliamentary elections held in 2003 which gave rise to serious irregularities and massive fraud. The Monitoring Committee also expects further substantial progress as regards the functioning of the judicial system and the independence of the judiciary, the situation in Armenian prisons and the conditions of detention, the misconduct of law enforcement officials, freedom of demonstration, the revision of the Administrative Code, the revision of the Electoral Code, media pluralism, increased local self-government, the fight against corruption, and the respect of religious freedom."

In 2003 there was no progress over the settlement of the Nagorno-Karabakh conflict. Moreover, more than ten people died in clashes during July and August. Continuance of the conflict allowed the Armenian authorities, in violation of national legislation, to conscript Armenian citizens for military service in Nagorno Karabakh and also in the occupied territories.

On 9 April, Robert Kocharyan was elected president for a second term in elections that fell seriously short of international standards.

The killing on 28 December 2002 of Tigran Naghdalyan, chairman of the Board of Directors of Armenian public television and radio, triggered a wave of mass arrests of members of the opposition parties in the first half of 2003. The appellate court concluded judicial hearings as early as January 2004. This was in striking contrast to the slow pace of judicial proceedings which followed the 27 October 1999 incident when terrorists seized the Armenian parliament building, killing several people. On 5 March the day of the presidential election run-off, it was announced that the killer of Tigran Naghdalyan had been disclosed. Opposition leader Armen Sargisyan (of the Republic Party and brother of former Prime Minister Vasgen Sargisyan, killed during the 1999 attack on parliament) was charged on 15 March for "complicity in a deliberate murder with aggravated circumstances." Later the man who had carried out the assassination claimed that he had been tortured during the investigation in order to place Armen Sargisyan and several other opposition figures such as Artashes Geghamyan, Stepan Demirchyan, Albert Bazeyan and Aram Sargisyan in connection with the murder.

Xenophobic and anti-Semitic acts by members of the Armenian Revolutionary Federation Dashnaksutyun (ARF, a National Socialist oriented party) continued. On 22 April, members of its students union staged an anti-Turkish demonstration at the 2nd international cinema festival where a

¹ Based on the *Annual Report 2003* of the Armenian Helsinki Association.

² In addition, Armenia ratified the Second Additional Protocol to the European Convention on Extradition; the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and an Additional Protocol to it; the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; and Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation.

³ PACE, Document No. 10027, *Honouring of obligations and commitments by Armenia*, at <http://assembly.coe.int/Documents/WorkingDocs/Doc04/EDOC10027.htm>

Turkish film was scheduled to be screened. Two days later, the same group conducted a torchlight procession dedicated to the 88th anniversary of the genocide of the Armenians in the Osman Empire in 1915. Before the beginning of the procession a Turkish flag, with the six-point David star drawn on it, was publicly burned.

On 24 February, after the first round of the presidential elections, the Armenian Helsinki Association appealed to the OSCE, the Council of Europe, the US Congress and State Department stating: “The Helsinki Association has repeatedly accused Armenian authorities of pursuing a policy that runs counter to the internationally accepted norms regarding human rights and fundamental freedoms, warning the world community that the application of double standards towards Armenia could lead to unpredictable consequences.” It called upon the international community to urge Armenian authorities to fulfill their obligations undertaken upon accession to the Council of Europe, as well as those in international instruments to which Armenia is party.

Elections and Referenda

On 19 February and 5 March, presidential elections were held in Armenia, and on 25 May there were parliamentary elections as well as a referendum on constitutional amendments. The election process was regulated by the Constitution, and a number of laws and legal acts, which in general prescribed the holding of elections according to international standards. The National Democratic Institute (NDI, USA) stated that the Armenian election law was satisfactory for democratic elections, although there was still room for further improvement.⁴

Both elections were observed by local⁵ and international observers, including the International Observation Mission (IOM) composed of the OSCE/ODIHR, the Council of Europe Parliamentary Assembly (PACE) and the European Union. The PACE noted: “...the Assembly cannot but express its profound disappointment at the conduct of the elections - the presidential elections in February and March 2003 and the parliamentary elections in May 2003— which gave rise to serious irregularities and massive fraud and led the international observers to conclude that the electoral process as a whole had not complied with international standards.”⁶ Both OSCE/ODIHR and PACE criticized the tabulation process of the presidential vote as fully incompatible with international standards.

During the election campaigns leading up to both the presidential and parliamentary elections, all state and public resources were mobilized in favor of the incumbent president and pro-governmental parties. State and local officials worked virtually as election campaigners during their working hours and used all infrastructures at their disposal (buildings, vehicles, communication techniques, etc.) to promote the incumbent president and the parties in power, and public sector employees throughout the republic were sent to meetings in support of them.

