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# Armenia: A Human Rights Perspective for Peace and Democracy

Human Rights, Human Rights Education and Minorities

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Source Google maps: zhenghe.tripod.com/maps/armenia.jpg, visited in October 2005

## Preface

In order to understand Post-Soviet Armenia's political and social situation, it is vital to look at the human rights situation, and the awareness and respect for different groups in the society as such. This book attempts to provide an overview of the different aspects of human rights, focusing on the respect for and implementation of human rights. The following articles also exemplify the different approaches taken towards implementing human rights in Armenia, with special focus on human rights education, minorities and marginalised groups.

The young Republic of Armenia (RoA) regained its independence in 1991. Since the collapse of the Soviet Union (USSR) and the beginning of the transformation period in the 1990s, Armenia has been shadowed by turbulences, both in the area of politics and well as in the economy. The 1988 earthquakes in Gyumri and Spitak in Northern Armenia also troubled the newly re-established country and in the same year, began the long running Nagorno-Karabakh conflict, and war with Azerbaijan. After signing a cease-fire agreement with Azerbaijan and establishing the Republic in 1991, Armenia joined the United Nations in 1992. On September 17, 1992, an agreement was signed in New York between the United Nations (UN) and Armenia concerning the opening of a representative office of the UN in Armenia. During the transition period in the 1990s Armenia officially adopted a course of Europeanization, and is currently striving to bring its development standards into uniformity with those of the European Union. Today, the acknowledgment of human rights in Armenia is closely linked to the understanding of Armenia's political and social past, since its history has been marred by serious human rights violations and sufferings.

One has to look back on Armenia's history in order to understand its present situation, and highlight its cultural achievements as a ground for its widespread national pride. Armenia was the first country to officially adopt Christianity as a state religion (301 A.D.) with the establishment of the Armenian Apostolic Church. Over the centuries, Greeks, Romans, Persians, Byzantines, Mongols, Arabs, Ottoman Turks, and Russians conquered Armenia. The church and the existence of an own language and alphabet were extremely important factors in preserving the nation's identity. In 1895/96, Turks massacred thousands of Armenians in what was once the Armenian Empire stretching from the Caucasus to the Mediterranean Sea. However, the biggest massacre on the Armenians, which is today considered the first genocide of the 20th century, took place in April 1915 in what is today mainly Turkish territory.

After Turkey was defeated in World War I, the first independent Republic of Armenia was established in May 28, 1918, but lasted only until November 29, 1920. Armenia was thereafter included in the Soviet Union in the early 1920s and only regained independence in 1991. Both the genocide in 1915 and the communist dictatorship in the 20th century led to an extensive "Armenian Diaspora" movement. People belonging to the "Armenian Diaspora" today live mainly in Russia, France and the USA.

Today, the young Republic of Armenia still struggles to establish democratic structures and a civil society. The record of human rights abuses by government authorities, for example, in terms of discrimination of minorities and marginalized groups, freedom of speech and press and the manipulation of free elections are considered serious. The United Nations Commission on Human Rights, the US-State Department or NGOs such as Human Rights Watch and Amnesty International periodically report evidences of such human rights abuses. However, there are ardent attempts by academics and NGOs in Armenia to dialogue with government officials, in order to improve the human rights situation, raise human rights awareness, establish human rights monitoring bodies and call for constitutional reforms.

This book presents a compilation of articles written by scholars, representatives of international organisations and academics who attended a two-day-conference that was held at the Yerevan State University in April 28-29, 2005. The conference coincided with the 90th anniversary of the genocide, which created a unique opportunity to discuss the importance of the historical aspects of human rights and their protection in Armenia. The conference titled "Peace and Democracy in Armenia within the Perspective of Human Rights" was a step in the cooperation between the Yerevan State University (YSU) and the Humboldt University (HU) of Berlin. The event was generously supported by the Friedrich Ebert Foundation (FES) in the Caucasus.[1] The aim of the conference was to engage in discussions on human rights and minority rights issues in the Armenian society. The authors' present below, diverse approaches and opinions on how to deal with the human rights situation and the level of awareness in Armenia, which are worth studying.

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[1] The event was organised through the co-operation between the VW-Tandem Research Project on "Teaching Human rights in Europe" (www.humanrightsresearch.de), the Yerevan State University (YSU) Department of International Relations and the Friedrich Ebert Foundation Office Caucasus (see also appendix of this book). The Friedrich Ebert Foundation generously sponsored the conference and the conference publication in Armenian with the title "Armenia through the perspective of Human Rights" which was published at Yerevan State University Press in August 2005.

The first part of the publication addresses issues on human rights and democratic movements in Armenia in general.

The contribution by Artur Mkrtichyan, a sociologist at the YSU, discusses Armenia as a "no-war-no-peace" society. His contribution underlines the need to review international guidelines on democratisation, in order to make human rights comprehensible for the Armenian people. Larisa Alaverdyan, the Ombudsman of Armenia since 2004, briefly summarized the tasks that were undertaken by her Human Rights Defenders office in the field of human rights protection, during her first period in office. Hovhannes Hovhannisyan, an Assistant Professor of Philosophy at the YSU, tackles the relationship between human rights protection and development. He argues that not only is the legal guarantee of human rights a precondition for societal development, but people have to experience the security provided by human rights in order to endorse them on behalf of the society's development as whole. Gevork Manoukyan, the chairman of the Armenian Constitutional Legal Protection Centre (ACPRC) in Vanadzor, and also an internationally recognized human rights advocate and activist, gives in his article a clear proposal on ways that Armenia should proceed towards the realisation of human rights. Ashot A. Alexanyan, a political scientist at the YSU, shows in his article, how the intrastate mechanism of protecting political human rights is upheld in Armenia. Alexander Markarov, an Associate Professor of Political Science at the YSU, takes the difficult task of discussing the future of democracy in Armenia and proposes some judicial amendments for a more democratic future.

The *second part* of this publication is committed to the issue of human rights education in Armenia. The first contribution is by Valery Poghosyan, an academic and judge at the Constitutional Court of Armenia, who also holds the UNESCO Chair for Human Rights at the Brusov University in Yerevan. He argues on behalf of education for civic values, human rights being a part of them, in a post-Soviet state such as Armenia. Ani Muradyan, a sociologist at the YSU, explores the general role of academics in the sphere of politics. Mira Antonyan, from the Department of Social Work and Social Technologies at the YSU, puts forward the argument that children's rights are duties of adults. Marina Hovhannisyan, a sociologist at the YSU, raises the issue of education for children with special needs and discusses the challenges of inclusive education in the Armenian context. Kristina Henschen, the UNDP Portfolio Manager at the UN Yerevan office, then takes the discussion on a more pragmatic level, and introduces the results of the United Nation Development Programme (UNDP) Evaluation on human rights awareness in Armenia. The evaluation shows that there is still work to be accomplished in the Arme-

nian society. In their article, Lilit Umroyan and Lucig Danielian describe the latest results of a base line study on human rights education conducted in Armenia 2005.

The *third part* of the book takes a look on the situation of minorities and their human rights in Armenia. The first article by Claudia Mahler, Anja Mihr and Reetta Toivanen, organisers of the conference and researchers in the VW-Tandem research project "Teaching Human Rights in Europe", presents a view on human rights and the rights of minorities from an external perspective. Tatevik Margaryan, from the government's Department of National Minorities and Religion, takes us on a discussion over identities of national minorities in Armenia, and Hranush Kharatyan, the Head of Department on National Minorities and Religious Issues of the Government of Armenia, introduces the Armenian legislature and sites other methods of providing real opportunities for the national minorities residing on the territory of the Republic of Armenia. Both articles underline that Armenia has done a great deal in trying to guarantee the rights of national minorities.

Finally, we have added a short summary of the conference, where the first versions of the articles and the Constitution of the Republic of Armenia were discussed because many of the authors refer to the latter.

This book is meant for students, scholars and other persons interested in the situation of human rights, human rights education and minority rights in Armenia. Many of the authors have background knowledge of social sciences and this is visible in the theories and methodologies on which they base their arguments. We have also been able to include a few presentations from lawyers in order to reflect the difficult legal situation of a country in transformation, where new laws are enacted constantly and the political situation changes rapidly. In general it should be mentioned that the contributions in this publication present very different views on human rights, human rights education and minorities. These views are not necessarily shared by the editors. With this publication, we wish to make a contribution to a larger audience and raise awareness on the possibilities and challenges faced by Armenian academics in the area of human rights research. Concurrently, we hope to motivate Armenian and non-Armenian scholars to get interested in human rights, and particularly the rights of minorities in the Armenian context.


The Editors

In Yerevan / Berlin/ Potsdam, 15 October 2005

## Acknowledgments

# I. Human Rights and Democratic Movement in Armenia

*Artur Mkrtichyan*

## Human Rights as an "Attractor"[1] of Europeanization Processes of Transcaucasian "Neither War nor Peace Societies"

By becoming a member of the Council of Europe in 2001, Armenia officially declared an Europeanization policy and started the process of harmonizing the political mechanisms and legal standards of the Armenian social life with those of other European systems. After the countries of our region being granted a status of "Close Neighbours of the Council of Europe", Europeanization became the main standard of the further reforms in our society.

It is certain that we have to adopt many socio-economic and legal political principles that guide the organisation of society operations in the West, as well as overcome Armenia's problems. However, the cultural mechanisms that we possess are not appropriate for the artificial Europeanization policy of the Armenian society. The artificial introduction of neo-liberalist values instead of our national values has already shown its dysfunctional nature, which is conditioned on the fact that modern Armenia lacks necessary prerequisites that correspond to the modern European market economy and the requirements of the neo-liberal democracy. Similarly, this refers to other "transitional" societies of Transcaucasian countries. [2]

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[1]  The attractor of social systems is the basic principle of coordinating operations of a give system in its gravitational field, where in the long run, all intersystem processes are comprehended. It is a sort of motivation and stimulating system to attract or provoke certain reactions.

[2]  The methodological use of the term of "transitional society" by specialists is limited in case of sociological analysis of the Armenian society. Formally, the "transition" in Armenia was completed in 1997, with the privatization of most public property, and the legal approval of the RA Constitution that replaced the mono-party Soviet political system with a multiparty parliamentary system and the institute of the RA President. The Armenian society is only "transitional" in terms of obtaining some certainty in its values and the norms. So, the mentioned term has a more ideological than scientific meaning. The use of such terms without justifying them with scientific background is distorting the scientific perception and even damages our thinking process (See Kuteinikov, A. E., Tolerance and Rights of Minorities in the Problem of Evaluating the Possible Measures of Distinction, in: Actual Aspects of Tolerance Problem in the Modern Society. (Ed. Pervovoy, E. L.,), 2004, pp. 46-47 (in Russian).

The concept of a "neither war nor peace society" is the diagnosis of the situation of social life in Transcaucasian countries. This "pathology" causes the democratisation process in Transcaucasian countries to occur in a fundamentally different way than for example in Eastern European countries (with the exception of former Yugoslavian republics where the principle "neither war nor peace" also applies).[3] So here arises a question: How realistic is the European vision for such societies or how should the Europeanization of the country be carried out to achieve the final ultimate goal?[4]

Up to today, the wars in Transcaucasia such as the Karabakh conflict and the Georgian-Abkhazian armed conflict are not over yet, though there has been a long cease-fire. In such conditions, Transcaucasian societies maintain a certain level of militarization on the one hand, while trying to peacefully solve social-economic development and democratisation problems on the other hand. However, in "neither war nor peace societies" both the liberalization of the economy and the democratisation of policy are subject to militarization requirements. Consequently, neither has the privatisation of production sources led to the establishment of a free, competitive and antimonopoly regime, nor the institutionalisation of a democratic form of government eliminated the authoritarian regime.

This is explained by the fact, that in the post-war period the dignity of an individual still has a very low value. The reason is that during war times, i.e. "during systemic assassinations, people have to face the naked fact of human life being irrelevant and insignificance, and that life is not highly valued".[5] In a "neither war nor peace society", such an approach continues to characterize the value-norm structure of the society, which is specifically reflected in the underestimation of the human factor as the main source of the society's prosperity.[6] As a result, a person's system of

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[3] The other reason is that "democracy is perceived in a completely different way by people from the former Soviet Union. For them, democracy first of all means obtaining different civil and individual freedoms". Human Values and Social Change. Findings from the Values Survey. Ed. Inglehart, Ronald B., Boston: Leiden, 2003, p. 30.

[4] Of course, specialists in social sciences should be able to develop the theoretical model of that implementation. The development of such a model will not only have an important applicable meaning, but also a significant theoretical one, as in many Asian, African and South American countries, that are not only essentially "neither war nor peace societies" too, but also solve their development issues under identical conditions (a vivid example is Israel).

[5] See Frangyan E., The Philosopher of Pessimism. Yerevan, 1911, p. 142 (in Armenian).

[6] In our context, the human factor is not significantly sufficient because the Armenian democratic country does not have adequate historical experience and practice in the form of different institutes and traditions of civil society.

views, values, orientations, preferences and behaviour becomes contra-
dictory. The old "war" values and norms are not relevant to the reality,
and new ones are not yet completely formed and adopted by the soci-
ety's mentality. In this respect, general features of specific "anomie" are
typical for the public life of Transcaucasian countries.

This "*anomie*", a term that I use in its sociological context, may be de-
fined as "complete indifference towards any social impulses, regardless
of its positive or negative nature".[7] Old traditions, habits and models
therefore lose their practical meaning and influence on the person. Prin-
cipally invariant behaviours rapidly increase, and with it the structural in-
stability of the society and the ongoing uncertainty of evolving standards.
All these are based on the fact that the economic aspect of our life rap-
idly undergoes changes, while the value/norm-based regulation of the
latter lags behind because of the above-mentioned underestimation of
the human factor. "*Anomie*" emerges as a result of the contradictions
arising between universal goals dictated by cultural implications; legal
institutional means of achieving these; current requirements, interests
and real possibilities to meet them, and it spreads out into the population,
which are especially large in our "neither war nor peace society". The
cultural values system that is required among us is overestimating the
goal that is significant for everyone, although the social system limits or
completely blocks the institutional ways for achieving these goals. Peo-
ple are seeking personal prosperity, although the threat of restarting the
war creates constant instability depriving them from that possibility.

In the past times our totalitarian society was stable, as it was easy to
meet human requirements within the traditional social classes, because
the individual purposefulness was subjected to a common cause. It was
limited by common goals to build communism and coequality principle.
The corresponding collective mentality held those requirements at a
lower level, impeding the development of "individuality", or the independ-
ence of "a person", and put strong restrictions on anything that could
have been legally reached by an individual in any given social status.
The gradual erosion of the totalitarian system, however, caused "indi-
vidualization" and eliminated the previous moral bounds established
through the collective moral control force. Increase of individuality puts
people outside the bounds of collective moral control, and undermines
the role, stereotypes and traditions of the old social regulatory norms.
The financial success has become the principle goal, indicator of self-
prosperity. But people are not able to achieve the goal accepted by eve-
ryone through officially acceptable means. Even if there is solidarity or

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7    Toshchenko Zh. T., Paradoxical Person. 2001, p. 373 (in Russian).

common recognition of goals between certain members of the society, lack of ethical norms applied in social life and lack of real possibilities to implement them results in "*anomie*", and requires getting accustomed to. These two elements of the cultural structure are correlated, and a cultural conflict can occur, when people differ on the goals for, and means of achieving them.[8]

The "anomie-based" state of "neither war nor peace society" is characterized by a great amount of uncertainty about the officially adopted norms of regulation of social processes. For this uncertainty to be limited within a permitted scope, it is necessary to exclude the existence of an abnormal framework. This process is supposed to develop adequate ethical values and legal norms and strengthen this development in the mentality of citizens. In the meantime, the reinforced cultural values and the norm systems should not contradict each other, because by getting rid of our cultural traditional values the individual behaviour becomes invariant, which results in the reduction of spheres of social value activities. The complicated system of new norms and interrelations is still being institutionalised by old mechanisms of social life, like marriage and family, friendship and other institutes through which the society regulates and legitimises the relations of people at the "mechanical solidarity" level. In this situation the values-based regulation of social life is primarily implemented within the close sphere of relatives,[9] and is also coupled by the enforcement measures that have been brought from the battlefield, like since 1988 after the Karabakh conflict. The application of such enforcement measures in solving social problems results in the militarization of social mentality and the formation of a state command system. Therefore, in the conditions of "neither war nor peace society", the social mentality links the elimination of instability and threat to the myth of "a strong-arm authority", which causes the formation of an authoritarian system.

The existence of authoritarian systems is also conditioned on the threat of the war restarting. In the arguments brought forward by the constitutional reform debates in Armenia, the proponents of entitling the president with broader powers mainly justify their standpoint with the argument that Armenia must have a "strong" government due to the existing threat of war. However, it is obvious that a "parliamentarian constitution" would promote the better democratisation of the Armenian society, provided though, that our society ends the "neither war, nor peace society"

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[8]   See Merton R.K., Social Theory and Social Structure. N.Y., 1957, pp. 185-261.

[9]   See Poghosyan G. A., The Armenian Society in the Transition Period. Yerevan, 2003, p. 358 (in Russian).

situation. The collective solidarity in lack of identifying the individual with the society and the weakening of the national identification of an individual are factors that immediately boost the level of uncertainty in social behaviours, which is also obvious in the government sector.[10]

Conversely, the threat of restarting the war and the possibility of losing is used by the super-powers to influence both our policy and the policy of other Transcaucasian countries, as well as to restrict sovereignty, because all the Transcaucasian countries depend on the military support of super-powers and may incur big losses if the military "neutrality" of these countries is violated. Such conditions may cause huge risks, and the "neither war, nor peace society" therefore becomes a peculiar "society of risks". The potential risk, which is a threat to the future, dictates the content of current social processes and gives uncertainty to the structure of social expectations. Today, Armenia has to spend most of its limited resources required for the prosperity of its people, on military purposes. As a result, the number of people being deprived of social benefits is increasing.[11] The militarization of social life is expressed not only in the relatively huge military budget, but also in the efforts being made at trying to adjust the economy, science, education, propaganda of mass media, political institutions and practices, etc., according to the military requirements. It turns out that the people's existence is being sacrificed to an uncertain future, and this time the goal is not to establish a communist society, but to win in a possible war.

Such prospects, can of course, discourage people. Many members of the Armenian society appear in such social situations to have a negative approach to the norms and legal procedures that aim to regulate social life, or are completely indifferent to them. The dissemination of a neo-liberalist vision is causing people to break away from the public control framework, and the life philosophy of the so-called "home is where the heart is" becomes the ethical-psychological basis for emigration.[12]

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[10]  The basic ethical principles that ensure the productive activity of the public administration sector of our country are not yet formed. Given that there are no common ethical rules and moral obligations, there can't be a vibrant public administration, as the productivity of the activities of state cabinet depend on the willingness of independent decision making by state officials and moral obligations to implement them.

[11]  Lack of employment and the meager, discouraging salaries that our workers are paid for their excessive work prevent the strengthening of our economy, which consequently obstructs the development of all sectors of social life.

[12]  See Harutyunyan E., The Transmission Society as a System of Transformation Activity. Yerevan: YSU, 2000, pp. 166-167 (in Armenian).

By stressing wealth as a symbol of success in the Armenian social mentality without focusing on the legal ways of achieving it, neo-liberalism undermines our society at all levels, from family life to work life. When neo-liberalism declares the financial success of a person as a significant goal for everyone, it blocks the legitimate institutional ways of achieving these for a significant number of people. Consequently, the deviations in behaviour increase tremendously resulting in "*anomie*", and an "*anomic*" society is an "*ill society*". In order to escape that illness, it is necessary to regulate our social relations through linking the Armenian ideology to the idea of human rights, and combining it with the concept of the nation-state. It should be emphasized that a nation-state is one of the real guarantors' of human right's protection, and an important tool that coordinates several important leverages in ensuring protection. The need for this combination is caused by the fact that statehood, as a value, doesn't have its role in our mentality, which is necessary to ensure a successful Europeanization of the Armenian society. The content of our state's ideology was dehumanised during the Soviet years. There is therefore no cultural mechanism in our mentality that compels people to be responsible for their individual choices, which is a mandatory requirement for every effective European democracy. In the post Soviet period, the first task to be solved is the "humanization of ideology". This is so to say, taking away the negative connotation of the former communist ideology and transforming it into a positive understanding of ideology in general. It is only when the Armenian society improves it's perception of citizen-nation-state unity, that it will be possible to instil positive attitudes towards the national sovereignty and to the state, and overcome this "anomie" in its social life.

As for external threats, it is only possible to put an end to the instability caused by military conflicts when humanity refuses the politically promoted idea of superiority of nations having a territorial sovereignty, and replaces it with the idea of "*human rights as an attractor for the integrated development of world societies.*" Only then will it be possible to efficiently prevent military conflicts and ensure the establishment of a world order accepted by everyone, with specific mechanisms of human rights protection and new channels of international communication carried out in the "attractor's" gravitational field. This means that human rights should serve as a basis for measuring and evaluating all international processes, and not just the interest of individual states.

In order to implement the above, it would be necessary to review the fundamental principles that help form the existing international political institutions. The activities of international organisations should also be constructed through other individual and national/cultural world commu-

nication channels and not through regional state institutions. Particularly, it should be presumed that there is need for reviewing the OSCE principles. There is an obvious need to review the 1975 Helsinki Treaty focusing on reassessing the decentralization processes.[13] Self-determining entities are struggling to obtain legal guarantees to participate in the world communication process within the framework of the 1948 Declaration on Human Rights. It will be possible to avoid several military conflicts and overcome the illness of being a "neither war nor peace society" by creating and providing those guarantees which are still to be developed by international law.[14]

## Conclusion

The Armenian "neither war nor peace society" appears to be in the state of *"anomie"*, which is characterized by the existing cultural conflict between socially accepted common goals and the institutional means for achieving them. This is when people are unable to attain goals perceived as acceptable in the society, and therefore try to find different means of achieving them. This means that the cultural values and goals in our present transitional society and the impact of changes occurring in the institutional means of achieving these have a special emphasis on certain goals, without outlining the relative institutional behaviour. We have not yet fully acknowledged the new moral behaviour that focuses on individuality and that is typical of the modern society. In addition, it is also required that people take responsibility in promoting and propagating the merit of individual choice, for the benefit of that choice.

There is no doubt that a collaboration between the government and the people is required to solve this problem, and the solution to overcoming the state of *"anomie"* lies in the rapid development of new ideological-educational procedures, as well as educating citizens on issues of human rights and the ethical values of "moral individualization". New social institutions, art, mass media, etc, should strengthen and introduce the new values system of social positions to people's mentality, way of living, their behaviour, and the interrelation of roles in society arising from the human rights.

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[13] Compare: Kriekemeyer, A.,/ Zagorskij, V.A., (Hrsg.), Rußlands Politik in bewaffneten Konflikten in der GUS. Zwischen Alleingang und kooperativem Engagement, Baden-Baden 1997.p.231.

[14] Compare: Mkrtichyan, A., Die Globalisierung ethnopolitischer Konflikte, in: Welttrends, 2003, Nr. 38. pp. 108-119.

*Larisa Alaverdyan*

# Human Rights Defender's Office Armenia

The Armenian Human Rights Defender's (HRD) institution was founded in accordance with the Paris Principles established in the 1990s. The main principles underlying the Defender's activities are independence, impartiality, fairness, and the credibility of investigations into allegations of human rights violations. There is hope that in a culture of dialogue and enhanced civic and social accountability, efforts aimed at strengthening tolerance will promote human rights protection in Armenia.[1]
The Ombudsman's institution was created in 2004, based on the law that defines the procedure for the Ombudsman's selection.  As a rule, it is the parliamentary assembly that elects an Ombudsman. This procedure is prescribed under Article 3(2) of the Armenian Law on the Human Rights Defender for electing the Armenian Ombudsman. Based on this, the President issued Decree 23-A of February 19, 2004, which appointed Larisa Alaverdyan as the Human Rights Defender for Armenia.

After entering office on March 1, 2004, the Defender proceeded accordingly to form her staff, which she is directly in charge of and is delegated the duty of approving the structure and by-laws of the staff. Forming a staff of 35, the Defender recruited young specialists, representatives of

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[1]  The Constitution of the Republic of Armenia does not provide for a Human Rights Defender, but the constitutional grounds for creating the Human Rights Defender institution are beyond any doubt. Article 4 of the constitution, for instance, provides that the law shall ensure the protection of human rights and freedoms on the basis of the constitution and the laws, in accordance with the principles of international law. Pending constitutional reforms, which will introduce provisions into the constitution on the appointment of the Defender, Article 27(2) of the Armenian Law on the Human Rights Defender, which lays down the transitional provisions, defines the procedure by which the President of Armenia should consult with the various groups and factions in the National Assembly. The Defender's independence is guaranteed in the Armenian Law on the Human Rights Defender. Article 5 of this law provides that the Defender shall not be subordinate to any central or local government body or official. The Defender is not obligated to give any explanation or testify on the substance of complaints or documents received by the Defender, or to make them available in any way, except as provided by law. As a crucial guarantee of the Defender's independence, this law prescribes the Defender's immunity (Article 19) and an exhaustive list of cases in which the Defender may be removed from office before the term expires (Article 5). Article 2 is rather important because it refers to the Defender as "an autonomous and independent official." The legislature does not treat or refer to the Defender as a "state official." Articles 23 and 25 of this law lay down essential safeguards for the Defender's independence, including rights to recruit and manage the Defender's staff.

national minorities and those deported from Azerbaijan, as well as individuals with disabilities, as a way of trying to ensure the even representation of different groups. More than half of the Defender's staff are women.

## Goals and Objectives

From its very inception, the Defender's institution has focused on protecting and restoring human rights and fundamental freedoms violated by central and local governments and their officials, by implementing incentives for the state to protect human and citizens' rights and fundamental freedoms, and promoting respect for such rights and freedoms on the part of central and local governments, their officials, and public servants.

With the aim of attaining these goals, the institution has been active in: enhancing legal protection of people by improving law-enforcement practices, supporting improvements in legislation on human rights and fundamental freedoms, and lobbying for the harmonization of Armenian legislation with universal principles of international law. It is also initiating a process of constructive cooperation between the Defender and the authorities, between the Defender and the public, and facilitating the development of such cooperation, in order to foster international cooperation in the sphere of human rights and fundamental freedoms. This can be achieved by promoting access to the system, forms and methods of their protection, facilitating the increased awareness of human rights and fundamental freedom and ensuring transparency and accountability in, and regularly and widely disseminating information on, the Defender's activities.

In order to achieve the aforementioned goals and objectives, the Defender reviews reported allegations of human rights violations, pays visits to institutions where vulnerable groups are located (orphanages, homes for the elderly, psychiatric hospitals, prisons, etc.), and identifies, investigates, and, to the extent possible, addresses violations of human rights and fundamental freedoms of those who were unable to attain protection and redress by legal means. The Defender also provides legal advice in Yerevan and the regions, publicizes cases in which human rights violations have been successfully remedied, analyses and summarizes human rights violations, and presents conclusions and recommendations to the respective authorities. As a result, the Defender has raised public awareness of respect for human rights and fundamental freedoms, prepared and presented materials and reports initiated by the Defender *proprio motu* and/or on the basis of law, and studied and applied the international experience of similar institutions.

## Awareness and Public Relations

The Defender's activities are characterized by accountability (while maintaining confidentiality of complaints), accessibility of information, and readiness to engage in a dialogue with the mass media. During 2004 alone over 140 articles were published in the press concerning the Defender's activities. Moreover, the Defender's activities have been reported on by nearly 90 TV and radio reports, including meetings and press conferences, as well as news reports. Agreement has been reached with the editors of several newspapers to provide a permanent column in their newspapers on the Ombudsman's activities. These efforts are driven by the unconditional interest of the mass media in the development of this national human rights institution.

One of the Defender's top priorities is the close collaboration and partnership with the mass media, as confirmed by the institute's responses to and initiatives with respect to mass media allegations of human rights. The collaboration with the mass media facilities has helped increase the public's awareness of the institution, bettered the knowledge among members of society of their human rights, and enhanced the ability to protect such rights.

In the frameworks of a joint project between the National Assembly and UNDP entitled "Support to Human Rights Protection and Increased Public Awareness of Human Rights in Armenia", some of the institution's staff took part in creating documentaries, posters, and brochures on the institution, as well as the institution's website in 2004-2005. These documentaries are regularly broadcast on various TV stations in Armenia. Forty-two visits were organised on the Defender's own initiative, or due to complaints brought forward, to the Yerevan Police Custody Centre and some penitentiaries under the Ministry of Justice (including the facilities at Gyumri, Goris, Vanadzor, Kosh, Yerevan, Yerevan-Centre, Nubarashen, Erebouni, and the Prisoners' Hospital). Meetings were arranged with life prisoners, imprisoned foreign citizens, Jehovah's Witnesses avoiding compulsory military service, all prisoners known to be on a hunger strike, and 62 other inmates. During these visits, legal advice was rendered to individuals who were not aware of their rights and who could otherwise not protect such human rights on their own.

The visits were aimed at studying not only the imprisonment conditions, but also the protection of the staff's rights and their working conditions. The same activities were carried out at military units, hospitals, and children's institutions.

The so-called Rapid Response Team of the Defender's office makes at least two visits a month to various regional institutions, which facilitates citizens' access to the Defender's institution. Due to the speed with which the Rapid Response Team operates, success have been reported in cases such as unlawful evictions by the Judicial Enforcement Department, unlawful police detention, limitations of public transport, and the like. During the period between March 1, 2004 and December 31, 2004, the institution received 1,294 written complaints from 2,346 citizens. The Defender, her Deputy, and staff experts received 1,337 citizens and answered about 2,300 telephone calls to provide the necessary legal advice. A general overview and classification of complaints has made it possible to assess how well rights and freedoms are protected in different aspects of public life, and to review problems that need to be solved.

## Challenges

The officials of certain central and local government agencies do not realise the importance of human rights protection. Therefore, certain agencies or officials at times ignore, delay, or even fail to respond to the Defender's letters or suggestions. For example, responses to some of the Defender's letters to the Yerevan Mayor arrive late, i.e. in breach of the time periods specified by the institution. As a rule, these responses are inadequate, because the issues raised are not fully clarified. The Yerevan Mayor has not personally responded to any of the letters addressed to the mayor's office.

Without expecting to achieve sudden or fundamental systemic improvements in the protection of human rights and freedoms in just one year, it is a positive sign that all the agencies with which the institution has dealt with now know that if they violate human rights or freedoms, the chance of the Defender's involvement will arise. This is already a deterrent; the force and effect of which will continue to grow.

During 2004, the Defender's activities focused on strengthening and improving awareness of the institution as a body, with powers to intervene and demand the elimination of violations to human rights. The Defender and her staff have conducted meetings and discussions with the respective agencies and officials, with a view of strengthening this newly established institution.

With regard to the police, for instance, they know that unlawful apprehension, confinement, or any unlawful act against anyone may become known to the Defender, and that the institution might get involved. They also know that the Defender's Rapid Response Team unexpectedly appears where there has been or may be a violation of human rights.

