

Hate Speech
Displayed by
State Officials
Towards
LGBT People
in Armenia

2004-2018



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1. Introduction

- ¹ *According to Article 81 of the Constitution of the Republic of Armenia:*
1. The practice of bodies operating on the basis of international treaties on human rights, ratified by the Republic of Armenia, shall be taken into account when interpreting the provisions concerning basic rights and freedoms enshrined in the Constitution.
 2. *Restrictions on basic rights and freedoms may not exceed the restrictions prescribed by international treaties of the Republic of Armenia.* ¹
- ² Research and reports show that LGBT people are among the most discriminated groups in Armenia. A study conducted by the NGO Pink Armenia, titled “From prejudice to equality: a study of societal attitudes towards LGBTI people in Armenia”, revealed that 95% of respondents expressed homophobic views². This high percentage of homophobia has not been without its consequences. There are dozens of reported cases of human rights violations on the basis of sexual orientation or gender identity each year. OSCE and ODIHR publish hate crime reports based on data provided by NGOs working in the sphere of human rights protection and the State³.
- ³ Unfortunately, Armenia has never provided official information concerning hate crime incidents, and Armenian law enforcement do not collect hate crime statistics⁴. However, information on hate crimes on the grounds of sexual orientation or gender identity has been reported to ODIHR by non-governmental organizations.
- ⁴ Pink Armenia has researched hate crimes and other hate motivated incidents committed against LGBT people in Armenia, analyzing a total of 198 cases⁵. From these cases, 79.7% of interviewees were victims and 20.3% were witnesses of hate crimes on the grounds of sexual orientation or gender identity.
- ⁵ Analysis of ECRI hate crime reports in Armenia shows that hate crimes on the grounds of sexual orientation or gender identity compose the majority of reported cases. The high level of discrimination and hate crime incidents show that the prevalence of homophobia in the RA has severe consequences, especially considering that there are no mechanisms for the State to respond to these cases and the main perpetrators are representatives of governing parties, who have never been penalized for their actions and have remained in their posts.

¹RA Constitution, Article 81, available at: <https://www.president.am/en/constitution-2015/>

²OSCE ODIHR, hate crime reporting, Armenia, available at: <http://hatecrime.osce.org/armenia>

^{3,4} PINK Armenia, Hate crimes and other hate motivated incidents against LGBT people in Armenia, available at: http://www.pinkarmenia.org/wp-content/uploads/2016/11/hate-crime-monitoring-2016_en.pdf

⁵Available in Armenian at: <https://www.osce.org/hy/yerevan/195791?download=true>

⁶ Armenia ratified the ICCPR, CERD, and CESCRR in 1993. These documents do not contain provisions which directly prohibit hate speech targeting sexual orientation or gender identity, but the bodies based on these documents interpret them more broadly to include sexual orientation and gender identity as characteristics that should be protected from hate speech.

⁷ ***The aim and structure of this research***

The aim of this research is to reveal instances of hate speech on the grounds of sexual orientation or gender identity committed by State officials of the Republic of Armenia (RA). The timeframe of the research spans from 2004 to 2018, corresponding with the period when the RA became a member of the CoE and ratified the ECHR. Joining to the ECHR, the RA is obligated to protect human rights and prevent any violence or discrimination from occurring against individuals in the territory under its control.

⁸ This research is structured in two parts:

- Part I: Provide the legislative background concerning the prohibition of hate speech, including the framework for the prohibition of hate speech on the grounds of sexual orientation or gender identity.
- Part II: Highlight incidents of hate speech displayed by State officials. These are divided into groups based on their severity and nature, and include an analysis of the context in which they occurred.

⁹ Part I of the report includes the definition of hate speech, how it is understood by the UN and CoE bodies, the recommendations and interpretations made by these bodies to the member states as well as the national legislation of Armenia, and the existence of legal remedies to effectively protect individuals and groups from hate speech incidents on the grounds of sexual orientation and/or gender identity.

¹⁰ Many of the examples of hate speech presented in Part II transpired in parliament hearings or press conferences given by deputies or other officials. These hearings and interviews were broadcast online and on news channels by various media sources. As such, the hate speech incidents identified in this research can be understood as having had a widespread influence on the Armenian people and the national dialogue.

¹¹ The final part of the research contains recommendations to state bodies regarding the steps they must take as a democratic republic to fulfill their obligation under international documents and the RA constitution.

2. Methodology

¹² The research drew upon the following 31 online media sources:

› 1in.am	› Civilnet.am	› NT.am
› 168.am	› Epress.am	› Panarmenian.net
› 7or.am	› golosarmenii.am	› Panorama.am
› A1plus.am	› Hetq.am	› Pastinfo.am
› Araratnews.am	› Hraparak.am	› Replik.am
› Aravot.am	› Ilur.am	› Slag.am
› Armlur.am	› Irates.am	› ert.am
› Armtimes.com	› Iravunq.com	› Zham.am
› Asekose.am	› Lragir.am	› LGBTnews.am
› Aysor.am	› Lurer.com	
› Chi.am	› News.am	

¹³ Nine of these websites also have print media. This list—apart from LGBTnews.am—was taken from the study “The World in the Armenian Media: means and source.”⁶ LGBTnews.am was selected for this research as it is a media source that covers LGBT issues specifically.

¹⁴ The hate speech incidents that are highlighted in this research are taken from speeches or press conferences of deputies of the National Assembly of the RA, as well as from interviews of some other State officials, such as representatives of the Yerevan State University and the head of the police of the RA. Each of these speeches have been published by several media sources, but only one reference for each incident is mentioned in this research.

3. Legal analysis of the prohibition of hate speech

3.1 Understanding hate speech

¹⁵ There is no universal definition of hate speech in international law. However, hate speech has been defined and regulated by international and regional documents as well as in the interpretations of the bodies created based on these documents.

It is important to identify the border between hate speech and freedom of expression. Freedom of expression is a fundamental human right that forms the basis of democratic institutions, guaranteeing personal freedom to express opinions and impart ideas related to public governance and decision-making processes on one hand, and ensure transparency and accountability of State governance on the other hand.

