



THE HUMAN RIGHTS
SITUATION OF LGBT
PEOPLE IN ARMENIA
DURING 2022
ANNUAL REPORT



The cover image is a publicly released photo, related to the case presented on page 44.



Annual Report: Human Rights Situation of LGBT People
in Armenia During 2022

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GLOSSARY OF TERMS AND ABBREVIATIONS¹

Bisexual	■ A person who has a set of deeply emotional, sensual, and intimate attractions, as well as a desire for sexual relation and/or relationships with more than one sex or gender.
Gay	■ A man who has a set of deeply emotional, sensual, and intimate attractions, as well as a desire for sexual relation and/or relationships with another man.
Gender expression	■ The expression of a person's own (or perceived) gender identity.
Gender identity	■ It is each person's deeply felt internal and individual experience of gender, which is a category of social identity and refers to the identification of an individual as male, female, or another gender(s).
Heterosexual	■ A person who has a set of deeply emotional, sensual, and intimate attractions, as well as a desire for sexual relation and relationships with another gender.
Homosexual	■ A person who is sexually and emotionally attracted to people of the same gender or sex.
Homophobia	■ The fear, unfounded anger, intolerance, and hatred towards homosexuality.
Lesbian	■ A woman who has a set of deeply emotional, sensual, and intimate attractions, as well as a desire for sexual relation and/or relationships with another woman.
Sex	■ It is the classification of a person as male, female, or intersex. A person's sex is a combination of bodily characteristics including chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics.
Sexual orientation	■ The totality of a person's deeply emotional, sensual, and intimate attractions, as well as a desire for sexual relation and/or relationships with another person.
Trans or transgender	■ A person whose gender identity and gender expression differ from the sex established at birth and includes people identifying as transsexual/cross-dresser, transgender, transvestites, etc. Trans is an umbrella term inclusive for transgender, transsexual, and non-binary gender identities.

¹ The main source of these terms is "Guide to working with LGBT people". A Guide for Helping professionals (in Armenian). Pink Human Rights NGO. 2021. <https://www.pinkarmenia.org/wp-content/uploads/2021/10/specialists-guideline-2021.pdf>

Transphobia	■ Negative cultural and personal beliefs, opinions, attitudes, and behaviors based on prejudice against transgender people or gender identity and variations in gender expression, and are also based on disgust, fear, and hatred.
SOGI	■ Sexual orientation and gender identity and/or gender expression
LGBT	■ Lesbian, gay, bisexual, transgender
ECHR	■ European Court of Human Rights
CoE	■ Council of Europe
RA	■ Republic of Armenia

INTRODUCTION

In 2022, Armenia did not witness any decline in discrimination on the grounds of sexual orientation or gender identity. The cases described in this report are only a fraction of the public attitude towards LGBT persons. Survivors of discrimination often do not turn to human rights organizations and often do not even identify their treatment as discriminatory.

The first part of the report summarizes human rights violations reported by the beneficiaries of Pink in relation to their sexual orientation or gender identity. These are cases when the hatred driving the perpetrators can be tracked by visible indicators such as the phrases used by them, location of the offence, expressed identity of the victims and other factors.

These infringements are violations of the rights of concerned people to be free from torture and inhuman and degrading treatment, respect for private and family life, work and education. The offences often resulted in violation of multiple rights.

It is noteworthy that despite the widespread nature of violations of rights of LGBT persons, these cases predominantly do not get reported to law enforcement bodies as victims of such violations shun to seek protection from these bodies. Of the 45 cases we describe, only 16 were reported to the police.

LGBT persons give the following reasons behind their avoidance to report crimes to the police or to turn to other bodies:

- *They do not trust law enforcement bodies, specifically, police officers. They believe that the investigation of their cases will not be handled in a manner that could be considered objective.*
- *They do not find the legal remedies effective as the representatives of law enforcement bodies often act in ways that lead to double victimization and/or degrading treatment in conjunction with further discrimination.*
- *They fear that the law enforcement bodies will violate the confidentiality of their cases, their orientation and identity will be disclosed.*
- *They do not feel protected from the offenders and fear their revenge.*

These concerns are, indeed, valid: LGBT persons are discriminated against by police officers, their personal data are disclosed to co-workers at the police, as well as to the family members of those that seek protection. The human rights violations described in this report also include cases when law enforcement bodies simply exceeded their powers. The majority of complaints on acts that were committed in conjunction with discrimination are not further processed as the criminal investigations are often dismissed (closed) or officers unduly procrastinate the process of investigation.

The cases documented by Pink show that the Republic of Armenia has failed its obligation to protect LGBT persons from discrimination. Their rights were violated both by state bodies and individuals with no redress available and offered due to legislative gaps and the bias of law enforcement bodies.

PART 1

VIOLATIONS OF HUMAN RIGHTS OF LGBT PEOPLE

State Obligations to Protect Human Rights and Prevent Discrimination

Human rights are universal, inalienable and non-transferrable. Ever since birth, every individual is entitled to human rights and freedoms regardless of any personal or social circumstance. The Republic of Armenia, as a state governed by rule of law, must ensure the unobstructed enjoyment and exercise by all persons present on its territory of their rights. At the same time, the state safeguards to the enjoyment of human rights imply not only oversight over various state bodies, prevention of human rights violations within these bodies, but also adequate response to violations committed by third parties. The international human rights instruments, the judicial or extrajudicial bodies and other mechanisms operating on the basis of these instruments have developed through their practice actions that states must undertake in order to ensure the enjoyment of human rights. These actions entail both negative obligations, when the state is obliged to refrain from any infringement of human rights and freedoms, and positive obligations, when the state must undertake actions towards safeguarding human rights. As such,

The state is obliged to observe and respect human rights, that is, to refrain from violating human rights (this is the negative obligation of the state). State bodies, including law enforcement officers and others holding state authority are not permitted to infringe upon the rights of the individual.²

The state also holds the positive obligation of **protecting the rights of the individual from infringement by third parties**. Under this obligation, the state must prevent violations of human rights committed by various individuals and entities. This entails the establishment of effective legal mechanisms for duly investigating human rights violations, redressing the violated rights, and paying reparations for the harms suffered.

The next positive obligation of the state is **to establish an environment conducive to enjoyment of rights**. The state authority must establish such legal mechanisms and a social environment where everyone is able to exercise their rights in an unobstructed manner.

The primary safeguard for the protection of human rights in the Republic of Armenia is the supreme law of the country, the Constitution, which stipulates that human rights apply directly.³ The supremacy of human rights in Armenia is also recognized by international treaties and covenants ratified by the state. These international documents hold a higher legal power than the codes, laws and other regulative legal acts adopted in within country.⁴

With its accession to international organizations, such as the United Nations and Council of Europe, and ratification of these organizations' key instruments, the Republic of Armenia has committed to clear obligations, the implementation of which should be regularly reported to these international bodies. To be more specific, there are 10 human rights treaty bodies within the UN that were created based on various human rights covenants. These committees review national reports on treaty implementation, but also individual applications from private individuals about violations of their rights.

² See RA Constitutions, amended in 2015, Article 3 <https://www.primeminister.am/en/constitution/>

³ Ibid, Article 3, Clause 3

⁴ Ibid, Article 5, Clause 3

There are also special procedures and special independent experts within the UN who are mandated to request information from national states on the human rights situation within their jurisdiction and measures taken by the states. Reports are submitted to these bodies by non-governmental organizations too. These reports elaborate on the effectiveness of national actions, as well as failures to comply with treaty obligations. Based on the presented information and subsequent communication with the state, treaty bodies present recommendations to states on addressing the issues. In 2022, CEDAW (Committee on the Elimination of All Forms of Discrimination Against Women) reviewed the situation of women's rights in Armenia, whereby the rights of lesbian, bisexual and transgender women were also presented. The Committee issued recommendations to the state to eliminate violations that stand at the roots of the issues.⁵

The recommendations read as follows:

The Committee is concerned about reports of discrimination, harassment and hate speech against lesbian, bisexual, transgender and intersex women, and about the absence of legal provisions regulating gender reassignment surgery and gender marker change, as well as the lack of training for medical personnel on the rights of lesbian, bisexual, transgender and intersex women.

The Committee recommends that the State party:

- *Adopt legislative and policy measures to combat gender-based violence and discrimination against lesbian, bisexual, transgender and intersex women, including hate speech and physical, verbal and emotional abuse;*
- *Protect the human rights of lesbian, bisexual, transgender and intersex women in all areas covered by the Convention and conduct awareness-raising activities to address their stigmatization in society;*
- *Ensure that transgender persons, including women, can exercise the right to change the gender marker in their passport and other identity documents;*
- *Ensure that lesbian, bisexual, transgender and intersex women can freely participate in political and public life by exercising their right to freedom of peaceful assembly without intimidation or reprisals.*

One of the most effective instruments of the Council of Europe is the European Court of Human Rights, which also holds implementation mechanisms. This is an international body whose observations have been instrumental for various legislative initiatives in Armenia. In 2022, the ECHR made its first judgement on Armenia's violation of human rights on the grounds of sexual orientation.⁶ In its trial of Oganezova vs. Armenia claim, the Court found that:

- the situation in which the applicant found herself as a result of the arson attack and the subsequent attacks on her person motivated by homophobic hatred must necessarily have aroused in her feelings of fear, anguish and insecurity which were not compatible with respect for her human dignity and, therefore, reached the threshold of severity within the meaning of Article 3 of the Convention taken in conjunction with Article 14;

⁵ CEDAW/C/ARM/CO/7 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FARM%2FCO%2F7&Lang=en

⁶ Oganezova v. Armenia (Applications nos. 71367/12 and 72961/12) <https://hudoc.echr.coe.int/eng?i=001-217250>

- the authorities failed to discharge their positive obligation to investigate in an effective manner whether the arson attack on the club which was motivated by the applicant's sexual orientation constituted a criminal offence committed with a homophobic motive;
- the authorities failed to conduct a proper investigation of the applicant's allegations of abuse motivated by homophobia;
- sexual orientation and gender identity are still not included in the characteristics of victims of the offence of hate speech despite the recommendations of the relevant international bodies in that respect.

The Republic of Armenia has not proceeded to the implementation phase of the Judgement, the overseeing body of which is the Council of Europe Committee of Ministers. The actions recommended by Pink to the state towards implementation of the Judgement are presented under the section Recommendations. These recommendations have also been shared with the Committee of Ministers.

RIGHT TO BE FREE FROM DISCRIMINATION

Discrimination based on sex, race, skin color, 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 prohibited.

RA Constitution, Article 29⁷

The right to be free from discrimination is an absolute human right and is not subject to any restriction. It is recognized both by international human rights instruments and by the RA Constitution.

All the major human rights instruments lay out observance of human rights without discrimination. By this, they underscore the universal and invaluable nature of the right to be free from discrimination.⁸

In international law, discrimination is defined as any distinction, exclusion, restriction or preference which is based on particular circumstances or features, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.⁹ In other words, discrimination is the treatment of persons in analogous situations in a differentiated manner without any reasonable or objective ground.¹⁰

In international law, direct discrimination is defined as a form of discrimination, when an individual is treated differently from others in an analogous situation based on a particular personal, social, or other characteristic.¹¹ Indirect discrimination is a seemingly neutral provision, standard, or practice whereby unfavorable conditions are set for individuals from a specific group compared to others.¹² Another type of discrimination is associative discrimination – when, not having a protected characteristic, a person is associated with another person with such a characteristic, e.g. is their husband, mother, father etc., and is therefore subjected to discriminatory treatment.¹³

Discrimination is based on a personal characteristic, which is called the ground of discrimination. Neither the Constitution of the Republic of Armenia and domestic laws, nor most international treaties directly mention SOGI as a protected ground against discrimination. Nonetheless, the list of protected grounds in Armenia's domestic law is non-conclusive, meaning that, other than the directly outlined characteristics, the legal acts do not preclude other circumstances of personal or social nature based on

⁷ RA Constitution <https://www.primeminister.am/en/constitution/>

⁸ See, Articles 1 (3) and 55 of the UN Charter, Article 7 of UDHR, Article 2, 4 (1) and 26 of ICCPR, Article 2 of ICESCR, Article 2 of CRC, Article 14 of ECHR, Protocol No. 12 of the ECHR

⁹ See, HRC, General Comment No. 18, § 7

¹⁰ See, ECtHR, Judgement of 23 July 1968, Case of Certain Aspects of the laws on the Use of Languages in Education in Belgium. *Willis v. United Kingdom*, No. 36042/97, § 48, ECtHR 2002-IV, *Virabyan v. Armenia*, No. 40094/05, 02/01/2013

¹¹ See, *Non-Discrimination in International Law A Handbook for Practitioners*, 2011 Edition, p. 17-18

¹² See, Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, (b) point of Article 2 (2)

¹³ See, *Molla Sali v. Greece* [GC], 2018; *Guberina v. Croatia*, 2016, § 78; *Škorjanec v. Croatia*, 2017, § 55; *Weller v. Hungary*, 2009, § 37

which a differentiated treatment may have occurred. This means that SOGI can and must be treated as personal and other social circumstances and must act as a protected ground on an equal footing as gender, race or disability. Human rights treaty bodies have repeatedly reaffirmed this assertion, stating that the SOGI fully fall under protected grounds.¹⁴

This being stated, the Republic of Armenia is obliged to respect a person's right to be free from discrimination. It should protect LGBT people from abuse committed by government officials, including government officers, police and investigators. Ensuring equality is not just about state bodies refraining from committing violations, the state must create an environment in which private individuals would not violate the rights of LGBT individuals on the grounds of their sexual orientation or gender identity. Moreover, such violations must be investigated in a due manner, and the perpetrators must be punished.