In the Judicial Enforcement Department, they are well aware that complaints regarding violations or failures in enforcement reach the Defender's office, and that they will have to at least provide clarification on such cases. In the judiciary, they know that the Defender monitors judicial sessions, and that procedural violations observed may serve as a basis for disciplinary actions against judges.

In the military police department, they know that special attention is paid to lawfulness of confinement in pre-trial police custody facilities. Consequently, positive results have been reported not only at the stage of restoring violated rights, but also during the review and investigation of complaints. In 72 out of 541 complaints studied, but not accepted for review, the Defender invited the authorities to examine the facts raised and made inquiries that resulted in those authorities restoring the rights violated. It was therefore no longer necessary to make a decision on accepting the complaints for review.

Progress has also been achieved regarding complaints forwarded to competent authorities, with the consent of the complainants, where the authorities exercised their power to restore the violated rights upon the suggestion of the Defender. Based on information received from such authorities and applicants, the rights mentioned in 27 out of 79 forwarded complaints were restored. Legal counselling on remedies has been rather important, as it has led to over 46 satisfied complainants.

Thus, the collaboration between the Defender and certain bodies of central and local governmental agencies has generated positive results, especially where the complaints were related to violations caused by poor administration. All of this shows that the recognition of human rights, as a priority, is an effective path that will, without any financial or material investment, allow for the fundamental improvement of respect for human rights. Thus, in the period between 2004 and 2005, the Law on Human Rights and Fundamental Freedoms was completely examined. Owing to the overview and generalization of the outcomes, and observing them under the light of the nature and dates of complaint constituting human rights violations, a background has been established based on which, we should propose recommendations on making due amendments and improvements in appropriate laws and legal acts, but taking into consideration the compliance of latest international commitments undertaken by the Republic of Armenia in that area.

## Conclusion

To conclude, in the previous year the major challenge was in bringing into conformity the international law on HRD with the domestic legislation of Armenia. This had to include a comprehensive constitutional prescription of the Defender's institution in the guarantees of independence. Thus, the Ombudsman institution has been able to make a triumphal progress not only in Armenia but also around the world in the last decades. Our own experience demonstrates the complex nature of challenges for national institutions in young democracies. Public expectations of the Human Rights Defender are often higher than the institution can deliver, while it takes time for the state to adapt to the functioning of the new institution. In fact, the term "young democracies" is rather misleading; it attempts to generalize considerable differences of many national experiences. This aspect also relates to the role, scope of mandate and capacities of the Human Rights Defender.

Now after a year of activity and work, it became evident that the establishment of the new institution is a process of intensive political discussions and broad public participation. Through dialogue, and often heated debates, through substantial disagreements with state structures and gradual consensus building, we have been shaping Armenia's present human rights agenda. We have been consistent in applying certain principles in our activities. In particular, these principles encompass the application of "moderate" measures of influence at the beginning of each case study, and the intensification of the measures of influence in case of facing resistance in the process of restoration of human rights; the principle of complementarity; the preference to preventive measures in the process of human rights protection; the provision of conclusions and recommendations to the relevant bodies and ministries on the basis of investigation; analyses of the cases and phenomena of human rights violation and the creation of partnership relations with civil society groups. Through these and other measures we are establishing firm grounds to promote constructive trilateral, engaging both the state institutions and the civil society.

*Hovhannes Hovhannisyan*

## The Factor of Human Rights Protection as Criteria for the Development in the Social System

Developments and transformations in the social system are immediately connected to the evolution processes of institutional structures, and the modernization and restructuring of traditional social institutions and the formation of new ones.

In Post-Soviet Armenia, having gained independence in 1991, the typical situation of ongoing transformations is the institutional crisis of some traditional systems (economic, political, etc.) and the establishment process of institutions representing democratic systems, i.e. the *institutionalisation* process. Two points of view can be distinguished in the process of establishing new institutions:

1) The structural-normative formation of the institution (when the problems arising from the creation of the structural units, to the material, financial and legislative issues necessary for its functioning are solved), and;

2) The establishment of a functioning institution that fully operates the necessary structural mechanisms in the social system.

In a society undergoing harmonic and gradual developments, the formation and development of these two aspects of social institutions usually take place in parallel. But in case of fundamental and crucial changes the formation of structural and functional features may be asynchronous or "untimely".

On the one hand, there are legally created structures and organisations that do not have necessary (or certain) functions yet, and in some cases are of an artificial nature resulting from simple imitations and unpromising decisions. On the other hand there is a social need growing for certain functions but the specific institutions and structures designed for providing solutions to the given problems do not exist yet.

However, norms and processes are not institutionalised unless the majority of the society agrees with them; and unless considered necessary, tend to be self-evident and generally accepted principles.

Nevertheless, the general indicator of development should be the level of economic, spiritual, cultural, political, legal, and social welfare of the society. Any of the above mentioned parameter is often presented as a de-

velopment indicator in any given society. This is most of all apparent in propaganda campaigns. For example, not so long ago the annual volume of the coal per capita in the former Soviet Union (which is today equivalent to GDP) used to be indicated as a development criterion of the Soviet society. But the welfare of the society implies the availability of possibilities, freedoms and rights for the maximum satisfaction of the needs and interests of its individuals and citizens, be they material, economic, political, social, spiritual, or cultural. Thus, the basis for really indicating the society's development must be a person's individual factor, margins and possibilities in implementing his/her own needs and rights.

To solve this problem, there is need for corresponding institutions and mechanisms. In the Armenian reality the mechanisms and structures for human rights protection and implementation of policies in that sphere can be considered as formed sufficiently from a structural point of view, and not from a functional perspective. They can therefore not be considered as established yet. The same refers also to the institute of the Armenian Ombudsman that was created in 2004.

Administering democracy, laws and legal frameworks are necessary steps, but still these are not enough. There is also need for necessary mechanisms, with the presence of a culture of public supervision and civil participation in the implementation of those laws. In the 5th century B.C., Heraclitus commented, "People must struggle for the laws the way they struggle for the walls of their city"[1]. In the present stage of the development of civilization, the most perfect model for providing welfare, the manifestation and implementation of human and civil rights must be probably searched within the framework of the *civil society* concept. The latter is not new in the history of social-philosophical and political sciences. It has come a long way from Aristotle to Thomas Hobbes. Though modern understandings of the "civil society" definitely differ from the interpretations of past and recent times, arbitrated pleas can nevertheless be observed, and some entomological commonness too.

The notion of an individual or citizen being "enlightened", as we know from the 18th century or modern understandings of a civil society has a common conception with certain interests and inalienable rights that are of central values in the social system unit. They only differ in their formation and mechanisms of implementation.

In today's understanding of a civil society, apart from a state's authority, structures and political parties, a significant role is given to the societal organisations (NGOs) generally accepted as a "third sector", and are

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1    Cassidy F., Heraclitus, in: "*Idea*". Moscow, 1982, p. 168 (in Russian).

formed upon the principle of voluntarism and community interests and considered to be an important element in the integration and realisation of citizens' interests, implementation of the social management mission. (See Figure 1)

*Figure 1*
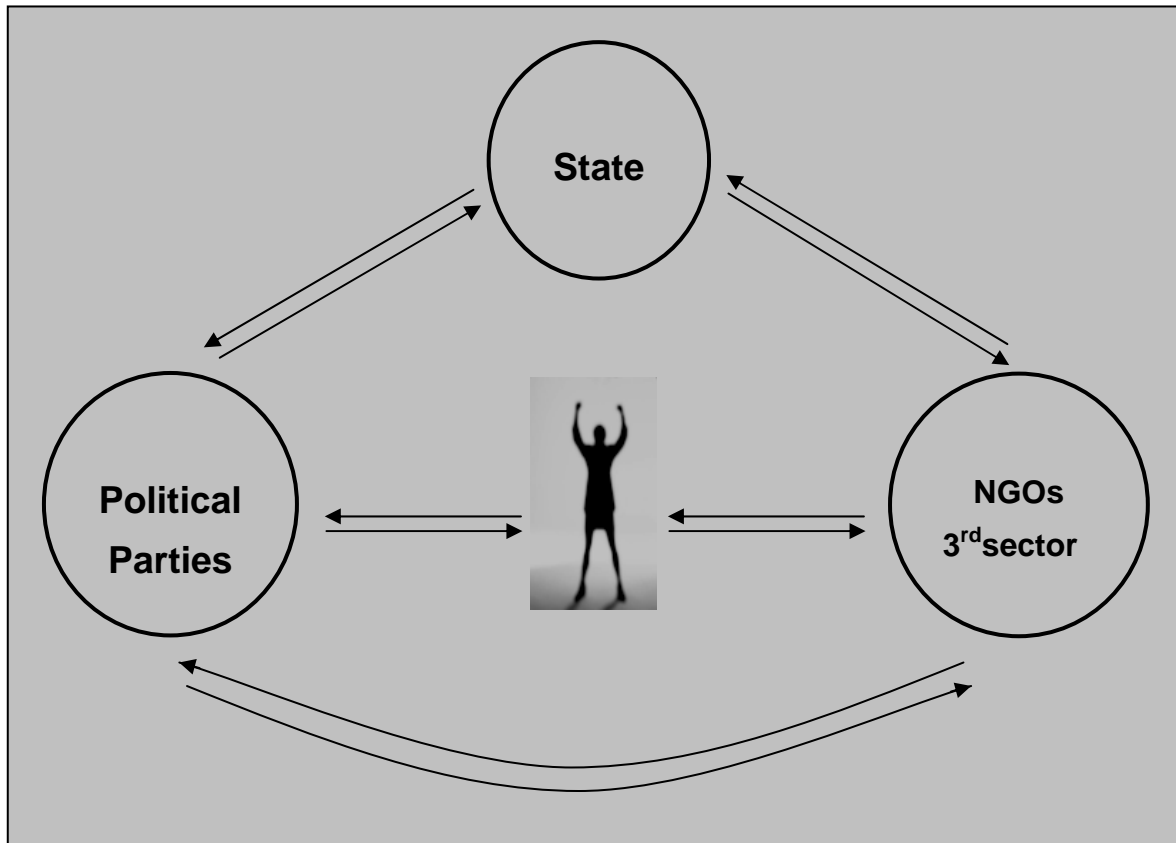


Thus, according to the modern interpretation, the civil society is a form of organizing the human society and performing activities in democratic conditions, that exhibits the following typical features: 1. Large network of non-governmental structures (unions, associations, organisations) formed on the principle of voluntarism. 2. All-inclusive system of economic, political, social, spiritual, religious and other non-governmental relationships.

It should be noted that the diversity of interests, the citizens' voluntary union under them and other dynamic activities are only possible under circumstances of wide-spread democracy and assurance of fundamental human freedoms and rights. Democracy not only makes the civil organisations or NGOs a vital necessity but also creates conditions for their establishment and development. Apart from these, social freedoms, traditions of public participation in political processes and debates, and the presence of social domains, also are worth mentioning. These values

make it possible to assess the situation realistically, see the problems and take practical measures for their solution. The availability of relevant legislative and constitutional guarantees for the functioning of civil society structures is also of great importance.

The civil society is one of the important and active factors in a system of containments and counterbalances that stands in the way of political power ascending to an absolute authoritarian level. There are certain ways of implementing this mission, e.g. the active participation in elections and referendums, considering public opinion on issues of governance and organisation campaigns to oppose or support the state's initiatives, etc.

Theorists do not unambiguously perceive the notion of a civil society. In some opinions it is not considered an ideal society as it allows poverty, persecution or ignorance. It is however essential that the poor and persecuted be able to freely unite in such a society, by combining their efforts in struggling for their rights. With respect to democratisation and the establishment of institutions of civil society, some characteristic features may be distinguished for Armenia (as for the most CIS member countries). The current system of state authorities inherited to some extent, certain traditions and mechanisms of the Soviet statehood. They have more stable political characteristics than the Soviet system, yet their political parties are still comparatively weak and shapeless in several dynamic and sometimes dramatic processes. The parties in Armenia can hardly be considered to be established institutions, in a classical sense, or as having a serious social basis and public representative. The unstable picture of the social system, further conditions the volatile processes in that sphere, which lead to the indefinite delineation of social layers, which is partially caused by the personality-cult arising from the national mood and mentality. The parties that have problems in strengthening their social base must seriously consider cooperating with NGOs. These in turn need structures that enjoy political levers and execute political orders. Thus only the cooperation and collaboration between parties and NGOs will help the parties enlarge their social basis and NGOs gain levers of influence in instances of political power. Only this approach can help overcome the barrier and polarization existing between political institutes and the society, and between the people and authorities, that is typical of the Armenian reality.

This model of mutual assistance and control between the two mentioned instances in the social system is a precondition for the improvement of that system and its effective functioning, which still has very weak resonance in the Armenian reality. According to official data, there are about four thousand registered civil institutions in Armenia. These are organisa-

tions for the welfare of businessmen, manufacturers, farmers, intellectuals, women, refugees, and deal with legal protection, environmental and health care problems, as well as creative (constructive) unions and fellowships, funds, information companies, etc. There are organisations with decades of experience, but the young and newly established unions are still an overwhelming majority. Of course, not all of them can be considered as having successful activities that keep up with the current human needs. Nevertheless, there are also a number of organisations that are distinguished by their growing role and significance in public life. The obstacles to the functioning of the civil society in Armenia include the lack of necessary experience, as well as the social-political inertness and passiveness observed across the society, which is typical of the post-independence period.

Every system has balancing and protective mechanisms. The nature also has ebbs followed by flows. A similar regularity also exists in the social sphere. According to the French social psychologist Gabriel Tarde's interpretation, the overall stage of activeness and politicising or the stage of "inventiveness" is replaced with the stage of "disappointment".[2] Tarde explains these social processes by applying the mechanisms of the social law of imitation. The scope of the latter is separated into certain stages. In the first stage, the "inventor" opposes the conservative environment and alienates him/herself from it. The second stage is typical with the "mass inventiveness" or the widespread interest of the society on any given idea. In the third stage, the "inventor" leads the public movement, but eventually comes the stage of re-evaluating the initial idea, and "disappointment" or inertness can arise, after which the cycle starts over again.

The stage of overall political activeness of our society that started in the beginning of 1980s has gone. There is a loss of interest and inertness towards political processes. This situation is conditioned on the depression of people caused by hard social-economic conditions, resulting in double passiveness. The absence of systematic ideas and values that are positively valued by the society causes a kind of vacuum, which is often filled with sects and similar movements.

Logically, the formation of a civil society with adequate culture and traditions is not a matter of one or a few years. In this respect, a lot still needs to be done in Armenia than what has been accomplished so far. Up to now, we have not found the most effective and appropriate way of encouraging the national mentality and psychology, or established enough

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2   See Tarde. G., Imitation Rules. St. Petersburg, 1892 (in Russian), pp. 11-14, 97.

contacts and that would help sustain cooperation between the government and NGOs. More than 70% of registered NGOs operate in the capital city, though their services are also acutely needed in so-called *marzes* (as rural regions are called in Armenia).

Nevertheless, one can see that in Armenia the first considerable, even though awkward, steps towards the establishment of a civil society are being taken. In this respect it is very important to benefit from the experience of those countries that have already chosen this path. However, it is even more important to understand that "benefiting" is not "copying", and that the international experience should be applied, while taking into consideration the national peculiarities and local problems, and keeping in mind the need to develop a long term vision and programmes of action. In doing this it is important not to forget about local traditions and capacities. The foundation of civil society institutions in Armenia can be much stronger if these institutions are built according to the existing traditions.[3]

In advocating human rights and freedoms in Armenia, however, it is important to be aware of the danger of going into extremities. The struggle for the protection of human rights should not lead to the worship of certain personalities (idolisation). This danger can be quite realistic taking into account the characteristic features of idolisation typical to the national mood of Armenians. This last clause can be contested, but the arguments in its favour are not few. According to the generally accepted opinion, many of our compatriots, irrespective of whether they act individually or not, are inclined to imagining themselves as the people's idols and assess processes from that point of view. Maybe this is the reason for the apparent tendency of personalising the perception and evaluation of events and processes (for example, not *"why?"* did the Soviet Union collapse, but *"who?"* destroyed the Soviet Union, and not *"why"* did the first Armenian president Ter-Petrossyan resign, but *"who?"* made him resign?).

The characteristic features of individualism typical to the national psychology can also explain the absence of significant successes of Armenian teams in collective forms of sport and the traditionally large achievements in the individual forms. Personalized understandings typi-

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[3] For many centuries, even without having a government and a state, the Armenian society survived, developed and organised itself with the support of different social institutions like the Church, benevolent associations, women's organisations, national youth organisations, militia brigades, community self government structures, etc. With certain reservations we can also add to this list, the traditional political parties that continued their patriotic activities in the absence of statehood and national government.

cal to public opinion have a tangible role in assessing the activities of social and political institutes.

Some results of the social survey conducted in 1995 on the subject of the national agreement in the RoA are quite interesting. 30% of the experts (lawyers, sociologists, political scientists, economists, politicians, etc), having participated in the survey, understand national agreement as an agreement between political authorities and the opposition. About 20% of the survey participants see that possibility in the concord and co-operation between personalities with different ideas and views, and influential political figures.[4] Indeed, the political field in Armenia is still rather a struggle between separate groups of individuals and confederates, than a debate of publicly and socially formed representative forces.

Certainly, the personification typical of the political field and organisations in transformation societies has objective reasons as well, such as the absence of stable traditions and groups that function at different levels of social institutions. The role of a strong personality or a leader is quite important in the newly formed structures lacking persistence in operations and harmonic functioning of mechanisms. Besides, there is still no definite delineation of social layers.

Nevertheless, the characteristic features typical to the national mood and mentality have a certain role in the above-mentioned matter. It is necessary to note that the other side of individualism is the hedonism and egoism prevalent in social life that may be a danger to the self-preservation of the social system. The French enlightener Montesquieu considered one of the reasons for the disruption of Old Rome to be the prevalence of hedonistic spirits in the ethical-ideological system.[5]

The same thing can be said with respect to the threats by Bin Laden for example, addressed to the USA in his messages transmitted by Qatar's "Al Jazira" TV company.  Certainly there is no need to give way to totalitarian thinking of the whole being everything, and the part nothing. It is necessary to insert the issue of propaganda of human rights in the context of the formula, as proposed by the 18th century French thinker Hel-

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4   See Hovhannes, H., National Concord Possibilities and Realities. Droshak N 12 (1556) Athens, 1999, pp. 17-18 (in Armenian).

5   This prevalence of personal interest over public/societal interest (which are expressed by egoism and hedonism) as well as the prevalence of public/societal interest over personal/individual interest (totalitarism) can be destructive to the societal system.  This can be seen in the example of Bin Laden and Montesquieu.  The right solution to the problem is shown below by the example of Helvetius. See also Montesquieu. "Causes of the Greatness of the Romans" Chapter X: The Corruption of the Romans". In: http://www.constitution.org/cm/ccgrd_l.htm (Visited in September 2005).

vetius, when he talked about the interrelations between the person and the public. According to his formula, the correctly understood personal interest coincides with the public interest, and the correctly explained public interest coincides with the personal interest.[6]

It is important for the society to see to the prerequisite for the protection of its interests and rights in the context of protecting each individual's interests and freedoms, and each member of the society to see to the guarantee for the protection of its interests and rights being interconnected to the system of the protection of the society's interests and human rights.

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6   See Helvetius *C. A.*, Essays on the Mind and Its Several Faculties. Essay in 2 volumes, V 1, M. 1973, pp. 82-183; 206-208 (in Russian).

*Gevork Manoukian*

# Two Priorities and Two Suggestions in Leading the Way to Human Rights Protection[1]

"Everyone who does evil hates the light, and will not come into the light for fear that his deeds will be exposed. But whoever lives by the truth comes into the light, so that it may be seen plainly that what he has done has been done through God." (John 3:20-21)

Several prerequisites and conditions are necessary to ensure and protect human rights in a country. Two of them are of particular significance. These are; the real separation of power and the rule of law over political ideology. The history between the state and law prove these two conditions to be fundamental systematic priorities, lack of which causes constraint in issues concerning human rights protection. The constitutional reforms on the agenda at the moment in the Republic of Armenia are a unique opportunity for the country to make the first and most important step towards establishing these priorities and fixing them in the country's constitution. Let us try to justify the above-mentioned priorities in human rights protection by comparing some points within the constitutional reforms process.

## Real Separation of Power

Human rights cannot be protected in any country if the power is centralised in one of its wings, or in the hands of a certain force or an individual. Only the three separate branches of government are vested with real power and independence to rule due to their systematic and institutional structure. They are able to fulfil an appraisal function, thus ensuring the harmonic running of the state, public and civil structures, and also in ensuring the discussed priority of human rights protection.[2] According to

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[1]  This article is a continuation of  the Article "Real Separation of Power is a Necessity", published almost at the same time in the "*Vasn Ardarutean*" (For Justice, a scientific-methodological journal) #4(54), 2005, pp. 2-5.

[2]  The current Constitution of the Republic of Armenia, as well as the census being drafted completely lack the separation of power. In fact, power is first divided into two parts, between the president and the three powers. After separating the "exclusive" authorities of the president the rest of the authority is divided between the three powers, trying to cre-

the theory of power separation, the power should be divided into three independent branches: the legislature, the executive and the judicial. The legislature should develop and adopt laws that are mandatory for everyone. Other branches of power as well as different institutions, structures, unions may have the right to come up with a legislative initiative or proposal. In the executive-judicial relationship, the legislature fulfils an evaluative role, or in a certain sense, a supervisory function by adopting laws, inquires or non-judicial impeachments and using other similar tools. In order to exercise legislative control the executive should neither pursue court resolutions nor examine them. On the contrary, complete independence must be granted to the courts, which are only to obey the law and not the executive or the legislature, thus ensuring the principle of everybody being equal before the law.

The executive power, which is the government, should govern the country in compliance with the laws adopted by the legislature. It should not have the right to interfere with the law drafting process and must be able to adopt only regulatory acts. The situation with the executive drafting laws, developing them "to suit its own convenience", or modifying the "restrictive" ones, is unacceptable and unnatural.[3] If a government cannot govern in accordance with the current legislation, it must resign and not change the law or adapt it to its capacities. Undoubtedly, the executive power should also have the right of legislative initiative, but only that and nothing more in the law-making field.[4]

The judicial power must implement justice and ensure legality in the country. According to the principles of equality before the law and inevitability of punishment, the legislators, including all members of parliament, government officials and other high ranking officials, any official and citizen, as well as the prime-minister and president of the country should be responsible for any breach of the law.[5] In Armenia, the judges

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ate an illusion of separation of power. Vasn Ardarutean (For Justice) Journal, 2005, #4 (54), p. 2.

[3] This is also against the principle of the rule of law, as it means that every new government has the right to change and edit the law "to suit its convenience". This has a destructive impact on the system, undermining all public institutionalisation efforts.

[4] Provided that the legislators do not interfere with the daily executive and administrative functions of the government and the ministries.

[5] According to Article 57 of the RoA Constitution adopted in 1995, the president of the Republic of Armenia "…may be removed from office for state treason or other severe crimes". Doesn't this mean that the president is directly allowed to commit other actions that are pursued by the RoA Criminal Code, that however do not qualify as being "severe". None of the drafted laws in circulation has ever addressed this issue.

have to abide by the law to an extent that official impeachment may be instigated at the National Assembly even in cases of slight doubt of law infringement. One can hence not speak of the independence of the judicial power and consequently, of the separation of power, when judges, members of the Constitutional Court or prosecutors are appointed to, and released from position by the same authority. Furthermore, according to the 1995 Constitution and the currently proposed drafts, the mentioned authority has the right to give its consent to the holding of judges and prosecutors criminally or administratively liable.

It is hard to overestimate the role of the fourth power, i.e. the free press. It should play the role of a unique searchlight illuminating with its strong rays, the play-field of the other three powers and their every action without leaving anything in the shadow, so that all their actions are visible and perceivable to the public and every individual.[6] (See picture 1).

**Picture 1. Classic division of powers and their mutual balance[7]**



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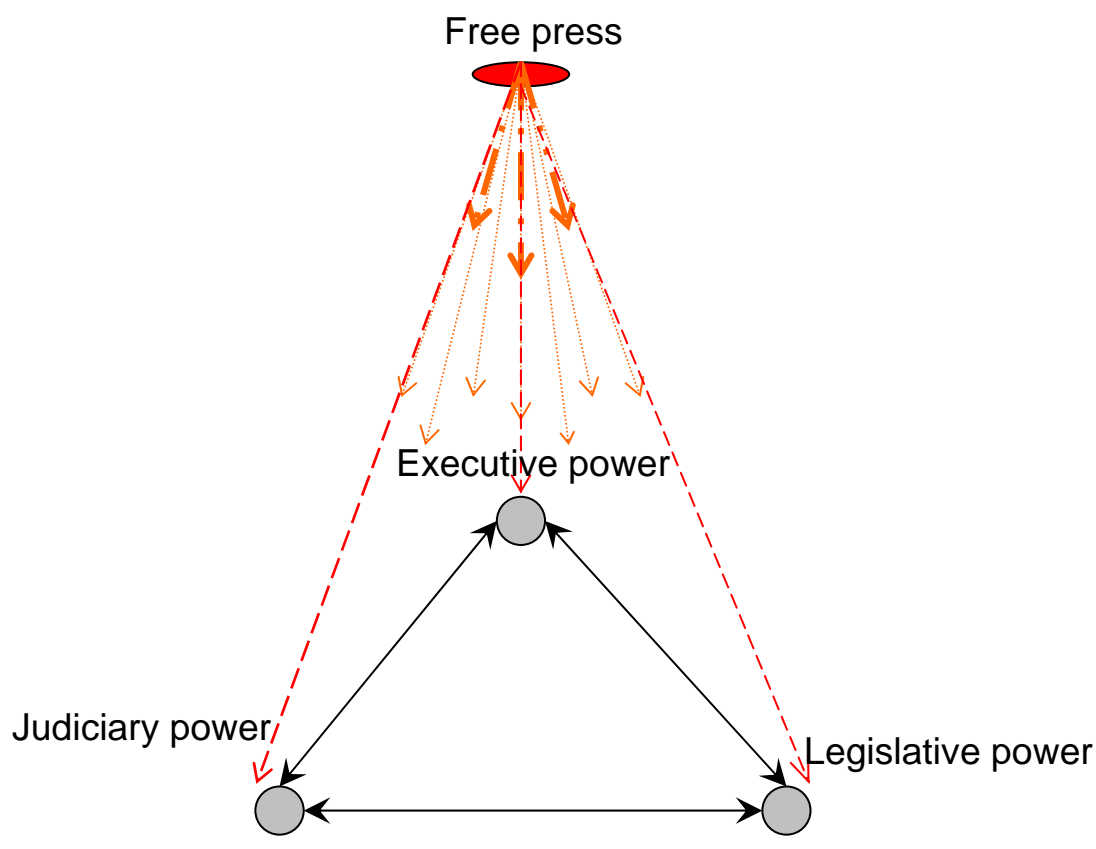
6   If the authorities are good they are drawn to the light, since they are just and have nothing to hide. If they are bad, with ulterior motives, they hinder activities of the media so as to find dark cavities and hide from the "destructive" rays of the searchlight.

7   Graphic designed by Hunan Kirakosyan, 2004.

Beside the division of power, it is necessary to also constitutionally ensure separation of the business sector, which can be called the fifth or economic power, from the three powers, excluding combination of business and legislative, executive/administrative and/or justice enforcement functions regardless their evident or hidden (shadow) nature.[8] In any democratic country, it's the separation of the sectors within the community i.e., the state, the business sector and the civil society that allows their effective cooperation, and contributes to the harmonic and natural development of the society. This separation has a positive impact on the development of each sector and the society as a whole.

The mutual symbiosis or identification[9] of the state and the business sector, the state and the civil society, the civil society and political parties, or of their functions, obstruct their independent roles in the society. According to Clause 9 of the August 23, 1990 Declaration of Independence of the Republic of Armenia, the newly created state committed itself to ensure the separation of the powers. However, Article 5 of the1995 Constitution represented a retreat from the Declaration of Independence, with the commitment being replaced by a principle.

Thus, the mentioned article should be rephrased to read as follows: *"The separation of state power into executive, legislative and judiciary powers is ensured in the Republic of Armenia".*

## Rule of Law over the Political Ideology

Following the developments of legal thought in the years after independence, one can see that the principle of the rule of law is not applied in Armenia. Furthermore, it probably remains unperceived. Both in the university circles and political amateur spheres the term "rule of law" is widely replaced by "dominance of law" or "power of law", which are also still on the paper. Two main reasons responsible for this situation, which I would like to discuss below are:

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8   In case of an effective management system formation, i.e. in cases where proper guarantees of legality are ensured, loyal businessman will have neither the wish nor time to be involved in legislative activities. Evidently, it's the wish to be protected from non-contemplated legislative threats and to have a roof that makes lots of entrepreneurs be able to receive a legislative mandate.

9   Many state "pocketed" NGOs exist nowadays that belong to a state official, a political party, a political person or an entrepreneur. These create only an illusion of the existence of a civil society.

1) The gap between the law and justice originating from the communism era still continues to grow, whereas the legal relationship is preconditioned by political ideology.

2) The same "dominance of law" or "powers of law" are also seen as insignificant concepts, since the relevant documents or laws do not specify whom or what the law dominates or has power over.

However, a rule of law predominant over politics should finally be established,[10] since there is no society without a law (*ubi societas ibi jus*). This is inevitable if a society wishes to have a state organisation and be a democratic, civilized society, and not a crowd of individuals surviving due to the "law" of force or fist.

The rule of law over political ideologies is the basis for social progress in human societies. The law, as a reflection of justice and truth, if liberated from political influence, can serve as a basis for civil public order, be a balance for conflicting interests and an unalterable, stable means for just decision making. Therefore the rule of law can find its best practical application under an independent judiciary power. This is when the court is not constrained by law and can therefore courageously apply the general principles of law and justice, which means that the idea of clear-cut law rules over both positive and negative norms. Therefore, my second suggestion would be to formulate Article 6 of the new Constitution of the Republic of Armenia to read as follows: "*Article 6: The rule of law over political ideology is ensured in the Republic of Armenia*".

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10  Rene, D., and Brierly, J., Major Legal Systems of the World Today: An Introduction to the Comparative Study of Law. London: Stevens and Sons, 1988, 3<sup>rd</sup> ed. p. 188.

*Ashot A. Alexanyan*

## Intrastate Mechanisms of the Protection of Human Political Rights and Freedoms in Armenia

The intrastate (national) and interstate (international) mechanisms of political rights and protection of freedoms precondition a civilized participation in the political life of the society. In the system as a whole, one deals with individual and collective human rights, as well as with private and public human rights and freedoms. Political rights constitute a system of legal norms regulating the relationship between the subjects of law.

