

HUMAN RIGHTS SITUATION OF LGBT PEOPLE

**Annual Review
Armenia, 2018**



Annual Review: Human Rights Situation of LGBT People
in Armenia, 2018

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Introduction

Every year, Pink human rights defender NGO (Pink Armenia) presents an annual review of the human rights situation of LGBT (lesbian, gay bisexual, transgender)¹ persons in Armenia accompanied with facts available to the NGO and a legal analysis.

This year's annual report covers media reports, as well as hate and intolerance speech articulated by representatives of state bodies, public officials, other social actors. This kind of speech normally proliferates in social media.

The report discusses the compliance of the Armenian government with its international commitments, the progress and shortcomings compared to previous periods. Based on this analysis, the report comes up with respective recommendations.

In the aftermath of the "Velvet Revolution" of 2018, Armenia is witnessing an unprecedented level of hate speech related to people's sexual orientation or gender identity in mass and social media. This is, first of all, predicated on the former government administration's active political manipulations.

The year of 2018 was also unprecedented in terms of the number of hate crimes. In Shurnukh village of Syunik Marz, a group of young people, including LGBT activists, were assaulted by a mob, including adults and children of various ages, women and men. The assailants were supported by the entire village. The violent act was followed by a huge wave of hate speech on social media, as well as in mass media in print, online and broadcast.

In 2018, Pink Armenia took a record of 25 incidents involving offences coupled with discrimination based on sexual orientation and/or gender identity. In 10 of these cases, the victims did not wish to report the offences to law enforcement bodies given two major reasons. First, that they were afraid that the information about their sexual orientation would be disclosed to a larger circle of people, and secondly, due to the fact that they had fallen victim to domestic violence and did not wish to report a crime against their family members.

In the event of 12 of these incidents, the victims reported to the police, which initiated criminal proceedings for only 6 of them, while criminal proceedings did not follow for the rest of them, with 4 cases being withdrawn by the victims themselves. The reasons for withdrawing complaints include distrust towards the law enforcement bodies and other personal motives. Criminal proceedings are in progress in relation to 5 of the cases, 1 criminal proceeding has closed due to the death of the offender. The future actions regarding this case are still in planning.

No information is available on the status of the remaining 2 cases, as they were handled by lawyers from other organizations.

In November 2018, the "Christian LGBT Forum," planned to be held in Armenia, was cancelled. The police of Armenia announced that it finds holding such an event inappropriate and cannot assure safeguarding the event. This was a statement that followed a wave of protests by homophobic groups.²

On February 21 2018, the European Court of Human Rights (ECHR) communicated the Minasyan v. Armenia case to the government of Armenia, a strategic litigation case handled by Pink Armenia involving "Iravunk" newspaper. In 2014, "Iravunk" published "They are Serving the International Homosexual Lobbying's Interests" article, in which it published a 'black list' of people and called on readers to discriminate upon them, as well as used various

¹ Pink Armenia uses the acronym LGBT in an inclusive sense, including all sexual identities

² <https://www.tert.am/am/news/2018/11/06/Osipyan/2837372>

derogatory statements about these individuals. The ruling of ECHR will set a precedent for the Government of Armenia, as the latter will have to address the issues of LGBT persons for the first time in a direct manner and will have to justify why effective measures (both legislative and practical) to ensure a discrimination-free environment are missing in Armenia. The importance of the case is also notable as it will discuss the issue of how freedom of speech is being abused and will set limitations beyond which it is no longer entail freedom of speech. Pink Armenia presents its strategic litigation cases in detail in Annex 1 of this report.

Pink Armenia's complaint against Yerevan Municipality lodged with the Administrative Court of Armenia was in the court's consideration for over a year, however it was closed with clearly unfounded and unexplained arguments. The court found that the case was not subject to trial in a court, while for a similar complaint against Ministry of Culture, the court decided to reject initiation of court proceedings. Both decisions are appealed to higher instances. More details are presented in Annex 1.

The Obligations of the State

The state has obligations to safeguard a safe and equal environment for the unhindered enjoyment of human rights and freedoms by all.

Failure to perform these obligations directly or indirectly leads to human rights violations.

The state is first and foremost obliged to respect human rights, refrain from unlawful interferences to enjoyment of human rights. This obligation also entails respect for the efforts a person makes in order to exercise their human rights. The state should not allow such direct and indirect intrusions into the human rights and freedoms of persons that go beyond the permissible restrictions of these rights.

The next obligation of the state is to protect human rights, which entails protection of individuals from human rights infringements by other individuals. As part of this obligation, the state must put in place effective and functioning legal protection mechanisms by which any such incident will be investigated, offenders will be held liable, victims of such offences will be ensured with adequate compensation.

Finally, it is the obligation of the state to ensure an environment enabling enjoyment of human rights. This means that the state must take such legislative, administrative, budgetary, judicial measures that will create adequate conditions for the full exercise of human rights. This includes the obligation of the state to take such measures that propagate a culture of respect towards human rights and create an equal and safe environment in the society for all.

The state carries out its obligations to respect, protect and create an enabling environment for human rights within its territorial jurisdiction.

1. Right to Life

1. *Every individual has the right to life.*
2. *No one can be deprived of life arbitrarily.*
3. *No one can be sentenced or subjected to death penalty.*

*Article 24, RA Constitution*³

The obligation of the state to ensure enjoyment of the right to life entails not only non-interference into its enjoyment directly, but also protection from infringement upon this right by other private parties.⁴ In other words, the absence of the state's interference in the violation of the person's right to life does not rule out the state's responsibility in the violation of this right.⁵ Nonetheless, the right to life must be interpreted in such a way as not to place an excessive burden on governments. In those cases when third parties infringe upon a person's right to life, the liability of the state is recognized if it is established that the state was aware or ought to have been aware of the real and immediate risks posed to the life of the person by third parties and did not take necessary reasonable steps within its powers to avoid this risk to life.⁶

Assaults on Transgender Persons

A transgender person who provides sexual services received a phone call from a client who wished to have a sexual intercourse in return for money.

The client arrived, had a sexual intercourse, and then wished for a second one. The transgender person informed the client that they would have to pay additionally for the second time. The client reacted with aggression, held the transgender person by the throat and started to strangle. The transgender person pushed the client and fell on the ground with them. The client mounted on the back of the lying victim and started to strangle again. The victim was able to reach the door of the apartment with difficulty, opened it and pulled the client off the back into the entrance of the apartment. The client attacked the transgender person again and they rolled down the stairs together. On the staircase the victim fell face down, the client started to hit in the back of the transgender person's head and said swearwords, articulated "Die!" The client stopped the blows only after the transgender person lost consciousness.

The transgender person came back to consciousness in the hospital only 3-4 days afterwards and learned that their apartment was put to fire and was burnt.⁷ Criminal investigation opened; the case is in currently in court trial.

An individual received a client to whom they were going to provide sexual services in return for money. The potential client approached the individual and stroke the throat with a knife. The knife got stuck in the throat; the person fell on the ground. The offender sat on the person in order to strangle them. The victim pretended to be out of consciousness. The perpetrator left the scene. The victim then came out of the apartment, knocked on the neighbor's door, and asked to call a friend. The neighbors called an ambulance.⁸

³ Article 24, RA Constitution adopted 06.12.2015

⁴ Angelova and Iliev v. Bulgaria, ECHR Ruling No 55523/00, § 93

⁵ Council of Europe Recommendation CM/Rec(2010)5 on measures to combat discrimination on grounds of sexual orientation or gender identity

⁶ Osman v. UK ECHR Ruling No 23452/94

⁷ <https://epress.am/?p=284027>

⁸ <https://www.tert.am/am/news/2018/04/15/Trans/2663537>

Criminal proceedings opened, however soon closed, as the offender committed a suicide.

The statements or expressions of the offenders, the location of the blows and bodily harms indicate of an attempt of murder based on the gender identity or/and occupation of the victims. Nonetheless, the pretrial investigative bodies qualified the deeds as beating or inflicting harm to a person's health. In addition, they did not take the motives of the offenders' acts into consideration.

Transgender persons, who provide sexual services, have for years been subjected to violence in Armenia. Pink Armenia has repeatedly voiced of this in its reports and publications.