While a number of thematic legislative acts contain prohibition of discrimination, Armenia still does not have a separate law on non-discrimination which would define the notion and types of discrimination and would set out an effective remedy for the protection of groups most vulnerable to discrimination. A law with an effective remedy mechanism, should primarily:

- include sexual orientation and gender identity in the grounds protected against discrimination given the large number and scope of human rights violations based on this ground,
- lay out a comprehensive list of types of discrimination,
- prescribe legal standing for non-governmental organizations to seek protection for their beneficiaries in courts,
- lay out a mechanism of establishing an equality body with vested with a clear-cut mandate,
- prescribe remedy mechanisms against discrimination committed by private entities,
- set forth a differentiated approach in laying the burden of proof in trials of discrimination cases by obliging alleged perpetrators to prove lack of a discriminatory motive.

It is noteworthy, that the non-discrimination draft law has been under discussions and consultations since 2016 and has undergone numerous amendments both by the Ministry of Justice of Armenia and the civil society, however it never made through to the Government for approval and the Parliament for adoption. In its current wording, the draft law does not enjoy the support of civil society as it does not meet the above-mentioned criteria of being an effective remedy.

The human rights violations documented in this report were committed in conjunction with discrimination, in other words, these offences were committed because of the sexual orientation or gender identity of the individuals suffering from these acts.

While the cases documented in the report are categorized by type of offence, all of them were committed in conjunction with discrimination on the grounds of sexual orientation or gender identity.

¹⁴ See, *Identoba and Others v. Georgia*, 2015, § 96; *Salgueiro da Silva Mouta v. Portugal*, 1999, § 28; *Fretté v. France*, 2002, § 32; *Vejdeland and Others v. Sweden*, 2012, § 55; Committee Against Torture, General Comment No.2: Implementatiolu of Article 2 by State parties, § 21, 22

RIGHT TO HEALTH

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

RA Constitution, Article 85

Right to health is one of fundamental human rights. Despite the fact that standards safeguarding the right to health are not identical across countries and vary depending on their level of development, economic conditions and resources, certain principles must be observed regardless of the overall capacities of the healthcare system within each country. One of such principles is the prohibition of discrimination. In other words, regardless of the capacities of a given state, of the kind of system providing healthcare services, of the scope of state-funded health services and accessibility or availability of health services, the latter must be available to each person on equal grounds and cannot be restricted in any way on grounds of any personal or social characteristic, such as sexual orientation and gender identity.

The stories below describe cases of discrimination applied by institutions of healthcare.

A trans woman who wishes to undergo a gender-reassignment surgery, contacted her preferred plastic surgeon on the matter of facial plastic surgery. They discussed the matter for a while, after which the surgeon asked for the person's photos. The applicant sent her photos along with her social media page. They spoke again on the phone during which the applicant informed the surgeon that she is a trans person and plans to have a gender-reassignment surgery. The doctor, at this moment, started to make rude and discriminatory remarks. After this conversation, the trans person tried to get in touch again with the surgeon, but the latter did not respond to her calls and messages.

The trans woman did not wish to take any steps towards protecting her rights.

A trans person who suffered assault, turned for medical assistance, but was subjected to neglect and was not provided necessary equipment at the medical institution, such as a wheelchair to be safely transferred. The medical personnel also ill-treated the person. Many of the medical staff were informed of the room the trans person was transferred to, which means that rumors had immediately spread.



Discrimination in medical institutions takes place in conjunction with violating a person's right to health. In other words, the person does not have access to decent medical assistance and servicing solely on the ground of their personal characteristic and finds themselves in a less favorable situation in comparison to others. Such violation of rights may lead to other issues, such as impairment of the mental integrity of the person, who, under pressure of medical need, feels even more repressed and this, in turn, may lead to deterioration of physical health. This means that discrimination in relation to the right to

health may lead to violation of other rights as well. The first case described above meant rejection of medical assistance right at the beginning. Should the person have accessed the assistance and their gender identity have become known in this process and should discrimination have been applied at a later phase, it could have led to serious issues for the person all the way up to inadequate and non-conclusive investigation over the interventions of non-medical nature. In the second case, the person was discriminated against while receiving medical assistance, which aggravated their condition as they needed additional help. Not only did the person not receive the necessary help, but they were also ill-treated and left helpless.

It does not matter whether a healthcare institution is private or public, the state should have created an environment where citizens would not have to face discrimination based on their personal characteristics. This should have been done by laying out a comprehensive regulatory framework on the one hand, and by ensuring effective implementation of regulations and creating trust towards law enforcement bodies, on the other.

RIGHT TO WORK

1. *Everyone shall have the right to free choice of employment.*
2. *Every worker shall have the right to protection against unjustified dismissal from work. The grounds for dismissal from work shall be prescribed by law.*

RA Constitution, Article 57

According to RA Constitution, everyone has the right to free choice of employment and to protection against unjustified dismissal from work. This regulation suggests that everyone is free to choose a profession, be employed in jobs they have a preference for. The relations between an employer and employee are based on the principle of sustainability, which means that in the event of unjustified dismissal from work, an employee has the right to dispute this decision in courts. As a safeguard to the sustainability of labor relations, the state moves on to regulate within the Labor Code the grounds upon which dismissal may be legal and thus it prevents arbitrary decisions by employers.¹⁵

LGBT persons encounter discrimination in various spheres of life. Differentiated attitudes and prejudice towards them apparently injure not only their mental integrity, but also social safety. More precisely, their life quality is heavily impacted by the discrimination applied in labor relations. A person becomes bound to lose earnings not due to inadequate professional skills or flawed performance at work, but simply due to a characteristic they hold personally. Below are some of the cases documented in 2022 on labor discrimination.

■ A gay person (applicant) is employed in the services sector. The co-workers learn that the applicant has a trans friend and has frequent interactions with the friend. Co-workers start ridiculing and harassing the applicant for having a trans friend and develop a thought that the applicant must be an LGBT person too, for they are interacting with trans people. After a while, the employer informs the applicant that the tensions between the applicant and the other workers are impacting the working environment and the applicant is, therefore, dismissed from the job.

The person did not wish to seek legal protection.

■ A gay person is hired to a waiter's job in a bar in Yerevan. During admission, the owner of the bar tells the manager that "such a person" cannot work with them, meaning a person who is gay. The manager, however, persuades the owner to hire him. After working for one month, the person is dismissed. According to the manager's words, the owner did not want "such a person" to work there, arguing that their clients include "genuinely Armenian men and such people cannot serve these men." In response to the manager's arguments that the newly hired worker was a good employee, the

¹⁵ See, RA Labor Code, Articles 109-114 <https://www.arlis.am/documentview.aspx?docid=146722>

owner invited “both of them, to hold hands and leave, as long as the manager is taking the side of defending.” The owner eventually dismissed both.



In this latter case, we are dealing with not only direct but also associated discrimination. The manager fell victim to associated discrimination and was dismissed from work not on the grounds of their personal characteristics but because of the characteristic of somebody else they were trying to defend. Discrimination in labor relations entails not only violation of labor rights but can eventually cause a lack of decent housing and adequate living standards.

In this situation, the state has failed in its obligation to protect people from discrimination. Despite the ban on discrimination in the Labor Code, many people avoid seeking remedies for their violated rights as they do not have any expectation that they can prove the fact of discrimination applied by their employers. It is worth reminding that should comprehensive anti-discrimination legislation be enacted, those suffering discrimination must not bear the burden of proof of discrimination. They must only report the alleged discrimination, while the defendant will need to prove that they did not act in a discriminatory manner. This principle is based on the notion that the alleged perpetrators possess a large scope of evidence materials that can serve their proof of lack of discrimination. For example, if a person was actually dismissed from work due to lack of professional skills or underperformance at job, this can be easily proven by the employer. In practice, discrimination and other kinds of violations are difficult to prove, if the burden of proof is borne by the employee. The latter almost never possess any means to prove that their dismissal was on the grounds of a specific characteristic they have.

It is also the obligation of the state to establish an environment wherein individuals refrain from committing discrimination, in other words, they know that the state has a clear policy of combating discrimination of any kind and on any ground and they can get punished for such acts. This means that the state must publicly condemn discrimination and publicize its policy on preventing discrimination. In such a situation, even an incomplete set of regulations will prevent service providers or employers from freely discriminating.

RIGHT TO EDUCATION

1. Everyone shall have the right to education. The programmes and duration of compulsory education shall be prescribed by law. Secondary education within state educational institutions shall be free of charge.

2. Everyone shall, in the cases and under the procedure prescribed by law, have the right to receive free education on a competitive basis within state higher and other vocational education institutions.

RA Constitution, Article 38

Education is key to progress in a society. In this regard, the state bears a positive obligation to raise public consciousness, ensure society's continuous development by enabling conditions for the exercise of the right to education. The RA Constitution stipulates that everyone shall have the right to education. At the same time, nobody shall be denied the right to education.¹⁶ The right to education includes not only secondary education,¹⁷ but also education at higher institutions.¹⁸ By entrusting higher education institutions with a self-governance authority,¹⁹ and by predicting the possibility that some learners will be dismissed, the state stipulates that dismissal of students shall be conducted in accordance with the internal procedures and rules of the institution.²⁰ This regulation is an additional safeguard to the protection of the right to education in higher institutions.

With the applicant's consent, a video was uploaded on the Internet where the applicant put make-up on a trans woman. After the video was disseminated, fellow students at school started ill-treating the applicant and making discriminatory statements. They used words like, "sissy," "you're dressing like a girl," they also argued that putting make-up is tantamount to profanation. They also had fights with the applicants and started kicking and shoving them. According to the applicant, teachers started treating the applicant in a discriminatory manner too, they started regularly inviting their parents to school and during these talks they told the parents that their son was gay. The applicant was forced to change schools twice, because in both schools, the teachers and fellow students discriminated upon them.

The person did not wish to seek legal protection as they were trying to avoid a conflict with fellows.

16 See, Convention on Human Rights and Fundamental Liberties, Ammended Protocol 11, Article 2 <https://www.arlis.am/DocumentView.aspx?DocID=20870>

17 See, Bahri SULAK v Turkey, No 24515/94

18 See, Leyla Şahin v. Turkey [GC], § 141; Mürsel Eren v. Turkey, § 41

19 See, RA Constitution, amended in 2015, Article 38, Part 3

20 See, RA Law "On Higher and Postgraduate Professional Education", Article 17, Part 6 <https://www.arlis.am/documentview.aspx?docid=103999>

The applicant who identifies themselves as a trans boy, is a student at high school. Their friends and fellow students call them by their preferred name. A teacher learns about this and decides to have a talk with the applicant. Later, the applicant learns that the school administration is also made aware of their identity. The school principal tells one of the fellow students that their friend is "disturbed." The principal then calls the boy's custodian, who is their sister, and tells her that "this illness is not permissible in school." The principal also says that if this is to continue, if the parents of fellow classmates complain, then they will have to dismiss the applicant from school.