Based on the former Soviet Union (USSR) and Armenian Socialist republic (SSR) legislative framework and having won the elections to the Supreme Council, the Liberal Democrats took over the running of the state. Guided by the acknowledged principles of international laws, the Supreme Council of the Armenian SSR adopted the Declaration of Independence of Armenia (1990) and the Law on Renaming the Armenian SSR (1990).[1] Thus, due to the attainment of Independence in Armenia, the state and the nation were no longer "two principally different social organisations".[2]

Today, Armenia is a member of the United Nations Organisation, the Council of Europe (CoE), and the Organisation for Security and Cooperation in Europe (OCSE), and has taken a number of legal, political and other commitments reflected in the Partnership and Cooperation Agreement signed between Armenia and the European Union on April 22, 1996. The adoption of the Constitution of the Republic of Armenia in 1995, the activities of the Human Rights Committee under the Armenian President in 1998 and the establishment of the Ombudsman's Institute of Human Rights in March 1st, 2004 also contributed to the establishment of national procedures of human political rights and freedoms protection. The aim of advocating for political rights and freedoms is to ensure legal equality and the opportunity to participate in active politics, including the rights of free participation in politics, political power formation, political development (national and international development policies), political

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1    See The Chronological Guidebook of RoA Laws (1990-1995). Yerevan, 1995, pp. 9-10.

2    Shatski, Y., Protoliberalism: Autonomy of Personality and Civil Society. Polis, 1997, No. 6, p. 16.

processes, decisions making, adoption, enforcement and monitoring, as well as in local self-governance.

## Electoral and Referendum Rights

This right assumes that different political entities are involved in the electoral processes, which in turn, precondition legitimate functioning of public and local self-governing bodies. The electoral and referendum right enables individuals and unions of individuals to execute their electoral power and political will, by participating in outlining, adopting, implementing and monitoring of political decisions.

Particularly Article 21 of the Universal Declaration of Human Rights states that "the will of the people should be the basis of the governmental power" and "That power must be reflected in periodic and genuine elections". It also prioritises the necessity for everyone to have the right "to participate in his country's governance directly or through a representative" (Article 21). This is also foreseen by the International Covenant on Civil and Political Rights (ICCPR), the Document of the Copenhagen Meeting of the Conference of the Human Dimension of the CSCE (Clause 5.1, 5.2, 7), the Document of the Moscow Meeting of the Conference of the Human Dimension of the CSCE[3] (1991, Clause 7.1, 17.2, 18.1), the Charter of Paris for a New Europe (1990) and other documents. However, the International Covenant on Civil and Political Rights reserves this right only for citizens (Article 25), while the Universal Declaration of Human Rights reserves it for everyone (Article 21). According to Armenian Constitution, "people execute their power through free elections, referenda…" (Article 2).

The open preparation and process of elections and referenda is ensured in the Constitution (1990), the RoA Electoral Code (1999), and the RoA Laws on National and Local Census (2001). They are "held based on universal, equal, direct electoral right, through a secret ballot"[4]. It should be noted that electoral and referendum rights are granted mainly to the citizens meeting the necessary requirements set for participation in the elections and census. According to the order defined by the Electoral Code (Article 2) and Law on Local Referendum (Article 3), the right to

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[3]   Human rights and the Judiciary: A collection of International Documents, Yerevan, Areg, 1996.

[4]   RoA Constitution (Article 3), as well as RoA Electoral Code (Article 1, 3, 4, 5, 6), RoA Laws "On Census" (Articles 1, 2, 3), and "On Local Census" (Article 2).

take part in the elections granted to local self-governing bodies is granted also to refugees.

## Right to Organise Peaceful Meetings, Processions and Demonstrations

This right provides guarantees necessary for individual or collective public participation in political processes. It includes mechanisms of political actions that allow the free organisation of meetings, processions, demonstrations and other political events. Such political actions ensure the political dialogue and public accountability between the state and local self-governments and civic institutions, especially when various political groups directly participate in the preparation, adoption, enforcement and monitoring of political decisions.

The right to freedom of peaceful assembly is guaranteed by the Universal Declaration of Human Rights (Article 20), the International Covenant on Civil and Political Rights (Article 21), the Document of the Copenhagen Meeting of the Conference of the Human Dimension of the CSCE, (Clause 9.2), the Charter of Paris for a New Europe, the Document of the Moscow Meeting of the Conference of the Human Dimension of the CSCE, (Clause 18, 18.2) and other international and regional documents. In particular, the International Covenant on Civil and Political Rights says that the right of peaceful meetings "is not subject to any restrictions, except the limitations necessary in a democratic society" (Article 21).

According to the Constitution of the Republic of Armenia, "citizens possess the right to organise peaceful, unarmed meetings, processions and demonstrations" (Article 26). However, those rights and freedoms "cannot be used to overthrow the constitutional order, or to enkindle ethnic, racial or religious hatred, and to propagate violence or war" (Article 48). This right is guaranteed also by the RoA Law On the Order of Organizing Meetings, Processions or Demonstrations" (2004), which regulates the relations associated with the organisation of peaceful meeting processions, demonstrations (including sit-down strikes) and other events (Article 1).

## Human Right to Unite or "Freedom of Assembly"?

This right enables individuals to create unions in accordance with the order defined by the legislation (right of freedom to form unions) and carry out activities through those unions (right of free functioning of unions). In the political processes, these public unions are represented as trade un-

ions, NGOs and parties or federations. This right is also fixed in a number of international and regional documents, such as the Universal Declaration of Human Rights (Article 20), the International Covenant on Civil and Political Rights (ICCPR) (Article 22), etc. According to the latter treaty, "the use of this right is not subject to any restriction, except the restrictions necessary in a democratic society" (Article 22).

Such a provision is also contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms, where the above mentioned right is reserved to every individual (Article 11). In this regard, the Document of the Copenhagen Meeting of the Conference of the Human Dimension of the CSCE (Clause 9.3, 26), the Charter of Paris for a New Europe, the Document of the Moscow Meeting of the Conference of the Human Dimension of the CSCE (Clause 18), and the Helsinki top level meeting declaration (1992, Clause 24), and other documents are of great importance.

According to the Constitution, "every individual has the right to form unions with other individuals" (Article 25). However, only the Armenian citizens have the right to create unions and enrol in them, which can be restricted for "persons serving in the armed forces and law-enforcement bodies" (Article 25). This is also reflected in the RoA Law "On Parties", where some exclusive rights are reserved for the parties (Article 3 and 21), as opposed to NGOs (Law "On Non-governmental Organisations" (2001) and Trade Unions (Law "On Trade Unions" (2000)).

**Right to Appeal**

These mechanisms enable individuals or unions of individuals to directly and immediately solve urgent problems. This right is defined in the Universal Declaration of Human Rights (Article 2, 6-8, 22), the International Treaty on Civil and Political Rights (Article 2, 16, 26), the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 5, 13), and in other documents. According to the RoA Law "On order of discussing citizen's proposals, appeals and complaints" (1999), this right is reserved "for both Armenian and foreign citizens and stateless persons residing in Armenia" (Article 1). However, alongside this, there are also certain restrictions defined by the Constitution and the above-mentioned law. For instance, according to the Constitution, a certain status is needed in order to apply to the Constitutional Court.[5] The

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5   See The Constitution of the Republic of Armenia Article 101: The Constitutional Court
    may hear cases submitted by: 1) the President of the Republic; 2) at least one third of
    the Deputies; 3) Presidential and parliamentary candidates on disputes concerning elec-

right of appeal for foreign citizens and stateless persons in Armenia is also protected by the Law "On Political Shelter" (2001), which defines the order of applying for political shelter and making or suspending a decision." (Article 4-11).

## Right of Equal Public Service Opportunity

This constitutional right enables individuals to take part in the functioning of state authorities by using their professional knowledge, active political backgrounds and work abilities. It also makes the process of holding positions in the public service system transparent. I will later talk about the laws that can effectively function when the rights and freedoms of public servants are more protected, and thereby enabling them to carry only functions foreseen by the legislation when carrying out their duties. They thus remain within the limits of professionalism and authorities they are entitled to, while also establishing guarantees for the formation, sustainability and development of a civil public service system.

The above-mentioned right is reserved for everyone in the Universal Declaration of Human Rights (Article 21), whereas the International Treaty for Civil and Political Rights reserves these rights for citizens only (Article 25). Mechanisms of this right's protection are also defined in the OSCE documents. According to the Constitution, "the people execute their power through the state and local self-governing bodies and officials, in accordance with the Constitution of the Republic of Armenia" (Article 2). In the RoA Law "On Civil Service" (2001), "public service is the execution of powers retained to the state by the legislation, including policy implementation by state and local self-governance authorities, as well as civil service and work in those authorities".

According to the law mentioned above, state service as a type of public service includes civil, judicial, customs, emergency management service in public executive institutions, as well as diplomatic and other service stipulated by the law (Article 1). The Armenian constitution and legislation also upholds that only citizens have the right to hold relevant positions in the different areas of services. There are certain restrictions re-

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tion results; 4) the Government in cases prescribed by Article 59 of the Constitution. The Constitutional Court shall only hear cases that have been properly submitted. Article 59: In the event of the serious illness of the president or of insurmountable obstacles affecting the performance of his or her duties, upon the recommendation of the government and upon determination by the Constitutional Court, the National Assembly shall adopt a resolution on the incapacity of the President of the Republic to exercise his or her duties with a minimum two thirds majority vote of the total number of deputies.

lating to age, education, professional and previous experience, and other requirements defined by the Constitution, the RoA Laws "On State and Official Secrecy" (1997), "On Civil Service" (2001), "On Diplomatic Service" (2001), "On Public Service in the National Assembly Administration" (2002), "On Military Service" (2002), "On Service in Police" (2002), "On Customs Service" (2002), "On Tax Service" (2002), "On Service Ensuring Coercive Enforcement of Judicial Acts" (2004), "On Alternative Service" (2004), as well as by other laws and documents.

## Right of Speech, Information and Communication Freedom

This right contains the rights to seek, receive, express and disseminate political beliefs, ideas, opinions and information. Those rights also allow the introduction of universal principles of creative approaches (political creativity) into political activities. These principles, as a result of individual or collective activity, are reflected in different media, political propaganda, advertisements, debates, viewpoints, meetings, ideology, etc. Here we deal with professional activities implemented individually or by joint efforts. This is only possible if the rights of independent journalists, free media, and different information or communication facilities are protected, which enables them to be guided only by the order defined by the law and norms of professional responsibility and ethics. On the other hand, we deal with political programmes and activities of individuals, citizens or their unions.

In particular, the Universal Declaration of Human Rights reserves this right for everyone (Article 19). A similar provision is also defined in the International Covenant on Civil and Political Rights (Article 19), the European Convention on the Protection of Human Rights and Fundamental Freedoms (Article 10), the OSCE Final Statement (1975, Clause 2), the Document of the Copenhagen Meeting of the Conference of the Human Dimension of the CSCE, (Clause 9.1), the Charter of Paris for a New Europe, the Document of the Moscow Meeting of the Conference of the Human Dimension of the CSCE, (Clause 26, 26.1, 26.2) and other documents.

Both the above documents and the Constitution (Article 23, 24, 48) set certain restrictions to these rights that "should be defined by the law and be necessary" in a democratic society. In Armenia, this right is defined also by laws "On Language" (1993), "On Publicity" (1996), "On Public and Service Secret" (1997), "On Telecommunication" (1998) "On Copyright and Related rights" (2000), "On TV and Radio" (2000), "On Information Freedom" (2003), "On Mass Information" (2004), etc.

In conclusion I would like to note that modern Armenia has numerous public unions, ethnic minorities or religious organisations and NGOs, private TV companies, and other forms of mass media. It is impossible to imagine the protection of political rights and the establishment of a civil society, or the institutional and intra-institutional integration without the just mentioned groups. Thus, it is a hierarchic (civil-archaic) civil process, which civilizes relations in the society, its members, the state, as well as the relationship between all of them". [6]

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[6]   Zhukova, V.I., Krasnova, B. I. (eds.), General and Applied Political Science Guidebook. Moscow, 1997, p. 447.

*Alexander Markarov*

# The Future of Democracy in Armenia: Institutional and Mass Beliefs Perspectives

The very optimistic and romantic view according to which at the edge of the 21st century the former Soviet republics underwent democratic transition came up to be partly true. There is no doubt that transition took place, but the trajectory of those transitions, strategy and tactics adopted by the actors, as well as the outcomes vary on a great scale when we take a look at different countries. Currently, the Newly Independent States of the former Soviet Union are mostly considered to be "electoral", "delegative democracies", "pseudo-democracies" or even new authoritarian regimes. Very few, if any, are considered to be liberal democracies, where there are no areas reserved for unaccountable officials, and the vertical accountability of elected officials to their voters is supported by the horizontal accountability of the executive to the legislative and judicial branches, allowing the constraint of the former and in so doing, help to protect constitutionalism, legality, and the deliberative process.[1]

What are the reasons behind the different results in transition, and what are the possible development trajectories for societies that still are in transition? Will they be able to consolidate democracy into their system and not be stocked with an electoral democracy, or will they undergo another transition towards a non-democratic regime? In the Armenian context the issue could be rephrased as follows: what changes would be appropriate within the existing executive-legislative relations to make them more balanced, to make the executive, and more concretely, the president accountable and the parliament autonomous? There is reasonable doubt whether any formula exists that could provide answers to the above or guide on how to set institutional arrangements that could promote democracy. One solution could be studying and maybe adopting the measures undertaken by other countries, which underwent or still undergo transition towards liberal democracy. These efforts should be made wisely, taking the mutual legacies and case studies of similar countries into special consideration.

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[1]  Diamond, L., Developing Democracy Toward Consolidation. Baltimore and London: The John Hopkins University Press, 1999, p.10.

It is certain that none of these government systems are perfect. The issue should therefore not be to try to emulate one system, but to make institutional arrangements acceptable and conducive for democratic development, and to design executive-legislative relations in a way that their interplay could help promote the democracy building process during the transition period. The future of politics in the transition and other future developments certainly depend on a number of factors, including those embodied in certain institutional structures. Nevertheless, it is clear that the transitional process includes much more than institutional arrangements. Besides the issue of setting up institutions that help promote democratic development in the theory of consolidation, emphasis should be put on issues relating to the political culture, the population and the political elite's attitudes and behaviour, where democracy is viewed as a principal, paramount and only appropriate form of government.[2] In recent years, various surveys and researches were devoted to the study of mass attitudes and beliefs toward democracy in newly democratised states. The levels of mass participation, tolerance, support for the new regime, etc., were examined and analysed as dynamic processes. [3]

Two dimensions of the transitional process will be discussed and presented; one relating to the constitutional development and institutional arrangements in Armenia, and another one on the issue of the beliefs of

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[2]  Diamond mentions that a two-thirds support to democracy and rejection of authoritarian alternatives «is a minimum threshold, and 70 – 75 percent is a more compelling indicator» for one to say that democracy is consolidated at the level of mass public support. Diamond, L., Developing Democracy Towards Consolidation. Baltimore and London: The Johns Hopkins University Press, 1999, p. 68.

[3]  See for example Anderson, C. J., and Guillory. C. A., Political Institutions and Satisfaction with Democracy: A Cross-National Analysis of Consensus and Majoritarian Systems, in: The American Political Science Review 91(1). 1997, pp. 66 – 81; Colton, Timothy J., and McFaul, M., "Are Russians Undemocratic?" Washington, DC: Carnegie Endowment for International Peace Russian Domestic Politics Project Russian and Eurasian Programme. 2001, Working Papers. No. 20; Diamond, L., How People View Democracy: Findings from Public Opinion Surveys in Four Regions. Presentation to the Stanford Seminar on Democratization, January 11. 2001; Miller, A. H., Hesli. V. and Reisinger W., Conceptions of Democracy Among Mass and Elite in Post-Soviet Societies." I997, British Journal of Political Science 27: pp. 157 – 190; Miller, A. H., Hesli, V. A. and Reisinger, W., Reassessing Mass Support for Political and Economic Change in the Former USSR. 1994, American Political Science Review 88(2): pp. 399 – 411; Meleshkina, E., Russian Voters: Attitudes, Choice and Voice, in: Elections in Russia, 1993 – 1996: analysis, documents, and data, eds. Gel'man, V., and Golosov, G. Berlin: Ed. Sigma, 1999, pp. 172 – 199; Reisinger, W., Miller, A., Hesli, V. and Maher, K., Political Values in Russia, Ukraine and Lithuania: Sources and Implications for Democracy. 1994, British Journal of Political Science, No. 24, pp. 183 – 223.

the mass and their attitudes towards democracy, both considered as a constraint to the process of democratic consolidation in Armenia.

According to a survey conducted in 2004, more than half of the respondents who participated called themselves democracy adherents, with 54% of the respondents completely supporting the idea of democracy, 17% rather supporting it, 15% answering that they did not support democracy at all and 13% rather not supporting it. It was frequently stressed that the respondents did support the very notion of democracy, but not the political system established in Armenia since independence. There is a notable correlation between the support of democracy and the importance of elections, as seen in the survey. 54% of the respondents completely agreed that elections were important, with 18% finding them rather important. 55% preferred that authorities be elected in free and fair elections, rather than be ruled by non-elected professionals with high personal qualities. 43% though preferred such a meritocratic alternative and for 28%, the elections were not important.

Despite the negative attitude towards elections expressed by 28% of the respondents, they often argued that their votes did not really affect the outcome or were often shuffled. Among the respondents, 69% agreed that Armenia should be a democratic country and only 4% preferred the non-democratic alternative. 27% were indifferent as to whether Armenia was to become a democracy or not. Despite that, another 27% of the respondents completely or partly accepted that in the current state of affairs, a non-democratic alternative would be more acceptable for Armenia, whereas 52% completely and 19% partly rejected such an alternative. Among those 27%, 3% preferred a monarchy, 17% a Soviet type regime or one-party state and 6% preferred some form of dictatorship. The opinion expressed by 37% of the respondents is that democracy can solve the problems Armenia is facing, with 29% partly agreeing with such statement, 13% partly disagreeing and 18% disagreeing completely. Based on those figures, one can get a mixed signal regarding mass attitudes in Armenia.

In spite of a positive tendency, and with more than half of the respondents supporting democracy, Armenia's current stage in democracy is not unified at the level of mass attitudes and beliefs. In addition, the authorities have not been able to solve current problems in regime support. Only 3.5% were completely satisfied and 29% partly satisfied, while 67.5% were neither partly nor completely satisfied with the regime. 25% completely agreed and 13% partly agreed that the Soviet regime was more acceptable and there was need to return to it, while 22% partly disagreed and 39% completely disagreed with such statement. The good news is that more than two third of the respondents think that Armenia

should be a democratic nation, more than a half reject any non-democratic alternative, and more than half prefer the authorities to be elected through competitive elections rather than meritocracy.

A second dimension in this investigation is the institutional arrangements found in Armenia. After the proclamation of independence, the Republic had to solve numerous problems, including those in the sphere of forming political institutions. Since the early 1990s major discussions developed over the issue of how to form the government, the type of executive-legislative relations and the role and functions of the president. That issue has always been on the parliamentary agenda since 1991. Institutional design problems are not unique for Armenia and other states that seceded from the Soviet Union. Debates on the type of government to be formed and type of executive-legislative relations were the central point of political debates in the beginning of 90s for most of the former Soviet republics, and the Eastern and Central European countries. An outline of the alternatives and some political consequences of those choices can be briefly discussed. The three main types of government are presidential, parliamentary or semi-presidential. In a presidential government, the head of state, who is also the chief of the executive branch, is generally elected for a fixed term in office. He appoints the government that cannot be voted out by the legislature through a vote of no confidence. A parliamentary government can be briefly described as a "form of constitutional democracy in which executive authority emerges from, and is responsible for, legislative authority."[4]

A third option is a semi-presidential government with the president elected through general elections for a fixed term and having substantial authorities, including the task of appointing the prime-minister and the government, but these later are also subjects of parliamentary confidence.[5] Each of the types has its advantages and disadvantages. It is usually mentioned that a presidential government has advantages, e.g.

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[4]  Lijphart, A., Democracies Patterns of Majoritarian and Consensus Government in Twenty-One Countries. New Haven and London: Yale University Press, 1984, p. 68.

[5]  More detailed discussion on the forms of government can be found in Sartiri, G., Comparative Constitutional Engineering: An Inquiry into Structures, Incentives and Outcomes. New Jersey, 1994; Linz, J., Presidential and Parliamentary Democracy: Does It Make a Difference? in: The Failure of Presidential Democracy. Vol.1, Baltimore and London, 1994; Lijphart A., Democracies Patterns of Majoritarian and Consensus Government in Twenty One Countries. New Haven and London, 1984; Lijphart, A., Patterns of Democracy Government Forms and Performance in Thirty-Six Countries. New Haven and London: Yale University Press, 1999; Shugart, M. S., and Carey, J., Presidents and Assemblies: Constitutional Design and Electoral Dynamics. Cambridge University Press, 1992; Duverger, M., New Political System Model: Semi Presidential Government, in: European Journal of Political Research, 8/2, June 1980.

the stability of the executive and a more democratic government that co-exists amidst disadvantages such as a possible deadlock within the executive-legislative relations, time stringency or over ambitiousness. On the contrary, the parliamentary form of government is usually found to have a more flexible executive-legislative relation because of a possible vote of no confidence on the government that could be introduced by the legislature and the possibility of coalition formation. But then it is this executive instability that is also usually mentioned as the major disadvantage of a parliamentary government. The semi-presidential government combines the advantages and disadvantage of those systems mentioned above, but is also inconvenient because "the system would develop a pattern of alternation between presidential and parliamentary phases."[6] In addition, this type of government's setting is protected from the possibility of deadlock within the executive-legislative relations under a divided government.[7]

The current Constitution of Armenia proclaims the principle of power separation, yet it still does not provide real guarantees for the independent functioning of these branches of government. It could be viewed as a triangular structure that includes the legislature, the executive and the judiciary that is overshadowed by the presidential institution. The system that was founded on two laws adopted by the then existing Supreme Soviet of the Republic of Armenia; "The Law on the President of the Republic of Armenia" and "The Law On the Supreme Soviet of the Republic of Armenia", and were upheld in the Constitution adopted in 1995, and could be blamed for the existing presence of pseudo- or non-democratic political practice, especially in the period between 1995 -1997.

The existing constitutional frames outline two possible development trajectories. First of all, when the parliamentary majority supports the president, this makes him practically unopposed in matters pertaining to power execution within all spheres of state politics and policy. That was actually the Armenian political reality in 1995 - 97, when the then system of governance could be best described as "superpresidentalism" with the legislative, executive and judicial being absolutely subordinate to the

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[6]  Lijphart, A., Patterns of Democracy Government Forms and Performance in Thirty-Six Countries. New Haven and London: Yale University Press, 1999, p. 122.

[7]  More detailed discussion on the advantages and disadvantages of the forms of government can be found in: Parliamentary versus Presidential Government. Ed. by Lijphart, A., Oxford University Press, 1994; especially J. Linz's articles: The Perils of Presidentialism and The Virtues of Parliamentary Democracy; The Failure of Presidential Democracy: Comparative Perspectives, Ed. by Linz J., and Valenzuela A., Baltimore and London: John Hopkins University Press, 1994.

head of state, who is the president. Another feature that exists within the current constitutional settings is the potential power sharing between the prime minister (*varchapet*) and the president, in cases when the latter lacks a parliamentary majority. The first elected president, Levon Ter-Petrosyan, faced this option in the beginning of 1998, when he lost the parliamentary support and decided to resign. That happened on February 4, 1998. The incumbent president Robert Kocharyan, who was the prime minister of the Republic at that time, declared constitutional reforms and amendments as one of the cornerstones of his electoral platform, considering it an absolute necessity. The major points within the reform process were the human rights issue and the interrelations between the branches of government especially, making the legislature and judicial more independent. In addition, the issues of dual citizenship and improved local self-government had to be addressed. After being elected president, on May 19, 1998, R. Kocharyan signed a decree forming the Constitutional Reform Preparation Committee under the President of the Republic of Armenia.[8] That first Committee under the newly elected president existed till July 1999 and comprised of both professional lawyers, especially experts on different branches of constitutional law, as well as representatives of different political parties represented at the National Assembly (parliament) of Armenia. Paruir Hayrikyan, a former Soviet-era human rights activist and dissident and later prominent figure in the Armenian political scene headed the committee. Later when the Committee continued its work in 1999, the composition was changed. It was formed *de facto* on solely professional grounds, with sixteen members headed by Felix Tokhyan, a member of the Constitutional Court of the Republic of Armenia.

The Committee worked closely with the Venice Committee of the Council of Europe (the European Committee for Democracy Through Law). Their joint meetings aimed at improving the existing constitution and the liquidation of existing gaps and controversies started in April 2000 and continued until the draft was presented, after being reviewed and approved by the Venice Committee, to the National Assembly in 2001. It is hard to call the presented draft just an amendment of the Armenian Constitution, because nearly half of the existing 117 articles were changed or proposed in the new edition, and about twenty new articles were introduced. In addition to the draft proposed by the Constitutional Committee, other

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[8]    The analysis presented below is based on my article: Armenian Constitutional Changes: slight amendments or heavy reform? in: Political Science and State Authority in Russian Federation and Newly Independent States. Ed. by Rudenko, V.N., Glushkova, S. I., et al. Yekaterinburg: Ural Division of Russian Academy of Sciences, Institute of Philosophy and Law, 2004, pp. 350 - 360.

alternative constitutional drafts were also proposed; one by the Armenian Communist Party and another by Shavarsh Kocharyan who was at that time the Chairman of the Standing Commission of the National Assembly for Science and Education. Kocharyan had been advocating for a parliamentary form of government since 1991, when the first discussions on the acceptable type of government and institutional reform for the Republic of Armenia started in the Supreme Soviet. The package with the proposed constitutional amendments was presented to the National Assembly in July 2001. Parliamentary discussions lasted almost two years and on May 25, 2003, the new Constitution was finally proposed for referendum. The proposed amendments failed to gain the necessary majority of popular votes. About 46% of the 1.2 million voters who participated in the referendum approved the proposed changes, but that was not enough to enact the new constitution.

Few principal areas were outlined within the constitutional amendment process. One was on the human rights issues and the prevalence a of positive law approach to the current constitution, which lacks a clear position on recognizing the superior value of human rights. This is not reflected in the constitution, despite the fact that most of the basic human rights are stated. The intended changes indicate the prevalent role of intrinsic human rights. Some other sections of the constitution also had to be improved in face of Armenia's new membership in the Council of Europe. Among a long list of obligations that countries have to fulfil concerning human rights issues in order become a CoE member, Armenia was required to cancel the death penalty, adopt a law on the commissioner on human rights i.e. to introduce the Ombudsman institution (already introduced in Armenia), adopt new laws on mass media, political parties, non-governmental organisations, alternative military service, accomplish judicial reform, make guarantees for a completely independent judiciary and guarantee citizens the right to appeal to the constitutional court. In the Armenian constitutional reform, it is important not only to declare those rights, but also to create constitutionally secured guarantees for their defence, and also create active functioning mechanisms that will allow the acquisition of the declared rights. This issue is logically connected with the creation and principals of constitutional justice that are also on the agenda.

The second major issue addressed within the amendment process concerns the separation of power, and deals with the clarification of the role of the president as head of state, the strengthening of the independent functioning of the judicial and legislative branches, forcing the institutionalisation of the Armenian parliament and strengthening the independence of the cabinet and the prime minister. One must also mention the

existing institutional arrangements and the need to outline the shift from
the existing pseudo democratic practice and institutional structure, to-
wards a system that promotes liberal democratic values based on the
superiority of human rights and the assurance of power separation as a
basis for sustainable democratic developments in future. In the current
Armenian context, the issue could be rephrased as following: The pro-
posed changes within the executive-legislative relations and relations be-
tween the president and other branches of government must become
balanced, ensure transparency, but not allow the dominance of presiden-
tial authority. The proposed system must allow the legislative, executive
and especially the judicial branch to act independently and become insti-
tutionalised as distinct branches, and not as an appendix or continuation
of presidential authorities. The existing constitution also does not provide
a solid basis for the independence of the judicial branch. Within the exist-
ing norms, it is certainly dependant on the president and is not free from
possible intimidation, especially in the appointment process. What made
the task of reforming the inter-governmental relations more complicated
is a general agreement made between the Constitutional Committee and
the Venice Committee, not to discuss the possibility of changes in the
currently existing semi-presidential government form, as it was men-
tioned in the report after the meeting in Strasbourg on April 25$^{th}$/26$^{th}$,
2000. The existing institutional macro-settings are viewed by current au-
thorities as pretty reliable, having helped overcome major political crisis,
like in 1998, when president Levon Ter-Petrosyan resigned, or in 1999
when terrorists attacked the Armenian parliament building and killed the
speaker of National Assembly Karen Demirchyan, the prime-minister
Vazgen Sargisyan, both vice speakers, a minister for operative affairs
and three members of parliament. What especially cause disagreement
are the articles that concern discrete authorities of the National Assembly
and possible limits that could be set on presidential powers.

In addition, another crucial set of problems concerns the power to ap-
point the prime minister and the government, and the role of legislature
in that process, which is also related to the problem of limiting presiden-
tial powers, and making the parliament more influential. The proposed
changes do not aim so much on decreasing the presidential authorities,
but most amendments aim at strengthening the branches of government
by introducing more transparency into the system, and clarifying the role
of the president as head of state as well as clarifying some controversial
or unclear points within the existing constitution. The prime minister, who
only the president has a right to appoint and dismiss, is the one who pre-
sents to the president the list of cabinet members to be appointed. This
is another discrepancy that needs to be sorted out in the new constitu-
tion.

The government upon its creation or after the elections of a new National Assembly presents a programme of its activities to the parliament, which is then voted on. In case the National Assembly does not vote against it, or a motion of no confidence presented, the programme is then adopted. A vote of no confidence requires the absolute majority of all members of parliament and if passed, the prime minister has to present to the president his and the government's resignation, and the president has to appoint a new prime minister within twenty days. The draft developed by the Constitutional Committee in 2001 has a completely new article that introduces changes into the process of the appointment of the prime minister (Article 74.1). In case the president does not appoint one within twenty days, or the governmental programme (in the proposal "an outline of the programme") is denied the vote of confidence according to Article 74, the National Assembly can appoint the prime minister after the end of that period, and within two weeks. The government is also appointed at the premier's presentation. The procedure requires an absolute majority of votes within the parliament (50% + 1 vote). In case the National Assembly fails to appoint the government in this manner, the president again has the right to appoint a prime minister and government officials. If the latter doesn't get a vote of confidence from the parliament, the president can then dissolve the parliament and call for new parliamentary elections in not earlier then 30 days or later then forty days after the dissolution of the National Assembly. Those amendments provide at least some institutional and constitutionally guaranteed mechanisms to overcome possible governmental or political crises that could arise. For example in case a new parliamentary majority was to be formed after elections and its goals and policies do not correspond to those of the president. Within the existing settings, it depends only on the (good) will of the president to propose to the parliament the candidate who gets the majority of parliamentary votes, as was the case after the 1999 parliamentary elections, when Vazgen Sargsyan was appointed prime minister backed by a solid parliamentary majority.

