

Introduction

This submission by a group of civil society organizations summarizes their assessment on the state of economic, social, and cultural rights in Armenia, following the first cycle of the UPR review. Five years ago, during the previous review, Armenia was in the midst of a political and human rights crisis caused by fraudulent elections and deadly post-election violence. In addition to this political crisis of governance, Armenia was faced with the global economic crisis. Together, the convergence of these crises took an extremely heavy toll on socially vulnerable groups, as access to education, health; even food became scarce for large segments of the population. Unemployment and poverty rose dramatically.

Data from a nation-wide survey reveals that corruption is one of the five most important issues of concern to the population¹. The centralized oligarchic governance fosters and perpetuates the dominance of an informal economy, further depletes meager government expenditure for social and cultural spheres, posing not only unattended corruption risks, but also threats to social programs and cultural heritage. As a prime example, the National Assembly voted to eliminate unemployment benefits in the same session as they decided to increase government employee (and their own) salaries. Public opinion is not taken into account when deciding on cultural programs and expenditures. This is evident in two parallel processes currently taking place in Yerevan. First, despite massive public protests, City Hall decided to place a statue of Anastas Mikoyan (soviet time leader responsible for crimes of 1937) in the center of Yerevan. Simultaneously, again despite long-term protests and petitions, the “Afrikyan’s building” in the center of Yerevan, one of the few historic buildings remaining after the massive destruction of the historic center in 2006-2008, is being deconstructed and protesters are being detained and charged with criminal offenses.

¹ Transparency International, Global Corruption Barometer Armenia-2013. Retrieved from <http://www.transparency.org/gcb2013/country/?country=armenia>

WOMEN'S RIGHTS

Gender equality is not a political or policy priority for the government. This is evident in the inadequate measures in place for overcoming discriminatory practices that target women. The Law on State Guarantees of Equal Rights and Opportunities for Men and Women, adopted in 2013, established the first national-level policy and strategy on gender equality. It triggered fierce opposition and a smear campaign against women's organizations from nationalist groups and Kremlin-backed political technologists. The government refused to condemn the propagation of hate and to failed counter the spread of misinformation around the law, while the police refused to address the related reports, even when threats were voiced by MPs and other public figures.

Despite legislative guarantees provided by the Law on State Guarantees of Equal Rights and Opportunities for Men and Women, women comprise 10.69% of the Parliament, much lower than MDG targets. In the Executive branch, only 2 of 18 ministers and 7 out of 56 deputy ministers are women. There are no women regional governors, mayors, or deputy mayors, including in capital city of Yerevan.

Recommendations

- Amend Election Code, raising the quota for women's representation in political party lists in the proportional representation elections to 30 percent, and including a provision to the effect that in case an elected female MP resigns her mandate shall be transferred to the next woman on the party list.

Domestic violence is endemic, with neither adequate legal mechanisms to protect victims, nor a clear understanding of its scope. There are no support services for victims, with police discouraging them to file complaints in the first place. This leads to lack of data about domestic violence. According to police data, 766 domestic violence cases were registered in 2012 and 586 cases in 2013, whereas local NGOs claim this number to be more than 2000².

Investigation and judicial review of cases of domestic violence are marred by a lack of credibility. Victims and their families do not trust that justice will be served and the perpetrator will be held to account³. As such, the lack of a standalone law for comprehensive protection mechanisms is a serious challenge to combating domestic violence.

A law on domestic violence was due for adoption in 2010, a commitment undertaken during UPR's first cycle. The government argues, that there is no need for a stand-alone law on domestic violence, as the new Criminal Code and Law on Social Protection will address the issue. Given the gravity of the situation, and the lack of importance by law enforcement, a standalone law on domestic violence is indeed needed to provide full protections for victims.

Recommendation

² The data were publicly presented by Ms Nelly Durian, Police Colonel, Deputy Head of the Third Division of the Main Directorate for Criminal Investigations.

³ A recent case of an abused woman gained widespread public attention, as she escaped her husband after 9 years of marriage finally found the courage to press charges against him. The investigation of this case was particularly difficult, since the abuser and his family are well known and connected to key decision makers – including local police who double victimized the survivor on every occasion.

- Adopt a standalone law to combat domestic violence, wherein violence against women will be qualified as a criminal and civil offense subject to prosecution and punishment.

Women in Armenia continue to face high unemployment and unequal pay. Women account for 71% of the officially-registered unemployed. Women's unemployment among the most active employment age group (ages 30 to 39) is more than 60%³. This problem is a result of irregular and unequal economic development in the past few years the number of unemployed women in Armenia increased by over 5,000, whereas the number of unemployed men decreased almost equally. The gender analysis of unemployment reveals also the importance of age and marital status: while for young men and women aged 15-24 the likelihood of finding a job is almost the same, the risk of becoming unemployed and ending up in poverty is twice as high for women than men in age groups 40-44, 45-49 and 50-54.