The crimes against these people based on their gender identity have not been adequately addressed by the law enforcement bodies. The vulnerable condition of the victims allowed the state to neglect the issue and in fact, to reject effective investigation of these crimes. As a result, crimes against transgender persons have remained without investigation, as did the offenders remain without punishment. In this situation, it would be fair to claim that the state has failed in its obligation to protect the rights of transgender persons.

Assault Justified by the Homosexuality of the Victim

A person approached a 15-year-old young man near the park coined "Komaygi" and twice stroke with a knife in the areas of the heart and liver.⁹ The media disseminated information that the offender committed this act with the suspicion that the young man was homosexual. According to the mother of the victim, the offender assaulted her son as he was in a military uniform, while the offender was from a certain religious group and the stabbing was a "sacrifice to Jesus." According to the victim, at the moment of stabbing, the offender exclaimed, "Soldier's blood for Jesus!"

⁹ <http://www.armtimes.com/hy/article/134562>

2. Right to Be Free From Torture or Inhumane, Degrading Treatment

1. No one can be subjected to torture, inhuman or degrading treatment or punishment.
2. Corporal punishments are prohibited.
3. Prisoners have the right to humane treatment.

*Article 26, Part 1, RA Constitution*¹⁰

Torture is any act by which a state official or a person acting in an official capacity, or by their incitement and knowledge or tacit consent, intentionally inflicts severe pain or suffering, whether physical or mental, to gather information or a confession from a person or a third party related to a crime committed by that person or a third party, as well as intimidation or coercion of a person or a third party, or for any other reason based on discrimination of any kind. This characterization does not include pain or suffering arising from lawful sanctions, inseparable from those sanctions or derived from them inadvertently.¹¹

A person's freedom from torture and ill-treatment is an absolute right and cannot be subject to limitation.¹² If the ill-treatment is to fall within the scope of violation of the above-stated right, it must attain a minimum level of severity. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the nature of ill-treatment, the context within which it occurred, the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim.¹³ It is important to make a distinction between torture, inhuman treatment and degrading treatment, wherein torture is qualified by the intention of the perpetrator and the intensity of suffering, i.e. it is the deliberate inhuman treatment that causes very serious and cruel suffering. Whereas an ill-treatment is the treatment that causes the person to feel fear, threatened or in danger, and debasement,¹⁴ harms the agency and reputation of the person, their human dignity and makes the person act against their will or conscience.¹⁵ When causing physical or mental suffering has not attained a minimum severity or did not pursue an intention as defined by torture, then the act is inhuman treatment. In some cases, discrimination and threats based on sexual orientation or gender identity can be considered degrading treatment.¹⁶ In these cases, it is not necessary to establish the intent on behalf of the state in order to recognize the violation of the right to be free from inhuman or degrading treatment.¹⁷

¹⁰ Article 26, RA Constitution, adopted 06.12.2015

¹¹ Article 1, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, UN 1984

¹² *Pretty v. UK*, ECHR ruling No 2346/02, §49

¹³ *Price v. UK*, ECHR ruling No 33394/96, *Costello-Roberts v. UK* ECHR ruling No 13134/87, §30

¹⁴ *East African Asians v. the UK*, ECHR ruling No 4715/70, N 4783/71 and No 4827/71

¹⁵ *Pears v. Greece*, ECHR ruling N 28524/95, as well as UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2001 Report, UN Doc No A/56/156, 2001

¹⁶ *Smith and Grady v. the UK* ECHR ruling N 33985/96 and 33986/96

¹⁷ *Pears v. Greece*, ECHR ruling No 28524/95, as well as UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 2001 Report, UN Doc No A/56/156, 2001

Peaceful Protester was Subjected to Violence in the Police Vehicle

A man identifying himself as homosexual was participating in the peaceful popular protests of April 2018 when he was forcibly shoved into a police car and detained in the police station. In the car, the police officers handcuffed the man, laid him on the floor of the car, sat on him, hit him in various parts of his body, swore at him, including with sexual swearwords and insults because of his sexual orientation. They also spat at him several times. This was done on the way to the police station, in the car. At the police station, the victim was dragged up the stairs. Criminal proceedings are ongoing regarding this case.

3. Right to Private and Family Life, Honor and Reputation

1. Every individual has the inviolable right to a private and family life, dignity and reputation.
2. The right to an inviolable private and family life can only be restricted by law for national security, for the country's economic welfare, to prevent or expose crime, and for the protection of public order, health, morals, or the fundamental rights and freedoms of others.

Article 31, RA Constitution ¹⁸

The right to a private and family life defines each individual's right to recognition before the law, as well as the right to privacy.¹⁹ It includes the state's obligation to recognize an individual's sex and gender identity,²⁰ as presented by the individual, as a fulfilment of their right to private life.

"Private life" is a broad concept that includes a person's physical and psychological integrity. In some cases, it also includes a person's physical and social identity aspects. In such circumstances, a person's gender identification, name, sexual orientation and sexual life, for example, all fall within the sphere of private and family life.²¹ A person's body is the most intimate part of their private life.²²

The right to private and family life also anticipates ensuring the right to self-development and establishment and development of relationships with others, effective realization of personal relations, and the right to have a safe environment within a given community.²³

Assaults Against Persons Predicated on Their Sexual Orientation or Gender Identity

In the early morning of 2018, 2 strangers approached a transgender woman who was passing the underground pass of Mashtots-Grigor Lusavorich intersection. They offered her a sexual interaction. The transgender woman refused, after which the strangers manhandled her, pulled her by the hair, caused physical pain, swore at her and threatened with forced sexual relation and death. The victim threatened to call the police, after which the strangers left the scene. During this time, a friend of the victim passing by recorded the incident with their phone. A complaint was reported to the police with the recording attached to the complaint. A few days later, the victim saw the offenders again on the street, called the police officer investigating her case. The offenders were taken to the police station. The victim, however, withdrew the complaint.

A bisexual man entered the pharmacy and upon exiting, a stranger approached him and hit him in the head. The man had a blackout and fell down. The assailant left. According to the victim, the assault was predicated on his sexual orientation which could be assumed from his hair and clothing. A complaint was reported to the police, testimony was taken from

¹⁸ Article 31, RA Constitution, adopted 06.12.2015

¹⁹ Article 16, UN Covenant on Civil and Political Rights, 1966

²⁰ See 35 Articles 16 and 17, Human Rights Committee General Comment 16

²¹ Pretty v. the UK, ECHR ruling No 2346/02, §49

²² Y.F. v. Turkey, ECHR ruling No 24209/94

²³ Connors v. the UK, ECHR ruling No 746/01

the victim. The scene was investigated, no video cameras were detected. The victim then withdrew the complaint on the grounds that the stranger would be impossible to be found.

A transgender woman's neighbor regularly threatens her life and health. The neighbor insists that he will kill her. In one instance, he asked his wife to fetch a gun "to kill this thing." The neighbor's threats are predicated on his severe negative attitude towards the sexual orientation and gender identity of the complainant. He often uses swearwords of sexual nature towards the complainant. He also refuses to pay for the property he acquired from the complainant. He also makes restrictions to the complainant's access to drinking and irrigation water, cutting the water pipe.

In one instance, when the complainant was sitting in their backyard, a fight broke out between them. The neighbor started using swearwords again and threatening, made jolts and irregular movements, attempted to hit the complainant. When the latter did not react to him, the neighbor got even angrier. The complainant retreated home and locked the door from inside. The neighbor jumped over the wall separating their backyards, started kicking on the door. The complainant called the police. A criminal investigation is currently ongoing.

In the summer of 2018, a group of people including residents of Shurnukh village and Goris town, gathered near a house in Shurnukh, where nine young people, including LGBT activists had been hosted for leisure. These people first started to provoke a conflict with the owner of the house, then continued with swearwords at the guests and called them "fagots" and demanded to leave the village. When the young people left the house, they continued harassing them by swearwords and physical attacks, including by punching and throwing stones at them. The young people had to run away in order to protect themselves. The offenders, however, continued to harass them during their flight, threw stones at them and even reached and continued punching them in various parts of their bodies and kicking their suitcases. The victims received various types of bodily injuries, one of them had an open wound in the head, another one had an injured nose, others had injuries in their legs, chests, as well as had various crush wounds from the hitting by stones. They turned to the police and a criminal file opened on grounds of beating with no account of the motives of the offenders. The investigator, however, took advantage of the pardon declared on the occasion of Yerevan's 2800th anniversary, and decided to close the case on the grounds of the pardon. This decision was appealed to the first instance court. The complaint was satisfied and returned for further investigation.