This system, however, provides little incentives for the president to share the power with the prime minister or parliament and that could lead to a constant deadlock situation that is considered in political science to be mostly a feature of presidential systems rather than of the semi-presidentialism. In case of major and constant disagreement between the president and parliament, there are no institutional mechanisms allowing the parliament to appoint a government it can support. Amendments proposed in the 2001 draft granted the National Assembly the authority not just to reject or approve the presidential nominee (a kind of passive position), but also prescribes a more active role in the process of government building. In cases where a parliamentary majority has priori-

ties different from those of the president, the proposed amendments allow the legislature to swear into office a government of its own choice. In addition, what might be considered as a move towards a more independent government within proposed amendments was a proposed change in Article 86, where the signature of the president is not required anymore in any governmental decisions.[9]

Among the issues that were of paramount importance in establishing more balanced institutional relations, especially focusing on the legislature, were the articles related to the dissolution of the National Assembly. Currently, Article 55 paragraph 3 allows the president to dissolve parliament "after consultations with the Chairman of the National Assembly and the prime minister". Nevertheless, there are also two provisions that do not allow the parliament to be dissolved within the first year after elections (this being potentially high in case of a deadlock situation in presidential-parliamentary relations), or during the last six months of the president's term in office. There are no other specific provisions that could stop the president from calling for new parliamentary elections and that puts parliamentarians under the permanent stress of blackmail, and fear of the National Assembly being dissolved at any moment. The currently existing norms seriously undermine the principle of the balance of power and hinder the adequate running of parliament, hence weakening the parliamentary authority.

Though the amendments proposed in 2001 lacked the two provisions mentioned, they tried to clarify the process to the most possible extent. In the preliminary version, the president after consultations with the chairman of parliament and the prime minister, can only dissolve parliament and call for new elections in cases stated in the constitution and in the way prescribed by the constitution. According to the amendments proposed in the 2001 version (Article 74.1), except for the cases already discussed above, the president would have constitutional rights to dissolve the parliament on any of the following four conditions: if the government appointed by the legislature did not fulfil the budget and the programme approved by the parliament; if the parliament did not deliberate within two months on the draft presented by the government; if during the regular session, the parliamentary meetings are interrupted for more than two months; and finally, if during the regular sessions the parliament is unable to deliberate and adopt any decision for more than two months.

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[9]  The same article stated that the President might suspend the government's decision and apply to the Constitutional Court to study its correspondence to the Constitution.

 Those provisions are aimed at clarifying matters that would allow the president to dissolve parliament. As a result of the proposed amendments, the dissolution of parliament might become possible mostly in cases when there is danger of the governmental system malfunctioning. Those amendments were additionally aimed at making the dissolution of parliament not a process of the president's personal desire but a one that fits certain logic and arguably could prevent a malfunctioning of the system.

The constitutional amendment process that failed in 2003 continued later on. The pro-governmental coalition established after the 2003 parliamentary elections (Republican Party, Orinats Erkir and Dashnaktsutyun parties) have developed a new constitutional amendments draft that was presented to the parliament in August 2004. In addition, two more drafts are on the agenda of parliamentary debates to start in May 2005; one developed by the opposition figure Arshak Sadoyan, leader of the National Democratic Alliance of Armenia, and another one drafted by the United Labour Party (ULP). The draft accepted by the parliament will be moved to the president's office and if accepted by the president, who is another player in the agenda setting, the accepted draft will then be presented for another constitutional referendum. Currently, two of the developed drafts; one presented by the coalition and another one developed by ULP seem to be favoured by the president, but taking into consideration the power relations in the parliament, the draft proposed by the coalition (who control the majority of seats in the National Assembly), seems to be favoured as the one for further action. At this point, and with the proposed amendments, it is clear that at least the judiciary could become more independent from the president, human rights will be able to gain more respect, and consecutive constitutional guarantees and mechanisms will be created. However, the issue of presidential-legislative relations and government appointments, especially if the parliament continues to stay as an institution subordinate to the president that has almost no say in the nomination or dismissal of the prime minister. It therefore could jeopardize the whole constitution making process, which is viewed as a prospect of founding institutional settings that will promote the development towards a more liberal and democratic State of Armenia.

# II. Human Rights and Education in Armenia

*Valery Poghosyan*

# Human Rights in the System of Civic Education Values

Already back in 1990, Armenia declared itself a democratic country, at the same time expressing its commitment to common human values, and singling out human rights within this system of values. The August 1990 Declaration of the Independence of Armenia is led by the principles of the 1948 Universal Declaration on Human Rights. Presently, we can acknowledge that during this period Armenia has undertaken several serious steps in this respect, which include joining a number of international treaties that are related to the protection of human rights; adopting a Constitution in 1995 (see Appendix and excerpt of the Constitution); acquiring membership in several international organisations such as the UNO, OSCE and Council of Europe, as well as joining the European Convention on Human Rights and Fundamental Freedom. At the same time, essential measures were adopted in the internal policy; including judicial reforms, amendments to the civil and criminal legislation, the establishment of a Constitutional Court, reforms in the economic and social sectors, etc. Based on the above, we can claim that the protection of human rights has acquired its proper place in the state's policy, and that given the visible changes; the main issues in this area are in the process of being solved.

Indeed one may discuss and analyse each of the mentioned (as well as not mentioned) steps separately and try to identify all the achievements and deficiencies, while developing further steps and progress in general. This is important and by all means needs a serious approach. However, we should note that the most important point in this process is addressing the role of human rights as well as democracy in general, and its significance to the public mentality. How is its value perceived in the democratic system? Is there enough trust towards human rights on the level of everyday mentality? To answer all these questions, it is necessary to clarify the kind of universal view that is formed in us, and to establish whether it is a more or less comprehensive worldview. We need to understand what the role of human rights is in that universal view, and what ideological concepts are leading us. Lastly, do we generally value human rights, or do we not? As a contrast, we can mention that in developed democratic countries, human rights are of high value and are not just abstract and beautiful ideas that individual thinkers promote, but are basic

rights enforced at the constitutional and legislative levels to act as legal norms that guarantee for people's everyday activities and act as a basis for restricting the state's authority.

The concept of a vision or "world outlook" usually implies a comprehensive set of views and standpoints, and represent a certain system of ideas regarding the entire world and the role of an individual in that world. It is based on these general perceptions that a person's principal standpoints, beliefs, ideals, main activities, and orientations in terms of value are formed. All the above points help in forming attitudes towards natural and public phenomena, and also help in evaluating them. These two issues of ideology and vision are very critical for us, for we need citizens who are dedicated to their native land. However, there is an essential distinction to be made: A citizen is a person who is a member of a certain society and should therefore be free in his/her thinking, way of living, values, beliefs and dignity. Therefore, before solving this problem, we ourselves must clarify what principles are to guide us, the values we should be committed to and finally, the kind of visions we should have.

At this point, let us first try to identify the primary visionary principles, definitions, standards and public values that should underlie the present vision and ideology. I think that this underlying basis may be the theory of human rights, and I would like to stress this because the theory of human rights is often confused with an index or catalogue of human rights. This theory, concepts such as interrelations between a person and the state, and the state and the society should be studies. Such theory looks at the implementation of human rights as the responsibility of the state and a means of restricting power. In other words, it means that the state is to serve the people, ensure their safety and provide quality living conditions. Practically, it means that people are free to do everything that is not prohibited by the law. Meanwhile, people should carry out their responsibilities by observing the constitution and laws, paying taxes, protecting the rights and freedom of others and contributing towards the protection of the country. In this sense, they are free to do everything that is not prohibited by the laws of the state. These are the principles that form the core of "the rule of law" in a country and should therefore become the visionary and ideological guidelines.

In identifying the theory of human rights as a visionary and ideological basis, we basically, consider the Constitution of the Republic of Armenia, which declares Armenia to be a country governed by laws inseparable from human rights. This means that the set of constitutional principles; people's sovereignty; the immunity of human rights and freedom and their enforcement through immediate action; the separation of powers; political pluralism; ideological pluralism; the predominance of the consti-

tution; the predominance of law; the supremacy of the international law and others should become the ideological and visionary basis on which we can, and, must build the modern vision. In this manner, the above-mentioned principles of constitutional and human rights theory are generally identical and supplement each other.

Thus, based on the general principles of human rights and constitutionality, it is possible to develop a certain conceptual framework, which can become an integral basis for the state (national) policy. On this basis we can and must develop policies in certain sectors (culture, education, etc.) and implement adequate reforms. It should also be noted that in this case, it would be possible to harmonize the reforms in different sectors. They will supplement each other and serve to achieve a common goal.

In addition, while considering human rights as a general methodology underling the policy, we face two main challenges: On the one hand the problem of the natural freedom of an individual, whereby his/her independence and sovereignty is addressed, in order to ensure the free development, self-improvement and initiative of the individual, and on the other hand, such an individual becoming a pillar in the society and the voluntary guardian of a democratic country. The individual, in this case, not only satisfies his/her spiritual and material requirements, but also takes care of the needs of the country.

Now, let us try to apply this approach in an area, such as the education sector, which is undoubtedly of special importance in any given society. In this regard, we will focus on civic education. The question that naturally arises is: What practical approach should be developed regarding civic education? Is it acceptable to us? What are the contents and forms of that approach? These questions are very important as they deal with education and upbringing, secondary and specialized educational systems, and are logically essential for the whole society, for the latter cannot stay indifferent to it.

Here I will talk about general education without focusing on specialized education. General knowledge is gained at schools, colleges and universities. This knowledge is necessary for everyone regardless of his or her professional orientation. The question to be answered within this context is; what kind of knowledge, and to which extent is it to be taught to schoolchildren and students? To answer this question, we also need to find out which principles the system of required educational system should be based on. The Soviet educational system successfully solved this problem by using a complete ideological toolkit to achieve this goal. It included not only one or two, or even three to ten subjects (the history of the USSR, the constitution of the USSR, etc.) that were required for

the upbringing of a Soviet citizen, but a wide range of different subjects such as mathematics, where tasks were not purely mathematical but ideological as well. For example, A and B were Soviet cities, and subjects were not just people, but collective farmers, workers, tractor drivers etc. In physics for example, while teaching about first space speed, it was mentioned that for the first time it was a Soviet astronaut who overcame this speed. This was also applied in other natural sciences like biology and chemistry, or even in the history of Armenia and Armenian literature.

The Republic of Armenia now faces this problem that was well addressed in the Soviet Union. Therefore, before solving the educational problems, teachers need to clarify for their own sake the principles that are to guide them, what values should be cherished and finally what vision is to be formed. Actually, civic education appears to answer all these questions. Without trying to give a very academic definition, it should be noted that civic education is practically (as a working definition) a set of knowledge, which is necessary for each member of the society in their daily life orientation, in taking action and generally for a free and worthwhile life that also respects the freedom and dignity of others.

This is all part of a theoretical framework, but what should be done in practice? First, let us mention what should not be done. Many of the present school and university manuals/books are developed based on the bits and pieces of the Marxist methodology, but contain lots of modern expressions. Though, they don't use words such as "Marxism", "Karl Marx", "Lenin" or other communist expressions. The concepts and public phenomenon, and the vector of development are still interpreted from a Marxist aspect. Here is a quotation from a school manual: "Private property and grouping the society into the rich and poor, (antagonistic classes) are destructive…" Here is another quotation from a university manual: "The state is a political organisation of the class's power." In many manuals (both school and university), one comes across the concept of "exploitation", which has a Marxist perception and certainly, immediately invokes concepts of class and class struggle. Thus, it turns out that the current student, who will work for a private employer tomorrow, views the notion of private ownership as something negative. This is not accidental, because the authors of such manuals, alongside others who pave the way for the future use of these manuals, were educated in the Marxist spirit and subconsciously follow this shallow perception of the Marxist methodology. However, the problem is to develop a methodology that is based on the theory of human rights and underlies the Constitution of the Republic of Armenia. We believe that it is only through this kind of approach, that results can be attained. In other words, the re-

quired system of knowledge will be established based on general human values.

With reference to civic education and given the above-mentioned perceptions, let us briefly touch on several issues that should be considered during a shift to civic education. As already mentioned, the main problem can only be solved through a complex approach and constant work. There are efforts being taken in this direction, for example the "Civic Education" manual by A. Hovhannisyan,[1] which is generally a successful example. Given its acceptable wording, the coverage of topics, and most importantly, its civic inclination, it may be taken as a model of the efforts being made in that direction. However, these efforts lack sufficient consistency. It's necessary not to just teach "civic education", but to include it in all the subjects being taught, so that all the subjects focus on addressing one common issue.

For comparison purposes let us bring in an example. A while ago there were big debates about how many academic hours should be allocated to teaching the Armenian language and history of Armenia. Many thought it was necessary to increase the number of lessons. There is no doubt that the number of classes is really important, but will it be enough to solve the problem? How can we talk about the language in education when the teachers of other subjects maybe speak in slang and dialects, or when the language in the manuals is in "bad" Armenian, and the language on TV and radio is too sharp for one's ear? The same is true about the history of Armenia. This subject should be taught not only during lessons on the history of Armenia, but also during other topics in history lessons, as well as in mathematics, physics and many other subjects. This issue might have been well solved by the medieval great thinker Anania Shirakatsi, whose sums and tasks are not just arithmetical, but also contain historical and patriotic components. The same can be said about the puzzles of another great thinker, Nerses Shnorhali, which while teaching logical thinking, instil national values as well. By presenting these examples, we would like to state that civic education applies a comprehensive approach when its concepts are taught in all the disciplines offered at school.

The other question that is raised by civic education is on teaching, and what goals the communicated knowledge should serve, for example, in the Armenian language. There is only one answer to this: In order for people to attain a sufficient level of language proficiency, and be able to express and formulate their thoughts correctly. This is when for example

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1    Hovhannisyan, A., Civic Education. A textbook for the 9th grade, Yerevan, 2001.

writing a letter or an application, making an announcement, doing the required writing at work, etc. It means that any form of education should serve certain practical issues, so that each person is first of all prepared to deal with his/her own daily problems in life. Solving these issues requires a change of focus, a review of methodology, shifting the detailed learning of grammar into a practical level, and teaching the ability to think independently. This means that learning to formulate and convey ideas is possible through all other subjects, and not just in the detailed learning of grammar.

Talking about learning a language, we find it worthwhile to discuss the teaching of foreign languages. It is not a secret that although we learn foreign languages for so many years, for example seven to eight years at school and then at the university and post-graduate courses, we are not proficient enough and can't speak them even during simple communication. Why is that? So many resources and time are put into this process but with no result. That is because at school we mainly learn grammar and not the language itself, as if the goal of teaching foreign languages is not to teach the language itself. Civic education, however, presumes that a person should have knowledge in order to carry out daily activities. Therefore, learning a foreign language should also address this issue. After finishing school, a person should be able to communicate and write in a given language on everyday topics (travelling, shopping, etc.), which is around several hundreds words. It is natural that after attaining this level, we can go further and deeper; gradually increasing the level of proficiency, and of course teaching detailed grammar in the process.

Such questioning is too broad, and we can continuously talk about them, particularly about the content of natural sciences, the relations between school and university or higher education, the status of state and private universities, national schools and many other issues. However, let us stop here and hope to continue debating these issues during other discussions in order to have a better understanding of these problems that are of great concern to us all. The intention was to raise these questions and so we do not claim to offer univocal solutions to them.

In conclusion, it is worth mentioning that the problems in education are continuously attracting attention in the American and European societies. Specifically, between 1997 and 2000, the Council of Europe developed and implemented an "Education for Democratic Civilization" programme, which aimed at identifying the values and possibilities that are necessary for the citizens of democratic societies. Efforts in this direction are still going on.

Currently, as we are all aware, the economic, cultural and other integration processes occurring within the global context, coupled with the current state of civilization, bring new challenges for both individuals and the state. The two are responsible for giving a new quality to education so as to meet the demands of our times.

Today, civic education has become the main goal of educational reforms in all democratic developed countries, where alternative ways of reforms are being explored. According to modern perceptions, the society should be in a constant process of learning and should ensure fair conditions for studying and the development of an individual.

*Ani Muradyan*

# The Role of Academic Knowledge in Maintaining Tolerance

Article 26 of the 1948 Universal Declaration of Human Rights (UDHR) is completely devoted to the right to education. "Every person has a right to education (...)." (Article 26 UDHR (1)). "Education should be directed towards the complete development of a person and to the strengthening of respect toward human rights and basic freedoms. It should contribute to the mutual understanding, tolerance and friendship of all national, racial and religious groups, and furthermore, contribute to the peace building activity of the United Nations" (Article 26 (2)).[1]

Today's education, with its basis being the principles and achievements of science, plays a big role in the formation of values, and a world-wide view in maintaining universal solidarity and realizing a common goal in maintaining peace. Education and science complement each other in developing and civilizing the society. Universal principles such as freedom, equality, solidarity, tolerance, respect toward nature and common responsibility, can only be rooted in a society's consciousness through education and its reaching a certain level. It is academics or researchers who have attained the highest level of education who collaborate with one another. They can define "common truths and evidence", and common principles and regularities, which can help promote not only the development of the society they live in, but also that of humanity as a whole. Finally, it is the academics who form the core of scientific knowledge, which is the basis of education. The principle of symmetry in the sociology of scientific knowledge is also important. This means that there is no overvaluation of an opinion as such. There is no single prestigious opinion that is accepted without discussion, criticism or mutual agreement. This is somehow similar to the concept of "free competition" in economics. Scholars in their field of work assume certain cultural contexts, where they are idyllically free to express their opinion, an opinion that after going through competition and gathering a certain number of proponents, has the potential and right to be considered "the truth." Since absolute truth does not exist, relativity disagreements and differ-

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[1]  See also: International Bill on Human Rights. United Nations Office, Yerevan, 2003, p.13 (in Armenian).

ences in opinion and approach are more than possible, which can as a result lead to conflict.

On the other hand if we refer to Kuhn's terminology, we can say that today's science is always in the phase of scientific revolution.[2] The field is always full of contradictory, struggling, and often equally denying opinions. This struggle ends only in case of absolute agreement over an issue, which in reality seems impossible, especially in the field of social sciences, where there are no fixed rules and axioms, but only regularities conditioned within a given period of time and cultural contexts.

When discussing these issues in transnational terms, we can talk about the different attitudes and views. These include academic traditions, schools, as well as universal principles, criteria and values, or at least their importance. These universal principles, rules and criteria are necessary in order to make a scholarly dialogue possible and also provide a "common language" for scholars, whereby it is only we, as academics, who can talk about the development and progress of science and education.

In order to find out the real universal extent of those standards, I conducted a comparative study aimed at studying the differences in academic approaches and principles guiding the academic activity of Armenian social scientists and those of the Armenian-American Diaspora. The Diaspora was chosen as representative of the Western civilization and its academic tradition. A comparison was made with the aim of finding out how the academic approaches of the same nationality and ethnic group that is raised and educated in different cultures, differ from one another. The academics from Armenia and the Diaspora participating in the research considered themselves or the academic community to be the definers of academic research standards, and based on this criterion, the "creators" of scientific knowledge. They in other words have the right and are responsible for the above mentioned process. They state that this criterion should ideally be universal and defined by the academic community, or more specifically by the mutual agreement of the members of the so-called "global academic community".

Nevertheless, the reality paints a different picture. Although there are some similarities in approach, for example over the issue of the important role of science and scientific knowledge in the process of development in the society, it is controlled and financed by the state. At the same time, there are significant differences when talking about concrete things

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2  Kuhn, T., The Structure of Scientific Revolution. Chicago: Chicago University Press, 1962.

such as procedures, problems in solving the methodology, the process of developing scientific knowledge, the use of academic knowledge in the societal life and limits in its definition.

If social scientists representing Armenia find that academic activity is primarily an individual activity or even an activity of ones own mind, those representing the Diaspora think that the process of knowledge development, and of undertaking academic responsibility is more of a collective thing. Knowledge is a result of discussion and exchange of experience.

The following table expresses the opinion of scholars from Armenia and the Diaspora, about values and characteristics, which are primary for academic research. [3]

Table 1.

| N | Armenian scholars | N | Diaspora scholars |
|---|---|---|---|
| 1 | Innovation | 1 | Objectivity |
| 2 | Idea/topic | 2 | Theoretical contribution |
| 3 | Theoretical contribution | 3 | Idea/topic |
| 4 | Uniqueness | 4 | Sustainability of results |
| 5 | Objectivity | 5 | Direct implementation of results/ Practical usefulness |
| 6 | Potential of financial income | 6 | Innovation |
| 7 | Direct implementation of results/ Practical usefulness | 7 | Uniqueness |
| 8 | Sustainability of results | 8 | Potential of financial income |
| 9 | Identical to state interest | 9 | Identical to national interest |
| 10 | Identical to national interest | 10 | Identical to state interest |

As this priority list shows, for Armenian academics the importance of direct implementation of results, as well as its sustainability is not that high.

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[3]   The research was conducted in Armenia by Ani Muradyan in 2003.

This in turn shows that in Armenia, there is not much emphasis on or actual demand for social research or its direct implementation. Instead, Armenian academics tend to value characteristics such as innovation and the idea and theoretical contribution of scholarly research.

On the contrary, the Diaspora academics put primary importance on the objectivity of the scholarly research, although the idea/topic and theoretical contribution are also in primary positions. Academics and scientists from the Diaspora put more importance on the direct implementation of results of the research as well as the sustainability of these results.

When it comes to the criteria of objectivity of the research, Armenian academics mainly consider it to lie on the researcher. To them, objectivity is conditioned by the perfection of the methods used during research and their accurate implementation. A key to objectivity is also the existence and availability of different sources of data and the implementation of multi-lingual literature. Some of the academics even rejected the possibility of employing absolute objectivity in social research. All representatives of the Diaspora consider the production of facts and fact-based characters as key to objective research. However, they not only consider facts to be the key to objective research, but more the scientist's responsibility in dealing with those facts correctly. "It is of great importance that the academic studies the facts in detail and makes an impartial, objective conclusion". "Academics should always make statements based on facts."

Here, the difference of approaches is that Armenian academics either reject the possibility of a purely objective social research or see this possibility in facts alone, and in the objectivity of methods used in gathering those facts. The Diaspora academics on the other hand, argue that the importance of facts alone replaces the emphasis on the qualities, skills, values and morals of the researcher, as well as the absence of any kind of limitation (speech, expression, publication) in the society. Information must also be provided. Academics in the Diaspora therefore see the problem being in the process of the academics own formation of knowledge and in data collection.

What counts is whether these criteria of objectivity are universal, or they change with time depending on the academic community. According to the results of the research, both sides find these to be idyllically constant. "If the academic community is active and can be considered "academic enough", then in that case the criteria have to be universal". But they also mention that perceptions can be different, depending on the cultural differences. This is one of the problems covered in this work. Scholars in fact realise that for the sake of the development of science, the universal

criteria should be dominating non-universal ones. On talking about the connection between culture and science, the academics representing Armenia and the Diaspora find that culture undoubtedly affects the process of research in the social sciences and the interpretation of the research's results as well. Although they think that academic criteria should be universal, we cannot strictly require cultural neutrality when talking about interpretation and analysis. Again, the importance of making this requirement depends on the type and essence of the problem, although generally, the diversity of interpretations brought about by cultural differences help to enrich and make the academic practice interesting. Moreover, it can be stimuli for the development of science or a certain branch in science. Here, it is only important that the findings and the conclusions that are accepted as "truth" do not contradict each other, but approach the phenomena from different perspectives, and help enrich each other.

As the research showed, the connections inside the academic community are not very strong, and every academic acts foremost as an individual researcher. In the Diaspora the picture is totally different. Scientific discussions, conferences and intensive opinion exchanges are organised and held very often. The availability of literature in turn makes it possible for the academics to get acquainted with the works of their direct colleagues and others in the field. As a result, for the Diaspora academics, the discussion of findings and news in the field with their colleagues plays a big role in the formation of an opinion about this or that paper, work or finding. This of course does not mean that each of them does not have his/her own opinion; it is just a result of the interaction between scholars being more intensive and having a more collective nature.

Both groups think that the presence of a connection between science and society is very important for development in the society. Moreover, limiting the open discussion of issues and the society's easy access to social science research findings can cause science as a system to collapse. As a result, neither society nor science will develop. Science can only improve if knowledge goes out of the scholar-individual, as well as scholarly community into all areas of life in the society, and can be used by the representatives of all walks of life.

It is especially important how the state or the governmental bodies use the knowledge received from researches in the field of social sciences. As the academics mention, the state has to stay away from the formation process of scientific knowledge, and limit itself to financial responsibility and then only use the knowledge gained for the common good of the society. The representatives from the Diaspora and Armenia therefore agreed to put forward the following principle "The state should not intervene, but mostly provide".

On the question of whether the scientist has a role in the forming/building of statehood and if so, what that role is, the answers of the two academic groups differ extensively. The Diaspora representatives find that the role of an academic is that of a consultant, analyser and evaluator. An academic has to stay away from politics and not be included in the process, but observe its role from outside as an expert providing relevant information. This is a required condition in order for science not to turn into ideology. The social scientists representing Armenia on the contrary think that an academic can participate in the process of establishing statehood directly, as well as indirectly. This is most probably connected to the fact that the structure of the state's and their functions are not yet fully defined. Armenia, being a small country in terms of resources and possibilities, also plays a role in this case.

Organising and developing education on the basis of universal values, principles, and the prevalence of a universal criterion over the creation of scientific knowledge in particular assumes not only inter-state cooperation and existence of agreements, but also connects different academic communities in collaborations as well as provision and intensification of information and exchange of experiences. There is extreme need for Armenian scientists to become involved in international cooperation, so that they can be included in the process of the development of science, and also be able to participate in international academic dialogue. In this case and under these conditions, it will to some extent be possible to get closer to the ideal and talk about transnational and trans-cultural scientific standards and scientific knowledge, which, through the spread of knowledge and education, will contribute to the mutual understanding between nations.

*Mira Antonyan*

# Rights of a Child or Duties of Adults...?

During the past decades, significant turning points have occurred in the attitude towards children, and it seems that humanity has at last turned its attention towards the infant by proclaiming the latter's rights. The evolution from natural law and rights to the holder of rights has taken more than two thousand years; however, the proclamation of rights does not yet guarantee their implementation. It is paradoxical to speak of a right when it's holder, a child, as a social being is not able to exercise it (except under few exceptions), and the adults are not particularly anxious to provide the necessary guarantee.

The bestowal of life or its quality is a serious test for each creature being born. This is probably due to the monopoly of the parent in defining the infants' life being socially justified, and yet the margins between parental rights and duties are not defined. It thus appears that in terms of a legal context, the domain of the child in a parent-child relationship initially equals almost zero.

The infant appears to be the property of its parents in nearly all cases and in the framework of general social benefits; it has always been viewed in terms of its "usefulness" without any differentiation being made between it and other movable or immovable properties of the parents.

The dominant opinion that the rights of children are reflected and satisfied by their parents was first challenged after the famous scandalous case of an eight year old girl being subjected to physical abuse by her parents in one of the suburbs of New York. This was followed in 1874 by the establishment of the first agency for the protection of children, which by the way, was much later than for dogs.[1] Thus, for the first time, it was publicly disclosed how distorted the "natural" and usual picture of children's protection was. However, this opinion has not changed much in the course of civilization. The issue of children's rights has become the subject of intensive scrutiny during the past two or three decades with various interpretations being brought forward within the context of "right-duty".

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[1]    The history of child protection, see:
       http://www.fortunecity.com/meltingpot/macau/1192/id49.htm. (Visited in October 2005).

The supporters of the concept of "the right as a claim" consider that having a right means, "to claim" this right.[2] This approach is based on the philosophy of John Rawls,[3] that "Everything that is needed - is accepted, identified and respected. The right of satisfying the need is not given by anyone but acquired by ourselves in a natural way - immediately when we are born."[4] Yet the right of having claims can be implemented only in case of the availability of certain capabilities. This means that the claimant must at least be able to claim having a status and age that conforms with accepted norms, for the possible potential to exercise particular rights. Does the child possess all this? William Bartholome states that a right is not a claim but a title, which is "bestowed" at birth, and consequently has unlimited power in its realisation, which in turn lies within the limits of the holder's capabilities.[5] In the case of children, the implication of exercising rights (as a title) is separated. This means that it does not depend on the capability of the right holder to possess or exercise it.

Not all authors agree on this approach. Stanley M. Hauerwas,[6] for example, implies that the idea of "the right" devaluates the sensitive basis of parent-child relationships and makes the "natural arrangement of those relationships" somewhat schematised. He recommends that the consideration of child's right should be preceded by the mandatory requirement of the *duties of adults.* It is interesting to note that modern approaches gradually merge those two concepts by trying to find the borderline between a right and a duty. Hauerwas finds that children of course have some rights, because they are members of the society, but those rights are already entrusted to the family. It would therefore be sensible to speak about duties of adults rather than children's rights.

In the parent-child context, when presenting arguments about the margin between the right and the duty, no author denies that children have the same rights as adults. However, this general consensus creates quite

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2   Worsfold, V., A Philosophical Justification of the Rights of Children. Harvard Educational Review, volume 44, #1, 1974.

3   Rawls, J., A Theory of Justice. Harvard, 1971.

4   Citation from: Carter, B., and McGoldrick, M., The Changing Family Life Cycle, A Framework for Family Therapy. Second edition, USA, 1989.

5   See also: Bartholome, W., in: Defence of a Child's Right to Assent. Hastings Centre Report, 1982.

6   In: Rights, Duties, and Experimentation on Children: A Critical Response to Worsfold and Barthlome. Research Involving Children: Appendix (Washington D.C.: National Commission for Protection of Human Subjects of Health, Education, and Welfare Publication, No. (Os) 77-0005, 1977) pp.1-24.

the contrary effect, rather than simplifying the situation in this case, because the problem arises when it comes to the responsibility of instilling respect towards the implementation of the rights. At the same time, giving priority to the sense of duty in turn creates a greater opportunity for instilling respect towards the implementation of a child's right in cases where raising a claim would be the same as "speaking alone in the desert."

Thus, the implementation of an infant's right solely depends on the performance of duties by the adults. Even in a case where duties are not performed, those claiming responsibility can again be other adults but not the child itself.

It is interesting to note that the more the concept of a child's right is abstractly perceived, the more real, concrete, visible and tangible its negligence and abuse are. The power of grown-ups has a dominant role in daily life, in legislation and generally in the policies concerning children.[7] The prevalent reluctance towards hearing the voice of the child is connected to the idea that in case it is heard, the logical and natural hierarchy existing in the adult-child environment (where the child obeys and not visa versa) will utterly turn about. Different authors are quite concerned about the fact that even the "monarchy of childhood"[8] might gradually be taken into consideration.

From a consequential point of view, blowing the problem out of proportion is equally as dangerous as neglecting a child's needs. It's not the turning of the situation upside-down but providing such a set of capacities to public institutions and organisations that will make it possible to hear the voice of the child, which in other words is "to implement the child's right". The realisation of this is logically first of all expected at the primary level, i.e. in the family, with the very important parties being the parents. Viewing the family as the chief guarantor of the most favourable environment for a child allows the consideration that the child is the "property of parents," yet such thought is rather based on good will than objective reality. If the family is not the most favourable environment, the other extreme approach takes effect, i.e. "the owner of the child is the state," and the parents no longer have a role to play. Despite the change

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7   The Western theorists explain the fact of the children's voice not being heard to be a "weak" point, as children do not have the right to vote. In the Armenian reality of overall negligence towards the right of voters, other reasons should be explored as to why the voice of the child is not heard, e.g. social experiences, culture, tradition, etc.

