



# **Forced Out : LGBT People in Armenia**

**Report on ILGA-Europe/COC fact-finding mission**

**Written by Aengus Carroll  
and Sheila Quinn**





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# Report on ILGA-Europe/COC Mission to Armenia

## Introduction

The period since the end of the Second World War has seen the development of international standards and monitoring mechanisms designed to ensure respect and dignity for all sections of the world's population. The key principles were set out in the 1948 Universal Declaration on Human Rights, and were then converted into a series of binding covenants intended to impose concrete obligations on national governments.<sup>1</sup> In many countries these standards are largely ignored, such that the combined pressure of civil society and international organizations is needed to persuade governments to comply with their obligations.

Although Armenia has signed most of the relevant international and regional agreements, in practice respect for human rights principles is generally weak, and work to make them a reality 'on the ground' is limited. As in the other countries of the South Caucasus, this is particularly the case with regard to LGBT rights: failure to respect, protect and fulfil the rights of LGBT people pervades all levels of society - government, judiciary, police, education system, civil service, community and home.

The report is based on information gathered before, during and after a joint COC – ILGA-Europe fact-finding mission in January 2006 by ILGA-Europe's Programmes Director Maxim Anmeghichean. It is the first time a systematic research on the situation of LGBT people in Armenia has been carried out. During the mission several working methods were used. In addition to interviews, meetings and analysis of available literature, a legal expert was contracted and a questionnaire developed.

COC and ILGA-Europe would like to thank most sincerely all those who gave of their time and expertise so generously, who assisted with practical matters and introduced us to people whose input proved invaluable. Not all of their names can be mentioned here, as some prefer till today to remain anonymous. Our particular thanks go to Grigor Simonyan for arranging most of the meetings and providing insights into Armenian society, as well as Mikael Danielyan, Medecins sans Frontiers, the Open Society Institute, the US Embassy in Armenia, the web-site [www.gaydar.com](http://www.gaydar.com) for providing free membership and thus easing communication and collection of personal testimonies. A special appreciation goes to Edmon Marukyan for providing legal advice and drafting the legal report. The draft report improved significantly through the proof reading skills of Nigel Warner, Karen Badalyan and Cailin McKenzie..

<sup>1</sup> Numerous agreements have been developed over the subsequent 60 years, amongst the more important being the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which date from 1966.





# Chapter 1

## Country Profile

### 1.1 Introduction

Armenia (Hayastan in Armenian) is a landlocked country similar in size to Belgium, with a population of 3.2 million. It is located in southwest Transcaucasia, neighbouring Georgia to the north, Azerbaijan to the east, Iran to the south and Turkey to the west. Being located on the European/Asian border, Armenia has historically been influenced by the Assyrian, Iranian, Hellenic, Byzantine, Arabic, Turkish and Russian civilizations.

In September 1991 the Armenian Parliament declared the country's independence from the USSR, and has developed external relations with international and intergovernmental bodies, achieving accession to the Council of Europe in 2001. Armenia was recorded as 'partly free' by Freedom House in 2006.<sup>2</sup>

<b>Name of the country:</b>	Armenia, Republic of
<b>Capital:</b>	Yerevan (1,254,000: population est. 2005) <sup>3</sup>
<b>Total surface:</b>	29,800 sq km
<b>Border countries:</b>	Azerbaijan-proper, Azerbaijan-Naxcivan exclave, Georgia, Iran, Turkey
<b>Population:</b>	3.2 million (July 2007 est.)
<b>Population growth:</b>	-0.2% (2003-2015)
<b>Monetary unit:</b>	Dram (exchange rate: 2 Lari to €1)
<b>Main exports:</b>	Diamonds, mineral products, foodstuffs, energy
<b>Main imports:</b>	Natural gas, petroleum, tobacco products, foodstuffs, diamonds
<b>GDP per capita:</b>	US\$4,658 <sup>4</sup>
<b>GNI per capita:</b>	US\$ 950 <sup>5</sup>
<b>Ethnic Groups:</b> <sup>6</sup>	Armenian (97.9%), Yezidi (Kurd) (1.3%), Russian (0.5%), Other (0.3%)
<b>Religions:</b>	Armenian Apostolic 94.7%, other Christian 4%, Yezidi (monotheist with elements of nature worship) 1.3%
<b>Suffrage:</b>	18 years of age; universal
<b>Internet domain:</b>	.am
<b>Internet usage:</b>	5.9% of population (August 2007)
<b>Languages:</b>	Armenian (language of Indo-European origin; official language and language of state) 97%; 1.5% Kurdish (Zaza); Russian 1.5% as native speakers, 70% as second or third foreign language.
<b>Human Development Index:</b>	83 (of 177 countries) <sup>7</sup>



Map No. 3762 Rev. 3 UNITED NATIONS  
January 2004

Department of Peacekeeping Operations  
Cartographic Section

## 1.2 Historical Overview

"History is a politically sensitive subject. [...] in the Caucasus, much like in the Balkans, recollections of past events (some going back centuries in time) are still likely to have an immediate impact on public sentiments and direct relevance for current political decision making."<sup>8</sup>

<sup>2</sup> Freedom House - Armenia 2006 country report. *Freedom in the World* is a yearly report by US-based Freedom House that attempts to measure the degree of democracy and political freedom in every nation and significant disputed territories around the world, and which produces annual scores representing the levels of political rights and civil liberties in each state and territory, on a scale from 1 (most free) to 7 (least free). Depending on the ratings, the nations are then classified as "Free", "Partly Free", or "Not Free". A table showing Armenia's ratings (published in 2008) is presented at the end of section 1.4.

<sup>3</sup> Transition Report 2006: Finance in Transition (London, UK: European Bank for Re-construction and Development, 2006).

<sup>4</sup> GDP/capita, Transition Report 2006: Finance in Transition (London, UK: European Bank for Re-construction and Development, 2006).

<sup>5</sup> World Bank Indicator, 2003.

<sup>6</sup> CIA World Fact Book 2007 (Washington, D.C.: Central Intelligence Agency, 2007).

<sup>7</sup> UNDP Human Development Reports: Country factsheet; Armenia 2005.

<sup>8</sup> Caucasian Regional Studies, Vol. 5/Issue 1&2: Sergiu Celac, Romanian Ambassador: The Nagorno Karabakh Question: An Update, 20 May 2000.

<http://poli.vub.ac.be/publi/crs/eng/Vol5/nkquestion.htm>



The history of Armenia goes back 2,500 years, and includes a short-lived empire under Tigran II the Great (95-55 BC), which was ended by a Roman invasion. Armenia was the first country to accept Christianity as the state religion, in 301 AD. It has remained Christian since then despite numerous conquests and persecutions. Armenia was divided between the Romans and the Iranians in 387 AD, but was revived as an independent state in 885 under the Bagratid dynasty. Armenia was conquered anew ca. 1064, this time by the Byzantine Empire.

Most of modern Armenia, Azerbaijan, and Georgia became part of the Ottoman Empire in the 15th century. As the Ottoman Empire declined in the late 19th century it grew increasingly corrupt and lost territory to many of its neighbours (including Russia, which conquered part of Armenia). In 1908, the Sultan was forced to yield authority (but not his throne) to a loose grouping called the 'Young Turks'. From 1908 to 1913, the personalities involved in the Young Turks changed from a group of liberals wanting a reformed multi-ethnic state to a narrow group wanting a state for Turks alone. The Young Turk Ottoman government carried out genocide<sup>9</sup> against the Armenians, then the second largest minority in Anatolia, during the period from 1915/1916 to 1923.<sup>10</sup> The genocide remains an issue of great contention in the region – Turkey refuses to acknowledge the genocide and rejects Armenian claims that over one million people were killed.

Independent Armenian, Azerbaijani, and Georgian states emerged from the eventual defeat of the Ottoman Empire in World War I (1918). In 1922 Armenia was combined with Azerbaijan and Georgia to form the Transcaucasian Soviet Federated Socialist Republic (TSFSR), which was a single republic of the Soviet Union until the federation was dissolved and each part given republic status in 1936.<sup>11</sup>

In the 1980s, a broad-based national-democratic movement emerged, preceding Mikhail Gorbachev's reform policies and the dissolution of the Soviet state. Following a referendum in September 1991 this movement achieved sovereignty for Armenia and struggled to establish a valid, functioning democracy. Armenia's first democratically elected president, Levon Ter-Petrosian was re-elected under much disputed circumstances in 1996, but had to resign in January 1998, following public demonstrations against his policies on Nagorno Karabakh (see 1.4 below).<sup>12</sup>

He was replaced by Robert Kocharian, formerly President of Nagorno Karabakh, who was elected President of Armenia in March 1998. In the February 2003 election, Kocharian won again amid complaints by international observers and election monitors of ballot stuffing and other dubious activities. The 2005 Constitutional Referendum aimed at ensuring a more even distribution of the balance of power between the President, Parliament, and judiciary, but according to observers the subsequent enabling legislation has been slow to emerge and presidential authority remains largely unchanged.

<sup>9</sup> The United Nations Committee on Human Rights (1985), the European Parliament (1987) and the French Parliament (the Senate on 8 November 2000, the National Assembly on 18 January 2001) have adopted resolutions on the Armenian genocide.

<sup>10</sup> Knights of Vartan Armenian Research Center, The University of

Michigan-Dearborn, 1996, Fact Sheet: Armenian Genocide.

<sup>11</sup> Library of Congress: Country Study Armenia: Into the Soviet Union, Data as of March 1994

<http://lcweb2.loc.gov/frd/cs/amtoc.html>.

<sup>12</sup> Information taken from *Nations in Transit*, 2007 by Anna Walker.



A presidential election was held in Armenia on 19 February 2008. Serzh Sargsyan won the election, heading the Republican Party of Armenia (Kocharian's party). Both the OSCE and the EU have commended the conduct of the election and stated that they regard the result as broadly democratic. Human Rights Watch has queried certain elements of the election process.<sup>13</sup> In March, a number of prominent NGOs working in Armenia stated that the government's *de facto* censorship in the weeks after the election was unacceptable and violated Article 28 of the RA Law.<sup>14</sup>

## Armenian Diaspora

*'Please use your liberty to protect ours'*  
*Aung San Suu Kyi (detained Burmese human rights activist)*

The Armenian Diaspora is estimated at between 8 and 10 million, with the greater number living in Russia. The second largest section of the Diaspora, around 1.5 to 2 million, lives in the United States. Other large Armenian populations are to be found in France, Lebanon, Syria, Argentina and Turkey, as well as in Iran and Georgia. The contribution of the Armenian Diaspora to the economic and democratic development of the country has been considerable. So too has its humanitarian efforts.

After a devastating earthquake in 1988, which killed more than 25,000 and destroyed a third of the country's industrial potential, the response from the Diaspora was immediate and generous with regard to aid. Since 2004, investments have largely replaced aid, supporting economic activities from software companies to hi-tech medicine.

After the Soviet collapse, numerous Armenians, many of whom had grown up abroad, returned to the country to find significant and unfamiliar differences within the world of economics. They wanted to invest but found it difficult to operate in a culture which retained remnants of Soviet bureaucracy as well as the new rules of a market economy. Many lost their investments within months. To try to address matters, the Armenian state organized two major conferences in 1999 and 2002, inviting the Diaspora to invest.

One of the most influential sections of the Armenian Diaspora is American Armenians. The Armenian Assembly of America and the Armenian National Committee of America, two powerful lobby groups in Washington, are struggling for the recognition of the genocide of 1915 and for a favourable US policy towards Armenia.

<sup>13</sup> See Human Rights News on [www.hrw.org](http://www.hrw.org): Armenia: Violence at Polling Stations Mars Elections - *Assailants Target Opposition Activists, Observers and Journalists, 22 February 2008, and Armenia after the Election: Testimony by Giorgi Gogia,*

*Caucasus Researcher, to the Commission on Security and Cooperation in Europe (US Helsinki Commission), 17 April 2008.*  
<sup>14</sup> See the Armenian Observer Blog: Armenian NGOs Condemn Recent Developments Especially in Media Scene.



Recently (2006) Aram Abrahamian, an Armenian-Russian oligarch, launched the World Organisation of Armenians with the direct blessing of President Vladimir Putin of Russia.

Though the overall influence of the Diaspora is increasing in Armenia, its impact on political, social and economic decision-making remains limited. As regards the LGBT community, active Diaspora organisations, particularly in Paris, New York and Los Angeles, have publicised many concerns about human rights, mostly through the internet.

## 1.3 Political Environment

According to the Republic of Armenia's constitution (the RA Constitution) the country is a sovereign, democratic, social state governed by the rule of law.<sup>15</sup> The Constitution provides for the separation of powers, while powers of appointment and decree to the President. The President appoints the Prime Minister, who is in charge of the Cabinet. The legislature approves new laws, confirms the Prime Minister's programme, and can remove the Prime Minister by a vote of no confidence. Both the Government and the legislature can propose legislation.

The National Assembly (Azgayin Zhoghov), the legislative branch of the government, is a unicameral body, comprising 131 members, elected for four-year terms: 56 members in single-seat constituencies and 75 by proportional representation. The proportional representation seats are assigned on a party-list basis amongst those parties that receive at least 5% of the total number of the votes. In early 2007, there were only seven (7) women sitting in the National Assembly.

Following numerous flawed elections<sup>16</sup> (1995, 1996, 1998, 2003 and a constitutional referendum in 2005),<sup>17</sup> the EU has stated that the 2008 elections were found to be mostly in line with Armenia's international commitments. There remain some concerns regarding issues such as the lack of public confidence in the electoral process, the absence of clear separation between state and party functions and ensuring equal treatment of candidates.<sup>18</sup>

In 2006, the Speaker of the National Assembly was pressured to resign from the government following his comments that Armenia move towards the West and its key institutions, including NATO. Others within the leadership of the country favour maintaining a close relationship with Russia.

The National Police and the National Security Service are responsible for domestic security, intelligence activities, border control, and the police force. Both operate independently of any government ministry.<sup>19</sup>

<sup>15</sup> RA Constitution, Article 1.

<sup>16</sup> [www.hrw.org](http://www.hrw.org), [www.osce.org](http://www.osce.org), [freedomhouse.org](http://freedomhouse.org), [www.fidh.org](http://www.fidh.org), [www.ihf-hr.org](http://www.ihf-hr.org).

<sup>17</sup> Both parliamentary and presidential elections have been monitored by international observers, especially by Council of

Europe and OSCE appointed individuals, who have reported numerous irregularities.

<sup>18</sup> <http://www.panarmenian.net/news/eng/?nid=25001>.

<sup>19</sup> <http://www.state.gov> Armenia country report 2004.



## Nagorno-Karabakh<sup>20</sup>

Nagorno-Karabakh is a *de jure* region of Azerbaijan and a *de facto* self-proclaimed independent republic in the South Caucasus, located about 270km west of Baku, the capital of Azerbaijan. The region is predominantly ethnic Armenian and is under military control of the Nagorno-Karabakh Defence Army. The local Armenian population declared independence from Azerbaijan on December 10th, 1991 and declared the Nagorno-Karabakh Republic (NKR). The NKR's sovereign status is not recognized by any country or international organisation world-wide. Peace talks, and other discussions on the future of the region, continue to be mediated for the Azerbaijani and Armenian delegations by the OSCE/Minsk Group.<sup>21</sup>

Armenia was at war with Azerbaijan between 1988 and 1994 over the area of Nagorno-Karabakh. The cease-fire declared in 1994 has held, but to date (2008) no solution to the longstanding stand-off has been advanced despite high level meetings under the aegis of the OSCE's Minsk Group.<sup>22</sup> The conflict remains a significant challenge to development, stalls regional co-operation and contributes to regional instability. A legacy of the war is that the armed forces and security services have played a significant role in the country's political development, remaining, as mentioned above, independent of any government ministry.

## Freedom House Nations in Transit Ratings and Averaged Scores<sup>24</sup>

	1999	2001	2002	2003	2004	2005	2006	2007
Electoral Process	5.25	5.50	5.50	5.50	5.75	5.75	5.75	5.75
Civil Society	3.50	3.50	3.50	3.50	3.50	3.50	3.50	3.50
Independent Media	4.75	4.75	4.75	5.00	5.25	5.50	5.50	5.75
Governance	4.50	4.50	4.50	4.75	4.75	n/a	n/a	n/a
National Democratic								
Governance	n/a	n/a	n/a	n/a	n/a	5.00	5.00	5.25
Local Democratic								
Governance	n/a	n/a	n/a	n/a	n/a	5.50	5.50	5.50
Judicial Framework								
and Independence	5.00	5.00	5.00	5.00	5.00	5.25	5.00	5.00
Corruption	5.75	5.75	5.75	5.75	5.75	5.75	5.75	5.75
Democracy Score	4.79	4.83	4.83	4.92	5.00	5.18	5.14	5.21

<sup>20</sup> This name for the region is partially Russian (nagorny = mountainous) and Turkish (karabakh = black garden) in origin. The Armenian name for Karabakh is Artsakh, the Azeri name Gharabagh. Nagorno Karabakh is also sometimes referred to as the Republic of Mountainous Karabakh.

<sup>21</sup> In 1905, instigated by local overlords, racial violence broke out between Tartars or 'Azeris' and Armenians throughout Transcaucasia. Tzarist officials, hoping to curb Armenian activism, did not intervene. Armenians put up sustained resistance but were massacred in areas where Tartars formed a majority. A Tzarist census from January 1917 shows greater Nagorno-Karabagh population to be 317,000 Armenians (72%) and 120,000 Tartars. When they first came to power in 1918, the Soviets returned Nagorno-Karabakh to Armenia; but after

a brief period (1921), Joseph Stalin gave it to Azerbaijan as an Autonomous Region and altered the boundaries so that Nagorno-Karabagh was cut off from Armenia and was smaller in size.

<sup>22</sup> [www.freedomhouse.org](http://www.freedomhouse.org).

<sup>23</sup> Commission of the European Communities, Commission Staff Working Paper, Annex to European Neighbourhood Policy, Country Report Armenia, COM(2005)72 final.

<sup>24</sup> With the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects. The Democracy Score is an average of ratings for the categories tracked in a given year.



## 1.4 The Armenian Economy

Armenia's economic system has moved from a centralized command structure to a competitive market over the last 15 years. Armenia is a small open economy with a nominal GDP level of US\$2.8 billion in 2003. With GNI per capita at about US\$950 (US\$3,770 in purchasing power parity terms), Armenia is in the group of lower middle-income countries.<sup>25</sup> Strong economic growth from 2001-2006 was the result of well-sequenced structural reforms and a prudent economic policy – real GDP growth stood at 13.3% in 2006. This growth brought about an increase in real wages, stabilized employment, and increased spending on social services and transfers, all of which, combined with a growing stream of remittances, contributed to a reduction in poverty in Armenia.<sup>26</sup>

The construction sector, trade, remittances and other private transfers from abroad, are the strongest performing elements, while agriculture has declined. Tourism and information and communication technologies have been identified by the government as potential new growth areas. Industrial production is supported by new investment in the mining, metallurgy, diamond polishing and food processing sectors. Closed borders with Azerbaijan and Turkey, as well as poor transport and communications infrastructure, are significant constraints on the economic development of this landlocked country.

Around 70% of total employment is located in self-employment, small enterprises and agriculture, i.e. largely in the informal economy. It has been estimated that the informal economy constitutes about 46% of gross national income. Levels of income inequalities are relatively high, although on a declining trend since the late 1990s, as measured by the Gini coefficient (0.434 for 2003).<sup>27</sup>

Armenia has managed well on the macro-economic side with a strong growth in 2007 at a rate of 13.7% (double-digit for the sixth consecutive year). Bilateral trade with the EU grew by 17.4% compared to 2006 and amounted to nearly €1 billion. The EU is Armenia's main trading partner (with a nearly 40% share in Armenia's overall external trade). The recent upgrading of the European Commission delegation in Yerevan is a tangible sign of the Commission's commitment to the future development of the country.<sup>28</sup>

However, there are a number of concerns. Although the country showed exceptional growth over the last years, the economic and social situation does not benefit the whole population equally. There is a wide disparity between an elite group of persons with access to the majority of the resources and the rest of the population, struggling to make a living. Institutional corruption has been of concern to those involved in the democratization of Armenia for some time, and now there is growing concern about the strong arm tactics of the emerging elite as they seek to secure their economic and political influence among the general citizenry.<sup>29</sup>

<sup>25</sup> Commission of the European Communities, Commission Staff Working Paper, Annex to European Neighbourhood Policy, Country Report Armenia, COM(2005)72 final.

<sup>26</sup> Armenia: Economic Growth, Poverty, and the Labor Market in 2004-2006.

[http://www.armstat.am/file/article/pov\\_2007e\\_3.pdf](http://www.armstat.am/file/article/pov_2007e_3.pdf).

<sup>27</sup> The Gini coefficient is a measure of inequality of income distribution. 0 corresponds to perfect equality, and 1 to

perfect inequality.

<sup>28</sup> MEMO/08/20:Brussels, 3 April 2008 - European Neighbourhood Policy – ARMENIA.

<sup>29</sup> Taken from Overview of Major Human Rights Issues in the Republic of Armenia, 2006, A report drafted by the FIDH along with its partner organisation in Armenia, the Civil Society Institute (CSI).