Women's average monthly salary is 64.4% of men's. The gender wage gap results from a concentration of women in low-paid work places or sectors such as healthcare, education, science and culture. The public sector does not provide career growth and decent wages, which leads to an outflow of qualified workforce and a deterioration of performance.

Recommendations

- Adopt specific legislative norms to expedite the elimination of employment discrimination against women and to attain de facto equal opportunities for women at all levels of the labor market.
- Government should introduce quotas in line with the principle of positive actions to ensure adequate presence of women at the top level of management in economy and state-run organizations and in companies' boards of directors with the involvement of the state and communities.

RIGHTS OF THE CHILD

Legislation regulating children's rights is vague and does not guarantee mechanisms for full protection. Following Armenia's review in 2012 under CRC, the government adopted a new National Program on the Protection of Children's Rights for 2013-2016. The new Program is aimed at restructuring and strengthening the supervisory role of the National Committee for Child Protection. The restructuring aimed to ensure the committee had the required authority and adequate resources to effectively coordinate actions for children's rights. But this aim has not been achieved as the Committee, chaired by the Ministry of Labor and Social Issues, still has a very formal approach to its functions, and does not ensure its adequate functioning⁴. The Family Code and the Law on the Rights of the Child include a prohibition on physical abuse and violence against children, but do not define or specify the types of violence, and do not provide working mechanisms for reporting cases of abuse. Criminal cases of child abuse/domestic violence are usually not initiated, due to a lack of inadequate specialists and alternative methods for child protection. In many cases, specialists working with abused children have to agree with the preconditions of the family and with the preferences of the child, given that placing the child in the corresponding institutions may be more traumatic for the child. The child returns home and shortly thereafter is faced with the same situation.

Legislation does not regulate comprehensive services for the care, rehabilitation and return to society of children subjected to different types of violence or abuse. Over the past several years there has been an increase of reports of child abuse, but the reports do not get an adequate or speedy response from the authorities. Instances of child abuse and violation were reported recently by the group of teachers at the Byureghavan residential school⁵. Teachers published an open letter where they described, in detail, the various types of violations, and abuse against the children, inflicted by the school principal Gayane Margaryan. Investigations by journalists reveal that G.Margaryan was under the patronage of state officials from the Ministry of Labor and Social affairs who were actively protecting her and trying to pressure the students and employees to withdraw their testimonies. Later, a group of NGOs and individual human rights activists disseminated the open statement⁶ to the Prosecutor General of Armenia about the situation in the school, and demanded a transparent and impartial investigation of the case. With the personal intervention of the newly-appointed Prime Minister, several officials of the Ministry of Labor and social issues were reprimanded and the school principal was fired. While a criminal proceeding is currently underway, there are no charges for the abuse and ill treatment against the students⁷.

Recommendations

- Implement all recommendations of concluding observations in the CRC review.
- Develop indicators to measure the factual progress towards implementation of the 2013-2016 Strategy on the Protection of the Rights of Children and take necessary actions to enable operation of National Committee for Child Protection.

⁴ Statute of the National Committee for child Protection. Retrieved from https://www.e-gov.am/u_files/file/decrees/varch/2012/12/12_1295.pdf

⁵ 168 hours online. Retrieved from <http://168.am/2014/04/04/349231.html>

⁶ 168 hours online. Retrieved from <http://168.am/2014/04/23/356922.html>

⁷ Hetq online. Retrieved from <http://hetq.am/arm/news/54030/byurexavani-gisherotik-hastatutyan-tnjuky-inchu-e-pokhnakharar-berikyany-pashtpanum-tnorenin.html/>

168 hours online. Retrieved from <http://168.am/2014/04/08/350754.html>

- Establish and ensure operation of juvenile justice system, including specialized juvenile justice courts and properly trained judges.
- Ratify the Optional Protocol to the Convention on the Rights of the Child.

RIGHT TO HEALTH

While the right to health is guaranteed by law, discrimination in access to health care is widespread, with socially marginalized or vulnerable groups being denied services, or being disproportionately affected due to high costs⁸. While free medical care for socially vulnerable and marginalized groups is guaranteed by the state, there are no effective mechanisms to ensure this right. A government subsidized co-payment system has been in place since 2011, at a minimum 50% of cost. Given the 32.4% poverty in 2012 compared to 17.4% in 2008 and simultaneous sharp rise of diseases⁹, the co-payment system is an immense burden for vulnerable groups and can cause dramatic and irreversible harm to one's health in the long-term.