8   Worsfold, V., A Philosophical Justification of the Rights of Children. Harvard Educational Review, volume 44, #1, 1974.

in the framework there is no change in the "adults know better" logic and tactic.

It is not only in culture but in almost all legal approaches, that priority is given to the existence and strengthening of families as an effective form of organizing social life. However, it is interesting to note that the law does not include the protection of the family. Even with it being a preferable unit from the social point of view, the family is however less protected than any limited liability company. Some laws regulate matters concerning property in family, the heritage of family members separately, but do not support or protect it.

What does this state of affairs mean for the children? It is interesting to note that the state does not involve itself, be it in form of encouragement, support or sanction, in the problems of the child in a family. Consequently the control of the state in this area only has a seeming or even indirect nature, though it appears to be an "institution" which is passive but able to intervene (e.g. in case there is a need for protecting the child). What approach does this entail? The legal concept implies that parental right, which is identified with the right of the guardian,[9] is unconditionally acquired by the biological parent at the birth of the child (if the former does not voluntarily abandon it). The same concept for regulating the parent-child relationships relies on the culture considering it "the best natural mainspring".

Undesirable tendencies like poor parenthood, violence toward children, negligence, etc., which have lately been increasing in almost all societies, brings one to the conclusion that culture has weakened in its role as a mainspring for defining and controlling norms, and the procedures regulating parent-child relationships lack the capacity to solve concrete problems. Consequently, it seems that in this area with no particular tailored laws, there is a growing demand for such laws especially when most of the existing laws are based on rights and not on defining responsibilities. At the same time, some quite important issues are not covered by the present laws or are merely lagging far behind reality. In this situation there is a need for concrete action. This depends on the question whether it is right for the state or the society to intervene in the life of a child in a family where its safety is at risk. If it can, then to what extent

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9 In the past, the guardian's right was sole reserved for the father. Afterwards, the father shared the right of guardianship with the mother, until the latter was gradually acknowledged as a sole holder of such a right too, which served as an inducement for the personalisation of the status of the child (even though the ownership inclinations still prevailed). For the parents, the unambiguous possession (of the child) turned into the "responsibility of caring".

will it happen? In fact there is an apparent danger of the traditional institution weakening, and the family loosing its common structure.

These questions do not have straight answers. This is probably due to the fact that the area under consideration is not only legal but also social and moral and relates to the interrelationships of generations and the relationship between a state and an individual. The tradition of considering the child as the parent's property continues to be a serious obstacle in activating the role of the state in the process of regulating the relationship between the child and the parent.[10] Though the state has clearly defined the sanctions and interventions in case of continuous breaches in traditional rules of acceptable parenthood,[11] it is difficult in reality to discover and identify those breaches under circumstances like the cultural unlimited authority of the parents over the child. In the city of Vanadzor, three under-age sisters could not go to school, due to the will, insistence and judgment values of their parents. All legal and moral efforts to regulate this problem were in vain. The involvement of different authorities also brought no results. The parents were exercising their right not to send their daughters to school.

Parents are expected to take on a lot of responsibilities in order to ensure their child's health, education, its personal and social-psychological development and material welfare. The fact that the lack of a law guaranteeing exceptional and adequate security for the child in a family does not raise criticism is a matter to be considered not only in the professional, but also the social and political levels. The difference is that at the professional level, they speak of it as an issue that must be addressed yet in the political and social level they speak of an issue, which "is not proper and becoming to our national portrait." It goes without saying that this resistance hinders any development. It is also probable that the resistance is conditioned by the fact that the state, unable to provide even the minimal conditions for the child's welfare in the family or any assistance, "subconsciously" considers it immoral to intervene in issues concerning the protection of children.[12]  It is economically beneficial and expedient for the state to abstain from interference.

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[10]  Just as it is not possible to terminate the legal marital relationship of a couple without their will, it is equally impossible to terminate the legal relationship between a child and it's parent, though the nature of that relationship may not always be secure for the child. The problem is that from a legal point of view, it is impossible to strictly define borders in the state-parent-child triangle.

[11]  Legislative Reform Initiative, Civil Law Legal Tradition. Yerevan, 2004, pp. 3-7.

[12]  Assistance refers both to material issues or availability of services.

## What will be the future of our children?

The present status of children in Armenia does not promise a bright future. The number of vulnerable and poor children keeps growing, whereas the protective services are not sufficient; the protection's design itself is based on the philosophy and truth of adults, and the borderline between right and duty remains unclear. We will lose a lot by overlooking the dysfunction of the family or considering it a temporary occurrence and consequently delaying the formation of a system for the protection of children.

One possible hypothesis for the improvement of the situation is supposing that in the naturally changing world, the Armenian family does, through self-struggle, self-development and self-purification, create the necessary prerequisites for the birth, upbringing and protection of children. The exaggerated and unjustified anxiety over the "imitation" of Western culture[13] and introduction of different values hinders one from being realistic and making objective judgements about the role of children in the family and the actual change in attitude towards them, which Armenian specialists have been stating for a long time in their studies.

The fact that the family needs the support of the system is proved, but not yet realised or understood in the social policy concerning children. The understanding of parent-child relationships has moved to a new level whether we accept it or not, and the problem can consequently not solely be regulated by "common but not written rules." Even if the above-mentioned hypothesis is approved, the "price" will still be very high. The consequences of leaving the family alone at this stage will be quite serious for the present and future generations of children.

The current social practice of neglecting the child's human rights is a result of historical prerequisites, embedded experience and established by culture; and it will equally take a long time to change it. It is logical to conclude that it's not only paradoxical but also premature to speak about a child's right unless the current practice has undergone a "self-purification" process by emphasizing the responsibilities of the "other" side. There is still a long way to go from the proclamation of provisions to the complete acknowledgement of the child's human rights.

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[13] With Western values I refer, for example, to the recognition of the children's right to call the police in cases of abuse by their parents, or parents raising their children's awareness level on topics like sexuality, etc.

*Marina Hovhannissyan*

# The Right to Education for Children with Special Needs: Inclusive Education in Armenia

According to the National Statistical Service data of Armenia,[1] there are currently around 9,000 children with special needs in the age group between 1 and 16, and 1,000 in the age group between 16 and 18. However, statistical data differ in source. The Ministry of Social Issues and Labour, for example, reports 999 children in the age group between 0-6 and 9,000 children in the age group between 6 and 18.[2] It should be noted that in many cases these figures do not reflect the true situation, for not everyone registers disability because of the fear of being branded.

The situation with exercising the rights of children to education is as follows: For children with special needs who have attained school age, there are boarding schools that were established back in the Soviet times. However, these institutions have currently lost their original functions, for the number of children in these institutions declined sharply during the transition period. More and more of these schools have become shelter for socially vulnerable and orphaned children, whereas children with special needs are isolated in homes and very often, depending on the degree of disability, do not get any education at all.

Regarding children with special needs who are in pre-school age, there are neither special institutions nor general kindergartens for them. Currently, there are only two organisations involved in inclusive education programmes for children with special needs; these are the Bridge of Hope and the World Vision organisations, base in the US. The Bridge of Hope[3] has mainstreamed fifty-eight children into five secondary schools,

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1   The National Statistics Service of RA, Annual Report 2004-2005.

2   The Ministry of Social Security of RA, Data Base, 2005.

3   An Armenian non-governmental organisation for children with special needs.

while World Vision mainstreamed 273 children into 18 kindergartens. The evaluation of the World Vision programme brings to evidence the fact that including these children into mainstream education institutions should become a matter of public policy.

This experience may be divided into two stages: the pre-programme stage and the programme results stage. Presented below are those stages. Based on the results of the empirical survey, the pre-programme phase seems to be quite interesting in the context of comparing the project's achievements to-date. The initial response to the project by the kindergarten staff was somewhat contradictory. On the one hand, all the kindergartens are in quite a difficult state regarding the meagre food supply, poor condition of premises and lack of teaching aids. References were made such as:

*"When World Vision comes to kindergartens, the managers first of all expect material assistance... and under these circumstances, it is difficult to understand or believe that they fully realise the importance of the project...So far there has been only one case, where the manager himself asked us for help in the introduction of inclusive education in the kindergarten".*[4]

On the other hand, there were some concerns and difficulties regarding the project implementation process. This includes first of all gaining the reputation of a kindergarten for retarded children; and second, the possibility of a mutually negative effect on healthy children, as well as those with special needs. This reduced the enrolment of new children at the initial stage, with some of the parents moving their children into other kindergartens. There were also other factors like insufficient professional skills demonstrated by the kindergarten teachers, and fear or lack of motivation by the staff in organising work for the children having special needs.

As quoted in a group discussion between educators of an inclusive kindergarten, "At the initial stage we even tried to keep it secret that we had children with special needs in the kindergarten, but now everyone knows about it".[5] A comparison of the information received from the staffs of kindergartens and the focus group discussions held with employees of

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[4] An opinion of one of the members of staff of World Vision-Armenia. An assessment of the implemented one-year (April 2004-April 2005) programme, "Children in especially difficult circumstances", carried out by World Vision, Armenia, A Sociological Study, March-April 2005. Yerevan.

[5] Interview with a kindergarten manager. An assessment of the implemented one-year (April 2004-April 2005) programme "Children in especially difficult circumstances", carried out by World Vision, Armenia, A Sociological Study, March -April 2005. Yerevan.

community services reveals that it was the staff of kindergartens who created the initial "delicate" forms of difficulty experienced in the project. "At the first stage the teachers of inclusive kindergartens were categorically against enrolling our children in their groups (...)" says one of the kindergarten psychologists.[6]

The teachers did not want to accept these children not only because inclusive education was a new concept for them, but also because it complicated their work. The number of children with different needs was increasing in an already crowded group, and they were therefore not motivated in any way to work with these children when not even their salaries were to be raised in line with the increased workload.

Describing the preparatory phase, the parents of healthy children mentioned that at first they were afraid and had negative attitude towards the project, because first of all, they had never seen disabled children before. Secondly, the behavioural peculiarities of the children with special needs were unusual for them and incited fear. Thirdly, there was a concern that the children with special needs could hurt healthy children and fourthly the fact that healthy children usually imitate the behaviour and manners of children with special needs would create difficulties.

Finally, healthy children always had questions about the peculiarities and behaviours of children with special needs, and the parents couldn't answer these questions. The parents of healthy children emphasized that children with special needs were for them "out-of-the-ordinary" because they hadn't come across such children during their childhood and there was therefore a greater need to educate adults than children in this respect. The fact that the fears of the parents were being transmitted to children was interesting. At the initial stage of inclusive education, the "healthy" children behaved rather normally towards children with special needs but then after a while, they started to fear and avoid them.

The results of the empirical survey[7] of parents of children with special needs show that before being involved in the project their situation resembled the negative triad which is described by Beck[8] in the theory of

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[6]  An opinion of one of members of focus group to the staff of World Vision, Armenia. An assessment of the implemented one-year (April 2004-April 2005) programme, "Children in especially difficult circumstances", carried out by World Vision, Armenia, A Sociological Study, March -April 2005. Yerevan.

[7]  An assessment of the implemented one-year (April 2004-April 2005) programme, "Children in especially difficult circumstances", carried by World Vision, Armenia, A Sociological Study, March-April 2005.

[8]  Beck B., Cognitive theory: Personality Psychology. Moscow University Press, 2003, p. 375 (in Russian).

cognitive psychology as: (1) negative perception of "I", (2) negative interpretation of the situation that emerged, (3) negative bias against the future. These women expressed their negative perception of "I" by lacking confidence in themselves, being anxious, thinking that they were useless mothers with negative feelings for their children, worthless wives for their husbands and were branded because of their child's disability. The negative interpretation of the existing negativity was linked to the mental and physical impairment of the child's development, which were projected into the inter-family relations, sometimes almost resulting in divorce, or a couple living in isolation, sometimes complicated by material vulnerability and having no opportunities for treatment, etc. These women also had negative expectations of the future. One for example mentioned, "Nothing can be changed, then my child is my "cross." This shows how desperate the situation is.

The responses of the parents at the initial stages (mostly mothers) when they first heard about the programme were contradictory. On the one hand, it gave them hope, but on the other there were concerns such as doubts about possible progress; the threat that the children with special needs will be hurt by the healthy ones; or fear that attending kindergarten would make their problems known and end up being branded.

Parents of the children with special needs felt somehow neglected and even despised by those of healthy children. They noticed that the latter avoided contacts. It also appeared that during events, children with special needs and their parents were ignored and isolated. The members of staff mentioned that today children with special needs are willingly accepted in the kindergarten. If in the past the teachers were guided by the call of conscience and humane considerations, they now demonstrate a more professional approach towards the problem. The teachers note that their retraining by specialists such as psychologists and special education specialists is of great importance. At the present stage, there is continuous expert support for teachers, which includes seminars, meetings and assistance in jointly addressing difficulties that occur.

Currently, according to the teachers, parents of the children with special needs are fully involved in the activities related to kindergarten life. The teachers try to carry out independent explanatory work with parents of healthy children and have been quite successful. Talking about their attitude towards the project, the majority of parents of healthy children mentioned the difference in their attitude at the initial and present stages of the project. One stated that: "At first I thought that the kindergarten is not the place for such children, because I could not envision the results they

were talking about. And now I can visualise the role this project plays in the lives of the children with special needs".[9]

Parents also mentioned that their children acquired skills for communicating with different people and they were going to be better prepared for life than their parents were at the same age. The parents of those healthy children who had attended inclusive kindergartens for a long time mentioned that they treated the children with special needs positively, they thought that the children with special needs had the right to attend schools of mainstream education like other children and that the children with special needs were full members of the society and required protection.

The parents of healthy children mentioned that their children treated the children with special needs naturally and calmly and that they had become kinder, and more careful and tolerant, despite the fact that they felt astonished and bewildered at their first contact with children with special needs. Parents of healthy children who observed positive changes in the children with special needs were happy for their success and were willing to try to support their integration into the society. These parents also did their best to instil such attitudes like helping out and compassion in their children.

Some of the parents mentioned that the children with special needs aroused sympathy, and that by comparing their own problems to those of the parents of these children, they had learnt to appreciate what they had and had adopted a more positive view to life. However, stated again was: "(...) at the initial phase, the attitudes of parents of healthy children were contradictory and we had concerns about this. Some parents even moved their children to other kindergartens.

Currently, the situation is much better, and serious work has been carried out with healthy children and their parents. The attempts to improve the communication skills of healthy children and to make their attitude positive towards the children with special needs have succeeded. At the moment, the presence of children with special needs in the group is simply taken for granted".[11]

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9   An opinion from the focus group of parents with healthy children. An assessment of the implemented one-year (April 2004-April 2005) programme, "Children in especially difficult circumstances", carried out by World Vision, Armenia, A Sociological Study, March-April 2005. Yerevan.

11  An opinion from the focus group of parents of children with special needs. An assessment of the implemented one-year (April 2004-April 2005) programme, "Children in especially difficult circumstances", carried by World Vision, Armenia, A Sociological Study, March-April 2005. Yerevan.

In addition to this, a teacher stated that those parents whose children had recently started to attend inclusive kindergartens still had concerns. Though they demonstrated their positive attitude towards children with special needs, they however considered it to be more appropriate for these children to attend special schools.

Parents of the children with special needs had noticed that their children demonstrated noticeable progress when they interacted with the healthy children. A much better progress than they could get in special institutions. One can positively state that in the kindergarten they for example gain communication skills, learn how to make friends, do not feel constrained and isolated any more, and imitate behaviours of healthy children, adopting new behaviours along the way. According to the parents, the progress was especially obvious when these children took part in the organised events.

Parents of healthy children also mention that their children had become kinder, more tolerant, pliant and careful. They were initially afraid that their children would not understand the children with special needs, and therefore would not communicate with them. But later due to the efforts and help of educators and specialists, they acquired new skills of interaction, with crying and irritable children for example. Due to inclusive education, healthy children gain some moral qualities, including empathy, kindness, tolerance, etc. Parents of children with special needs mentioned that almost all parents and children accept their children and there are no particular differences of opinion.

There are people who think that in order to be accepted by others, it is also important to have their own position on issues such as self-confidence and belief in their own capacity; an opinion that the Armenian society is not yet prepared to accept and implement. It is considered that lack of faith often represents an obstacle. Parents of children with special needs note that in many cases children are kinder than their parents, for they treat children with special needs with love and care and make friends with them.

The parents also mentioned that due to adjustment and the developed activities, they could now observe noticeable changes in their children. This fact in turn brought changes in the attitudes of other family members. At first mainly the male representatives of families raised objections against mothers attending classes with their children, but later, after having conversations with specialists and observing progress in the children, they started perceiving this as their own responsibility.

It is possible to unequivocally affirm that due to the inclusive education project, serious changes have occurred in the families of children with

special needs. If before the implementation of the project the children's problems negatively influenced all subsystems of families, at present spouses are united in solving these problems, and have become more friendly and self-confident. This fact was also emphasized during conversations with the families benefiting from this project. Parents consider the project as a "path to hope" and note that due to the activities implemented in the framework of the project, they have become more patient and knowledgeable, and have somehow put aside the problems concerning their children. The fact that they have the opportunity to contact other parents who have the same problems and discuss these problems together is also considered to be a positive achievement.

Finally, one specialist of the inclusive education centre stated at the end of this project *"As a result of this project many parents started to love their children for what they are, to see their virtues, to realise that a child is not guilty for his/her disability"*.[12]

Parents recently included in the project are satisfied by the achievements of this phase, and appreciate the progress made by their children, though the parents involved at the earlier stages are concerned about the following:

- The continuation of the project.

- Designing other models of the kind.

- The dissemination of the concept.

Newly involved parents find it difficult to speak about the problems of their children, but those who were included earlier are freer in expressing their opinions. It cannot be claimed that in this regard, the parents of children with special needs, who are currently involved in the project, are undergoing the same "scenario" as the parents who were involved in the initial stages. This fact makes the data obtained from the empirical survey more dependable and representative.

Parents of children with special needs who still attend kindergarten generally have the wish for their children to attend schools offering mainstream education, but at the same time mention that it would be appropriate to set up individual programmes. They hope that World Vision will implement an extensive project in schools too. They strongly believe that in special schools, children with special needs will not only fail to achieve

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12  An opinion of one of the members of the focus group, to the staff of World Vision-Armenia. An assessment of the implemented one-year (April 2004-April 2005) programme, "Children in especially difficult circumstances", carried by World Vision, Armenia, A Sociological Study, March-April 2005. Yerevan.

any progress but will even regress. However, they mentioned that they would advise their relatives and friends who have children with special needs to attend inclusive kindergartens. This tendency is the best evaluation of the impact of the inclusive education project.

*Kristina Henschen*

# Human Rights Awareness and UNDP Evaluation in Armenia

I will shortly introduce the UNDP activities within the Human Rights sphere globally, as well as locally in Armenia. In the end I will in particular present the findings of the new UNDP Public Opinion Survey on Human Rights.

## UNDP Globally

In order to achieve the eight Millennium Development Goals (MDG) of: eradicating extreme poverty and hunger; achieving universal primary education; promoting gender equality and empower women; reducing child mortality, improving maternal health; combating HIV/AIDS, malaria and other diseases; ensuring environmental sustainability; and developing a global partnership for development, by the year 2015 set by the world leaders in the Millennium Declaration of September 2000[1], human rights also need to be integrated with sustainable human development. These Goals, and the Declaration, were also signed by Armenia hence: Armenia is committed to strive for their fulfilment. Mainstreaming or integrating human rights into development activities is essential if it is to contribute to the fulfilment of the inherent dignity and worth of individuals. UNDP has played a leading role in applying a rights-based approach to development, in close cooperation with other development actors within and beyond the UN system. UNDP's human rights activities are aimed at achieving the following three objectives:

• Strengthening the UN-led international human rights system;

• Strengthening regional and national human rights capacities as part of the enabling environment for sustainable human development;

• Mainstreaming human rights in all of the organisation's practice areas, such as democratic governance, poverty reduction, energy and environment, crisis prevention and recovery, HIV/AIDS, and Information Technology (IT) for development.

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[1] In: http://daccessdds.un.org/doc/UNDOC/GEN/N00/559/51/PDF/N0055951.pjd?OpenElement. (Visited in October 2005). UN General Assembly Resolution (A/Res/55/2).

Key features of UNDP's work in the area of human rights include:

• Support to the development of national human rights action plans,

• Application of the rights-based approach to programming;

• Assistance for human rights initiatives involving civic education, aware-ness-raising campaigns, the strengthening or creation of ombudsman offices and extension of human rights institutions to the sub-national level.

## UNDP Armenia

The UNDP Programme in Armenia for 2005-2009 has a human rights based approach that aims at reducing economical, social and political inequality by focusing on three national priorities: a) laying the foundation for sustainable socially-oriented growth; b) promoting accountable, transparent and effective governing institutions; and c) supporting sound management of natural resources. The UNDP Programme has five Pro-gramme Components: 1) Achieving MDGs and Reducing Human Pov-erty; 2) Promoting Crisis Prevention and Recovery; 3) Responding to HIV/AIDS; 4) Fostering Democratic Governance; 5) Promoting Energy Efficiency and Environmental Sustainability.

With regard to human rights, UNDP advocates its strong tradition of ac-tive support to a human rights-based approach that reflects the mandate of the United Nations. In the coming years, UNDP will continue to help to increase the respect for, and the awareness of human rights, including women's rights, through (i) supporting the adoption of a National Human Rights Plan and inclusion of human rights teaching at all levels of the education system; (ii) support the Public Defender's Office for effective response to violations of human rights, (iii) regional harmonisation of the legislative and policy frameworks on human and drug trafficking, estab-lishing victims' assistance centres and drug control units and support civil society monitoring networks; (iv) increasing public awareness of human rights and active participation of women leaders in policy-making and peace-building. In particular, I would like to mention the importance of mainstreaming gender equality, as well as a particular gender pro-gramme, and the need to emphasize that; "Women's rights are human rights". We are helping Armenia fulfil its commitments, as spelled out in important documents such as the Beijing Declaration, the Millennium Declaration and the CEDAW.[2] In Armenia, the female representation in

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2    The Convention on the Elimination of All Forms of Discrimination against Women (CE-
     DAW), adopted in 1979 by the UN General Assembly, is often described as an interna-

the parliament is very low (only 4.1 percent). Women are subjected to domestic violence (studies show 30 percent) and women are more often unemployed and subject to poverty.

Currently, UNDP has the following Human Rights Related Projects in Armenia:

- Promoting Human Rights Awareness and the awareness on the Public Defender's Institution.

- Gender and Politics Programme.

- Anti Trafficking of Human Beings.

- Primary Drug Prevention Programme.

- Southern Caucasus Drug Programme.

### *UNDP Public Opinion Survey on Human Rights*

In terms of human rights promotion, UNDP has (with The Turpanjian Centre for Policy Analysis) undertaken a nation-wide Public Opinion Survey, which provides the basis for our formulation of further activities in the area. This Survey was one of the objectives of the Project: *"Promoting Human rights and Facilitating Public Awareness of the Public Defender's Office in Armenia",* under the direct responsibility of Ms. Theresa Khorozyan, Project Coordinator.

The Survey was published May 2005, and it provides the basis for a public awareness campaign on several human rights issues using the mass media, informal education techniques, existing agencies and non-governmental networks. This campaign will increase public and professional access to, and awareness of, international human rights standards and of local, national and international mechanisms of protecting these rights. Informal education techniques and existing agencies and non-governmental networks will also be employed. As envisioned by the project, the campaign needs to be based on a public opinion survey, which will provide insight into the level of knowledge of human rights in the country.

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tional bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. In: http://www.un.org/womenwatch/daw/cedaw/cedaw.htm.

## Results of the UNDP Public Opinion Survey

The purpose of this first-ever nationwide survey on human rights in Armenia was to assess the public's understanding and level of knowledge about human rights, and to determine the Armenian public's beliefs, attitudes, and behaviour toward the protection and promotion of human rights in Armenia. The survey was conducted with financial support of two other UNDP Projects: '*The Anti-Trafficking Programme: Capacity Building Support and Victims Assistance*' and '*Gender and Politics in Southern Caucasus.*' In summary, only about 40 percent of the respondents are at least somewhat satisfied with the protection of human rights in Armenia and only 30 percent are satisfied with how their human rights are protected. Nearly all respondents believe that Armenia has serious human rights problems that are not being solved and that the government should change its approach by putting human rights at the top of the list of problems that need to be solved. All of the institutions listed in a separate questionnaire were given barely passing grades for human rights protection, with failing grades going to the National Assembly, courts, government, and the police. Overall, respondents provided answers that demonstrated strongly held attitudes. Four in ten respondents reported that their, or a family member's right to work had been violated in the past two years, as did three in ten, that their right to social security; and two in ten that their rights to health care and to participate in free and fair elections.

The level of interest is high, with seven out of ten respondents reporting they are interested in the general issue of human rights in Armenia. However, 60 percent depend on television as their source of information on human rights with most of these respondents being unable to recall the last news bulletin they had heard. Forty percent of the respondents could not say where they would go if they needed information about their rights. About half of the respondents indicated that they had no idea of where to go if they believed the right to their security or their electoral rights had been violated. Nevertheless, nearly 70 percent of the respondents believe they are informed about human rights in Armenia. Few respondents could correctly name the office of the Armenian Human rights Defender or name the person holding this office, and even about 40 percent of these respondents could not name a human rights problem that the ombudsman should address. Only about three percent of the respondents could name the Universal Declaration of Human Rights as the official document setting forth human rights for everyone worldwide. Almost all respondents believe that there are some rights that should never be restricted by governments for any reason, but about half believe that

people have human rights only because governments give them to people. The Respondents demonstrated difficulties in correctly identifying what a universal human right is, for example, nearly all respondents believed that driving on safe roads qualifies as such right. Below are the results of the 2005 UNDP survey on human rights in Armenia.

## From the UNDP Public Opinion Survey (to be published May 2005)

## Percentage agreeing with statements about human rights in Armenia
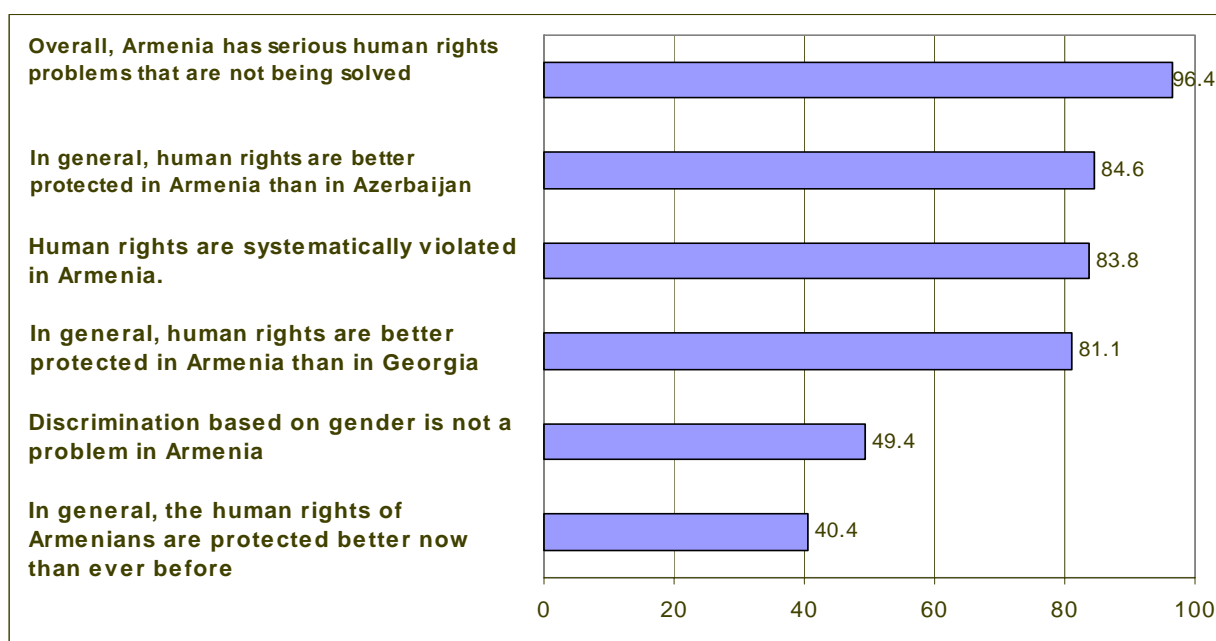


## Primary information source used for human rights
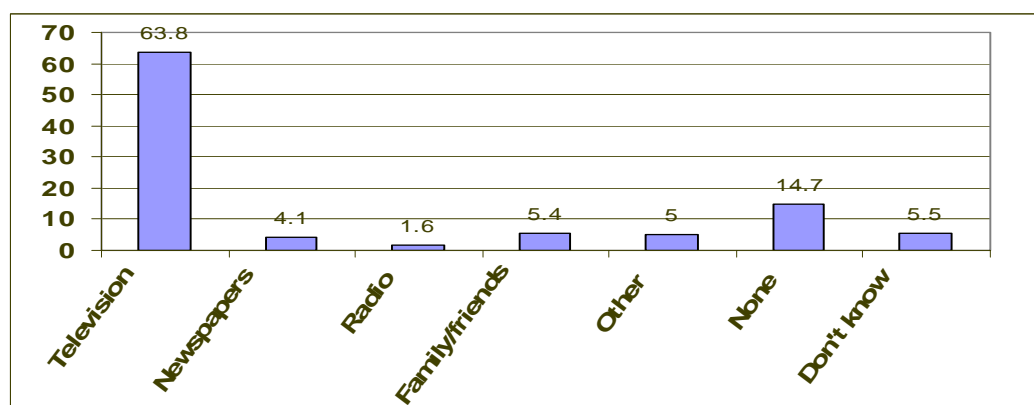
## Sources for seeking information about human rights
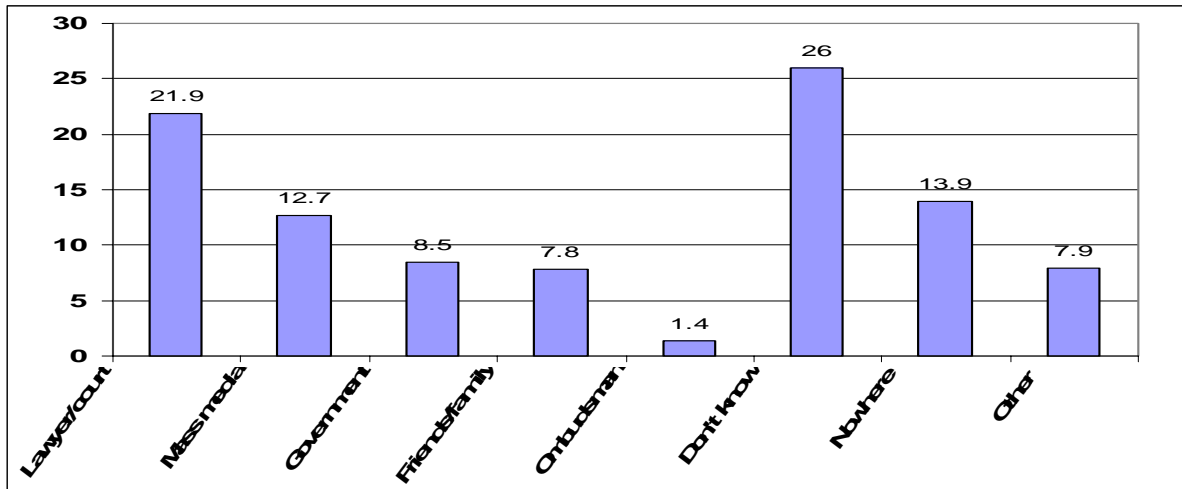