A gay teenager was regularly bullied by fellow classmates at the college. He was ignored, ill-treated, drawn into fights, ridiculed for his appearance by phrases such as, "are you shaving your legs? Real boys don't shave" etc. The teachers and college administration were aware of his peers' ill-treatment towards him but did nothing to prevent bullying. One day, when the classmates argued with the boy and insulted him, the boy called the police. He went out to the building next to theirs to meet the police officers and was encountered by 10-12 fellow students aged between 17-19. They started to insult him in reference to his sexual orientation. One of them approached the boy, kicked his hand and legs. The teenager attempted to cool off the fight. Upon the arrival of the police officers, they all went into the college where the officers started to speak in a rude and reprimanding manner to the boy. They dismissed the truth told by the boy by stating that he "is faking it all." In a general meeting involving the deputy principal, the latter explicitly said that it was due to his efforts of not allowing violence that the boy was not physically assaulted, otherwise various boys would be abusing him right now. As a result, the applicant was dismissed from college on grounds of misbehavior.


The survivor does not wish to continue education as he feels insecure.

A gay boy of teen age was dismissed from college. He attempted to be admitted to high school to continue education. The school administration learned from the college about the reasons for dismissal, while the applicant was forced to come out. During a preliminary conversation with the boy, the school administration told him that he shouldn't attend school wearing clothes that stand out and with dyed hair, also warned him not to share with peers about his orientation. Nonetheless, on the next day, he received a phone call from the school administration and was informed that they did not want "such a person" to study at their school explaining their decision by the appearance of the applicant and the mismatch of his clothes to the school. The applicant, however, states that he went to the admission meeting in ordinary clothes, while he also noticed students wearing similar clothes and dyed hair.

A gay man is studying at a military education institution. The administration of the institution learned about his sexual orientation and one of the senior administration officials called him for a private conversation and started to shame him for being gay, told him rudely that it is not normal and said that they "will make him a man." The young man was also threatened that he would be dismissed, which means his immediate transfer to mandatory military service in an army setting. He will also have to pay double

the amount of the education fee as is stipulated in the contract of military education should a person be dismissed from the institution.

The military education institution informed the person's family about their son's sexual orientation. This resulted in pressures against him related to his sexual orientation, threats to harm him etc. Family arguments also included the theme of having to pay large sums of money to the military education institution for the disclosure of his sexual orientation. The person is forced to quit education and leave the country.

 A gay man was supposed to serve his military service through military education which entails that the person gets military education and then goes to the army to serve under a higher military rank.

During one of the medical examinations conducted for drafting, the man was accompanied by his father. During the medical examination, the man was asked private questions, as well as questions about his sexual orientation. The man felt intimidated to confess that he is gay, because one of the examining doctors was conveying all the information to his father. During the entire period of the medical examination, the man was constantly told that he is not brave enough, that he is weak, and that he cannot continue studying and serving by the military education program. He was directly asked whether he had ever had a sexual contact with a woman. The man answered yes, but in fact it is a lie as he was afraid to come out and that his father would be informed, which would cause family issues. He was told that he is not fit to serve with such a behavior and that they were going to "dismiss" him from the program.



The cases documented by Pink in 2022 about violations of the right to education on the grounds of sexual orientation or gender identity exceeded those documented in previous years. While this may give room for concern, our assumption is that more and more people are starting to speak about infringements upon their right to education. When we speak about public education, the educational institution must act as not only an educator, but also as a body protecting its attendees from any kind of infringement. Regardless of the fact that bullying or abuse comes from fellow classmates, or families or others outside the institution, the school must consistently work towards restoring the violated rights and repairing harms done to the mental integrity of victims. This school capacity is especially important because victims of violations are underage persons who often do not have access to remedies or are not well informed. Therefore, the school must instill a culture of equality, respect and tolerance among the students on the one hand and take action to protect those that are more vulnerable on the other hand.

The examples brought above, however, unfortunately show that educational institutions make no efforts towards protecting people and often, on the contrary, indirectly act as perpetrators of violations. In many cases, the victims of such violations drop out from school, are psychologically oppressed and have no wish to continue education. These consequences, in conjunction with others, are bound to negatively impact the future career opportunities and labor market position of the person and to lead to social-economic issues.

As is already clear from the case descriptions, violations of the right to education were documented in military educational institutions as well, which were accompanied by

disclosure of private data and ill-treatment. It is natural to assume that reducing the numbers of learners at military education institutions also harms state interest and, therefore, harms not only the individuals concerned, but also the state.

Given the fact that educational institutions are state institutions, the above-described cases amount to a failure of the negative obligation of the state to refrain from violating human rights.

RESPECT FOR PRIVATE AND FAMILY LIFE

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

2. The right to inviolability of private and family life may be restricted only by law, for state security, economic welfare of the country, preventing or disclosing crimes, protecting public order, health, and morals, or the basic rights and freedoms of others.

The RA Constitution, Article 31

Everyone has right to privacy, family, honor, and reputation.²¹ The right to private and family life defines the right of every person to recognition before the law, as well as the right to privacy.²² "Private life" is a broad concept, which includes the physical and psychological integrity of the person. In some cases, it includes aspects of a person's physical or social identity. Circumstances, such as gender identity, name, sexual orientation, and sex life, fit in the context of protections of the right to privacy and family life.²³

The right to physical integrity (right to inviolability) is a fundamental, inalienable right inseparable from human dignity, the meaningful protection of which is a necessary precondition of democracy. This right is protected under prohibition of torture, inhuman or degrading treatment or punishment.

Torture is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from them or a third person information or a confession, punishing for an act they or a third person is suspected of having committed, or intimidating or coercing them or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.²⁴

Under its international obligation to protect individuals from torture, the state must, first and foremost, refrain from inflicting torture. State officials, law enforcement officers, persons in official capacity should not inflict physical or mental abuse against private individuals based on any protected ground. It should be emphasized that the right to be free from torture and cruel treatment is an absolute right and is not subject to any restriction.²⁵

In differentiation of torture from inhuman and degrading treatment, torture is a damage inflicted intentionally on the person that has caused serious and severe suffering, while degrading treatment is such a treatment that arouses feelings of fear, threat, inferiority,²⁶ injures the person's reputation and role, their human dignity or forces them

21 See, RA Constitution, amended in 2015, Article 31

22 See, International Covenant on Civil and Political Rights, 1966, Article 16

23 See, *Pretty v. The United Kingdom*, No. 2346/02, §49

24 See, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, Article 1

25 See, *Pretty v. The United Kingdom*, No. 2346/02, §4

26 See, *Aydin v. Turkey*, No23178/94

to act against their own will or conscience.²⁷ In certain cases, discrimination and threats on the grounds of SOGI are considered degrading treatment.²⁸

Nonetheless, the ban on torture, inhuman and degrading treatment applies beyond state officials. Under the international instruments protecting this right, the state is obliged to prevent violation of a person's physical safety by others,²⁹ must prohibit physical abuse, such as battery, harming a person's health, hitting, stabbing and any other injury to the body of the person. At the same time, the state is obliged to create mechanisms remedying violation of the right to physical integrity. Such remedy mechanisms include criminalization of these acts, redress given to victims.³⁰

A persons' physical and mental integrity is also protected under the right to private and family life, honor, and reputation.³¹ In a number of its judgements, the ECHR has taken the position that state authorities bear a positive obligation in relation to the protection of the right to physical and mental integrity from assaults by private individuals under the Convention's Articles 2 or 3, in other cases, under Article 8 (separately or in conjunction with Article 3) to create and ensure an adequate framework of legal norms that enable protection of private individuals from violent acts.³²

In Armenia, intentional physical injury to a person is a set of offences punishable under the Criminal Code.³³ Punishment is prescribed for offences of physical influence (injury) of various degrees of graveness and various types of injury.

Physical Violence Based on Sexual Orientation or Gender Identity

A young man, aged around 22, saw two female partners holding hands while walking on the street. He came up to them and started to toss them, hitting one of them with a bag over the head, swearing at them with sexual swear words. He also said, "I do not serve in the army so that people like you can easily walk around in this country." The victim of the assault had an appearance that stands out in the Armenian public, with tattoos on the arms and a half-shaved haircut. The applicant did not wish to report the assault to the police for fear of disclosure of confidentiality around her and her partner's sexual orientation because she has children and lives in a family.

27 See, *East African Asians v United Kingdom*, No 4715/70, 4783/71, 4827/71

28 See, *Smith and Grady v United Kingdom*, No 33985/96, 33986/96

29 See, CAT, General Comment No. 3. A v United Kingdom, No. 25599/94, Rep. 1996-VI, Judgement of 23 September 1998

30 See, *Blanco Abad v Spain*, CAT Communication No. 59/1996, 14 May 1998, *Members of the Gldani Congregation of Jehovah's Witnesses v Georgia*, op. cit., §97. CAT, General Comment No. 2.; *Torture in International Law, a guide to jurisprudence*, Association for the Prevention of Torture, page 72

31 See, RA Constitution, amended in 2015, Article 31; European Convention on Human Rights, Article 8

32 See, *Osman v. the United Kingdom*, §§ 128-130; *Bevacqua and S. v. Bulgaria*, § 65; *Sandra Janković v. Croatia*, § 45; *A v. Croatia*, § 60; *Đorđević v. Croatia*, §§ 141-143; *Söderman v. Sweden* [GC], § 80

33 See, RA Criminal Code, Chapter 16 <https://www.arlis.am/documentview.aspx?docid=149259>

A co-worker punched the applicant in the face during a quarrel over a trivial issue. Later, the assailant confessed to the applicant and other co-workers that they were really getting angry and nervous at the fact that the applicant is gay and “is making gay gestures.”

The victim reported to the law enforcement bodies, the latter, however, rejected opening a criminal file.

A group of boys aged 9-15 gathered in the backyard of an apartment block in a town in one of Armenia’s regions and started insulting a gay person and his family with sexual swearwords and insults about his sexual orientation. Two of the teenagers, aged around 15, approached the applicant and offered to go behind the building of a nearby kindergarten to clear up the matter. Here too, the two teenagers continued swearing and were joined by 3 other boys. One of them came closer and hit the victim, who at that time took out a tear-gas spray and sprayed it into the eyes of two of the teenagers. The victim then ran towards the entrance of the kindergarten.

The teenagers started throwing stones at the applicant while they were running away. At the entrance of the kindergarten, one of the teenagers approached the applicant again and threw stones at the victim’s feet, then proceeded with hitting four times at his legs with a wooden stick. These acts were accompanied with repeated calls to go away and even up in a place out of public eye, but the applicant feared further violence and remained at the entrance of the kindergarten. The teenagers continued shoving the applicant around. One of the teenagers told the applicant to immediately leave the spot, because the brothers of the sprayed boys were coming after him. After a while, the applicant saw around 7-8 boys, some aged between 12-15 and others 17-18, coming in their direction. They had stones, sticks and knives in their hands. The applicant decided to enter the building of the kindergarten. Earlier, during the fight, at around 16:20, the applicant had called the police and reported the threat and had asked for the police to arrive. At around 17:30, the police had not arrived yet. The applicant called a taxi and accompanied by kindergarten workers sat in the taxi and headed towards the police department of their town. The applicant first tried to find out why the police did not react to their call. The police officers answered that the applicant must have called a Yerevan-based phone number, which was the wrong number, and should have called their town’s local police phone number. In fact, the applicant had called the police hotline, 1-02, which is a centralized number operating all over the country.

Violence Based on Gender Identity and/or Gender Expression

A trans woman called Yandex taxi at 2am. Upon arrival, the taxi driver saw that the client is a trans woman and refused to take the order. The woman demanded that the driver carry out the order. The driver started swearing at the trans woman and walked towards her. Having experienced abuse many times in the past, the trans woman anticipated an assault by the driver and took out the knife she kept on her for purposes

of self-defense. The driver tossed her around, snatched the knife and hit her hands multiple times with the blade. The driver also slapped the trans woman several times, hit her in the head with his own head. As a result, the trans woman lost balance and fell on the ground. The driver proceeded with kicking the woman with legs.

The police were reported over this crime. A criminal file has opened on the basis of Article 195, Part 1 of the Criminal Code of Armenia (Physical influence (Battery)). The woman is recognized as a suffering party.