The complainant was celebrating Halloween with friends /it is not known whether in a costume or not/ and on the street they were approached by a young man who asked for a cigarette, then started shoving the complainant and manhandling. He asked, "Are you one of them?" meaning a lesbian according to the complainant, who assumed this because of her suggesting short hair. As a result of manhandling, the complainant fell on the ground, injured her skin which started to bleed. The young man left the scene.

The complainant reported to the police, however withdrew the complaint shortly afterwards because of her concern that the information about her sexual orientation could be made public.

Another case has been documented by Pink in which the victim is a sexual service provider. The client hit this person with a knife several times. No further information is available.

Cases of Domestic Violence

A homosexual man's sister's husband, who lives with the man in the same house, regularly derides, degrades and humiliates him based on his sexual orientation. He also commits physical violence against the homosexual man. In the most recent instance, he pushed him off the chair and started beating him on the floor. The complainant did not wish to turn to law enforcement bodies due to the fear that this might harm his sister.

Pink Armenia's lawyer contacted the offender and warned of the unlawfulness of his acts. The issue was settled upon the intervention of Pink Armenia's social worker.

When the complainant's father learned about his child's homosexual orientation, he started applying physical force by punching. Then started leashing with his belt. He also violated the complainant psychologically by demanding to visit a psychologist and "get treated." The complainant reported to the police, however withdrew the complaint shortly afterwards due to the fact that the offender was their father.

The complainant's father and brother learned (from an unknown source) about the sexual orientation of the complainant and started applying physical force, kicked with feet and hands in the face. The complainant was injured, had crush injuries, the nose was fractured. While violating the complainant, they also threatened to kill.

A complaint was reported to the police, however the victim chose to withdraw the complaint as the brother was lethally ill.

A woman's mother, upon learning that her daughter is homosexual and has a female partner, snatched her telephone from her, did not allow her to exit the house. This woman did not wish to turn to legal protection institutions for help.

A bisexual man's brother and mother violated him in their own house when he expressed his position in defense of homosexuals. The complainant did not wish to report to the police as the offenders were his family members.

Cases of Disclosure of Information on Private Life or Threats Thereof

An acquaintance of a bisexual man learned some details about the latter's sexual orientation during a party and decided to disclose this information to the bisexual man's brother in return for money.

The complainant decided not to report to the police due to the fear that the information about his private life would get a wider dissemination in that way.

The offender recorded the video chat with a person, then published it on Youtube with a derogatory title on the sexual orientation of the person. Pink Armenia's lawyer contacted the offender and informed that the act is not lawful and if the video is not removed from the Internet, Pink Armenia will turn to law enforcement bodies. The offender removed the video shortly afterwards.

The offender, who works as a psychiatrist, called the father of the complainant and informed him of his child's sexual orientation, as well as the name of their partner. The psychiatrist called on the father to keep the victim away from the partner, otherwise, the psychiatrist would inform other people of the victim's sexual orientation, including family acquaintances, job colleagues of parents etc.

The sexual orientation of a homosexual man becomes known to a stranger who opens a fake account on Facebook and starts informing the man's various acquaintances of this. The man did not wish to report to law enforcement bodies.

The female partner of a transgender woman went to the transgender woman's father's home and informed the father and step-mother that their child is transgender, has a female name and is providing sexual services. When the complainant went to her parental house, the step-mother locked the door and didn't allow the woman to enter, called the police with a claim that someone is trying to illegally enter the house. She also voiced of the transgender person's private life details in front of neighbors and the police.

The transgender woman chose not to turn to law enforcement bodies for help.

A bisexual man made acquaintances with a stranger through an internet website and informed of his sexual orientation, also gave his phone number and made an agreement to meet. When they met, the stranger threatened to disclose the complainant's sexual orientation to his relatives and young men living in his neighborhood if he refused to pay him money. The complainant reported to the police, a criminal investigation was instigated, however the criminal proceedings are suspended at the moment.

A transgender woman's former wife went to a TV show ("Half-Open Windows") and disclosed the gender identity of the person, made derogatory statements about their gender identity, to which an expert invited to the talk-show joined with further derogatory statements. The talk show was broadcast. The victim of this offense refused to use legal protection mechanisms.

Sexual Orientation Used to Register a Person as Someone with Mental Disorder

A gay person went to the "Road Police" service under the RA Police Artashat department in order to take a driving exam and was verbally told that he is not eligible to take a driving license qualifying exam by the justification that he is registered in a mental health facility. The registration in the mental health facility is done in accordance with the procedure set by the decree of the Defense Minister of RA N 175 of February 26, 2010 on "Approving the Procedure of Medical Military Examination of Conscripts and Military Servicemen", which specifies, in an appendix, the illnesses which release the person from mandatory military service. Point 8 of the Appendix sets homosexuality as a disorder due to which persons are released from mandatory military service.



A Victim of the Shurnukh Assault Received Letters of Threats

One of the victims of the assault in the summer of 2018 in Shurnukh village has been repeatedly receiving Facebook messages threatening life and health, as well as insults. The person is also threatened not to return to the village, otherwise this would end up badly for them. A complaint was reported to the police, however a criminal case was not opened as the complainant was forced to leave the country.

This person reposted Pink Armenia's social add video "Do you want everyone to be happy? Then wish us happiness" and commented on the video with another Facebook user who posted Pink Armenia's official Facebook page. The former asked in a comment: "... How can we burn them?"

Another user of Facebook made the following post on the same day in a different discussion thread: "Gays need to be put on fire, I will debase your species". A complaint has been lodged with the police, investigation is ongoing.

The assault in Shurnukh was followed by a large wave of hate speech, propagation of intolerance and hostility. Below are examples of the hate speech proliferating in social media during that period of time.



Kristine Hayrapetyan Դրանց հրապարակում վառելա պետք , վրեժներն էլ ասֆալտապատել, որ մոխիրնեղ օդը չպղծի, ո՛վ են դրանք ,որ մեր հասարակության մեջ տեղ տանք...

Like · 9w



Kristine Hayrapetyan: They need to be burned on the square, asphalted over so that even their ashes do not pollute the air. Who are they to have a place in our society?



Lilit M-yan Arajarkum em xumb xumb tanel benzalcakayanner ev ayrel, hasarakakan vayrerir u erexaneri achqeric heru....



Lilit M-yan: I propose to take them in groups to petrol stations and burn them, away from public areas and children's eyes.



Melanie Vardanyan Այ քեզ անամոթություն, այ քեզ սադրանք... Մարդ (մարդիկ) էլ իր այլատերականությունը դուրը դարձնի, տատիկի ասած՝ ամոթը կապի ճակատին ու թռնի հասարակության դեմքին: Հիմա ի՞նչ, Նույնիսկ կարծիք չպիտի հայտնենք, հիմա ո՛վ է հասարակության կարծիքին բռնանում: Ամոթ է, ամոթ: Ձեր խայտառակ պահվածքով ավելի զգվելի եք փխկ Արմենիա



Melanie Vardanyan: What a shame! what a provocation! How can one make their perversion a flag [...] Why shouldn't we have the right to express our opinion? Shame on you, Pink Armenia, you're becoming more disgusting.

Eliza Sima: You jewish! Go to Israel, your motherland, you are all lesbian, gay jews, you belong there. There is no such Sodom-gomor in the blood of Armenians. Fuck off our land. We will not allow you to desecrate the land of our fathers.



Eliza Sima

Ay jhud gna israel entex qo iskakan hayreniqna! duk lezbi gomik jhudnerek duk hayi gen chunek! Cha u chi exel hayi aryan generum aypisi sodom gomorakanner! Rad exeq mer hoxeric dzes hangist chenk talu! Duk chek karoxanalu mer paperi surb hoxe pxtseq!