Access to community based services for people with mental disabilities remains a problem, despite ratification of the CRPD and the National Mental Health Strategy. Mental health services are still provided in psychiatric institutions, where involuntary institutionalization is practiced and leads to the ill-treatment and abuse of patients. Many patients undergo compulsory treatment by court order and may be released only through a court application filed by the administrator of the hospital where treatment is provided. During 2010-2013, courts throughout Armenia received 190 requests for compulsory treatment of citizens in psychiatric hospitals: 151 of the applications were granted and 39 rejected.¹⁰ Existing medical and legal provisions on compulsory treatment for people with mental disabilities result in a violation of the right to liberty, as there are no direct mechanisms for an affected individual to seek a review of institutionalization.

Recommendation

- Ensure access to state alternative care services, guaranteed by RA Mental Health Strategy for 2014-2019 adopted on April 23, 2014, for people with mental health problems.

Injecting drug users (IDUs) often experience barriers to accessing the methadone substitution program (MST). The MST National Clinical Guidelines and the practices applied in the MST program do not correspond with the WHO recommendation and bring to violation of patients rights to access the program. It also discourages people from seeking treatment for drug dependence. Prescription of methadone, an essential medicine that relieves cravings for injections of heroin and other opioids, are strictly controlled by police. Police have access to the confidential personal and medical data of patients¹¹. They also sit on the Selection Committee and make decisions regarding the admission of patients¹². This practice continues, despite repeated requests from health advocates to protect confidentiality. The detection by physicians of illicit drugs in urine tests of IDUs is also controlled by police and leads to administrative fines. The period between submitting an application and the actual start of treatments for patients takes often a month or longer, which also contradicts the WHO recommendations.

⁸ ICESCR; ECHR; ESC (1996), CRPD, CEDAW, CRC, ICCPR

⁹ National Statistical Service of the Republic of Armenia, press release, November 26, 2013. Retrieved from <http://www.armstat.am/file/doc/99477213.pdf>

¹⁰ Republic of Armenia Judicial Department, reports on the examination of civil cases in 2010, 2011, 2012, and 2013.

¹¹ Report on Visit to Armenia's First Methadone Maintenance Program (MMTP) December 7-10, 2009 By Holly Catania, Consultant to OSF-Armenia

¹² The Police is presented in the commission in Yerevan. In penitentiary institutions the commission includes representatives of the prison administration.

The government initiated a number of legal and policy reforms to integrate palliative care into the general health care system. A National Palliative Care Concept was adopted and the essential medicine list was revised to include short and long acting opioids. The Law on narcotic drugs, the national pain management guidelines, and the palliative care standards have all been developed, but are still waiting for government adoption. Yet essential pain relief medications are still very difficult to obtain, and achieving pain control outside the hospital setting is nearly impossible due to restrictions in how pharmacy rules and regulations are practiced. Moreover, based on the existing practices the palliative care providers must report all patients who receive morphine, to the police. This is a violation of a patient's right to privacy, which is protected both by national legislation and international law¹³. Although thousands of people in the country suffer from severe pain due to excessively restrictive drug regulations and lack of adequate pain relief, there was a decline in registered injectable morphine in 2014¹⁴.

Recommendation

- End the participation of law enforcement officials in the MST Selection Committee and harmonize MST National Clinical Guidelines with WHO¹⁵ recommendations.
- Register, purchase, and prescribe oral morphine for pain treatment of people with life-threatening illness.

The quality of the medical services in penal institutions and the army is poor, as these institutions lack necessary personnel and equipment to provide quality services. The detainees are forced to pay 50,000-60,000 drams (more than 100 euro) a month for being hospitalized, and an extra 5000 drams (about 10 euro) or 10 liters of petrol for the transfer to the hospital. There is a lack of comprehensive examination at the stage of conscription and there are no regular checkups during service, which leads to a deterioration in the health situation in the army. This is evidenced by the frequency of health-related complaints by conscripts and servicemen. In 2010-2013, out of 112 conscripts and servicemen who applied to Helsinki Citizens' Assembly-Vanadzor NGO, 80 had health related issues including inadequate medical examination or treatment. Moreover, due to the lack of quality healthcare, 17 servicemen died during military service in 2010-2013. It should be noted that the number of death cases due to poor healthcare increased by 50% in 2012-2013 as compared to 2011.

Recommendation

- Ensure access to state free quality health care for detainees and conscripts as guaranteed by the Government Decree N 318-N.
- Ensure that allegations of the ill treatment of persons detained by the security/police forces are investigated and that perpetrators are held accountable (UPR 2010, rec. 26).¹⁶

¹³ Article 145 of the RA Criminal Code provides for liability for disclosing information about a patient's illness or the results of medical tests, by the medical personnel, without professional or official need. Human Rights in Patient Care: A Practitioner Guide, Armenia 2010. Retrieved from http://www.healthrights.am/docs/pg_eng.pdf

¹⁴ The Armpharmacy data shows 24% decline in consumption/distribution of morphine to the ambulatory patients in Yerevan in 2013 (21,868) versus 2012 (28,725 ampoules). In addition narcotics quota for 2014 is too low (4500 g. of morphine)¹⁴ and only 250 people out of 2500 currently can access adequate pain medication.