The 2003 elections were preceded by the closure of two independent TV stations and the assassination of the chairman of the Board of Directors of Armenian public radio and television, incidents that led to self-censorship of journalists. As a result, the electronic media failed to cover the campaigning in an objective and unbiased manner. While public TV granted to all candidates equal promotional time for free, its news bulletins and other more analytical programs clearly served as propaganda in favor of incumbent president and pro-governmental parties. Paid pre-election advertising on private electronic media cost as much as €8 per minute.⁷

⁴ Preliminary statement of the international observation mission of the National Democracy Institute (NDI) of the United States on May 25 2003 Parliamentary Elections in Armenia, 25 May 2003.

⁵ Thirty-one local NGOs applied for the right to observe the elections and referenda, 29 of them were granted permission.

⁶ PACE, op.cit.

⁷ See also the section on Freedom of the Media.

Presidential Elections

During the presidential vote international and local observers recorded the following irregularities: ballot stuffing,⁸ multiple voting, bribing voters at polling-station and casting a ballot for persons who were ineligible to vote. They observed buses bearing state registration plates in which people were transported from one polling-station to another in order to cast votes several times for the incumbent president. They were reportedly paid 3,000-5,000 Armenian drams (€4-7) for each vote cast. In addition, military personnel filled in their ballot papers outside booths or in them but accompanied by officers. Moreover, even the final statistics made public by the Central Electoral Commission on 31 May revealed inconsistencies: for example, according to them the number of voters who signed the registers in the polling stations was 1,233,757, but the number of cast ballots was 1,234,925.

Some violent incidents occurred during the election campaigns and on the day of polling. For example, on 4 February, a violent mob attacked campaign officers of the presidential candidate Aram Karapetyan in Artashat (Ararat region) and stabbed one of them while police remained inactive. In the village of Shaumyan in the 24th constituency (Ararat region), a local criminal shot at people gathered at the polling station, killing one and wounding three. A ballot box was stolen, allegedly at the order of the village chief, at the polling station of the 29th constituency (Armavir region) where an international election observer was also beaten. In Yerevan, police raided apartments of an activist of the Republic Party, Abram Karapetyan. As he was not home, police took his daughter with them and held her until her father appeared.

One opposition candidate, Raffi Hovhannisyan, was rejected registration as a presidential candidate on the basis of article 50 of the Constitution because he was not an Armenian citizen even though he had been residing in Armenia for ten years. At the same time, however, the incumbent president and another candidate, Aram Karapetyan, were registered in violation of the same article.⁹

From the end of the first round of the presidential elections up until the swearing in of the president, about 400 people, who had participated in opposition meetings and demonstrations, were given administrative punishments both in the form of administrative detention for up to two weeks or a fine of up to 3,000 drams (€4). The defendants did not have access to legal counsel, and the trials were usually held at night and behind closed doors. Some of the accused were not even brought to a court building.

After the first round of the presidential elections, the opposition submitted 106 complaints and demanded a re-count of the votes at 70 polling stations. However, the Central Election Commission regarded only 15 complaints as well-founded. On 24 March the Constitutional Court dismissed the claim of presidential candidate Artashes Geghamyan, who challenged the results of the first round of the elections. On 16 April it dismissed a complaint of another presidential nominee, Stepan Demirchyan, who challenged the run-off returns, but the court appealed to the prosecutor general requiring examination of the complaints claiming falsification at 40 polling stations. This ruling by the Constitutional Court caused an outcry because the court proposed that a “referendum of confidence” in President Kocharian be held, thus suggesting that his victory was controversial.

⁸ The Armenian Helsinki Association, which observed the presidential elections, recorded about 500,000 illegally cast ballots in favor of the incumbent president.

⁹ Critics of this decision pointed out that Robert Kocharyan could not possibly have been a citizen for ten years because he had not resided on Armenian territory during the Soviet era and so could not have been granted so-called “mechanical citizenship,” nor had he submitted a citizenship application for signature by the president. Also, critics noted that he had lived for several years in Nagorno-Karabakh, a region not internationally recognized as Armenian territory.

Parliamentary Elections

A critical press release issued by the IOM on 26 May on the parliamentary elections stated that the elections “marked improvement over the recent presidential voting, but failed to meet international standards in several key areas.”¹⁰

One basic shortcoming of the election law was the formation of the electoral commissions: each political party represented in the National Assembly was allowed to appoint a representative, and three were appointed by the president. The PACE-OSCE/ODIHR concluding report noted that this formula led to politically imbalanced commissions in which most opposition candidates had little confidence.¹¹

The parliamentary elections were marred by a serious lack of transparency and a considerable amount of fraud and irregularities. The PACE noted that “significant problems were observed during the counting process in over 30 % of polling stations. These included the falsification of protocols, ballot stuffing, stealing of ballots and the removal of uncounted ballot papers. At many polling stations counting procedures were poorly followed, criteria for invalidation of ballots were inconsistently applied and proxies and observers were denied a clear view of the process.”¹²

At some polling stations half of the names on the voter-lists were names of persons who were not entitled to vote, accompanied with a date of birth of 1 January. This date of birth constituted a code for members of the electoral commissions who would then allow people to register as these persons and to cast a ballot. In contrast, tens of thousands of citizens who should have been entitled to vote were not registered on voter-lists.¹³

Electoral commissions hindered the registration of many opposition candidates while there were no such problems during the registration of the pro-government candidates for the parliamentary elections.