¹⁶ Yet, freedom of expression is not an absolute right and can be restricted in certain circumstances. Article 19(2) of the ICCPR recognizes freedom of expression, stating that, “Everyone shall have

the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

- 17 The third part of Article 19 defines the conditions under which freedom of expression can be restricted, stating that restrictions should: be provided by law; serve to protect the rights or reputations of others, national security, public order, or public health or morals; and be necessary in a democratic society to protect these interests⁷. Existence of one or two of these conditions is not enough for the restrictions to be considered as lawful.
- 18 In order for restrictions on freedom of expression to be considered lawful, they must meet the following cumulative requirements:
- Be provided by law, meaning that national legal regulations must precisely mention the situations or the content of the speech which is not protected by freedom of expression.
 - Pursue legitimate aim, meaning the above mentioned legal provisions must have as their aim the protection of the rights or reputations of others, national security or public order, or public health or morals.
 - Be necessary in a democratic society, as determined on a case-by-case basis.
- 19 According to Article 20(2) of the ICCPR, “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law⁸.” It is noteworthy that these two articles are interrelated and that freedom of expression cannot be interpreted in a way that will allow advocacy of national, racial or religious hatred constituting incitement to discrimination, hostility or violence. Accordingly, the Human Rights Committee, in reference to the relationship between articles 19 and 20, states that the restriction of freedom of speech based on Article 20 must also comply to Article 19(3)⁹.
- 20 This means that, while recognizing the important role that freedom of expression plays in how individuals realize their authority and influence decision making processes in democratic societies, the ICCPR nonetheless obliges states to take effective measures in protecting their citizens from hate speech.
- 21 The Camden principles, which aim to affirm the State’s obligation to ensure freedom of expression and any restrictions on expression that democratic societies should respect refer to Article 20(2) of the ICCPR. They provide the following definitions of terms:
- 22 i. The terms ‘hatred’ and ‘hostility’ refer to intense and irrational emotions of opprobrium, enmity and detestation towards the target group.

⁷ The United Nations (1948), International Covenant on Civil and Political Rights available at: <https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

⁸ Article 20(2) of the ICCPR <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>

⁹ UN Human Rights Committee, CCPR General Recommendation No. 34, on Freedoms of opinion and expression, 12 September 2011, CCPR/C/GC/34, para. 50, available at: <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

- 23 ii. The term ‘advocacy’ is to be understood as requiring an intention to promote hatred publicly towards the target group.
- 24 iii. The term ‘incitement’ refers to statements about national, racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups.
- 25 iv. The promotion, by different communities, of a positive sense of group identity does not constitute hate speech¹⁰.
- 26 The UN’s International Convention on the Elimination of All Forms of Racial Discrimination does not use the term “hate speech”, which does not prevent the International Committee on the Elimination of Racial Discrimination to define “hate speech” based on the principles standing in the bases of the Convention and provisions which let to identify hate speech.
- 27 According to Article 4 CERD:
States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this
- 28 Convention, inter alia:
(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- 29 (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- 30 (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination¹¹.
- 31 The CERD particularly defines hate speech as “a form of other-directed speech which rejects the core human rights principles of human dignity and equality and seeks to degrade the standing of individuals and groups in the estimation of society¹².”

- ³² Hate speech can be displayed in a range of ways and have varying impact on a victim. It can result in acts of violence, hostility or discrimination based on the protected characteristics of a victim. In some cases, hate speech can be considered a breach of moral integrity and an interference of a person's right to a private life.
- ³³ Hate speech is considered to be not only advocacy, promotion or incitement of the denigration, hatred or vilification of a person or group of persons, but also any harassment, insult, negative stereotyping, stigmatization, or threat of such person or persons and any justification of all these forms of expression based on a non-exhaustive list of personal characteristics or status¹³.
- ³⁴ European Commission against Racism and Intolerance states the following:
*The use of hate speech can lead to those targeted by it feeling not only afraid and insecure but also – without any justification - guilty or ashamed and humiliated, leading to a loss of self-confidence and self-esteem. Moreover, these feelings can also result in physical symptoms such as loss of sleep and headaches, as well as mental and physical health problems of a more serious nature. As a result, such feelings can have consequences for every aspect of the life of those concerned, whether at work, school, or home, but their impact on family relations and the willingness to participate in society is especially serious*¹⁴.
- ³⁵ In the literature, hate speech is differentiated based on the harm that it causes or is projected to cause. Harm can be caused by actions resulted from hate speech, and it can be contained in the speech itself ¹⁵. In other words, the speech can consist of expressions which are abusive and can lead to humiliation or psychological distress. The harm can also be a direct consequence of the speech, as such speech promotes intolerance and hate and can subsequently spur violence or discrimination against the targeted individual or group.

3.2 Severity of hate speech

- ³⁶ It is important to clearly identify hate speech that is punishable by criminal law or that should lead to civil or administrative responsibility, while also preventing abusive restrictions on freedom of expression. The ways the States must address hate speech can be divided into three categories depending on the hate speech's severity¹⁶.
- ³⁷ Particularly, hate speech must be prohibited by criminal, civil or administrative legislation by force of Article 20(2) ICCPR. If it contains incitement to hostility, discrimination or violence towards certain groups it can lead to liability according to criminal legislation. The speech, which itself is a criminal offence by its abusive, insulting or harassing nature, may also be referred to as a hate crime¹⁷.
- ³⁸ In the second group of cases, hate speech may be prohibited based on Article 19(3) ICCPR if it corresponds to a test of permissible restrictions to freedom of expression.

- 39 In such cases the victim is an identifiable individual, and the speech itself can be considered harassment even though it does not contain incitement of violence, discrimination or hostility.
- 40 In the third group of cases, hate speech that promotes intolerance but isn't sufficiently severe may be prohibited as protected by force of freedom of expression. However, such speech must be acknowledged as unacceptable by the state as a measure of prevention of more severe cases of hate speech, discrimination and violence as its consequences, as well as otherwise targeting of individuals and groups by the society.

3.3 Six-part test to identify prohibitable hate speech

- 41 The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence contains recommendations for states to address the issues of regulations of hate speech. It has proposed a six-part threshold test to identify whether a hateful expression should lead to criminal liability¹⁸:
- 42 (a) Context: It's important to analyze the political and social context where the hate speech has been displayed to assess the intention of inciting discrimination, hostility or violence towards the target group and the causation between the speech and the possible violent or discriminatory act.
- 43 (b) Speaker: Secondly it's important to take into account the position and reputation of the speaker, who may have an impact on certain groups in the society.
- 44 (c) Intent: If the hate speech has not been displayed intentionally, its prohibition may not be obligatory. This means that the negligent hate speech may be restricted by force of Article 19(3) or just be criticized by public authorities, but not punished as a criminal offence. The intent is one of the inalienable parts of hate speech prohibited under the Article 20(2), as it considers to be advocacy for discriminatory, hateful treatment.
- 45 (d) Content and form: It is necessary to analyze the content of the speech to assess its provocative nature.