A trans woman went out for a walk at around 3am. While walking, she noticed two men sitting on a nearby bench who were staring at her. She also heard them using slurs at her, to which she did not react. But when she was passing closer by them, the men came up to her and asked what time it was. The applicant responded, which made it clear that she was a trans woman. The men started shouting and swearing at her. The woman asked them to clear her way so she could pass because they were strangers, and she was attempting to avoid a fight. One of the men forcefully shoved the woman continuing using slurs. The applicant started screaming for help, after which the two men went on a full attack on her. One of them attempted to cover her mouth, he forcefully kicked her in the area of the mouth and cheeks three times, breaking her teeth right in the mouth. The other man hit her irregularly all over the body, in the areas of the abdomen, back and feet. Afterwards, the men ran away from the scene.

The applicant decided not to turn to the police, deeming it absolutely pointless as similar assaults had repeatedly happened to her and her family members in the past and the attempts to turn to the police resulted in the police blaming her.

A trans sex worker woman had an encounter with the client at her apartment. After the sexual act, the client demanded that the payment be returned, which was rejected by the trans woman. The client started threatening her, yelling at her, and swearing, after which he took out a knife that he had on himself and held it against the neck of the applicant demanding that the money be returned. Fearing for her life and health, the trans woman was forced to return the payment of her service to the assailant. According to her, being well aware of her gender identity, the assailant was shouting and making lots of noise in the apartment block building and was attempting to create issues for her in the neighborhood with the aim of having her expelled from the apartment.

Two trans women were in an area considered a cruising place for trans sex workers. They were approached by three young men aged between 23 and 28, under the influence of alcohol. The young men started using slurs and sexual swearwords at them, insults involving their gender identity and work. They then proceeded with shoving them around, pulling the artificial hair extensions of one of them, pulling her finger in such a way that it got injured. Leaving her high heels behind, one of the women ran to cross the street. A car started driving at her with the intention to run over her and then chased her. The young men slapped the other trans woman who was wearing high heels and lost balance and fell on the ground. The young men started kicking her, threw cigarettes at her and spat on her. The applicants tried to stop a police patrol car driving

by at that time, but the patrol did not pull over. The assailants remarked on this, "See, even the police do not help you."

The trans women called the police, which arrived only 1 hour later. Together with the assailants, they were taken to the police station, where the assailants continued swearing at them with sexual swearwords, calling on police officers "to allow them to slaughter and annihilate these ones." The police officers took no measures to prevent the calls for violence, they only pulled them to the side and said, "Come over, these ones are a trouble," meaning the trans women.

A trans woman was walking on the street when she was approached by two young men, and the three continued walking together. The young men gave a treat of beer to her and invited for a sexual intercourse. The trans woman rejected, after which one of the young men snatched a knife from the bag and attempted to stab the woman, but she managed to escape it. The other young man took the knife away from his friend's hands and put it back into the bag. After a while, the young man again took out the knife and forced the woman an oral sexual intercourse holding the knife over her head. The second young man also forcefully got an oral sexual intercourse with the knife being somewhere visible. After this, the young man put the knife back into the bag, but continued sexual swearwords and slurs, and took the knife out again and started chasing the trans woman. She was able to run away and called the police.

The criminal offence was reported to the police. A criminal file has been opened for the offences of keeping a cold weapon and coercive violent acts of sexual nature. The applicant is recognized as a sufferer of offence.

A video was uploaded on the internet where a man of around 35 years of age is livestreaming with his phone how he is using slurs and swearwords towards trans women, is showing the large rings he is wearing on his hand. He then approaches one of the trans women in a gathering place for sex workers, asks a question, then punches her. The woman falls on the ground. The man continues kicking her with his feet and hands all the time swearing and livestreaming. After a few minutes, the woman finds ability to get up and run away, while the man continues swearing.

A few hours later, a YouTube user by the name "Karen Arayan" uploads this video titled "ՍԱՏԿԱՑՐԵՑ ՏՐԱՆՍԳԵՆԴԵՐԻՆ ԵՐԵՎԱՆԻ ՓՈՂՈՑՈՒՄ / ԿԵՑՑԵՄ ՎԱՂԵ" ("How the transgender got battered on the street in Yerevan/ Well done Vahe!"). The video also features comments by "Karen Arayan", the person behind a militarist social media channel called "Army of Light." All throughout the video, "Karen Arayan" publically justifies the violence and states that the assailant, Vahe Yeghiazaryan "was awarded a gratitude award by the Army of Light because by battering a trans person, he had committed a patriotic act."



These acts resonated greatly in the public and continued to be encouraged and justified. A criminal file has opened.

Walking towards a kiosk, a trans woman encountered three young men aged around 30 years who attempted to make an acquaintance with her, which she rejected. At another encounter, this time near the entrance of her home, they used slurs asking whether she does oral sexual acts. The applicant responded that it is none of their business. The young men proceeded with swearing at her and kicking her with legs and hands. The woman fell on the ground, while the assailants continued kicking and swearing. The young men stopped only when they noticed a police patrol car passing by and for fear of being caught, they ran away.

A trans woman was standing at a cruising area of trans sex workers together with other trans persons. Two young men passed by them on a scooter, and one of them spit at the applicant and used swearwords stating, "people like these could be beheaded."



Physical abuse is one of the most common crimes faced by LGBT persons. These assaults normally are carried out by strangers who make assumptions about the sexual orientation or gender identity of the persons they subject to wrongdoing based on their appearance or based on the area they encounter them. Trans persons are predominantly assaulted in an area where trans sex workers gather or are assaulted because their appearance gives out their being trans. Repeated physical assaults taking place and reported from that very location for years speak to the fact of inaction by the state. Law enforcement bodies fail to ensure the safety of people in an area notorious for cases of abuse and on the other hand, they fail to fully investigate cases of abuse, which creates an environment of impunity. This environment has boiled to a level wherein the act of abusing a person is aired live with no attempt to conceal the identity of the assailant, with the video going viral and accompanied with statements of encouragement and calls for further violence against transgender persons, while all of this remains unpunished. When such an unlawful inaction by law enforcement bodies is repeated, we may well conclude that the bodies in charge of decision-making do not have a policy to combat hate crimes.

Survivors of violence are reluctant to report crimes to law enforcement bodies. They have repeatedly experienced disappointment; therefore, they do not trust that their cases will be investigated, and the perpetrators will be brought to account. Also, they avoid double-victimization and ill-treatment by the police. These concerns are well reflected in the violations described below; wherein LGBT victims of hate crimes are directly ill-treated by the representatives of law enforcement bodies.

Power Abuse by Law Enforcement Bodies

A gay couple was watching a film in a car when two patrol officers came by. They demanded the couple show what they had in their bags, they searched the seating compartment and other areas of the car. Figuring out that the persons were gay, they went on using ridicules, asking questions such as, "Who is the female, out of the two of you?", "Don't you want to change your sex?" "Are you with both girls and boys?", "your girlfriend..." The patrol officers said that the applicants were committing an illegal act by engaging in a sexual intercourse in a public area and were subject to a fee. They mentioned that the applicants were supposed to pay directly to them, because the officers prevented the crime, so they demanded 20.000 AMD from each of them. The applicants were able to convince the patrol officers that they were not committing anything illegal and were not going to pay the amount demanded.

The applicant did not wish to report to law enforcement bodies as he believed they would violate the confidentiality around his sexual orientation.

While documenting a crime report by a survivor of domestic violence, the investigator learned that the person was abused in relation to their sexual orientation and remarked that all normal parents would act in the same manner if they were to learn that their child has a different sexual orientation. With no concealment of discriminatory attitude, the investigator asked the applicant who elicited him into "that circle," meaning the circle of LGBT persons.

While documenting testimony, the investigator summoned the sufferer and her mother at the same time. The mother, showing up with the victim's 3-year-old brother, started psychologically abusing her and incited insulting statements from the child addressed to her sister. She said, "Look, you're never going to see this piece of dirt again."

Police officers ridiculed trans victims of violence, laughed at them and called them a "trouble."

At the investigator's office, the investigator got into an argument with the victim after being remarked that police officers discriminate. The investigator smirked and demanded the person to behave "in a normal way," to only answer questions and not to make other remarks. The investigator also said that no such behavior is to be tolerated in the office and it is only them, the investigator, deciding what is permissible and what not. The representative of the victim interfered and demanded a respectful attitude towards the applicant reminding applicable international norms and given the fact that the survivor of the crime may be in a difficult mental state, may laugh, cry or express in unusual ways, therefore the investigating body must act in a patient and sensitive manner. After that, the investigator refused to continue documenting the victim's testimony (explanation) on the computer and suggested the victim and their representative to write it themselves.

After around 1 hour of clarifications and calls to the Human Rights Defender's office, the investigator documented the testimony on the computer.

Police officers made insults towards a gay person who had been abused. They asked the person why they were not using swearwords, what were the clothes they are wearing, made remarks that once the ears are pierced the only thing missing is the lipstick. They made remarks on the person's sexual orientation and more specifically, that they are going to marry a man.

The applicant was at her female partner's place when she noticed that her phone was missing. Together, they went to the local police department in one of the regions of Armenia. At the police station, her other phone was taken by the police officers in order to locate the stolen phone. While doing this, they secretly accessed the private videos and photos on the phone featuring the owner's private life with her partner. The officers invited the applicant's girlfriend to a separate room and threatened that they would tell her family about her sexual orientation, they would show them the photos. They coerced her to confess that she had stolen the phone. In another private conversation with the applicant, the police officers told her that "those like her come and degrade the region and create conflicts", coerced her to confess that her phone had not been lost, that she was lying. The police officers also told the applicant to stay away from the family of her girlfriend, that her girlfriend was "immoral," while conversely, the officers made negative remarks about the applicant speaking to the family of her girlfriend.



These cases reflect the situations where LGBT persons, who are victims, are trying to avoid and eventually do not seek legal remedies because of the law enforcement bodies' actions. In other words, all those victims who have ever dealt with law enforcement bodies never want to go back there. It is important to note that survivors of hate crimes are particularly vulnerable, psychologically down and insecure, which necessitates not only legal support, but also psychological assistance in order to help them cope with the harm inflicted upon them on the grounds of their identity. Normally, survivors of such crimes find it difficult to even speak about what happened to them and often do not report to investigators such details that may have significant importance to the full and comprehensive investigation of their complaints. When a person is not offered psychological assistance in this situation, but is ill-treated instead, with ridicule, degrading and other offensive acts, their condition deteriorates, especially in terms of mental integrity.

In addition to this, the cases documented so far show that the actions of law enforcement bodies imply offences for which they should be held accountable, however, in practice, nobody has ever been held accountable for such acts.

Here, we deal with failure to observe human rights, whereby the offender is the state body itself. In this situation, it is even more difficult to expect that the violated rights of the person will be remedied as the state institution vested with the mandate to protect the person is the one violating their rights.



Transgender persons face multiple difficulties or restrictions due to their gender identity. It is worth stating that in order to address the issues faced by transgender persons, the state must adopt a clear policy. This should include legal regulations on gender affirmation (gender-reassignment), including hormonal therapy, gender-reassignment surgeries, psychological assistance, pre-surgical examinations and post-surgical management. Another issue is the fact that the law allows changing the gender marked on personal identification documents only upon medical documents that confirm gender-reassignment surgeries. In other words, the person whose gender identity does not match their biological sex and does not wish or does not have the means to undergo gender-reassignment surgeries, will face multiple issues given the mismatch of their appearance to the gender mentioned in their passports. The issue can create complications for the person in any public relation. Below is just one of many examples documented by Pink in 2022.

In order to receive a new passport, the trans person had to go to the local military draft committee to obtain a document on completion of military service. The military committee personnel started ridiculing the person. They also denied providing the document on the ground that the person's appearance is female and that they could not match their identity to documents despite the fact that the person showed their previous passport's photo.