## 1.5 Social Development

The continuous decline in Armenia's population during the 1990s was first reversed in 2004, when, in parallel with economic improvements, an increase in population, a decrease in migration, and a new phenomenon, the return of emigrants, were recorded. These trends continued in the following years. However, certain negative trends of previous years, i.e. lower fertility rates and the emigration of working-age people, resulted in a lower birth rate and an increased number of elderly among the population in Armenia.<sup>30</sup>

<b>Literacy</b>	98.6% (2003 est.)
<b>Population growth (annual %)</b>	-0.27
<b>Infant mortality rate</b>	22.47 deaths/1,000 live births
<b>Life expectancy at birth</b>	Total population: 71.84 years
	Male: 68.25 years
	Female: 76.02 years (2005 est.)
<b>Unemployment rate</b>	7.2% - 6.7% (year end) (2007)
<b>Population below poverty line</b>	34.6% (2004 est.)
<b>Net migration rate</b>	-5.34 migrant(s)/1,000 population (2007 est.) <sup>31</sup>
<b>Human Development Index</b>	83. Armenia (0.775) <sup>32</sup>

Recent poverty estimates indicate that the poverty rate has fallen from around 56% in 1998/99 to below 30% in 2005.<sup>33</sup> During the same time period, extreme poverty declined from 21% to below 5% (about a 75% decline).<sup>34</sup> In absolute numbers, over 800,000 people were lifted out of poverty between 1998/99 and 2005. World Bank poverty assessments for Armenia in 2005 show that poverty is more an urban than a rural phenomenon, due mainly to significantly higher incidences of poverty in urban areas outside Yerevan (34% compared to 24% in the capital city and 28% in rural areas).<sup>35</sup> However, close to one million (of the estimated 3.2 million) Armenians still live below the poverty line despite the economic growth of recent years. Further progress was made in reducing poverty in 2007 – the proportion of the population living under the poverty line has continued to steadily decline to 29% in 2007 and the share of extreme poverty is now down to 6.5% of the population. A successful food security programme (€100 million over 10 years) is currently ongoing to support the government's poverty reduction efforts by providing budgetary support and technical assistance for key land and agricultural reform, public finance management and social sector reform.<sup>36</sup>

<sup>30</sup> Economic Growth, Poverty, and the Labor Market in 2004-2006.

[http://www.armstat.am/file/article/pov\\_2007e\\_3.pdf](http://www.armstat.am/file/article/pov_2007e_3.pdf).

<sup>31</sup> <http://www.indexmundi.com/armenia.html>.

<sup>32</sup> Armenia: The Human Development Index - going beyond income, UNDP Human Development Reports, 2007/2008.

<sup>33</sup> Social Snapshot and Poverty in Armenia 2004, the World Bank and the National Statistical Service of the Republic of Armenia, February, 2006.

<sup>34</sup> Consumption is measured per adult equivalent. Poverty indicators are computed using the 2004 minimum food basket and the non-food share and adjusted for inflation. In 1998/99, the overall poverty line and extreme poverty line in 2004

prices were 17,663 and 11,210 drams per adult equivalent per month, respectively. In 2005, the overall and extreme poverty line amounted to 20,289 and 13,266 drams per adult equivalent per month in 2004 prices, respectively.

<sup>35</sup> [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/02/04/000333038\\_20080204023327/Rendred/INDEX/411810SR0P10161isclosed0Jan03102008.txt](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2008/02/04/000333038_20080204023327/Rendred/INDEX/411810SR0P10161isclosed0Jan03102008.txt).

<sup>36</sup> MEMO/08/204Brussels, 3 April 2008European Neighbourhood Policy – ARMENIA

[http://ec.europa.eu/external\\_relations/armenia/index\\_en.htm](http://ec.europa.eu/external_relations/armenia/index_en.htm)  
[http://ec.europa.eu/world/enp/index\\_en.htm](http://ec.europa.eu/world/enp/index_en.htm).



The International Monetary Fund (IMF) has said that to reduce poverty, growth must be broad-based and inclusive. Pro-growth policies include steps to improve governance and reduce corruption, enhance the business environment and promote trade openness, and support rural development. According to the IMF this needs to be complemented by measures that promote social inclusion, human resource development, and social protection, including protection of vulnerable groups such as children, the disabled, women, internally displaced persons, and migrant workers. Further efforts also are needed to identify and better target the poor and vulnerable.<sup>37</sup>

The World Bank estimates that Armenia is likely to meet the Millennium Development Goals (MDG) for gender and education, may meet the goals for poverty reduction, infectious diseases and environmental sustainability, but is unlikely to meet those on child mortality and maternal health.

## 1.6 External Relations

Following independence in 1991, Armenia began to establish international and regional relations, and to join various associated agencies – international organizations, military, political, economic and humanitarian associations. In doing so, it initially joined the UN, the World Trade Organization and the OSCE,<sup>38</sup> and regional associations such as the Black Sea Economic Alliance, the Commonwealth of Independent States and the Treaty on Collective Security. On joining the Council of Europe in 2001, it undertook a number of important obligations with regard to the implementation of democratic principles, the rule of law and human rights. The Parliamentary Assembly of the Council of Europe monitors its progress in meeting these obligations.

Relations with the EU are also a very important element of its foreign policy. The EU/Armenia Partnership and Cooperation agreement came into force in 1999, and in 2004 Armenia became part of the European Neighbourhood Policy (ENP), a development of great importance to the economy,<sup>39</sup> society and human rights (see Annex 1: *Armenia's National Indicative Programme 2007-2010* in relation to human rights). The Armenian government stated that it intended to pursue the country's full integration into the European Union, while retaining the principle of dual-orientation to the West and to Russia. To do so Armenia is required to meet certain obligations in relation to its civil and economic legislation, realize governance reforms, hold transparent and fair elections, reduce poverty and corruption at all levels and ensure comprehensive protection of human rights.<sup>40</sup> In 2006 the Republic of Armenia was included in the United States-funded *Millennium Challenge Account* (MCA), to which similar conditions are attached. This project also specifies a

<sup>37</sup> Recent Policies and Performance of the Low-Income CIS Countries

An Update of the CIS-7 Initiative (2007)

<http://www.imf.org/external/np/oth/042304.pdf>.

<sup>38</sup> "The mandate of the OSCE is security. Security not only understood as military-political concerns, but also in the field of human security – the security and safety for each human being to be free of discrimination, oppression and intolerance." Address by Anastasia Crickley at the International Conference on LGBT rights, Montreal, Canada, 2006

<sup>39</sup> An indicative amount of €98.4 million financial assistance from the EU has been allocated for the period 2007-2010.

<sup>40</sup> Domestic politics in Armenia cannot be seen in isolation from foreign and international politics, especially in the light of the closure of the borders with Azerbaijan and Turkey and the resultant economic impact. Armenia has to carefully balance between the interest of its partners, Russia and Iran, on the one hand and the United States and Europe on the other. See ACCORD/UNHCR: 8th European Country of Origin Information Seminar - Vienna, 28-29 June 2002 - Final Report 23.



comprehensive framework of actions aimed at strengthening democratic institutions and the rule of law, particularly reforms in the judicial system, combating corruption, and promoting respect for human rights and fundamental freedoms. In addition to those priorities, special attention needs to be paid to mass media and the public body regulating their operation, independence of courts and the Council of Justice, strengthening of local government, freedom to organise rallies as well as ensuring diversity and pluralism of opinions and protection of property rights.<sup>41</sup>

## 1.7 Civil Society and Human Rights

The human being, his/her dignity and the fundamental human rights and freedoms are an ultimate value. The state shall ensure the protection of fundamental human and civil rights in conformity with the principles and norms of the international law. The state shall be limited by fundamental human and civil rights as a directly applicable right.

*Constitution of the RA (Article 3)*

As already noted, in its 2006 Freedom in the World report, Freedom House rated Armenia as being “partly free”.<sup>42</sup> The status of political rights in the country was given a score of 5, and the status of civil liberties a score of 4, on a scale from 1 (highest degree) to 7 (lowest degree).

According to Freedom House the status of protection of human rights in Armenia is better than those in most former Soviet republics. On paper, Armenia is pretty much a model for the South Caucasus region as the Armenian government has ratified most of the European human rights instruments and conducted major law reforms in conformity with them.<sup>43</sup> In practice, however, as will be seen throughout Chapter 2, the evidence is that the standards embodied in those instruments are not respected, protected or fulfilled in Armenian law or society in relation to sexual orientation and gender identity.

The International Helsinki Federation has said that by the end of 2006 the government had yet to implement recommendations made by the Parliamentary Assembly of the Council of Europe. These resolutions addressed a number of major human rights concerns, including the use of force to disperse peaceful demonstrations, continued assaults on journalists and human rights defenders, and flaws related to the conduct of the presidential and parliamentary elections, as well as various amendments required to bring national legislation into line with international standards.<sup>44</sup>

The Federation’s 2005 report points to journalists having to practise self-censorship, while the government

<sup>41</sup> Human Rights in Armenia, HCA Annual Report, 2006.

<sup>42</sup> See Freedom House: Annual Report 2006: Armenia.

<sup>43</sup> Taken from Overview of Major Human Rights Issues in the Republic of Armenia, 2006.

A report drafted by the FIDH along with its partner

organisation in Armenia, the Civil Society Institute (CSI). See also Annex 3 – list of instruments.

<sup>44</sup> Human Rights in the OSCE Region, International Helsinki Federation, Report 2007.



failed to address the laws that restricted religious freedom. The report also highlights violence against women, human trafficking and spousal abuse as pervasive problems. Other human rights abuses discussed in the report include discrimination against persons with disabilities, and societal harassment of homosexuals. There were also reports of forced labour.<sup>45</sup> In 2005 there was an increase in the number of cases of use of torture and ill-treatment in prisons. Police misconduct was also commonplace during operations to disperse opposition rallies: police used excessive force and brutally beat demonstrators, arrested them in a manner that amounted to kidnapping and held them at police stations for questioning without legitimate grounds.<sup>46</sup>

As part of its commitments to the CoE, Armenia appointed an Ombudsman, known as the Human Rights Defender, in 2004. The first Ombudsperson, Larisa Alaverdian, was removed from her post in January 2006 by Presidential Decree and her duties entrusted to an interim three-member commission until a new Ombudsman was appointed. She and other human rights activists alleged that her removal had been prompted by her criticism of government policies and practices.<sup>47</sup> A new Ombudsperson, Armen Harutiunian, was elected by the National Assembly in February 2006. He had previously been a legal adviser to President Kocharian.

In the first six months of 2007 his office received 1,353 complaints, mainly against city administrations and police. His 2006 report described human rights protection in Armenia as “unsatisfactory”. He noted the excessive use of pre-trial detention, violence against journalists, limits on freedom of speech, and the need for a more independent judiciary.<sup>48</sup>

According to human rights activist and lawyer, Mikayel Danielyan,<sup>49</sup> in an interview during ILGA-Europe’s fact-finding mission to Armenia in January 2006, independence within the judicial system is a myth. Danielyan asserts that ‘phone law’ prevails over the rule of law, meaning that many decisions in courts are taken under government pressure, exercised by phone. He also believes that the Prosecutor’s Office and the police are vindictive institutions, and that torture in police detention is very common.

NGOs are becoming more active in public life but are hampered by financial constraints and are reliant on external funding, mainly from Diaspora groups. In 2006, with the participation of the NGO Professionals for Civil Society, several pieces of draft legislation were under discussion that aimed to improve the financial sustainability of civic groups. Freedom House’s rating for civil society participation in Armenia is 3.50.<sup>50</sup>

Research undertaken in 2005 reveals the perceptions of young people toward people of different ethnicity,

<sup>45</sup> Armenia Country Reports on Human Rights Practices – 2006 (Human Rights Practices Report – I: released March 6, 2007).

<sup>46</sup> Armenia: Human Rights in the OSCE Region: Europe, Central Asia and North America, Report 2005 International Helsinki Federation for Human Rights (IHF), 2006.

<sup>47</sup> Europe and Central Asia: Summary of Amnesty International’s concerns in the region, January-June 2006 (AI Index: EUR 01/017/2006), Amnesty International Report 2007.

<sup>48</sup> Human Rights Watch, Events of 2007, World Report 2008 <http://www.hrw.org/englishwr2k8/docs/2008/01/31/arme>

[ni17642.htm](#).

<sup>49</sup> Reported during ILGA-Europe fact-finding mission to Armenia in January 2006. Mikael Danielyan is well known in Armenian society as a human rights activist, who is very vocal on LGBT issues. He has often appeared on TV talking about the rights of sexual minorities. This fact was used on numerous occasions by Armenian media to discredit him and to take away public attention from other human rights problems Danielyan is working on.

<sup>50</sup> Freedom House - Nations in Transit: Anna Walker.



nationality and religion. Conducted as a way of gauging attitudes toward European values and accession to the EU, the research posed a number of questions. In general, the respondents indicated tolerance towards people of other religions and nationality: 67.1% agree with the statement that 'Each individual may adhere to any religious views,' and 51.0% agree that 'all nations are equal: there are no 'good' or 'bad' nations'. However, when it comes to religious and ethnic tolerance within Armenian society responses appear dramatically different: 35.8% 'do not mind' if those from different nations become Armenian citizens, therefore enjoying the same rights, but only 13.5% do not mind if some Armenians adhere to faith organizations other than the Armenian Apostolic Church. Many young people consider that acceptance of homosexuality and tolerances of other faith organizations (e.g. Jehovah's Witnesses) are the main European values and preconditions for EU accession.

## 1.8 Gender Equality

A 1999 study carried out by the Caucasus Women's Research and Consulting Network<sup>51</sup> concluded that the major symptoms of Armenian women's discrimination are: i) women are not aware of discrimination and consequently accept gender asymmetry in many spheres; ii) the discriminatory character of traditions and their leading role in the oppression of women; and iii) family, as an institution supporting discrimination.

The Armenian women's NGO Tsovinar stated that women were subjected to persistent discrimination in the fields of labour and education, while domestic violence remained a grave problem. In the labour market discrimination against women took *inter alia* the form of employers refusing to hire women who were engaged to be married or recently married, citing concerns that they would become pregnant and thus be unable to continue working. Elderly women also had great difficulties in finding a job, and women rarely occupied leading positions. Traditional attitudes often prevent girls from completing secondary education and, in particular, higher education. In Armenia in 2005, women constituted 22.6% of the population living with HIV.

There are no specific laws in Armenia banning domestic violence, and according to Tsovinar up to 50% of women surveyed complained of domestic violence. The Armenian family is close-knit, and when a woman marries, she becomes a member of her husband's family.<sup>52</sup> According to various surveys, domestic violence occurs at all levels and in all parts of society, albeit sustained by factors such as economic hardship, unemployment and alcohol abuse. The most fundamental reason for domestic violence is that women's place in society is still perceived as being subordinate to men, first to their fathers and brothers, later to their husbands, and finally even to their sons.<sup>53</sup> Violence against women, particularly verbal and psychological abuse, and sometimes beatings, are considered to be an exhibition of 'manly courage' for husbands. There is a common saying, "If a woman is not beaten she is known to be a widow". In a survey carried out by the Armenian Demographic and Health Survey in 2000, over 35% of the 6,340 women (aged 15-49) considered being beaten, under certain circumstances within marriage, as justified.<sup>54</sup>

<sup>51</sup> Caucasus Women's Research and Consulting Network, *Gender Stereotypes and Hidden Female Discrimination*, 1999.

<sup>52</sup> <http://www.fairfund.org>.

<sup>53</sup> IHF report 2002 on 2001.

<sup>54</sup> 'HIV/AIDS in Armenia: A Socio-Cultural Approach', UNESCO 2005.



Unemployment and trafficking are two of the main problems facing women and girls in Armenia. The lack of adequate schools and educators forces wealthier families to hire private tutors. Other, poorer, families often cannot afford this, and the students – especially girls – receive minimal support. Without a proper education, these girls are often left with no hope of finding a job. They become prey for traffickers seeking to exploit them for sexual or domestic slavery. In April 2003, the Armenian Criminal Code was amended to include trafficking for sexual exploitation as a criminal and punishable act. Armenia is a source country and, to a lesser extent, a transit country for women and girls trafficked to the United Arab Emirates and Turkey for the purpose of commercial sexual exploitation and to Russia for the purpose of forced labour.<sup>55</sup>

Representation of women in the current Parliament is low: at the year's end, only 7 out of 131 seats in the National Assembly were held by women. According to the election code, women should by now comprise 15% of a party's list for the proportional election and hold every tenth position on party lists, marking an improvement from the 2003 parliamentary elections.<sup>56</sup> It remains to be seen whether these aspirations are achieved.

According to the UNDP *RBEC Regional Gender Strategy* (2003),<sup>57</sup> public awareness, traditional values and perception of gender are changing too slowly in the region. Although Armenia has signed the relevant international treaties and conventions related to gender equality, effective implementation of those policies remains a major weakness. Limited commitment, absence of implementation mechanisms and control are all reported to hinder the potential impact of those policies on the lives of ordinary citizens. The UNDP further noted that the gender equality agenda remains a marginal issue in Armenia. In addition, widespread public perception that 'gender' concerns only women has created an attitude that women should deal with these problems themselves.

<sup>55</sup> State Department releases 2007 Trafficking in Persons Report: Armenia's Country Narrative: ARMENIA (Tier 2 Watch List) <http://www.hetq.am/eng/society/0706-usa.html>.

<sup>56</sup> Freedom House Armenia 2007 Report.

<sup>57</sup> UNFPA Strategy for Eastern Europe and Central Asia (EECA), March 2003.





## Chapter 2

# LGBT Profile

## Introduction

This chapter looks at a range of issues that contribute to the nature of the environment in which LGBT people live in Armenia. It draws on information obtained during the course of ILGA-Europe's fact-finding mission to the region, through interviews and surveys, the writings of activists and academics, as well as a variety of human rights reports and observations.

In the shadow of widespread societal and institutional discrimination gay, lesbian, bisexual and transgender people in Armenia face tremendous struggles in achieving equality and their human rights, both at personal and organisational levels. As has been stated earlier, although various Armenian governments have signed and ratified most of the UN, CoE, OSCE and EU covenants, treaties and other instruments, in practice, at the level of human rights pertaining to sexual orientation and gender identity, those commitments have not been met.

In Armenia the word 'homosexual' is both used and heard as an insult and has been frequently used in attacks against political opponents, even in the National Assembly.<sup>58</sup> In the army, where conscription is compulsory for two years for 18-27 year olds, the level of homophobia is extreme and 'homosexuality' is seen as an illness or a pathology, not an orientation; prison authorities and inmates appear to hold the same view; the police are continually reported to use bribery, extortion and violence against LGBT persons, and leading human rights activists speak of the use of 'phone law' instead of the rule of law amongst judges.<sup>59</sup> The difficulties for LGBT people who wish to come out are compounded by societal attitudes, which hold heterosexuality as the only acceptable form of relationship.<sup>60</sup>

Amongst the estimated 4,000 registered NGOs in Armenia, only one has openly campaigned for and supported the human rights of LGBT people: the Helsinki Committee of Armenia (HCA).<sup>61</sup> In 2006, We For Civil Equality, the first LGBT advocacy NGO in the state was registered. In 2006, We For Civil Equality, the first LGBT advocacy NGO in the state was registered. In December 2007, a second LGBT NGO was registered – PINK (Public Information and Need of Knowledge).<sup>62</sup> Despite significant changes in the media treatment of sexual diversity around the world, Armenian LGBT people have, as yet, little or no ability to influence the messages that go out about sexual orientation and gender identity, because their words and experiences are generally not asked for or ignored. Socially, LGBT people are seen as undesirable within the community and they spend their lives concealing their true nature.

<sup>58</sup> See section 2.5 below.

<sup>59</sup> See section 2.5 below.

<sup>60</sup> See section 2.4 below.

<sup>61</sup> The Armenian Helsinki Association drew up a draft law concerning decriminalization of homosexuality and discrimination of sexual minorities, as early as 1997, but it was

not consulted for the new law in 2003. It should be noted that in summer 2008 the Women's Resource Centre started a supportive collaboration with the LGBT NGO, PINK.

<sup>62</sup> See section 2.8 below for WFCE. As regards PINK, more information can be found at

<http://pinkarmenia.blogspot.com/search/label/pink>



Armenian legislation has no provisions to protect against discrimination based on sexual orientation or gender identity. Section 2.10 offers an extensive look at the legal position of LGBT people in various Armenian life contexts: discrimination, family, inheritance, etc. When the current range of legal protections are placed against the standards set out in the Yogyakarta Principles,<sup>63</sup> it is evident that much work needs to be done in Armenia in terms of advocating for the rights of LGBT people in particular as well as for the promotion of human rights in general.

## 2.1 Visibility

### “They have not appealed to us”

As will be seen throughout this chapter the visibility of sexual minorities in Armenia is limited and discrimination against them is common in social and institutional settings. The Armenian Apostolic Church, to which almost 95% of the population belongs, rejects homosexuality as immoral. Within this environment of intolerance and hatred, it is difficult for LGBT people to live their lives openly.

At the end of 2002, shortly before homosexuality was decriminalized in Armenia, Mikayel Danielyan, head of the Helsinki Committee of Armenia, said in an interview with *The Advocate* (US magazine) that gay people in Armenia "hide their sexual orientation because – if they don't – the police put pressure on them, they often lose their work, and are beaten up. Some of them have to go abroad". He added that "even after these changes [decriminalization] the situation of sexual minorities will remain difficult. There is absolute intolerance toward gays in society, and there is not a single politician willing to defend their rights".<sup>64</sup> In 2008, the range of documentation and observation amassed for this current report testifies to the lack of progress since then.

Danielyan has been, until recently, the only advocate for the rights of LGBT people in Armenia and has experienced isolation as a result of his position. He also reports that his other work is discredited because of his focus on LGBT issues. In particular, he has reported that some parliamentarians and other human rights defenders refuse to sit at the same table with him during public events and that his sexuality is a matter of public discussion. In May 2008, Danielyan was shot at by someone brandishing an air gun and railing that Danielyan was a CIA agent. Danielyan believes the attack was because he is outspoken in pushing for human rights to be upheld, including human rights for LGBT people.

Armenia does not have an offence of 'hate crime' (unless accompanied by the persecution of groups or organizations as prohibited by international law) and was one of only a few countries in the region that did not submit information to the ODIHR survey 'Hate Crimes in the OSCE Region: Incidents and Responses Annual

<sup>63</sup> The Yogyakarta Principles are based on 29 relevant international standards as articulated in a variety of international covenants. It offers guidance to governments on a number of imperative actions they must enshrine into the legal code of their national settings to respect, protect and fulfil the human rights of their LGBT populations. The

Principles were published after an experts' meeting in Yogyakarta, Indonesia, in November 2006. See <http://www.yogyakartaprinciples.org/index.php?item=25>.  
<sup>64</sup> *The Advocate*, December 12, 2002. [http://www.advocate.com/new\\_news.asp?ID=7191&sd=12/12/02](http://www.advocate.com/new_news.asp?ID=7191&sd=12/12/02).



Report for 2006:<sup>65</sup> The LGBT NGO, We For Civil Equality, has recently begun to record and survey the types of violence, harassment and discrimination, visited upon persons because of their perceived sexual orientation and gender identity.<sup>66</sup>

For LGBT people there is little recourse available for crimes based on their sexual orientation or gender identity. The option of going to court involves having to deal with personally sensitive aspects of their life with governmental institutions and entails the risk of public exposure through the media. As a result, this is avoided and crimes go unrecorded.