## "Yes" responses to questions testing human rights knowledge
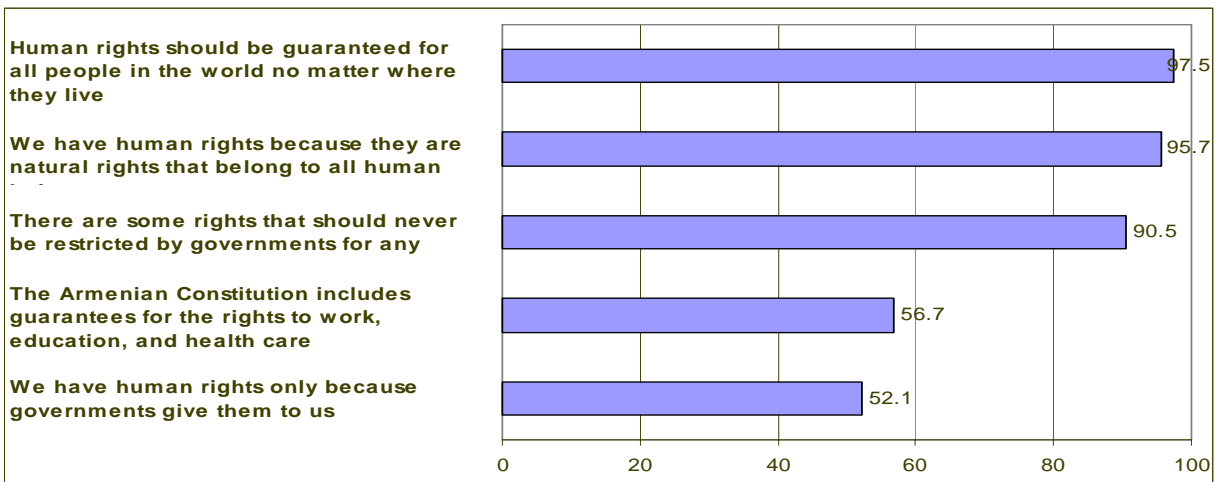
## Grades, on a scale of 1 to 5, for human rights institutions in Armenia

| Institution | Grade |
|---|---|
| Mass media | ~3.05 |
| Human Rights Defender | ~3.05 |
| NGOs | ~2.6 |
| President of Armenia | ~2.6 |
| Local government | ~2.55 |
| Police | ~2.3 |
| Courts | ~2.25 |
| Central government | ~2.1 |
| National Assembly | ~2.05 |
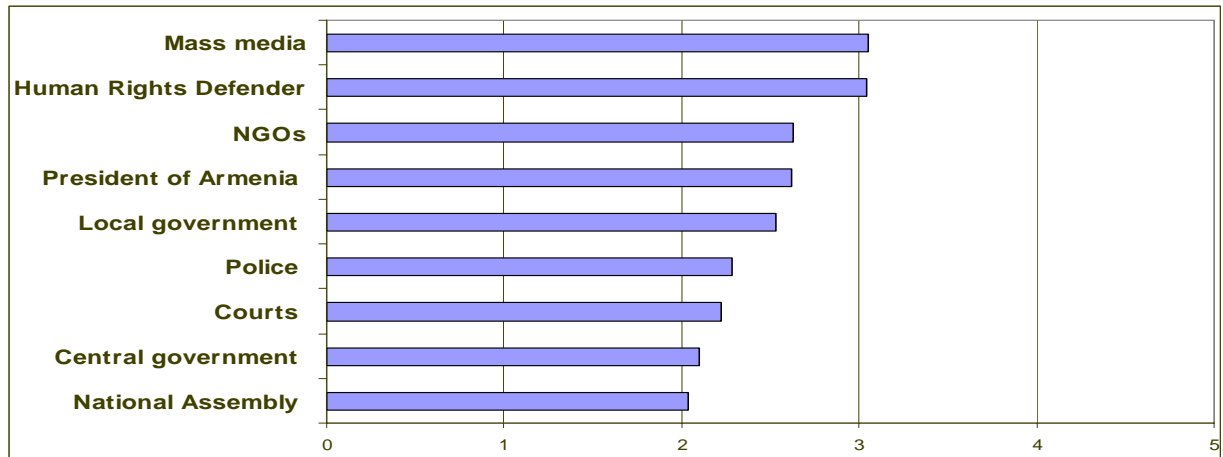
*Litit Umroyan, Lucig Danielian*


# Human Rights Education in Armenia – A Base Line Study[1]


This base line study on "Human Rights Education in Armenia" aimed at assessing human rights education activities in Armenia in the framework of the UN Human Rights Education Decade from 1995-2004, with a focus on existing programmes for human rights education and curricula at all levels of formal education, for all groups and programmes for continuing professional development. The assessment also focused on the overall organisational and financial support for human rights education in Armenia, the availability to the Armenian public of human rights publications, and analyses of national plans and of all legal norms pertaining to human rights education in Armenia. In-depth interviews were conducted with key stakeholders, focus group discussions were conducted with school educators, and expert analyses of all human rights curricula and legislation performed.

For the purpose of this article only the major findings in the field of human rights education in formal schooling, including preschool education, education in general and special schools and post-school education are presented and the major obstacles in the mentioned areas are highlighted.


## The Education Sector in Armenia

The sphere of education in Armenia is mainly regulated by corresponding provisions in the Republic of Armenia (RoA) Constitution[2] adopted in

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[1]  This article is excerpted from an extensive 2005 assessment of human rights education in Armenia conducted by the Turpanjian Centre for Policy Analysis at the American University of Armenia in the framework of United Nations Development Programme/Armenia and the National Assembly of the Republic of Armenia (RoA) project "Promoting Human Rights and Facilitating Public Awareness of the Public Defender's Office in Armenia." The study is the first comprehensive assessment of human rights education in Armenia and is to be used as a basis for the development of a national strategy and plan for human rights education.

[2]  Article 35 of the RoA Constitution, 1995, claims that all RoA citizens have the right to education; secondary education in public schools is free, and every citizen has the right to receive higher or other professional education on a competitive basis.

1995 and by the 1999 RoA Law on Education, the National Plan for Education Development 2001–2005 approved by the Parliament in 2001,[3] as well as specific legislation on educational programmes.[4] The major programmes are for general education and professional education.

The main components of general education are: (1) preschool education for children ages three to six; (2) general education comprising primary school grades one through three, middle or basic school grades four through nine, and high school grades ten and 11, and; (3) special education, which includes the education of children deprived of family care and children with special educational needs. The 2004 State Framework for Education suggests moving to a 12-year format for general education.[5] Armenian law requires that all residents complete education to at least grade eight.[6] Professional education includes preliminary vocational education, mid-level professional education, and higher professional and post-graduate education.[7]

The Armenian education network includes non-state educational establishments at all levels of education, the performance of which is coordinated according to the same legal and policy norms as required of state educational institutions. The RoA Law on Education specifies the principles for state policy in the sphere of education, including the humanitarian nature of education, the priority of universal human values, and the individual's life and health, as well as the development of civic self-awareness.[8]

## Human Rights Education in Pre-Schools

The inclusion of human rights education in pre-school education is a widely used practice followed by an extensive number of countries, especially newly democratic countries lacking democratic cultures and traditions. Pre-school education in Armenia does not include human rights

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3   RoA Law on "Confirming the RoA State Plan for Education Development, 2001-2005," 2001.

4   RoA Law on Higher Professional and Postgraduate Education, 2004, RoA Law on Preliminary Professional (Vocational) and Middle-Level Professional Education, 2005.

5   State Framework for General Education, State Standard for Secondary Education. Ministry of Education and Science of RoA, Yerevan, 2004, Antares (in Armenian).

6   RoA Law on Education, 1999, article 18(7).

7   Ibid.

8   Article 5, supra 5.

education components, although normative documents for the sector that are currently under development by Armenia's Ministry of Education and Science will contain specific requirements for children's rights education and for developing and promoting children characteristics such as tolerance and non-discriminatory attitudes. The Armenian State Framework for General Education specifies the principles for state standards for pre-school education and makes no specific reference to the need for human rights education at the pre-school education level,[9] although it does mention children's freedom of expression of speech and is thought of as one of the principles of pre-school education.

In answers to the question of whether or not human rights education should be integrated into pre-school education, nearly all the respondents of major donor organisations, local and international NGOs, the government and Armenian human rights experts stressed that human rights elements should be taught in pre-schools. Explanations for the importance of such education included its significant role in the development of a self-consciousness and personality based on awareness of rights, and respect towards the rights of other people. Nearly all respondents stressed that the form of delivery of human rights knowledge at this level should be according to age, and that it should not be delivered in the form of special subjects but rather be taught as integral elements of games and the overall process of communication, by "sowing the seeds of humanity" and developing caring attitudes toward animals and the environment.

While talking about obstacles to integrating human rights education into pre-school education, the respondents generally gave very similar answers. Nearly all pointed out that they do not see any major obstacles to providing human rights education in pre-school education "except the willingness to do so." Another obstacle that was mentioned by some of the Armenian respondents was the "Armenian national mentality" and traditional approaches to child-upbringing. Although it is highly desirable to integrate human rights education in the Armenian pre-school education system, there are major obstacles, which, surprisingly, were not mentioned by the respondents.

The first major obstacle is that the physical capacity of pre-primary institutions has dramatically deteriorated during the past 15 years. That is, the majority of pre-schools exist in poor buildings with serious lack of facilities. After 1996, the responsibility for state-run pre-schools was transferred to the local governments, which are funded by dismally depleted

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9   State Framework for General Education, supra 4.

community budgets. This shortage of funding has resulted in low salaries for teachers and in poor facilities. One of the important principles and strategies in the developmental capacity of children for understanding basic human rights is the creation of an overall atmosphere and environment reflecting a feeling of security, welcome, warmth, and satisfaction which is difficult to provide under current conditions.

The second major obstacle is the absence of teachers, administrators, and other employees with the professional skills and qualities required for pre-school education. The role of educators and their personalities are important as models for children. Another significant obstacle is the lack of relevant educational materials suitable for children of pre-school age.

## Human Rights Education in General and Special Education

### General Education

Human rights were integrated into the State Curricula for Secondary Education in Armenia in 2001, as a required subject for 8th grade, and together with two other subjects of the so-called "legal block," civic education, and the state and law for the 9th and 10th grades.[10] The integration of the "legal block" subjects in secondary schools was intended "to assist the processes of establishing the rule of law and democratisation of the society in our country, in order to help raise a complex and developed generation with civic self-awareness."[11] In the framework of the assessment, surveys were conducted on six focus groups of teachers of human rights and civic education in a variety of cities and villages in Armenia, with the purpose of determining the teachers' opinions on the overall quality of subject plans, textbooks, teacher manuals, methods, teacher training, and obstacles to human rights education in schools.

Almost all teachers noted that human rights is one of the most favourite subjects at the schools where they taught, and even students who receive poor marks in all other subjects perform very well in the course on human rights. However, many teachers, especially in the villages, complained that there is serious lack of educative printed materials, audio-visual aids, and computers and Internet access. They stressed the importance of human rights education in schools and gave many examples

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[10]  2001-2002 Typical Educational Plans for State Secondary Education, confirmed by decree #258-M 02.07.2001 of the RoA Minister of Education and Science.

[11]  Methodical Letter on "Law" Educational Sphere, in ibid. p. 30.

about the positive impact of the subject on student behaviours and attitudes. For example, there has been a noticeable change in the attitude of pupils toward the disabled and there have been many incidents where children have tried to help and assist the disabled, whereas before they were "kind of afraid." Students also have changed their attitudes toward classmates who belong to religious minority groups. The teachers claimed that the effect trickled down to parents and grandparents who also read the textbooks on human and civic rights.

Teachers of the "legal block" subjects highlighted several obstacles they faced while teaching on human rights. For example, many mentioned that they have had arguments with other teachers and school administrators who complained that as a result of increased knowledge about their rights, as well as getting used to classes based on interactive methods, students "are not behaving" during other classes. Similar problems have occurred also in families, where parents have come in to complain about their children demanding respect of their rights. One teacher talked about an incident in which parents in the village had organised a protest blocking the distribution of human rights textbook to students. They demanded that the subject be dropped from the school because they were afraid that learning about their rights would make children disobedient and create problems in the traditional Armenian family.

An additional obstacle mentioned by the teachers was the personal attitude and position of human rights teachers, which also hinders the advancement of human rights education in Armenian schools and interferes with the basic objectives of such education which is the creation of human rights culture, and an environment of tolerance and peace. All human rights teachers who participated in the focus group discussions were of the opinion that there are human rights which contradict to the Armenian culture, traditions, and mentality such as the rights of sexual minorities, the right of freedom of religion and the right to change one's religion, as well as equal rights for men and women.

Another problematic issue is that many teachers are themselves confused about what rights children have, what to teach, and which rights to ignore. One comment that typified these problems was that "the textbook has a clause that children have the right to their private lives but this means that children can lock themselves in their rooms and do whatever they want. I think this is very dangerous and should not be taught." Another comment that exemplifies this problems described a situation in which a student asked whether or not teachers can hit children and "I realised that I could not give him a clear answer because if I answered 'no' he might not obey me any longer and if I said 'yes' I would be contradicting what I teach during my classes."

The integration of human rights into the state curricula for schools as a required subject is undoubtedly a major step toward the creation of a culture of human rights and the increased respect for human rights values in Armenia. It should however be mentioned that in general, there are two positions concerning human rights education in the school system among the stakeholders, the policy initiators, implementers and donors. Some stakeholders are against having separate human rights subjects, arguing that all the subjects should be taught based on human rights principles, and others believe human rights subjects should be integrated into other disciplines such as history, literature, and philosophy. The other position is that there is support for human rights courses but not for the current curriculum and textbook.

The assessment of textbooks and human rights curricula in general secondary education in Armenia revealed that in addition to problems such as the out-of date information and illustrations, and insufficient coverage of local human rights issues, there are other major drawbacks that should be overcome. Firstly, the textbook and the subject plans do not cover the topic of gross violations of human rights constituting crimes against humanity such as genocide and ethnic cleansing, issues that are of particular importance and relevance taking into consideration the history of the Armenian genocide.

The other major drawbacks of the current human rights course is that it does little to sensitise children on the emotional and awareness level by bringing examples not only from Armenia but also from different countries on the systematic violation of human rights, cases of extreme poverty and hunger, historical injustice, and violence based on racial and ethnic grounds, which would sensitise children by causing sadness and/or anger about injustice and pain. Such examples would thus motivate students to react and become active and increase respect for each other and toward people in their surroundings whose rights are often violated, as "…without this emotional touch and these feelings of sadness, there will be no activities in favour of human rights."[12]

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[12] Mihr, A., Human Rights Education: Methods, Institutions, Culture and Evaluation, Magdeburg, 2004 in: http://www.humanrightsresearch.de/material/Discussion-Paper-Band_4.pdf. (Visited in October 2005).

## Special Schools

The current state curriculum for special needs students in special educa-tion schools does not include the human rights subject but does require the course on civic education. If children with hearing, listening, and other difficulties are considered able to study civic education, then they should be able to study human rights, especially taking into consideration the fact that these children belong to some of the most vulnerable groups in the Armenian society and should be one of the main targets and bene-ficiaries of human rights education. Public officials and various experts tried to explain away this neglect by saying that the current textbook on human rights is not appropriate for children with special needs and that new materials should be developed based on a carefully selected meth-odology and a sensitive approach. However, such arguments can be easily refuted because in reality, there is no evidence that children with special education needs who are enrolled in the "inclusive" schools are having any problems with the current human rights textbook and teach-ing materials.[13]

## Human Rights Education Post-School

Post-School higher education in Armenia does not contain human rights education for preliminary and mid-level professional education as imple-mented in vocational and in mid-level professional establishments, but there are required human rights courses at higher professional education level in 37 institutions of higher learning.[14]

In the framework of the assessment, in-depth interviews were conducted with human rights lecturers, who mentioned three major problems in hu-man rights education facing universities, and these included: (1) insuffi-cient academic hours prescribed to the courses; (2) the low level of spe-cialisation of some lecturers (one lecturer noted that at some institutions human rights activists teach who do not have appropriate professional and education backgrounds), and; (3) the scarcity of training for lecturers of human rights subjects.

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[13] Since 1998, students with special needs have been learning in six general schools too, as part of a programme for inclusive education initiated by an Armenian NGO, Bridge of Hope, with support from UNICEF and OXFAM and with the Republic of Armenia Ministry of Science and Education.

[14] There are currently 103 universities and institutes of higher professional education in Armenia, including 26 state-run, four partially state, 64 private, and nine institutions that are branches of universities outside Armenia.

Copies of the syllabi for five of the human rights courses were obtained and analysed and common problems were observed.  Overall, all the syllabi cover the basic issues in human rights, including basic theories and approaches, the evolution of human rights, the major international documents and mechanisms for the protection of human rights, regional instruments and mechanisms, internal mechanisms and legislative framework, the rights of vulnerable groups and minorities, and other relevant topics.

However, none of the syllabi cover the issues of gross violations of human rights such as crimes against humanity, international criminal justice, or issues of immunity and jurisdiction. Likewise, none of the subject-plans include torture and related conventions. Besides, almost all the syllabi misinterpret the concept of collective rights by associating it with the rights of women, disabled, children, elderly, and other vulnerable groups and completely ignoring real collective rights such as the right to self-determination and the right to development. The course readings in most of the syllabi are poor with only a few human rights instruments being used. Analytical and theoretical literature is mostly absent, which is most likely explained by the fact that little is available in the Armenian language. Large portions of the readings are made up of Russian texts on constitutional law, demonstrating that in some courses, there is confusion between constitutional law and human rights law.

Different stakeholders representing the Armenian government, intergovernmental organisations and international donor organisation, local and international NGOs and human rights experts were also asked to express their opinions on human rights education at the higher professional education level, and many of their comments were negative.  It was mentioned that a typical drawback of the higher education system in Armenia is that education is separate from academia.

There were also complaints that the quality of teaching in general is poor, especially connected with the fact that a majority of the faculty members at the universities and institutes are old Soviet lecturers with conservative approaches to education, who do not allow young scholars with good education and fresh ideas to enter the system and try to reform it. The contradiction between old methods of teaching in higher education and the methods required for human rights education was mentioned a number of times by the stakeholders.

Other stakeholders observed that human rights is taught either by people who do not hold human rights values or non-specialists. It was mentioned that institutes and universities should have integrated human

rights education before the schools did, in order to provide the latter with professional teaching staff.

The lack of systematic state attention to higher education, as well as the lack of state coordination and control, was mentioned several times as one of the obstacles in the sector, including in that of human rights education. Other obstacles included the lack of professional training for faculty members and outdated textbooks and materials. The stakeholders stressed that the lack of literature creates problems especially in the social sciences because Armenia does not have an established academic tradition in this field.

# III. Human Rights and Minorities in Armenia

*Claudia Mahler, Anja Mihr and Reetta Toivanen*

# Human Rights, Minorities and Human Rights Education in Armenia: An External Perspective

This contribution is based on the interdisciplinary research project on human rights education and national minorities in six European countries. The countries are, in addition to Armenia, Estonia, Finland, Germany, Slovakia and Spain. In Armenia two national minority groups are included in this study: the Russian speakers and Yezidies. The goal of the research project conducted at the University of Potsdam and the Humboldt University of Berlin is first to analyse the existing local, national and international legal frameworks of human rights education, for the protection of human rights in general, and the framework to protect and foster minorities' rights and to combat discrimination through human rights education. Secondly, the project aims to identify governmental and non-governmental actors who contribute to human rights education. Simultaneously, the relationships of the actors to the international human rights instruments and to the international governmental organisations shall be analysed. The third aim is to scrutinize how these human rights instruments and institutions affect the lives of members of national minorities. This involves an assessment of how human rights education programmes and projects reach minorities and in which ways minority members themselves can contribute to the contents of the programmes. The consequences(intended as well as unintended)of human rights education constitute the focal point of the Tandem Project, "Teaching Human Rights in Europe". The results of the study will be published in 2007. The following contribution should be read as work in process.

The first part of the chapter describes what is meant with human rights education and how human rights education is embedded in Armenia. The United Nations Decade for Human Rights Education was launched in 1995 and ended 2004. This decade was the chance to bring the Universal Declaration of Human Rights to the knowledge of every person worldwide. This part addresses the question of how aware the Armenians are about human rights. The second part of the contribution discusses the relationship between human rights and minority rights. It addresses the general question of whether minority rights constitute something like additional rights for minorities, or whether they actually represent an integral part of the universal human rights system. The third part

deals with the specific challenges faced by minority members in order to reach equity and non-discrimination in their countries. The authors argue that human rights education, in case it is carried out in the spirit of the Universal Declaration of Human Rights, helps both the majority and the minority population in the realisation of their human rights. The realisation of human rights has always been an on-going process, a process of furthering democracy.

## Human Rights Education and Awareness in Armenia

Armenia has enjoyed governmental independence since 1991 and joined the UN in March 1992. In 1994, the UN-Secretary General proclaimed the UN-Decade for Human Rights Education (HRE).[1] There was a unanimous acceptance in the General Assembly in December 1994 that this decade should, first of all, disseminate the information and knowledge about human rights as formulated in the 1948 Universal Declaration of Human Rights. Secondly, it should promote the further development of human rights values and attitudes. The decade should thirdly actively promote and defend human rights whenever and wherever human rights abuses occur. This was, however, mainly lip service, by most of the member states of the UN. The UN-Decade purely had a proclamation status. The Office of the High Commissioner for Human Rights (OHCHR) in Geneva was one UN institution monitoring and following the progress of the UN-Decade. Until 2000, almost none of the more than 200 member states and individual governmental representatives had reported to the OHCHR in Geneva about efforts being made to promote or implement the decade in their countries. There was little political will but also reluctance and insecurity on what human rights education really is and how one should implement it. By the end of the UN-Decade in 2004, only two dozens countries had established some kind of National Action Plan for Human Rights Education. Simultaneously, very few governments had implemented human rights education into their national school curricula.[2]

One of the countries that had reformed its formal education system and implemented HRE is Armenia. However, this was not necessarily due to great political vision or will, but rather to the pressure of International Organisations. Alongside the membership of Armenia in the Council of Europe (Head Office in Strasbourg) in 2001, the Armenian Ministry of Education proclaimed reforms in the formal educational system. A co-

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1    UN-Document: General Assembly A/51/506/Add.1, 12 December, 1994.

2    UN-Document: Press Release GA/10317, 10 December, 2004.

operation began between World Bank, experts in human rights and international law, NGOs and the United National Development Programme Office (UNDP) in Yerevan to create an "HRE-package" for secondary schools with new schoolbooks and teachers' training seminars, which were published in 2001. Due to pressure from the Council of Europe and the UN, Armenia has implemented international human rights norms in its constitution and laws. However, the fulfilment leaves many questions open. In 2001, the Armenian Ministry of Education launched new school curricula for 8th, 9th and 10th grades (compulsory school education includes 8th grade). Together with a US based NGO called Junior Achievement and the Armenian Constitutional Rights Protective Centre in Vanadzor, the Armenian Ministry of Education was able to publish thousands of new schoolbooks, with financial support from the World Bank. They include "Human Rights Education" in 8th grade, "Civic Education" in 9th grade, and "Law and Constitution" in 10th grade education. The textbooks should include the latest human rights standards. However, some experts claim that the contents have been copied from other human rights teaching books from abroad without adapting them to the present situation in Armenia. Pupils have one hour of human rights education classes per week, according to their curricula. Thanks to Armenia facing international pressure to "adapt to European standards" and "reform the school system" during the transition and transformation process in 1990s, HRE was introduced in the school curricula. The Armenian government had to comply with international human rights standards as part of meeting the criteria to become a member of the Council of Europe, at least on paper, and did implement HRE in schoolbooks.

First evaluations of the UNDP have shown that teachers work well with the books and that some student initiatives have been founded since HRE started. These initiatives solicit mainly for increased political participation of citizens and non-citizens and a stronger leadership. More than 90% of all questioned teachers have replied to the UN-office that they feel very knowledgeable about human rights and are comfortably teaching with the books. But this does not automatically mean that they have "understood" human rights.[3] What teachers mainly understand by "knowledge" about human rights are legal norms, such as they are in the Armenian Constitution or Civil Law Codex. However, these national legal norms do not automatically match with international human rights norms or standards and even less with implementing and living human rights in daily life.

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[3]   United Nations Office (Ed.): UN-Activities in Armenia: Educators' Perspective, Yerevan 2002, pp. 94-96.

To get a better understanding of what Armenians in general mean by human rights, the Armenian Sociological Institute conducted a survey in 2003 and the UNDP office in Yerevan in 2004/2005 too.[4] The survey of the Sociological Institute, regarding the human rights situation and awareness in the country has shown that 79% of Armenians believe they have faced violations of their rights and freedoms either frequently or from time to time. Contrastingly, only 17% openly protest or struggle for, and fight to claim their rights. The trust in public institutions, the courts and legal system is very low; there is also distrust with respect to human rights NGOs, with only 8% trusting the NGOs to solve any of the existing human rights problems.[5] Under human rights, Armenians generally understand these to be "social and economic rights". Poverty issues and social injustice are also dominant in the Armenian society. A vast majority of the people have little or no confidence in state institutions, elections or the judiciary system.

The UNDP study came to similar results in 2005, stating that economic, social and cultural human rights play a dominant role in the people's human rights awareness. However, this is due to the fact that the human rights to work, have social security and proper health care are among the least respected human rights in the Armenian society, according to the survey.[6] In general a majority of those who took part in both surveys do not think that human rights are respected in Armenia. One very interesting issue addressed in both surveys is that the Armenia population receives most of its information about human rights through public media, especially from the television. NGOs or the formal education sector do not (yet) have any significant role as distributors of information. This could be due to the fact that the HRE courses in the schools and the human rights NGOs are not yet well established because human rights education is a fairly new element in the education sector. So far very little is known on how human rights are taught in schools, what methods are used and how people disseminate them. In addition there are also other forms of human rights education, for example the Armenian Constitutional Rights Protective Centre in Vanadzor offers human rights courses free of charge. These can, however, only reach a limited number of people in the country, most of them being teachers.

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4    See also article by Kristine Henschen, UNDP, in this book.

5    Armenian Sociological Institute: Situation with Human Rights in Countries of South Caucasus, Results of Sociological Surveys in 2002. Yerevan 2003: p. 14; 22-24.

6    UNDP (Ed.): Report on Nationwide Survey Findings: Human Rights Attitudes, Knowledge and Behaviour in the Republic of Armenia. Yerevan, 2005 (first unpublished version).

## Are Minority Rights Human Rights or a Separate Category?

There are more than a dozen official national minorities in Armenia, such as the Yezidi, Russians, Assyrians, Greek, Germans and Kurds. Although they make only 3% of the population, their groups are numerous as well as their needs and demands and the human rights violations against them. All groups enjoy specific cultural protection and promotion.[7] However, up till today, neither in Armenia nor in other countries have specific human and minority rights been outlined. Hence the question remains, what are minorities? Many people assume that the term basically means mentally or physically challenged or disabled people, but also sexual minorities and maybe religious and ethic minorities are added to the list too. The research project "Teaching Human Rights in Europe" is interested in national minorities. National minority is a term that is very often used in discussions on human rights, and the protection of these and minority rights. This term is, however, lacking a real definition in the framework of international law. Many different approaches exist on how to define minorities. One of the most popular definitions is the description by Capotorti in 1979, which says it is "a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members being nationals of the state possess ethnic, religious, of linguistic characteristics different from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preventing their culture traditions, religion, or language."[8]

The protection of minorities began in the 19th century, when certain national minorities were explicitly included in peace treaties after the First World War to guarantee protection for groups, which had not received an own nation state. These treaties gave protection to certain minority groups in order to create a balance between majority and minority populations. The members of these groups did not get any special rights; they merely received protection from the state on which territory they were living. The era of the League of Nations recorded the greatest efforts in minority protection. The International Court of Justice also states this in an opinion.[9] With the formation of the United Nations, the protection of

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[7]   See also article by Hranush Kharatyan in this book on Minorities in Armenia.

[8]   See: Study on the Rights of Persons Belonging to Ethnic, Religious, and Linguistic Minorities, by Francesco Capotorti, Special Rapporteur of the Sub-commission on Prevention and Protection of Minorities, UN Doc. E/CN.4/Sub.2/283/Rev. 1, United Nations, New York 1979.

[9]   Opinion of 21 February 1925, PCIJ- Reports B10 and 15 May 1931 PCIJ Reports A 15.

minorities was no longer a priority issue on the international community's agenda. After the Second World War the creation of individual rights became the focus of legal protection.

The legal provision regarding the protection of minority rights is divided into the rights to non-discrimination and to special rights of members of a minority group. The prohibition of discrimination is included in a number of international treaties. These conventions deal with different areas of life, where persons belonging to minorities could be denied an equal treatment, for example in the labour market, housing and education.

In the UN-system, the central specific clause is Article 27 of the International Covenant of Civil and Political Rights (ICCPR).[10] Minorities should get the chance to live with their own culture without the fear of assimilation to the majority. This article is wide in its scope and thus says: "In those States in which ethnic, religious or linguistic minorities exist, person belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." In December 1992, the UN-General Assembly adopted a resolution, which sets international standards for the rights of national, ethnic, religious and linguistic minorities. This declaration was another step in protecting and promoting the rights of minorities.[11]

We also find special treaties for the protection of minorities on European regional level. These treaties were initiated because the European Convention on Human Rights only has a non-discrimination clause included, and the state parties to the convention never managed to agree on a special protocol on minority rights. Instead of a protocol to the convention, the Council of Europe drafted the Charter on Regional and Minority Languages in 1992[12] and three years later, the Framework Convention on National Minorities in 1995.[13] The European Union (EU) tried to implement minority rights standards for the new member states during the accession process. Human rights and minority rights were included in the political chapter of the Copenhagen Criteria, which the candidate coun-

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[10]  International Covenant of Civil and Political Rights, GA. Res. 2200 A (XXI), of 16 December 1966, UN Doc. A/6316 (1967).

[11]  Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, GA. Res. 47/135 of 18 December 1992.

[12]  European Charter for Regional and Minority Languages, ETS N. 148, of 5 November 1992, entry into force 1 March 1998.