Freedom of Expression and the Media

Media activities were governed by the law “On Press and Other Mass Media” (of 1991 as amended in 2001) and “On Radio and Television Broadcasting.” On 23 October a new law “On Freedom of Information” was adopted and on 12 December, in line with Armenia’s commitments to the Council of Europe, a new law “On Mass Media,” was passed, replacing the law “On Press and Other Mass Media.” Both new laws entered into force on 1 January 2004. According to the Council of Europe Document No. 10027, the council will give its final comments on these laws in May 2004.

However, in January 2004, the Council of Europe and the NGO “Article 19” concluded that the law “On Mass Media” had a number of shortcomings in light of international law and standards. According to them, the definition of “mass media” was excessively broad, the system for awarding the right to refutation and the right of reply was confusing, and the accreditation regime was discretionary and potentially chaotic. The definition of “mass media,” “mass media resource” and “journalist” as well as “persons conducting mass media activity” were highly problematic, and problems were exacerbated by the inter-relatedness of these concepts. The law did not include the definition of the Internet as a mass media resource, thereby creating much confusion. Additionally, the vagueness of the provision which required journalists to “check in all possible ways the accuracy of information” and the provision to

¹⁰ IOM, “Parliamentary Elections, Republic of Armenia, 25 May 2003, Statement of Preliminary Findings and Conclusions,” 26 May 2003, at http://www.osce.org/documents/odihr/2003/05/1205_en.pdf.

¹¹ OSCE/ODIHR, “Final Report on Presidential Elections in Armenia 19 February and 5 March 2003 (28 April 2003),” at http://www.osce.org/documents/odihr/2003/04/1203_en.pdf.

¹² PACE, *op.cit.*

¹³ Information from the Armenian Helsinki Association.

reveal the source of information were inconsistent with international standards and represented a breach of the right to freedom of expression.¹⁴

However, on a more positive note, the new law “On Mass Media” no longer required registration of all media outlets.

In its 2004 report, the Council of Europe expressed serious doubts about the pluralism of the electronic media in Armenia noting that it was obvious that “there is a real problem of freedom to inform the public via audiovisual media.” The report stated further that the problem would not be solved as long as the members of the two governing bodies, the Public Television and Radio Council and the National Television and Radio Commission (NTRC), responsible for regulating public and private broadcasting respectively, were appointed by the president of the republic. The document also criticized in particular the discretionary power of the NTRC.

The NTRC had the power to deprive television and radio stations of their license under article 55 of the media law, among other reasons, if a media outlet violated license regulation and ignored three warnings given within a year; if its technology did not meet the given standards; if it constituted a threat to human health; if it hampered the work of other television or radio stations; if the standards of its programs did not correspond to the set standards and the media outlet ignored warnings; or if the outlet failed to commence operation within six months after the issuance of the license.

Censorship was prohibited by the Constitution and the Media Law. However, the term “abuse of speech” in article 6 of the law suggested some form of censorship. In practice, self-censorship by journalists and editors existed both in oppositional and pro-governmental or state-run media. For example, the pro-governmental media failed to report on human rights violations.

Defamation

Despite the fact that defamation or libel in Criminal Codes contradicts a number of international human rights standards, this remained the case in Armenia: articles 135 and 136 of the new Criminal Code provided for a penalty of up to three years imprisonment for defamation. Article 318 prescribed a penalty of up to two years imprisonment for insulting a representative of authority in the mass media, a publication or a speech.¹⁵ Under the previous code, libel and defamation provisions as well as espionage or treason charges were used to restrict freedom of expression and media freedom.

- On 21 March and 25 April, the appellate and cassation courts of Armenia, respectively, upheld the ten-year prison sentence delivered to Murad Bodjolyan in 2002 for “treason to homeland.” A correspondent of the Turkish television company NTV, Bodjolyan was a former employee of the presidential staff during the previous government and he had also worked for the Foreign Ministry. Bodjolyan was charged with transferring to Turkey state secrets while his defense proved that the information he had used had already been published by other media.
- On 30 April the editorial office of the opposition newspaper *Chorord Ishkhanutyun* (The Fourth Power) was informed by the Court of First Instance of Center and Norq-Marash communities in Yerevan that it was considering a defamation case filed against the paper by the First Secretary of the Communist Party of Armenia, Vladimir Darbinyan. The charges were based on articles 14, 16, 19 of the Civil Code and articles 3, 6, 11, 24, 28, 30 of the law “On Press and Other Mass Media.” In addition, the plaintiff required that he be allowed to publish a refutation and that the paper be closed down. On 4 and 25 March 2003 the paper had published articles claiming that Defense Minister Serj Sargisyan had financially supported the election campaign of the Communist Party of Armenia for the May parliamentary elections. The case was terminated after the first session as the plaintiff did not show in the court.