LGBT people are also unwilling to refer complaints to the Armenian Ombudswoman, who commented in her first report that she had taken up no such cases because "they have not appealed to us".<sup>67</sup> There were also no cases in her second report, for 2005-6. Legislation defining her role restricts it to taking up documented cases brought before her office, nullifying her effectiveness in supporting a social group so comprehensively excluded from society that its members feel unable to pursue justice through any of the available avenues.

The progress of the relatively newly formed organisation We For Civil Equality provides hope that LGBT people in Armenia may begin to establish a voice in civil society. Their core work to date has generated much essential data on the human rights situation in Armenia, providing a credible base for service provision and policy recommendation, in particular in the field of HIV/AIDS. Their research may help other national and international organisations engage more deeply with LGBT concerns in their own work which currently excludes LGBT rights for the most part. The lack of engagement of national and international human rights agencies with the concerns of LGBT people, many of whom endure multiple discrimination – being gay/lesbian and poor/woman/prisoner/IDU/sex worker – further isolates, weakens or invalidates efforts to work for LGBT human rights in Armenia.

Although the Council of Europe made some strong comments on the status of homosexuals soon after decriminalization, citing blackmail, societal and political homophobia and stating that "homosexuals are still a long way from being able to organise community activities in freedom",<sup>68</sup> the CoE's influence is not felt at the national level. According to Bojana Urumova<sup>69</sup> of the Council of Europe, the issue of Armenian LGBT human rights has not been examined or raised with the authorities in Armenia. When asked how aware Armenia is of the fact that it has ratified Protocol 12 to the European Convention for Human Rights,<sup>70</sup> Bojana responded that

<sup>65</sup> See Information Submitted to the ODIHR in the Period 2004-2006: Legislation, Statistics, Practical Initiatives, and Nominated Points of Contact on Combating Hate Crime: Annex 2.

<sup>66</sup> See sections 2.8 and 2.9 below.

<sup>67</sup> Reported in LGBT Situation in Modern Armenia, 2006, Zhana Alexanyan, a report prepared for ILGA-Europe.

<sup>68</sup> Council of Europe (CoE). 12 January 2004. Parliamentary Assembly. Honouring of Obligations and Commitments by Armenia. (Doc. 10027).

[http://assembly.coe.int/Documents/WorkingDocs/Doc04/E\\_DOC10027.htm](http://assembly.coe.int/Documents/WorkingDocs/Doc04/E_DOC10027.htm).

<sup>69</sup> Bojana Urumova, Council of Europe, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006. Bojana

Urumova also mentioned that she has only twice been approached to respond on the subject, once to a youth group and another time to a journalist's query.

<sup>70</sup> Article 1 of Protocol 12 - General prohibition of discrimination: 1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. 2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1. <http://www.humanrights.coe.int/Prot12/Protocol%2012%20and%20Exp%20Rep.htm#Article%201>.

it was not very aware, and that the Protocol is not enforced at the national level in any way.

On April 5, 2008, ArmeniaNow, one of the few news websites covering LGBT issues impartially in Armenia, ran an optimistic article describing the current Chair of the OSCE, Finnish Foreign Minister Alexander Stubbs, as a 'gay rights advocate' who will prioritise "promoting tolerance and non-discrimination and gender equality".

## 2.2 Coming Out

### Gomik! Pedik! Faggot!

The act of coming out cannot be underestimated, both in terms of the courage required to speak openly about one's sexuality and also in terms of the psychological pressure of feeling forced to stay hidden. Among the respondents to the We For Civil Equality survey<sup>71</sup> (explored further in sections 2.8 and 2.9), 130 were male (gay, bisexual or transgender persons – GBT) and 70 female (lesbian, bisexual or transgender persons – LBT). As regards being out, of the GBT respondents 35.3% were not out at all, 43.8% were out only to close friends, 2.5% were only out to family, while the remaining 18.4% consider themselves out to most people – illustrated in figure 1. For the LBT respondents, 20% were not out at all, 3% were out to family only, 60% had told close friends, while a further 17% considered themselves to be out to most people – see figure 2. The individuals who participated in this survey were contacted through a 'snowball' method – friends of friends passing on the survey. Further research is needed in order to determine how accurately these figures reflect the national situation.

Figure 1 – Coming out GBT

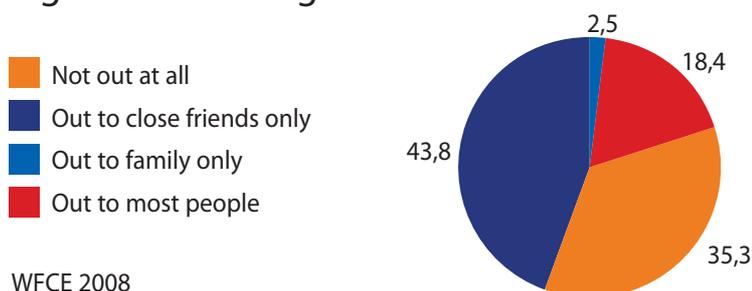
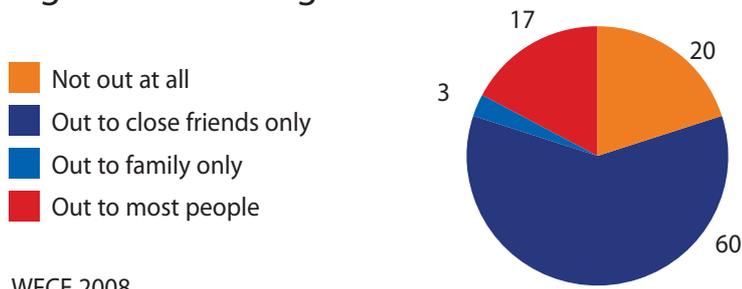


Figure 2 – Coming out LBT



<sup>71</sup> As part of their Armenian LGBT Human Rights Campaign the NGO We For Civil Society carried out a survey of 200 LGBT people in 2007.



Young people in their 20s who were interviewed in some depth during ILGA-Europe's fact-finding mission to Armenia in 2006, attest to the way in which they were treated on coming out. In the case of one young man, following his family's discovery of his sexual orientation, he was given a separate set of dishes, fork, spoon, and cup and was not allowed to eat at the same table with the family. His family's response to his sexuality is typical of the social and institutional reactions found in Armenia today. The depth of antagonism and disregard towards sexual minorities is well known and it is into this hostile environment that Armenian men and women have to come out. In a survey of Armenian youth regarding European values and tolerance, it was revealed that only 16.5% of respondents were tolerant of sexual minorities.<sup>72</sup> Words such as 'gomik' and 'pedik', Russian terms for 'faggot', are commonly used as terms of abuse for gays in Armenia.

In Armenia, coming out and integration into society as an LGBT person can only be a partial exercise; as homophobia is widespread in the community and homosexuality is such a taboo, the secret remains a secret except to a few family and friends, who are in turn burdened with the secret and have no one with whom to share it.

In describing some specifics of Armenian identity in its 'HIV/AIDS in Armenia: A Socio-Cultural Approach', UNESCO 2005, the authors quote a passage from the *Charagajt* journal<sup>73</sup> which describes the role of the 'courtyard' and describes the context that so many Armenians, of all ages, 'come out' in: "In Armenia the smallest unit of administrative and territorial division can be considered not the community [...], but the 'court' with its specific laws and unwritten rules, secrets known to everybody and hackneyed rumours which are [an] indispensable part of the 'court'. The path leading from the family to the society necessarily goes through this court for an Armenian teenager. The first contact with peers, the first attempts at self-assertion and self-affirmation, the first friend, the first love – all this is included in that small world."

According to Micha Meroujean, chairman and founder of AGLA France, an LGBT Diaspora group, which closed in 2007, "What is urgent today is to get the Armenian LGBT people out of the closet".<sup>74</sup> In response to the interview, one blogger writes: "It is such a pity that AGLA France ceased to exist. I followed closely its activities, albeit anonymously, from the date of its establishment. It was very important for us gays living in Armenia. And Micha did know how difficult and closeted life we have here. Things do not change to the better here, in terms of tolerance towards gays; things are getting different but the homophobia in the society remains..."

Since decriminalization in 2003, the gay and lesbian 'scene' in Armenia has been limited to the capital, Yerevan, although there is known to be LGBT activity in Gyumri and Idjevan as well. Despite the fact that Armenian men and women often hold hands in public, this is not a statement of their sexual orientation but rather their social custom. There are a couple of bars in Yerevan, one of which opened in 2006, closed down in 2007, but reopened again in 2008.<sup>75</sup> No LGBT cafes, restaurants or nightclubs exist, although there are some that are gay-friendly. PINK opened an Information Centre in Yerevan in September 2008, the first of its kind in the country (for details see <http://gayarmenia.blogspot.com/2008/09/pink-armenia-launches-information.html>). [GayArmenia.com](http://GayArmenia.com) is a popular website for contact with other Armenians, at home and abroad, as are [Yesoudo.com](http://Yesoudo.com) and <http://queeringyerevan.blogspot.com>. An emerging advocacy group, We For Civil Equality, works for the promotion and awareness of LGBT issues in Armenian society.

<sup>72</sup> The Armenian Socio-demographic Initiative: Attitude of Armenian Youth Towards European Values and Accession to Europe, May 2005.

<sup>73</sup> Papoyan A.S., Grigoryan S.R., Sargsyan R.R. 2004. Harm Reduction among IDUs in Armenia. XV International AIDS

Conference, Bangkok, Thailand, pp119-123.

<sup>74</sup> Quoted from an interview with Armenian website Unzipped on 12 October, 2007. See [www.unzipped:gayarmenia.com](http://www.unzipped:gayarmenia.com).

<sup>75</sup> <http://gayarmenia.blogspot.com/2007/06/armenia-gay-guide.html>.



## CASE 1

Yves is a 23 year old homosexual man, who enjoys wearing female clothes. He is relatively out and a very frequent visitor to the Yerevan cruising area in a park not far from the Republic Square. Despite his age, he has already suffered on numerous occasions from degrading treatment, such as name calling, being threatened with physical violence, being chased or followed, spat at, beaten, raped, harassed by the police, refused commercial services etc. on the grounds of his sexual orientation and/or gender identity. After his family found out about his sexual orientation, he was given a separate set of dishes, fork, spoon, and cup and doesn't eat at the same table with the family.

The incident most imprinted on his memory is the one that happened to him on 15th of June 2005 on Amiryan Str. not far from the supermarket called 'SAS' around 2 am at night. He was returning home from a club with another friend, who decided to enter the supermarket to buy some snacks. Yves says that due to his effeminate behaviour people can notice that he is gay. He was waiting outside, when two men approached him and took him to a dark place behind an ark. There four more men were waiting for them. One closed his mouth with his hand, and the men started to knife him, calling him "bitch", "sucker" and "pederast". After the first stab he couldn't hear or see anything. Twenty minutes later he was found covered in blood by his friend. Yves spent one month in bed recovering. For the first days he couldn't hear or see anything, but didn't go to the hospital because he didn't want to attract any attention to the case. He doesn't know the attackers and would hardly recognize them because it was very dark.

Yves didn't report the case to the police, because he doesn't believe in them. "I was afraid to go there, they won't do anything. If the guys who attacked me are found, they will not be convicted, but my life will be put in bigger danger. I survived, so there is no need for a big fuss. I don't trust and don't believe the police".

To prove his point, Yves told a story, which happened in December 2004 around 12:00 pm. He met a nice guy in the park and went with him to a small cave not far from the place where they met. They were followed by two policemen in plain clothes, but they presented themselves as policemen and showed relevant documents. They let the other guy go, and started to make fun of Yves, kicking and beating him, and then raped him. The case was not reported to the police, because he was afraid his relatives would find out about his sexual orientation. If a similar case happened today, he still wouldn't have reported it to the law enforcement authorities for two reasons: he doesn't want his sexuality and gender identity to be known to the entire city, and he doesn't believe that justice will prevail.

Another story, which happened in July 2004 in the afternoon, is even more shocking. Yves was at an open-air market with his friend. Eleven young men aged from 18-20 approached them and started to shout that they are "gomiki" ("faggots"), and to kick and beat them with hands and legs. People around saw everything happening, but no-one tried to protect them. Moreover, many people around were spitting in their direction. While Yves managed to push one of the attackers and run away, his friend was less



fortunate. He was dragged to a cellar not far from the market, where the guys masturbated at him, then wrote on his face "dirty words" like "pederast" and "cock-sucker", and made him walk like this on one of the main streets of Yerevan, themselves walking behind and calling him names, kicking and throwing stones at him. The guy was so scared after this incident that, although knowing what to expect in the army, decided to serve there. He was afraid that the violence would be repeated again.

Gays have a very difficult relationship with the army in Armenia, says Yves. In spring of 2003 his 20 year old friend was being recruited into the army, and had to undergo medical examination. The military medical commission decided that he was gay. The chief of the commission called the home of the guy and told his parents that their son was gay. Moreover, he called the school, where the guy's younger brother was studying, and asked the principle to watch the brother: "maybe he is also like that and does something dirty in the school". The chief of the medical commission also called the workplace of the guy's father and told the director that the son of their employee was gay. As a result the guy didn't serve in the army, but was sent to a psychiatric hospital, where he spent a month and was given the diagnosis of 'schizophrenia' and 'damage to the cerebral cortex'.

Often army recruitment medical commissions identify homosexual men, and telephone the place where they have to serve their term saying that they are sending "a faggot". The treatment of known homosexuals in the army is profoundly disturbing: they are given a separate set of dishes, live in toilets and throughout the entire military service clean toilets. They also sit at a separate table during meals. There was a case when an entire garrison based in Yerevan refused to eat for three days protesting that a homosexual was given food and ate from the same plates as them. As a result the person was refused food, for two years lived in a public toilet day and night, and was constantly beaten up. He survived by hunting for food from garbage cans, and since then has developed serious mental disorders. His treatment took place with the approval of the chief army administration. No attempt to help was made. This story was confirmed by a well-known Armenian human rights defender Mikael Danelyan. He also confirmed that known homosexuals in the army are often made to clean toilets with their toothbrushes, and that the attitude towards homosexuals is very similar to the one in prisons.

*From individual interview taken by ILGA-Europe in January 2006*



## 2.3 Lesbian visibility

### A marginal issue?

As already noted, women in Armenian society are more generally subordinated to men, both in their traditional roles as wife and mother, and specifically through controls on their behaviour. Single women are often seen as an embodiment of 'evil and misfortune',<sup>76</sup> as they are not fulfilling their 'natural' role of wife and mother. Despite being a signatory to various international agreements such as CEDAW, the Beijing Platform for Action and ICPD, the implementation of gender equality standards in Armenia is virtually non-existent. The UNDP has noted that the gender equality agenda remains a marginal issue in Armenia. In addition, widespread public perception that 'gender' applies only to women has created an attitude that women should deal with these problems themselves.<sup>77</sup>

As in many other countries, the historical denial of female-to-female sexuality meant that sexual relations between women were not criminalised in Armenia. This was an obvious advantage compared to the situation of gay men whose relationships were criminalised under Article 116 of the Armenian Penal Code. However, it meant that, whereas sexual relations between men became a focus of attention during the period in 2002/3 when repeal of Article 116 took place, sexual relations between women continued to be ignored. This male-centred history highlights the relevance of the current usage of such inclusive terms as 'sexual orientation' and 'gender identity' in the context of inclusive or non-discriminatory legislation for LGBT people.

Within this context of denial of lesbian sexuality, LBT people in Armenia do not attract much attention and are mostly successful in hiding their orientation; but only in terms of helping to preserve personal safety can this be regarded as a good thing. A report on sexual minorities for ILGA-Europe<sup>78</sup> states that "lesbians mainly complain of their families where they are forced to hide their orientation. They are less willing to unite and create a group for self-support".

When talking to ILGA-Europe representatives for this report, Mikayel Danielyan of the HCA said that lesbian and bisexual women are generally not taken to police stations and treated in the same way as gay men or male-to-female (MtF) transsexuals. But should their sexual orientation become known it has been reported that they have been fired from their jobs, under the rationale of 'avoiding gossip'. The fact-finding mission to Armenia assessed that although lesbian visibility is minimal there, it was more evident than in Georgia or Azerbaijan.

In Case Study 4 of this report the male respondent describes how the male students on a painting trip refused to eat the bread cut by a woman known to them to be a lesbian. Although this situation is not the worst human rights violation, it describes the very real, subtle, yet powerful social dynamics that threaten and greatly hurt people of sexual minorities and continue to let them know they are outside the 'norm' and are not wanted.

The survey carried out by We For Civil Equality breaks down the types of harassment, violence and human

<sup>76</sup> 'HIV/AIDS in Armenia: A Socio-Cultural Approach', UNESCO 2005.

<sup>77</sup> UNFPA Strategy for Eastern Europe and Central Asia (EECA),

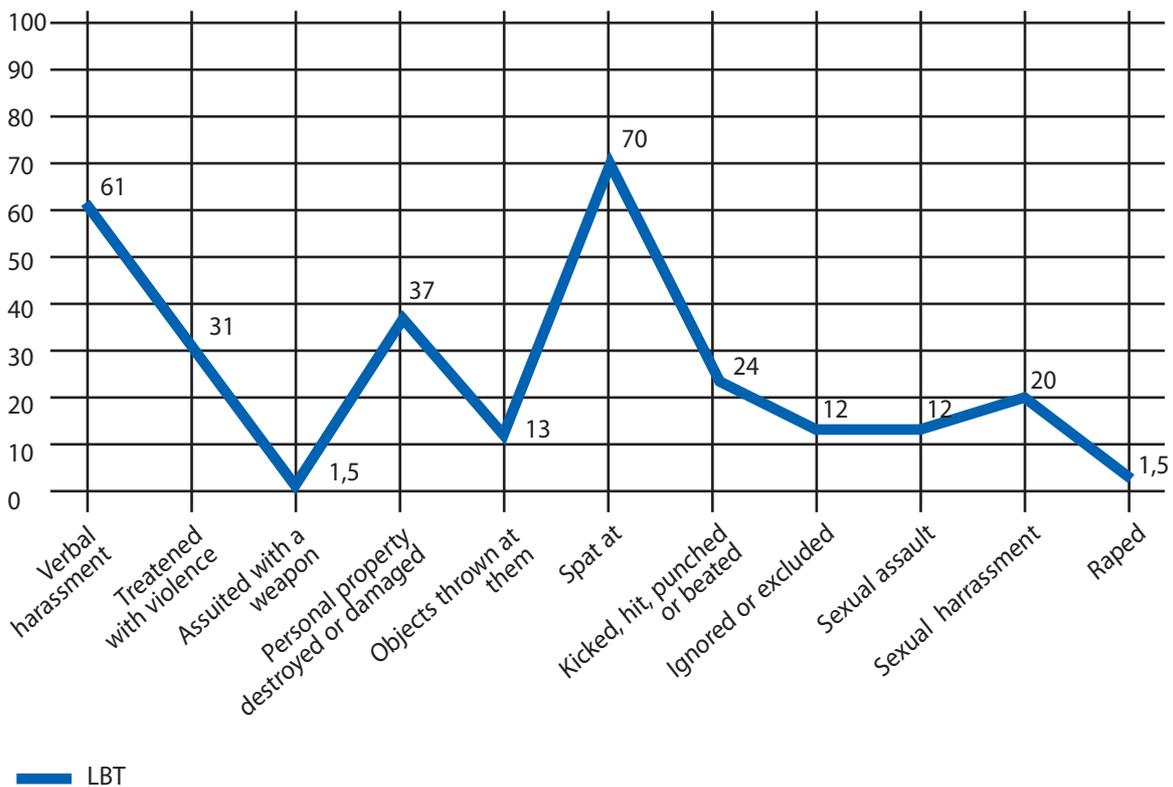
March 2003.

<sup>78</sup> LGBT Situation in Modern Armenia, 2006, Zhana Alexanyan.



rights abuses directed specifically at lesbian or bisexual women (see figure 3): 61% of those surveyed had experienced verbal harassment because of their sexual orientation, 31% were threatened with violence and 1.5% had been assaulted or wounded with a weapon, 37% had personal property damaged or destroyed and 13% had objects thrown at them for this reason. Further, 70% of these women were spat at, while 24% were punched, hit, kicked or beaten because of their sexual orientation, and 12% testified to being excluded or deliberately ignored. As regards sexual assault, 12% recorded that this had happened to them, 20% said they had been sexually harassed and 1.5% had been raped.

Figure 3 – Abuses visited upon LBT respondents



Of the list above, 89% answered that they knew a friend to which such an act had happened, and of the perpetrators known to them, 33% were officials and 67% were private individuals. Further, 79% thought that sexual orientation was a cause of these acts. Only 40% of these respondents knew where they could go to pursue a complaint or redress.

In their 2007 report on the Armenian LGBT Human Rights Campaign, WFCE presents a case study of a young Yerevan lesbian, ML, who was 22 at the time of interview. In her short time out as lesbian she had experienced verbal, physical and sexual harassment, family violence and police harassment, and was refused healthcare, housing, a job and commercial services. She told a WFCE interviewer (and accompanying psychologist) that



she had to give up her place at university as a direct result of her sexual orientation being found out by the college authorities – the reasons given were that she was considered to have brought disgrace on the university and that other students might refuse to attend classes with a lesbian. ML was subsequently unemployed and her mother, the only breadwinner in the family, refused to help find her a job unless she conformed to more traditional dress codes for women.

Two months before the time of interview, ML had been forced to leave the family home after her mother, on trying to force her to marry, found out she was a lesbian. She said that she would prefer her daughter to be a prostitute than a lesbian. Word went around her local community and one night ML was assaulted by “several guys” – they beat her up and then stabbed her with a blade.

From that time ML had to leave the city and stay in a village far from anyone she knew. Instead of solace and protection, her mother’s only reaction was to say that should her employers find out about her daughter’s sexual identity she would lose her job – their only source of income, and that nobody would marry her younger sister – the sister of a lesbian. Therefore, her mother said, she must leave the country.

It is impossible to know how many lesbians and bisexual women live in Armenia. It is certain that, both for those who decide to be open about their sexual orientation and those who keep it a secret, life is full of potential pain, oppression, isolation and lack of freedom.

## 2.4 Societal Homophobia

“Don’t you think being a faggot is a crime?”