¹⁵ Guidelines for the Psychosocially Assisted Pharmacological Treatment of Opioid Dependence, Retrieved from http://www.who.int/substance_abuse/publications/opioid_dependence_guidelines.pdf

¹⁷ *Ashot Harutyunyan v. Armenia (2010)*, Application No. 34334/04, Eur. Ct. H.R. (Inadequate medical care in detention facility—Art. 3/violation/). Retrieved from [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-99403#{ "itemid": "001-99403" \] }](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-99403#{)

¹⁶ UPR Watch. Retrieved from <http://www.upr-epu.com/ENG/country.php?id=173>

The right of elderly pensioners to free medical care in medical institutions is supposed to be guaranteed by the state. This right is regularly violated due to delays in the provision of the free medication in polyclinics¹⁷. The elderly are often forced to make informal payments for medication and for hospital services.¹⁸ Mandatory periodical medical examinations for children with disabilities¹⁹ are not conducted in due time and with good quality.

There is a persistent stigma against PLWHA (total number approximately 3,500 in Armenia), which results in their being denied medical treatment and essential medication²⁰. The RA decree on the list of free drugs²¹ does not include availability and accessibility of antiretroviral treatment (ARV).²² HIV testing is not properly available in regions; anonymous HIV testing is available only in one site in Yerevan.

Recommendations

- Ensure access to state free health care for socially vulnerable and specific groups of the population, as guaranteed by the Government Decree N 318-N.
- Guarantee proper access to anonymous and confidential HIV testing and ensure ARV treatment.

¹⁷ Right to free medication is guaranteed to pensioners with no immediate family, or over the age of 75

¹⁸ The data collected by Mission Armenia NGO, <http://www.mission.am/en/index.php>

¹⁹ Monitoring reports of the Independent Civil Society Monitoring Group from 2010-2011, 2012, 2013

²⁰ National Center for AIDS Prevention, Ministry of Health of the Republic of Armenia, "Statistics: HIV/AIDS epidemic in the Republic of Armenia." Retrieved from http://armaids.am/main/free_code.php?lng=1&parent=3

²¹ RA Decree N 1717-N, "On adopting the list of diseases and social groups of population entitled to free or privileged purchase of medicines" Retrieved from http://www.healthrights.am/docs/pg_eng.pdf

²² Due to late diagnosis of half of all registered HIV cases in 2012, 9.2% of people died within 3 months after diagnosis.

RIGHT TO LIVE IN A HEALTHY AND SAFE ENVIRONMENT

Armenia has not adopted a new Environmental Impact Assessment Law, which is an outstanding WB commitment since 2003. Although Armenia has ratified the Aarhus Convention, there is still a lack of public participation in environmental decision-making. Transparency of policies regulating resource exploitation remains an outstanding issue. Intensive exploitation of natural resources continues and the decisions on resource governance serve the interest of a small group, without any consideration for sustainable development or the long-term public good.

Armenia continuously fails to honor its commitments under the three pillars of the Aarhus convention. The government does not pro-actively provide the public with information on environmental pollution and its risks. The Ministry of Nature Protection does not oblige entities generating hazardous waste to present data on their waste generating activities and consequences. The 2012 Current Report of the Chamber of Control²³ revealed that 79 percent of the entities generating hazardous waste have not submitted any information to the Ministry, which also contains corruption risks. Mining companies violate the exploitation quota set in their licenses.²⁴

The right of citizens to participate in the decision-making process is continuously violated. Public hearings do not guarantee informed participation by the community due to a lack of legislation on the procedure for public participation in environmental decision-making²⁵. Environmental NGOs are denied access to courts when challenging unlawful decisions.²⁶ Committee recommended an amendment to the Law on NGOs and the Administrative Procedure Code, to give NGOs the right to challenge administrative authorities in court. Armenia has failed to take any steps towards implementing the recommendations of the Compliance Committee.

Recommendations

- Adopt legislation prescribing the right of environmental NGOs to access courts in matters of public interest litigation related to the environment.
- Stop the unlawful operation of the Teghut Mine, in order to fulfill Armenia's international commitments reaffirmed by the decisions of the Compliance Committee.
- Ratify the Protocol on Pollutant Release and Transfer Registers and create a publicly-accessible database on the existing toxic pollutants in line with the Protocol.

Expansion of mining, irresponsible construction on small hydropower plants and the rise of fish farms pose a threat to the quality and access to water in Armenia. Mining²⁷ activity leads to river pollution, particularly for Debed, Vokhchi, and Arax trans-boundary rivers.

²³ Chamber of Control of the Republic of Armenia, Current Report on "Findings of the Audit of Utilization (processing, neutralization, storage, transportation, and placement) of Hazardous Waste in the Republic of Armenia." Approved by Decision 3/4 of the Chamber of Control of the Republic of Armenia dated 10 February 2012.