¹⁰ Camden principles, 12.1 <https://www.article19.org/wp-content/uploads/2009/04/Camden-Principles-ENGLISH-web.pdf>

¹¹ International Convention on the Elimination of All Forms of Racial Discrimination, Available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cerd.pdf>

¹² UN Committee on the Elimination of Racial Discrimination, General Recommendation No. 35 on combatting racist hate speech, 26 September 2013, CERD/C/GC/35, para 10

^{13,14} CoE European Commission against Racism and Intolerance, General policy recommendation, available at: <https://rm.coe.int/ecri-general-policy-recommendation-no-15-on-combating-hate-speech/16808b5b01>

¹⁵ Maitra, I., & McGowan, M. K. (Eds.) (2012a). Speech and Harm: Controversies over Free Speech. Oxford: Oxford University Press.

¹⁶ Approach suggested by Article 19, based on UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, annual report to the General Assembly, 7 September 2012, A/76/357, Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N12/501/25/PDF/N1250125.pdf?OpenElement>

¹⁷ <http://hatecrime.osce.org/what-hate-crime>

¹⁸ Rabat Plan of Action, Available at: https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

- 46 (e) Extent of the speech act: The audience, means of dissemination, publicity, accessibility, frequency, and quantity of the speech are the factors that must be considered observing the extent of the act. The extent is important to evaluate the reach of the speech.
- 47 (f) Likelihood, including imminence: The probability of further actions incited by the hate speech must be real and there must be identifiable risks of resulted discriminatory, hateful or violent actions.

3.4 Hate speech and obligations of a State

- 48 States must take steps to ensure that they not only refrain from engaging in hate speech, but also actively discourage hate speech and establish consequences for individuals who are guilty of using such language.
- 49 It is imperative that States respect human rights and withhold from unlawful intervention in individuals' fundamental human rights. Political and religious leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination; but they also have a crucial role to play in speaking out firmly and promptly against intolerance, discriminatory stereotyping and instances of hate speech¹⁹.
- 42 It is important not to underestimate the impact that State officials—with their esteemed reputations and wide-reaching audiences—have on societal attitudes. As a result, speech authored by a State official who incites hatred, discrimination and violence is much more dangerous than that authored by a person of limited social influence, and such high-influence speech increases the risks of possible discriminatory or violent activities.
- 43 State officials must not only withhold from using speech that promotes violence or discrimination, but also must use their authority to promote equality, tolerance, and respect towards human rights. Remaining silent and refraining from condemning discrimination and inequality can be viewed as another way of encouraging hate.
- 44 Within the framework of its positive obligations, the States must undertake effective measures to protect individuals and communities from discrimination and violence based on their protected characteristics.
- 45 These measures should include not only legislative amendments but also an elaboration of mechanisms and policies to create an environment of equality and non-discrimination. The Rabat Plan provides the following steps that States must undertake to fight against hate speech²⁰:
- 46 42. States should enhance their engagement in broad efforts to combat negative stereotypes of and discrimination against individuals and communities on the basis of their nationality, ethnicity, religion or belief.

- 47 43. States should promote intercultural understanding, including on gender sensitivity. In this regard, all States have the responsibility to build a culture of peace and a duty to put an end to impunity.
- 48 44. States should promote and provide teacher training on human rights values and principles, and introduce or strengthen intercultural understanding as part of the school curriculum for pupils of all ages.
- 49 45. States should build the capacity to train and sensitize security forces, law enforcement agents and those involved in the administration of justice on issues concerning the prohibition of incitement to hatred.
- 50 46. States should consider creating equality bodies, or enhance this function within national human rights institutions (that have been established in accordance with the Paris Principles) with enlarged competencies in fostering social dialogue, but also in relation to accepting complaints about incidents of incitement to hatred. In order to render such functions efficient, new adapted guidelines, tests and good practices are needed so as to avoid arbitrary practices and improve international coherence.
- 51 47. States should ensure the necessary mechanisms and institutions in order to guarantee the systematic collection of data in relation to incitement to hatred offences.
- 52 48. States should have in place a public policy and a regulatory framework which promote pluralism and diversity of the media, including new media, and which promotes universal and non-discrimination in access to and use of means of communication.
- 53 49. States should strengthen the current international human rights mechanisms, particularly the human rights treaty bodies such as the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, as well as the special procedures mandate holders, as they provide advice and support to States with regard to national policies for implementing human rights law.
- 54 The CoE's Committee of Ministers defines hate speech as "all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility towards minorities, migrants and people of immigrant origin²¹." Such speech must be prohibited by law and publicly condemned.

¹⁹Rabat Plan of Action, para. 36, https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

²⁰Ibid, para. 42-49

²¹Council of Europe's Committee of Ministers, Recommendation No. R(97)20 of the Council of Europe Committee of Ministers on "Hate Speech," 30 October 1997, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680505d5b>

²²Seurot v. France, app. No 57383/00,

²³Smith and Grady v. UK, app. No 33985/96

3.5 European Convention on the Protection of the Fundamental Human Rights and Freedoms (ECHR) and hate speech

- 55 The ECHR does not contain any provision on the prohibition of hate speech. At the same time, the ECtHR has interpreted the restrictions of freedom of expression under the light of Article 17, prohibiting any activity aimed at the destruction of any rights or freedoms guaranteed by the ECHR.
- 56 Freedom of speech is recognized by Article 10 of the ECHR, paragraph 2 of which provides the circumstances for restriction of this freedom. The ECHR has stated that freedom of expression will not protect any speech which contradicts the values that underlie the ECHR²².
- 57 Sexual orientation is protected by Article 8 of the ECHR, which guarantees the right to private and family life. In its jurisprudence the ECHR has recognized sexual orientation as a part of a person's moral integrity, the breach of which can be considered a violation of the right to private and family life²³.
- 58 Therefore, in cases of hate speech on the grounds of sexual orientation which did not reach a level of severity to be considered inhuman or degrading treatment, there can still be found a violation of the right to respect private and family life.
- 59 Indeed, the ECHR has found a violation of the right to private and family life in cases of hate speech which are based in discrimination but do not contain any incitement to violence. In the case *Aksu v. Turkey*, particularly, the State failed to investigate the hate speech incident²⁴. Such speech cannot be protected by freedom of speech. If it were, it would lead to the destruction of rights guaranteed by ECHR.

3.6 Hate speech on the grounds of sexual orientation and gender identity

- 60 As has been made clear by international regulations of hate speech, hate speech must be directed to a specific group or individual based on their protected characteristics. A protected characteristic is understood as a feature of a person or group which constitutes a part of that person or group's identity, such as sex, race, ethnicity, color, sexual orientation, gender identity, religion, and so forth.
- 61 This statement is based on interpretations and recommendations that different international and regional bodies have provided. The development of legal regulations and interpretations is directly connected to the needs of the period in which they are created. Accordingly, the regulation of the prohibition of discrimination and hate speech based on race, nation or religion was informed by

the needs of the period in which the first international treaties were created. The bodies created by these first treaties have broadened the scope of understanding of discrimination and now acknowledge discrimination and hate speech based on sexual orientation and gender identity, thereby confirming the prohibition of hate speech on the basis of these protected characteristics and the obligations of state to act accordingly.