On a societal level, homophobia is both rampant and deeply ingrained in Armenian life, as it has been for many centuries. Interviewed in 2003, Mikayel Danielyan commented, “Our society is either illiterate and believes that homosexuality is a disease which should be treated, or people simply do not wish to accept something which is different from their traditional understanding of morality and family”.<sup>79</sup> Quoted in an ILGA-Europe report on sexual minorities, Danielyan further notes, “There is no attitude towards them [LGBT] in Armenia at all. They are so unacceptable to the society that people do not want to accept they exist, neither do they want to hear about them”.<sup>80</sup>

According to a CoE representative in Armenia, society is not psychologically ready to publicly face the issue of sexual minorities. As social and political change works very slowly, much slower than any current political agenda, NGOs have to be very active in awareness-raising campaigns to put the issue into the public mind. In general, Armenian people are not tolerant towards new ideas that go against their established principles. “The society needs to face the issue, to boil in the same pot with it”.<sup>81</sup>

<sup>79</sup> Mikayel Danielyan, 2003, GayArmenia.com.

<sup>80</sup> LGBT Situation in Modern Armenia, 2006, Zhana Alexanyan.

<sup>81</sup> Ara Margarian, Head of Relations with the Council of Europe at the Ministry of Foreign Affairs, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006.



It is widely believed that the negative attitudes towards homosexuals in Armenia are partly inherited from Soviet times. Communist leaders believed that homosexuality was a product of a capitalistic society's degradation. Since independence, under the influence of the Armenian Apostolic Church, the population is reminded that homosexuality is a 'grave sin' and should be rejected in society. Add to this the fact that journalistic conventions consider it appropriate to address the subject of private or intimate life with caution; anything to do with sexuality is seen as private. Elena Poghosbekian, of the Yerevan Press Club<sup>82</sup> observes that as homosexuality was criminalized for such a long time in Armenia, people continue to have a perception of it as a crime, particularly among the older generation. However, although the great Armenian film-maker Parajanov<sup>83</sup> was given four years hard labour and nine months imprisonment in 1975 under the article criminalizing homosexuality, the media still do not discuss his sexuality, and he remains most highly respected and dearly loved.

In comparison, disability in Armenia is more often reported with compassion than with dismissal (as in previous years), and the overall tone can now be characterised as neutral-positive. This change toward a more positive tone can be attributed to the activities of civil society NGOs and international organizations drawing attention to the realities of living with a disability and the responsibility of society to accommodate its disabled community.

It might be imagined that younger people would display more tolerance towards minorities, but in a study of the attitudes of youth towards European values and tolerance (2005),<sup>84</sup> it was revealed that only 30% of respondents believed that people should not be 'condemned' for their sexual orientation. Further, the study found that only 16.5% of respondents were tolerant of sexual minorities. The study also revealed that 86.5% would not like 'gays' to be their neighbour, and 81% would not like people living with AIDS to be their neighbour – see figure 4. Seven out of ten Armenian youth are not ready to acknowledge equality of rights for sexual minorities. When asked about the positive and negative elements of European living, homosexuality was rated as a negative by 29%. On the wider issue of discrimination, 86.8% of the young people surveyed were absolutely intolerant towards people of "deviant behaviour" and would not like to have people with alcohol or drug addiction, HIV-positive status and homosexuals as neighbours; 43.6% would not like to live in a neighbourhood with ethnic minorities and 54.9% with people of another religion.

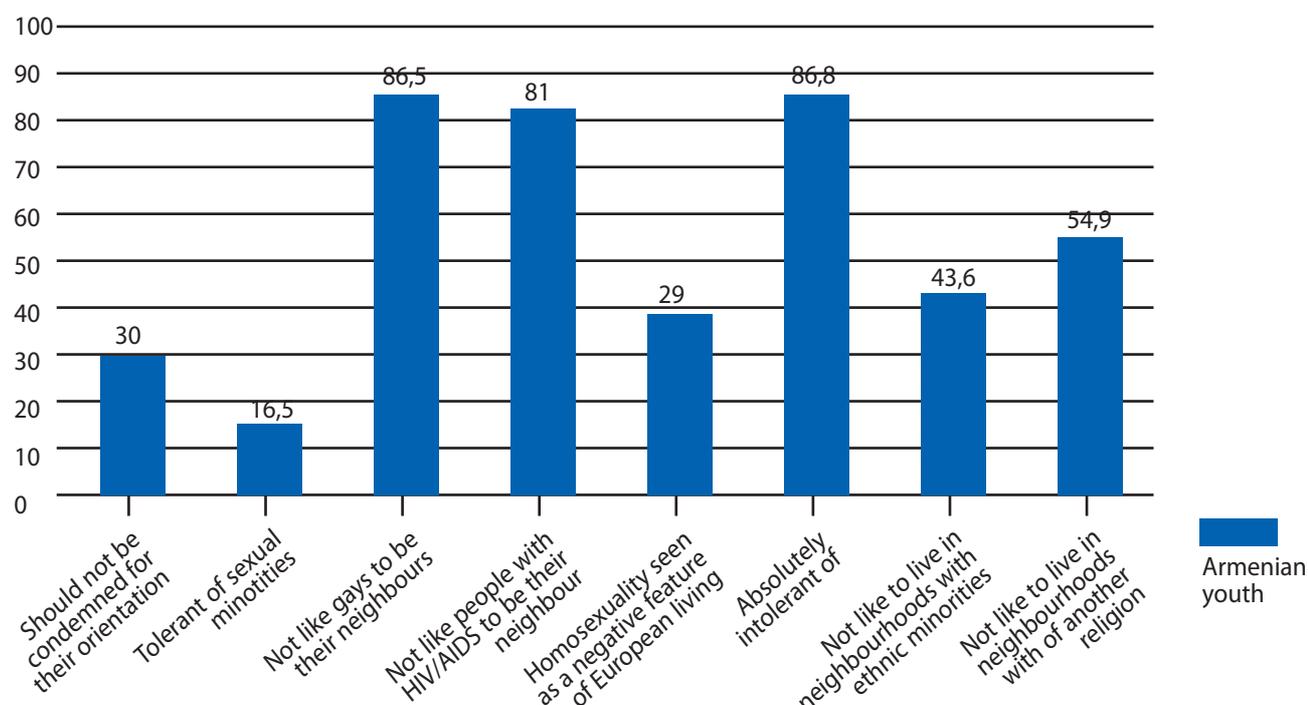
<sup>82</sup> From an interview in the course of a fact-finding mission to Armenia, ILGA-Europe, 2006.

<sup>83</sup> Sergei Parajanov (1924-1990) was an internationally famous Armenian director from Soviet times. His distinctive cinematic style (inspired by the works of Andrei Tarkovsky and Pier Paolo Pasolini) is characterized as poetic, artistic and visionary and he is still acclaimed worldwide. The Soviet authorities disapproved of his style, which did not conform to the only

approved cinematic style - socialist realism - and it has been suggested that his imprisonment (on charges of homosexuality, bribery and trafficking in religious icons) was a set-up.

<sup>84</sup> The Armenian Socio-demographic Initiative: Attitude of Armenian Youth Towards European Values and Accession to Europe, May 2005.

Figure 4 – Attitudes of Armenian youth



The head of OSI (Open Society Institute) in Armenia reported that the concept of human rights is seen by many in Armenia as a Western notion, and that closeness with Europe means gay marriage and a raft of other social changes. These fears are a result of media manipulation, she notes, with voices articulating that the goal of European institutions is “to make Armenia less Armenia” and to “eradicate national identity”.<sup>85</sup>

Following the murder of Joshua Haglund in May 2004,<sup>86</sup> ArmeniaNow reported that Armenian gay men, or those thought to be gay, were being intimidated by police investigating the murder. At least one man was held in confinement for several days. Another says he was called to the police station and when he asked what crime he was being charged with, an investigator said; “Don’t you think being a faggot is a crime?” He also alleges that police told him they did not care whether the law protected homosexuality and that in their precinct they were the law.<sup>87</sup>

In the survey carried out for ILGA-Europe in 2005,<sup>88</sup> 69% of the sample characterized the general population’s attitude towards sexual minorities as being intolerant, while 27% described it as one of indifference, and only 4% described it as accepting.

Currently in Armenia, no consideration is being given to the family and partnership rights of Armenian LGBT couples. Medical, inheritance, tax rights and many other social and economic issues have not been addressed. Marriage or civil partnership legislation in a country that only allows married couples to adopt a child is a long way off.

<sup>85</sup> Larisa Mihasyan, Executive Director OSI, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006.

<sup>86</sup> Joshua Haglund was an openly gay American teacher in a university in Yerevan when he was attacked and killed. Although an enquiry was initiated into the murder and many gay men were rounded up and interrogated by police, no-one was ever charged with the crime. (See section 2.8 for more on this case).

<sup>87</sup> Two Months, No Answer: Haglund family says “someone has gotten away with murder”. <http://www.armenianow.com/archive/2004/2004/july16/news/hugland/index.asp.htm>.

<sup>88</sup> LGBT Discrimination Survey, Armenia, 2005 carried out by ILGA-Europe and COC.



A sociologist interviewed by ILGA-Europe does not believe Armenian society will ever cease to have discriminatory attitudes towards LGBT people, particularly in terms of the family. “Even if all the obstacles are overcome, it is all the same, our nation cannot forgive a man or a woman for not leaving a succeeding generation,” he says, explaining the power of national tradition.

In July 2006, Misha and Harut, two Armenian men, both living in France, returned to Armenia and held a symbolic wedding amongst some friends and family. They had their wedding ceremony in Echmiadzin’s cathedral (the Holy See of the Armenian Apostolic Church) in Yerevan. In Misha’s own words to GayRussia, “If during the last 30 years, the situation of GLBT people has improved in the Western world, it is because each year queers walked in the streets and stood up for their dignity. You cannot achieve any improvement just by sitting there and waiting for better time. Nobody will ever give anything to us. There will be no gifts. We should fight for our rights”... “The reality is that the Armenian society remains extremely homophobic and homosexuality is still considered a disease. Whenever a media outlet speaks about gays, it presents homosexuality as depravity or immorality. This subject is always approached from a negative point of view. Until the country’s political class and the mainstream intelligentsia view homosexuality as a threat there won’t be any debate in this country. The few intellectuals who speak out in our support are gently silenced or ignored. For the time being neither the government nor Armenian society is open for a public debate on the queer issue. And our marriage will not provoke any reflection, because nobody will let the debate take place”... “But who will dare to marry in Armenia? I mean gays in Armenia are just starting to come out of the closet. Speaking of marriage is a little bit premature. But I believe that in 10-15 years gay marriages will be celebrated in Armenia without being considered as a phenomenon.”<sup>89</sup>

## 2.5 Institutional Homophobia

### ‘Untouchables’

Many international human rights bodies<sup>90</sup> have noted the ill-treatment of homosexuals in Armenian institutions, particularly in the army and in prisons. Information gathered on the ILGA-Europe fact-finding mission to Armenia highlighted the extent to which institutional homophobia was both expected as ‘the norm’ and directly experienced by those interviewed. The depth of distaste for LGBT persons by employees of state organisations, and their consequent maltreatment by these employees, is quite shocking. It reveals both a disregard by the authorities for human rights, as well as the extent to which they are willing to countenance human rights violations.

<sup>89</sup> See [GayRussia.Ru](http://GayRussia.Ru).

<sup>90</sup> US Bureau of Democracy, Human Rights, and Labor, Human Rights Watch, the International Helsinki Federation, Freedom

House, FIDH (International Jurists), OSCE and CoE, UNAIDS, FairFund and others.



One individual interviewed for this mission (see Case Study 3) vividly describes the passage from societal to institutional homophobia: “In male-to-male intercourse the active role is accepted, but you can’t say that you kiss, or practice oral/anal sex as a passive partner. This would immediately put you in an ‘untouchable’ position. It is believed, that if you share plates or forks, or shake hands with someone who is believed to be a passive homosexual, then a kind of a chain forms (as if) you also had touched the penis which was touched by the passive homosexual during the oral intercourse. This is how separate sets of dishes for homosexuals can be explained in the army and in prisons”.

Although public schools at primary and post-primary levels are state-sponsored, both the curricula taught and the ethos of those schools are heavily influenced by the outlook of the Armenian Apostolic Church; from a very young age children become aware of the taboo attached to LGBT persons. Sex education is at the discretion of the school and is a voluntary service, and education on sexual diversity or sexual minorities is non-existent. The Council of Europe in its Recommendation 1474 (2000) – Situation of Lesbians and Gays in Council of Europe Member States (see Annex 2) identifies schools as a prime location of discrimination against LGBT persons and recommends that appropriate policies are instituted to counter it.

In principle, LGBT people have the same right to legal protection under the Constitution as all Armenian citizens. However, in practice LGBT people do not for the most part make use of this protection, as there is no guarantee that their rights will be upheld either in courts or in police stations.<sup>91</sup> Numerous human rights reports and testimonies given to ILGA-Europe bear witness to the deeply negative, discriminatory attitudes towards homosexuals in law-enforcement bodies. They show that some LGBT people (mostly gay men and MtF transgender persons) who have been brought to police departments have been subject to torture, arbitrary detention and blackmail. The Association of Gay and Lesbian Armenians in France (AGLA)<sup>92</sup> has also reported that it received numerous e-mail messages, since its opening in 2001, from homosexuals who complained about police violence against them.

It is noteworthy that although there is a legal prohibition on any kind of discrimination, the law does not provide any penalties for people practising such discrimination.<sup>93</sup> LGBT people in Armenia are fully aware of this.

In its report for 2005, the HCA<sup>94</sup> reported that the word ‘homosexual’ used negatively has frequently been used in attacks on political opponents, even in the National Assembly. When the chairman of the Union of Armenian Aryanship, Armen Avetisyan declared that some senior officials were homosexual and promised to produce a list of their names, the National Assembly held a debate during which there were threats to dismiss those officials who could be proven to be homosexual. Avetisyan sent a list of seven alleged homosexuals occupying senior posts to the President and Prime Minister and urged them to take measures “to cleanse the

<sup>91</sup> Information from the Helsinki Committee of Armenia to the IHF, January 2005.

<sup>92</sup> See International Helsinki Federation reports for 2002- 2005, amongst other human rights reports.

<sup>93</sup> According to international lawyer Marine Janoyan (who was one of the lawyers representing the interests of the Haglund

family in the investigation into their son, Joshua’s murder – see section 2.10), referred to in Zhana Alexanyan’s report LGBT Situation in Modern Armenia, 2006, Zhana Alexanyan.

<sup>94</sup> Information from the Helsinki Committee of Armenia to the IHF, January 2005.



nation of these diseased persons". The names were never published nor did the government make any statements or take any measures against these defamatory activities and statements.

It is obligatory for every citizen to undergo two years conscription in the Armenian army at some point between ages 18 and 27. The prospect of having to serve in the army is considered worse than a prison sentence for many LGBT people. According to Mikayel Danielyan,<sup>95</sup> the army is reluctant to recruit homosexual men, and if the medical commission identifies homosexuals or they declare their sexual orientation themselves, they are sent to a psychiatric hospital, where they spend from one day to a couple of weeks, and are eventually certified as having a mental disorder. The wording used in the certification has changed over time: up until 2000 it was 'homosexuality', between 2000-2003 'schizophrenia', and in the most recent cases 'mental disorder'. IHF's 2007 report<sup>96</sup> clarifies that since 2001, based on Order No. 378 by the Minister of Defense, homosexuality has been considered an illness and, therefore, homosexuals are considered unfit for military service.

Homosexuals enlisted into the army do not disclose their sexual orientation to anyone for fear of the consequences. There are, however, reports of cases where a gay man's homosexuality has been disclosed to members of his unit, sometimes by people within the LGBT community itself, creating grave problems for the person concerned. He may be subjected to constant humiliation through actions such as being given a separate set of dishes with a hole in the plate, being given the dirtiest tasks, such as cleaning the toilet (sometimes with his own toothbrush), being assigned to the most distant barrack or the one with the worst conditions. In extreme cases, he may be subjected to physical violence or sexual assault by other soldiers. There are also reports of the military using 'hazing' techniques on gay men, i.e. purposefully confusing, tricking and producing fear in individuals in custody. There have been reports of suicide in the army, but none recorded as being a direct result of discrimination suffered because of sexual orientation. However, this does not rule out the possibility that under such pressure LGBT recruits may resort to this means of escape: for example, on 17th February 2006, the website ArmeniaNow published the story of an 18 year-old conscript who having been repeatedly raped by commanding officers, had to have the bullets of his gun removed by other soldiers standing guard with him as he had threatened to kill himself.<sup>97</sup>

Finally, in terms of institutional homophobia, Armenian prisons are still chaotic and particularly cruel places for LGBT people. IHF reports, from 2003 and 2004 especially, highlight how gay men were held in separate cells in order to ensure their personal safety and how other inmates refused all contact with them. Prisons are, as everywhere in the NIS, in very poor condition. Homosexuals are automatically 'opuschennye' ('looked down upon'), live in separate cells and are frequently the object of abuse, violence and sexual assault. HIV-positive prisoners are placed in separate, isolated cells to avoid further spread of HIV, while around 56% of the prisoners are intravenous drug users (IDU). Cases of murder on grounds of sexual orientation were also reported.<sup>98</sup>

<sup>95</sup> On ILGA-Europe's fact finding mission, 2006.

<sup>96</sup> Human Rights in the OSCE Region: IHF Report 2007.

<sup>97</sup> See <http://www.armenianow.com/?action=viewArticle&CID=1521&IID=1069&AID=1362&lng=eng>

<sup>98</sup> Mikayel Danielyan interview with ILGA-Europe on its 2006 fact-finding mission and IHF reports for 2003 and 2004.



## CASE 2

Mike is a young Armenian homosexual, who believes he has adopted a gay identity. He works as a bartender in a gay venue in Yerevan and has graduated recently from university.

He says he has had little problem with the police in comparison to other members of the LGBT community in Armenia. In October of 2001 his apartment was robbed, and he declared the fact at the police station in the Acharphyak district of Yerevan. In the police station he was laughed at: "We are not going to help you, because you are gay". Moreover, the policemen threatened that they would contact his parents and tell them that Mike is gay, and that it was he who sold everything from the apartment, later blaming it on the robbers. Eventually the robbers were found (there were also witness statements by other people), and the police returned the TV to Mike, saying: "Oh, give this TV to the fag". Mike notes that some policemen did behave properly with him.

During the time Mike has worked in the gay bar, there had never been any violence near it against LGBT people. However, just a day prior to the interview a heterosexual man was beaten right at the entrance into the apartment building, as his attackers believed he was gay.

When the US citizen Joshua Haglund was killed, in May 2004, Mike was in Gyumri. By mistake, the police first called Mike's father and invited him to the police for interrogation. When they realized the mistake, they found Mike and invited him to the police station. "They were ok with me, because at that time I had a foreign boyfriend who works in the diplomatic service, and the police knew about it". Mike recalled that the police took photos and fingerprints of all the homosexuals they were interrogating in relation to the case. According to him, over 30 homosexuals were interrogated. The police said to Mike when taking photos and fingerprints: "If something like this happens again – we will know whom to ask".

The night Joshua was found murdered, 20 people were detained for about 20 hours, without being interrogated. One of the policemen said to those detained: "God gave his face to you, and then punished you". Mike believes that the police may have known the person(s) who killed Joshua, but if he was mafia, they had to find someone else, "someone weak to accuse". Printouts of mobile phone calls were taken from some of them, police were asking about each phone number: who the person is, is he homosexual, etc. "The whole community was scared and intimidated after Joshua's murder, says Mike. It was dark, like a scary movie. Everybody wanted to leave Armenia and never come back".

"The situation is very difficult, I am afraid every day that something might happen to me. I don't feel safe in this country as a gay person. It is very difficult; the society needs to be educated. It is not our choice to be gay. We didn't want it. Society needs to be aware of this. Why is it so bad in this country, if it can be good?"

Mike doesn't remember any HIV/AIDS prevention activities taking place in the gay bar he works for (an obvious place for outreach in Yerevan). He only recalls one activity organized on the occasion of



December 1st, in 2005. Condoms and leaflets were distributed; people were reading them with a lot of interest, one could feel they had an informational vacuum.

Mike explains that sexuality is much suppressed in Armenian society and there is no sex education in schools. Sex is perceived as something dirty or bad. In male-to-male intercourse the active role is accepted, but you can't say that you kiss, or practice oral / anal sex as a passive partner. This would immediately put you in the position of an 'untouchable'. It is believed that if you share plates or forks, or shake hands with someone who is believed to be a passive homosexual, then, by extension, you also touched the penis which was touched by the passive homosexual during oral intercourse. This is how the practice of separate sets of dishes for homosexuals can be explained in the army and in prisons.

*From individual interview taken by ILGA-Europe in January 2006*

### CASE 3

Grigor is a 24 year old gay man living in the second largest city of Armenia – Gyumri. He is in full-time employment with an international NGO. Throughout his life he has suffered from various forms of human rights violations and social exclusion. He was called names, threatened with physical violence, had objects thrown at him, spat at, left out and ignored deliberately, punched and beaten, sexually assaulted and harassed, refused housing.

In September of 2004 Grigor wanted to change the apartment he rented in Gyumri. He found another apartment, agreed all the price details and the date when he would move in. The landlady checked Grigor's 'record' to make sure that the apartment would be in safe hands. However, one week after the check she said to Grigor that the apartment was not available anymore as someone else had rented it. She also asked if Grigor was the one who gave an interview to the newspaper 'Aravot' (in late September) about sexual minorities, which led Grigor to believe that he was refused housing on the basis of his sexual orientation.

Grigor says he always looked different and queer, starting from his high school years. In high school and university (in Yerevan, he studied sociology) he was very often called names and on one occasion had objects thrown at him.

On one day in mid-October 2005, in the early afternoon, Grigor was walking through the Central Park in Gyumri. Two teenagers approached him asking for cigarettes. When Grigor turned towards them they started to push him saying "gomik", "pedik" (Russian equivalents of "faggot") and kicking his back with their feet, leaving footprints on the clothes. The case was reported to Grigor's supervisor in the organisation and to the Head of Mission. It was not reported to the police for fear of negative outcomes. Similar attacks happened on other occasions by the same two people / teenagers.