²⁴ Based on data provided to environmental groups by the Ministries of Nature Protection and Energy and Natural Resources

²⁵ ACC/C/2009/43 of the Aarhus Convention Compliance Committee

²⁶ The decision ACCC/C/2011/62 of the Aarhus Convention Compliance Committee dated 16 July 2013

²⁷ Alaverdi Copper Smelter Plant ("Armenian Copper Program" LLC), the Akhtala Mining and Processing Plant ("Metal Prince" LTD), the Zangezur Copper and Molybdenum Plant (60% owned by CRONIMET Mining GmbH), the Kapan Mining Enrichment Plant ("Dundee Precious Metals Kapan" CJSC), and the Agarak Copper and Molybdenum Plant ("Geopromining Gold" LLC).

Despite the specific prohibition²⁸ on processing activity in the Lake Sevan basin, the Lake is polluted by the activity from the Sotk gold mine²⁹. The company has installed a crushing and sorting facility in the basin and according to civil society data, two rivers of the Sevan basin already have a high arsenic, antimony and other highly toxic metals inflowing from the mine. Another mining project, the Amulsar Gold Mine,³⁰ is a potential threat, and the Ministry of Environment's approval of the environmental component of the mining project came despite the negative assessment of the Expert Committee for Conservation of Lake Sevan. Sevan is also threatened by the expansion of a fishing farm which plans to dispose artificial forage enriched by nitrogen and phosphorus. According to experts, this will lead to eutrophication of the Lake³¹.

With the aim of fostering fish farm development, the government has authorized a large number of wells in Ararat valley, which in turn has led to the depletion of underground water resources. The government's authorization came without any environmental impact analysis and resulted in the reduction of water resources needed both for irrigation of the valley and for household consumption³². Excessive reliance on small hydropower plants (SHP) also puts Armenia's rivers in danger, as shown by the research³³. There are more than 150 SHPs, with 100 SHPs on 47 rivers alone; 16 of these rivers are in catastrophic conditions as a result, and 3 are in critical condition.

Recommendations

- Stop issuing permits for new metal mines until proper environmental impact assessment methodologies are developed.
- Enforce Article 10 of the Law on Lake Sevan and prohibit any processing activity in the Sevan basin.
- Adjust the small hydro-power plant development scheme by setting out clear limitations for their construction, taking into account the need for protecting water ecosystems and water quality.
- Set a quota on the use of underground water resources in the Ararat Valley to safeguard against water use in excess of the renewable resource.

²⁸ Article 10 of Law on Lake Sevan

²⁹ The Sotk gold mine is operated by "Geopromining Gold" LLC.

³⁰ Amulsar project is planned through open-pit mining and ore enrichment on the site.

³¹ Ecolur NGO <http://www.ecolur.org/en/news/sos/initiators-to-make-sevan-a-fish-farm-didnt-convince-environmentalists/5723/>

³² Public Radio of Armenia. Retrieved from

<http://www.armradio.am/hy/2014/03/18/%D6%83%D5%B8%D5%AD%D5%BE%D5%A1%D6%80%D5%B9%D5%A1%D5%BA%D5%A5%D5%BF-%D5%A1%D6%80%D5%A1%D6%80%D5%A1%D5%BF%D5%B5%D5%A1%D5%B6-%D5%A4%D5%A1%D5%B7%D5%BF%D5%A1%D5%BE%D5%A1%D5%B5%D6%80%D5%AB-%D5%BD/>

³³ V. Burnazyan, Grigoryan, Eritsyan and Zarafyan; Analysis of Socio-Economic impact of small hydro power plants

http://www.osf.am/wp-content/uploads/2014/05/Victoria_Burnazyan_Policy_paper.pdf

RIGHT TO EDUCATION

Despite reforms, numerous studies point to³⁴ a degradation in the quality, access, and equity of education. The legislation regulating the education sector is insufficient and leads to unnecessary state interference over the finances, governance, management appointments, specializations, and admissions of educational institutions.

The 2013 Transparency International Global Corruption Barometer indicated that 59% of the population perceives education as the second most corrupt sector in the country. This endemic corruption translates into restrictive access to quality education for a majority of the population and especially for 32.4% of the population living at or below the poverty line³⁵. At the same time, education expenditures are continuously declining and in the next three years will go down to 2.56 percent of GDP. However, the 2011-15 State Program on Education Development had envisioned that in 2015 education expenditures allocated from the state budget would constitute 4%.