- 62 According to the Human Rights Committee, the ICCPR protects from discrimination based on sexual orientation. It has interpreted the word “sex” as a protected ground which includes sexual orientation²⁵.
- 63 In its report on Armenia, the Commission Against Racial Intolerance refers to the gaps in Armenian legislation and the necessity of legal amendments regulating hate speech and hate crime. It particularly recommends that sexual orientation and gender identity be expressly added to the prohibited grounds in Article 226²⁶ of the Criminal Code and that a provision be added to that Code explicitly stipulating that homo/transphobic motivation constitutes an aggravating circumstance for any ordinary offence²⁷.
- 64 In its practice the CERD’s committee addresses hate speech against not only racial, ethnic, and religious groups, but also other vulnerable groups, giving wide interpretation of Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination²⁸.
- 65 The CoE’s Committee of Ministers recommends that member states take appropriate measures to combat hate speech based on sexual orientation and gender identity, including hate speech shared by media and on the internet, while still respecting freedom of speech. The Committee also recommends raising awareness among public authorities and institutions to prevent hate speech with a focus on media, where hatred and discrimination is often promoted.
- 66 The European Commission against Racism and Intolerance includes sexual orientation and gender identity within the list of protected characteristics, defining hate speech in its general policy recommendation on hate speech²⁹.
- 67 The ECtHR has referred to the regulations of discrimination in its judgments, giving interpretation to the non-exhaustive list of protected characteristics. It particularly has stated that prohibition of discrimination based on sexual orientation is no less problematic than discrimination based on sex, race, or color³⁰.

²⁴Aksu v. Turkey, app. N 4149/04 41029/04

²⁵Toonen v. Australia, Communication No. 488/1992, U.N. Doc CCPR/C/50/D/488/1992 (1994)

²⁶Actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity

²⁷CoE European Commission against Racism and Intolerance, Report on Armenia, available at: <https://rm.coe.int/fourth-report-on-armenia/16808b5539>

²⁸International Convention on the Elimination of all forms of Racial Discrimination. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

²⁹CoE European Commission against Racism and Intolerance, General policy recommendation, available at: <https://rm.coe.int/ecri-general-policy-recommendation-no-15-on-combating-hate-speech/16808b5b01>

³⁰Vejdeland and others v. Sweden, no 1813/07, ECHR 2012

- ⁶⁸ In the Yogyakarta Principles, human rights are understood to encompass sexual orientation and gender identity as protected characteristics. The Yogyakarta Principles affirm that individuals should be protected from any violence or discrimination based on these characteristics, and interpret how sexual minorities can be protected in alignment with their rights³¹.
- ⁶⁹ Article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights obliges States “to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
- ⁷⁰ The CESCR has interpreted sexual orientation and gender identity as protected characteristics understood under the formation “other status³².”

3.7 National legislation

- ⁷¹ The RA Constitution states the following: “Discrimination based on sex, race, skin colour, ethnic or social origin, genetic features, language, religion, world view, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited³³.”
- ⁷² According to the RA Constitution, the use of fundamental rights and freedoms to overthrow the Constitutional order, to spread ethnic, racial and religious hatred, or to incite violence or war, is prohibited³⁴.
- ⁷³ Actions aimed at the incitement of national, racial or religious hatred, and racial superiority or humiliation of national dignity, are criminalized by the RA legislation³⁵.
- ⁷⁴ It is prohibited to apply an analogy towards criminal law³⁶. This means that hate speech which promotes hostility, intolerance or discrimination on the grounds of sexual orientation or gender identity is not prohibited by the Armenian legislation and cannot be addressed by law-enforcement bodies.
- ⁷⁵ The recommendation made by the Committee of Ministers of the CoE provides a list of actions that member States must commit to combat hate speech on the grounds of sexual orientation or gender identity³⁷. However, the government of the RA did not provide a report concerning the steps to be taken during the reporting period of the recommendation. The recommended actions have not even been translated into Armenian, which is one of the steps by which the States show their willingness to realize their obligation under international documents³⁸.
- ⁷⁶ ECRI has also referred to the problem of hate speech displayed by parliamentarians.

- 77 ECRI recommends that a code of conduct be introduced as soon as possible in Parliament sanctioning, inter alia, racist and homo/transphobic discourse³⁹.
- 78 ECRI recommends that Armenian authorities make a public declaration condemning homo/transphobic hate speech and violence. It also recommends that all political parties take a firm stand against homo/transphobic discourse – especially when it is their members engaging in such discourse⁴⁰.
- 79 The government made comments on the recommendations of ECRI, making no reference to the abovementioned points. Concerning paragraph 54 in which ECRI recommends that all cases of public incitement to violence and hatred, threats against LGBT people on grounds of their alleged sexual orientation and/or gender identity, or against human rights defenders promoting their rights be investigated and prosecuted accordingly, the government replied that the recommendation was not justified, as all the cases of public incitement to violence were being investigated and prosecuted⁴¹.
- 80 The government's statement does not reflect the reality as there are no legal mechanisms provided by the criminal legislation to identify and examine cases of incitement to violence, hostility, or discrimination on the grounds of sexual orientation and gender identity. According to Article 8 of the RA Constitution, the structure and activities of political parties may not contradict democratic principles.
- 81 The existing "Law on Political Parties" does not contain any regulation concerning the ban of the activity of political parties in case their activity does not correspond to the principles of democracy. There are no mechanisms to call political parties to liability based on their activity.

4. Hate speech incidents displayed by Armenian state officials from 2004 to 2018

- 82 As has been established, hate speech is understood as any statement which contains incitement to discrimination or violence, as well as abusive, irreverent expressions towards individuals or groups based on their existing or alleged characteristic.
- 83 Hate speech incidents in this section are presented according to their severity and nature. First are presented cases which contain incitement to discrimination or violence. Second are presented cases which do not consist of direct incitement to action, but which still fall under the umbrella of hate speech and must be properly addressed by the State.

Hate speech characterized by incitement to discrimination

- 84 Head of the "Armenian Aryan Order," Armen Avetisyan announced in 2004 that he would publish

a list of homosexual officials in Armenia. In response Garnik Isagulyan, advisor to the RA's president, stated in 2004: "If there are facts there will be further concrete acts. That means such officials will be fired⁴²." (Avetisyan never published the list.)

