

Statement
Right Side Human Rights Defender NGO
Armenia

Right Side is a community based, democratic, human rights defender NGO, founded in January 2016 by trans activists in Armenia. It is the first and only NGO, run by and for trans people and sex workers in Armenia and in the South Caucasus region. Right Side works on national level and in Nagorno Karabakh Republic, which is conflicted area between Armenia and Azerbaijan.

The parliamentary hearings on UPR were scheduled on 5th of April 2018, every stakeholder has an opportunity to register for the event, when after the speech of Lilit Martirosyan the Chairperson of the NA Standing Committee on Protection of Human Rights and Public Affairs Naira Zohrabyan cried out loudly that the issues of transgender people had not been on the agenda as no one is violating their rights and talking about that topic is disrespectful to her and to the parliament. At the same time the new agenda was provided only in the morning, including discussions about reforms in the area of justice and rights. After the speech, ant trans demonstration was organized in front of the parliament with priests. Lilit martirosyan, the NGO staff, their family members were targeted to death threats and hate speeches. State bodies failed to ensure the safety and security, and the targeted people had been evacuated from the country. Police did not initiate criminal cases based on the death threats and hate speeches reports.

Previous recommendations

- Adopt and effectively implement legislation to ensure equal treatment of persons with disabilities in accordance with CRPD, as well as prohibit discrimination based on sexual orientation and gender identity and provide effective protection to LGBT persons - **Austria**
- Elaborate a gender-sensitive approach in the programmes and policies which address human rights discrimination and take the necessary actions to raise awareness on attitudes and stereotypes targeting women and sexual minorities in society- **Albania**
- Develop and adopt suitable legislative and administrative measures to combat discrimination against women, and discrimination and violence against LGBTI person - **Argentina**
- Provide effective protection of LGBT persons from discrimination - **Slovenia**
- Combat all forms of discrimination, including those relating to sexual orientation and identity - **France**
- Enact specific legislation that prohibits discrimination against persons based on sexual orientation - **Canada**
- Adopt effective measures to ensure the eradication of all forms of discrimination based on sexual orientation and gender identity - **Chile**
- Combat hate propaganda and incitement against minority groups, especially LGBTI persons, religious minorities, AIDS patients and persons with disabilities through the adoption of a comprehensive package of laws and effective mechanisms to combat discrimination, including in the public administration - **Spain**
- Take appropriate measures to guarantee that lesbians, gays, bisexuals, transgender and intersex persons are not subjected to discrimination, both in law and in practice - **Uruguay**

- Ensure appropriate training is provided to officials, and that law enforcement authorities carry out thorough and prompt investigations regarding attacks on LGBTI persons - **Australia**

None of the above-mentioned recommendations have not been implemented

Raised issues in thematic areas

1. Discrimination

Constitution

Article 29. Prohibition of Discrimination

Discrimination based on sex, race, skin colour, ethnic or social origin, genetic features, language, religion, worldview, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.

Article 30. Legal Equality of Women and Men Women and men shall enjoy legal equality.

Legislation

SOGIE grounds are not specifically mentioned in any legislative act or in the Constitution

Cases of discrimination

Reported to the LGBT organizations. Cases are collected by Pink Armenia and Right Side. There are cases in the national courts about discrimination against LGBT people

Recommendations

- Development and adoption of a law prohibiting discrimination on the basis of sexual orientation, gender identity and expression in the areas of education, employment, healthcare, housing etc.
- Establish an institutionalized state body for discrimination complaints.
- Development and implementation of public awareness raising campaigns about LGBT equality.
- Training and educate on SOGIE issues the staff of the state bodies, healthcare and educational institutions, police officers, investigators and judges

2. Hate speech

Constitution

Article 77. Prohibition of Abuse of Basic Rights and Freedoms
The use of basic rights and freedoms for the purpose of violent overthrow of the constitutional order, incitement of national, racial or religious hatred or propaganda of violence or war shall be prohibited

Legislation

SOGIE grounds are not specifically mentioned in any legislative act or in the Constitution

Cases of hate speech

Reported to the LGBT organizations and to police. Police rejects the cases of hate speech, death threats. There are 5 cases in the national courts against Police and Media brought only by Right Side. Escalation of hate speech after the revolution and speech of Lilit Martirosyan in the Parliament.

Recommendations

- Criminalize hate speech on the basis of sexual orientation, gender identity and expression.
- Train and educate police officers, investigators and judges on hate speech SOGIE, anti-discrimination

3. Hate crimes

Constitution

Article 77. Prohibition of Abuse of Basic Rights and Freedoms The use of basic rights and freedoms for the purpose of violent overthrow of the constitutional order, incitement of national, racial or religious hatred or propaganda of violence or war shall be prohibited.

Legislation

SOGIE grounds are not specifically mentioned in any legislative act or in the Constitution

Cases of hate crimes

Right Side has collected more than 300 cases of hate crimes against trans people from 2016.

- I. In 2018 A group of young people, including LGBT activists were on a holiday trip in Shurnukh village, were subjected to a violent attack motivated by intolerance. A criminal case was opened, but subsequently charges were dropped under suspicious circumstances.
- II. In 2018 trans women was physically assaulted by man whose identity is being verified by the Police of the Republic of Armenia. After brutally beating up his victim, the assaulter burnt down J.'s apartment, locking her up and dismissing her entreaties to be released. The survivor escaped the burning apartment by miracle and was taken to hospital with heavy injuries.

Recommendations

- Criminalization of hate crimes based on sexual orientation and gender identity and;
- Train and educate police officers, investigators and judges on hate crimes SOGIE, anti-discrimination

4. Transitioning of transgender people

Constitution

Article 85. Health Care

Everyone shall, in accordance with law, have the right to health care.

Article 86. Main Objectives of State Policy

Implementing programmes for population's health care and improvement, creating conditions for effective and affordable medical services;

Legislation

Lack of medical protocols on hormone replacement therapies, gender reassignment surgeries, lack of endocrinologists and surgeons, although transsexuality is pathologized.

Situation

Transgender people are on self-treatment, the GRS is done based on the doctor's diagnosis "intersex" of the patient. The patient takes full responsibility on the post-surgery developments. Surgeons mention that they are fined if they do the surgery. MoH rejects the problem and does not comment on the situation.

Recommendations

- Depathologize transsexuality based on the updated version of WHO International Classification of Diseases 11th Revision.
- Ensure availability of educated medical specialists for transitioning
- Include transitioning in the proposed universal healthcare insurance.

5. legal gender recognition

Constitution

Article 25. Right to Physical and Mental Integrity

Everyone shall have the right to physical and mental integrity.

Article 26. Prohibition of Torture, Inhuman or Degrading Treatment or Punishment

1No one may be subjected to torture, inhuman or degrading treatment or punishment.

Article 31. Inviolability of Private and Family Life, Honour and Good Reputation

Everyone shall have the right to inviolability of his or her private and family life, honour and good reputation.

Legislation

RA law on Civil Status Acts requires confirmation of the sex reassignment surgery, for legal gender recognition

Situation

Trans people are forced to be sterilized in order change the gender marker. It contradicts the 3 articles of the RA constitution and ECHR's 2017 ruling in which it was established that officially changing one's gender could not be made conditional on undergoing sex reassignment surgery. Additionally, the requested form does not exist and as such the surgeries are not available in Armenia

Recommendations

- Remove the requirement of sex reassignment surgeries in order to legally recognize the gender identity
- Ensure that the legal gender recognition process is fair and transparent and does not contradict to the constitution and is in line with the CoE recommendations.