*From individual interview taken by ILGA-Europe in January 2006*



## 2.6 Media Coverage

### Neutral-negative

Whenever a gay person is referred to in the media in Armenia, it is almost invariably as the object of some form of joke, irony, or as someone who is sick and/or morally deranged. There is very little serious representation or inclusion of LGBT voices in mainstream media. There are no LGBT print magazines or community newspapers or newsletters and thus no opportunities for LGBT people to promote positive images in the media. When Elena Poghosbekian<sup>99</sup> of the Yerevan Press Club studied media coverage of minorities for the Media Diversity Institute (MDI), she reported that during the month of that study (September 2005) there were only two short references to LGBT issues in the national media: one an advertisement for an MDI seminar and the other was a passing reference to the Joshua Hagland case. She believes that it is because of prejudice and adherence to stereotypes, rather than fear, that journalists write little about LGBT people. In September 2004 there had been four articles with a mention of sexual minorities, all in relation to the statements made by the Armenian Aryan Order in the National Assembly: the newspapers were discussing who the homosexual politicians might be and not one of them queried whether sexual orientation had any bearing on their professional abilities.

In February 2005 there was one 'partial' mention of sexual minorities in a TV talk show, 'Hailins', which discussed constitutional changes in Armenia. One of the NGO leaders on the show mentioned that there is no constitutional prohibition of same-sex marriages, to which one of the political party representatives responded that Armenia has a traditional understanding of the family, and therefore same-sex marriages are impossible.

Elena Poghosbekian also recalled an article in 2005 in the newspaper 'Voice of Armenia' about transvestites, which was the only media reference to transgender issues identified to the fact-finding mission. No photographs of members of the LGBT community are known to have been published, and if an image is used it is generally of an erotic nature, downloaded from the internet. One can say that the overall tone of publications is neutral-negative. Homosexuality is normally mentioned along with drug addiction, alcoholism, commercial sex and criminality.

The press has the power to create deeper public understanding of sexual minorities and other minority groups and their human rights issues. In the 2005 study carried out by the Media Diversity Institute,<sup>100</sup> media outlets utilised 'official' sources for over half of the information published in Armenian newspapers (51.8%), around 17% came from the minority group featured, with a further 31% coming from 'other' sources. In the case of sexual minorities it is likely that only about 2% of the information used by the media in 2005 came from the LGBT people themselves.

<sup>99</sup> Elena Poghosbekian, the Yerevan Press Club was interviewed during the mission to Armenia.

<sup>100</sup> Media Diversity Institute, Press Coverage of Minority Groups in the South Caucasus, 2004-05 [www.media-diversity.org](http://www.media-diversity.org).



Media coverage offers a great opportunity to promote human rights and democratic citizenship in Armenia, as it does across the world. By representing minority groups in a fair, accurate and balanced way it not only helps those groups' civil rights, but can also build bridges between sections of society, so that difference does not engender discrimination. People who experience discrimination are substantially denied the chance to change their lives through communicating their needs to the rest of their nation. In terms of the total media coverage of 2005, 1.9% was given over to minority groups, and of that, only 2.3% was given over to sexual minorities. From these figures (which are virtually identical in Georgia and Azerbaijan) it can be seen that LGBT issues are not considered newsworthy.

In March 2008, a number of NGOs working in Armenia stated that the government's *de facto* censorship in the weeks after the election was unacceptable and violated Article 28 of the RA Law.<sup>101</sup> But NGOs have been commenting on government media violations during each election, despite election monitoring by international observers. Radio Free Europe/Radio Liberty (RFE/RL)<sup>102</sup> – cited by Human Rights Watch as the only source of information not influenced by government circles – was under threat in 2007. Its license for public broadcasts was revoked, therefore limiting its reach to the capital. The government's move to bring in legislation that would effectively ban future broadcasts was criticized by both HRW and the OSCE as being incompatible with Article 10 of the ECHR, which guarantees the right 'to receive and impart information and ideas without interference by public authority and regardless of frontiers'.

In an internet blog response to an article in the Aravot Daily, an important Yerevan paper, on 23rd of April 2007,<sup>103</sup> the head of AGLA pointed to the litany of discriminatory remarks and attitudes in the paper. These included misconceptions about how one 'becomes' gay, confusion between paedophilia and homosexuality, and assumptions about the societal role of women. He emphasised that the issue of sexual minorities is an issue of tolerance for all of society, and therefore involves all of society. This is a rare example of a member of LGBT society challenging the media status-quo, and it is probably no coincidence that it comes from a member of Armenia's LGBT Diaspora.

One of the first serious mentions of sexual orientation/gender identity in the Armenian media took place in 1996 in connection with programmes addressing sexually transmitted infections. The STI Centre prepared two TV shows on transgender issues.<sup>104</sup> One was about a young MtF transsexual, whose given name was Serghei, but who preferred to be called Leana. She had an STI and was treated in the Centre. She was originally placed in the men's unit, but wanted to be with women, and upon request was placed in the women's unit. The TV shows caused much agitation in society, and the STI Centre received many calls from viewers. The last words Leana said on the programme were: "I will work a lot and hard, and earn the money for my sex-change surgery".

<sup>101</sup> See the Armenian Observer Blog: Armenian NGOs Condemn Recent Developments Especially in Media Scene.

<sup>102</sup> Radio Free Europe was one of the only stations that dealt with LGBT issues in an impartial way.

<sup>103</sup> <http://www.blogrel.com/2007/05/02/critical-response-to-the-article-homosexuals-are-hidden-in-armenia/>.

<sup>104</sup> Armen Babayan director of the STI Centre, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006.



## 2.7 HIV/AIDS

Public and institutional understanding of the human rights issues pertaining to HIV and AIDS vary widely in Armenia. For gay, lesbian, bisexual or transgender people the level of stigmatization both about HIV and about homosexuality has led to a lack of opportunity to access information, education or support in remaining HIV-negative. As there is little LGBT community organisation, research and outreach work has only recently begun and there is much work to be done to fully establish the true HIV situation amongst Armenian GBT and LBT. ILGA-Europe's fact-finding mission to Armenia in 2006 did discover that many LGBT people sense and fear discrimination in medical settings and, as a result, do not avail themselves of the services offered, in the fear that their sexual orientation may be used against them in some way. In its 2005 report UNESCO<sup>105</sup> notes that post-Soviet Armenia has not yet formed its system of social values, particularly around the freedom of expression of sexuality, and that for those who diverge from group 'norms' there is a general distrust of health care officials and their institutions.

It is only in very recent years that, under the auspices of the Country Coordination Commission on HIV/AIDS, TB and Malaria (CCM),<sup>106</sup> Armenia's National Response Programme for the period 2007-2011 has been developed. The 6th Millennium Development Goal<sup>107</sup> is to Combat HIV/AIDS, malaria and other diseases and in 2004 UNAIDS endorsed the 'Three Ones' principles, to achieve the most effective and efficient use of resources to realise this Goal as well as to ensure rapid action and results-based management:

- One agreed HIV/AIDS Action Framework that provides the basis for coordinating the work of all partners.
- One National AIDS Coordinating Authority, with a broad-based multisectoral mandate.
- One agreed country-level Monitoring and Evaluation System.

Armenia's coordinating body is the National Centre for AIDS Prevention (NCAP). This organisation has provided the information for two UNGASS Country Progress Reports: reporting period January 2003-December 2005 and reporting period January 2006-December 2007. Their information can be summarized as follows: from 1988 to 1 December 2007, 528 HIV cases had been registered among citizens in the Republic of Armenia. Sixty-six (66) new cases of HIV infection were registered in 2006; and 99 in 2007. Males constitute a majority in the total number of HIV cases – 396 cases (75.0%), females make up 132 cases (25.0%). Five hundred and twenty eight (528) reported cases include 11 cases of HIV infection among children (2.1%).

An AIDS diagnosis was given to 206 patients with HIV, of whom 40 are women and 6 are children. From the beginning of the epidemic 119 deaths have been registered among people living with HIV/AIDS (including 19

<sup>105</sup> 'HIV/AIDS in Armenia: A Socio-Cultural Approach', UNESCO 2005.

<sup>106</sup> The CCM is a multisectoral commission including representation of the government sector, international and national NGOs, UN agencies, people living with the diseases, as well as multilateral and bilateral development agencies. The UNGASS reporting process was launched in October 2007 when the preparatory National Broad Consultation Workshop was arranged by the CCM involving all the CCM and UN

Theme Group on HIV/AIDS members.

<sup>107</sup> The Millennium Development Goals (MDGs) are eight goals to be achieved by 2015 that respond to the world's main development challenges. The MDGs are drawn from the actions and targets contained in the Millennium Declaration that was adopted by 189 nations and signed by 147 Heads of State and Governments during the UN Millennium Summit in September 2000.



women and 3 children). The majority of the HIV-positive individuals (72.3%) belong to the age group 20-39. The main modes of HIV transmission are through injecting drug use (47.9%) and heterosexual practices (45.1%). There are also registered cases of mother-to-child HIV transmission, as well as transmission through blood transfusions and homosexual practices.

The 2005 UNGASS Progress Report states that 42% of MSM tested know their results, 54% know the correct routes of transmission, but that only 0.66% of MSM are reached with HIV prevention programmes; this compares with 28.9% of Commercial Sex Workers (CSW) and 25.1% of Intravenous Drug Users (IDUs)). It is noteworthy that lesbians and bisexual women do not appear as a target group in most of the official documents on HIV and AIDS. This is despite the fact that over 25% of the HIV positive population are women.

The 2005 UNGASS report also states that 54.8% of MSM under 25, and 52.6% of MSM over 25 'reject major misconceptions' about HIV transmission. Of these 54.2% live in urban environments and 50% are rural. The percentage of men who used a condom 'the last time they had sex' was 40% for the under-25 age group, and only 12.5% for those over 25 years of age. However, comparison of the results of behavioural surveillances conducted in 2005 and 2007<sup>108</sup> reveals that improvement in behavioural indicators among Most-At-Risk Populations has been observed in those two years. In particular, level of knowledge on HIV prevention among MSM increased from 54% to 73.7%, and among MSM the percentage of men reporting condom use the last time they had anal sex with a male partner increased from 30.4% to 83.5% respectively.

The two primary goals of We For Civil Equality are to address discrimination against LGBT people in Armenia, and to provide information and support to LGBT people around sexual health, primarily HIV and AIDS.<sup>109</sup> Research<sup>110</sup> published by that organisation in January 2008 presents the results of an anonymous survey amongst 70 men who have sex with men, across three age-groups: Group I (18-30 years old), Group II (30-45 years old), and Group III (45-62 years old) – see figure 5. It showed that men who have sex with men, in common with society at large, reject others who are HIV positive. It also showed that knowledge about the means of transmission varied widely: the proportion of those who thought it was by 'unprotected sexual intercourse' was: Group I – 56%, Group II – 91% and Group III – 100%; while the proportion who believed that HIV could be transmitted by 'relating with HIV-positive people', for example by shaking hands, was: Group I – 51%, Group II – 33% and Group III – 14%.

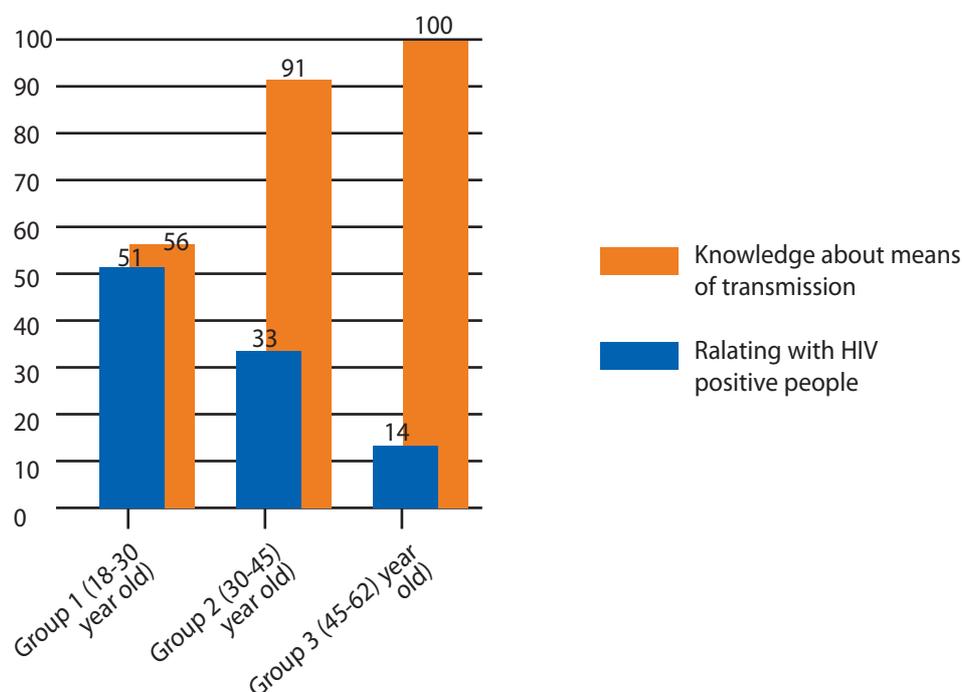
<sup>108</sup> See UNGASS Country Progress Report, Republic of Armenia, Reporting Period January 2006-December 2007

<sup>109</sup> A significant part of WFCE's current work is the implementation of the PRECIS programme – Prevention and Empowerment in the NIS, Responding to HIV/AIDS amongst Sexual Minorities. This is a project funded by the Dutch

government in response to the sixth Millennium Development Goal - to reverse the spread of HIV/AIDS worldwide by 2015.

<sup>110</sup> This research has been carried out by Karen Badalyan, Programmes co-ordinator at WFCE. See the full report 'MSM's attitude towards HIV infected people in Armenia' at [www.wfce.am/publication/index.html](http://www.wfce.am/publication/index.html).

Figure 5 – Knowledge about HIV transmission



WFCE 2008

As can be seen, the majority of younger LGBT people surveyed had misconceptions about transmission routes, and they also held very discriminatory attitudes towards HIV-positive people. Although disappointing, this information is valuable for targeting programmes and promoting awareness amongst them in the years to come.

Evidence on the ground gathered in 2006 by ILGA-Europe (see Case studies 4 and 5) suggests that instead of outreach work being provided by the NCAP, MSM have to go to the Centre to pick up condoms or lubricants, as well as information about STIs. Although the Centre, in its 2005 submission to UNGASS, is correct in pointing out that since decriminalisation there are no laws or regulations in Armenia preventing it from reaching out to MSM, it failed to note the depth of societal and institutional discrimination against this group. The UNAIDS representative in Armenia<sup>111</sup> believes there is a lot of discrimination against HIV positive people and MSM in the South Caucasus.

Finally, in its 2005 report, the NCAP acknowledged that as Armenia has no monitoring and enforcement mechanisms to collect information on human rights and HIV and AIDS issues, the Centre cannot use such information in its own policy and programme development reform. Further, the report noted that the judiciary has not been ‘sensitised’ to the HIV/AIDS issues and human rights that may come up in their work.

As reported to ILGA-Europe in 2006 by Medicins Sans Frontières (MSF Greece),<sup>112</sup> reaching men who have sex with men outside of the larger cities in Armenia is next to impossible. MSF outreach workers operate in Gyumri

<sup>111</sup> Renate Ehmer, UNAIDS, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006.

<sup>112</sup> MSF Greece, Melissa Dominguez, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006.



only (although training has been done with participants from Vanadzor and Yerevan) and have to search for the two or three 'hidden places' where men meet. This has proved dangerous, as in 2005 two attacks were registered against an outreach worker, and in both cases the organisation chose not to inform the police, so as not to threaten its tenuous links with the MSM community. More recently, by signing cooperation contracts with the Regional Health Department and informing the authorities about its outreach activities, no problems with local or law enforcement authorities have been encountered.

One of the gaps in Armenian law is the absence of "appropriate sanctions and remedies for violations of provisions of domestic law giving effect to the basic principles for data protection" as required under Article 10 of the CoE Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. In other words, in the event that HIV status or other information is disclosed from public or private databases, there is no way to prosecute the offender.<sup>113</sup>

In 2007, the HIV/AIDS National Response Programme 2007-2011 was approved by a Republic of Armenia Government Decree. It has six objectives:

1. Development of interdepartmental response to HIV/AIDS
2. Prevention of HIV disease
3. Treatment, care and assistance
4. Monitoring and evaluation
5. Administration, coordination and cooperation
6. Funding and fundraising

The Programme specifically mentions 'homosexual men' (not MSM as in most international documents) as a group whose involvement in HIV prevention work should be increased to ensure effective implementation with that population, as should the capacity of NGOs working in this area. The expected outcomes are stated as follows:

1. Projects for prevention of HIV/AIDS among homosexual men will be implemented in the capital city and two regions of Armenia (2007-2011).
2. A network of organisations implementing HIV/AIDS preventive projects among homosexual men will be created (2007).
3. The involvement of homosexual men will be increased in HIV/AIDS preventive projects, at least 1500 of them will be engaged in those projects and will have corresponding access to voluntary HIV consulting and examination, social-psychological and legal services, treatment of sexually transmitted diseases and to other services offered in the frames of projects (2007-2011).
4. The use of condoms by homosexual men during the last sexual intercourse with men will reach 80% (2010-2011).
5. 80% of homosexual men will have knowledge of HIV/AIDS prevention (2010-2011).<sup>114</sup>

<sup>112</sup> See Monitoring of Democratic Reforms in Armenia, 2006 and see also section 2.12.

<sup>113</sup> Taken from The Legal Situation for LGBT in Armenia. A

report commissioned by ILGA-Europe in 2008.

<sup>114</sup> Taken from The Legal Situation for LGBT in Armenia. A report commissioned by ILGA-Europe in 2008.



## CASE 4

Hovik is a young Armenian homosexual, who works as a barman in one of the regular Yerevan bars. For the past six years he suffered humiliation and human rights abuses on numerous occasions, including name calling, threats with physical violence, being chased, left out or deliberately ignored, harassed, beaten and assaulted by the police, refused commercial services, detained by the police without being given reasons, and even tried in the court for his homosexuality.

In January 1999 Hovik (then just turned 16) got to know an older homosexual in the park and had sex with him. The man reported Hovik's homosexuality to the police. On 5th of February 1999 at 8:00 am (Hovik was still sleeping, as were his parents) the police came to Hovik's home and arrested him. He was brought to the police station of the Masiv district of Yerevan. Hovik spent 10 days in the police station before the court trial. There he was beaten and made fun of by the police officers. Hovik relates that, when his trial came up, five other people were convicted of consenting same-sex acts at the same time, including the older man, who had reported Hovik to the police. Three of the five convicted persons were given a 1 to 2 year sentence, while Hovik was given only 3 months thanks to a bribe of 1000 USD which his aunt gave to the judge. He spent his sentence in a colony for minors, but managed to avoid the fate of most homosexuals who go to prison, as he was introduced to his cell-mates by the guards as a robber. At night the guards would take him out of the cell into their office rooms and would humiliate him with questions: "Why are you doing 'this'?", "Do you like it 'this' way?", "Why do you like it?" etc. Hovik says the guards were not harassing him sexually. Known homosexuals (till 2003 mostly those convicted under the Penal Code sodomy article) in prison are given a place to sleep under the bed next to the toilet. They are also the ones to clean the toilet, do all the 'dirty' work, are a constant object of jokes, humiliation, violence, sexual harassment, and serve as sexual slaves. After abolition of the article criminalising homosexual acts, Hovik's sentence was not revoked, and he did not make a request for this to the public authorities. He believes that since the abolition of the article criminal records are deleted upon request.

In winter of 2002 Hovik was fired from his job because of his sexual orientation. The police came to his workplace, and took him to the police station, asking for a bribe. Hovik called Mikael Danielyan, who came to the police station and persuaded the policemen to let Hovik free. However, the next day the policemen came to his workplace again and revealed his sexual orientation to his employer. The same day Hovik was fired.

Hovik says that the position of sexual minorities in the country since Article 116 of the Penal Code was abolished has not improved much. Although formally the situation is better, the police continue blackmailing and harassment. The most common victims of police harassment are closeted homosexuals. However, every year there are fewer and fewer homosexuals who would be afraid of the police. Hovik knows at least 5-6 homosexuals who are currently being blackmailed by the police. In 2004



one of Hovik's friends paid a bribe of 10 000 Armenian drams (around 20 euros) for 'being a minor', although he was already over 18.

To his knowledge, there is no condom or lubricant distribution in the meeting places for LGBT people. There are LGBT people who go to the AIDS Centre for condoms, but mostly homosexuals, who frequently visit cruising areas, do not use condoms. Condoms are relatively accessible in the pharmacies, lubricants are hardly obtainable in Armenia, and are not sold in pharmacies.

Hovik was one of the people who were interrogated by the police during the Joshua Hagland murder investigation. He was taken to the police station from his workplace. Although treated relatively well by the police, Hovik says that the whole community felt very intimidated during that period, and hardly anyone was going out to LGBT bar or the disco.

"My life could've been different, very different, if I wasn't imprisoned and didn't have to go through all this humiliation. I always dreamed of being a hairdresser. And although late, this dream is coming true. I attend a hairstyle course, and after my studies will start working in a new, much longed-for profession".

*From individual interview taken by ILGA-Europe in January 2006*



## 2.8 Discrimination, harassment and violence

*“Psychologically crushed, terrorized, and lost...”*

A number of human rights organisations, including Human Rights Watch, Freedom House and the International Helsinki Foundation, as well as the OSCE, CoE, US Department of Labour and others, have reported on LGBT human rights violations recorded in Armenia. For example, in 2004, the IHF wrote that the previous year gays were arbitrarily arrested, taken to the police station and pressed to pay a ransom, sometimes up to the equivalent of €1,226. In other cases, police officers required money in order not to inform the detainees’ employers about their sexual orientation. In addition, gays faced harassment by the population, with police remaining inactive in the face of such incidents.<sup>115</sup> The IHF’s 2007 report<sup>116</sup> states that on 22 January, 2006, a group of homosexual men was assaulted by officers guarding the French embassy in a park located close to the Italian and French embassies in Yerevan. The guards beat the individuals with batons. No investigations were initiated into the case. The five case studies presented later in this document illustrate the contexts in which such violations can arise. However, those examples represent a minority of the incidences of discrimination, hatred and violence against LGBT individuals, while many more have gone unreported and unrecorded.