[13]  European Framework Convention for the Protection of National Minorities, ETS No. 157, of 1 February 1995 entry into force 1 February 1998.

tries had to fulfil in order to qualify as members of the EU.[14] Recently, the protection of minority rights was even added to the European Constitutional Treaty, which so far has been denied by some states.[15]

Consequently, in order to fulfil its international legal commitments, it is not enough for a state to guarantee protection for the minorities inhabiting in its area, because the above-mentioned conventions require that states offer *active* support to their minorities' members. The treaties of the Council of Europe set the standards, which the member states, have to ensure and fulfil.[16]

We have seen how minority issues gathered more attention in international political discourses after the conflict in Yugoslavia and the founding of new GUS countries of the former Soviet Union. One of these countries is Armenia. This is also one reason why minority rights got a new legal quality in Armenia. There is an ongoing discussion whether minority rights are integrated in the concept of human rights or whether they constitute something special and additional. Some people who see the minority rights as added extra rights for certain groups fear that positive discrimination of minorities would put some groups at a more advanced societal position and cause the discrimination against members of the majority population which has to cope without any special support.

The protection of human rights is applicable for every person without any differences being made. Or said the other way round: Human rights treat every person the same way simply because of his or her dignity. Minority rights therefore seek to protect the special quality of the members of these groups. In principle, these 'special' rights are no privileges, but rather aim to grant members of minorities in different positions the chance to attain the same living conditions like the majority population, as soon as possible.[17] This added protection through minority rights is necessary because the aim is to guarantee the members and the minorities and majorities the same enjoyment of their human rights.

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14  Mahler, C., / Toivanen, R., Nationale und ethnische Minderheiten im Prozess der Erweiterung der Europäischen Union. Europa Ethnica 1/2, 2004, pp. 16-20.

15  Treaty Establishing a Constitution for Europe, Art. I-2, CIG 87/2/04 Rev. 2, 29 October 2004.

16  Weiß, N., Sind Minderheitsrechte Menschenrechte? In Mahler/Weiß (ed.) Menschenrechtsschutz im: Spiegel von Wissenschaft und Praxis. Berlin, 2004, pp. 292-320.

17  Strauß, E., Protection of Minorities, in Volger, H., (ed.) A Concise Encyclopedia of the United Nations. The Hague 2002, pp. 373-378, (at p. 375), almost the same idea seen by Scheinin, M., Minority rights or added protection, Bregsmo, M., (ed.), *Human Rights and Criminal Justice for the Downtrodden.* Leiden/Boston, 2003, pp. 486-504, (at p. 487).

Armenia is one of the countries, which formally ratified different international conventions to protect human rights. These include the UN-treaty ICCPR (1993), the Council of Europe's Framework Convention (1998) and the Language Charta (2002). All these treaties include a special clause on minority rights or are focusing on special protection of minorities. As a state party to these treaties, Armenia has the obligation to fulfil and ensure that everybody, including the persons belonging to a minority group, can claim their human rights and special protection. Armenia has to take further steps to fulfil their commitment to guarantee the same rights and active support for members of minorities.

## Discussion: Assimilation, Minorities' Rights and Human Rights Education

The question that arises from the formal and legal framework in Armenia, as elsewhere, is also how minority groups in particular can not only be protected, but also integrated in the society without being assimilated under Armenian culture. Assimilation theories were gradually dismissed as unscientific, after the publication of Nathan Glazer and Daniel Patrick Moynihan's "Beyond the Melting Pot", in 1963.[18] This is because the assimilation policies had clearly failed to solve problems related to the historical injustices, and to address the equity issues central to the citizenship debate.[19] With the dismissal of assimilation policies, came a new fashionable concept of integration.[20] Integration as a concept did not preclude the assimilation goals of governments towards their minorities, but simultaneously called for attention to be paid to the aspects of minority identities that were not to be (and could not be) merely wiped away. It was emphasised that minorities should have the right to their own culture, and that states should not only respect this but also promote the identity maintenance of minority groups.[21] Reality has proved that it is

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[18]  Glazer, N., and Moynihan, D. P., Melting Pot. 1963. In this book, the authors point out that the melting pot in fact did not happen.

[19]  Hébert, Y.M., and Wilkinson, L., The Citizenship Debates: Conceptual, Policy, Experimental, and Educational Issues, in: Hérbert (ed.) Citizenship in Transformation in Canada. Toronto, 2002, pp. 3-36, (at p. 9).

[20]  Weinreich, P., Variations in Ethnic Identity Structure Analysis, in: Liebkind, K., New Identities in Europe. Worcester, 1989, pp. 41-76; Wilpert, C., Ethnic and Cultural Identity: Ethnicity and the Second Generation in the Context of European Migration, in: Liebkind, K., (ed.) New Identities in Europe. Worcester, 1989, pp. 6-24.

[21]  Scherer-Leydecker, C., Minderheiten und sonstige ethnische Gruppen. Eine Studie zur kulturellen Identität im Völkerrecht, (Minorities and Other Ethnic Groups. A Study of Cultural Identity in Human Rights Law). Menschenrechtszentrum der Universität Potsdam Vol. 4. Berlin, 1997.

not easy to make integration happen.[22] A new approach to dealing with issues addressing the question is to ensure that members of minorities enjoy the same rights and are guaranteed the same human rights standards like those of the majority members. In this context, the concept of participation is often brought in, which is increasingly being used as a slogan for a formula with which one could solve the problems faced by members of minorities everywhere in Europe. The proponents argue that if all people had the same access to their political participatory rights, there will no longer be a gap (civil, political, economical, social and cultural) between the majorities' and minorities' members. This vision of a Europe where equality and peace is guaranteed among all people is typical for such organisations like the Council of Europe and the Organisation for Security and Cooperation in Europe (OSCE). Together with these intergovernmental organisations, many NGOs have called for a new strategy of participation. Letting the minorities participate in the society is understood as a programme, which aims at making integration possible.

There are however, several problems with this approach. Some of the problems are more practical, with others being attached to the core of the whole vision. The pragmatic problems are of such nature that could be solved through planning, co-ordination and money. Organisations like the Council of Europe, the OSCE and the UN need local support when dealing with issues of integration of minorities and the empowerment of minority members. They seek to co-operate with governmental bodies and NGOs that get finances for the realisation of projects. One problem is that as the international organisations have very weak tradition of co-operating with each other, certain popular issues relevant to human rights may even get double or triple funding. Sometimes they also introduce projects that have conflicting motivations in the same country, and certain groups and issues may get support from different sources while other remain without any financial help. The intergovernmental organisations also have to rely on local support, which is not always a good idea. Issues that are unpopular in a country will get the least possible attention, leading to international resources being used without any notable outcome. Minority groups and minority NGOs that are especially critical to their government encounter huge trouble getting any support for their work. At the same time, NGOs in favour of the government often become semi-professional or professional application centres seeking money on full time basis. This is especially the case in Armenia. In addition to this,

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22 See Toivanen, R., Anthropology and the Paradox of Rights in a Multicultural Context, in V. Puuronen, A. Pylkkänen, A. Häkkinen, T. Sandlund and R. Toivanen (eds.) New Challenges for Welfare Society. Joensuu, 2004, pp. 107-123.

they try to establish some sustainability in their programmes, which often get finances for three to six months but not longer. Projects therefore begin and end, with the substance and meaningfulness of the projects suffering under these short-term actions. Minority groups often possess very little resources, so in order to be able to apply for big projects; basic financing has to be secured. The minorities therefore need a specialized person to do the application and also someone who has money in order to be eligible as a partner. The minorities further require people who speak and write English in order to be able to participate in programmes initiated by international organisations. This is hardly the case in Armenia, where for example, the Yezidi community political leaders do not necessarily have higher education and often speak no languages other than their mother tongue, Yezidi, and Armenian. Therefore, there is the danger that minorities become easily dependent on other bigger organisations or NGOs, and the minority representatives are not in the position to take part in the planning of projects and lack international support.

## Conclusion

In Armenia, substantial problems linger, even with the visions introduced by international organisations such as the Council of Europe or the UN. This is due to human rights education being interpreted as a means of producing effective citizens. An effective citizen in this context means a citizen who is able to participate and is interested in participating in the society. This is also visible in the project Education for Democratic Citizenship and Human Rights by the Council of Europe[23]. These programmes are also applied to national minorities such as the Yezids or Assyrians with the primary goal being to lead them to become active citizens, but however, not necessarily respecting their particular needs. There is also still the problem of discrimination against some of these groups, for example the Kurds, Yezidi or Russians.

It's the government's task to bend its agenda and use it for the production of good and loyal citizens. But it is not the goal of human rights education to turn members of minorities into good and loyal citizens of a country that is mistreating them, but rather to empower them to be able to claim their human rights. The integration of minorities into the society should be approached from a human rights (and minority rights) perspec-

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[23] The Education for Democratic Citizenship (EDC) includes all practices and activities designed to help young people and adults participate actively in democratic life by accepting and exercising their rights and responsibilities in society. See: http://www.coe.int/T/E/Cultural_Co-operation/education/E.D.C/. (Visited in October 2005).

tive. Only people, who know their rights are able to claim them, take their duties and stand for the protection of the rights of others too. But as it has been seen in the above-mentioned surveys, the knowledge and awareness of human rights in Armenia is quite low. Human rights interest is mainly focused on the social and economic rights of the majority, but not of minorities like the Yezidi or the Russians. With only 3% of the entire population belonging to a minority in Armenia, 97% of the population are Armenians without a minority background, and generally have little or no knowledge about the rights of their fellow citizens who belong to minorities. In this manner, human rights education can also raise the level of awareness about minority rights in Armenia among the majority, in order to create sustainable equality and peace in the society.

*Tatevik Margaryan*

## Minorities and Identity in Armenia

Armenia is a multinational country, with representatives of many ethnic groups who have been living here for many centuries, some from the ancient times, and others having only settled recently. The ethnic composition of Armenia has changed during the last 10 years. According to the results of the 2001 official census,[1] quantitative changes (in ethnic composition) were accompanied by qualitative changes. Particularly, the Azeris and a majority of Moslem Kurds left Armenia, while the Yezidis, whose ethnic identity was officially denied by the Soviet regime, have been affiliating themselves with the Yezidi nationality that expresses their ethnicity.[2]

Armenia thus saw a decrease in all nationalities (ethnic groups) living in Armenia, including Armenians themselves. The total population belonging to national minorities is 67,657, the Yezidis being the majority with 73 percent of all non-Armenian population. Out of all the other nationalities, 27 % are dispersed throughout the country, which to a degree hinders the fulfilment of their educational, cultural, and collective group identity rights. Naturally, both collectively and separately (as ethnic communities or individuals), they are subjects of the law on national minorities (The preliminary drafting of a Law on "National minorities" was commenced through the initiative of a fraction of ARF in the National Assembly and staff of the President of the Republic of Armenia, involving famous specialists of ethnographical scientific thought in Armenia), but their numbers and dispersion complicate the state's attempt to support their human rights. The Government of the Republic of Armenia (RoA) pays special attention to education and cultural issues of ethnic minorities that live in the country and do not have an independent statehood of their own, such as the Yezidis, Assyrians and Kurds.

Generally, various groups of national minorities in the RoA are concentrated in the cities of Yerevan, Gyumri, Vanadzor and Abovian. Besides

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[1]  The first national census of 2001 was conducted using a UN methodology whereby the questionnaire section on nationality (ethnic origin) was filled in based on oral responses only. The methodology prohibits requesting any documentary support for the answers provided.

[2]  Nationalities of Armenia, Yerevan, 1999.

the Assyrians, Yezidis and Kurds who are predominantly rural dwellers, the absolute majority of other national minorities are urban residents.

Language is one of the most discussed issues by the national minorities. A majority of Assyrians, Yezidis and Greeks living in Armenia, consider Assyrian, Yezidi and Greek as their mother tongue, although not every-one of them speak their mother tongue (there is no reliable data as to how many these are or how well they know the language).[3] About 98% of Russians consider Russian their mother tongue. Russian is also widely used by non-Russians like some Armenians, Kurds, Greeks, Jews, Ukrainians, Poles, Germans, Georgians and others.

There are certain claims concerning the Yezidi and Kurdish languages, which come from the disagreements and controversies concerning the national identity and ethnic affiliations between Yezidis and Kurds. The issue dates back to the Soviet times. From 1939, the official policy of the Soviet Union did not recognise an ethnic group called "Yezidi", and na-tional censuses thereafter did nothing to confirm their existence. People calling themselves "Yezidi" were listed in the census as "Kurds".

The independent Armenia reversed these unwritten laws and enabled its citizens to freely choose their national identity and ethnicity. The 2001 census registered 40,620 people who identified themselves as Yezidis and 1,519 people who identified themselves as Kurds. These results caused resentment within the Kurdish community, who tried to infringe upon the Yezidis' rights for recognition of their national identity. They also challenged the Yezidi's right to call themselves Yezidi. This contro-versy has unfortunately delayed the publication of school textbooks for Yezidi and Kurds. In reality, both Kurds and Yezidis in Armenia speak the same language called "Kurmanji".[4] However, the ethnic community that identifies itself as Kurdish prefers to call this language "Kurdish", while the community that identifies itself as Yezidi calls it "Yezidi" or "Yezdeki". The 2001 census registered both "Kurdish" and "Yezidi" lan-guages as indicated by the respondents.

A draft law on national minorities has been developed, with a large sec-tion in it being devoted to the protection of ethnic identity and against as-similation policies. However, even before this law goes into force, Article 6 of the passport rules, which is approved by the government, already stipulates that any citizen may request the appropriate agencies to put

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[3]   The first Report of the Republic of Armenia pursuant to paragraph 1 of Article 25 of the Framework Convention for Protection of National Minorities.

[4]   See: http://www.ethnologue.com/14/show_language.asp?code=KUR.

special notes in his/her passport, including notes about his/her nationality.[5]

However, in practice, not only is there a tendency to assimilate minority nationalities in Armenia, but there is also a concern by the government and the leaders of ethnic communities that some of the minority groups partially move away from their ethnic cultures. The reality can be traced back to the Soviet times, due to most of the national minorities in the RoA preferring the Russian language in education, as it once was all over USSR territory. The RoA law on language and education gives them that right.[6] However, this makes it difficult for them to learn the Armenian language, which in turn creates difficulties in integrating them into the country's social-cultural life, their further education in Armenia's professional educational institutions, and their involvement in the government system.

As for religious freedoms, it is extremely important to keep in mind the 20th century official anti-religious policy in Armenia, with the consequence being the passiveness in the religious behaviour of Armenians, and a reduction in the number and capacity of national churches.[7] Instead, it emphasized religion's sub-cultural role, at least in raising the awareness levels in the community, if not in people's behaviour. The emphasis of religion's sub-cultural role has had an extremely favourable effect on the preservation of the religious system of other nationalities living in Armenia, since some of them, such as the Yezidis and the Russian old believers known as Molokans, for example, were able to preserve their religious systems even during the years of official atheism. This is partly because they were perceived more as components of ethnic identity rather than pure religious system. The official ideology and policy considered those religions to be peculiarities of ethnic culture and did not particularly persecute them. This was also helped by the fact that, because of the peculiarities of these religions, there was no need for separate ritual institutions for practicing their faith, and their religious rituals were performed

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[5]   RoA law on regulations concerning passports of RoA, 25 December 1998, Article 821, sub-article 6.

[6]   In the past years, the National Assembly of the Republic of Armenia elaborated and adopted the Civil Code of the Republic of Armenia, the Civil Procedure Code, the Criminal Procedure Code, the Law on Court System, the Law on Status of a Judge, the law on Language, the law on Education, the Law on Prosecutor's office, the Law on Bar Activity, the Law on Arbitrages and Arbitrage Proceedings, the Law on Compulsory Execution of Judicial Acts, the Law on Freedom of Conscience and Religious Organisations, the Law on Press and Mass Media and other legislative acts, where there are articles concerning national minorities, their language, organisations, and education.

[7]   Manukyan, M., Political Life of Armenia: 1920-1940. Yerevan, 2002.

with relatively little exposure. The "peaceful religiousness" of those groups survived without any serious shocks, though in a "closed system," the absolute majority of Armenia's population did not perceive an exclusively ethnic atmosphere as a religious system. This circumstance fortunately allowed the authorities of that time not to adopt any strong anti-religious attitude. In reality, the religious systems of the sub-cultural groups indeed do have an accentuated sub-cultural character because these groups actually could not have survived without their religious systems.[8]

In conclusion, we could say that Armenia is sometimes considered to be a mono-ethnical country, taking into account statistical data, though statistics do not take into consideration the qualitative aspect of the existence of national communities, some of which are extremely unique. Each community, despite being small in number, should be adequately represented and have the opportunity to contribute to the development of the civil society. We need and have to learn a lot about each other, and work on our prejudices and illustrations, in order for us to have a common future. It is a normal reaction in any human being to defend their culture and system of values of groups. This is the root for the label "we" and "the rest of the world". The current reality tells everyone that whether we accept the diversity around us or not, we need to find a way to live together on one planet.

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[8]   The first Report of the Republic of Armenia pursuant to paragraph 1 of Article 25 of the Framework Convention for Protection of National Minorities.

*Hranush Kharatyan*


**Legal and Real Opportunities for the National Minorities Residing on the Territory of the Republic of Armenia**


The demographic picture of the Republic of Armenia drastically changed towards the end of 20<sup>th</sup> century. From 1988-1990, 400,000 Armenian refugees arrived from Azerbaijan a result of the Karabakh conflict, with Armenians comprising the largest percentage. Practically all Azerbaijanis left Armenia, along with the Kurds who practiced Islam. In the 2001 census, the Azeri population that remained on the Armenian territory was so little that their numbers were no longer relevant. Before 1989, all the censuses done during the Soviet times registered Kurds and Yezidies as "Kurds", and the ethnic name of "Yezidi" was not longer even registered after 1926. In 1989 the number of people calling themselves "Kurdish" totalled 4,151, but in the 2001 census 1,519 were counted. An important factor in this change was the devastating earthquake of 1988. It took the lives of 25.000 people and also created incentives for the migration of a significant number of people. The natural population growth also dramatically decreased as a result of military actions and socio-economic crises, including the birth rate that went from 2.6% down to 1.2%, representing an abnormal reproduction rate.  Another reason for population reduction in Armenian is the unprecedented emigration scale. This is in regard to both, the Armenians and national minorities. In order to explain the statement mentioned above, it is worth looking at the official population census data of 1989 and 2001.

Table 1

**Comparative data of the Armenian ethnic population in 1989 and 2001**

|  | Absolute number | Percent | Absolute number | Percent | Co-relation |
|---|---|---|---|---|---|
|  | 1989 | 1989 | 2001 | 2001 |  |
| Armenians | 3,083,616 | 93.3 | 3,145,354 | 97.8 | 61.738 |
| Azerbai-janis | 84,860 | 2.6 | - | - | - |
| Kurds | 4,151 | 0.1 | 1,519 | 0.05 | -2.632 |
| Yezidis | 51,976 | 1.6 | 40,620 | 1.3 | -11.356 |
| Russians | 51,555 | 1.6 | 14,660 | 0.5 | -36.895 |
| Ukrainians | 8,341 | 0.2 | 1,633 | 0.05 | -6.708 |
| Assyrians | 5,963 | 0.2 | 3,409 | 0.1 | -2.554 |
| Greeks | 4,650 | 0.1 | 1,176 | 0.04 | -3.474 |
| Others | 9,664 | 0.3 | 4,640 | 0.1 | -5.024 |
| TOTAL | 3,304,776 | 100.0 | 3,213,011 | 100.0 | -91.765 |

As seen in the table above, a significant change in the population num-ber has taken place. The events that followed the 1989 census, such as the Karabakh war and continuous migration have significantly changed the Republic's ethnic composition. Nearly all Azerbaijanis left the Repub-lic, leaving only about 30 people who consider themselves Azerbaijani in

the country.[1] Along with Azerbaijanis, a large number of Kurds/Muslims also left Armenia.[2] In Soviet times the Yezidis were denied an official ethnic recognition,[3] and only obtained the right to officially register as Yezidi in 1989. Later in the 2001 census, a number of applications were received from the Yezidis to register them as a separate ethnic group. So the demographic picture of Armenia had undergone significant changes, mainly due to migration of the Azerbaijanis and the recognition of the Yezidis as a separate ethnic group.

Consequently, the population of Armenia significantly decreased, including that of the Armenians themselves. During 1989-2001 the number of Armenians increased by 61,738, although one should consider the fact that the 400,000 refugees who immigrated into Armenia during 1988-2002 were of Armenian origin, mostly from Azerbaijan (360,000) and the rest from other countries. The natural population growth factor plays a role as well, even as a decrease in the Armenian population becomes obvious. The national minorities, which made up 6.7 % of the total population, currently make up 2.2 %. Considering that 2.2 % of the total number of national minorities in the 1989 census consisted of Azerbaijanis and the rest comprised 4.1%, it becomes apparent that the population decrease due to emigration made up 1.9 %.

The total number of national minorities adds up to 67,657 people, the majority of which are Yezidis with 40,620 people or 73% of the total Non-Armenian population. The rest make up 27% all together. A majority of them live in the *marzes* of the Republic and are dispersed, which hinders the process of solving some issues regarding national minorities, such as education and culture, and the implementation of self-expression of group rights.  Naturally, all or each of them if taken separately as ethnic communities or citizens can obtain the rights of national minorities. Such rights include the right to be taught in mother tongue, preserving and developing their ethnic culture or enjoying their own mass media in their mother tongue. But it is due to the small numbers as well as the lack of

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[1]   The 2001 population census was conducted according to methodological principles approved by UN. The responses to questions relating to nationality were recorded on the basis of data received orally. It was forbidden to request any documentation proving the nationality.  Previous censuses were conducted under Soviet principles and methods, which were centralized.

[2]   According to data of the Department of National Minorities and Religion Issues in the RoA Government, not more than twenty Kurds/Muslims have remained in the Republic.

[3]   Since the population census of 1939, the ethnic group called "Yezidi" was not registered on the territory of Soviet Union, although the Yezidis residing on the territory of Armenia wrote Yezidi next to the nationality column in their passports.

integrity that hinders the implementation of activities planned by the government and aimed at the realisation of rights of the national minorities. Particularly the Yezidi and Asori languages are taught in schools and are funded by the state. Some Yezidi and Kurdish radio programmes exist and in the near future, an Asori radio programme will also join in. Newspapers in national minorities' languages or the language they prefer are published.  The following table includes the names:

Table 2

**Press published in the languages of national minorities**

| **Name** | **National Community, Type of Periodical** | **Language of Periodical** |
|---|---|---|
| Novoe Vremia | Daily newspaper | Russian |
| Literaturnaia Armenia | Monthly newspaper | Russian |
| Respublika Armenia | Daily newspaper | Russian |
| Golos Armenii | Daily newspaper | Russian |
| Urartu | Weekly newspaper | Russian |
| Dnipro | Ukrainian, weekly newspaper | Ukrainian |
| Poki Mi Zhiviemi | Polish quarterly | Polish |
| Ezdikhana | Yezidi, weekly newspaper | Armenian |
| Lalsh | Yezidi, weekly newspaper | Armenian |
| Ria Taza | Kurdish | Kurdish |
| Midgagetkt | Kurdish quarterly | Armenian-Kurdish |
| Byzantine Heritage | Greek quarterly | Greek |
| Magen David | Jewish religious community | Jewish |
| Kohelet | Jewish | Russian |

Nevertheless, the Government of Armenia specially focuses on cultural and educational issues of the national minorities, who reside on the territory of Armenia and have no patron states like the Russians for example. These are mostly the Assyrians, Yezidis and Kurds.  The communities of ethnic minorities are located in different cities/towns in Armenia, mostly

in Yerevan, Gyumri, Vanadzor, or Abovyan. Besides the Assyrians, Yezidis and Kurds living mostly in villages, the absolute majority of other national minority representatives are city dwellers. For example only 7,413 Yezidis out of 40,620 live in the city, and only 315 Kurds out of 1,519, and 524 Assyrians out of 3,409. At the same time only 853 Greeks out of 1,176 and 10,483[4] Russians out of 14,660 reside in the cities. Table 3 illustrates settlement in the cities and villages according to ethnic signs.

Table 3

**Settlement of citizens, permanently residing on the territory of Armenia according to national ethnicity**

| Nationality | Total | Population in cities | Population in villages |
|---|---|---|---|
| Armenians | 3,145,354 | 2,041,622 | 1,103,732, |
| Assyrians | 3,409 | 524 | 2,885 |
| Yezidis | 4,620 | 7,413 | 33,207 |
| Greeks | 1,176 | 853 | 323 |
| Russians | 14,660 | 10,489 | 4,171 |
| Ukrainians | 1,633 | 1,386 | 247 |
| Kurds | 1,519 | 315 | 1,204 |
| Others | 4,640 | 3,551 | 1,089 |

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4    The Russians living in villages are so-called Malakans sectarians, who traditionally reside in the Lori Marz, Fioletovo and Lermontovo villages. The literature about ethnic minorities living in towns or villages is mainly scientific/academic, for example Mamo Darveshian's "Kurds' cattle-breeding culture in Armenia" and others.  About the consequences of living in cities or villages, there is some information in one of the researches held by the Centre of Ethnological Researches "Hazarashen", where the school problems of Yezidies, Kurds, Asories and Malakans are discussed. The book is in the process of publication. In general, those problems are expressed in a two-volume work "National Minorities of Armenia" published by the "Vostan" Centre.

The compact villages or villages with a mixture of national minorities are situated at foothills as well as in mountainous and plain areas of Armenia. Table 4 lists the populated areas with a prevailing majority of national minorities.

Table 4

**A list of rural populated areas with mixed population or a prevailing majority of national minorities**

|   | **Area** | **National minority** | **Marz/ Region** |
|---|----------|------------------------|-------------------|
| 1 | Arzni | Assyrians and Armenians | Kotayk |
| 2 | Verin Dvin | Assyrians and Armenians | Ararat |
| 3 | Dimitrov | Assyrians and Armenians | Ararat |
| 4 | Nor Artagers | Assyrians, Armenians and Yezidis | Armavir |
| 5 | Alagyaz | Mostly Kurds[5] and Yezidis | Aragatsotn |
| 6 | Amre Taza | Yezidis | Aragatsotn |

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[5] A research on voluntary choice of nationalities among the Yezidis and the Kurds was carried out by Armenian Centre for Ethnic Research in summer, 2004. Taking into account insignificant errors, it can be stated that only dwellers of Alagyaz and partly of Rya Taza village recognised themselves as Kurds and considered Kurdish as their native language. The materials are kept in ''Azarashen'' archives of the Armenian Centre for Ethnic Research. The study will be soon published by "Hazarashen" Ethnological Research Centre, where the school problems of Yezidies, Kurds, Asories and Malakans were discussed. The head of the village Alagyaz and some intellectuals' state that the residents of the village consider themselves Kurds, but most of the residents to the question "What is your national belonging?" answered "Yezidi".

| 7 | Azhshen | Yezidis | Aragatsotn |
|---|---------|---------|------------|
| 8 | Ortachya | Yezidis | Aragatsotn |
| 9 | Rya Taza | Yezidis, partly Kurds | Aragatsotn |
| 10 | Shenkani | Yezidis | Aragatsotn |
| 11 | Derek | Yezidis, partly Kurds | Aragatsotn |
| 12 | Sipan | Yezidis | Aragatsotn |
| 13 | Mirak | Yezidis | Aragatsotn |
| 14 | Sangyar | Yezidis | Aragatsotn |
| 15 | Djamshlu | Yezidis | Aragatsotn |
| 16 | Barozh | Yezidis | Aragatsotn |
| 17 | Sorik | Yezidis | Aragatsotn |
| 18 | Shamiram | Yezidis | Aragatsotn |
| 19 | Yeraskhaun | Yezidis, Armenians | Aragatsotn |
| 20 | Gabakhtapa | Yezidis | Aragatsotn |
| 21 | Gazaravan | Armenians, Yezidis | Aragatsotn |
| 22 | Akko | Yezidis | Aragatsotn |
| 23 | Gyalto | Yezidis | Aragatsotn |
| 24 | Tillik | Yezidis | Aragatsotn |
| 25 | Baysiz | Yezidis | Aragatsotn |
| 26 | Avtona | Yezidis | Aragatsotn |
| 27 | Getap | Mixed | Aragatsotn |
| 28 | Ayntap | Armenians, Yezidis | Ararat |

| 29 | Oktember | Armenians, Yezidis | Armavir |
|----|----------|--------------------|---------|
| 30 | Ferik | Yezidis | Armavir |
| 31 | Ardashar | Yezidis | Armavir |
| 32 | Khor Kesaria | Armenians, Yezidis | Armavir |
| 33 | Aygavan | Armenians, Yezidis | Ararat |
| 34 | Zovuni | Armenians, Yezidis | Kotayk |
| 35 | Nor Geghi | Armenians, Yezidis | Kotayk |
| 36 | Jraber | Armenians, Yezidis | Kotayk |
| 37 | Lermontovo | Russians, Malacans, partly Armenians | Lori |
| 38 | Fioletovo | Russians, Malacans | Lori |

## Current Policies and the Legislation Regarding Ethnic Minorities

The Armenian national policy is regulated by the Armenian Constitution, the international conventions signed by Armenia, a number of Armenian laws and some legal acts. In particular, it is stipulated in Article 48 of the Constitution, that it is the obligation of each citizen of Armenia to be in compliance with laws and provisions of the Armenian Constitution, to respect the freedom, rights and dignity of others. However, there are restrictions on freedom rights if they go in contradiction with constitutional order and to provoke emotions on religious, national, or racial grounds, to initiate violence or advocate for war. The constitution calls for the equality of all citizens of Armenia despite racial or social belonging, belief or language. Despite the fact that the rights of all citizens are the same, a number of laws are aimed at the preservation and development of languages and cultures of certain ethnic citizens. One of the laws is the

"Law on Language" and the "Programme on Language Policy of Armenia.[6]

It is stated by the Constitution of Armenia as well as by the "Law on Language" that the Republic of Armenia guarantees the free use of languages of national minorities in the whole territory of Armenia and in education.

It is foreseen by the "Law on Language" that minorities be taught and raised in their native language according to programmes approved by the State, while at the same time studying the Armenian language. The first provision of this law declares that "Republic of Armenia guarantees free, unlimited use of native language of national minorities on the whole territory of Armenia". Provision 4 of the above-mentioned law stipulates that business correspondence in institutions and enterprises of ethnic minorities be carried out in the Armenian language, with parallel translation to native language of minorities being made.

It is mentioned in the state's language policy that the respect of language and cultural variety, and the support for the development of national language and culture of minorities shall be guaranteed. This is considered to be an international requirement, particularly in terms of international human and minority rights standards. Dominant use of the state language is accompanied by support and preservation of national language according to the principles of respect for all cultures as well as to language policy norms of the Council of Europe. One of the programme's priorities is to provide education and upbringing in native languages. The title of chapter seven of the language programme is "Provision of rights to national minorities of the Republic of Armenia in the language sphere".

The languages of national minorities are constituents of the basic language culture of the Republic of Armenia and its wealth. The state caring for languages of national minorities is a significant factor in establishing democracy in our country. The rights of the citizens of Armenia in the language sphere have two aspects, which are of national and social importance. The ethnic level provides for the knowledge and preservation of the native language, and education in a native language and its use, while the social level assumes that the knowledge of the Armenian language and its use is a right and obligation for all citizens of Armenia. Consequently, respecting the distinction of some national minorities may become a stable bridge between our country and countries of the national minorities.

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6   The law is called "the Republic of Armenia Law on Language" and was adopted on March 30th, 1993.

