



EURASIA PARTNERSHIP FOUNDATION
SUBMISSION TO THE HUMAN RIGHTS COUNCIL
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Eurasia Partnership Foundation's mission is to empower people to effect change for social justice and economic prosperity through hands-on programs, helping them to improve their communities and their own lives. Paradigm of Transformative Change lies at the core of EPF's Human Rights Program: EPF works on 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 a key to addressing issues of minority rights, non-discrimination and freedom of expression, areas which are at the foundation of EPF's Human Rights programming.

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Introduction

- i. Since the last periodic review in 2015, the government of Armenia has made some efforts to improve its human rights record. Namely, EPF welcomes the adoption of the *Law on Prevention of Violence in Family, Protection of Persons Subjected to Family Violence and the Restoration of Solidarity in Family* (2017), signing the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), the cooperation of Ministry of Justice, Ministry of Labor and Social Affairs and other state institutions with the CSOs, discussions on Human Rights Action Plan (HRAP) with the civil society to name a few.
- ii. Since the peaceful transmission of power in May 2018 in Armenia, known as Velvet Revolution, democratic changes are taking place in the country. In December 2018 free and fair elections of the National Assembly were conductedⁱ, the government is taking serious efforts to fight systemic corruption, investigate tragic events of March 1, 2008, conceptualize and implement a large-scale judicial reform. There are also positive developments in regard to freedom of speech and Internet freedomⁱⁱ, initiatives to engage more with the civil society, such as public hearing in the NA of Armenia to discuss UPR recommendations organized by the Standing Committee on Protection of Human Rights and Public Affairs.
- iii. At the same time it should be noted that serious reforms and proactive actions in the sphere of human rights - especially in sensitive fields and closed institutions- are taking place rather slow and face reaction in certain circles of the government and the National Assembly. Government lacks political will to address policy-level restrictions with regard to freedom of religion or belief – especially in the fields of education, labor and security sector, and does not take effective steps to assure freedom of expression and the right to freedom from discrimination, especially with respect to minorities, disadvantaged and vulnerable groups.
- iv. This report addresses the issues of Anti-Discrimination and Freedom of Religion and Belief (FoRB) in Armenia. It is structured to give background on the issues concerned and developments since the last periodic review, followed by recommendations proposed by Eurasia Partnership Foundation (EPF). Although there are a number of varying issues and recommendations to provide in these areas, in this report EPF focuses on the ones that are feasible to implement for the state under review in the coming reporting period.

a) Anti-Discrimination

1. The ban on discrimination is stipulated by the Constitution of Republic of Armenia (RA) and a number of legislative acts, such as the Labor Code, Law on Education, Criminal Code, etc. However, there is no law defining the notion of discrimination, types of discrimination and protected grounds, hence the right of an individual to be free from discrimination is not yet secured in practice, and existing legislative acts do not provide effective means for legal

defense,ⁱⁱⁱ nor do they provide mechanisms for effective protection against discrimination. During the previous UPR cycle, Armenia received more than a dozen of recommendations^{iv} urging the state to adopt a stand-alone and comprehensive legislation to prohibit discrimination and accepted the vast majority of those recommendations. Moreover, lack of legislation on non-discrimination and domestic mechanisms ensuring equality were mentioned in other international reports/reviews, UN treaty bodies, and CoE ECRI.

2. In 2015, EPF conducted research proving why it is expedient to adopt a separate 'non-discrimination law'. Taking the results of this research into account, an agreement was reached with the Ministry of Justice (MoJ) to draft a law on non-discrimination, bearing in mind the fact that the adoption of comprehensive stand-alone anti-discrimination legislation has been prescribed as one of the specific conditions under the EU Direct Budget Support Agreement with Armenia.^v Prior to the events of April-May, 2018 - the peaceful Velvet Revolution – the previous government of Armenia circulated the draft law on Ensuring Equality together with the law on National Minorities. In March 2018, Equal Rights Trust provided Legislative Analysis on the Draft Law on Ensuring Equality^{vi} and came up with recommendations which were shared with the MoJ and other stakeholders. Almost none of the recommendations were taken into account. On July 15, 2019, the Government circulated the newest version of the Law on Ensuring Equality, which contains only minor changes as compared with the previously drafted law. It is not fully corresponding to the international standards, and will not be able to adequately protect the victims of discrimination.
3. The current Draft Law envisages the establishment of a new Equality Body, referred to as the Equality Council, which is to be established under the Office of the Human Rights Defender. Equality Council is an advisory body, the purpose of which is to assist the Human Rights Defender in ensuring equality and protecting persons against discrimination. This model of Equality Body, its nature and functions are ineffective as the Draft does not provide a mandate to investigate cases of discrimination in the private sector; nor does it provide legal guarantees to ensure the implementation of its decisions; and it does not have sufficient human and financial resources, as well as institutional visibility. Moreover, the list of protected grounds in the Draft is incomplete, and does not include the state of health, maternity, pregnancy, sexual orientation, gender identity, place of residence and economic status. If adopted in its current form, the Law on Equality will have a somewhat formal nature, and will not provide mechanisms for adequately protecting the victims of discrimination.