On May 17th 2004, US citizen Joshua Haglund, a gay man who was a visiting professor at the Yerevan State Linguistic University of V. Bryusov, a position he had held since the previous year, was brutally murdered outside his apartment in central Yerevan. Lawyers Tigran and Marine Janoyan represented the interests of the Haglund family in the subsequent case. In a submission to the Yerevan Prosecutor General<sup>117</sup> these lawyers described some of the activities of the Yerevan Centre Police as “unethical, immoral, indicative of behaviour indulged by excess of power, and lacking any sense of responsibility. As a consequence of these activities, the individuals apprehended and detained in the police were morally and psychologically crushed, terrorized, and lost the ability and willingness to provide positive information or facts in support of the case”. The lawyers suggested in their report that the police had a suspect in the case – a military-related person connected to a disgruntled student of Haglund’s – but that they chose not to focus on this suspect but instead to apprehend gay men who knew Joshua, or were thought to know him while trying to suggest that the murder was related to the jealousy of a spurned gay lover. It is unclear exactly how many men were arrested, but it appears there were at least 35. Various testimonies to the HCA<sup>118</sup> and interviews with ILGA-Europe illustrate just how intense

<sup>115</sup> In November, Petros Temiryman was required to pay €1,226 to police officers in Yerevan—or they would charge him under article 142 of the Criminal Code for “sexual harassment of an underage person”. In December, Arsen Tovmasyan and his friend were leaving the Monte-Kristo disco club in the centre of Yerevan when four unknown persons came up to them, provoked a fight, beat them up and escaped. A police patrol was standing nearby watching the incident but failed to intervene. In December, the corpse of Avetik Harutyunyan, a 42 year old resident of the town of Gyumri (Shirak region) was found in one of the rooms of the Erebuni hotel in Yerevan. He

had been stabbed more than 30 times all over his body. The Armenian Helsinki Association had evidence to suggest that he had been killed because of his sexual orientation. IHF report of 2004 on events of 2003.

<sup>116</sup> Human Rights in the OSCE Region: IHF Report 2007.

<sup>117</sup> Analysis: In the Criminal Case of US Citizen Joshua Haglund Murdered in Yerevan on May 17, 2004. The document was prepared by attorneys representing Joshua Haglund.

<sup>118</sup> Information from the Helsinki Committee of Armenia to the IHF, January 2005.



the atmosphere of fear of the authorities was in the months after his death. The investigation was formally suspended in late 2004 when police failed to produce a suspect. Three years after his death, a bill was introduced to the US House of Representatives – Joshua Haglund Justice and Peace Act of 2007 – and a scholarship in his name was set up, by way of memorial to him.<sup>119</sup>

In the 2005 survey, carried out for ILGA-Europe,<sup>120</sup> the most frequent place that LGBT people had experienced harassment or violence was in public or on the street (40%), 23% had suffered it at university, 21% at school and 8% at college, 21% at a youth club, 15% in shops, 17% at a cruising area, 13% at home, 13% at a leisure/sports facility, 13% on the gay scene and 17% in pubs, clubs or restaurants. Of the respondents, 8% had experienced violence or harassment at work, 4% at a church or mosque, 6% with the health service, 10% with a housing provider and 2% when engaging with the employment services. Further, 23% had experienced it through email or text messages. Finally, 23% of respondents had experienced none of the above. This information is illustrated in figure 6.

Figure 6 – Locations in which discrimination has occurred



The types of abusive events that respondents underwent include the following: being beaten or assaulted by the police (10%), harassed by the police (without assault)(21%), raped (21%), sexually assaulted (21%), sexually harassed (without assault) (19%), assaulted/wounded with a weapon (21%), punched, kicked, hit or beaten (19%), being left out/ deliberately ignored (29%), spat at (19%), chased or followed (27%), objects thrown at respondent (15%), personal property being damaged or destroyed (13%), threatened with physical violence (31%) and name calling directed at the respondent (40%). One quarter (25%) of the respondents never experienced any of the above – see figure 7. Only 10% of the respondents actually reported the event to a state institution or NGO and none felt that the response was ‘satisfactory’ in that they did not feel that the manner in which the incident was documented by the institution was adequate in seeking redress. Of those that did not report the incident, the reasons given range from being afraid, not trusting anyone, not believing reporting would change anything, not knowing where to file a report, the violence being by the police or just trying to sort the problem out oneself.

<sup>119</sup> <http://www.mndaily.com/articles/2007/06/06/71935>. More information about the Joshua Haglund Memorial Peace Scholarship and his life can be found at

<http://joshuahaglund.com>. <sup>120</sup> LGBT Discrimination Survey, Armenia, 2005 carried out by ILGA-Europe and COC.



Figure 7 – Types of abuse experienced



WFCE 2008

## 2.9 Community Organising

### “In a hundred years...”

Although there have always been LGBT people in Armenia, it is only since decriminalization in 2003 that they have started to organize together. At the time of writing (mid-2008), it is fair to say that the progress that has been made since the first LGBT NGO We For Civil Equality came on the scene in mid-2006 is encouraging, and offers hope to activists, advocates and the general Armenian LGBT population. The appearance of a second LGBT NGO, PINK, in December 2007 adds to that optimism. By placing human rights issues in the context of sexual orientation and gender identity, such NGOs educate civil society about the reality that discrimination cannot be condoned, regardless of who is the target of discrimination.

The earliest recorded LGBT initiative in Armenia was when a group of eight gay men and one transsexual gathered in a Yerevan café on 1st November 2003 to discuss issues of common interest and to provide support to one another in the context of decriminalisation. None of them was from the capital, all from other Armenian cities: Gyumri,<sup>121</sup> Idjevan, Goris and Echmiadzin. A decision was made to found an underground group. That gathering was announced on the web-site of AGLA-France. An article on the first gathering was published by the Institute of War and Peace Reporting.<sup>122</sup> Word quickly went around and support from people with experience and status emerged and a second meeting took place two weeks later in mid-November. At the third meeting, 50 people gathered in the office of an international organisation. It was themed around World AIDS Day (December 1), and included elements of HIV/AIDS prevention, with condoms being distributed. The fourth meeting in mid-December was also in the office of an international organisation, and gathered around 45 people. It combined HIV/AIDS prevention awareness with psychological and coming out games. Only five women were present at this meeting.

<sup>121</sup> Gyumri is the second largest city in Armenia with around 200,000 inhabitants. It was reported to the ILGA-Europe mission that there is a small community of men who ‘cruise’ there (even though gangs visit the site looking for violence), some loose networks of gays and lesbians who meet, and

finally many individuals who are not out (for safety and security reasons) but know other gays and lesbians. From fact-finding mission 2006.

<sup>122</sup> [www.iwpr.gn.apc.org](http://www.iwpr.gn.apc.org).



In July 2006, the LGBT human rights NGO, We For Civil Equality, was registered by the Ministry of Justice in Armenia.<sup>123</sup> The fledgling organisation has four staff and eight volunteers, and has taken on two major projects, both of which seek to address some of the core issues facing Armenian LGBT people today:

1. Armenian LGBT Human Rights Campaign, started in February 2007
2. Armenian Rainbows (unofficial name) – formally known as Prevention and Empowerment in the NIS: responding to HIV/AIDS amongst Sexual Minorities – started in July 2006.

The 'Armenian LGBT Human Rights Campaign' has found that LGBT people are still mistrustful of the police and the courts and tend to report cases of human rights violations directly to the NGO. However, as those who have suffered do not wish to take matters further and refuse to document offences formally, the Campaign's own role in taking the case further is limited.<sup>124</sup> As a result, the NGO sees strengthening anti-discrimination laws on the one hand, and the empowerment of LGBT people on the other, as its primary tasks. Empowerment of LGBT people is also a priority of the newly-formed PINK NGO.

According to WFCE in 2007, while hate crimes directed at LGBT people continue, more and more people are reporting violations (discrimination and violence) both to the police and to them. Through a survey of 200 LGBT respondents, WFCE gathered information on a range of forms of physical, verbal and psychological abuse. The NGO reports that the hostile climate for the LGBT community may be improving somewhat, with more positive feedback regarding reactions by the police, and at AIDS centres, leisure centres, etc., which have previously been the subject of a high level of complaints.

It is useful for the purposes of this section on community organising to get a picture of the community surveyed. Of the 130 LGBT people surveyed, 74% were gay, 4% bisexual and 22% transsexual; 19.4% were unemployed, 59.9% were workers, professionals or officials, and 20.7% were students. As regards the degree of being open about one's sexual orientation, 35.3% are not out at all, 43.8% are out only to close friends, 2.5% are only out to family, while the remaining 18.4% consider that they do not conceal their sexual orientation at all. In terms of the scale of human rights abuses experienced, 66% knew of friends who had suffered such acts. Further, 96% of those queried said such acts were taken against them because of their sexual orientation or gender identity and 87% did not know of any way to complain or seek redress for these acts.

Of the 70 LGBT respondents, 60% were lesbian and 40% bisexual, of these 84% were urban and 16% rural. Students comprise 37% of the sample, unemployed 5.3% and the remaining 57.7% were employed as professionals, officials or described themselves as 'workers'. As regards being 'out', 20% were not out at all, 3% were out to their family only, 60% had told close friends, while a further 17% considered that they did not conceal their sexual orientation. As regards human rights violations against LGBT, 89% answered that they knew

We For Civil Equality Project Report, 2007.  
The Law on the Human Rights Defender, "only proxies of such persons and family members and heirs of deceased persons may appeal to the Defender for the protection of the rights of another" (Article 8). This provision does not enable the

Defender to protect human rights on the basis of a third party appeal (by, for instance, a human rights NGO), however it does not prevent the NGO from making reports to the Ombudsman. See Monitoring of Democratic Reforms in Armenia, 2006.



of friends who had suffered such acts, and of the perpetrators known to them, 33% were officials and 67% were private individuals. Further, 79% thought that sexual orientation was the cause of these acts. Only 40% of these respondents knew where they could go to pursue complaint or redress.

In early 2006, when asked if he thought an LGBT parade would be allowed in Yerevan if an organisation applied for authorization, the head of the Council on the Council of Europe of the Ministry of Foreign Affairs<sup>125</sup> gave the opinion that a 'gay' parade would only be possible in Armenia in a hundred years. He said society would be strongly against an 'open demonstration of homosexuality', which would be perceived as an attempt 'to recruit young people'. When asked to authorize a parade, the authorities would need to take into account the existing realities, he said, pointing to the fact that there could be clashes with the public or a counter-parade, which could be much larger than the LGBT parade. However, the official acknowledged that there were no legal grounds to refuse to authorise a parade.<sup>126</sup> [In the meantime, in the summer of 2008 there was a Pride parade in nearby Moldova, the first of its kind in that country, at which LGBT representatives from all three South Caucasus countries – Armenia, Azerbaijan and Georgia – have participated. Although not on Armenian soil, this is a huge step for the LGBT movement in Armenia.]

## 2.10 Legislation impacting on LGBT People

This section is based on a 2008 report commissioned by ILGA-Europe outlining the current legal position of people in Armenia in relation to sexual orientation and gender identity.<sup>127</sup> Much of the content and circumstances referred to in the legal report have been touched on in earlier parts of this document.

### 1. Introduction

According to its Constitution, the Republic of Armenia is a sovereign, democratic, social state governed by rule of law.<sup>128</sup> The human being, his/her dignity, fundamental rights and freedoms are supreme values. The State ensures the protection of fundamental rights and freedoms in compliance with the principles of international human rights law and norms. The State's actions are to be limited by the recognition of fundamental human and civil rights as directly applicable rights.<sup>129</sup>

A three-stage judicial system exists in the Republic of Armenia: the Court of General Competence (First

<sup>125</sup> Ara Margarian, Head of the Council of Council of Europe of the Ministry of Foreign Affairs, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006.

<sup>126</sup> <http://gayarmenia.blogspot.com/2008/05/south-caucasus-lgbt-will-participate-in.html>.

<sup>127</sup> The Legal Situation for LGBT in Armenia. A report

commissioned by ILGA-Europe in 2008 from independent expert Edmon Marukyan. Copies may be requested from ILGA-Europe.

<sup>128</sup> RA Constitution, Article 1.

<sup>129</sup> RA Constitution, Article 3.



Instance), the Court of Appeal and the Court of Cassation,<sup>130</sup> as well as specialized courts. Constitutional justice in the Republic of Armenia is implemented by the Constitutional Court.

## 2. Discrimination on the basis of sexual orientation and gender identity

### General

According to Article 14.1 of the Constitution, any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or other personal or social circumstances shall be prohibited.

Although this article does not specify discrimination on the grounds of sexual orientation, legal opinion sees this as an interpretative issue that can be argued in national courts. Further, a person discriminated against may refer to the case law of the European Court of Human Rights, and the Armenian court must (as a consequence of Armenia's ratification of the European Convention on Human Rights (ECHR))<sup>131</sup> follow the precedents set there for cases with similar factual circumstances.

### Employment

According to the RA Labour Code, when assessing a person's qualifications for a particular job, the same criteria must be applied to both men and women, and applications should be assessed without any discrimination on the grounds of sex.<sup>132</sup> There is no specific mention of sexual orientation or gender identity in the Labour Code, and no evidence that the non-discrimination practices applying on the grounds of sex could be applied in the case of LGBT people.

### Military

Homosexual men are discharged from military service, this being justified legally by Article 12 of the RA law 'on Military Service'. According to this article, citizens considered unfit for military service due to health conditions are discharged from compulsory military service by the Republican Drafting Commission.<sup>133</sup> There exists an internal decree of the RA Defense Minister, based on this article, according to which gay people are discharged from compulsory military service on the grounds that sexual orientation is an illness.<sup>134</sup>

<sup>130</sup> The highest court instance in the Republic of Armenia, except for matters of constitutional justice, is the Court of Cassation, which shall ensure uniformity in the implementation of the law. The constitutional logic of the three-stage judicial system of general competency assumes that the possible shortcomings and mistakes of the main ring

of the judicial system, i.e. the court of commonly competent courts, could be corrected by the means of retrial and cassation.

<sup>131</sup> RA Trial Code, Article 15.4.

<sup>132</sup> RA Labour Code, Article 180.3.

<sup>133</sup> RA Law 'on Military Service' Item 1 of Article 12.

<sup>134</sup> See section 2.5 above.



## Penal code/Penal procedure code

### 2.1. Retention and detention of LGBT people. Legal principles and practice.

The RA Criminal and the Criminal-executive Codes do not provide any differentiated procedure for the detention and custody of LGBT people. Under Article 116 of the previous Penal Code, which entered into force in 1961, sodomy was penalised: “Sexual intercourse of a man with another man (sodomy) is punished by confinement for up to five years”. This Article was repealed with the introduction of the new Penal Code of the Republic of Armenia adopted on 18 April 2003. However, the decriminalization refers only to consensual acts; non-consensual homosexual acts, as with non-consensual heterosexual acts, remain a criminal offence.<sup>135</sup>

### 2.2. Rights to visit same-sex partner in prison

Pursuant to the RA Criminal-executive Code there are two types of visits afforded to persons sentenced to imprisonment: short and long visits. Short visits are granted to close relatives<sup>136</sup> or other persons at least once a month for up to four hours. Long visits, with the right to live together, are granted at least once in two months for up to three days, but are only afforded to close relatives.<sup>137</sup>

In terms of a short visit there are no obstacles from a legal standpoint to a meeting of two persons of the same sex. However, such a meeting could result in the prisoner being known to be gay, with all the potential for negative consequences as described in section 2.5. For a long visit, the person requesting the visit must submit evidence proving their ‘earlier right to live together’. Although not specified anywhere in law, the expectation is that this refers to opposite sex partners. There are numerous cases where a long visit has not been granted to heterosexual couples because their marriage has not been properly registered by the Department; it may, for example, be that they have received a document from the Armenian Apostolic Church, but not from the civil authorities.<sup>138</sup> If heterosexual couples are refused visiting rights in such circumstances, it can be assumed that LGBT couples, whose relationships are not recognized under any circumstances, will be refused such rights.

### 2.3. Rape/sexual harassment legislation

It is noteworthy that the only references in Armenian legislation to homosexuality and lesbianism are in the context of criminality; that is, in the case of rape and sexual harassment. Pursuant to the RA Penal Code, ‘rape’ constitutes the sexual intercourse of a man with a woman against her will, by using violence against the latter,

<sup>135</sup> The characteristics of the mentioned crime are defined in the RA Penal Code as ‘Violent actions of sexual nature’, according to which homosexuality or other actions of a sexual nature against the will of the victim, by the application of force or by threatening to do so towards the latter or to another person or by taking advantage of the victim’s helpless state is punished by a prison sentence of three to six years.

<sup>136</sup> According to the accepted practice close relatives are

defined as the parents, children, adoptees, sisters and brothers (including those with same-father, same-mother), grandfather, grandmother, grandchildren, as well as the spouse and the parents in law.

<sup>137</sup> RA Criminal-executive Code, Article 92.2.

<sup>138</sup> Report on the activities of the public monitoring group at the detention facilities of the penal services of the Ministry of Justice of the Republic of Armenia 2005, Yerevan 2006.



or to another person, or under a threat of doing so or by taking advantage of a woman's helpless state.<sup>139</sup> According to interpretations of the International Bar Association,<sup>140</sup> the crime of rape is only applicable to women and girls under 16 years of age, and not applicable to men. Rape is punished by deprivation of liberty for a term of 3 to 6 years, or, in the case of certain aggravating circumstances, by deprivation of liberty for a term of 4 to 15 years.

Besides 'rape', the RA Penal Code also specifies as crimes 'violent actions of a sexual nature'<sup>141</sup> and 'forcing to actions of a sexual nature'<sup>142</sup> in a separate article. The former is defined as homosexuality or lesbianism, or other actions of a sexual nature, which are carried out against the will of the victim, by the use of violence against the latter or to another person or under a threat of doing so or by taking advantage of the victim's helpless state. 'Forcing actions of a sexual nature' assumes inducing a person to sexual or homosexual intercourse or other actions of a sexual nature under the threat of blackmail, destruction of or damage to property or under such a threat or by taking advantage of the victim's material or other dependency. For 'violent actions of a sexual nature' the punishment is deprivation of liberty for a term of 3 to 6 years, but in the case of certain aggravating circumstances the term rises to between 4 to 15 years. For 'inducing to actions of sexual nature', the perpetrator is punished by a penalty of between two hundred to three hundred times the amount of the minimum salary, or corrective labour for the maximum term of two years, or deprivation of liberty for a term of 1 to 3 years.

## 2.4. Age of consent/sexual relations with minors

The RA Penal Code penalises sexual intercourse or other actions of a sexual nature performed by a person aged 18 and above with a person aged manifestly below 16.<sup>143</sup> Victims of this crime can be female and male minors under the age of consent. The RA Penal Code also penalises immoral actions, i.e. immoral acts against a person manifestly below the age of 16.<sup>144</sup> The purpose of this section of the code is to protect the natural moral and physical development of minors of both genders. Immoral acts can be both physical (feeling the sexual organs of a minor, etc) and psychological (showing pornographic videos, photos, etc. to minors).<sup>145</sup>

## 3. Private and family life

### 3.1. Right to private life

The right to private life is guaranteed by the RA Constitution, which particularly states that each person has a right to respect for his/her private and family life. Without the individual's consent, it is prohibited to collect, store, use or disseminate information other than that prescribed by law. Everyone shall have the right to secrecy of correspondence, telephone conversations, mail, telegraph and other communications, which may be restricted only by a court decision and in conformity with the procedure prescribed by the law.<sup>146</sup> This right is protected by both the RA Penal Code and the Criminal Procedural Code.

<sup>139</sup> RA Penal Code, Article 138.

<sup>140</sup> Interpretations of the RA Penal Code 2004 International Bar Association.

<sup>141</sup> RA Penal Code, Article 139.

<sup>142</sup> RA Penal Code, Article 140.

<sup>143</sup> RA Penal Code, Article 141.

<sup>144</sup> RA Penal Code, Article 142.

<sup>145</sup> Interpretations of the RA Penal Code 2004 International Bar Association.



## 3.2. Same-sex partnerships/marriage

Pursuant to the RA Constitution men and women of marriageable age have the right to marry and found a family according to their free will.<sup>147</sup> This is gender specific. There is no provision for same-sex marriage in Armenia and to date no one has tested the law by challenging the norm in court.

According to the RA Family Code, marriages between the citizens of the Republic of Armenia and those of other countries, once legally in order, will be recognized. However, where foreign country norms in relation to family rights contradict the legal framework of Armenia, the legislation of the Republic of Armenia is applied.<sup>148</sup> In short, this means that same-sex marriages recognized in Belgium or elsewhere will not be recognized in Armenia.

## 3.3. Inheritance rights

The RA legislation prescribes two types of inheritance: on the basis of a will, or where no will exists, on the basis of the law of intestacy.

A citizen is authorized to will any property to any other person, to freely decide on the shares of heirs in the inheritance, to deprive the official heirs of their inheritance, to include other instructions prescribed by the regulations in the will, and to revoke, change or amend the will.<sup>149</sup> This means that same-sex partners may will any property to each other; however, they will not benefit from any tax exemptions which may apply to married couples.

Where there is no will, and the law of intestacy applies, LGBT couples will not be able to inherit the other's property because the list of heirs defined by the law does not recognize same-sex partners.

## 3.4. Adoption

Pursuant to the RA Family Code, people who are not officially married are not authorized to adopt a child together.<sup>150</sup> Hence same-sex couples may not adopt a child. Theoretically, an individual, regardless of his/her sexual orientation or gender identity, can adopt provided he/she meets the criteria of the court and the adoption board. However, in practice, a person known to be gay, lesbian, bisexual or transgender has no realistic chance of being approved as an appropriate adoptive parent.

## 3.5. Housing (same-sex couple living together)

Following the repeal of the Soviet era 'Housing Law' in 2005, there is no legislation regulating this matter, and accordingly there is no legal obstacle to homosexual couples living together.

<sup>146</sup> RA Constitution, Article 23.

<sup>147</sup> RA Constitution, Article 35.

<sup>148</sup> RA Family Code, Article 152.

<sup>149</sup> RA Civil Code, Article 1193.

<sup>150</sup> RA Labour Code, Article 116.2.