- 85 Isagulyan's comment shows that the advisor to the president not only failed to condemn the attempted violation of individuals' right to respect in their private and family lives, but also claimed that officials found on that list would be subject to discrimination, losing their posts.
- 86 This was a confession on the level of the advisor to the president that LGBT people are discriminated against. Such an attitude can be considered to set the tone not only for officials but also for private employers in their workplaces. It suggests that, in case of discrimination based on sexual orientation or gender identity in the workplace, the state will encourage such treatment and will not provide protection for the victims.
- 87 Concerning Avetisyan's alleged list, Rafik Petrosyan, a MP of the governing Republican Party and head of the Armenian Permanent Parliamentary Commission on State and Legal Issues, stated in 2005: *Our people have never accepted such things, instead, when we were committing obligations before CoE, we made objections and when there was a statement by Armen Avetisyan (concerning the list of homosexual officials) I was the first one who said that there is no need to announce such things. If there is something that doesn't fit in our laws, must be secretly informed by relevant bodies, so that adequate measures were undertaken against them. The coalition has never accepted the issues of homosexuality and bisexuality. That is not appropriate to our mentality*⁴³.
- 88 In both cases, the role and reputation of the speaker threatened to provoke subsequent discriminatory acts. With the term "adequate measures," the MP suggests that homosexuals must be "punished" by the force of law. This is a call to discrimination directed to law enforcement bodies by the representative of a legislative authority. It is therefore evident that the potential consequences of this speech are much more lethal than if they had been voiced by a less influential speaker.
- 89 Referring to the protest actions committed by youth against the raise of transport fare in 2013, Galust Sahakyan, a Republican Party MP and head of the governing party fraction, stated, "I totally support youth groups who fight against sexual minorities. Youth can have much input here⁴⁴."
- 90 Such a statement only encourages and promotes violence by youth. Taking into account the high rate of homophobia and hate crimes reported by Armenian NGOs, we can infer that human rights violations would persist, as perpetrators would not be fearful of legal retribution.

³¹ Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity, March 2007, available at: <http://www.yogyakartaprinciples.org>

³² UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 14, 15, 20

- ⁹¹ In 2014, Sahakyan became the speaker of the Parliament. The hate speech displayed by Sahakyan while he was a MP has not become a subject of examination by the ethics committee or otherwise addressed by law-enforcement bodies. Nor did it stand as an obstacle for other MPs to elect him for the post of speaker next year. This phenomenon reflects the anti-LGBT attitude of the National Assembly.
- ⁹² The international LGBT Christian Forum was going to take place in Armenia in 2018. Gevorg Petrosyan, MP of the Prosperous Armenia party, stated the following in reference to the forum:
Yes, the economic, political monopoly is a threat to our statehood and national security, yes, we have non secure borders, but in my deepest conviction the biggest threat for us is the possible ruin to our traditional family. Me too, I welcome the revolution that is not over, in each revolution people search for a something better than exists. But there is one revolution, Mr. Pashinyan (to the prime minister), where I personally see danger, that is the revolution in the manners of our traditional family. I ask once more, that we combine our forces and do everything legally and permissibly possible depending on us towards ensuring our families from that destructive process⁴⁵.
- ⁹³ Petrosyan also announced that he would participate in anti-LGBT demonstrations⁴⁶:
If I participate [in the demonstration demanding the adoption of a law banning the propaganda of homosexuality], I will participate not as a MP, but as an Armenian, as an Armenian man, who is against homosexuality to penetrate into Armenian families. ... We are a warrior country. It is very interesting from what kind of friction of two male persons a generation must be created, to commit the defense of the borders in the future⁴⁷.
- ⁹⁴ Hayk Baboukhanyan, a Republican Party MP, announced: "It's needed to adopt legislation concerning a ban of homosexual propaganda⁴⁸."
- ⁹⁵ Gagik Keryan, head of the International Relations Department of the Yerevan State University, stated: "I suggest to the Parliament providing a new law by which the demonstration, propaganda or making sexual orientation a subject of public discussion and religious belief is a criminally punishable act ⁴⁹."
- ⁹⁶ Having such role in the Yerevan State University, the speech of Gagik Keryan can influence not only students who perceive him as a professor but also other professionals working with him and having duty to educate students.
- ⁹⁷ As a result of these statements, as well as demonstrations which were promoted by these three officials, the forum was canceled. Commenting on its cancellation, head of national police Valery Osipyan announced: "It [the forum] will not take place, because I think that it is not expedient at the moment and also based on security reasons we have explained that the forum would not take place on the territory of the RA⁵⁰."

98 Here we are witnesses of another human right violation which was resulted by anti-LGBT activity. Particularly, the right to freedom of assembly of LGBT Christians was violated after demonstrations supported by abovementioned officials. Being representatives of Legislative authority, they are speaking about the need to adopt a law which has discriminatory nature and spreads intolerance towards sexual minorities. In this case the consequence of the speeches is visible. Furthermore, the head of the Police assessed expedience of organizing the assembly in his speech, in fact refusing to commit his obligations to ensure security of the participants of the forum.

Hate speech which doesn't contain incitement to action

99 Speech that doesn't contain direct incitement to action can still have a deeply negative impact on the lives of LGBT people. Such speech contains irreverent, abusive expressions which can be considered a violation of the right to respect private or family life and which promotes degrading treatment. It can lead to the violation of mental integrity, causing physiological distress. In cases of hate speech, which is directed to individuals or groups based on certain characteristics; such consequences impact not only a few individuals but the community at large.

100 As a consequence of hateful rhetoric, the disparaged community is targeted in society by the majority. In a society where there is such an overwhelming rate of homophobia, such speech will only deepen homophobic attitudes and discriminatory practices. Below are examples of language that inspires widespread societal intolerance:

101 "Armenian Revolutionary Federation" party MP Alvard Petrosyan said in 2004, "I take very seriously that we are representatives of Christian civilization, and I deeply believe that Sodom sins are very serious sins. I am a normal woman. I consider the "homo-addicted" man to be a woman's enemy. I can't accept them by my instinct ⁵¹."