¹⁴ Carlos Landim and Thomas Gibbons, “Comments on the draft law of the Republic of Armenia on Mass Media,” 5 November 2003, *ATCM* (2003) 026; Article 19, “Memorandum on the Draft Law of the Republic of Armenia On Mass Media,” 2004.

¹⁵ The previous Criminal Code provided for up to six years imprisonment for libel under article 131 and up to one year for insult under article 132.

Harassment of Journalists

Journalists faced harassment and were attacked.

- On 19 March, police severely beat Merujan Minasyan, a free-lance correspondent for the *Arminfo* news agency. He had tried to take photos of police using violence during a public meeting. After that, Minasyan was forced into a civilian car and taken to the police station of Arabkir in Yerevan. He was released after two hours.
- On 29 April, Mher Khalechyan, a human rights correspondent, was brutally beaten and verbally insulted in the editorial office of the opposition newspaper *Chorrord Ishkhanutyn*. One of the assailants was Gegham Petrosyan who belongs to the closest circles of the National Security Chief of Armenia, Karlos Petrosyan. The police was alarmed but they failed to take any action. Khalechyan needed medical care in the hospital. In December, the criminal case was closed “due to lack of *corpus delicti*.”
- During the night of 26 to 27 September, Gayane Mukoyan, editor-in-chief of the Yerevan newspaper *Or* was brutally beaten near her house. The director of the editorial office, Rafael Hovakimyan, was also caught in the assault. Their car was stopped by four men, one of whom identified himself as a law enforcement officer. The men pulled Hovakimyan and Mukoyan out of the car and beat them.

Peaceful Assembly

The right to peaceful assembly was guaranteed by the Constitution, but no laws had been adopted by the end of 2003 to implement this right. Therefore, in practice numerous blanket regulations, which provided for restrictions on this right, were applied, including provisions of the Code of Administrative Offences, the Criminal Code, the law “On Local Governance,” and the presidential decree “On State Governance in the City of Yerevan.” In addition, Order No. 542 of December 2000 “On the Functioning of Concert and Sport Halls” issued by the Ministry of Culture, Sports and Youth Affairs, prohibited the renting of concert and sport halls to political parties. This order, however, was applied only against meetings of opposition parties.

Under Armenian law, organizers of public meetings, processions or a demonstration were merely obliged to notify municipal authorities about the time and place of a public event. In 2003, authorities routinely prohibited such events under various pretexts.

Following the first round of the presidential elections, the opposition began holding permanent meetings and processions in Yerevan to protest the irregularities. They were met by special troops armed with batons, shields and water canons, and barbed wires were spread along the streets. The traffic police blocked the highways leading to the capital in order to prevent people from the regions from participating in the meetings—in some cases people were forced out of cars. About 400 people, mainly opposition activists, were arrested and delivered administrative punishments of 3-15 days for participation in unauthorized meetings and demonstrations or for “minor hooliganism.”

- On 9 April, the day President Kocharyan was sworn in, more than 50 people were injured during a clash between demonstrators and law enforcement agencies in the center of Yerevan. The riot police, special task squads and Interior Ministry forces armed with batons and shields blocked streets leading to the government building.

Fair Trial and Detainees' Rights

Arbitrary detention was common police practice. The maximum legal length of detention without charges was 72 hours, but investigation agencies frequently arrested crime suspects ostensibly for “minor hooliganism” under the Code for Administrative Offences in order to take time to gather evidence against them for other crimes they had allegedly committed.

In a similar vein, participants in peaceful demonstrations during the unrest following the election were given various administrative punishments and denied due process. Many were taken to courts where they were handed down fines in an arbitrary manner without adequate proceedings. In some cases people were sentenced *in absentia* without being brought before a court at all.

The police also failed to inform detainees and witnesses of their rights despite the fact that the Criminal Procedure Code obliged them to do so. At best, police simply gave witnesses or suspects a paper to sign that they had been informed of their rights without giving them time to read carefully what rights they had.

In addition, by law, those summoned to a police station should be informed in writing about their status (suspects or witnesses). However, in practice police officers would often show up and simply take a person to the police station or demand his presence by phone. In addition, many were summoned to police stations as witnesses—therefore not entitled to legal counsel— and later their status was changed to that of suspect. This arbitrary procedure allowed the police to hold them beyond the prescribed 72 hours. Moreover, while by law the police were only allowed to interrogate witnesses during working hours, many of them were held overnight and interrogated.

The right of detainees to have access to legal counsel, family members and a doctor was guaranteed by law but it was not respected: on many occasions interrogators convinced detainees that the best counsel was the interrogator. If the detainee insisted on having access to legal counsel, he was usually appointed a defense lawyer who cooperated closely with the police.