Like · Reply · 9w



Mayis Vardanyan

սրանց ազգութակով պիտի գյուլես

Like · Reply · 9w

Mayis Vardanyan: They need to be gunned together will all their families and relatives.

Artsakh 1992: Why did you let them go? Why didn't you beat them up to death! Good job Shurnukh people!



ԱՐՏԱԽ 1992 2 месяца назад (изменено)

ԻՆչի եք եղ թող լակոտներին բաց թողե՛ք, իՆչի չեք սատկացո՛ւք: Որտեղ դուստը նմաններին հանդիպե՛ք, անմիջապես ոչկացո՛ւք: ԿԵՑԵՑԵՑ Շուռնուկացիներ, հալալա ձեր կերած հացը:

Like · 67 · OTBETITB

Sona Khachatryan: Whore faggots, when you massively kiss putting your mouth in the mouth of another man without shame, don't you think that this is Hayk's and Bell's country with real men and honorable women, whore sons of Armenia, faggots will not taste the kingdom of the earth, your mouths must be smashed here too.



Սոնա Խաչատրյան Դռնիկ

արվամուկներ, էտ որ ամուքներդ կորցրած բերաններդ մտցրած ուրիշ տղու բերանի մեջ համբուրվում եք մասսայական, չեք մտածում, որ սա Հայկի ու Բելի, իրական տղամարդկանցով ու նամուսով կանանց երկիր է, պոռնիկ հայորդիներ, արվամուկները չեն ճաշակելու երկրի արքայությունը ստեղ էլ պիտի բերաններդ ջարդեն

Like · Reply · 8m



Armen Beglaryan: This adultery perverse behavior must be stopped!!! We are not many in number and cannot allow ourselves such kind of "luxury"! Born by bitch wolves of Soros stand behind this! Death to rotten!



Armen Beglaryan Շնանական այլանդակ վարքին պետք է վերջ տրվի!!!!!! Մենք թվով շատ չենք, որ մեզ թույլ տանք նման "շքեղություն"! Այս ամենի ետեւում լոբանական սորոսյան ումակները! Մահ նեխած նեռիս!

Like · Reply · 9w



Vahram Margaryan: Dear shurnukh's villagers, I am proud off you.



Վահրամ Մարգարյան ՇՈՒՐՆՈՒԿԻՆԵՐ ԶԱՆ ՀԱՆՈՒՄ ԶԵՉ

Like · Reply · 9w



4. Freedom of Assembly

1. Everyone shall have the right to freely participate in and organise peaceful, unarmed assemblies.
2. Outdoor assemblies shall be held in the cases prescribed by law on the basis of notification given within a reasonable time period. Notification shall not be required for holding spontaneous assemblies.
3. The law may prescribe restrictions on the exercise of the right to freedom of assembly for judges, prosecutors, investigators, as well as servicemen of the armed forces, national security, the police and other militarised bodies.
4. The conditions and procedure for the exercise and protection of the freedom of assembly shall be prescribed by law.
5. The right to freedom of assembly may be restricted only by law, for the purpose of state security, preventing crimes, protecting public order, health and morals or protecting the basic rights and freedoms of others.

Article 44, RA Constitution²⁵

The state has a positive obligation to protect peaceful assemblies.²⁶ This obligation includes protection of any peaceful assembly's participants from third party interferences. As part of this obligation, the police, when aware of the time and hour of the assembly, must take measures to ensure the safety of the participants of the assembly, including from counter-protesters. The law enforcement bodies need to have sufficient training and understanding in order to perceive human rights protection as a priority.²⁷

Christian LGBT Forum

The International Christian LGBT Forum was planned to be held in November of 2018 in Armenia. The local organizer of the event was "New Generation" humanitarian NGO. Days before the forum, a manipulative wave of disinformation stormed and certain homophobic groups started declaring that the new government of Armenia is supporting organizing an LGBT pride in Yerevan.



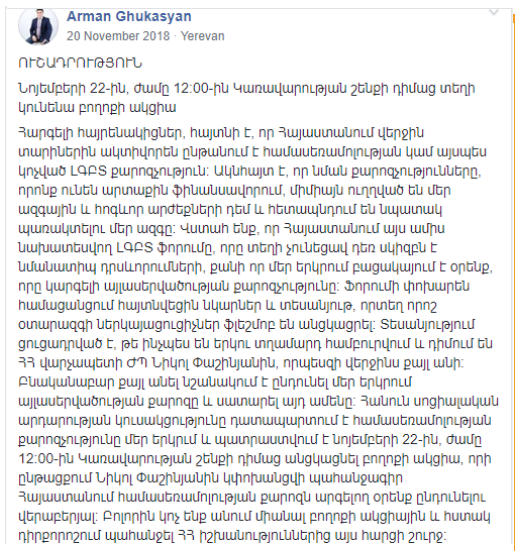
These groups organized protests against holding such an event in Armenia.²⁸ A protest was organized by the Armenian Apostolic Church as well.²⁹ These protests soon turned into assemblies demanding adoption of a "law banning propaganda of homosexuality".³⁰ The next demand of the protests was for the Prime Minister to express a clear position on this question.³¹ They organized a petition.

Eventually, the police had to address the question of what kind of security measures was the police ready to provide for holding the LGBT forum. In a briefing with the journalists, head of police Valery Osipov stated the following:

²⁵ Article 44, RA Constitution, adopted 06.12.2015

²⁶ Plattform Ärzte für das Leben v. Austria (1988), ECHR ruling N 10126/82

²⁷ Mary O'Rawe, "Human Rights and Police Training in Transitional Societies"



Ինչու է Պետությունը լռությամբ ընդունում
ԼԳԲՏ-ն ու միասնամտությունը, որը
քայքայում է մեր ազգային և ավանդական
ՀԱՅ ընտանիքը ու վտանգում երկրի
ապագան:



Այդ դեպքում ասում ենք ՈՉ օտար բարքերին,
պահպանենք Ազգայինը, Մահմանադրականը,
Ավանդականը:

“Given certain risks, such a forum will not take place in Armenia. At the moment I myself find it not appropriate given security conditions. We have made some explanations so that this does not take place on the territory of Armenia. We’ve seen what happened in neighboring Georgia. If such an event was to take place, the police would have ensured the safety of all.”³²

As a matter of fact, the state failed to fulfill its obligation and directly refused to ensure the security of the participants of the assembly, instead it called on the organizers to cancel holding it in Armenia.

Prime-Minister Nikol Pashinyan on the LGBT Forum

Unlike the former authorities who were shunning the topic of LGBT issues at any public level, the new government had to make a public position after the 2018 Velvet Revolution. The issue, of course, was brought into the public agenda by the former authorities in a manipulative manner with a clear aim to discredit the new government. A question was raised at the Parliament by Prosperous Armenia’s Gevorg Petrosyan on the LGBT forum to which Nikol Pashinyan responded with a controversial answer conveying both negative and positive messages.³³ He said, “Do we accept the fact that in Armenia and any country of the world there are people who have non-traditional sexual orientation? If we accept that, what do we do? How do we treat it? In the Soviet Union, for example, there was a clear position that such people were being detained. Before that, they were being hanged, gunned etc. I have to say frankly, that the less this issue is discussed, the better for our Government, because this is a headache. Now let’s decide on this, do we want to add a clause in the Criminal Code? Do we expel these people from Armenia? Or do we tell them, do not propagate for enlargement of your community and inclusion of others.” At the same time, he mentioned that there is a certain percentage of LGBT persons in any given population which we need to take account of.

²⁸ <https://www.youtube.com/watch?v=ocsMucca8Kg>

²⁹ https://www.youtube.com/watch?v=_imnD8R-Xt4

³⁰ <https://www.tert.am/am/news/2018/11/06/LGBT/2837662>

³¹ <https://www.youtube.com/watch?v=WmHjsd7ItAs>

³² <http://hayastan24.com/hy/hasarakutyun/lgbt-forum-ci-anckacvelu-osipyan>

³³ <https://www.youtube.com/watch?v=JAMVEC2EuVo>

5. Freedom of Expression

Everyone has the right to freedom of expression. This right includes the freedom to have a personal opinion, to seek, receive and disseminate information and ideas without the interference of state and local authorities and regardless of state borders.