102 Referring to Police Day, an annual holiday that in 2010 coincided with the International Day Against Homophobia, Alik Sargsyan, former head of the police and later Republican Party

^{33,34} Constitution of the RA, article 29 and article 17, available at: <https://www.president.am/en/constitution-2015/>

^{35,36} RA Criminal Code 2003, Article 226 and article 5, Available at: http://www.nature-ic.am/wp-content/uploads/2013/10/Criminal_Code_2003.pdf

³⁷ CoE Committee of Ministers, Recommendation CM/Rec(2010)5 to member states on measures to combat discrimination on grounds of sexual orientation or gender identity

³⁸ PINK Armenia, The alternative report on the human rights of LGBT people in Armenia was presented to the CoE, available at: <http://www.pinkarmenia.org/hy/news/coe-recommendation/>

³⁹ CoE European Commission against Racism and Intolerance, General policy recommendation, para. 51, available at: <https://rm.coe.int/ecr-general-policy-recommendation-no-15-on-combating-hate-speech/16808b5b01>

⁴⁰ CoE European Commission against Racism and Intolerance, Report on Armenia, para. 55, available at: <https://rm.coe.int/fourth-report-on-armenia/16808b5539>

⁴¹ Government's viewpoint, available at: <https://rm.coe.int/government-comments-on-the-fourth-report-on-armenia/16808b5543>

⁴² Available in Armenian at: <https://www.aravot.am/2004/10/14/318867/>

⁴³ Available in Armenian at: <https://www.aravot.am/2005/05/06/805348/>

⁴⁴ Available in Armenian at: <https://news.am/arm/news/182244.html>

⁴⁵ Available in Armenian at: <https://168.am/2018/10/24/1030671.html>

⁴⁶ Available in Armenian at: <https://168.am/2018/10/24/1030678.html>

⁴⁷ Available in Armenian at: <https://www.iravunk.com/news/69692>

MP, stated: “Police are the cleanest and rid of such kind of things. There are real men with everything working at the police force and any deviation, god forbid, has never been and will never be noticed⁵².”

- ¹⁰³ Speaking about 2013 presidential candidate Raffi Hovhannisyan, Republican Party MP Hayk Baboukhanyan stated, “Those who have voted for Raffi Hovhannisyan haven’t realized how they have jeopardized Armenia. ... Don’t forget how he went to the ditch of so called Tsomak to support her⁵³”.
- ¹⁰⁴ Baboukhanyan here alludes to Hovhannisyan’s support of the victims of the firebombing of Yerevan’s DIY Pub, an LGBT-friendly space (see the following section for further exploration of this incident).
- ¹⁰⁵ During one of 2014’s National Assembly hearings, Baboukhanyan insulted one of the MPs, blaming her for protecting homosexuals and adding, “Let all the konchitas go to hell⁵⁴.”
- ¹⁰⁶ In reference to the domestic violence law passed in 2013, Vahram Baghdasaryan, Republican Party MP, announced that he is more than sure that the next such legislation will be a law to protect homosexuals and that these kinds of laws lead the nation to disruption⁵⁵.
- ¹⁰⁷ Gevorg Danielyan, member of the Professional Committee on Constitutional Amendments connected to the president of the RA, said in 2014:
- ¹⁰⁸ We respect the opinion of an international expert, sometimes take it into consideration, but that doesn’t mean that we accept every assessment, including professional, for commitment. Concerning the issue of sexual minorities, we often see that our national traditions have another nature, which are not in harmony with the traditions of sexual minorities, consequently, they must adapt to our national traditions. I am strongly against such kind of artificial equalities. This is not equality, this is a severe conflict of interests. There are interests of children and parents. If we legalize the marriage of homosexuals we violate the rights of children⁵⁶.
- ¹⁰⁹ Naira Zohrabyan, Prosperous Armenia party MP, stated in 2015:

⁴⁸ Available in Armenian at: <https://www.iravunk.com/news/72896>

⁴⁹ Available in Armenian at: <https://www.iravunk.com/news/62851>

⁵⁰ Available in Armenian at: <https://168.am/2018/11/06/1037047.html>

⁵¹ Available in Armenian at: <https://www.aravot.am/2004/10/02/803340/>

⁵² Available in Armenian at: <https://www.a1plus.am/37745.html>

⁵³ Available in Armenian at: <https://168.am/2013/02/22/185876.html>

⁵⁴ Available in Armenian at: <https://hraparak.am/post/591facc7e3d84d0d37fd3baf>

⁵⁵ Available in Armenian at: <http://www.irates.am/hy/1366892821>

⁵⁶ Available in Armenian at: <https://www.aravot.am/2014/07/10/478774/>

⁵⁷ Available in Armenian at: <http://goo.gl/xwRS0I>

⁵⁸ Available in Armenian at: <http://goo.gl/f064Zy>

⁵⁹ Available in Armenian at: <https://www.a1plus.am/1413524.html>

⁶⁰ Available in Armenian at: <http://armtimes.com/hy/article/58030>

⁶¹ Available in Armenian at: <http://goo.gl/ixpvKb>

⁶² Available in Armenian at: <http://goo.gl/LtJwmq>

I will do anything possible in order to prohibit the spread of metastases in Armenia. I say this openly and publicly. Unlike many of my colleagues, I do not suggest that they [LGBT people] should be burned over a fire or marginalized from society, but I directly accept that as long as our society remains free of such perversion, we will be able to preserve our nation's moral and ethical character. For me, all of that is absolutely unacceptable. I know, that there is a natural law, the law of God, commandments, and the class that will go against the commandments of God, will receive God's punishment. Yes, perhaps among them there is a class that is genetically sick, another class that has mental deviation, but we should not give them tribute⁵⁷.

¹¹⁰ Ruben Hakobyan, "Heritage" party MP, said in 2015:

We sometimes deprive ourselves of the opportunity of self-defense, by protecting, I don't know what values. All rights that are contrary to national, state security laws should not exist for us. Today I need a soldier to protect me, not someone who benefits from international organizations or someone who belongs to sects, who says 'I don't want to serve in the military'⁵⁸.

¹¹¹ Hakobyan referred to the Ombudsman's 2015 report saying that there is a contradiction concerning protection of the rights of homosexuals. "The Bible says: Go, reproduce.' And in this case there is a contradiction. What now? We must consider the Bible out of law?⁵⁹".

¹¹² In 2015 Arsen Babayan, head of the Public Relations and Media department of the National Assembly of the RA, commented on the news concerning the arrival of code-bound thieves in Armenia, saying, "it's better for the code-bound thieves to come than homosexuals⁶⁰."

¹¹³ In 2015, deputies were asked to comment on how they treat LGBT people. Below are samples of responses:

¹¹⁴ Tachat Vardapetyan, Republican Party MP: "Don't ask me this kind of question; those people are the most hated people for me. I might curse those using sexual profanities now," he said, adding that for him there is no one on the planet more disgusting than LGBT people ⁵⁸.

¹¹⁵ Murad Muradyan, Republican Party MP: "It's shameful, it's shameful, don't ask me those types of questions, I am against those kinds of things, go ask another MP. Go write, say that Murad Muradyan is against it. It's shameful, it's shameful for the Armenian people, stay away from me⁶²."

¹¹⁶ Ruzanna Muradyan, Republican Party MP, said that she does not consider the rights of LGBT people to be human rights⁶³.

¹¹⁷ Vahe Enfiayyan, Prosperous Armenia party MP, said in 2016:

¹¹⁸ Everyone lives their own life, but at the same time let us state that personal preferences should not influence other people's lives, so that the effects of their harmful activity do not permeate into

the society....If, let's say, such individuals get married and adopt a child, how will the child fit into the society? This already constitutes a distortion, since all the biological norms are violated⁶⁴.