According to the Criminal Procedure Code, the maximum term of pre-trial detention was two months, which, however, could be prolonged by two months, but not longer than a total of one year. There was a right to state-appointed and -paid lawyers, but the defendants usually rejected their services due to the poor performance: in some cases, such defense lawyers had even pressurized their clients into pleading guilty on the basis of an arrangement with the prosecution or judge and for money.

Despite the principle of parity enshrined in the Criminal Procedure Code, the rights of the defense were frequently violated. For example, defense lawyers needed a permit from the investigation agency to meet with their clients in detention.

The government-controlled media often violated the principle of the presumption of innocence in high-profile political cases. For example, in the above-mentioned case of Murad Bodjolyan,¹⁶ the media labeled the defendant an offender before the court had handed down a sentence.

Law enforcement officers frequently used undue physical and psychological pressure to extract information or confessions from both suspects and witnesses. There were cases of harassment of relatives of suspects, and confessions or information extracted under duress were sometimes used as evidence.

- On 12 December, police officers took Natasha Voskanyan, an employee at a hotel in which a dead body had been found, to a police station as a witness. She was told that unless she gave a statement indicating that she had seen the body, her brother and sister would be brought to the police station and that her child might “have an accident.” Interrogators held her hands down on a table and hit her fingers, burned her arms and slapped her around the face causing her to lose consciousness twice. They also assaulted her verbally and threatened to rape her. She was not given anything to eat for 71 hours. While first questioned as a witness, her status was soon changed into that of suspect. During court proceedings Voskanyan informed the judge that she had “confessed” under duress, but her statement was ignored.
- In the early morning of 25 December, more than 20 police officers forced their way into the apartment of Hayk Egoyan, a murder suspect. As he was not there, his brother Karen was taken to a police station. During the following two days he was put under pressure to confess that either he or his brother had committed the crime.

¹⁶ See the section on Freedom of the Media.

Torture, Ill-Treatment and Police Misconduct

Armenia is party both to the UN Convention against Torture and the European Convention for the Prevention of Torture, and special persons have been appointed by the Ministry of Justice to monitor the country's compliance with these international commitments. Nevertheless, there was not a single public report on the matter even though it was a well-known fact that torture and ill-treatment was widely used by law enforcement officials during pre-trial detention and also in prisons.

The Criminal Code prohibited the use of torture and envisaged accountability for it: according to it, all alleged cases had to be immediately investigated. However, there was no independent and efficient mechanism to investigate alleged cases of torture by law enforcement agencies. Investigations usually ended up in cases being dismissed for lack of evidence and in many cases the accused perpetrators not only went unpunished but also continued to be in charge of the same case.

- On 4 December, police officers in the town of Vanadzor (Lori region) entered the apartment of 25-year-old Levon Utundjan suspected of participation in a street fight. Upon finding a knife among his possessions, he was placed in administrative detention for eight days. Utundjan told the Helsinki Association that while in detention, police officers had repeatedly beaten him to make him confess. Even after the expiry of the administrative detention he was taken to the police station, beaten and interrogated. According to the interrogator, Utundjan had only been questioned about the knife, but neither as a suspect nor a witness and was not charged with anything.
- On 28 January, two unidentified persons in plain clothes came to 17-year-old Vardan Paremuzyan's work place in the town of Vanadzor (Lori region) and arrested him. The following day his mother found out that he was held at the police station of Vanadzor. When she went there to visit her son, she was told that he had jumped out of the window, sustained injuries and had been taken to hospital. A medical examination showed that he had sustained concussion to his brain, injuries to his liver, internal bleeding, and had many bruises on his back. Later on 4 February, doctors also discovered a fracture in the area of the thighbone. All these injuries gave reason to suspect that he had been ill-treated at the police station.

The Armenian Helsinki Association was aware of at least two cases of death during pre-trial detention. Both of them were officially interpreted as suicide.

- In September, police officers in the town of Kapan (Syunik region) arrested 32-year-old Mher Almadjan and several others on suspicion of stealing a large sum of money. On 20 September his relatives were informed that he had committed suicide by hanging himself in preliminary detention custody. The Prosecutor's Office of the Syunik initiated an investigation into the case. Mher Almadjan's relatives, however, did not believe it was suicide.
- During the night of 26 to 27 December, 26-year-old Albert Barseghyan allegedly committed suicide while kept in preliminary detention in Tashir (Lori region). According to the police, Barseghyan, who was detained on suspicion of rape, hanged himself by using a rope and a light window hook. However, there were strong suspicions that he was a victim of torture at the hands of the police.

The European Committee against Torture visited Armenia in 2003 but its findings had not been published at the time of writing.

Prisons and Detention Facilities

During the year, the Armenian Helsinki Association carried out an unprecedented program of monitoring Armenian prison and detention facilities, visiting 11 criminal-executive institutions (CEI).