*Article 42, RA Constitution*³⁴

Freedom of speech, one of the pillars of a democratic society, includes speech of any form and content of expression, including the right to express gender identity, which involves the expression of ideas, opinions and information about a person's identity.

Freedom of speech is not an absolute right and is subject to certain limitations.³⁵ It does contain the freedom to disseminate ideas and opinions, however, at the same time, it sets out an obligation to avoid such expressions about other individuals that violate their rights.³⁶ More specifically, freedom of speech does not entail freedom of hate speech.³⁷

Deputy Prime-Minister Tigran Avinyan on Violence Against LGBT Persons

Deputy Prime-Minister Tigran Avinyan has spoken on manifestations of violence on the basis of people's sexual orientation or gender identity. In a Facebook press conference that took place after the violence broke out in Shurnukh village, he stated that any type of violence is unacceptable and reminded that the revolution followed a peaceful path and if such a difficult, insolvable issue was resolved without violence, then similarly, any issue can be resolved peacefully.³⁸

Speaker of the Republican Party Eduard Sharmazanov's Interview to Henaran.am News Outlet

"In Armenia we need to ban propaganda of homosexuality by law. Like mentioned by Vazgen Sargsyan, "Even if the whole world becomes a propagandist of homosexuals and religious secs, I will not be able to conduct such a propaganda." As a disciple of his ideas, I want to reiterate that we cannot remain indifferent to this kind of unhealthy and dangerous propaganda taking place right now. There will be parliamentarians, not necessarily from the Republican Party that will sign to my initiative. I want to emphasize that I don't want to intervene into the private life of anyone, every person is free to follow a life of their choice, it's their right, however I find this kind of propaganda of representatives of such a community impermissible in my country. I am against it."³⁹

Eduard Sharmazanov's speech given at the Parliament

He criticized the new government and said the following: "Instead of reinforcing national and Christian values, we have seen from the new government an attack on the Holy See and Holy Catholicos, as well as propaganda of homosexuality in Shurnukh."⁴⁰

³⁴ Article 42, RA Constitution, adopted 06.12.2015

³⁵ UN Human Rights Council, General Comments N 34

³⁶ *Erbakan v. Turkey*, ECHR ruling N 59405/00

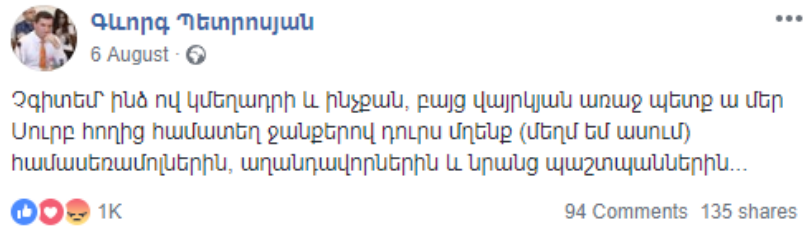
³⁷ UN Human Rights Council, General Comments N 11

³⁸ <https://www.youtube.com/watch?v=KQi47fXBgUQ>

³⁹ <http://henaran.am/382667.html>

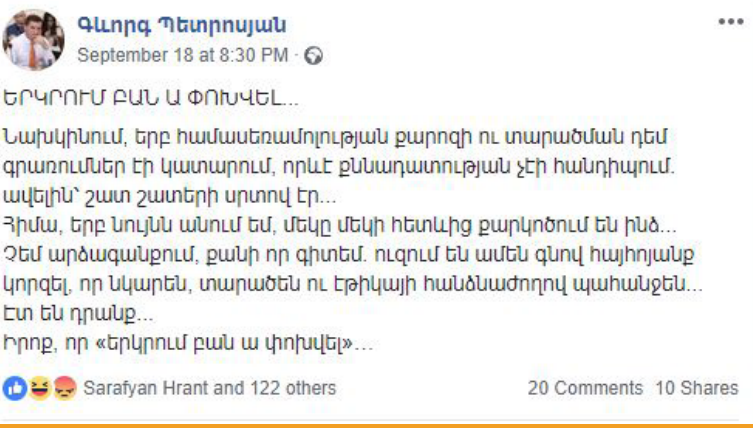
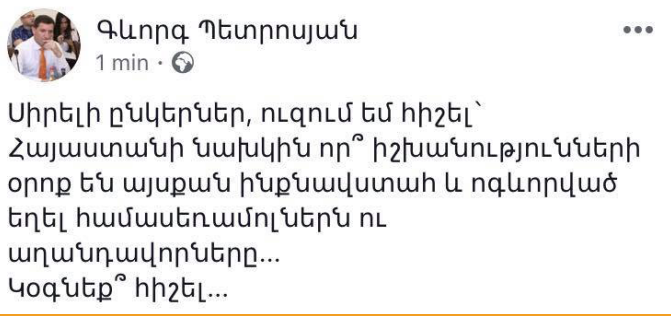
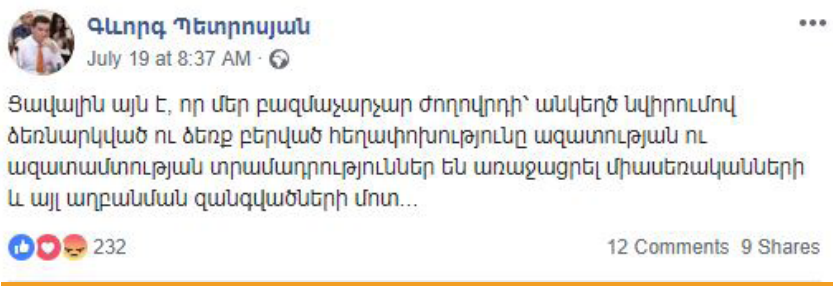
⁴⁰ <https://www.youtube.com/watch?v=Go2RLWcK5dM>

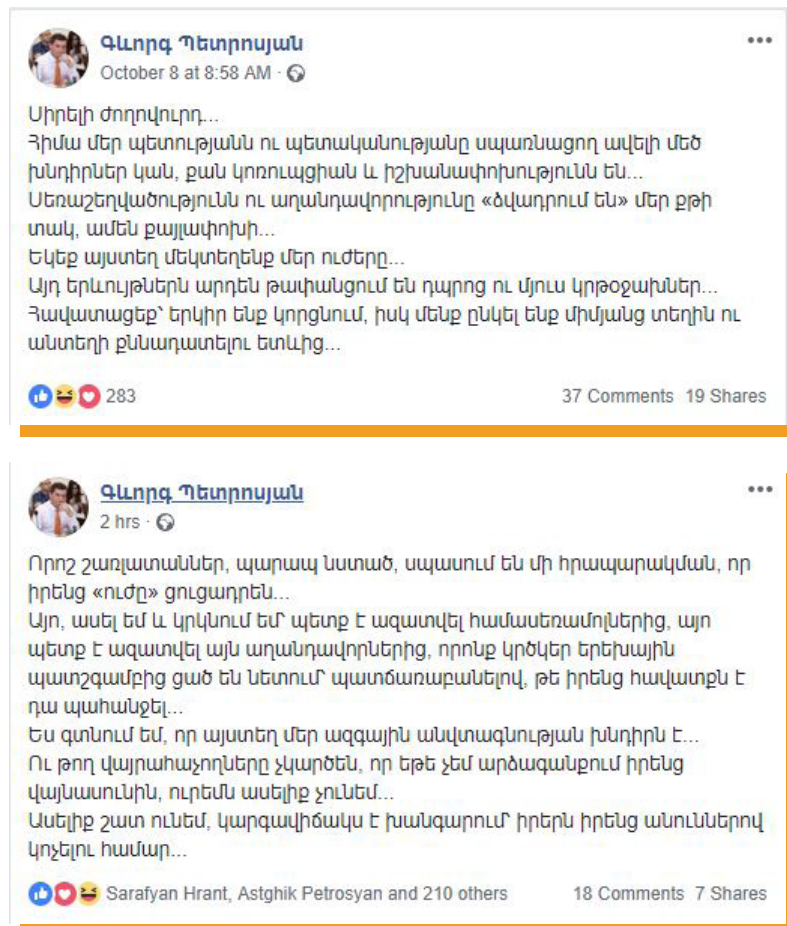
Gevorg Petrosyan, Member of the Prosperous Armenia Party Has Repeatedly Made Hate Speech and Calls of Intolerance



"I don't know who will blame me and how much, but not a minute should be wasted on waiting and with common efforts we need to expel (mildly speaking) the homoaddicts, the religious sects and their defenders..."