## 4. Immigration, asylum and freedom of movement

The law on the legal status of foreigners in the Republic of Armenia regulates issues related to immigration. The law regarding immigration is based on international principles and norms around the procedures for entrance, residence, movement, transit through the country, exit and obtaining residence status for a foreign citizen.<sup>151</sup> There is nothing in this law that limits or discriminates against LGBT people. The Armenian asylum and refugee laws are based on established UN Conventions – fleeing persecution for belonging to certain groups (racial, national, religious, etc.), but sexual orientation is not included in this list. In terms of freedom of movement, according to the RA Constitution “everyone legally residing in the Republic of Armenia shall have the right to freedom of movement and choice of residence in the territory of the Republic of Armenia. Everyone shall have a right to leave the Republic of Armenia. Every citizen and everyone legally residing in the Republic of Armenia shall have the right to return to the Republic of Armenia”<sup>152</sup> On neither the legislative level, nor in individual cases, has the freedom of movement of LGBT people been compromised and on this issue no discrimination has been recorded.

## 5. Right to information, freedom of opinion and expression

### 5.1. Right to information

According to the RA Constitution everyone shall have the right to freedom of expression including freedom to search for, receive and impart information and ideas by any means of information regardless of the state frontiers.<sup>153</sup> A number of NGOs have employed this legislation successfully since its introduction in 2004.

The RA Code of Administrative Infringements prescribes administrative liability for not fulfilling the obligation of providing information. The failure to provide information prescribed by law by official and local self-governance bodies, state institutions, and organisations funded by the budget, as well as the illegal refusal to provide information by the officials of organisations of public significance is subject to a penalty.<sup>154</sup> Although there have been serious violations of the code in relation to TV stations, and to a lesser extent the print media, particularly around elections, there are no legislative barriers, in terms of receiving and disseminating information, which discriminate against LGBT people. It will be interesting to see what happens to LGBT print media, once they emerge, and whether measures will be employed to curtail them.

The possessor of information may refuse to provide information, if it: contains a state, official, bank or commercial secret; violates the privacy of an individual’s personal and family life including the confidentiality of correspondence, telephone conversations, postal, telegraphic and other communications; contains data of preliminary investigation not subject to publishing; discloses data requiring limited access conditioned by professional activity (medical, notary, legal privilege); violates intellectual property rights and/or related rights.<sup>155</sup>

<sup>151</sup> RA Law about the Legal Status of Foreign Citizens, Article 1.

<sup>152</sup> RA Constitution, Article 25.

<sup>153</sup> RA Constitution, Article 27.

<sup>154</sup> RA Code of Administrative Infringements, Article 1897.



## 6. Hate crime/hate speech

Although the Penal Code does not make either hate crime or hate speech a separate offence, in a number of offences a motivation involving national, racial or religious hatred, or religious fanaticism, is deemed a circumstance aggravating liability and penalties.<sup>156</sup> There are, however, no specific references to hate motivated by homophobia or transphobia, so the extent to which these could be used as aggravating factors where LGBT people are victims is uncertain. Moreover, even if possible theoretically, discriminatory attitudes within the law enforcement agencies would make the use of such mechanisms problematic.

## 7. Freedom of thought, conscience and religion

Pursuant to the RA Constitution everyone shall have the right to freedom of thought, conscience and religion,<sup>157</sup> while freedom of activity for all religious organisations in accordance with the law shall be guaranteed in the Republic of Armenia.<sup>158</sup>

However, the Republic of Armenia recognizes the exclusive historical mission of the Armenian Apostolic Holy Church as a national church, in the spiritual life, development of the national culture and preservation of the national identity of the people of Armenia.

Although in terms of freedom of thought, conscience and religion there is nothing in law which enshrines discrimination against LGBT people, the primacy of one church (there are about 80 registered in Armenia) with profoundly homophobic doctrines, and whose values permeate every aspect of Armenian life, is a matter of concern.

## 8. Freedom of association

Pursuant to the RA Constitution everyone shall have the right to freedom of association with others.<sup>159</sup>

Documents required for the registration of a public organisation (NGO)<sup>160</sup> are submitted to the State Register of the RA Ministry of Justice. After publishing a notice in the registration journal about the receipt of the required documents, the body of state registration is obliged to discuss the application within 21 calendar days and to register the organisation or to decline its registration.<sup>161</sup> In terms of freedom of association there are no legislative barriers preventing association of LGBT people or discriminating against them in this field.

## 9. Freedom of assembly

Pursuant to the RA Constitution everyone shall have the right to freedom of peaceful and unarmed

<sup>156</sup> RA Penal Code, Article 63.

<sup>157</sup> RA Constitution, Article 26.

<sup>158</sup> RA Constitution, Article 8.1.

<sup>159</sup> RA Constitution, Article 28.

<sup>160</sup> Public organisation is a type of not-for-profit, not-profit-sharing (non-commercial) social unification organisation, where physical entities, citizens of the Republic of Armenia, foreign citizens, people with no citizenship are united

together based on the commonality of interests, as prescribed by the law having the aim of satisfying their religious spiritual or non-material requirements, to protect theirs and others' rights and interests, to provide material and non-material assistance to the society and its certain groups, to implement other activities of public benefit.

<sup>161</sup> RA Law about Non-Governmental Organisations, Article 12.5.



assembly.<sup>162</sup> Despite this constitutional norm there was no regulatory framework for the exercise of this right in Armenia until 2004, which was why the organisation of demonstrations and marches was often banned on trivial grounds, relying on certain Soviet era decrees.

On 28th of April 2004, the RA law “about the conduct of meetings, rallies, marches and demonstrations” was adopted. According to this, if the number of attendees in such an assembly is planned to be over 100 people, the organizers have to inform the local authorities in writing about the place of the event.

In theory, this legislation presents no obstacles to the organisation of public events by LGBT people. However, it has been observed that should a Pride parade or some other such rally be organized, it is probable that a counter-demonstration would also be organized, creating a situation in which the authorities might ban the former on the grounds of public order.

## 10. Right to health/sexual and reproductive rights

### 10.1. Right to medical assistance

Pursuant to the RA Constitution everyone shall have the right to benefit from medical assistance and service under the conditions prescribed by law. Everyone shall have the right to benefit from basic medical assistance and services free of charge.<sup>163</sup> The individual’s right to receive medical assistance and service is also set out in the RA law “about the provision of medical assistance and service to the population”. Everyone regardless of nationality, race, language, belief, age, health status, political or other views, social origin, property or other status shall have the right to benefit from medical assistance and service in the Republic of Armenia.

While applying for medical assistance, as well as while receiving medical assistance and service everyone has a right to choice of the supplier of medical assistance and service... while being treated respectfully by the supplier of the medical assistance and service.<sup>164</sup> Further, the RA Penal Code implies liability for the supplier of medical assistance and service for not fulfilling or improperly fulfilling its professional obligations, and for careless or negligent execution of these obligations, if such resulted in serious or moderate harm to the patient’s health.<sup>165</sup>

At the legislative level there is no legal barrier preventing LGBT people from receiving medical assistance.

### 10.2. Right to confidentiality within medical institutions

According to the RA law “about the provision of medical assistance and service to the population” the recipient of medical assistance has a right to demand confidentiality regarding their referral to a doctor, their state of health, examination, diagnoses and information revealed during the process of healing. Pursuant to the RA Penal Code publication of information about the person’s illness or the results of medical examination without

<sup>162</sup> RA Constitution, Article 29.

<sup>163</sup> RA Constitution, Article 38.

<sup>164</sup> RA Law about the Provision of Medical Assistance and

Service to the Population, Article 2.

<sup>165</sup> RA Penal Code, Article 130.

RA Penal Code, Article 145.



professional or official necessity by the entities providing medical assistance and service implies criminal liability.<sup>166</sup>

### **10.3. Artificial insemination. Surrogate motherhood.**

In 2003, the RA National Assembly put into effect a law on human reproductive health and reproductive rights, according to which only a husband and wife have a right to benefit from services for medically assisted procreation.<sup>167</sup> Thus, lesbian or gay couples are excluded from access to such services.

According to the law, women from the ages of 18 to 35, who have undergone medical-genetic examination in the course of which no contra-indications were identified, have the right to become a surrogate mother. On the legislative level there is no legal barrier preventing lesbians for becoming a surrogate mother.

### **10.4. HIV/AIDS and STIs**

See section 2.9 for information on national strategies recently (2007) adopted by the government – HIV/AIDS National Response Programme 2007-2011.

According to an article in the Penal Code subjecting another person to a manifest threat of infection by Human Immunodeficiency Virus is penalized by corrective labour for a maximum term of two years or by detention for a maximum term of two months, or by deprivation of liberty for a maximum term of one year.<sup>168</sup>

The RA Family Code prescribes the right of each spouse to apply to the court for a demand to nullify the marriage, if one spouse hid the fact of his/her sexual disease (including the Human Immunodeficiency Virus) from the other spouse at the time of registration of marriage. There is no parallel for LGBT couples as there is no recognition of their legal status.

Unlike many other European countries, there is no legislation placing restrictions on blood donations in the Republic of Armenia and hence LGBT people are not excluded from donating blood on account of their sexual orientation or sexual practice. As in other countries, should the donor be known to be HIV-positive or be living with AIDS, their donation will not be accepted.

## **11. Gender identity**

There are no legal provisions prohibiting a physical change of sex in Armenia.

There is no legislation addressing the legal consequences of a physical change of sex – for example, the question of divorce, and the need to change the sex recorded in official documents, including birth certificate, passports, etc. However, in practice, an individual may apply to a court to change the record of sex in official documents, it is still unclear what judgments may be handed down by courts in such cases in Armenia, but precedents from the European Court of Human Rights would suggest there would be grounds to appeal a refusal to grant such changes in the national courts.

<sup>168</sup> RA Penal Code, Article, 123.







# Chapter 3

## Concluding Remarks

### Introduction

Sexual orientation and gender identity are heavily stigmatised in Armenian society, and discrimination is endemic in institutional settings. The research on which this report is based points to the probability that a significant amount of homophobic abuse and violence goes unreported.

Human rights are understood to be “universal, indivisible, interdependent and interrelated”.<sup>169</sup> This means that it is unacceptable to ignore one section of the population’s rights to fair and equal treatment because of their sexual orientation or gender identity. Human rights discourse itself is predicated on ensuring respect and protection of rights for all.

According to surveys referenced in this document, over half the LGBT population are out to their friends or family. However, the statistics demonstrate the perception that it is not safe to be ‘very out’ is pervasive in Armenia. Over 90% of respondents believe that the human rights violations they had experienced, or know their friends to have experienced, were directly linked to their sexual orientation or gender identity. Over 70% said they had no idea where to report such violations, or to whom they could safely go.

There are now only two NGOs directly involved in LGBT advocacy (WFCE and PINK), and one human rights organisation (HCA) that includes LGBT people in the scope of its work. Besides these, most other NGOs and civil society organisations in Armenia do not associate with LGBT issues and do not openly address them in their work; this is despite the fact that many of them seem to be aware of the range of difficulties faced by LGBT people.

It is necessary to build some momentum around human rights for LGBT people in Armenia by including sexual orientation and gender identity specificities in all areas of human rights advocacy, i.e. in health, education, women’s rights, political representation, media campaigns, networks, etc. It is also important to include these issues in the scope of the broader issues of tolerance, minorities, human rights and democratization, as well as European integration. The international and donor community in Armenia needs to be more persistent in taking up the cases of discrimination and violence against LGBT people.<sup>170</sup> Principles around the application of human rights law in relation to sexual orientation and gender identity can be found in the Yogyakarta Principles,<sup>171</sup> vital reference material for advocates, government and any group campaigning for LGBT human rights.

<sup>169</sup> Articulated in the Vienna Declaration in 1993, signed by Armenia [http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.57.23.En?OpenDocument7](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.57.23.En?OpenDocument7).

<sup>170</sup> Larisa Mihasyan, Executive Director, interviewed during a fact-finding mission to Armenia, ILGA-Europe, 2006.

<sup>171</sup> The Yogyakarta Principles are based on 29 relevant international standards as articulated in a variety of

international covenants. They offer guidance to governments on a number of imperative actions they must enshrine into the legal code of their national settings to respect, protect and fulfil the human rights of their LGBT populations. The Principles were published after an experts’ meeting in Yogyakarta, Indonesia, in November 2006. See <http://www.yogyakartaprinciples.org/index.php?item=25>.



## CASE 5

Souren is a homosexual artist in his 30's living in Yerevan. He taught in the art academy in Yerevan, but now mostly concentrates on painting.

One of the first things Souren mentions in the conversation is that the West also discriminates against Armenian homosexuals. Souren has applied twice for a British visa to attend exhibitions of his paintings, and twice his application was rejected on the grounds that he is not married (and therefore doesn't have an incentive to come back to Armenia). "I am not getting married because I am gay, and I can't get married to a man. Does it mean they will refuse all homosexual applicants?"

Souren says he has experienced few problems as a homosexual himself, because he is not very out and very careful about what people know about him. However, he knows of numerous cases of discrimination against LGBT people, which he witnessed during his years in the art academy.

In September – December 2003 Souren had a student in his class in the Pedagogical University, the faculty of art (painting), who was openly gay, whom for the purposes of the report we will call Armen. The guy had long hair, and looked very different from the rest of the group. Souren noticed that Armen was not coming to the lectures. When he asked other students why, they said that Armen was the "bomb of the class", a homosexual. They declared they did not want to be with him in the same room, sit at the same desk. Armen had quite a strong character and was responding to some of the verbal abuse. Souren recalls that he was the only student who had a talent for art. However, his classmates went to the Dean and declared that they did not want to study with Armen. The Dean found a way to exclude him from the university after very thoroughly checking his personal file and finding some bureaucratic irregularities.

While at the university, Armen had a lesbian friend Asmik<sup>173</sup>, who was also the subject of jokes by the classmates. Every year art students have an outdoor trip to learn to paint nature. In the summer of 2003 Souren was leading a group of students to Tsahadzor. Students normally stay in the nature in tents, and have food taken to them. When dinner was being prepared, Asmik cut the bread for dinner, and male students refused to eat the dinner and bread cut by a lesbian. They all went to the nearby restaurant.

Souren believes that homophobia is an issue of mentality and education. TV constantly presents the subject with irony. Very recently on Armenian TV a journalist presented a negative report about the movie 'Brokeback Mountain'. She openly offended gays and lesbians. Souren says that whenever LGBT issues are discussed on TV or in the printed media, they are always accompanied by jokes or irony.

Souren thinks that the Diaspora has a positive influence over the promotion of tolerance in Armenia. But generally speaking Armenia is quite far from Europe, quite isolated in its borders, and this is one of the reasons for its conservatism.

*From individual interview taken by ILGA-Europe in January 2006*



## Awareness-raising

To date there are no publications or brochures, or radio or television programmes concerned with LGBT issues. In fact, subjects concerned with, or of concern to, sexual minorities are studiously avoided, or treated with derision on their very occasional appearance. As already stated, societal homophobia needs to be tackled. It would seem that in order for this to be effectively achieved, a public education initiative would need to have the backing of a broad range of stakeholders, including the government. It is important that the public understands that the leadership of the country – leadership from all sectors – is prepared to tackle the issue of homophobia.

Consideration should be given, therefore, to the development of an advocacy campaign for the introduction of legislation in tandem with a public education campaign. This should, ideally, involve a broad coalition of players, including national and international human rights agencies and relevant government bodies. The full co-operation and support of the Council of Europe, OSCE and EU should be sought, especially in the context of their initiatives in Armenia, and in the light of the commitments Armenia has made in numerous regional and international agreements. It will also be important to support and resource members of the LGBT community to be involved in the development of the campaign.

## Community development

Community development is presently at a very early stage in Armenia. However, the emergence of the first LGBT NGO, We For Civil Equality, in 2006, and a second LGBT NGO, PINK, in 2007/2008 is a major milestone in the passage to achieving fundamental human rights for LGBT people in the country. The work taken on so far by WFCE, including a baseline survey, has started the process of documenting lesbian, gay, bisexual and transgender lives, and this information can be built upon to produce solid evidence for policy and implementation work into the future. PINK's work of opening an Information Centre in Yerevan and of building coalition with other NGOs represents another and complimentary advocacy strand for LGBT people in Armenia.

Lesbian, gay, bisexual and transgender people require, for the many dimensions of their civil and private lives to be fulfilled in wholeness and health, an environment which is free of discrimination and intolerance. Sexual orientation and gender identity are integral features of the self. As such, LGBT people need the freedom to be able to gather, socialise, advocate and politicise for their interests just as any other grouping does. LGBT people need the space to explore and express their culture, their histories, and to access physical and mental support. Given the scale of the challenge, consideration should be given to state funding of LGBT community resources.

There has been very limited research into the full variety of life situations of LGBT people in Armenia. As already mentioned, human rights violations and HIV/AIDS-related research amongst LGBT people have been initiated, but this work is still in its infancy. There are numerous imperatives and numerous opportunities open for the documentation of Armenian LGBT lives, and advocates need to find ways to identify, prioritise and



resource this work. Advocates need support in establishing methodologies, sourcing funding and creating networks to enable work in the areas of LGBT history and social sciences to emerge, amongst other research.

## Legislative reform and law enforcement

Although in many countries a point of contention, those working in the LGBT legal field around Europe and elsewhere often prefer to work quietly and without much public, political or media debate. This approach can be effective in the early stages of creating an environment of safety for those claiming the full and extensive set of rights and protections for LGBT people. However, such an approach can also exclude the voices of the very LGBT persons whose rights it seeks to address, as intimate and strategic groups working for legal change may not have either the capacity or the wish to involve non-legal voices or discourse in their deliberations and directions. These people can sometimes, in the eyes of many activists, seem to come from a patriarchal-type, authoritative standpoint which sees grassroots activism as somewhat naive or even harmful to the larger LGBT cause.

This quiet approach can also deny or severely limit a process of public debate both in and beyond the LGBT population. Further, the exact shape of the proposed legislative changes and amendments can, by exclusion, render elements of that legislation redundant for certain members of the LGBT population.

Any legal campaign group needs to stay rooted in the communities it seeks to serve and, in the difficult early years of LGBT community development, should ensure it is in symbiotic relationships with those newly forming or expanding communities, thereby responding to the wider responsibilities which come with a leadership role.

The Republic of Armenia made a significant step forward by rescinding the article on 'sodomy' upon joining the Council of Europe. However, that action should be seen as the starting point for a variety of other legislative reforms, not an end-point in itself.

Regarding non-discrimination, additions to existing RA legislation need to be implemented so that sexual orientation and gender identity are explicitly named grounds. As long as they remain ignored, LGBT people remain unprotected and exposed to institutional and societal homophobia.

Same-sex partnerships must be recognized in law and, although clearly a major challenge for Armenian society, open dialogue on same-sex marriage must be initiated in all spheres, including the legal arena.

Consideration should also be given to those lesbian and gay parents who are raising children in Armenia now. What are the rights and legal status of same-sex couples as home-makers and parents? What are the rights of the children in their families? The Government must fulfil the vision it signed up to in the UN Convention on the Rights of the Child (1989), regarding Art.19 para. 1 and apply that reading to LGBT families.<sup>172</sup>

<sup>172</sup> "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or

exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child".



Consideration should be given to ending the restriction on adoption rights to married couples, enabling people in non-marital relationships, including same-sex couples to adopt.

With some urgency the RA legislature should address the major problems faced by transgender people - whether legal, medical, or related to discrimination – to allow them access to gender reassignment treatments, and efficient procedures for changing documents, as well as providing comprehensive measures to counter societal and institutional discrimination.

In line with all international standards, homosexuality must stop being seen as an ‘illness’ or ‘mental disorder’ by state actors, such as the military. The internal decree, Order 378 of the RA Ministry of Defense, must be withdrawn.

In terms of law enforcement, decriminalization has not stopped the continuing range of institutional or societal human rights abuses against LGBT people. They still live closeted lives in fear of being outed to their families and colleagues by police or other agents, and extortion and blackmail continue as a result. More visible LGBT people in Armenia, for example transsexual persons, are particularly vulnerable to discrimination, physical violence and rape.

## Recommendations To the Government of Armenia

That international agreements and standards which particularly impact on the human rights of LGBT people be fully implemented at all levels of government, whether such agreements and standards are international, or regional, whether binding or for guidance, and whether in the areas of civil, political, economic, social or cultural life. Particular attention should be paid to the extensive guidance offered in the Yogyakarta Principles.

The Government should develop and adopt a coherent long-term plan to specifically tackle homophobia and transphobia and, on a more general level, to address discrimination against sexual and other minorities in Armenian society. Promoting a deepening level of understanding of human rights issues amongst the State’s institutions and embarking on public equality campaigns should be immediate priorities for the RA Government.

That the crimes committed against minorities and others resulting from what is internationally recognized as ‘hate crime’ be recognized and instated into legislation. Further, that Government should ensure that the general public is made aware of such laws and the offices to which citizens can apply to report and record such incidents.

The Armenian Government should introduce programmes and actions to educate the general population on a variety of LGBT issues, underpinned by the message of non-discrimination and it should promote



understanding, through research, conferences, etc., of the fundamental human rights of minorities, including sexual minorities.

Of particular urgency is the promotion and provision of training programmes and awareness-raising modules for State employees and those contracted to core State functions, especially the judiciary, military, police and health service workers and providers. Further, specific references to sexual orientation and gender identity should be included in all Codes of Practice for State officials, and non-discrimination programmes should be embarked upon across the entire civil and public service.

The Armenian Government needs to ensure that discrimination against sexual minorities is removed from the educational system. Its presence perpetuates a culture of intolerance against LGBT people. It must also address the absence of adequate sex education in most Armenian schools, and ensure fair and objective information for and about sexual minorities in that education. Teachers, educators and all other partners in education need to undergo training on how to address such content in a respectful and non-stigmatising manner.

A press council, or equivalent mechanism, should be set up in Armenia to monitor and take appropriate action regarding media coverage which stigmatises or otherwise incites hatred or prejudice against LGBT people or other minorities. Legislation should be introduced establishing offences for statements or publications inciting hatred against minorities, including LGBT people, but within limits established by the jurisprudence of the European Court of Human Rights, in order not to undermine legitimate freedom of expression.

The Government should encourage existing human rights organisations operating in Armenia, national and international, to include LGBT issues where appropriate in their programmes. The Government needs to work on eliminating the stigma attaching to LGBT issues in a visible and public manner, to reassure these organisations that it is safe, politically, for them to explore LGBT concerns.