In 2003, only 12 out of 14 CEIs were in operation: the facilities in Megri and Razdan were closed. The operating facilities were divided into five pre-trial detention centers and seven prisons for convicted prisoners. The overall population numbered 6,490 inmates. After the adoption of the new

Criminal Code, which provided for more lenient sentences, 3,888 inmates appealed for reduced sentences. As a result, 954 were released, 1,132 had their terms reduced and 1,802 complaints were dismissed.

In pre-trial detention centers the inmates were held in cells the capacity of which ranged from two to twelve persons. The cells were smaller than the 4 m² per inmate that the regulations prescribed, but building work was under way in order to meet the standards. As for colonies, the convicts were accommodated in barracks, which commonly housed 30 persons.

By law, detainees should have undergone mandatory medical check-ups upon their arrival (including blood tests and screening for TB and HIV) and the results should have been recorded in personal health cards. In practice this was not always done. TB and other infectious diseases were relatively widespread, and the CEI hospital treated six HIV infected prisoners. At the Nubarashen CEI, Helsinki Association representatives met a prisoner suffering from AIDS who said that he did not receive proper treatment.

All known mentally ill prisoners—124 diagnosed cases—were mainly held in the mental department of the CEI hospital in Yerevan. On 10 December, two new departments, a psychiatric and a therapeutic, were opened with financial support from the International Committee of the Red Cross. If not hospitalized in Yerevan, detainees suffering from mental disorders were able to spend their pre-trial period at the medical departments of the pre-trial detention centers.

Prison food generally fell seriously short of the requirements laid down in the governmental decree of 10 April 2003, which prescribed that meals must include fruit, vegetables, meat, dairy products and other vital food components.¹⁷ Most meals consisted of watery soups and mush (potato, cabbage, cereals). While one CEI exceptionally prepared meat for a meal on the day of observation, the prisoners were at the same time warned not to complain about the food or other conditions. However, the monitoring group was told both by inmates and prison administration that inmates were dependent on parcels received from relatives and friends. No special diets were available on grounds of religious conviction.

The hygienic conditions in CEIs left much to be desired. Nearly all cells were in miserable conditions, and officials blamed this on the lack of proper funding. Most facilities were in need of major reconstruction, while the whole building of Vanadzor CEI was entirely unsuitable for holding prisoners. In 2003, major building work started but only to join the Vardashen and Erevan CEIs, facilities designed for former law enforcement officials. Generally, inmates were permitted to take a shower once every ten days. In violation of the governmental decree, items for personal hygiene and bed linen were not handed out—prisoners were expected to receive them from relatives.

In pre-trial detention centers there were no real toilets but only buckets kept in cells. In facilities for convicted prisoners, bucket lavatories were situated in separate barracks which were in deplorable hygienic conditions, lacking any ventilation system.

No facilities visited by the Armenian Helsinki Association were adaptable to local weather conditions. Floors in cells were either made of concrete or asphalt, no central heating was provided, and in winter the windows were only covered with polyethylene. Cells were heated with hot plates received from relatives, and in prison barracks the inmates said the plates would be removed after the monitors' departure. In summer the cells were ventilated simply by opening both the window on the wall and the one on the door, although this was only possible if officials were bribed into doing so.

The use of telephones was in principle possible for all inmates but phone-cards could only be obtained from relatives or friends. Correspondence was restricted for pre-trial detainees and was only allowed upon permission given by the investigation agencies. While the law "On Conditions of Maintenance of Arrested and Detained Persons" did not permit restrictions on phone calls, in practice investigators often prohibited them. Visits were allowed as provided by the regime of the respective CEI, usually one short visit (one hour) a month for pre-trial detainees and one short and one long visit (three

¹⁷ Decree No. 413-N

days) a month for convicted prisoners. However, there were no long-term visit rooms in some detention places.

Every CEI had a library, but the number of books was small and most of them were old. Periodicals could be received only from relatives and friends. All cells and barracks were equipped with a radio, and nearly all cells had a TV set that belonged to the inmates. All CEIs had premises for recreational activities for convicted prisoners.

According to the Nubarasen CEI administration, pre-trial detainees were allowed one-hour outdoor exercises per day, however, inmates claimed that it was provided only once every 15 days. Convicted prisoners were generally allowed to move about in the facilities. A punishment cell situated in a separate facility was used as a disciplinary measure for a term of 15 days to three months.

Following its prison monitoring, the Armenian Helsinki Association concluded that the conditions for both pre-trial detainees and convicted prisoners constituted inhuman and degrading treatment. Moreover, verbal abuse was widespread practice and beatings of inmates also occurred—these were usually ordered by the administration and were carried out by fellow inmates.

Conditions in the Abovyan facility for juvenile delinquents were in general slightly better. The institution provided normal school education and vocational training, but the monitoring team noted that many classrooms lacked chairs and had cobwebs on their ceilings indicating that they had not been used for a long time. The Abovyan CEI was the only one that had a sports hall and a computer room.

The Norwegian Helsinki Committee visited four pre-trial detention facilities and underscored in its report a need for a fundamental reform of the physical conditions and extensive upgrading of many facilities in order to bring them up to acceptable standards. It also recommended additional professional training for prison administrators and other staff.