Here, we are not simply dealing with a technical issue, this is a clearly derisive attitude demonstrated by the state body. Not only did the person encounter a problem trying to obtain necessary official documents, but they also became targeted by the state body, which constitutes a violence of respect for the right to private and family life. The person was harmed psychologically on the one hand, and on the other hand, was deprived of the most basic means of exercising their right due to lacking a passport. The earlier section of this report on the obligations of the state touches upon this issue by quoting the CEDAW recommendation to the Armenian government **to ensure the right of transgender persons, including women, to change gender-marking in their passports and other identification documents.**

Cases of Domestic Violence

A person published videos on TikTok social media where they come out. Family members saw these videos and learned that he is gay. The person's mother and father made an argument saying that homosexuality is wrong, it is some sort of a disturbance, an illness. They also demanded their son to leave home, as "they did not wish to keep a faggot in their house." After a while, they brought their son back home and grabbed his phone. The father attempted to hit him but was prevented by family members. The father mentioned that he was not sure whether he would be able to hold himself back or would kill the young man. The person was transferred to a children's

assistance center.

A representative from the regional governing administration mentioned to Pink that homosexuality is not normal and work needed to be conducted with the child, especially that the child did not understand it as a minor, emphasizing that without prior sexual relationship, the child could not be sure of their sexuality.

The parents of a bisexual woman learned about her sexual orientation by accessing her private communication and photos. They kept her locked up against her will and did not allow her to leave the house for around four months. During this time, they cut her hair, abused her physically, shoved her around. Her father also abused her psychologically by regularly insulting her around her sexual orientation. He also threatened to harm the child of her girlfriend and said that he knew where the child was studying, that he would go and kill the child. The family also tried to “treat” the applicant by “reversing her sexual orientation” and took her to a psychiatrist.

A user of a fake Instagram account sent the photos of an underage person to their parents that were posted on the person’s Instagram page by themselves in the summer of 2021, but were later deleted. The photos sent to the parents could possibly suggest that the person was identified as gay. The fake account user demanded the parents to not obstruct a meeting with the victim, threatening to otherwise publish the photos. A few hours later, the same account user sent the photos of one of the victim’s close friends, which could possibly suggest that the person is identified as gay. The fake account user said to the parents, “see who they are interacting with.”

The father of the underage person took them home, confiscated all means of communication and prohibited interaction with LGBT persons, visits to the community center. All the family engaged in intensified control over the person. In this situation, the person informed one of their friends of thinking of committing suicide.

Family members of a lesbian woman learned about her sexual orientation and tried to keep her locked up and without any means of communication. The woman escaped home and went to a park together with female friends. The father of the applicant went to the same park and attempted to forcefully bring her home, however, the woman resisted as she did not want to go back. The father used force, started hitting her in the face, neck and back, tossed her to the car and swore at her friends. He also acted violently towards the friends who were trying to rescue their friend. He punched one of the friends whose mouth started bleeding. The applicant, however, succeeded in escaping from the hands of her father, while one of her friends called the police.

The sister and father of a person learned about his sexual identity which became a reason for argument. The person left home and went to a park, where another argument broke out. According to the person, the reason of the arguments was his sexual orientation, and the family intentions to marry him to a woman. The father told the applicant that he would not allow him to leave home and have any contact with anyone. During a fight at home, the person hit his sister after which the family members called

the police and a psychiatric brigade. As a result, the person is forcefully transferred to a psychiatric institution. The person had in the past received inpatient treatment at the psychiatric hospital, but now the fight was simply a pretext. The person's father wanted him to receive psychiatric treatment due to his sexual identity. The person mentions that at the beginning he agreed to the treatment, but also mentions that he was forced to agree. He wanted to get out of the house to meet his friend, but his father did not allow it.

The family members of a bisexual girl noticed that she was interacting with persons of a non-heteronormative appearance. They tried to ban her interaction with her friends saying that they were creating a bad environment around her, that they were negatively impacting her. They attempted to control her interactions. After clashing with their daughter's female partner, the family members took away their daughter's phone, locked her up, beat her with blows over various parts of her body, including the head. The applicant continued secretly keeping in touch with her partner. This became known to her sister who demanded her to stop interaction with her girlfriend, threatening to inform the other family members. The girl had to secretly escape home in order to escape further abuse. Afterwards, her family members contacted her and demanded to meet them, threatening to turn to the police. The girl had to meet them. During the meeting, the family members tried to convince her to return home. They also threatened her partner that they would report to the police that she had kidnapped their daughter if she did not stop her relationship with her.

Having encountered the discriminatory attitude of the police in the past, when the police officers had threatened to disclose her sexual orientation, the applicant had no trust towards the police. According to her, the local police department's officers are acquaintances of her family, therefore turning to the police would result in nothing.



Family is the entity where a person should feel safe and supported to become established in the social environment. Therefore, abuse by family members is bound to have more severe impact on the person harming not only their physical, but also mental integrity. A person subjected to violence at home finds it difficult to seek remedies for their violated rights and to cope with the difficult situation that is related to their identity. Protection of victims of domestic violence becomes even more difficult in the case of minors when the offender is the legal representative of the victim, and the latter has to continue living with them. The law enforcement system does not have such a remedy mechanism, which would enable the protection and safety of the person who reports against family members. This is the main reason why survivors of domestic violence avoid lodging complaints.

It appears that the state makes no efforts towards raising public awareness about sexuality and the prohibition of violence. The public still has negative attitudes towards gay, lesbian, bisexual and transgender persons, while violence at home is normalized and rationalized in the society. The state has also failed to provide effective remedies. After the adoption of the law against domestic violence, certain progress is noticed regarding the preventive actions conducted by law enforcement bodies, however in the case of LGBT persons, effective remedies are still lacking. A person who suffers domestic violence does not feel safe even when turning to law enforcement bodies, because

there are no guarantees that they will not be forced back to the family of abusers whom they often depend on financially too.

Everyone shall have the right to freely express their opinion. This right shall include freedom to hold one's own opinion, as well as to seek, receive and disseminate information and ideas through any media, without the interference of state or local self-government bodies and regardless of state frontiers.

RA Constitution, Article 42

As one of the pillars of democratic society, freedom of speech encompasses almost any form and content of expression, including the right of people to freely express their gender identity in various forms, including as ideas, opinions and information about their own identity. Freedom of speech is not an absolute right and is subject to certain restrictions.³⁴ This right includes freedom to express ideas and opinions, while it also entails a duty to refrain from expressions that are an insult to others and violate their rights.³⁵ Freedom of expression does not presuppose freedom of hate speech.³⁶

Regulations on Hate Speech

There is no single universal definition of hate speech around the world, however, in practice, international treaty bodies do provide provisional interpretations.

All forms of expression that promote, incite, encourage, or justify racial hatred, xenophobia, anti-Semitism, or other forms of hatred that are based on intolerance, including intolerance and hatred expressed by extreme nationalism, ethnocentrism, discrimination and hostility against minorities, immigrants, persons of migrant origin, count as hate speech.³⁷

Article 19 (2) of the UN Covenant on Civil and Political Rights recognizes freedom of expression, affirming, "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 their choice."³⁸

Limitations to freedom of expression under Article 19 Part 3 of the Covenant may apply, if the following conditions are met:

- a) are provided by law and are necessary.
- b) are aimed at respecting the rights and reputation of others, protection of national security, public order, public health, or morals,
- c) are strictly necessary in order to protect these interests in a democratic society. The mere existence of one or two conditions is not sufficient to prescribe the legality of

34 See, UN Human Rights Committee, General Comment No. 34 <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

35 See, *Erbakan v Turkey*, No 59405/00

36 See, UN Human Rights Committee, General Comment No. 11

37 See, Recommendation No. R (97) 20 of the Committee of Ministers to Member States on "Hate Speech", 1997. <https://bit.ly/2wa4QoE>

38 See, International Covenant on Civil and Political Rights, 1966, Article 19(2)

the restriction.

Article 20 (2) of the Covenant states, "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".

Hate speech is expressed by not only calls or justification and advocacy for violence and discrimination but also with an insulting, demeaning, hostile attitude, instilment of intolerance towards certain groups. On the one hand, it can lead to hate crimes against groups or individuals; on the other hand, it can violate the psychological integrity of individuals with certain characteristics, causing mental suffering or strain.

Hate speech is addressed at various levels in various countries. For example, the laws of Canada, Iceland, Great Britain, Finland, France, the Netherlands, and other countries prescribe criminal liability for hate speech.³⁹

Persons are held accountable for hate speech once the threshold of its graveness is established. The following factors are examined to assess the graveness of hate speech:⁴⁰

- *the context in which it is expressed,*
- *the speaker, speaker's standing in the context of the audience to whom the speech is directed,*
- *the intent: whether the speech was expressed with an intent to achieve a specific effect, or negligently,*
- *content: the degree to which the speech was provocative and direct,*
- *extent of the speech act, such as the reach of the speech act, its public nature, its magnitude and size of its audience.*
- *imminence.*

The analysis of these circumstances will suggest the degree of punishment for hate speech. In a society with 95% negative attitude towards LGBT persons, even the most seemingly harmless expression of hatred can deepen the polarization within the society and lead to violation of rights. In those events when a state official conducts the speech act, the degree of its imminence is higher not only in view of the reputation enjoyed by the official but also in view of establishment of an environment of impunity.⁴¹

The danger of hate speech can be higher due to the identity of its author, his role and behavior in society. In particular, the hatred expressed by officials is considered to be more dangerous, because they are officially representatives of decision-making

39 See, relevant legislative regulations with the following links:

Canada <https://laws-lois.justice.gc.ca/eng/acts/C-46/section-318.html>

Iceland https://www.government.is/library/Files/General_Penal_Code_sept.-2015.pdf

Great Britain <http://www.legislation.gov.uk/ukpga/2003/44/section/146>

Finland <http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf>

France <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070719&dateTexte=20181010>

The Netherlands https://wetten.overheid.nl/BWBR0001854/2018-09-19#BoekTweede_TiteldeelV_%20Artikel137c

Artikel137c

40 Annual report of the United Nations High Commissioner for Human Rights, 2013, Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred. <https://digitallibrary.un.org/record/746343>

41 See, Pink Human Rights Defender NGO. "From Prejudice to Equality: Study of Public Attitudes Toward LGBTI People in Armenia," 2016 <https://www.pinkarmenia.org/wp-content/uploads/2016/06/From-Prejudice-to-Equality-English.pdf>

and public policy-making bodies, and accordingly, also opinion makers among the public. 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 speech.⁴²

Negligent acts of hate speech should be publicly cried out and, in some cases, even be prosecuted, but not necessarily under criminal law. Such expressions may be condemned by public officials, and disciplinary action may be taken against both public officials and members of a professional community as a violation of professional ethics. For the analysis of the content of the speech, it is especially important to assess the effects, as they can keep a certain group of people under fear, mental strain, and a feeling of constant threat. It is also important to assess the reach of hate speech in the society, in other words, to assess where it was produced and by what kind of means it was spread, and most notably, whether or not it was widely disseminated by mass media. Dissemination of such speech acts by mainstream media should be brought to the attention of judicial bodies. Finally, the act of hate speech must be real and direct, in other words, the expressions therein must either contain clear hostility, an insult on the ground of a certain characteristic, calls for violence and discrimination, or they must be perceived as such. Any ambiguous perception diminishes the imminence of the speech act.

Domestic Regulations

In 2022, Armenia's new Criminal Code was enacted. Article 330 of the Code prescribes criminal liability for public calls for violence, public justification and advocacy of such violence, as well as for dissemination of any material or object for that effect against individuals or groups on the grounds of their racial, ethnic, national or social background, political and other views or other circumstances of personal or social nature.⁴³ This offence was enacted in the earlier Criminal Code still in April 2020 as an amendment, however it was never effectively applied to situations of calls for violence on the grounds of sexual orientation or gender identity. Crimes reported to the police were not handled to the effect of criminal investigations predominantly under the justification that the alleged perpetrators exercised their right to freedom of expression and these expressions did not contain real and imminent threats and were made recklessly.

It is important to note that the offence of public calls for violence is categorized as a formal offence, in other words, criminal liability for such an act is imposed regardless of achievement of intended results. As described in the previous section, in the event of hate speech, it is not substantial whether the act of speech resulted in violence or not. Expressions that are hostile, demeaning, discriminatory or call for violence collide with the right of the concerned individuals to private life firstly, and secondly, with the right of the representatives of the given community. Even if the act of speech is directed

⁴² Annual report of the United Nations High Commissioner for Human Rights, 2013, Report of the United Nations High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred. <https://digitallibrary.un.org/record/746343>

⁴³ RA Criminal Code, Article 330 <https://www.arlis.am/documentview.aspx?docID=153080>

at only one representative but is on the ground of the person's sexual orientation or gender identity, it equally harms the other persons with the same characteristic.