The Action Plan adopted by the Ministry of Education[7] includes:

- Comprehensive support of the preservation of languages of national minorities

- Support for interrelations between national minorities and mutual understanding according to norms of language policy of the Council of Europe

- Involvement of pedagogic faculties with minorities for the purpose of acquiring the right to be educated in native language of national minorities

- Support in training and reintroducing ones native language through specialists

It is foreseen by the law on language, that communities can only conduct secondary education in native languages according to programmes approved by relevant state bodies, and with the mandatory study of Armenian language. Article 1 of this law stipulates that the "Republic of Armenia guarantees the free use of languages of national minorities".

The law on "Basic provisions of legislation of culture" was adopted on November 20, 2002. Article eight of this law stipulates the culture of national minorities, whereby the "Republic of Armenia guarantees the preservation and distinct development of all national minorities residing in the territory of Armenia. The implementation of state programmes contributes to the preservation of languages, traditions, religion, cultural heritage as well as helping establish incentives for their spread". Article 9 of this law guarantees the participation in cultural life, the free implementation of cultural events despite nationality, gender, religion, language, beliefs, social origin and financial status. Article 6 of the law stipulates that languages, national traditions and customs, and geographical names are of cultural value.

The law on "Administrative Correspondence and Basics of Administration" which was adopted in February 2004 made it possible for administrative bodies to receive applications from national minorities in their native language, by attaching an Armenian translation.

Article 11 of the Criminal Code stipulates for each person to have the right to speak the language he/she is fully fluent in during court cases (excluding those who prosecute). According to one's decision, an inter-

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[7] All references to following laws and decision by the Armenian government can be seen under the National Assembly of Armenia www.parliament.am.

preter is provided for people, who cannot speak the language of the court, and an interpreter provides those services free of charge.

Article 58 of the law "On Marriage and Family" states that "A child is given a name based on the mutual agreement of parents, with the middle name being given based on the father's name or the name of a person registered as the father (if foreseen by Article 57 of this law), and Article 59 of this law states that a child's last name should be given on the basis of parents' last name. If parents have different last names, the child is given the last name of one of the parents according to the mutual agreement of the parents. If the parents fail to agree, this issue then has to be solved by Board of Guardians.

Article 22 of the Civil Code of the Republic of Armenia allows the preservation of the first name, last name and middle name as well as reinstatement of old names, last names and middle names. Pursuant to the same Article, a citizen obtains rights and obligations for his/her name, including the last name as well as middle name if he/she wishes so. According to the law, the citizen may also use a pseudonym. A citizen has the right to change his/her name by making relevant amendments in all of his/her documents. The name given upon the citizen's birth, as well as change of the name must be fixed in civil status acts.

According to Provision 6, Decree 821, of the December 25, 1998 "Charter on the Passport System, and Description of the Passport of Armenia", an internal affairs officer can note the nationality of citizens of Armenia among other features, if he/she wishes so, and the same can be done in foreign countries in consulates or embassies.

The Republic of Armenia participates in international agreements that relate to national minorities. The most important one being the Framework Convention on "Protection of national minorities", signed by member states of the Council of Europe in 1995. Armenia also signed the Convention on Protection of National Minorities on July 25th, 1997.[8] The European Framework Convention was signed in Madrid on May 21, 1980 on "Territorial Communities and Bordering Collaboration" and an additional protocol to this Convention was signed in Strasbourg on November 9, 1995. Protocol number 2, provisions to the Convention on ''Territorial Communities and Bordering Collaboration", "On inter-territorial collaboration" and the European Charter "On languages of national minorities"

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8   The convention was validated in February 17, 1998, and the validation paper was given to the Secretary of the Council of Europe July 20, 1998. This was the Convention on protection of rights and basic freedoms and its 1st, 4th, 6th, 7th protocols. The Republic of Armenia has also signed protocols 12 and 14 of the above-mentioned convention. These were accepted on October 25 and December 8, 2004.

was signed on November 5, 1992 in Strasbourg as well as the European Social (revised) Charter.

Furthermore, the international pact on protection of the rights of citizens' belonging to national minorities was signed by CIS countries on January 21, 1994 and ratified on October 11, 1995. The CIS Convention on "Protection of rights of the citizens belonging to national minorities" defines that "the sides are obliged to create no obstacles in the establishment of connections with people of national minorities, as well as connections between individuals and companies of other countries, in the place where the people sharing the same beliefs, culture and language lives.

This brief analysis of the existing laws in Armenia shows that policy towards ethnic citizens is a policy, which creates no obstacles for the establishment of connections between people of common beliefs or people of common culture, or language.

## Practical Policy Regarding National Minorities in Actions

The Department on National Minorities and Religious Issues was created in January 2004. It participates in developing plans, making relevant suggestions, studying whether changes are reasonable in that sector or not, and implementing activities aimed at establishing connections between the state and religious organisations. As an authorized government body, it implements activities aimed at protecting and preserving traditions, languages, and cultures of individuals belonging to national minorities.

As a review, the work of acquainting national minorities with their rights has significantly progressed. The department of national minorities and religious issues of the Republic of Armenia published the National Minorities Rights Protection's framework convention and Armenia's first report about the process of its implementation. It organised meetings with non-governmental minority organisations, rural communities, and other leaders, where the convention's articles were discussed, as well as the process of their realisation. The book was distributed to the NGOs and institutions in rural communities, to municipalities (of rural areas), and to schools and libraries. Separate articles and their implementation were published in newspapers in minorities' languages.

The state budget annual allocations comprise ten million Armenian Dram (about USD 22,000) allocated to NGOs of national minorities for the implementation of their programmes.

The Grant given by the Government was used and is used by Russian, Asori, Greek, Yezidi, Kurdish, German, Ukrainian, Belarus, Jewish,

Georgian, and Polish ethnic communities' NGOs. Below is a list of minority organisations.

Table 5

**Minority organisations**

| Nationality | Organisation |
| --- | --- |
| Polish | "Polonia" |
| German | "German educational-cultural Centre" |
| Georgian | "Iveria" |
| Belarus | "Belaru" |
| Greek | "Patrida" 1/7 |
|  | "NGO Union of Armenia's nations" |
| Ukrainian | "Ukraine" Ukrainian Federation of Armenia |
| Kurdish | "Council of Kurd intellectuals" 50% |
|  | "Kurdistan" committee 50% |
| Russian | "Harmonia" Russian cultural international Centre |
| Asori | "Arthur" 50% |
|  | "Asori Youth Centre" 50% |
| Jewish | "Jewish religious community" |
| Yezidi | "Yezidi national union" |

According to a government Decree dated April 22, 2004, the national minorities are given a space for their cultural activities in the "National Minorities Cultural Centre." Members of national minorities can organise teaching classes, concerts, exhibitions, discussions, or celebrate national holidays in their mother tongue. There will be a library of literature of national minorities. These groups are not charged to use these facilities.

A number of NGOs of national minorities are freely functioning in Armenia, which more or less focus on the preservation and support of the distinction and culture of national minorities. Through the Ministry of Culture

and Ministry of Education and Science of the Republic of Armenia, a number of cultural and educational programmes for the preservation of ethnic identity of national minorities have been realised that aim at protecting and preserving the ethnic, cultures and characteristics of national minorities. Part of them is due to traditions formed in Soviet times. State budget funds are allocated for language teaching, the training and retraining of staff and other needs in particular, with the amount being allocated to national minorities living in local dwelling places.

As for economic human rights, the labour and economic rights of all citizens of Armenia are equal according to the Constitution and Legislation of the Republic of Armenia. Certainly, the socio-economic position of Armenia remains difficult and the dominant majority remain living in difficult conditions. Almost half of the population of Armenia live on or even under the poverty line, although these indicators do not regard the national minorities. Moreover, although no special research was conducted, the economic indicators of some national minorities prevail over Armenians. For example, some Yezidis received more land than the average per capita.

The law "On Peasants Economies and Collective Peasant Economies" was adopted in 1991 and according to this law and also the law "On Land", the land, inventory, cattle, and gardens were privatised.[9] With respect to land balance in the Republic, the agricultural land comprises 1,395,000 hectares.[10] Farmers received land and cattle, which were maintained in collective farms. That's why dwellers of different villages received different quantities of land, inventory and cattle. The average land area per peasant economy comprised 1.4 hectares, compared to the Yezidis and Kurds whose area comprised seven to ten hectares.

The Yezidi community is big and consequently received large parts of the land. Table 4 shows the size of only one area, which increases according to family size. More clearly, a family composing of nine to ten people has a land area three times bigger than the third line of Table 7. If one shared land comprises 3.5 hectares for families of Yezidis in average (against 1.4 average in the whole Republic), then two to three shares comprise seven to ten and a half hectares the same is in regard to all villages listed in Table 7.

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9   See National Assembly of Armenia www.parliament.am. (Visited in October 2005)

10  According to the data of the National Statistical department 460,100 hectare land was privatised as of January 1, 2001, 354,500 hectares of which are arable, 38,300 hectares are old plantings, and 67, 300 hectares are meadows. Peasant economies received in average 1.4 hectares.

Table 6

## The size of privatised lands in some Yezidi and Kurd villages

|  | Area | Families, who partici-pated in the process of privatisation | One share |
|---|---|---|---|
| 1 | Dzhamshlu | Whole village population | 3.5 ha, each family received in aver-age of 7-10.5 ha |
| 2 | Alagyaz | Whole village population (152 families) | 1.4 ha |
| 3 | Shenkani | Whole village population | 1.5 ha |
| 4 | Ortachya | Whole village population (38 families) | 3.5 ha |
| 5 | Amre Taza | Whole village population | 3.5 ha |
| 6 | Derek | Whole village population | 3.5 ha |
| 7 | Rya Taza | Whole village population | 2.25 ha |
| 8 | Sangyar | Whole village population | 1.5 ha |
| 9 | Mirak | Whole village population | 3.5 ha |
| 10 | Shamiram | Whole village population | 0.97 ha |
| 11 | Sipan | Whole village population | 1 ha |

The socio-economic issues of national minorities are solved in parallel to issues of other citizens of Armenia. In particular, it is expressed in the list of activities aimed at solving the needs of national minorities of Armenia

in primary and secondary programmes, credit social investments as well as budget programmes, both implemented and not implemented.[11]

The optimisation in the education sector puts those schools with a small number of students under threat.[12] Some schools in compact dwelling areas of national minorities are included in that number, where the number of students varies from 30 to 100. By expressing anxiety on the destiny of these schools, the government finances these schools regardless the number of students according to the Government Decree N 773, of August 25, 2001. Yezidi, Kurd and Assyrian children attend these schools dominantly.

Table 7

**The list of populated areas, where schools are financed regardless the number of students**

|   | **Name of the populated area** | **Marz** | **Nationality** |
|---|---|---|---|
| 1 | Tllik schools | Aragatsotn | Yezidis |
| 2 | Shamiram school | Aragatsotn | Yezidis |
| 3 | Alagyaz school | Aragatsotn | Yezidis |
| 4 | Rya Taza school | Aragatsotn | Kurds and Yezidis |

[11] Some examples: The road construction in Fioletovo village in Lori Marz (region) was completed in 1996 and cost 23,732 USD. The construction water supply pipe in the village of Lermontovo in Lori Marz was completed in 2003 and cost 43,150 USD. The construction of an external water supply pipe in the village of Amre Taza in Aragatsotn Marz. The new school construction in the village of Rya Taza in Aragatsotn Marz. The school was provided with 40 sets of school inventory. The construction of schools in villages of Avshen and Shamiram. The construction of external water supply pipe in Gabagtaba village. The programme is currently under a feasibility study. It plans to implement the programme on a third credit programme funds. The school renovation of Nalbandyan village of Armavir Marz. The programme is currently under feasibility study. The road construction of Alagyaz-Arti which lies through three villages populated with Yezidis and Kurds. These are Alagyaz-Sangyar – Amre Taza, in 2004.

[12] According to the optimisation project, the schools will be financed according to the number of students.

| 5 | Derek school | Aragatsotn | Yezidis |
|----|----|----|----|
| 6 | Sipan school | Aragatsotn | Yezidis |
| 7 | Sangyar school | Aragatsotn | Yezidis |
| 8 | Amre Taza school | Aragatsotn | Yezidis |
| 9 | Shenkani school | Aragatsotn | Yezidis |
| 10 | Djamshlu school | Aragatsotn | Yezidis |
| 11 | Getap school | Aragatsotn | Armenians and Yezidis |
| 12 | Ortachya school | Aragatsotn | Yezidis |
| 13 | Gyalto school | Aragatsotn | Yezidis |
| 14 | Bajsz school | Aragatsotn | Yezidis |
| 15 | Barozh school | Aragatsotn | Yezidis |
| 16 | Ferik school | Armavir | Yezidis |
|  |  |  |  |

The current research being done by the "Hazarashen" Ethnological Research Centre, on the situation of the Yezidis', Kurds', Asoris' and Malakans' in school are being discussed. The research is jointly conducted with the UNICEF and is being discussed with national minority leaders, heads of villages, principles of schools, and teachers. The publication in both Armenian and English is in progress. It will also be published in Russian, Yezidi, Assyrian and Kurdish.

**Appendix**

*Conference Report*

**A Human Rights Perspective for Peace and Democracy in Armenia**
**April 28-29, 2005 Yerevan State University**

The interdisciplinary conference on "A Human Rights Perspective for Peace and Democracy in Armenia" took place at the Yerevan State University in Armenia from April 28-29, 2005. The conference was organised in cooperation between the VW-Tandem Research Project "Teaching Human Rights in Europe", the Yerevan State University (YSU) Department of International Relations and the Friedrich Ebert Foundation-Caucasus Office. Major TV and radio stations in Armenia, which broadcasted, about the conference in the evening news on the same day, were present on the first day of the conference. There was an average of 40 participants during the two days conference coming from different backgrounds: academics, representatives from international organisations, lawyers and students.

The main interest of the conference was to discuss the latest human rights developments in Armenia from the transition period in the beginning of the 1990s until today. The conference also focused on human rights education and minority rights in Armenia during this period.

Sociologists such as Hovhannes Hovhannisyan and Artur Mkrtichyan from the YSU emphasized in their presentations, that the Armenian society still faces major obstacles in implementing human rights. This is mainly caused by the elite in the country who do not understand the benefits and values of implementing human rights in the society at large. Although democratic institutions have been established in the last ten years (often as a response to international pressure) their mechanisms still do not work. There is no strong civil society, which can single-handedly implement human rights. In reverse, one can note that the Armenian society still lives according to the Soviet model in which each individual can only rely to its family's support and not on the state institutions. In addition to this, Mkrtichyan notes that the Armenian society remains in a conflict situation with its neighbouring countries and this makes the respect for human rights and peace building even more diffi-

cult. Hence, Armenia is in a permanent transformation process, in which values and behaviour often change.

Some researchers argued that we should stop calling countries such as Armenia transition countries, and thus allow them to keep lower human rights standards. People can only claim individual human rights if there are relevant mechanisms for it. In the case of Armenia, there is no experience from the past where one can claim individual rights. If the mechanisms to protect and promote human rights do not work, it is because they exist only on paper, and the implementation of human rights obviously cannot be realised.

Valery Poghosyan, a member of the Constitutional Court and UNESCO-Chair holder for Human Rights and Democracy in Armenia added in his presentation that the education system in Armenia is still predominantly based on Soviet ideas, and that there is no education towards civil values and ideas. During the transition period, only words have been changed but not the content, and there is no practice in human rights, only theory.

The other major problem Armenia faces is poverty, as Vigen Sargsyan from the World Bank stated. Overcoming poverty is crucial for the economic stability in this country, which then will lay the ground for human rights implementation. However, the poverty rate today is lower than it was some years ago.

Stefan Buchmayer from the OSCE office in Yerevan emphasized that in order to create a culture of human rights in Armenia, one has to create mechanisms with the rule of law, foster human rights education in the formal and non-formal education system and set frames for human rights advocacy. The OSCE has been active in these fields in particular, by promoting human rights awareness via TV-spots, presentations in schools and a telephone hotline for individual complaints about prison conditions, alleged abuses of children rights, torture and trafficking human beings.

Kristina Henschen from the United Nations Development Programme (UNDP) office in Yerevan underlined the problems, which were mentioned for the implementation of human rights in the Armenian society. Hence, the UNDP has recently developed a new five years' strategy, which is based on human rights. The goal is to mainstream human rights into the UNDP policy in Armenia. She argued that there should be more co-operations between the UN and national institutions to focus on accountability. Democratic institutions have to be held accountable by the Armenian civil society. The UNDP can assist this process by supporting public awareness programme like the one by the Armenian Ombuds-

woman Larisa Alaverdyan, which started in 2004. The Council of Europe (CoE) office in Yerevan, represented by Anahit Khachartyan, is also working in the human rights awareness campaign although there is little knowledge at this point about how much Armenians know about human rights, and what is meant by human rights implementation. With Armenia's membership in the CoE in 2001, the government made certain commitments, which include TV-spots and publications for the promotion of human rights. However, the pressure from international organisations like the OSCE, UN or CoE is too soft as it was stated in the panel discussions. There are too many compromises by the Armenian government that hence slow the transformation process.

The second day was dedicated mainly to the input by the Ombudsperson, workshops and a round table discussion. Larisa Alaverdyan was appointed as the Ombudsperson of Armenia in 2004 and had recently published her first annual report. She stated that her office was established not only due to pressure from the CoE, but also because the Armenian society wanted this institution after more than ten years under transformation. This institution was needed to foster a tradition in human rights and democracy in Armenia, she said. Human rights protection is desperately needed in the country and hence, she does not only take up complains by citizens, but also has given numerous speeches and presentations during the last year in order to promote the awareness of human rights, and the current constitution and law situation in Armenia. She has also established cooperation with the UNDP and NGOs. There is "legal illiteracy" at all levels in Armenia, particularly on the local level, which has to be overcome through public awareness and training programmes. People simply do not know how to claim their human rights although these rights are already fixed in the constitution and the national law.

The workshops on Human Rights Education, Minority Issues and the Democratic Movement, which were led by Claudia Mahler and Reetta Toivanen from the VW-Tandem Project in Germany and Artur Mkrtichyan from the YSU came to similar conclusions; namely that the human rights NGOs in Armenia have so far not accomplished their primary goal in promoting human rights widely. There is still a lack of knowledge and recognition as well as accountability of NGOs towards the people and society they want to serve as Sushan Khachyan from the Funds Against Violation of Law mentioned.

Theresa Khorozyan from the UNDP stated that the NGOs are still very little known in Armenia, and the primary source of information about human rights remains the public media; mostly television. Mkrtichyan summarised that two of the major obstacles for the institutions in Armenia are

the lack of equal opportunities and the lack of a functioning civil service. A lot of people do not get the service they need in order to know and claim their human rights. This also reflects the lack of democratic mechanisms, which in reverse depend on the fact that people, ought to know how to claim their human rights.

Minority rights are somehow respected and implemented in Armenia. Although as Tatevik Margaryan from the Office of National Minorities stated, some groups like the Yezidi still have problems in having their traditions, religion and language being recognized. Nevertheless, there are only very few minority groups left in Armenia after the biggest minority group, the Azeris, left during and after the Nagorno Karabach war 15 years ago. The total estimate figure of minorities is about 3% of the whole population. However, there is more diversity and there are more minority groups in Armenia than generally estimated, and more than just the eleven official groups as Hranush Kharatyan, the Head of the Department of National Minorities and Religious Affairs of the Government of Armenia, mentioned during her presentation at the round table discussion.

The round table discussion was led by Anja Mihr and Tsypylma Darieva from the Humboldt University of Berlin, and focused on Diversity and Human rights. There are at least 50 different types of minority groups. The major problem they face when claiming their human and minority rights is the lack of "inside mobilization" within their own groups. This was testified by Gevork Manoukian from the Constitutional Rights Protective Centre in Vanadzor, who mentioned the fact that minority leaders hardly (if at all) participate in their human rights education classes. They are barely interested in them. Hence, what is overall needed is the training of teachers in human rights in the formal education sector, in order to reach a broad community of people, which also include minorities.

Interestingly, Mrs. Kharatyan was blaming the minority representatives for not claiming their rights and being more active. Similarly, Mr. Manoukian was blaming the teachers and minority representatives for not being interested in human rights education. Unfortunately there were no representatives of minority organisations to counter these arguments

The conference was an overall success. The participants were interested and well prepared and the location of the conference was well chosen. However, due to the fact that many participants and presenters live in Yerevan there was a high fluctuation during the conference. Clearly, there is need for these kinds of conferences in Armenia, where people from different organisations and institutions are 'forced to' listen to each other. It is not common in Armenia yet that members of the academic

community openly exchange their views and ideas with representatives from the government or international organisations. At the same time, many of the participants expressed their gratitude for having the chance to discuss the human rights problems with other interested persons. Bringing these people from different backgrounds together would not have been possible without the initiative from outside the country; in this case from the VW-Tandem Research Project team based at Humboldt University of Berlin, and the MenschenRechtsZentrum of the University of Potsdam, Germany.

Claudia Mahler, Anja Mihr, Artur Mkrtichyan, Reetta Toivanen,

Yerevan/Berlin, May 2005



VW-Tandem Team and the Armenian Ombudsman, (left to right): Claudia Mahler, Anja Mihr, the Armenian Ombudsman Larisa Alaverdyan and Reetta Toivanen in Yerevan, April 2005.

## Abbreviations:

| | |
|---|---|
| ACPRC | Armenian Constitutional Legal Protection Centre |
| Armenia SSR | Armenia Soviet Socialist Republic |
| CEDAW | Convention on the Elimination of All Forms of Discrimination against Women |
| CIS | Commonwealth of Independent States |
| CoE | Council of Europe |
| CSCE | Commission on Security and Cooperation in Europe |
| EU | The European Union |
| HRD | Human Rights Defender |
| HRE | Human Rights Education |
| ICCPR | International Covenant on Civil and Political Rights |
| MDG | Millennium Development Goals |
| NGO | Non-governmental Organisation |
| OCSE | Organisation for Security and Cooperation in Europe |
| OHCHR | Office of the High Commissioner for Human Rights |
| RA/RoA | Republic of Armenia |
| UDHR | Universal Declaration of Human Rights |
| UNO | United Nations Organisation |
| UNDP | United Nations Development Programme |
| UNESCO | United Nations Educational, Scientific and Cultural Organisation |
| USSR | Union of the Soviet Socialist Republics |

**Armenian Constitution (1995)**[1]

**Excerpt of Chapter 2 on Fundamental Human Rights and Civil Freedoms**

### Article 14

The procedures for acquiring and terminating citizenship of the Republic of Armenia are determined by law. Individuals of Armenians origin shall acquire citizenship of the Republic of Armenia through a simplified procedure. A citizen of the Republic of Armenia may not be a citizen of another state simultaneously.

### Article 15

Citizens, regardless of national origin, race, sex, language, creed, political or other persuasion, social origin, wealth or other status, are entitled to all the rights and freedoms, and subject to the duties determined by the Constitution and the laws.

### Article 16

All are equal before the law and shall be given equal protection of the law without discrimination.

### Article 17

Everyone has the right to life. Until such time as it is abolished, the death penalty may be prescribed by law for particular capital crimes, as an exceptional punishment.

### Article 18

Everyone is entitled to freedom and the right to be secure in their person. No one may be arrested or searched except as prescribed by law. A person may be detained only by court order and in accordance with legally prescribed procedures.

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1   Constitutional Reforms will be approved through a referendum in November 2005.

### Article 19

No one may be subjected to torture and to treatment and punishment that are cruel or degrading to the individual's dignity. No one may be subjected to medical or scientific experimentation without his or her consent.

### Article 20

Everyone is entitled to defend his or her private and family life from unlawful interference and defend his or her honour and reputation from attack. The gathering, maintenance, use and dissemination of illegally obtained information about a person's private and family life are prohibited. Everyone has the right to confidentiality in his or her correspondence, telephone conversations, mail, telegraph and other communications, which may only be restricted by court order.

### Article 21

Everyone is entitled to privacy in his or her own dwelling. It is prohibited to enter a person's dwelling against his or her own will except under cases prescribed by law. A dwelling may be searched only by court order and in accordance with legal procedures.

### Article 22

Every citizen is entitled to freedom of movement and residence within the territory of the Republic. Everyone has the right to leave the Republic. Every citizen is entitled to return to the Republic.

### Article 23

Everyone is entitled to freedom of thought, conscience, and religion. The freedom to exercise one's religion and beliefs may only be restricted by law on the grounds prescribed in Article 45 of the Constitution.

### Article 24

Everyone is entitled to assert his or her opinion. No one shall be forced to retract or change his or her opinion. Everyone is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of state borders.

### Article 25

Everyone has the right to form associations with other persons, including the right to form or join trade unions. Every citizen is entitled to form political parties with other citizens and join such parties. These rights may be restricted for persons belonging to the armed forces and law enforcement organisations. No one shall be forced to join a political party or association.

### Article 26

Citizens are entitled to hold peaceful and unarmed meetings, rallies, demonstrations and processions.

### Article 27

Citizens of the Republic of Armenia who have attained the age of eighteen years are entitled to participate in the government of the state directly or through their freely elected representatives. Citizens found to be incompetent by a court ruling or duly convicted of a crime and serving a sentence may not vote or be elected.

### Article 28

Everyone is entitled to private property and inheritance. Foreign citizens and persons without citizenship shall not have the right to own land, except in cases prescribed by law. The owner may be deprived of private property only by a court in cases prescribed by law. Private property may be alienated for the needs of society and the state only under exceptional circumstances, with due process of law, and with prior equivalent compensation.

### Article 29

Every citizen is entitled to freedom of choice in employment. Everyone is entitled to wages that are fair and that are no lower than the minimum established by the state, and to working conditions that meet sanitary and safety requirements. Citizens are entitled to strike in the defence of their economic, social and work interests. The procedures and restrictions applicable to the exercise of this right shall be prescribed by law.

### Article 30

Everyone is entitled to rest. The maximum work period, rest days, and minimum duration of annual paid vacation shall be prescribed by law.

### Article 31

Every citizen is entitled to an adequate standard of living for himself or herself and his or her family, to adequate housing, as well as to the improvement of living conditions. The state shall provide the essential means to enable the exercise of these rights.

### Article 32

The family is the natural and fundamental cell of society. Family, motherhood, and childhood are placed under the care and protection of society and the state. Women and men enjoy equal rights when entering into marriage, during marriage, and in the course of divorce.

### Article 33

Every citizen is entitled to social security during old age, disability, sickness, loss of an income earner, unemployment and in other cases prescribed by law.

### Article 34

Everyone is entitled to the preservation of health. The law shall prescribe the provision of medical care and services. The state shall put into effect health care protection programmes for the population and promote the development of sports and physical education.

### Article 35

Every citizen is entitled to education. Education shall be free of charge in state secondary educational institutions.

Every citizen is entitled to receive higher and other specialized education free of charge and on a competitive basis, in state educational institutions. The law shall prescribe the establishment and operation of private educational institutions.

## Article 36

Everyone is entitled to freedom of literary, artistic, scientific and technical creation, to benefit from the achievements of scientific progress and to participate in the cultural life of society. The law shall protect intellectual property.

## Article 37

Citizens belonging to national minorities are entitled to the preservation of their traditions and the development of their language and culture.

## Article 38

Everyone is entitled to defend his or her rights and freedoms by all means not otherwise prescribed by law. Everyone is entitled to defend in court the rights and freedoms engraved in the Constitution and the laws.

## Article 39

Everyone is entitled to restore any rights which may have been violated, as well as to a public hearing by an independent and impartial court, under the equal protection of the law and fulfilling all the demands of justice, to clear himself or herself of any accusations. The presence of the news media and representatives of the public at a judicial hearing may be prohibited by law wholly or in part, for the purpose of safeguarding public morality, the social order, national security, the safety of the parties, and the interests of justice.

## Article 40

Everyone is entitled to receive legal assistance. Legal assistance may be provided free of charge in cases prescribed for by law. Everyone is entitled to legal counsel from the moment he or she is arrested, detained, or charged. Every convicted person is entitled to have his or her conviction reviewed by a higher court, in a manner prescribed by law. Every convicted person is entitled to request a pardon or mitigation of any given punishment. Compensation for the harm caused to the wronged party shall be provided in a manner prescribed by law.

## Article 41

A person accused of a crime shall be presumed innocent until proven guilty in a manner prescribed by law, and by a court sentence properly entered into force. The defendant does not have the burden to prove his or her innocence. Accusations not proven beyond a doubt shall be resolved in favour of the defendant.

## Article 42

A person shall not be compelled to be a witness against himself or herself or against his or her spouse, or against a close relative. The law may foresee other circumstances relieving a person from the obligation to testify. Illegally obtained evidence shall not be used. A punishment may not exceed that which could have been met by the law in effect when the crime was committed. A person shall not be considered to be guilty for a crime if at the time of its commission the act was not legally considered a crime. Laws limiting or increasing liability shall not have retroactive effect.

## Article 43

The rights and freedoms set forth in the Constitution are not exhaustive and shall not be construed to exclude other universally accepted human and civil rights and freedoms.

## Article 44

The fundamental human and civil rights and freedoms established under Articles 23-27 of the Constitution may only be restricted by law, if necessary for the protection of state and public security, public order, public health and morality, and the rights, freedoms, honour and reputation of others.

## Article 45

Some human and civil rights and freedoms, except for those provided under Articles 17, 20, 39, and 41-43 of the Constitution, may be temporarily in a manner prescribed by law, in the event of martial law, or in cases prescribed under Paragraph 4 of Article 55 of the Constitution.

## Article 46

Everyone shall pay taxes, duties, and make other mandatory payments in amounts and manners prescribed by law.

## Article 47

Every citizen shall participate in the defence of the Republic of Armenia in a manner prescribed by law.

## Article 48

Everyone shall uphold the Constitution and the laws, and respect the rights, freedoms and dignity of others.

The exercise of rights and freedoms shall not serve toward the violent overthrow of the Constitutional order, for the instigation of national, racial, or religious hatred or for the incitement to violence and war.

# Biographies

**Alaverdyan, Larisa**, is a lawyer and the Ombudsman of Armenia since 2004. In 1968 she moved from Baku to Yerevan and worked in various scientific research institutions. She launched the work with the first groups of Armenian refugees from Azerbaijan dealing with various issues such as reception, registration, providing living conditions and employment. From 1990 to 1995 she was the Chief Expert of the Supreme Council of Armenia's Commission on Artsakh issues. In 1991 she founded, and until 2004 she was the executive director of the non-governmental organisation "Fund Against Violation of Law".

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**Mahler, Claudia,** Dr. jur., studied law at the Leopold Franzens University in Innsbruck, Austria. In 1995 she graduated with a Master of Law and in 2000, was awarded a Doctoral Degree in Law. From 1997 to 2000, she worked in the Department of Criminal Law in the Faculty of Law at the University of Innsbruck.  From 2000 to 2002, she was a Member of the Human Rights Committee of the Austrian Advisory Board on Human Rights. In fall 2001, she accepted a position at to the Human Rights Centre of the University of Potsdam, where she now is a Senior Researcher in the interdisciplinary research project "Teaching Human Rights in Europe".

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