The Government should encourage frequent evaluation of the effectiveness, funding and direction of the current HIV/AIDS National Response Programme 2007-2011, by those parties to whom the work is directed, particularly by those recognized internationally (by UNAIDS, etc.) as the 'most vulnerable' populations – among whom are men who have sex with men and commercial sex workers.

Further, work should be initiated to address general health issues, and particularly sexual health issues, for lesbian, gay, bisexual and transgender persons, both in the provision of services as well as in awareness-raising and training (around stigmatization, etc.) for health practitioners and health workers. Each of these groups has very differing health requirements and this understanding needs to become embedded in health and social settings.

Particular attention needs to be focused on the human rights of transgender people: laws and standards governing gender reassignment programmes, identity documentation, and freedom of expression need to be brought into line with the jurisprudence of the European Court of Human Rights, and up to standard regarding the various human rights instruments Armenia has ratified.



In its approach to addressing the multitude of issues articulated in these pages, the Government must enter dialogue and partnership with LGBT-relevant NGOs as a primary knowledge-based and experience-based source. By funding and encouraging such pioneering work (human rights for sexual minorities), the Government would benefit in terms of being seen by its international partners to respect, protect and fulfil the human rights of one of its most vulnerable populations, and would be seen to have the courage to address a very real and fundamental human rights deficit in the country.

## The Ombudsman

That the Office of the Public Defender should independently declare its knowledge and intolerance of the litany of societal and institutional abuses and offences against LGBT people, which have gone unacknowledged for so long. This Office should encourage links with other human rights organisations, be educated and be informed by, as well as utilize, current and emerging LGBT organisations so that it can identify and promote LGBT human rights issues in the variety of settings it engages with.

The Ombudsman should advocate for legislative change regarding the inclusion of 'hate crimes' as a category of offence in Armenia, inform the public as to what exactly these are, and make provision for reporting them. Further, it should ensure that Armenia is included in the annual ODIHR survey for hate crime in the OSCE region, with which it does not currently engage.

## The European Union

The European Union should insist on the inclusion of programmes in support of the rights of LGBT people by the government, including those outlined above, as part of the human rights priorities stated in the National Indicative Programme 2007-2010 of the European Neighbourhood Policy Action Plan. The European Union should closely monitor the implementation of these aspects of the Plan in its regular reports.

The EU should clearly and swiftly react through its mechanisms for political dialogue with Armenia to any violations of LGBT rights, or attacks on LGBT human rights defenders.

The EU should ensure that its local representation maintains close links with and supports LGBT NGOs, makes clear publicly its support for their work, and reacts to any cases of discrimination or harassment by public authorities.

## The Council of Europe

The CoE should closely follow the situation of the LGBT community in Armenia, both through the work of the Monitoring Committee of the Parliamentary Assembly, and in the reports of the Commissioner for Human Rights. It would appear that CoE expectations of Armenia could be raised somewhat, and it could use its influence to exert more pressure on the Government.

In the context of this work, the CoE should make appropriate recommendations both with regard to specific incidents of discrimination and to tackling homophobia in society generally, particularly through methods for



strengthening anti-discrimination legislation, as well as exerting pressure for public awareness programmes. The CoE Human Rights and Co-operation and Awareness Division should make particular efforts to include material on sexual orientation and gender identity discrimination in training programmes organised for Armenia.

The CoE should also assist LGBT NGOs in creating and maintaining links with other human rights organisations operating in the country. It should ensure that its local office maintains close links with and supports LGBT NGOs, makes clear publicly its support for their work, and reacts to any cases of discrimination or harassment by public authorities.

## The Organisation for Security and Co-operation in Europe

The OSCE should assist Armenia in fulfilling its commitments in the fields of tolerance and non-discrimination and human rights, particularly through offering participation in existing programmes and mechanisms, such as the Law Enforcement Officials Programme on Hate Crimes and the Human Rights Individual Complaint Mechanism.

The OSCE should also ensure that its local office maintains close links with and supports LGBT NGOs, makes clear publicly its support for their work, and reacts to any cases of discrimination or harassment by public authorities.

## National human rights organisations

Of the 4000 NGOs registered in Armenia at the moment, only two – the Helsinki Committee of Armenia and the Women’s Resource Centre – clearly support and speak up for LGBT rights. It is important that many other human rights organisations in Armenia begin to demonstrably support the indivisible, inter-related and interdependent principles that underpin human rights discourse. To do so, they need to examine their own behaviour around stigmatisation, and to do that they need to be open to self-scrutiny.

To begin such a process it is recommended that human rights organisations operating in the country start to create and support the development of a national advocacy campaign for much stronger and more robust anti-discrimination legislation, with inclusion of sexual orientation and gender identity as a named ground.



## Annex 1

The European Neighbourhood Programme has set the following priorities for Armenia in its National Indicative Programme 2007-2010 in relation to human rights (Sub-priority 3 – Human rights, fundamental freedoms, civil society, people-to-people contacts): In terms of long-term impact it expects to see 'Effectively and visibly improved respect for human rights and fundamental freedoms', as well as 'Active participation of civil society in public and social life' and 'Improved democratic and stable development in Armenia'. In terms of specific objectives the following are included: 'Ensuring respect for human rights and fundamental freedoms, including in the economic and social spheres, in line with international and European standards', 'Promoting the involvement of citizens in decision-making processes and controls, including through civil society organisations, e.g. consumer NGOs' and 'Securing freedom of expression and freedom of the media'.

The expected results list increased awareness of human rights amongst judiciary and security bodies – legal, police, etc, increased transparency in decision making, improved respect for civil society structures and organisations, and free and independent press. The indicators of achievement include 'Stronger public participation and public discussion processes', 'Fully sustained levels of freedom of expression and media freedom (demonstrated by independent assessments, NGO reports, effectively censorship-free media etc.); 'Stronger social dialogue structures (demonstrated by the existence of effective tripartite cooperation and collective bargaining), and at a long term level 'Visible signs and increased trust among citizens that human rights and fundamental freedoms are being respected'.

An indicative amount of €98.4 million has been allocated for the period 2007-10, under the European Neighbourhood Policy Instrument.

EUROPEAN NEIGHBOURHOOD AND PARTNERSHIP INSTRUMENT:

ARMENIA NATIONAL INDICATIVE PROGRAMME: 2007-2010

Note: the ENP Instrument has many elements to it and for the purposes of this document the author has condensed the content directly related to anti-discrimination pertaining to LGBT.



# Annex 2

## **Recommendation 1474 (2000)**

### **Situation of lesbians and gays in Council of Europe member states**

(Extract from the OffICE database of the Council of Europe - September 2000)

1. Nearly twenty years ago, in its Recommendation 924 (1981) on discrimination against homosexuals, the Assembly condemned the various forms of discrimination suffered by homosexuals in certain Council of Europe member states.
2. Nowadays, homosexuals are still all too often subjected to discrimination or violence, for example, at school or in the street. They are perceived as a threat to the rest of society, as though there were a danger of homosexuality spreading once it became recognised. Indeed, where there is little evidence of homosexuality in a country, this is merely a blatant indication of the oppression of homosexuals.
3. This form of homophobia is sometimes propagated by certain politicians or religious leaders, who use it to justify the continued existence of discriminatory laws and, above all, aggressive or contemptuous attitudes.
4. Under the accession procedure for new member states, the Assembly ensures that, as a prerequisite for membership, homosexual acts between consenting adults are no longer classified as a criminal offence.
5. The Assembly notes that homosexuality is still a criminal offence in some Council of Europe member states and that discrimination between homosexuals and heterosexuals exists in a great many others with regard to the age of consent.
6. The Assembly welcomes the fact that, as early as 1981, the European Court of Human Rights, in its *Dudgeon v. United Kingdom* judgment held that the prohibition of sexual acts between consenting male adults infringed Article 8 of the European Convention on Human Rights, and that more recently, in 1999, it expressed its opposition to all discrimination of a sexual nature in its *Lustig-Prean and Beckett v. United Kingdom* and *Smith and Grady v. United Kingdom* judgments.
7. The Assembly refers to its Opinion No. 216 (2000) on draft Protocol No. 12 to the European Convention on Human Rights, in which it recommended that the Committee of Ministers include sexual orientation among the prohibited grounds for discrimination, considering it to be one of the most odious forms of discrimination.
8. While laws on employment do not explicitly provide for restrictions concerning homosexuals, in practice homosexuals are sometimes excluded from employment and there are unjustified restrictions on their access to the armed forces.
9. The Assembly is pleased to note, however, that some countries have not only abolished all forms of



discrimination but have also passed laws recognising homosexual partnerships, or recognising homosexuality as a ground for granting asylum where there is a risk of persecution on the basis of sexual orientation.

**10.** It is none the less aware that recognition of these rights is currently hampered by people's attitudes, which still need to change.

**11.** The Assembly therefore recommends that the Committee of Ministers:

- i** add sexual orientation to the grounds for discrimination prohibited by the European Convention on Human Rights, as requested in the Assembly's Opinion No. 216 (2000);
- ii** extend the terms of reference of the European Commission against Racism and Intolerance (ECRI) to cover homophobia founded on sexual orientation, and add to the staff of the European Commissioner for Human Rights an individual with special responsibility for questions of discrimination on grounds of sexual orientation;
- iii** call upon member states:
  - a** to include sexual orientation among the prohibited grounds for discrimination in their national legislation;
  - b** to revoke all legislative provisions rendering homosexual acts between consenting adults liable to criminal prosecution;
  - c** to release with immediate effect anyone imprisoned for sexual acts between consenting homosexual adults;
  - d** to apply the same minimum age of consent for homosexual and heterosexual acts;
  - e** to take positive measures to combat homophobic attitudes, particularly in schools, the medical profession, the armed forces, the police, the judiciary and the Bar, as well as in sport, by means of basic and further education and training;
  - f** to co-ordinate efforts with a view to simultaneously launching a vast public information campaign in as many member states as possible;
  - g** to take disciplinary action against anyone discriminating against homosexuals;
  - h** to ensure equal treatment for homosexuals with regard to employment
  - i** to adopt legislation which makes provision for registered partnerships;
  - j** to recognise persecution against homosexuals as a ground for granting asylum;
  - k** to include in existing fundamental rights protection and mediation structures, or establish an expert on, discrimination on grounds of sexual orientation.



## ANNEX 3

Treaties signed and ratified or having been the subject of an accession as of 10/5/2008

No.	Title		Opening of the treaty	Entry into force
001	Statute of the Council of Europe		5/5/1949	5/5/1949
		Ratification or accession: 25/1/2001	Entered into force: 25/1/2001	
002	General Agreement on Privileges and Immunities of the Council of Europe		2/9/1949	2/9/1949
		Ratification or accession: 25/6/2001	Entered into force: 25/6/2001	
005	Convention for the Protection of Human Rights and Fundamental Freedoms		4/11/1950	4/11/1950
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 26/4/2002	
009	Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms		20/3/1952	20/3/1952
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 26/4/2002	
010	Protocol to the General Agreement on Privileges and Immunities of the Council of Europe		6/11/1952	6/11/1952
		Ratification or accession: 25/6/2001	Entered into force: 25/6/2001	
018	European Cultural Convention		19/12/1954	19/12/1954
		Ratification or accession: 25/4/1997	Entered into force: 25/4/1997	
024	European Convention on Extradition		13/12/1957	13/12/1957
	Signature: 11/5/2001	Ratification or accession: 25/1/2002	Entered into force: 25/4/2002	
030	European Convention on Mutual Assistance in Criminal Matters		20/4/1959	20/4/1959
	Signature: 11/5/2001	Ratification or accession: 25/1/2002	Entered into force: 25/4/2002	
044	Protocol No. 2 to the Convention for the Protection of Human Rights and Fundamental Freedoms, conferring upon the European Court of Human Rights competence to give advisory opinions		6/5/1963	6/5/1963
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 26/4/2002	
045	Protocol No. 3 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 29, 30 and 34 of the Convention		6/5/1963	6/5/1963
	Signature: 25/1/2002	Ratification or accession: 26/4/2002	Entered into force: 26/4/2004	
046	Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto		16/9/1963	16/9/1963
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 26/4/2002	
055	Protocol No. 5 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending Articles 22 and 40 of the Convention		20/1/1966	20/1/1966
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 26/4/2002	
073	European Convention on the Transfer of Proceedings in Criminal Matters		15/5/1972	15/5/1972
	Signature: 8/11/2001	Ratification or accession: 17/12/2004	Entered into force: 18/3/2005	
086	Additional Protocol to the European Convention on Extradition		15/10/1975	15/10/1975
	Signature: 8/11/2001	Ratification or accession: 18/12/2003	Entered into force: 17/3/2004	
090	European Convention on the Suppression of Terrorism		27/1/1977	27/1/1977
	Signature: 8/11/2001	Ratification or accession: 23/3/2004	Entered into force: 24/6/2004	
098	Second Additional Protocol to the European Convention on Extradition		17/3/1978	17/3/1978
	Signature: 8/11/2001	Ratification or accession: 18/12/2003	Entered into force: 17/3/2004	



099	<a href="#">Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters</a>			17/3/1978	17/3/1978
	Signature: 8/11/2001	Ratification or accession: 23/3/2004	Entered into force: 21/6/2004		
104	<a href="#">Convention on the Conservation of European Wildlife and Natural Habitats</a>			19/9/1979	19/9/1979
	Signature: 13/3/2006	Ratification or accession: 14/4/2008	Entered into force: 1/8/2008		
106	<a href="#">European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities</a>			21/5/1980	21/5/1980
	Signature: 3/4/2002	Ratification or accession: 31/10/2003	Entered into force: 1/2/2004		
112	<a href="#">Convention on the Transfer of Sentenced Persons</a>			21/3/1983	21/3/1983
		Ratification or accession: 11/5/2001	Entered into force: 1/9/2001		
114	<a href="#">Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty</a>			28/4/1983	28/4/1983
	Signature: 25/1/2001	Ratification or accession: 29/9/2003	Entered into force: 1/10/2003		
117	<a href="#">Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms</a>			22/11/1984	22/11/1984
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 1/7/2002		
118	<a href="#">Protocol No. 8 to the Convention for the Protection of Human Rights and Fundamental Freedoms</a>			19/3/1985	19/3/1985
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 26/4/2002		
120	<a href="#">European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches</a>			19/8/1985	19/8/1985
	Signature: 26/5/2000	Ratification or accession: 23/3/2004	Entered into force: 1/5/2004		
122	<a href="#">European Charter of Local Self-Government</a>			15/10/1985	15/10/1985
	Signature: 11/5/2001	Ratification or accession: 25/1/2002	Entered into force: 1/5/2002		
126	<a href="#">European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</a>			26/11/1987	26/11/1987
	Signature: 11/5/2001	Ratification or accession: 18/6/2002	Entered into force: 1/10/2002		
135	<a href="#">Anti-Doping Convention</a>			16/11/1989	16/11/1989
	Signature: 26/5/2000	Ratification or accession: 23/3/2004	Entered into force: 1/5/2004		
141	<a href="#">Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime</a>			8/11/1990	8/11/1990
	Signature: 11/5/2001	Ratification or accession: 24/11/2003	Entered into force: 1/3/2004		
143	<a href="#">European Convention on the Protection of the Archaeological Heritage (Revised)</a>			16/1/1992	16/1/1992
	Signature: 26/5/2000	Ratification or accession: 17/12/2004	Entered into force: 18/6/2005		
147	<a href="#">European Convention on Cinematographic Co-Production</a>			2/10/1992	2/10/1992
	Signature: 26/5/2000	Ratification or accession: 17/12/2004	Entered into force: 1/4/2005		
148	<a href="#">European Charter for Regional or Minority Languages</a>			5/11/1992	5/11/1992
	Signature: 11/5/2001	Ratification or accession: 25/1/2002	Entered into force: 1/5/2002		
151	<a href="#">Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</a>			4/11/1993	4/11/1993
	Signature: 29/1/2002	Ratification or accession: 18/6/2002	Entered into force: 1/10/2002		
152	<a href="#">Protocol No. 2 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment</a>			4/11/1993	4/11/1993
	Signature: 29/1/2002	Ratification or accession: 18/6/2002	Entered into force: 1/10/2002		
155	<a href="#">Protocol No. 11 to the Convention for the Protection of Human Rights and Fundamental Freedoms, restructuring the control machinery established thereby</a>			11/5/1994	11/5/1994
	Signature: 25/1/2001	Ratification or accession: 26/4/2002	Entered into force: 26/4/2002		
157	<a href="#">Framework Convention for the Protection of National Minorities</a>			1/2/1995	1/2/1995
	Signature: 25/7/1997	Ratification or accession: 20/7/1998	Entered into force: 1/11/1998		



159	<a href="#">Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities</a>			9/11/1995	9/11/1995
	Signature: 3/4/2002	Ratification or accession: 31/10/2003	Entered into force: 1/2/2004		
162	<a href="#">Sixth Protocol to the General Agreement on Privileges and Immunities of the Council of Europe</a>			5/3/1996	5/3/1996
	Signature: 25/6/2001	Ratification or accession: 18/6/2002	Entered into force: 19/7/2002		
163	<a href="#">European Social Charter (revised)</a>			3/5/1996	3/5/1996
	Signature: 18/10/2001	Ratification or accession: 21/1/2004	Entered into force: 1/3/2004		
165	<a href="#">Convention on the Recognition of Qualifications concerning Higher Education in the European Region</a>			11/4/1997	11/4/1997
	Signature: 26/5/2000	Ratification or accession: 7/1/2005	Entered into force: 1/3/2005		
169	<a href="#">Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation</a>			5/5/1998	5/5/1998
	Signature: 3/4/2002	Ratification or accession: 31/10/2003	Entered into force: 1/2/2004		
173	<a href="#">Criminal Law Convention on Corruption</a>			27/1/1999	27/1/1999
	Signature: 15/5/2003	Ratification or accession: 9/1/2006	Entered into force: 1/5/2006		
174	<a href="#">Civil Law Convention on Corruption</a>			4/11/1999	4/11/1999
	Signature: 17/2/2004	Ratification or accession: 7/1/2005	Entered into force: 1/5/2005		
176	<a href="#">European Landscape Convention</a>			20/10/2000	20/10/2000
	Signature: 14/5/2003	Ratification or accession: 23/3/2004	Entered into force: 1/7/2004		
177	<a href="#">Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms</a>			4/11/2000	4/11/2000
	Signature: 18/6/2004	Ratification or accession: 17/12/2004	Entered into force: 1/4/2005		
185	<a href="#">Convention on Cybercrime</a>			23/11/2001	23/11/2001
	Signature: 23/11/2001	Ratification or accession: 12/10/2006	Entered into force: 1/2/2007		
188	<a href="#">Additional Protocol to the Anti-Doping Convention</a>			12/9/2002	12/9/2002
	Signature: 12/9/2002	Ratification or accession: 14/9/2006	Entered into force: 1/1/2007		
189	<a href="#">Additional Protocol to the Convention on cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems</a>			28/1/2003	28/1/2003
	Signature: 28/1/2003	Ratification or accession: 12/10/2006	Entered into force: 1/2/2007		
190	<a href="#">Protocol amending the European Convention on the Suppression of Terrorism</a>			15/5/2003	15/5/2003
	Signature: 15/5/2003	Ratification or accession: 23/3/2004			
191	<a href="#">Additional Protocol to the Criminal Law Convention on Corruption</a>			15/5/2003	15/5/2003
	Signature: 15/5/2003	Ratification or accession: 9/1/2006	Entered into force: 1/5/2006		
194	<a href="#">Protocol No. 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms, amending the control system of the Convention</a>			13/5/2004	13/5/2004
	Signature: 13/5/2004	Ratification or accession: 7/1/2005			
197	<a href="#">Council of Europe Convention on Action against Trafficking in Human Beings</a>			16/5/2005	16/5/2005
	Signature: 16/5/2005	Ratification or accession: 14/4/2008	Entered into force: 1/8/2008		



## Treaties signed but not ratified as of 10/5/2008

No.	Title	Opening of the treaty	Entry into force
031	<a href="#">European Agreement on the Abolition of Visas for Refugees</a>	20/4/1959	4/9/1960
	Signature: 11/5/2001		
116	<a href="#">European Convention on the Compensation of Victims of Violent Crimes</a>	24/11/1983	1/2/1988
	Signature: 8/11/2001		
121	<a href="#">Convention for the Protection of the Architectural Heritage of Europe</a>	3/10/1985	1/12/1987
	Signature: 17/5/2006		
138	<a href="#">European Convention on the General Equivalence of Periods of University Study</a>	6/11/1990	1/1/1991
	Signature: 26/5/2000		
167	<a href="#">Additional Protocol to the Convention on the Transfer of Sentenced Persons</a>	18/12/1997	1/6/2000
	Signature: 21/12/2006		
175	<a href="#">European Convention on the Promotion of a Transnational Long-Term Voluntary Service for Young People</a>	11/5/2000	
	Signature: 7/7/2005		
187	<a href="#">Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in all circumstances</a>	3/5/2002	1/7/2003
	Signature: 19/5/2006		
196	<a href="#">Council of Europe Convention on the Prevention of Terrorism</a>	16/5/2005	1/6/2007
	Signature: 17/11/2005		
198	<a href="#">Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism</a>	16/5/2005	1/5/2008
	Signature: 17/11/2005		
199	<a href="#">Council of Europe Framework Convention on the Value of Cultural Heritage for Society</a>	27/10/2005	
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**Note:** a range of general human rights reports from Human Rights Watch, International Helsinki Federation, Freedom House, Amnesty International, Fairfund, and others dated between 2000 and 2007 were studied and indirectly informed this report.

**LGBT people in Armenia suffer from a high level of hostility, discrimination, social exclusion, hate crimes and violence. Homophobia is deeply rooted in the Armenian society. Stigmatisation is so pervasive that most LGBT people are forced out of communities and deprived of any chance to openly express their sexual orientation or gender identity. And yet they are forced to come out and organise into associations and groups if they want to be able to stand up for who they are.**

**The joint ILGA-Europe and COC report is the first of its kind to be published about same-sex relationships and LGBT people in Armenia.**

**It explores identities, common human rights violations, the landscape of LGBT organising, health and HIV/AIDS, and relevant legal aspects. It also provides recommendations to the Armenian government, donors, LGBT activists and international organisations.**