This Facebook post caught the attention of Pink Armenia and Helsinki Citizen's Assembly Vanadzor Office who reported it to law enforcement bodies as a crime. Pink Armenia's complaint was not followed up. It should be noted that while incitement of hate, hostility and intolerance on grounds of sexual orientation or gender identity are not criminalized, such incitement on grounds of religious beliefs is punishable by the Criminal Code.





In a speech made at the Parliament, Gevorg Petrosyan said: “For us the biggest threat is the possible dismembering of our traditional family. I plead, I beg that we unite our efforts and do everything possibly legal and permissible to maintain our traditional families. ...

We are a country at war, it is interesting to ask: how will an interaction between two males give birth to a new generation that will take over the defense of our borders? Do you know of such a measure? As far as I know, there is no such a measure.”⁴¹

The youth wing of Armenian Revolutionary Federation Party, represented in the Parliament before December 2018 issued a statement

The statement read:

“Given that the national environment, the value system, moral perceptions and norms are the basis of our identity, also given that the model of the National traditional family is the unnegotiable safeguard of the longevity of the Armenian nation, any encroachment into it is a matter of national security, a direct or indirect propaganda under the pretense of human rights and freedoms that shake the foundations of national identity.

We cannot leave these frequent realities encountered in our society unaddressed. They will inadvertently make a negative impact on the Armenian society. With respect to the rights and freedoms of any individual, we believe that the preaching of values odd to our society is prone to unpredictable threats and may be viewed as a provocation against a society founded on traditional values.”

Given the above-mentioned, we call on everyone to withdraw any kind of support to the

⁴¹ <https://www.youtube.com/watch?v=8jsczNaslCo>

forum planned on November 15-18, we also call on the law enforcement bodies of Armenia to exhibit special alertness on these days and not to give in to provocations and prevent any manifestation of intolerance and violation of human rights.

We call on all parties to demonstrate wisdom and act in the interest of the Armenian society and Armenia."⁴²

Hate speech covers "all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities and other groups..."⁴³

The state ought to duly react to manifestations of hate speech in accordance with their severity. First of all, any speech that incites hate, hostility, discrimination and violence should be punishable by law.

Political and religious leaders must refrain from using calls or expressions of intolerance which may incite violence, hostility or discrimination. They must also have a decisive role in speaking against manifestations of hate speech, intolerance, discriminatory stereotypes.

Given the above-mentioned, the state has failed its obligation to combat against hate speech and take measures both at the level of adopting appropriate legislation and in terms of developing policies.

Facebook Posts by Lawyers and Attorneys

Vahe Yeprikyan

"You, whites, go ask Pashinyan Nikol what is his attitude to the propaganda conducted by the LGBT community and various sect members."

Ara Zohrabyan, President of Chamber of Advocates

"The bible considers homosexual connections an unnatural blasphemy (Leviticus 18:22-25, Corinthians 6:9,10).

It finds the sin of Apostle Paul and other forms of sins (fornication, idolatry, thievery, alcoholism etc) unacceptable.

A natural question arises: as a society that adopted Christianity a state religion the first in the world, why are we so intolerant towards homosexuality? The answer is clear, because the society is troubled by the preaching of homosexuality.

This form of sin is dangerous exactly because of this. If murders were to preach murder as a natural and acceptable phenomenon, then it will be more dangerous that the preaching of homosexuality.

Those who commit murder, prostitution, fraud and other unacceptable act avoid preaching it (on the contrary, they do it tacitly), as they are aware of the society's negative attitude towards such phenomena.

⁴² <http://www.panarmenian.net/arm/news/261754/>

⁴³ Council of Europe Committee of Ministers, Recommendation No R (97) 20 to member states on "hate speech", adopted on October 30, 1997

⁴⁴ Rabat Action Plan

https://www.ohchr.org/Documents/Issues/Opinion/SeminarRabat/Rabat_draft_outcome.pdf

As a citizen, I think that the position of the Church on this phenomenon is very clear. The church accepts the homosexual man as an absolute value, the man who can repent and step back from the wrong path. The church is tolerant towards the sin of homosexuality. The society is expressing the same attitude. The society becomes active only when it faces cases of preaching by homosexuals.

By the way, in medicine "tolerance" is a term that describes the inability of the human organism to resist a foreign body. Complete tolerance means death. In other spheres, tolerance means acceptance."

Karen Sardaryan, a Member of the Board of the Chamber of Advocates, Teaches at the School of Advocates

"Homosexuality is a sin. Unlike other sins turned against morality, homosexuality is an even bigger sin as it is against not only morality, but also nature. If moral norms have a predominantly human and social origin and are partly changeable, natural laws derive exclusively from the divine and their violation is a direct challenge to God. Now, I want to understand, isn't it enough to have this many enemies, do you want to make us an enemy with God?"

Mher Hayrapetyan's Post

"It is important to note that expressions like these made by attorneys are worrisome as attorneys are professionally obliged to defend human rights and assist in the achievement of justice. These posts have been made not only by individual attorneys but also the Chairman of the Chamber of Advocates of Armenia. This leads to the presumption that victims of discrimination often do not have an opportunity to use mechanisms of legal protection such as using an attorney's assistance as prescribed by law."

Artur Ghazinyan, Head of the European Studies Center of Yerevan State University

In an interview to 1in.am online media outlet spoke of globalization and made the following remarks: "I have been quite silently following that the authorities would come to their senses and would give a proper estimation to this situation. It seems that certain forums are being planned in Armenia. But I would like to make the following request, demand, call or whatever you name it, to immediately stop this process and eradicate this Sodom-gomor from Armenia's, Yerevan's streets. I think there are many countries in Eastern Europe and Central Asia that would gladly host these forums, but not Armenia."

Facebook Posts by University Professors

Garik Qeryan, Head of International Relations Chair of Yerevan State University

"Let us fix this that there is a serious social concern related to the tolerant attitude of the new authorities towards religious sects and homosexuals. Any discussion on this topic will end up with mutual insults and prattle on minority rights. As there is a threat to our national identity, we need to make a quick and harsh resolution.

I propose the Parliament to adopt a specific law by which it will prescribe that showing, preaching and making sexual orientation and religious belonging a subject of public discussion is criminally punishable. As a result, we will simply knock a protestor with an LGBT

flag over the head and that's it. Whoever does something or believes in something, let them do it inside the walls of their homes."

Ashot Kirakosyan, professor of economics at Yerevan State University

"Dear Albert, it is my and my children's right to live in a country where love and tolerance are the pillar of human relations, however that doesn't include tolerating, respecting or loving the sick persons you're mentioning. There are types of sicknesses in the event of which the patients are burnt so they don't infect others. With love, your fellow of student years, Ashot Kirakosyan.

An individual's consciousness of rights, worldview and inner culture are predominantly formed during youth and while studying. The state is obliged to ensure such education that instils a culture of equality, respect towards human rights. The presence of professors at Yerevan State University who make posts mentioned above is a challenge to Armenia's state security as propagation of hatred towards certain groups of the society is a direct threat to such social relations that lie in the basis of national security."

6. Deliberations on Legislative Changes

The anti-discrimination draft law titled “Law on Equality” is still in the process of undergoing amendments at the Ministry of Justice. The Non-Discrimination and For Equality Coalition, as agreed with the RA Ministry of Justice, has conducted a research on the possibilities for establishing and running the “equality institution” mentioned in the draft law. As a result, it was proposed that Article 122 of the RA Constitution allows for establishing an independent body on equality as opposed to the one planned under the Human Rights Defender’s office according to the current draft.

The draft Criminal Code underwent public discussions in “e-draft” online platform and remains in the process of amendments.