An additional problem in prison was the fact that prompt release of prisoners who had served their term could normally be guaranteed only upon bribing prison administrators. By the same token, bribing helped put names on the list of those to be amnestied, and those released on parole had to bribe police officers to sign certifications that they had reported to the police on a regular basis.

Despite multiple statements made by the Ministry of Justice considering an elaboration of a new program on social and psychological rehabilitation of prisoners, no such training was offered in 2003.

Freedom of Religion

The Law “On Freedom of Conscience and Religious Associations” required registration of all religious associations or confessions in order for them to operate legally. Religious associations were registered by the State Register upon expert opinion issued by the governmental State Body on Religious Affairs. To be registered, a religious association needed to have no less than 200 adherents, to be based on a “historic canonical teaching,” and its worship had to be among one of the “world religious-ecclesiastical systems” (article 5). The State Body on Religious Affairs only supported applications from religious associations whose teachings did not contradict that of the Armenian Apostolic Church.

Jehovah’s Witnesses were particularly targeted and harassed. The State Body for Religious Affairs had for years refused to grant registration to Jehovah’s Witnesses despite the fact that they had submitted to it all required documentation: on 29 August 2003 the official body refused to give it the green light necessary for registration. In November, Armen Rustamyan, member of the National Assembly Commission on Foreign Affairs of the Armenian delegation to the Council of Europe and the ARF Dashnaktsutyun Party stated that Armenia would only register Jehovah’s Witnesses if they brought their statutes into line with Armenian legislation. According to local monitors, the statutes did not contradict with Armenian law.

- On 10 September a local cleric stopped Stella Alaverdyan and Mikhail Djaladyan, both Jehovah’s Witnesses, who were in Aparan (Aragatsotn region) to spread information about their religion. At first

he threatened to kill them and then encouraged young men to attack them with stones. Alaverdyan and Djaladyan sought refuge at a police station where the chief of police received them with obscene words and said they should be grateful to be still alive. Another cleric came to the police station, attacked Djaladyan and beat him and said that he was ready to kill all Jehovah's Witnesses. The police did not interfere. The chief of police warned them against filing a complaint saying it would be turned down anyway.

- On 10 April the court of first instance of Lori town examined a claim brought by Zemfira Voskanyan, former head of the financial sector of the police department of the town of Stepanavan (Lori province), against the regional police department that had dismissed her in February on the basis of Interior Ministry Order No. 551/a of 13 December 2002 because she was a Jehovah's Witness. The order prohibited police officers to become members of "harmful religious sects." However, this order was officially revoked on 13 January 2004.
- On 21 September, a bus of Jehovah's Witnesses from Nagorno-Karabakh, who had participated in a regional congress in the town of Kapan (Syunik region), were stopped by the police. Three police officers searched their bags and confiscated religious literature without giving them a receipt. On the next day, four members of Jehovah's Witnesses were summoned to the police station of Stepanakert (Nagorno-Karabakh) to be questioned on where they had been, how many were present at the regional meeting and who had organized it.

Conscientious Objection

According to Council of Europe requirements, Armenia was obliged to adopt a law on alternative service within three years of accession. The law had to be in line with European standards, and, before adoption, Armenia was obliged to pardon all conscientious objectors. The three-year term expired on 25 January 2003, but no law had been adopted by that day, nor had conscientious objectors been pardoned. What is more, throughout 2003, courts continued to hand down prison sentences to Jehovah's Witnesses who had invoked conscientious reasons for objecting to military service. In 2003, twenty-four men were convicted under article 75 of the law on objection to military service, and as of 31 December, a total of 38 men were held incarcerated while 13 were awaiting trial.

Eventually, the new law "On Alternative Service" was adopted on 17 December 2003 and it will enter into force on 1 July 2004. However, under the new law, alternative service is possible solely on grounds of "religious belief and convictions" and therefore falls short of European standards.¹⁸ It is divided into two forms of service: "alternative military service," lasting 36 months, and entails unarmed service yet in uniform; and "alternative labor service," lasting 42 months, carried out without a uniform and arms. The duration of regular military service is 24 months.

Death Penalty

The Criminal Code, which came into force on 1 August, no longer provided for the death penalty. Even before that, no executions took place due to a moratorium on the death penalty that came into force in 1991.

On 29 September, the National Assembly ratified Protocol Six to the European Convention on Human Rights and Fundamental Freedoms (ECHR)—which requires member states to restrict the application of the death penalty to times of war or emergency—but it neither ratified nor signed Protocol 13 to the convention—which requires parties to abolish the death penalty completely.

On 2 August, President Kocharyan signed an edict that commuted the death penalties of 42 men into life imprisonment. The men demanded to have their cases re-tried, as provided by the new Criminal Code. In August and September, some 30 of them went on hunger strike.

¹⁸ Since 1997, the Armenian Helsinki Association has been promoting a law that would provide for alternative civilian service on grounds other than religious but its recommendations have been ignored.