Article 329 of the new Criminal Code prescribes liability for inciting or advocating, via speech as well as dissemination of materials or objects for that effect, of hatred, discrimination, intolerance or hostility against an individual or group of persons on the grounds of racial, national, ethnic or social background, political or other opinions or other circumstances of personal and social nature.⁴⁴

The section on the "Obligation of the state to safeguard human rights and prevent discrimination" of this report discusses the ECtHR elaboration on the criminal regulation of hate speech in Armenia in its judgement over "Oganezova v. Armenia" claim, whereby it states that the availability of the criminal regulation is not sufficient, as it must provide for an effective remedy for calls for violence on the grounds of sexual orientation and gender identity.

In conclusion, criminal liability is prescribed by Armenia's legislation for the graver expression of hate speech, which are public calls for violence or justification of such calls. At the same time, it is hard to view the implementation of this norm as effective, for it has never been used as a remedy for LGBT persons who have been targeted with calls for violence.

Manipulative Misuse of LGBT Issues and Hate Speech in 2022

Manipulations in the context of the Russian-Ukrainian war: Citizens of Ukraine relocated to Armenia as a result of the war perpetrated by Russia against Ukraine. Pink, as an organization providing assistance to LGBT persons on the territory of Armenia who do not necessarily have to hold citizenship of Armenia, made a statement⁴⁵ by which it expressed willingness to provide legal, social and psychological counselling to LGBT persons displaced as a result of the war in Ukraine. The reason why citizens of Ukraine were singled out was that they had to leave their country involuntarily, as a result of foreign aggression and were in a less favorable condition.

Certain pro-Russian forces took on to misinterpret and manipulate over this. The LGBT community became targeted under pretexts that it supports the enemy of the friend of Armenia, Russia. Pink was targeted by pro-Russian Telegram channels,⁴⁶ where threads were proliferating that the LGBT community in Armenia, represented by Pink human rights NGO, was supporting Ukraine, with questions seeking the authors of the statement. These posts were followed by a barrage of hate speech. Insults and hate speech were directed towards the LGBT community in general, as well as towards the organization, which was being accused of waging anti-Armenian activities that were contradicting the interests of Russia, the only ally of Armenia. These threads were, therefore, concluding that Pink's activities were counteractive to the interests of Armenia too.

Apart from social media, the issue was misused in press too. "Iravunk" newspaper

44 RA Criminal Code, Article 329 <https://www.arlis.am/documentview.aspx?docID=153080>

45 Announcement 01.03.2022 <https://www.facebook.com/pinkarmenia/photos/10160009287230238>

46 Telegram, SisMasis <https://t.me/sisumasis/29296>; ARMENIA INFO <https://t.me/armnewz/4540>

dedicated an article to it, stating that those defending LGBT persons are creating a rift in the relations between Armenia and Russia. The article, specifically reads:

"Here is who is behind creating a rift in the strategic alliance relationship between Armenia and Russia in this tense situation. After all of this, a question arises: why aren't these persons so concerned about Ukraine, not going and expressing willingness to fight on the side of the Ukrainian forces, or why were they acting as by-standers during the Artsakh war? While it is the Russian peacekeepers that are protecting the Artsakh people, these ones are busy "throwing dirt" at Russia. What is interesting, however, is that the National Democratic Pole of "Sasna Tsrer", the European Party of Khzmalyan and the LGBT are to be found in one camp as they express their support to Ukraine."⁴⁷

By exploiting the homophobia well rooted in the Armenian society, these forces intend to influence the negative sentiments shared by the wider society against Russia. On the one hand, they attempt to picture LGBT persons as supporters of Ukraine and by doing this draw the sympathy of homophobic masses towards Russia, and on the other hand, they once again attack LGBT persons and deepen prejudices and intolerance against the community.



The participation of LGBT persons in the war by enlisting into the Ukrainian army became a target of a series of ridicules, which were based on photos and videos featuring openly LGBT combatants. The ridicules proliferated in Telegram channels on the basis of the news that these channels disseminated in the following wording: *"Promotional ads are disseminated in Ukraine where military servants of non-traditional orientation are inviting [their peers] to come and serve in their battalions.... The establishment of an LGBT battalion has given rise to a backlash among users of social media, local residents and Ukrainian soldiers. Few would side with the advocates of the kind of a patriotic act committed by homosexuals."⁴⁸*

Here, the negative attitude towards LGBT persons was exploited by the pro-Russian propaganda to discredit the Ukrainian army. In the meanwhile, this constituted a psychological harassment of LGBT persons who were once again portrayed negatively in aggravation of the existing environment of hatred.



Mamikon Hovsepyan, founder of "Pink" human rights defender NGO and chairman of "Human Rights House Yerevan" network, **has been repeatedly targeted**, being portrayed as a person affiliated with the authorities.⁴⁹

Another occasion exploited towards the goal of attacking LGBT persons were the public discussions before the appointment of Armenia's President. Rumors were spread that the presidential candidate was Arayik Harutyunyan from the ruling party, and certain oppositional circles started tying the ruling party with the LGBT community. The attempts to discredit Arayik Harutyunyan, involved resurrection of rumors from the past that he had connections with LGBT persons. During his tenure of the post of Minister of Education, Science, Culture and Sport, a transgender person known by the

47 Iravunk.com, "Who supports Ukraine from Armenia"

48 Lurer.com, "LGBT Battalion in Ukraine. Scandalous photos are published (video)" <https://lurer.com/?p=455892&l=am>

49 FFacebook.com, Hovhannes Ishkhanyan, post on 05.30.2022 <https://www.facebook.com/1037606250/posts/10222205777586874/>

name “Karabina” visited him at citizen reception hours on the transgender person’s personal matter. The Ministry published a photo from the meeting triggering a wave of attacks and discrediting slurs against the government by homophobic groups. A user by the name “Vahe Yeprikyan” shared the photo from this meeting with the following comment: “Armenia’s Potential President and First Lady.”⁵⁰

Naira Zohrabian, a political figure with a wide public audience in Armenia, also took advantage of the occasion to comment: “*I am speaking about the “intimate” colleague of transgender Karabina, former Minister of Education, current Head of Staff of the Prime Minister, Arayik Harutyunyan.*”⁵¹



Another wave of hatred erupted over the interview of the newly appointed Human Rights Defender, Kristine Grigoryan. In response to a question whether she is ready to embark upon protection of LGBT persons, she said: “I know how stigmatized the LGBT community is, it is very unfortunate. It is clear that I will handle protection of vulnerable people that have found themselves in such a situation, because human rights are equal to all. Definitely, there is a discriminatory attitude towards the LGBT community in Armenia and these persons are unfortunately being targeted.”⁵²

After this interview, she herself became targeted as the Human Rights Defender nominated by the authorities. “*I heard people were saying that this one is only the defender of Nikol’s community. Look at the advocate of the LGBT community. Although, they are all in one community – lgbt. She was appointed yesterday and is raising today the most important issue of Armenia, and this is something against us.... As if there were no other issues of higher priority, issues of those left without homes, bordering communities that are daily terrorized by Azerbaijanis, persons prosecuted for political views etc. No, the number one issue in Armenia is the lgbt community – they are being harrassed!*”⁵³

A practicing lawyer conflated the appointment of Human Rights Defender Kristine Grigoryan and rumors around the appointment of Arayik Harutyunyan as President into one derogatory post.⁵⁴



Dissemination of lies around the issues of LGBT persons was rampant by oppositional political forces too. By this, they are trying to misuse the prejudiced sentiments of the society around gender-reassignment and same-sex marriages. They try to tie these topics with the ruling political force by most counter-intuitive manners pursuing the aim of discrediting the authorities and gain political dividends, instead.

It is for the purpose of discrediting the ruling political force, that the idea that the number of LGBT persons has grown in Armenia since 2018, was streamlined into public discussions. Practicing lawyer, former Chairman of the Chamber of Advocates of Armenia, wrote on his Facebook page that with the unconditional support of the

50 Facebook.com, Vahe Yeprikyan, “Armenia’s potential President and First Lady” <https://bit.ly/3KHMIZt>

51 Facebook.com, Naira Zohrabyan, “Transgender Karabina’s colleague a President to Armenia?” <https://www.facebook.com/n.zohrabyan/videos/6838461376226032/?t=0>

52 Azatutyun (Radio Liberty), Facebook Press Conference, “The Law provides the Ombudsperson with all the safeguards to act independently”, newly elected Human Rights Defender <https://www.youtube.com/watch?v=CN9ukSXkYRA&t=2272s>

53 Facebook.com, Vardan Minasyan, personal account <https://www.facebook.com/photo/?fbid=5028094900569808&set=a.873254676053872>

54 Facebook.com, Narek Samsonyan, personal account <https://www.facebook.com/samsonyan.narek/posts/5038019122927872>

authorities, the number of homosexual and transgender persons rose in Armenia after 2018 (“Nikol’s ‘successes’. Rise in the number of prostitutes – 117%, homosexuals – 150%, transgenders – 676 %”) and that this is a grave concern because homosexuals, transgender people have no place in the Armenian society and “the rise of their number is a threat to the maintenance of national identity.”⁵⁵

While a Facebook audience may be considered limited with a reach of only the followers of Ara Zohrabyan, media outlets took care that these absolutely groundless figures gain wider reach.⁵⁶

Ara Zohrabyan went on to elaborate on this idea during a protest assembly: “You know quite well that since 2018 these authorities have started a new policy in relation to perversion. During this time, we have become witness to a number of events. After taking power, they started ratifying the Istanbul Convention which is purported to be about domestic protection... This convention presupposes a new sex, the notion of “social sex.” It means that a man may decide that he is a woman and the society is supposed to accept that man as a woman. If one is saying, “I am Napoleon”, they are taken to a psychiatric hospital, but if a man is saying, “I am a woman” then they are defending his rights.”⁵⁷



During a rally organized by the oppositional “Resistance” movement, literary critic Serj Srapionyan made the following statement: “These authorities have reached out their dirty paws to our souls, they want to desecrate our traditional Armenian souls. The media says that they have prepared a draft law on sex-change, by which they will allow homosexuals to get married and registered officially – they want to cut us off our roots by making us non-Armenian.”⁵⁸



In Yerevan.Today, a media outlet supporting the oppositional forces, an article was published by Suzy Badoyan, the excerpt from which speaks for itself: “It appears that the protests reconvened by the opposition have postponed adoption of a dangerous and scandalous law by which Pashinyan’s government was going to give medical and social privileges to transgenders and homosexuals in general. Yerevan.Today has obtained a document, which clearly reads, black on white, that the government is advised to entitle homosexual men with new rights in at least three areas, all the way up to free gender-reassignment surgery, by this they will resolve the issues of marriage and official documentation of marriages between homosexuals.”⁵⁹

The LGBT community experienced another wave of unleashed hate after the US Embassy Facebook page posted a piece of news about the reception organized by Ambassador Lynn Tracey in honor of the Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex (LGBTQI+) Pride Month.⁶⁰ Comments were written in social

55 Facebook.com, Ara Zohrabyan, “SUCCESS AREAS BY THESE AUTHORITIES; WAKE UP, IF YOU STILL CAN, LET’S SAVE OUR COUNTRY TOGETHER” https://www.facebook.com/permalink.php?story_fbid=3285159991715388&id=100006642580999

56 Panorama.am, Ara Zohrabyan, “There is one area where these authorities have a progress” <https://shorturl.at/iORT8>

57 Panorama.am, “The number of transgenders has grown by 676% and those of homosexuals by 150% in 2021 in comparison to 2018” Ara Zohrabyan” <https://shorturl.at/mPTXY>

58 Yerevan. Today, “Why should an elderly person be entitled to dishonor my hero and remain unpunished?” Srapionyan” <https://shorturl.at/nBEH8>

59 Yerevan. Today, Nikol Pashinyan is being rushed by Europe to give transgenders privileges by law <https://shorturl.at/qEHST>

60 Facebook.com, U.S. Embassy Yerevan, post of 09.06.2022 <https://www.facebook.com/usembarmenia/>

media and articles in the press that the US embassy, which is supporting Armenia's authorities, is closely tied to the LGBT community. "Hraparak" newspaper wrote: *"Besides making statements in support of Nikol Pashinyan and the authorities, Lynn Tracey, US Ambassador to Armenia, is also engaged in defending the rights of sexual minorities. Yesterday, the Ambassador, together with the newly arrived Deputy Assistant Secretary of State, Kara McDonald met with the representatives of the LGBT community. According to some sources, they informed that they are developing actions together with the Armenian authorities towards protection of their rights. Some participants of the meeting were sharing photos from their meeting with the Ambassador, thanking Lynn Tracey, who is completing her tenure, for her support."*⁶¹ The goal of this kind of an article is to portray and discredit the authorities as defenders of the LGBT community.