There are no equal opportunities for access to school and university education for vulnerable groups, such as children from poor families, from remote rural areas, or those belonging to minority groups. High school education is largely inaccessible for students from rural areas. Only 7 out of 109 public high schools are in villages³⁶. In rural areas there are schools working based on outdated 12-year curriculum. These schools do not comply with the government's plan to transfer to credit system. Graduates of high schools will have twice the advantage over those in the 12-year curricula schools. Given the higher rates of poverty and vulnerability in rural areas, professionally and technically lower capacities compared to their urban counterparts, the disadvantage is much greater and the risks for further limiting access to higher education is greater.

Governmental control of the education system is a major obstacle to increasing accountability and quality improvement³⁷. The political elite are represented in the governing boards of universities, schools,³⁸ and education management agencies³⁹. Political control is exercised by a 70% of membership to the ruling party by school principals, and results in systemic abuse for political purposes during elections⁴⁰. Secondary educational institutions and their employees

³⁴ Kataoka, Sachiko; Shahverdyan, Anush; Harutyunyan, Hovhannes. 2013. Addressing governance at the center of higher education reforms in Armenia. Washington DC. World Bank. Retrieved from <http://documents.worldbank.org/curated/en/2013/01/17748657/addressing-governance-center-higher-education-reforms-armenia>.

³⁵ Armenian Statistical Service. Retrieved from http://www.armstat.am/file/article/poverty_2013a_2.pdf

³⁶ Distribution of general education institutions in Armenia in 2013-2014 per educational programs available in urban and rural areas. Retrieved from <http://stat.amedu.am/?section=content&id=63&year=2013>

³⁷ Liviu, M., Iwinska J., Geven K. Higher Education in Armenia Today: a focused review. Budapest 2013. CEU Higher Education Observatory.

³⁸ State Policy on General Education Financing. 2013. Communities Finance Officers Association. Retrieved from <http://www.osf.am/wp-content/uploads/2013/11/State-Policy-on-General-Education-Financing.pdf>

³⁹ Kataoka, Sachiko; Shahverdyan, Anush; Harutyunyan, Hovhannes. 2013. Addressing governance at the center of higher education reforms in Armenia. Washington DC. World Bank. Retrieved from <http://documents.worldbank.org/curated/en/2013/01/17748657/addressing-governance-center-higher-education-reforms-armenia> In higher education, the accreditation agency for external quality assurance shows direct conflict of interest in decision making being chaired by the Prime Minister, the latter chairing the board of the Armenian State Pedagogical University.

⁴⁰ Policy Forum Armenia 2013. Corruption in Armenia. p31. Retrieved from: <http://www.pf-armenia.org/document/corruption-armenia>

serve as an important administrative resource that is systematically and vastly abused for political ends during elections⁴¹.

Recommendations

- Adopt legislative and policy changes preventing executive control and corruption in education.
- Establish participatory mechanisms to ensure transparency and accountability for education processes and decision making.
- Adopt policy measure to ensure equal access to general education services, including access to high schools for all children, irrespective of geographical area, ethnicity and gender.
- Ensure that all newly developed and/or revised education content reflect fundamental human rights values in addition to meeting academic subject requirements.
- Guarantee academic independence, integrity, and research schemes by revising education financing mechanisms and methodology of allocation of financial resources to education institutions.

In February 2013, the Parliament adopted new amendments to the Laws on Education and on Mainstream Education, according to which the entire mainstream education system is to become inclusive by 2022. Neither education experts, nor the representatives of the Ministry of Education and Science, and the Ministry of Finance can forecast the dynamics of inclusive schools. The state budget can only accommodate 1400 inclusive schools. There are no principal financing mechanisms to guarantee full inclusion.

Recommendation

- Ensure development of the strategy and action plan for realization of the mainstream education reform towards overall inclusiveness, and enable large civil society community to participate in this process.

⁴¹ Republic of Armenia Parliamentary Elections. 2012. OSCE/ODIHR Election Observation Mission. Final Report. Warsaw. p12; Republic of Armenia Presidential Elections 2013. OSCE/ODIHR Election Observation Mission. Final Report. Warsaw. pp 12-13; Observation of the Parliamentary Elections in Armenia. 2012. Council of Europe.pp30-38

RIGHT TO WORK

Armenia has ratified a number of international commitments to assure the protection of employees' rights. Nevertheless, application of labor contracts, work conditions, minimum pay and right to rest remain problematic.

The 2013 conclusions of the ECSR⁴² reveal that Armenia is not in conformity with the ESC⁴³. Specifically, it fails to conform in the areas of adequate occupational health and safety policy, sufficient personal coverage of medical care, adequate minimum level of old age benefit, adequate level of social assistance paid to a single person without resources, and adequate social assistance for elderly people without resources.

Labor Inspectorate, which was to oversee the implementation of labor legislation, has been merged with the Inspectorate on Hygiene and Epidemics in 2013, under the auspices of the Ministry of Health. Although labor rights protection falls within the mandate of this new oversight body, 90% of its functions remain in health and safety issues⁴⁴. The situation is exacerbated by the lack of independent trade unions, and other mechanisms for the protection and restoration of rights.