As of the end of 2003, a total of 50 men were still on death row. Most of them were being held in the pre-trial detention center of Nobarashen.

Homosexuals' Rights

With the entry into force on 1 August of the new Criminal Code, any discrimination on grounds of sexual orientation was prohibited. This also put an end to the possibility of punishing homosexual relations as had been done on the basis of former article 116. Despite the legal changes, public attitudes towards homosexuals remained clearly negative. Even human rights activists were generally reluctant to address the issue.

Gays were arbitrarily arrested both prior and after the entry into force of the new Criminal Code. A number of cases were reported in which they were taken to the police station and pressed to pay a ransom (sometimes up to the equivalent of €1,226). In other cases police officers required money in order not to inform the detainees' employers about their sexual orientation. In addition, gays faced harassment by the population with police remaining inactive in the face of such incidents.

- In November, Petros Temiryan was required to pay €1,226 to police officers in Yerevan—or they would charge him under article 142 of the Criminal Code for “sexual harassment of an underage person.”
- In December, Arsen Tovmasyan and his friend were leaving the Monte-Kristo disco club in the center of Yerevan when four unknown persons came up to them, provoked a fight, beat them up and escaped. A police patrol was standing nearby watching the incident but failed to interfere.
- In December, the corpse of Avetik Harutyunyan, a 42-year-old resident of the town of Gumry (Shirak region) was found in one of the rooms of the Erebuni hotel in Yerevan. He had been stabbed more than 30 times all over his body. The Armenian Helsinki Association had evidence to suggest that he had been killed because of his sexual orientation.

Those homosexual men called up to military service, who openly declared their sexual orientation during medical check-ups, were sent to a mental hospital for observation on grounds of “split personality” or “sexual perversion.” After that, the military medical commission usually granted them deferment for three years—after which they had to go through the same procedure again up to the age of 27, which was the end of conscription eligibility age.

Human Rights Defenders

The following cases of harassment were recorded in 2003:

- During the night of 15 March, unknown persons threw a firebomb into the office of the Helsinki Citizens Assembly (HCA) in Vanadzor (Lori region), starting a fire in the premises. The HCA had scheduled a public event for the following day under the slogan “We will protect our suffrage.” It informed the city administration of the event but the meeting was banned under Municipal Decree No. 707 of 2002 which allowed the authorities to prohibit such events—even though the decree had already been annulled by a court in 2002. On 15 March, some 1,000 people gathered for the meeting, but the police arrived at the scene and tried to disperse the crowd. Some time later Artur Sakunts, the HCA chairman, announced that the event should be called off. Police officers summoned Sakunts to the police station where he was told that the First Instance Court of Vanadzor had sentenced him to ten days' administrative detention under article 182 of the Code for Administrative Offences for disturbing social order. While in custody, Sakunts was pressured to sign a document stating that the fire had resulted from a technical failure.
- In August, the Armenian Helsinki Association, which conducted the monitoring of the prison system upon the permission of the Ministry of Justice, was denied access to the investigation isolator under the National Security. According to set terms, the association notified the head of the facility in advance about its intention to visit the place. The following day, however, the head of the facility phoned the association's chairman, Mikael Danielyan, and told him that the visit was out of the question while no

explanation was given. On 7 September, the Norwegian Helsinki Committee, which visited Armenian prisons within the same prison monitoring project, was denied entry to sector 6 of the Noubarashen pre-trial detention center after it had been able to visit other parts of the facility. The Armenian Helsinki Association assumed that denying access to the the facilities could be attributed to the fact that high-profile prisoners were held there, namely those involved in the 27 October 1999 terrorist attack on parliament and the assassination of Tigran Nagdalyan.

- On 28 September, criminal charges were brought against Hovik Arsenyan, lawyer of the Armenian Helsinki Association. He was accused of violating articles 325 and 34-349 of the Criminal Code for forgery and “attempted pressure on an accused to obtain needed evidence,” respectively. The criminal case at issue had been closed due to lack of *corpus delicti*. Arsenyan was banned from engaging in lawyer’s activities on the basis of the directive of 8 October 2003¹⁹, signed by Deputy Prosecutor General Aghvan Hovsepyan. The directive ordered all courts to ban Arsenyan entry to any court proceedings. In addition, on 17 October, head of the CEI Department Samvel Oghanesyan excluded Arsenyan from the Helsinki Association’s prison monitoring project despite the fact that the list of monitors had been approved by the Ministry of Justice to which the CEI Department is subordinated. On behalf of Helsinki Association, Hovik Arsenyan had represented high-profile human rights cases such as that of Djanik Adamyanyan, charged with libel on president; Murad Bodjolyan, charged with high treason; the family of Galust Dilanyan, killed at a police station; Artem Sarkisyan, brutally killed in the army; and the HCA Chairman Artur Sakunts, who was illegally kept under custody.

¹⁹ No. 12/035-03(5)