The same rhetoric methods were applied by the ruling forces too, who disseminated the news about the meeting of the oppositional "Armenia" Alliance with the US Embassy, by making speculative misuse of the news for their own political gain. In one of the media outlets supporting the authorities, we read: *"... We are, of course, quite indifferent to this colorful Western party, but it is unheard news of its kind that a political force making bombastic statements about national values, is meeting with an AMERICAN official working on LGBT issues."*⁶² Another article says that the behaviour of the opposition is not clear as, on the one hand, they are speaking about preserving national values, and on the other hand, are meeting with an American official defending LGBT persons.⁶³

It appears that not only does the opposition, but also do the authorities, misuse and manipulate information by pitting the LGBT community against national values, and portraying the defense of LGBT persons as something "antinational" and negative. The political landscape, in fact, is poisoned by the same methods of gaining political dividends with no regard for the environment they create in the society in relation to LGBT persons and the consequences that lead to instilment of hostility.



Another occasion of acts of hate speech was the announcement of the ECtHR judgement over Oganezova v. Armenia case. As already described elsewhere in this report, the Court recognized violation of Armine Oganezova's rights on the grounds of her sexual orientation and obliged the state to pay her compensation. This news was covered by local and international media outlets, with demeaning comments flooding the articles about the winner of the case, who is, in fact, the concerned sufferer of violations discussed by the Court. Her name and identity are well known in the society. A person who fell victim to a hate crime 10 years ago and did not receive any legal remedy which forced her leave the country, has fallen victim to hate speech again, when she was supposed to eventually find redress.



A person self-presenting as Vahe Yeghiazaryan, who **livestreamed how he was abusing a transgender person, calling bad names, swear-words and making calls for violence**, not only was not held accountable, but was also encouraged by some who

posts/pfbid0NTs8x5kpUPxspD8mjvT4tdemumWfoMcApBxCsn6RTYapTP59AYLdkmeUJvgNCSFI
61 Hraparak, US Ambassador in Armenia Met with Representatives of the LGBT Community <https://hraparak.am/post/964ebe2d4065a41089a66a134e2e1998>
62 Representatives of the opposition met yesterday with the American official handling LGBT issues Medianews <http://medianews.site/349204/>; Pozitive-news <https://bit.ly/3z1SSLb>
63 media24, My logic has reached a deadlock <https://bit.ly/3ARicoN>

consider themselves bearers of “nationalist” ideology. While live, Vahe Yeghiazaryan specifically said: *“I am now going to smash two people now, honestly, I am going to do it live. Let the police come and detain me.”*⁶⁴

An organization named “Army of Light” awarded Vahe Yeghiazaryan a gratitude award⁶⁵ for his *“patriotic actions”* and encouraged its followers to go in his footsteps and abuse trans persons. The video with the following caption was circulated on Army of Light Telegram channel: *“An hour ago, our compatriot, friend of the Army of Light, TRUE ARMENIAN, Vahe, who had arrived from Moscow, slew a transgender in the heart of Yerevan. ...Yes, this is an act worth encouragement and worthy of an ARMENIAN MAN.”*

In the comments underneath the video,⁶⁶ various people left calls for violence and hateful posts with the following content:

“We must clean all of Armenia from this type of trash so that the name of Armenians is not disgraced.”

“We must liquidate all of them with the efforts of all true Armenians in all ways and manners. We are few, but if they are also accounted for, we don’t need that, we don’t need that quality.”

“They must be “eradicated,” those weeds. They are godless creatures. Yuck! Where have you seen an Armenian man become a woman? Do they have the right to be called “Armenian” or “human”? They are servants of Satan.”

A criminal file has opened on accounts of physical influence (abuse) and public calls for violence.



A new occasion for unleashing hate speech was the opening of the new office of “Right Side,” an NGO dedicated to the protection of transgender persons. The opening ceremony was attended by Kristine Grigoryan, Human Rights Defender of Armenia, who was also targeted because of her activities.

Articles unleashing intolerance and hate speech went viral in the media. “Iravunk” newspaper wrote, *“A new office was opened in Yerevan by the “Right Side” human rights NGO belonging to transgender **LILIT** or **VAGHO MARTIROSYAN** who spoke from the National Assembly floor after Nikol Pashinyan came to power. The office will provide space for LGBTQ (Lesbian, Gay, Bisexual, Transgender, Transsexual, Queer) trans community.”*⁶⁷

The following comments were posted underneath the article published on News.am website that emphasized Kristine Grigoryan’s participation in the opening of the office.⁶⁸

“I mourn you, Armenian people, these ones need a Stalin and the year of 1937. Burn in hell!”

“You animals, what did you bring upon us? What degree do you want to take that

64 Telegram, SLEW A TRANSGENDER IN YEREVAN <https://t.me/s/luysibanak/1868>

65 Telegram, letter of appreciation to Vahe Yeghiazaryan <https://t.me/luysibanak/1872>

66 Facebook.com, Barev Blog, In addition, he says he is Armenian... How a man batters a transsexual in Yerevan. Video - post comments <https://www.facebook.com/681835431995427/posts/pfbid0ZPx6G822FkU8tFseETej7YX4smegSfSe9tju9NeWS14ouUmt0Yk3q2F3G3V8QTKAl/?d=n>

67 Iravunk.com, The famous transgender opened a new LGBTQ office with the support of Human Rights Defender and EU ambassadors <https://iravunk.com/?p=235264&l=am>

68 Facebook.com, News.am, An office for the LGBTQ trans community has been opened in Yerevan.

Kristine Grigoryan was present, see comments <https://www.facebook.com/136273049729218/posts/5843440012345798>

perversion to? May those like you be uprooted, may you die and free us from yourselves, ..."
"May all the possible and impossible offspring of Kristine be trans. Rejoice Armenian world, all the lines are crossed, and what is left are the trans and the office opened by them, no value is left without being desecrated in our country anymore."

"Oragir News" produced a vox pop to test public attitudes towards the opening of the new office of the "Right Side" NGO. Respondents generally had a negative attitude to the mentioned event, noting that the state is now facing serious security challenges and these issues should not be on the agenda. *One of the respondents stated that he would not protect the border for gays.*⁶⁹

Hayk Ayvazyan, director of "Luys" Information Center also touched upon the opening of the office noting that the organizations dealing with the protection of LGBT persons are political tools in the hands of the West and have nothing to do with persons of other sexual orientations. He also noted that if Kristine Grigoryan took part in the opening it meant that it was a state policy, and also added that if those who did an arson attack on "DIY" club "got away with it" by being granted an amnesty, now the perpetrator of such an act will be sentenced to prison.⁷⁰

During these discussions, the supporters of the government were no better, in relation to applied methods, than their adversaries in the opposition. They would state that those "nation-destroying" organizations, the opposition's favorite epithet, got registration and started operating under the previous authorities. They also suggested conducting a public knowledge survey asking who knows that "Pink" human rights organization started its activities under Robert Kocharyan.⁷¹

Manipulations and calls for hatred towards LGBT persons were triggered by the visit of the speaker of the US Congress, Nancy Pelosi, to Armenia. Some people posted on social media that we should not seek help from advocates of gays, for the Bible does not condone homosexuality and considers it a vice.⁷²

Suicide Committed by a Young Couple and Public Reaction Drawn to It

On October 20, 2022, the joint suicide of two young men caused a massive public outcry. Before committing suicide, the couple published on their Instagram page photos where they are kissing and showing their "wedding rings" with the caption: "Happy End. We made the decision about publishing the photos and our future actions jointly." The news about the suicide was followed by other news about threats against these young men,⁷³ which, in turn, was followed by disinformation that the young men were minors

69 Facebook.com, Oragir.news, vox pop <https://fb.watch/kuqp2zQsqz/>

70 Newspress.am, Years ago, a group of young people burned an office like that. Hayk Ayvazyan on the opening of the office of the LGBT community <https://bit.ly/3g1JfVP>

71 Facebook.com, Facebook post by user Movses Harutyunyan

<https://www.facebook.com/movses.harutyunyan.7/posts/pfbid024w9cLWpzQsVyfcyBJzQWTz3kqHTCFfrZGKmZtzakJ3i99ztmoqDR8RZxuPdEny9l>

72 Facebook.com, Broyan Azo, Facebook post: "Look who has come to save Armenia" <https://shorturl.at/belT8>

73 Epress.am, Before the suicide, the lovers got threats https://epress.am/2022/10/21/a_t.html

or one of them was a minor, etc.⁷⁴ A heated debate evolved on the Internet about what made the young men commit suicide.



Armenia's Public TV channel proceeded to produce a TV show on the tragic event in the format of sparring sides. Public TV invited Pink NGO, however, was rejected. Pink explained that the suicide of these young men should not become a subject of a sparring debate. Pink also made it clear that the organization's position was expressed in its public statement, whereby it cried out that the intolerance towards LGBT people in society had once again led to a tragic consequence, and that the organization considers any speculation on the tragic event unacceptable.

Eventually, on October 24, 2022, the "Differing Opinions with Astghik Sargsyan" TV show of the "News" program of the Public TV Company put the issues of LGBT people on the spotlight, putting the legal, moral, and psychological aspects of the alleged suicide cases into a sparring format. The program hosted psychologist Irina Tsaturyan and member of the "Initiative for the Protection of National Values," lawyer, former Chairman of the RA Chamber of Advocates, Ara Zohrabyan. Positioning herself as a practitioner who works with LGBT people, psychologist Irina Tsaturyan voiced anti-scientific claims ripe with a potential of laying prejudices and misconceptions about homosexuality among the uninformed public. She specifically noted that when choosing a homosexual orientation, people should be prepared for the negative attitude of the society.

The international medical and psychological community has taken an official position that homosexuality and homosexual relationships respectively are among the natural variations of human sexuality. These communities urge the rest of the professional community not to promote misconceptions about sexual orientation that are not based on scientific facts and, instead, to contribute to non-discrimination on the grounds of sexual orientation.^{75, 76} There are no valid and reliable scientific facts that a person's sexual orientation can be altered by external factors. Therefore, there is no scientific evidence that information about homosexual relationships has a negative impact on the mental health of children or adolescents. The international psychiatric and psychological community criticizes any professional attempt to alter an individual's sexual orientation.⁷⁷

74 <https://hraparak.am/post/f300be8e3ba89efa45f385cb3c27c374>, <https://24info.am/3147/>, <https://oragir.news/hy/material/2022/10/21/59782>, <https://bit.ly/3ZDZT0e>, <https://mediaroom.am/lrahos/item/40001-2022-10-21-19-21-31.html>

75 World Medical Association (WMA). WMA STATEMENT ON NATURAL VARIATIONS OF HUMAN SEXUALITY (2013) <https://www.wma.net/policies-post/wma-statement-on-natural-variations-of-human-sexuality/>

76 World Psychiatric Association (WPA). WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours (2016) https://www.wpanet.org/detail.php?section_id=7&content_id=1807

77 World Psychiatric Association. WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours (2016). https://www.wpanet.org/detail.php?section_id=7&content_id=1807

The British Psychological Society. Position Statement Therapies Attempting to Change Sexual Orientation (2012) https://www1.bps.org.uk/system/files/Public%20files/theapies_attempt.pdf

Canadian Psychological Association. CPA Policy Statement on Conversion/Reparative Therapy for Sexual Orientation (2015) <https://www.cpa.ca/docs/File/Position/SOGII%20Policy%20Statement%20-%20LGB%20Conversion%20Therapy%20FINALAPPROVED2015.pdf>

Australian Psychological Society. APS Position Statement on Psychological Practices that attempt to

In other words, statements that some sort of an LGBT ‘propaganda’ is being waged or that people can change their sexual orientation after becoming informed, are baseless and anti-scientific. The guest of the Public TV show, who claims to be a psychologist working with the LGBT community, as a matter of fact, can harm her clients with her misunderstanding of homosexuality and if she pursues to alter or “fix” her clients, which, in addition to impacting a person’s private life, can amount to inhuman treatment if it reaches a certain threshold.