Most laborers are socially vulnerable and poorly informed on their rights, so violations often do not escalate into conflict. HCA monitoring confirmed a lack of labor contracts and violations of contracts as a widespread problem. The monitoring also revealed the widespread practice of prescribing penalties for violations of arbitrary rules set by the employer, which is prohibited by legislation⁴⁵.

Most contracts are signed for fixed terms, in violation of legislation. Fixed-term contracts lead to negative consequences for workers, by increasing the vulnerability of the worker and keeping them dependent on a contract renewal. Educational institutions generally violate regulations by signing contracts for a period of 9-10 months. In these cases, the workers do not get payable holidays, and employer foregoes social payments for 2-3 months and employment history for that period.

Right to rest is problematic in cases of service providers such as supermarkets, taxi services. HCA's monitoring shows that taxi drivers work 24 hours with little or no rest; the shifts in supermarkets are organized in such a way that the rest time for the workers is significantly below the standard set in law; vacation and days off are either denied or provided sporadically.

Tax legislation creates a big burden for the employees that wish to follow the regulations by registering their workers and paying social and other obligatory payments. For small and medium businesses, it simply becomes unprofitable to follow regulations.

Discrimination towards persons with disabilities is largely conditioned on the absence of technical support to satisfy the special needs of the persons. As of 1 January 2014, 91% of

⁴² European Social Charter (revised), European Committee of Social Rights, Conclusions 2013, Armenia. Retrieved from http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/State/Armenia2013_en.pdf

⁴³ European Social Charter (revised) 1996

⁴⁴ Only one of the 10 departments of this Inspectorate is dedicated to issues of labor rights, meaning that 90% of the work of the inspectorate is focusing on health issues.

⁴⁵ Labor Code of RA, Articles 231-241

employable persons with disabilities were unemployed.⁴⁶ According to CDC⁴⁷, 20 school teachers were fired from their jobs because of their adherence to church other than AAC⁴⁸⁴⁹.

Recommendations

- Create a separate government entity with a specific mandate for effective oversight over labor rights.
- Amend the RA Labor Code to set clear criteria for concluding a specific-term employment contract.
- Adopt measures that prevent discrimination in employment.

⁴⁶ Disability Armenia online. Retrieved from <http://disabilityarmenia.am/am/10/free.html>

⁴⁷ Collaboration for Democracy Centre

⁴⁸ Armenian Apostolic Church

⁴⁹ Collaboration for Democracy Centre. Retrieved from <http://www.religions.am/arm/news/>

RIGHT TO PROPERTY

Property right violations are widespread but there are no adequate legal remedies to restore violated rights, as the government fails to implement ECHR decisions. The Law on Alienation of Property for Society and State Needs sets a vague framework for defining eminent domain. The notion of the “society and state needs” and the underlying “exclusive supreme public needs” are continuously misinterpreted by the government. This is used as grounds for unjustified alienation of private property, commonly without due compensation, and its reallocation to private business projects, usually run by individuals or companies having links to high-ranking officials or offshore zones. Decisions on eminent domain frequently take place in violation of legal norms, however, there are no cases when the courts have ruled in favor of the owners of the property and/or put in question the decisions of government institutions.

According to the Law, the state does not provide guarantees for the protection of the rights of its citizens whose property is alienated for ‘society and state needs’. While the government is the decision maker, the contracts on the transfer of property are signed between the former and new owners, and the government rejects any responsibility. There are hundreds of homeless victims of ‘state needs’ who have been cheated by companies that have promised replacement apartments have not been constructed on time, have sold single units to multiple owners, or have simply declared bankruptcy to forgo other contractual obligations. There are 365 property owners who became homeless as one of the companies declared bankruptcy,⁵⁰ several failed to construct new estates in exchange of the confiscated ones,⁵¹ while others have sold out the ready apartments to multiple owners.⁵² Thirty four families in Syunig Marz have been deprived from their private lands for the construction of a road in 2005 without prior notice and contract. Promises of compensation are still pending and the residents are charged property tax for their lost lands.⁵³

ECHR adopted about 10 decisions that recognized the infringement of rights of the victims of eminent domain in the center of Yerevan, but this has not yet resulted in any systemic change. In one case, the government did not compensate the amount prescribed for the destruction of the property of citizens.⁵⁴ In other instances, in violation of the decision on friendly settlement, the government proposed to applicants some apartments in the newly constructed private houses, which had in fact already been sold out to different people.⁵⁵

Public property is managed and alienated without public participation in the decision-making process. Public organizations are denied legal standing for public interest and resource-related issues. In September 2010 the Constitutional Court expressed its positive opinion on providing access to justice of NGOs in certain areas, if protecting these rights are included in their respective charters, and in cases where the lower courts have been ineffective.