In light of the aforementioned, EPF suggests the following recommendations for the state under review:

4. Adopt a stand-alone law on Equality (Non-discrimination) which protects the most vulnerable in the society, and provides for independent equality body to defend the victims of discrimination and implement legal mechanisms for obtaining enforcement of its decision. In particular, EPF suggests to:

- a) Establish an independent and autonomous Equality body - on the principles stipulated in the article 122 of the RA Constitution, in line with CoE ECRI recommendations and best international practices - members of which should be elected by the Parliament and be accountable to it. It was previously believed that there is a Constitutional restriction for creating a separate body, but the research on identifying the best model of Equality Body in Armenia found otherwise^{vii}.
- b) Provide sufficient human, financial and technical resources to the autonomous equality body.
- c) Ensure the equality body has a mandate to examine complaints against governmental bodies as well as private organizations and individuals, including the ex officio procedures, to impose administrative liability/penalty, to implement conciliation, to present amicus curiae to the court, to file lawsuits in court for protecting public interest (actio popularis), to implement legal mechanisms for obtaining enforcement of its decisions, promote and protect equal treatment of everyone, do monitoring and provide legal assistance.
- d) Add discrimination based on health status, family or marital status, place of residence, economic status, sexual orientation, and gender identity to the protected grounds listed in article 4 of the Draft.

b) Freedom of Religion or Belief

1. The area of freedom of thought, conscience, religion or belief is currently regulated by the law “On freedom of conscience and religious organizations,” adopted by the Supreme Council of the Republic of Armenia back in 1991. Bearing in mind the fact that the Law has a number of deficiencies, contradictions and fails to comply with Armenia’s international obligations, the Ministry of Justice of Armenia has developed and circulated on June 1, 2017 the draft law on “Making Amendments to the Law of the Republic of Armenia on the Freedom of Conscience and on Religious Organizations”. The new draft had a very disappointing content regarding to a number of restrictive and discriminatory provisions, unclear wording and lack of understanding of human rights, religion and religious life. ODIHR recommendation on the draft stated that amendments were needed to ensure the draft’s compliance with international standards and OSCE “human dimension” commitments, and that the AAC must fall under the jurisdiction of the draft law.
2. According to the Armenian Constitution, everyone shall have the right to education, and pursuant to the RA Law on Education, all schools in Armenia should be secular. However, a course called “The History of the Armenian Church” is imposed on all children from primary school age, and exclusively teaches the history of the Armenian Apostolic Church. This course is approved by representatives of the clergy, and the

Armenian Apostolic Church has the right to participate in the development of the program and textbooks for the course, as well as to nominate and evaluate its teachers. In practice, the entire teaching process for this course is controlled by the Church. No alternatives are offered to students of other religious groups or atheists. These children are also not allowed to skip these classes and must perform religious rites in class or, as reported in the case of Ezidi children in some schools, must stay in school corridors while the others pray in the classroom. There is also evidence that teachers of this course display a negative attitude towards children from religious minorities.

3. Although in Armenia more than 98% of the total population of 3 million is ethnically Armenian of which an even higher percentage belongs to the Armenian Church, Armenia is still not a monolithic country and there are still groups and communities of minorities such as Yezidis, Assyrians, Russians, Molokans and others.^{viii} Communities of these minorities are often isolated from the rest of the population and practice their traditional ways of life. For example, the Yezidi communities still practice early marriages and arrange marriages of girls of 15-16 years old. It is clear that the opinion of the girls is usually not important for the arrangement and further, these young brides are taken away from school and will be unable to complete their education. Some other communities also remain very patriarchic in their way of raising girls and in the position given to women in their families. However difficult it is to combine respect to minority rights and efforts to support emancipation of the women and girls from the minority groups, it is really important to give state support to the education of women and girls and to control the equality of all groups in access to school and further employment.
4. The RA constitution states everyone shall have the right to freedom of thought, conscience, and religion, and only allows restrictions on this right to protect state security, public order, health and morals, or the fundamental rights and freedoms of others. However, although the Constitution provides that religious organizations shall enjoy legal equality and shall be vested with autonomy, the RA legislation contains restrictions on the rights of religious minorities. In particular, the Laws on Military Service, Service in Police, Service in National Security Bodies, Rescue Service of Armenia, Penitentiary Service, and Judicial Acts Compulsory Enforcement Service contain several discriminatory clauses, which restrict the freedoms of religious minority groups at the time of employment.
5. During the previous UPR cycle, recommendations were received regarding freedom of religion or belief by Spain and Azerbaijan. Whereas a recommendation by Spain on combating hate propaganda and incitement against minority groups, including religious minorities, was supported, the recommendation by Azerbaijan calling to eradicate all limitations and restrictions on freedom of religion, including the revision of the school curriculum to reflect the freedom of religion of all children, was noted by the Republic of Armenia.