In addition to the fact that the entire TV show featured anti-scientific claims that did not stem from the norms and standards to which the guests were supposed to adhere within their respective profession, one of the guests, Ara Zohrabyan also voiced an expression that can qualify as degrading, turning it into hate speech. In particular, he called transgender persons “deviants.”



When asked how similar suicide cases should be prevented, Ara Zohrabyan replied that one should have a healthy family since deviations are rare in a healthy family.

“Pink” human rights defender NGO sent a statement to the management of the Public TV Company, expressing concern about the anti-scientific ideas containing hate speech featured in the program and requested to remove the video of the program from the Internet or to provide airtime to present a scientifically based, objective perspective on the issue.

The Public TV Company responded that the participants of the program were expressing their subjective opinions which did not contain hate speech, therefore, there were no grounds to remove the video of the program. At the same time, the TV Company noted that considering the workload of the broadcast network and the selection of topics according to relevance, if this topic primes up on the agenda, a platform will be provided to Pink’s representative in the future.

“Pink” human rights defender NGO also turned to the Media Ethics Observatory with a request to assess the compliance of the Public TV Company with the ethical principles of broadcasting a program with such content.

According to the conclusion of the Media Ethics Observatory, the fact that the guests of the program were unable to oppose each other and generally shared the same subjective point of view, did not allow them to present the subject matter in a comprehensive manner and in-depth. The Observatory considered this a violation of provisions 1.4 and 1.5 of the Media Code of Ethics.

change Sexual Orientation (2015) <https://www.psychology.org.au/getmedia/ebd486a2-761c-403c-bdef-406fda87dc4b/Position-Statement-Sexual-Orientation.pdf>

Royal College of Psychiatrists’ statement on sexual orientation (2014) https://www.rcpsych.ac.uk/pdf/PS02_2014.pdf

American Psychiatric Association. Position Statement on Therapies Focused on Attempts to Change Sexual Orientation (Reparative or Conversion Therapies) (2000) <https://www.psychiatry.org/file%20library/about-apa/organization-documents-policies/policies/position-2000-therapies-change-sexual-orientation.pdf>

American Psychological Association <https://www.apa.org/about/policy/booklet.pdf>

IPsyNet Statement on LGBTIQ+ Concerns (2018) <https://www.apa.org/ipsynet/advocacy/policy/statement-english.pdf>

The Observatory noted that calling homosexuality a “deviation” by the guests and interpreting sexual orientation as a person’s choice should have been corrected or interrupted by the host, having missed this is considered a violation of provisions 5.1 and 5.2 of the Code of Ethics.

The Observatory, in relation to the airtime promised by the TV Company to Pink human rights defender NGO, highlighted that the provisions of the Code of Ethics presuppose a more specific answer by the TV Company in terms of the date and format of the airtime.

A second letter sent by Pink human rights defender NGO regarding the format and date of airtime was left unanswered. The Public TV Company did not react to the conclusion of the Media Ethics Observatory either.



Additional manipulations and waves of hate speech surfaced after the State Duma of the Russian Federation adopted, in a third reading, a law prohibiting “LGBT propaganda”⁷⁸ in Russia. The law specifically stipulates that “propaganda, through mass media, the Internet, advertising, literature and cinema, of non-traditional relationships” and child molestation and spread of “LGBT propaganda and information that induces among children, as well as persons of any age, a desire to alter their sex,” is prohibited. A ban is imposed on granting distribution certificates to all films that contain material “advocating non-traditional sexual relations.”

Adoption of such a law was cheered by some people in the Armenian social media in whose expressions LGBT people were associated with child molestation and viewed in a negative light. Users left comments that such persons do not have the right to be called human, they are the shame of humanity and that they should be expelled from the country.⁷⁹ Of course, the adoption of the law was also criticized in Armenia as a mechanism of exercising pressure on activists and human rights defenders.

An interview with Davit Gasparyan, author of school textbooks,⁸⁰ also caused public fury, specifically in social media. In the interview, Gasparyan stated that two girls kiss in the 7th grade textbook of Literature and showing it to children at the age of puberty is unacceptable. In the comments underneath the interview, the users called on parents to unite and demand an “Armenian” upbringing. The subject matter was in fact related to the reprint of Martiros Saryan’s “Love. Fairytale” painting, depicting a man and a woman. This was first stated by the Fact Investigation Platform.⁸¹ Later, Sofya Saryan, head of depository of the Saryan House-Museum and the artist’s granddaughter, also spoke,⁸² which, however, did not abate the public agitation, with people criticizing the portrayal of the man in the picture with long hair as something confusing for 13-year-old students.

Under this pretext, the authorities were also targeted with connections made between commissioning a textbook and “propaganda” of homosexuality.

78 Official channel of the TASS agency, Duma adopted a law banning LGBT propaganda https://t.me/tass_agency/168124

79 Facebook.com, comments of the post by Radio Aurora <https://www.facebook.com/RadioAurora/posts/5695316160556786>

80 Hraparak.am, Two girls kiss in one of the 7th grade pilot textbooks <https://hraparak.am/post/70de0b8b6a5977e804d0b0f2e3721c8d>

81 Fip.am, Saryan’s painting is in the pilot textbook of the 7th grade in which the kissers are not women, but a man and a woman <https://fip.am/21166>

82 Vnews.am, Saryan’s “anti-museum” series <https://www.vnews.am/culture/post/saryani-hakathanganayin-sharqy>

CONCLUSION

During 2022, fewer cases of public calls for violence against LGBT persons were recorded. This can be explained by the fact that Armenia is facing grave challenges, on the one hand, which has impacted the political agenda, and by the amendments in the provisions of the Criminal Code criminalizing public calls for violence, on the other hand. Of course, it is still hard to claim that the Criminal Code is effective in preventing and punishing hate speech on the grounds of sexual orientation or gender identity, but the fact remains that many forces that instill hatred and intolerance towards LGBT persons have stopped calling for violence, particularly in the recent years, since the amendment of the Criminal Code. It is noteworthy that, unlike previous years, serious, extreme manifestations of hate speech by influential political figures were not recorded. However, extreme manifestations of hate speech such as calls to violence have not yet been effectively prosecuted. Some cases are still under investigation, and one case is pending to the European Court of Human Rights.

The manipulative speculations made and disseminated by the oppositional political forces that eventually lead to the targeting of LGBT persons, undeniably, have negative implications in terms of public sentiments and attitudes towards LGBT persons. These political figures have their own audiences and rather big resources to produce news streams. Being represented in the National Assembly, they also use their tenure to reach a wider audience. Given the proportion of representation in the National Assembly, it can be concluded that the supporters of the opposition forces are less among the public which reduces the impact of their speech but at the same time, by affiliating the authorities with LGBT persons, they attempt to oppose themselves to the so-called “non-national” phenomena and win the sympathy of the public.

However, rumors and speculations disseminated by the opposition are less problematic than those disseminated by figures that stand by or within the authorities. Firstly, the authorities have a wider audience and enjoy greater public support, and on the other hand, the obligation to protect LGBT persons lies with the ruling political power itself, something recognized both by the Constitution of the Republic of Armenia and international instruments ratified by it. The ruling power, having assumed governance of the state, should take into account that they have assumed the obligation not only to refrain from human rights violations but also to protect everyone under their jurisdiction. In this case, in order to safeguard human rights, the authorities should also embark upon instilling a culture of equality and tolerance. However, what we are witnessing is the exact opposite. The ruling political power does not act as an actor safeguarding harmony, tolerance and equality in the society with the resources available to it; instead, it puts the LGBT community in a negative spotlight and does so for political gains.

Adoption of the new Criminal Code is reassuring, on the one hand, in the sense that now these acts of physical violence can be considered not simply as battery, but as physical influence which adds to the graveness of punishment if it was committed with the motive of hatred on the grounds of the personal characteristics of the sufferers. On the other hand, the implementation of the judgement of the European Court of Human Rights over the *Oganezova v. Armenia* case also imposes a due process in investigations of hate crimes. This should first of all find its place on the agenda of decision-makers and in state policy. In this regard, the state reports to the Committee of Ministers of the Council of Europe about actions taken in implementation of the judgement. This necessitates public monitoring of the process of similar case investigations and regular analysis of changes in the legal practice.

RECOMMENDATIONS

In order to ensure maximum protection of the rights of LGBT persons in the Republic of Armenia, we recommend for:

State Bodies and Political Forces

- Cooperate with human rights non-governmental organizations to obtain more detailed information about the systemic aspects of human rights violations of LGBT persons;
- Lay out actions towards prevention of discrimination and violence in various spheres of public life on the grounds of sexual orientation or gender identity in the action plan of the National Strategy for Human Rights Protection;
- Give clear appraisal, when addressing the human rights violations of LGBT persons, and not avoid condemning human rights violations;
- Carry out a comprehensive study of international human rights instruments, international legal practices and analysis of the current situation in the country in order to lay out effective regulations of hate speech in accordance with human rights standards;
- Revisit the RA legislation prohibiting hate speech, include a definition to the concept of "hate speech," prescribe liability for speech acts that incite hatred and intolerance towards persons with certain characteristics, including LGBT persons;
- Adopt separate comprehensive legislation preventing and prohibiting discrimination with respectively civil, administrative and criminal liabilities that will ensure the right of a person to be protected from discrimination also on the grounds of sexual orientation and gender identity;
- Revise the RA legislation prohibiting hate crimes, in particular, provide for a crime committed against a person on the motive of sexual orientation and/or gender identity as an aggravating circumstance of criminal punishment and liability;
- Carry out training for law enforcement bodies on the substantive, legal and procedural aspects of the investigation of crimes committed on the grounds of sexual orientation and gender identity to ensure a complete, objective and comprehensive investigation;
- Document and maintain statistics on hate crimes in RA, including crimes committed on the grounds of a person's sexual orientation and gender identity, enhancing the visibility of the problematics around hate crimes in RA visible;
- Ensure access to justice for victims of hate crimes, in particular, by providing effective remedies which will exclude the risk of double victimization of the person, ensure the security of the person and set comprehensive mechanisms for redress;
- Organize and conduct training with law enforcement bodies on the specifics of working with victims and witnesses of hate crimes;
- Promote the ideas of tolerance and equality among employees of state bodies, in particular, parliamentarians of the RA National Assembly, representatives of the RA Government and other officials;

- Advocate for the ideas of tolerance and equality among the society, in particular, make public statements advocating tolerance and condemn any manifestation of violence and intolerance.

Mass Media

- Stop publications that incite hatred and intolerance towards LGBT persons, instead, supply the public with materials that are knowledge-based, ethically acceptable and respect LGBT human rights;
- Not misuse any topic related to LGBT persons and refrain from inciting unnecessary intolerance and hatred in the society;
- Not spread words containing hatred, intolerance, hostility, calls for violence or discrimination, or justifications made by officials and other figures.

International and Regional Organizations

- Properly monitor Armenia's fulfilment of its international obligations regarding the rights of LGBT persons;
- Make official statements in support of the importance and priority of protecting the rights of LGBT persons in RA;
- Address, in international human rights reports, the established practice of violations of the rights of LGBT persons as is described in this report.

Office of the Human Rights Defender

- Raise public awareness on discrimination against LGBT persons and its negative implications, the importance of non-discrimination and the principles of equality;
- Raise public awareness on hate speech and the illegality of its propaganda;
- Advocate for the development and adoption of an effective Equality Law, as well as for laying out effective legal remedies for LGBT persons in other legal documents.
- In known cases of violations of the human rights of LGBT persons, issue public condemnation statements, properly respond to raised alarms.

About the Organization

"Pink" human rights defender non-governmental organization was founded in 2007. The organization is known to its beneficiaries and the public as Pink Armenia. Pink is a community-based LGBT (lesbian, gay, bisexual, transgender) organization, which means the organization has been established by LGBT community, serves and supports the needs of the community, and promotes the LGBT persons' human rights protection process and advocates for the change of public policy around LGBT issues.

"Pink" Human Rights Defender
non-governmental organization

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