Recommendations

⁵⁰ “Downtown Yerevan” cjsc

⁵¹ “E MC” cjsc, “City Center Development” cjsc, “Lider Mobil” ltd, “Grandinvest” ltd, “Dvin Holding” ltd, “Region Invest” ltd, “Local Developers” ltd, “Narekgrad” ltd

⁵² “Gapbnakshin” ltd, “Narek-Shelter” ltd, “Local Developers” ltd

⁵³ Azatutyun online. Retrieved from <http://www.azatutyun.am/content/article/25301611.html>

⁵⁴ *Tunyan and others v. Armenia* ECHR

⁵⁵ *Baghdasaryan and Zarikyants v. Armenia, Ghasabyan and others v. Armenia*, ECHR

- Amend Law on Alienation of Property for Society and State Needs to clarify the grounds for recognition of the 'exclusive supreme public need', mandate due justification and stakeholder participation in the assessment of 'needs', ensure guarantees by the state for ensuring due compensation for alienation of the private property and compliance of developers with terms of contracts.
- Ensure adequate redress to all persons affected by expropriation of private property through adequate compensation for loss and damage.
- Provide legal standing to NGOs to challenge unlawful acts of respective administrative bodies related to alienation or misuse of public property.

CULTURAL RIGHTS

Armenia has ratified a number of international conventions to ensure the protection of cultural rights, including the CESCER, the Convention for the Protection of the Architectural Heritage of Europe; the right is also ensured through Article 40 of the Constitution. The Law on Protection and Use of Irremovable Historical and Cultural Monuments and Cultural Environment and practice does not comply with the international standards for protection of monuments.⁵⁶

In the early 2000s, the Government made a number of decisions to allocate the historical center of Yerevan for construction of multi-story buildings to companies related to high-ranking officials or offshore registered organizations. As a result, about 29 historical architectural buildings were destroyed, about a dozen were demolished and rebuilt in a deformed shape and 14 were listed for displacement. Moreover, an additional 15 monuments subject to protection are endangered as their respective land plots have been allocated for construction. The government and Yerevan Municipality have not honored their promises to recover some of the demolished buildings. The government has not updated its legislation, nor has it revised its decisions to comply with the Convention for the Protection of the Architectural Heritage of Europe (ratified by Armenia in 2008), which would save at least 24 of the still standing monuments, given that the Convention prohibits ‘the removal, in whole or in part, of any protected monument except where the material safeguarding of such monuments makes removal imperative.’ Instead, it continues passing decisions on land allocations containing historical-cultural monuments, for modern constructions.⁵⁷ Furthermore, there are dozens of buildings that were previously listed as protected monuments, which have been removed and thus are no longer subject to protection.

Although the Law on the Protection and Use of Irremovable Historical and Cultural Monuments and Cultural Environment stipulates the instances when protected monuments may be removed, in practice the government’s practice of moving immovable monuments is in violation of the Law. During 2010-2011, the Government decided to move 4 frescos, listed under immovable monuments, from Gyumri to Yerevan. Similarly in 2012, it made decisions to remove 63 irremovable monuments that are 6000 years old from their historical sites, for 4 years.

In 2012-2013, the Covered Market in the center of Yerevan, was voluntarily deformed in violation of the law⁵⁸ to serve as a supermarket owned by a Member of Parliament. Throughout all of this, the Ministry of Culture has remained silent, yet it has been principle initiator in moving the frescos from Gyumri to Yerevan, as well as for the construction of a cafe in the protected zone of an antic temple dated to 1st century AC. At the same time, the Ministry lacks authority to oversee monuments that are under the auspices of other institutions, such the Armenian Apostolic Church, and does not oversee renovation activities of churches subject to protection.

Recommendations

- Redefine in the national legislation the concepts of cultural heritage and cultural rights in accordance with international standards, revise criteria for the inclusion of items within the

⁵⁶ Convention for the Protection of the Architectural Heritage of Europe prohibits the removal, in whole or in part, of any protected monument except where the material safeguarding of such monuments makes removal imperative

⁵⁷ RA Government Decision N958-N from 29.08.2013

⁵⁸ Law on Law on Protection and Use of Irremovable Historical and Cultural Monuments and Cultural Environment

list of protected monuments, and fill in the legislative gaps to strengthen the oversight of respective institutions and escalate the liability for destruction or damage.

- Amend RA Law on Protection and Use of Immovable Historical and Cultural Monuments and Historic Environment to prohibit the removal of any protected monument, in whole or in part, except where the material safeguarding of such monuments makes removal imperative, revise the criteria for inclusion of buildings within the list of protected monuments, strengthen the oversight over the use of historical and cultural monuments and strengthen the liability for destruction or damage of those.
- Annul government decisions implying the removal, demolition and/or deformation of immovable monuments and ensure their exhibition in the areas of their historical location.