6. Since the last UPR, no prominent changes have taken place in Armenia. The religious discrimination in the Armenian legislation remains unchanged, and the authors of discriminatory and hate speech remain unpunished.

In light of the aforementioned, EPF suggests the following recommendations for the state under review:

7. Take legislative measures necessary to fully guarantee freedom of religion in the country. Ensure that the legislation in the area of the freedom of religion or belief is in line with international human rights standards, the requirements of ECtHR case law and according to OSCE/ODIHR standards.
8. Remove the restrictions from the following laws against followers of a religious organization that do not apply to members of the Armenian Apostolic Church at the time of employment:
 - RA Law on Military Service, General Provisions, Article 1, Point 3.3,
 - RA Law on Service in Police, Article 39, Point 7,
 - RA Law on Service in National Security Bodies, Chapter 7, Article 43, Point 8,
 - RA Law on Rescue Service of Armenia, Chapter 7, Article 39, Point 1,
 - The RA Law on Penitentiary Service, Chapter 9, Article 32, Point 7, 25
 - RA Law on Judicial Acts Compulsory Enforcement Service, Chapter 3, Article 9, Point 1(1), Article 30, Point 1(7).
9. Revise the teaching of the *History of the Armenian Church* compulsory school subject ensuring that it is in line with secular spirit of the law on education of the Republic of Armenia. Provide opt-out possibilities for children and parents by introducing other subjects such as World Religions, Ethics, History of Culture or others.
10. Ensure that teaching about religions in schools is 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.
11. Ensure that the teaching process is 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.
12. Revise the mandatory school program (including curricula and supporting literature) on other subjects, such as History of Armenian People, to ensure that it is in line with the rights and needs of children from religious and ethnic minorities and does not violate their freedom of religion or belief.
13. Undertake extensive awareness-raising and public education efforts to address discriminatory attitudes, perceptions and stereotypes against religious and ethnic minority groups.

14. Undertake extensive awareness-raising and public education efforts among religious and ethnic minority groups to increase awareness of their rights and freedoms. At the same time, take targeted measures to end the practice of early marriage in a reasonable timeframe, including legal action and awareness-raising measures.

ⁱ Office for Democratic Institutions and Human Rights, ODIHR Election Observation Mission, Final Report, Republic of Armenia, Early Parliamentary Elections, 9 December 2018. Available from:

<https://www.osce.org/odihr/elections/armenia/413555?download=true> [accessed 16.07.2019].

ⁱⁱ Freedom House, The Rise of Digital Authoritarianism, Freedom on the Net 2018. Available from:

https://freedomhouse.org/sites/default/files/FOTN_2018_Final.pdf [accessed 16.07.2019].

ⁱⁱⁱ Ghazaryan A, Grigoryan V, *Is it expedient to adopt a separate 'non-discrimination law'?* Eurasia Partnership Foundation, Yerevan, Armenia; 2015. Available from: http://www.epfarmeria.am/wp-content/uploads/2014/06/Research-on-Anti-discrimination_-21.05.15-ENG_Final-1.pdf [accessed 16.07.2019].

^{iv} UPR Info, 2RP: Responses to Recommendations & Voluntary Pledges, Armenia, Second Review, Session 21.

Available from: https://www.upr-info.org/sites/default/files/document/armenia/session_21_-_january_2015/recommendations_and_pledges_armenia_2015.pdf [accessed 16.07.2019].

^v EPF Occasional Policy Brief Recommendations on Tolerance And Non-Discrimination. Available from:

https://epfarmeria.am/sites/default/files/Document/EPF_AR2017_Policy_Brief_Recommendations_on_Tolerance_and_Nondiscrimination.pdf [accessed 16.07.2019].

^{vi} Equal Rights Trust, Draft Law of the Republic of Armenia “On Ensuring Equality”, Legislative Analysis.

Available from: https://www.equalrightstrust.org/ertdocumentbank/180311%20Equal%20Rights%20Trust%20-%20Law%20on%20Ensuring%20Equality%20-%20Armenia%20-%20Legislative%20Analysis_0.pdf

^{vii} Narine Aleksanyan, Research on Identifying the Best Model of Equality Body in Armenia. Available from:

http://www.havasar.am/wp-content/uploads/2019/02/Research_Effective-model-of-Equality-body-in-Armenia-Eng.pdf [accessed 16.07.2019].

^{viii} The Results of 2011 Population Census of The Republic Of Armenia (Indicators Of The Republic Of Armenia),

Available from: <https://www.armstat.am/file/doc/99486253.pdf> [accessed 16.07.2019].