Amendments to the RA Law on Child Protection

In the fall of 2018, parliamentarians of the Republican and Prosperous Armenia fractions circulated in the Parliament draft amendments to the RA Law on Children’s Rights with the following content:

“Dissemination or propaganda of information that threatens the full physical, mental and spiritual development of children is prohibited. In the sense of this article:

1. Dissemination or propaganda of information threatening the full physical, mental and spiritual development is a process, including through manipulation of real facts and information, aimed at impacting the physical, mental and spiritual development of children and at:

- a) creating an illusion of attractiveness of non-traditional sexual relations;
- b) skewed social perception of the traditional and non-traditional sexual relations;
- c) forced provision of information concerning non-traditional sexual relations;
- d) incitement of interest towards non-traditional sexual relations.

2. Traditional sexual relation is the sexual relation taking place between an adult man and adult woman, upon mutual consent, who are not close relatives.

3. Non-traditional sexual relation is any other sexual relation not considered a traditional sexual relation.

4. Close relatives are the kind of relatives specified in Article 11 of the RA Family Code, as well as adopters and adoptees.”⁴⁶

Not only is this text problematic due to its non-compliance with the RA Law on Normative Legal Acts, as it contains the term “non-traditional” that does not comply with the principle of legal certainty, but it also creates real risks for protection of human rights and freedoms and for adequately safeguarding them by the state.

In discussing adoption of similar legislative prohibitions of the so-called “propaganda of homosexuality” in the Russian Federation, Ukraine and Moldova, the Venice Committee (Democracy through Law) has addressed the compliance of these laws with principles of democracy and human rights and has concluded that these are a restriction of freedoms to expression and assembly.⁴⁷ As for the regulatory justification that it is aimed at protecting public morals, the Venice Committee has stated:

⁴⁵ Research on the best model for establishing an Equality institution in Armenia <https://bit.ly/2YtQbNF>

⁴⁶ <http://parliament.am/drafts.php?sel=showdraft&DraftID=50061>

⁴⁷ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2013\)022-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2013)022-e)

"The exercise of this right by sexual minorities does not depend on the positive/negative attitudes of some of the members of the heterosexual majority. As put forward by the Human Rights Committee in its general comment on Article 19 of the ICCPR⁴⁸ "the concept of morals derives from many social, philosophical and religious traditions",⁴⁹ any limitation imposed for the "purpose of protecting morals must be based on principles not deriving from a single tradition."

The Venice Committee also notes that the broad negative attitude of even a large part of the public opinion towards homosexuality as such, can neither justify a restriction on the right to respect for the private life of gays and lesbians, nor on their freedom to come true for their sexual orientation in public, to advocate for positive ideas in relation to homosexuality and to promote tolerance towards homosexuals. In this regard, the Venice Committee reinstates the position of the Committee of Ministers of Council of Europe expressed in Recommendation No CM/Rec(2010)5 that neither cultural, traditional nor religious values, nor the rules of a "dominant culture" can be invoked to justify hate speech or any other form of discrimination, including on grounds of sexual orientation or gender identity.⁵⁰

Individual cases lodged at the European Court of Human Rights against the enforcement of the law in Russia have revealed the position of the court in which it found a number of violations of rights. In *Bayev v. Russia*, the ECHR found a violation of the Convention's Article 10 (Freedom of expression) and Article 14 (Right to be free from discrimination).⁵¹ In *Alekseyev v. Russia*, it found a violation of Article 11 (Freedom of Assembly) and Article 14 (Right to be free from discrimination).⁵² The UN Human Rights Committee has expressed a similar position in the *Fedotova v. Russia* case about the Russian Federation's Ryazan Region administration's enforcement of the law over the applicant.⁵³

These cases show that the justification of the authors of the draft amendments to the law in Armenia that they wish to strengthen and expand the legal-institutional foundations of the state's constitutional positive obligation to protect the morals of the society, has no legal grounding. The fulfillment of the state's obligations does not entail doing so by adopting legislative regulations that infringe upon other fundamental human rights, it entails the contrary.

In the end, the government rejected the draft proposal justifying it by the absence of a need for such a regulation.

Draft amendments to the Family Code

Tigran Urikhanyan, former Parliamentarian and head of the National Assembly's Standing Committee on Issues of Science, Education, Culture, Youth and Sports presented draft amendments to the RA Family Code which implied adding a clarifying clause to the list of restrictions of registering marriage, thus to include a prohibition of registering marriage between persons of the same sex.

The government rejected the proposal given that Article 35 of the Constitution and Article 10 of the Family Code already envisage that marriage is only possible between a woman and a man.

⁴⁸ <http://www.arlis.am/DocumentView.aspx?docid=18500>

⁴⁹ <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf>

⁵⁰ Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a

⁵¹ *Bayev and others v. Russia*, application No 67667/09

⁵² *Alekseyev v. Russia*, applications No 4916/07, 25924/08 and 14599/09

⁵³ *Fedotova v. Russian Federation*, Merits, Communication No 1932/2010

Minister of Justice accused of “legalizing” LGBT persons

In the aftermath of the “Velvet Revolution” several social media users started circulating information that the newly appointed Minister of Justice, Artak Zeynalyan had started an initiative to “legalize” homosexuals by proposing amendments to the Criminal Code. The aim of these groups was to discredit the new government and present it as “anti-national.” This information was soon picked up in the social media in a negative wave to which Artak Zeynalyan was forced to react. He stated: “I was thinking not to react to unfounded posts, but not reacting would give some people an opportunity to circulate their lie at an even larger scale. Dear people, I have never made any legislative proposal to change to Criminal Code, neither this week, nor last week, nor ever in my position as Minister of Justice. This campaign on social media is ridiculous and unfounded.” One day later, however, he added: “All improper, derogatory, discriminatory and hateful comments will be deleted. Thank you very much.”



Artak Zeynalyan hurried to “clean” his reputation of the stain, however he did not make an effort to inform the public, having had a background of a human rights defender and in his position of Minister of Justice, that homosexuality was decriminalized yet in 2003 and dissemination of such information contains not only insult, but it also incites intolerance towards homosexuals.

⁵⁴ Minister of Justice Artak Zeynalyan's Facebook post

Conclusion

In 2018, not only did discrimination against LGBT persons not abate, on the contrary, it acquired a new quality. Hate crimes continued to remain without effective and unbiased investigation. The state failed to fulfil its obligation to protect individuals from violence and human rights infringements based on their sexual orientation or gender identity. Hate crimes were followed with a wave of justifications and victim-blaming both in social media, as well as by representatives of the government in their statements given to the media.

Hate crimes received a larger magnitude after the “Velvet Revolution,” as power-holders from the former authorities by all means attempted to demand a position from the new government on LGBT issues. Such statements by (former) state officials did not remain without reaction and various debates, press conferences, as well as interviews were held with the participation of famed or less famed public and state actors, who, in turn, spared no effort to add to the wave of hatred and intolerance and blamed the new government in being “anti-national”, complicit in supporting organizations “destroying the traditional Armenian family”.

This and similar manifestations of hate speech did not receive a proper legal definition either by the law enforcement bodies or the government. The reason is the legislative gap which makes it difficult for the law enforcement bodies to initiate criminal proceedings. At the same time, they fear being discredited in a society that is predominantly homophobic.

Not having sufficient experience and knowledge on LGBT rights in Armenia, the new government has not taken any measures to fill this gap.

The government did not send the anti-discrimination draft law to the parliament for deliberations and adoption. The drafting process of the amendments to the Criminal Code is still ongoing.

Both drafts are still at the government.