- ¹¹⁹ Armen Rustamyan, Armenian Revolutionary Federation party MP, said in 2016: "Generations should grow and multiply, and such families do not contribute to procreation. With regard to infertility, it is a disease. LGBTI people are biologically not capable of procreating—humanity does not multiply through them⁶⁵."
- ¹²⁰ Vardevan Grigoryan, Prosperous Armenia party MP, said in 2017: "If the law on homosexuality is brought I will be against that, of course, I will never be for it. They speak on human rights but here is a question of mentality, approaches⁶⁶."
- ¹²¹ Alik Sargsyan, Republican Party MP, said in 2017: "What does it mean 'homo-addicted'? We must allow them to form families, get married? If such law is brought, I will be sick those days and will not come to the hearings: the best version⁶⁷."

Justifying hate crimes

- ¹²² Yerevan's DIY Pub was firebombed on May 8, 2012 by a group of young people. The perpetrators claimed to have carried out their act of violence because pub owner Armine Oganezova (known as Tsomak) went to Turkey in 2011 and took part in a gay pride event, and because LGBT people frequented the pub. These young people were charged under Article 185 Part 3 of the Criminal Code with the intentional infliction of damage to property committed by arson, explosion, or other publicly dangerous methods.
- ¹²³ Deputies made several statements justifying the crime committed on the ground of victims' alleged sexual orientation.
- ¹²⁴ Arthur Aghabekyan, Armenian Revolutionary Federation party MP, said: "I am proud and excited that there are youngsters that are intolerant towards 'homo-addicted,' 'sectarian' and other groups with deviations who pervert the society⁶⁸".
- ¹²⁵ Eduard Sharmazanov, Republican Party MP, stated:
Everyone who tries to take under their protection "homo-addicted" perverting our society defiles the national description of Armenians. Me, as Armenian citizen and member of the national conservative party, consider absolutely true and justified the "uprising" of two Armenian

⁶³ Available in Armenian at: <http://goo.gl/JByGZK>

⁶⁴ Available in Armenian at: <http://www.lgbtnews.am/en/being-a-conservative-mp-vahe-enfiyajyan-is-against-same-sex-relationships>

⁶⁵ Available in Armenian at: <http://www.lgbtnews.am/en/go-praise-lgbti-people-somewhere-else-armen-rustamyan/>

⁷³ Available in Armenian at: <https://hraparak.am/post/5b51dce8eb246006af710791>

⁷⁴ Available in Armenian at: <https://www.iravunk.com/news/72604>

⁷⁵ Available in Armenian at: <https://www.iravunk.com/news/66479>

⁷⁶ Available in Armenian at: <https://168.am/2018/10/24/1030762.html>

youngsters against “homo-addicted” who have created a “ditch of perversion” in our country and aim at estranging the society from their moral values. And I call the human rights defenders, who try to gain cheap dividends on this incident, to protect, first of all the universal and national values ⁶⁹.

- ¹²⁶ In the summer of 2018, nine young people, including LGBT activists, were vacationing in a home in Shurnukh. A group of Shurnukh and Goris residents gathered at the house to attempt to provoke a conflict with the house’s owner. They assaulted the guests with swearwords, calling them “fagots” and demanding that they leave the village. When the young people left the house, the townspeople continued harassing them with swearwords and physical attacks, punching and throwing stones at them. The young people attempted to flee in order to protect themselves. The offenders pursued them, throwing stones at them, punching them, and kicking their suitcases. The victims suffered multiple bodily injuries, including a wound to the head, an injured nose, battered legs and chests, and battering caused by stones.
- ¹²⁷ The assault in Shurnukh was followed by a large wave of hate speech, which further propagated intolerance and hostility.
- ¹²⁸ In a speech given at the Parliament, Eduard Sharmazanov criticized the new government and said the following: “Instead of reinforcing national and Christian values, we have seen from the new government an attack on the Holy See and Holy Catholicos, as well as propaganda of homosexuality in Shurnukh⁷⁰.”
- ¹²⁹ Gevorg Petrosyan, member of the Prosperous Armenia party, expressed hate speech on his Facebook page and in his speeches. On Facebook, he posted: “I do not know who will accuse me and how much, but we urgently need to get out homosexuals, sectarians and their defenders from our Holy Land through joint efforts (mildly saying).”
- ¹³⁰ In a speech made at the Parliament, Gevorg Petrosyan said: “For us the biggest threat is the possible dismembering of our traditional family. I plead, I beg that we unite our efforts and do all possibly legal and permissible to maintain our traditional families....We are a country in war, it is interesting to ask: how will an interaction between two males give birth to a new generation that will take over the defense of our borders? Do you know of such a measure? As far as I know, there is no such a measure⁷¹.”
- ¹³¹ Comments justifying hate crimes can have dangerous consequences, especially when they are made by a State official, who is a representative of the State and the legislative authority. Such speech inevitably influences law enforcement bodies, who are tasked with leading the investigation of the case. It creates an atmosphere of impunity and State-level support of violence, which is likely to promote further hate crimes. As such, the justification of hatred itself must be considered hate speech and must lead to liability.

Hate speech after the velvet revolution in Armenia in May, 2018

- ¹³² Some examples of hate speech reported after the velvet revolution in 2018 were presented in the first pages of this section. Below are additional examples in which deputies spread hate speech without directly inciting action.
- Eduard Sharmazanov, Republican Party MP: “We need to realize our projects, not to propagate LGBTs⁷².”
- ¹³³ Vahram Baghdasaryan, Republican Party MP: “Unfortunately, there are calls on recognizing the rights of homosexuals and on giving them a status⁷³.”
- ¹³⁴ Hayk Baboukhanyan, Republican Party MP: “Judicial skuffle has reached to our days stretching for years. By the way, Konchita has announced that she is displeased by her stage image and has come out of it. However, the “witnesses” of Konchita don’t calm down, committing the dirty assignments of their customers to destroy free speech and free press and wreck all the national and the Christian in Armenia⁷⁴.”
- ¹³⁵ Vardan Ghukasyan, Prosperous Armenia party MP:
- I can say a thing that such kinds of desecrators were being burned, deported from the country in the past. I am looking by the Bible, behind which there is nothing else. I know one thing, Sodom-Gomor cities were destroyed because of homosexuals and other similar things. What do they want us to stay under curse now? We have forgotten what the Bible has said on how marriage must be, how belief must be. Whoever deviates from that, they are stubborn and partners of the devil. I consider them to be the enemy of humanity. I am sure, when the whole world accepts them, the end of the world will come⁷⁵.
- ¹³⁶ Before the Velvet Revolution, the Republican Party was the RA’s governing Party and Prosperous Armenia was the second largest party in Parliament. This changed after the revolution. The Republican Party lost executive authority and started to manipulate vulnerable issues—including the status of LGBT people in the the RA—to discredit the new government. Using populist manipulative methods, LGBT issues were artificially brought into the political agenda.
- ¹³⁷ In their speeches and statements, the representatives of the National assembly’s Republican faction demanded that Prime Minister Nikol Pashinyan express opinions on these issues. The role of the speakers was changed in this case. If before the Republican Party had unlimited power, now it only composed majority in parliament.
- ¹³⁸ The Prime Minister referenced the controversy around LGBT rights at a National Assembly in 2018, saying: “For me as prime minister and for our government, the less this issue comes up, the better.... It’s a headache⁷⁶.”

