

EPF Occasional Policy Brief

KEY RECOMMENDATIONS ON HUMAN RIGHTS

February 2017

The Paradigm of Transformative Change lies at the core of Eurasia Partnership Foundation's (EPF) Human Rights Program. EPF works towards changing the structural causes of intolerance, violence and discrimination, as well as the attitudes and behavior of actors. Critical thinking methodology—deconstructing stereotypes, opening up tabooed discussions, changing imposed narratives and perceptions, challenging the notion of 'the other'—is key to addressing issues of minority rights, the rights of the child, non-discrimination and freedom of expression, areas which are at the heart of EPF's Human Rights programming.

Promotion of the right to **freedom of religion or belief** (FoRB) and **non-discrimination** are the main areas of EPF's programmatic intervention. EPF is a key civil society organization involved in development of the new draft law on non-discrimination (the Law of the Republic of Armenia "On Equality") together with the Ministry of Justice of Armenia and facilitating civil society dialogue with the government around adoption of the law. The adoption of a stand-alone, comprehensive law is one of the pre-conditions of the EU Human Rights Direct Support to Armenia. The draft was submitted by EPF to the Ministry of Justice in May 2016. According to the 2017-2019 Human Rights Action Plan, the deadline for adoption by the Parliament is the end of 2017.

EPF is also actively involved in the process of shaping the human rights policies of Armenia through other initiatives. Particularly, EPF is continually contributing to the baseline Human Rights report within the initiative launched by the EU Delegation in Armenia for ongoing monitoring of ENP and GSP+ agreements, with a particular focus on rights of religious minorities, children and non-discrimination issues. EPF has also submitted a package of recommendations including a separate section on the right to freedom of thought, conscience, religion and faith, combating discrimination, and rights of the child to the Ministry of Justice of Armenia for the elaboration of the 2017-2019 Human Rights Action Plan deriving from the provisions of RA National Strategy on Human Rights protection.

The Government of the Netherlands is the main donor of the EPF's human rights program. Support is also provided by the Government of Sweden to work with mainstream media towards adoption on the "Law on Equality" and UN Office of High Commissioner of Human Rights to increase CSOs' capacities in work with UN Human Rights bodies. EPF closely cooperates with the EU Delegation to Armenia, UNDP, OSCE/ODIHR and the Council of Europe.

The policy recommendations articulated below are based on studies conducted by EPF as a part of programmatic activities, hands-on experience accumulated through several years on grassroots work and feedback collected from the various beneficiaries.

GENERAL RECOMMENDATIONS

Enhance capacities of Armenian CSOs and civic activists in doing proper level human rights reporting and international advocacy, including proactive work with UN human rights instruments.

Strengthen capacities of Armenian CSOs and civic activists in monitoring and reporting of hate crime cases through available local and international mechanisms such as the OSCE/ODIHR hate crime reporting platform.

Unveil the roots of tolerance/intolerance and acceptance/discrimination in Armenian society through the in-depth study and critical analyses of Armenian literature, folklore, school textbooks and other forms of culture. A better understanding of the root causes would contribute to the shaping of human rights agendas dealing with causes and not consequences.

Expand systemic human rights work to unrecognized entities such as Nagorny Karabakh (NK). Being unrecognized by the international community and not being a signatory to basic international human rights documents, those entities have much lower human rights standards and protection thresholds, which strongly affects the rights and freedoms of people living there. The EU-funded European Partnership for Nagorny Karabakh (EPNK III) project provides some opportunity for doing that.

1. RIGHT TO FORB AND COMBATING DISCRIMINATION

1.1. With the engagement of civil society, ensure the adoption of the Law of the Republic of Armenia “On Equality” guaranteeing the protection and promotion of equal rights and freedoms and equal opportunities for every person and citizen. The anti-discrimination law should, inter alia, prescribe:

- the definitions of key concepts and forms of discrimination;
- a wider scope of protected attributes directly mentioning sexual orientation and gender identity among them, which is due to the necessity of setting forth additional safeguards against discrimination for the most vulnerable groups of society;
- a separate chapter on the mechanisms for prevention and countering of discrimination, which defines in detail the obligations and rights of the National Assembly, the Human Rights Defender, Government, State and local self-government bodies, non-governmental organizations, natural and legal persons;
- the formation of the Equality Council as a collegial body adjunct to the Defender with minimum interference by the Defender in its activities (particularly, within the context of its functions, election of its members, termination of powers, approving its Rules of Procedure and the Code of Conduct for its members) for the purpose of providing the objectivity, impartiality and independence of the Equality Council;
- the competence of the Equality Council, non-governmental organizations and other associations carrying out activities prescribed by law to bring an *actio popularis* claim before the court in discrimination cases, taking into account decision No. 906 of the Constitutional Court of the Republic of Armenia dated September 7, 2010 explicitly acknowledging the right of the aforementioned organizations whose statutory purposes cover protection from discrimination to bring an *actio popularis* claim before the court;
- a provision regarding the burden of proof in compliance with European Union Council Directive 2000/43.

1.2. Revise the Draft law on “Making Amendments to the Law of the Republic of Armenia on the Freedom of Conscience and on Religious Organizations” and amendments and/or supplements to adjacent laws, bringing it into full compliance with the principles and norms of international law, excluding any provisions that would result in a discriminatory approach towards religious organizations.

1.3. opt-out the compulsory school subject of history of the Armenian Church and, in par-

allel to it or as an option, introduce the subject of world religions and/or history of culture in line with recommendations of the UN Committee on the Rights of the Child, UN Committee on Racial Discrimination, European Commission of Racism and Intolerance (ECRI) and OSCE Toledo Guiding Principles on Teaching About Religions and Beliefs in Public Schools. The teaching process should be exclusively secular, avoiding elements of religious indoctrination, usage of religious symbols or rituals in public school which is in line with Armenia's Constitution and Law on Education.

1.4. address the issue of teaching religion in public schools, and introduce alternatives from the human rights and non-discrimination perspectives, taking into account international best practices.

2. RIGHTS OF THE CHILD

2.1. Explicitly prohibit corporal punishment against a child by legislation.

2.2. Establish a child-friendly justice system providing its conformity with the international obligations of Armenia and ensuring that the child-friendly justice system corresponds to the principle of the best interest of the child, is accessible, age appropriate, speedy, adapted to and focused on the needs of the child, based on respect of the right of the child to participate in and to understand the proceedings, the right to private and family life, the right to integrity and dignity.

2.3. Establish panels of appropriately trained and approved justice sector professionals (e.g. attorneys, judges, police officers, prison officers, probation officers etc.).

2.4. Develop a system of registration and monitoring for children who have dropped out of school.

2.5. In parallel to the deinstitutionalization of child care and protection, provide proper care of children in a family-like environment.

2.6. Conduct an extensive evaluation using the Council of Europe Child Participation Assessment Tool to measure the extent to which children are involved in decision-making on all matters affecting them and draw up a respective plan of both legislative and practical actions.

2.7. Ratify the Optional Protocol to the UN Convention on the Rights of the Child on a Communications Procedure.

2.8. Ratify the Council of Europe Convention for the protection of children against sexual exploitation and sexual abuse (the Lanzarote Convention).