Recommendations

To State Bodies and Political Forces:

- ▼ Cooperate with human rights organizations in order to receive more detailed information on structural aspects of LGBT rights violations and develop a policy aimed at preventing discrimination and violence based on sexual orientation and gender identity.
- ▼ Do not shun publically addressing violations of LGBT human rights.
- ▼ Take appropriate steps to prevent intolerance and hate speech towards LGBT persons, and hold persons who engage in acts of intolerance and hate speech accountable.
- ▼ Conduct complete, objective and thorough investigations of LGBT rights violations, without discriminatory, prejudiced attitudes towards LGBT people by investigative bodies.
- ▼ Adopt separate, comprehensive legislation ensuring protection of the right to be free from discrimination, including on the grounds of sexual orientation and gender identity by envisaging prevention and prohibition of discrimination and civil, administrative and criminal liability.
- ▼ Review the RA legislation that prohibits hate speech, and define the concept of "hate speech," and put into force a ban on hate speech and intolerance against people with certain characteristics, including against LGBT people.
- ▼ Review the RA legislation that prohibits hate crimes, expressly consider a crime committed against a person on the grounds of their sexual orientation and/or gender identity as an aggravating circumstance in criminal liability and punishment.
- ▼ Develop and implement mechanisms to ensure a comprehensive and objective investigation of crimes based on sexual orientation and gender identity, including by developing appropriate legal and procedural mechanisms for identifying the motive of the crime.
- ▼ Encourage the victims of hate crimes, as well as witnesses thereof, to report on crimes committed.
- ▼ Document and run statistics on hate crimes in Armenia, including on the basis of sexual orientation and gender identity, thus making the issue of hate crimes visible in Armenia.
- ▼ Ensure that hate crime victims have access to justice. In particular, envisage effective mechanisms for the protection of human rights, which will exclude the risk of double victimization, will ensure the safety of the individual and will provide comprehensive compensation mechanisms for damages.
- ▼ Instill the ideas of tolerance and equality within state bodies, particularly among the parliamentarians of the National Assembly, representatives of the government of the Republic of Armenia and other officials.
- ▼ Instill the ideas of tolerance and equality within society, particularly with public statements that promote tolerance and recognize LGBT people as full citizens and members of society.
- ▼ Train law enforcement bodies on the specificities of working with victims and witnesses of hate crimes.

To Mass Media:

- ▼ Stop publications that incite hatred and intolerance toward LGBT individuals and offer the public with correct, ethically acceptable materials that respect the human rights of LGBT individuals.
- ▼ Do not exploit topics concerning LGBT individuals in media reporting, thus avoiding further unnecessary dissemination of hatred and intolerance in the society.
- ▼ Take measures at the level of editorial policies aimed at stopping journalists from disseminating hate speech.
- ▼ Stop biased coverages that give a voice only to groups harassing LGBT persons.

To International and Regional Organizations:

- ▼ Accurately monitor the implementation of international commitments on the rights of LGBT individuals undertaken by the Republic of Armenia.
- ▼ Publicly stand in support of LGBT individuals and protection of their rights in Armenia with official announcements, stressing the importance and priority of defending their rights.
- ▼ Refer to the practices of violations of the rights of LGBT people raised in this report in their own reports concerning human rights.

To the Human Rights Defender's Office:

- ▼ Increase public awareness about discrimination and its negative consequences, as well as the importance of the principles of non-discrimination and equality.
- ▼ Raise public awareness about the illegality of hate speech and its dissemination.
- ▼ Advocate for developing a strategy to create and adopt effective legislation on equality, as well as define effective measures for the protection of LGBT persons in other legal documents.
- ▼ Make public statements condemning violations of LGBT rights, when known, and give adequate response to complaints lodged with the Defender's office.

Annex 1

Strategic Litigation

Pink Armenia has been pursuing strategic litigation since 2012,⁵⁵ with the goal to achieve changes both in the legislation and in public policy.

In 2018, certain developments advanced three of these litigations. Two cases are being considered by national judicial bodies and are related to the disputes over social ads commissioned by Pink Armenia in 2017.

Pink Armenia v. Yerevan Municipality

On May 25, 2017, Pink Armenia commissioned social ads on billboards in the center of Yerevan advocating tolerance towards LGBT people. The ads were installed on the billboards run by the Nushikyan Association advertising agency on a contractual basis. One of the posters illustrated two male homosexual characters in an embrace accompanied with the following text: "Do you wish everyone to be happy? Then wish us happiness." The other poster illustrated a collage of people of various professions accompanied with the following text: "You meet them every day." The third poster illustrated three hands with the following text: "Trans people are part of our society." On May 27, however, the ads were removed, torn apart and thrown into garbage bins without informing Pink Armenia.⁵⁶

A few hours after the posters were removed from the billboards, Araz Baghdasaryan, head of Yerevan municipality's Department for External Design and Advertising made the following Facebook post: "3 advertising posters were illegally installed in the capital preaching tolerance towards persons with various orientations... regardless of the content of the posters, they have been removed as Yerevan municipality did not provide a permission."

Pink Armenia lodged a suit at the Administrative Court of Armenia against Yerevan Municipality with the claim to recognize the acts of Yerevan Municipality to have the 3



⁵⁵ <http://www.pinkarmenia.org/en/strategic-litigations/>

⁵⁶ <https://bit.ly/2HdMONX>

social ad posters removed as an interference into freedom of speech, right to be free from discrimination and overall unlawful.

The Administrative court heard the case and decided to close it for the reason that it does not fall into the jurisdiction of the court. This decision has been appealed to the Court of Appeals.

Pink Armenia v. the Ministry of Culture

In 2017, Pink Armenia turned to the Ministry of Culture with a request to recognize the above-mentioned billboard posters as public service announcement (PSAs). This would allow to use the opportunities created specifically for PSAs, namely free installation of posters on urban billboards, as well as on specially designated billboards, in addition to other privileges.

The Ministry of Culture rejected Pink Armenia's proposal with the justification that the ads do not address any issue of social importance and do not contain any element of public awareness raising, plus the public is already aware of the existence of persons with a "nontraditional" sexual orientation from TV programs, therefore there is no need to spread information about them.⁵⁷

Pink Armenia has filed a complaint with the Administrative Court with a claim to recognize the action of the Ministry of Culture as an impediment to the plaintiff's right to freedom of expression and being free from discrimination, to recognize it overall unlawful and to oblige the Ministry recognize the ads as PSAs. The claim has been rejected by the court. This decision is appealed to the Court of Appeals.

Minasyan and others v. Armenia

In 2014, "Iravunk" newspaper published an article titled "They serve the interests of international homosexual lobbying: The blacklist of enemies of state and nation," with the Facebook profile links of 60 users who were accused in "homoaddicted lobbying" and calls to everyone to express zero tolerance towards them, to fire from work or not to employ them, not to interact with them. The black list was made on the basis of Facebook users who posed questions containing criticism to singers Inga and Anush Arshakyan. Earlier, as a member of the Eurovision song contest jury, Anush Arshakyan gave an interview to Aravot daily, where she mentioned that Konchita Wurst, representative of Austria, winner of the contest in a female appearance and with a beard, "caused her repulsion, as do people with mental illnesses."⁵⁸

16 of the people featured in the black list of "Iravunk" newspaper turned to court. After no success in all the instances of Armenia's judicial system who found that the newspaper had exercised its right to freedom, 14 of these persons turned to the European Court of Human Rights in 2015.⁵⁹

In 2018, the Court communicated the application of Minasyan and others against Armenia by addressing the following questions to the Armenian government.

1. Has there been a violation of the applicants' right to "respect for private and family life" contrary to Article 8 of the Convention?

⁵⁷ <http://www.pinkarmenia.org/en/news/the-decision-on-not-recognizing-lgbt-ads-as-social-pink-armenia-to-appeal-to-court/>

⁵⁸ <https://www.aravot.am/2014/05/14/460287/>

⁵⁹ <http://www.pinkarmenia.org/en/strategic-litigations/minasyan-and-others-v-armenia/>

⁶⁰ <http://hudoc.echr.coe.int/eng?i=001-181716>

2. Has there been discrimination against the applicants contrary to Article 14 of the Convention?
3. Were the acts or omissions of the State in the present case aimed at the destruction or the limitation of any of the rights and freedoms set forth in the Convention to a greater extent than is provided for in the Convention, within the meaning of Article 17?⁶⁰

It is important to note that the position of the ECHR on Article 17 will play a pivotal role not only for this case and the prospects of developing Armenia's legislative regulations, but also in terms of advancing law in Europe as it will address the rightfulness of setting limitations to freedom of speech as a means of prohibiting hate speech.



⁶⁰ <http://hudoc.echr.coe.int/eng?i=001-181716>

About the Organization

"Pink" human rights defender non-governmental organization was founded in 2007. 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

www.pinkarmenia.org
info@pinkarmenia.org
+374 60 377277