5. Conclusion

- ¹³⁹ The timeframe of the presented cases shows that hate speech displayed by State officials not only has persisted, but has become increasingly widespread over the years. Over 14 years, Armenia failed to elaborate legal mechanisms to combat hate speech, while its officials promoted hate crimes and discrimination. None of these officials have lost their post as a result of their speech inciting or justifying hate-motivated crimes or discrimination. Their role in State governance gives a green light to hate crimes and discrimination, creating an atmosphere of impunity.
- ¹⁴⁰ To assess the risks of the potentially dangerous consequences of hate speech, it is necessary to analyze the context, the target group or audience, the speech's quantity and approaches, and the role of the speaker.
- ¹⁴¹ Hate crimes, hate-motivated incidents, and human rights violations on the grounds of sexual orientation and/or gender identity in Armenia are of grave concern. The State has shown that it has no political will to fight against such dangerous phenomenon.
- ¹⁴² It is worth mentioning that none of the examined cases of hate speech have become the subject of investigation or have been addressed by law-enforcement bodies in any way. After the snap parliamentary elections, the Prosperous Armenia party representatives continue to be represented at the National Assembly with the same MPs.

6. Recommendations to State bodies

¹⁴³ *On a legislative level*

- ¹⁴⁴ • Revise Armenian legislation prohibiting hate speech; define the concept of hate speech; and define the prohibition of and responsibility for hate speech, incitement of hatred and intolerance motivated by certain protected characteristics of a person, including against LGBT people.
- ¹⁴⁵ • Make a legal amendment in the Criminal Code of the RA to provide criminal liability for hate speech which contains incitement to violence, hostility or discrimination on the grounds of sexual orientation or gender identity. Provide the hate speech displayed by State officials as an aggravating circumstance.
- ¹⁴⁶ • Make a legal amendment in the law on administrative offenses to provide administrative liability for State officials for hate speech which contains expressions breaching moral integrity of LGBT people or speech justifying hate crimes or discrimination on the grounds of sexual orientation or gender identity.
- ¹⁴⁷ • Make amendments in the law on political parties to provide systematic hate speech as a ground for banning the activity of political parties.

148 *On a policy level*

- 149 • *Refrain from using hate speech on the grounds of sexual orientation and gender identity.*
- 150 • *Publicly condemn hate speech on the grounds of sexual orientation or gender identity and state the will to provide effective remedies to examine each case calling the offenders to responsibility.*
- 151 • *Undertake effective measures to prevent hate speech on the grounds of sexual orientation and gender identity.*
- 152 • *Include combating hate speech in the human rights protection national strategy and provide the points on legal amendments in the action plan.*
- 153 • *Create ethics committee in the National Assembly in each case of hate speech displayed by an MP.*
- 154 • *Organize trainings with law-enforcement bodies concerning identification of hate speech and specificities of investigation of hate speech cases, as well as how to work with the victims of hate speech.*

7. Abbreviation

CERD – Convention on Elimination of Racial Discrimination

CESCR - Committee on Economic, Social and Cultural Rights

CoE – Council of Europe

ECHR – European Convention on Protection of Human rights and Fundamental Freedoms

ECtHR – European Court of Human Rights

ECRI – European Commission on Racism and Intolerance

ICCPR – International Covenant on Civil and Political Rights

LGBT – Lesbian, Gay, Bisexual, Transgender

OSCE –Organization of Security and Co-operation in Europe

ODIHR – Office of Democratic Institutions and Human Rights

RA – Republic of Armenia

UN – United Nations

⁶⁶ Available in Armenian at: <https://www.iravunk.com/news/46449>

⁶⁷ Available in Armenian at: <https://www.iravunk.com/news/46114>

⁶⁸ Available in Armenian at: <https://www.aravot.am/2012/05/18/297566/>

⁶⁹ Available in Armenian at: <https://iravunq.wordpress.com/2012/05/17/aa44/>

⁷⁰ Available in Armenian at: <https://www.youtube.com/watch?v=Go2RLWcK5dM>

⁷¹ Available in Armenian at: <https://www.youtube.com/watch?v=8jsczNaslCo>

⁷² Available in Armenian at: <https://168.am/2018/10/13/1025070.html>

8. Definitions

- 155 **Discrimination** – any distinction, exclusion, restriction or preference of an individual's rights and freedoms, without an objective basis, legitimate aim and means of reasonable proportion, which has the purpose of violating or limiting a person's rights and fundamental freedoms.
- 156 **Sexual orientation**– the romantic, emotional, erotic and sexual attraction of a person towards another person of the same or opposite sex.
- 157 **Gender identity** – refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body and other expressions of gender, including dress, speech and mannerism.
- 158 **Gay** – (homosexual man) a man who has romantic, emotional, erotic and sexual attraction towards another man.
- 159 **Lesbian** – (homosexual woman) a woman who has romantic, emotional, erotic and sexual attraction towards another woman.
- 160 **Bisexual** – a person who has romantic, emotional, erotic and sexual attraction towards people of the same and opposite sex.
- 161 **Transgender**– a common term to denote persons whose gender identity, gender expression and behavior are different from the ones commonly accepted for their biological sex.
- 162 **Hate crime** – a criminal offense motivated by hatred or intolerance.
- 163 **Homosexual** (lesbian or gay) – a person who has romantic, emotional, erotic and sexual attraction towards a person of the same sex.
- 164 **Homophobia**- a phobia, fear, hatred and repulsion towards a homosexual person or individuals perceived as homosexual and towards homosexuality in general.
- 165 **LGBT community**– a community of lesbian, gay, bisexual, transgender people united by common interests, problems and goals. It is also composed of various sub-communities, groups and communities.
- 166 **Protected characteristic**– a characteristic or feature of an individual or of groups, based on gender, sexual orientation, gender identity, race, color, ethnic or social origin, genetic features, language, religion, political or other opinion, national minority, property, birth, disability, age or other personal or social circumstances.

