



ՆՈՐ ՄԵՐՈՆԵՐ
NEW GENERATION

ANNUAL LEGAL
2022 REPORT

Armenia, Yerevan
2022

A N N U A L L E G A L

2022 REPORT

The Report has been compiled by New Generation Humanitarian NGO, with the financial support of the Norwegian Helsinki Committee. The contents of the Report are the sole responsibility of New Generation Humanitarian NGO and do not necessarily reflect the views of the Norwegian Helsinki Committee.

Compiled by

Lawyers of NG NGO

Shushan Khnkoyan
Lusine Gasparyan

Reviewed by

Sergey Gabrielyan
Alina Mirzoyan

Designed by

Levon Chilingaryan

Translated by

Anna Mirzoyan

Warning:

The Report contains images and descriptions containing traces of violence, which may have a negative impact on persons with sensitive nerves.

© New Generation Humanitarian Non-governmental organization
Be sure to give reference to New Generation Humanitarian NGO when using the report or excerpts from it.

CONTENTS

Acronyms and concepts	4
Introduction	5
Cases of human rights violations	9
Hate speech on online platforms	23
Conclusion	27
Recommendations	31



ACRONYMS AND CONCEPTS

LGBT

lesbian, gay, bisexual, and transgender;

SOGI

sexual orientation and gender identity;

NGO

non-governmental organization;

NG NGO

New Generation Humanitarian NGO;

RA

Republic of Armenia;

Sexual orientation

patterns of an individual's emotional, romantic and sexual attraction to people, as well as individual's intimate and sexual relations and/or the desire to engage in relations with other people;

Gender identity

person's innate sense of their gender and individual experience, which may coincide with or differ from the person's assigned sex. It is a category of social identity and refers to the person's sense of one's own gender as a man, woman or other gender;

Homosexual

person who shows patterns of emotional, romantic, sexual and other types of attraction to people of the same sex;

Transgender

person whose gender identity is different from their assigned sex;

Discrimination

differential treatment towards people in the same or substantially similar situations without any objective ground;

Homophobia

unreasonable and irrational fear of, aversion to, hatred towards, discrimination against homosexual or allegedly homosexual people, or opposition to the behavior and culture of homosexuals;

Transphobia

unreasonable and irrational fear of, aversion to, hatred towards, discrimination against transgender people, or opposition to the behavior and culture of transgender people.

INTRODUCTION

New Generation Humanitarian NGO (NG NGO) is a non-governmental organization established in Armenia in 1998.

NG NGO implements its activity based on humanitarian principles in order to contribute to the regulation of the issues of the society, and in particular those faced by vulnerable groups.

NGO's mission is to promote equality of rights, justice, diversity, dignity and prosperity through protection of human rights and interests, ensuring accessibility to healthcare services, capacity building and humanitarian assistance.

The organization regularly publishes reports on the violation of the rights of vulnerable groups, including LGBT persons, raising the existing issues and legislative gaps, as well as submits recommendations aimed at the regulation of the issues and implementation of legislative reforms. Moreover, the organization continuously participates in the discussion of draft legislation and follows the process of draft legislative reforms, submitting recommendations focused on human rights.

The present Report sums up the legal consultations provided by the Organization, as well as the cases of human rights violations upon the ground of persons' sexual orientation and gender identity (SOGI) recorded in 2022.

During the above-mentioned time period, NG NGO provided 385 legal consultations, 315 of which to LGBT persons. Upon the ground of sexual orientation and gender identity of persons, 89 cases of human rights violations were recorded. Only 31 of the recorded cases were processed with, the remaining cases were not processed due to the absence of the victims' consent thereon.

In 2022, NG NGO had 8 cases being examined in domestic and 2 cases being examined in international courts.

DOMESTIC COURT:



CRIMINAL

- E. A. (victim in the case, Criminal Code of the RA, Article 112);
- A. A. (Criminal Code of the RA, Article 258);
- A. S. (Criminal Code of the RA, Article 258);
- S. P. (Criminal Code of the RA, Article 258);
- Y. S. (victim in the case, Criminal Code of the RA, Article 308);
- A.A. (victim in the case, Criminal Code of the RA, Article 117).



CIVIL

- A.S. v. “Iravunk Media” LLC and Hovhannes Galajyan;
- A.S. (Family Code of the RA, Article 71).



INTERNATIONAL COURT:

- NG NGO v. Armenia (ECHR, Article 6.1);
- Sahakyan et al. v. Armenia (ECHR, Article 6.1).

In order to make the protection of human rights more effective and accessible, NG NGO also carries out protection of interests within the scope of which it cooperates with state/legislative and international organizations.

In 2022, around dozens of legal and secondary legal acts were reviewed with the participation of NG NGO experts, and recommendations were submitted on the following legal documents:

MINISTRY OF HEALTHCARE OF THE RA

Draft Law of the Republic of Armenia “On approving the composition and procedure of the interdepartmental commission granting permission to persons who are not the biological parents of a future child and have the right to use human assisted reproductive technologies through a surrogate mother” [1]

MINISTRY OF JUSTICE OF THE RA

- New Draft Penal Code;
- Draft Decision on making amendments and supplements to Decision No 825-N of the Government of the Republic of Armenia of May 26, 2006;
- Draft decision on defining the form, volume and procedure of providing social support to convicts released from sentence, as well as the amount and procedure of providing lump sum monetary assistance to convicts;
- Draft Decision on using the services of an interpreter at the expense of the state in case of a conditional release from sentence of a person sentenced to imprisonment or life imprisonment;
- Draft on Approval of internal regulations of penitentiary institutions of the Ministry of Justice of the Republic of Armenia.

[1] <https://ngngo.net/2022/03/17/draft-legislation/>

At the initiative of NG NGO, recommendations and drafts on a number of legislative amendments were submitted:

- Order of the Minister of Trade and Economic Development of the RA of March 31, 2005 “On approving the classifier of the RA” was submitted to the Ministry of Healthcare of the RA;
- Draft Law of the RA “On changing the legal gender marker“ was submitted to the Ministry of Healthcare, Ministry of Justice and Ministry of Education, Science, Culture and Sports of the RA.

In 2022, New Generation Humanitarian NGO also submitted reports to a number of international organizations:

 **OSCE ODIHR**
HATE CRIME REPORTING

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) [2],



U.S. DEPARTMENT of STATE
Մարդու իրավունքների վերաբերյալ
տարեկան զեկույց:
2021թ. Հայաստան

The Bureau of Democracy, Human Rights, and Labor within the United States Department of State [3],



European Commission against
Racism and Intolerance

The European Commission against Racism and Intolerance (ECRI);



SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

The United Nations Human Rights Council (UNHRC);



Human rights watch (HRW) [4]



CEDAW

The United Nations Committee on the Elimination of Discrimination against Women (CEDAW) [5] [6]

[2] <https://ngngo.net/en/2022/11/23/osce-odihr/>

[3] https://ngngo.net/en/2022/04/29/human_rights_report_us/

[4] <https://www.hrw.org/world-report/2023/country-chapters/armenia>

[5] <https://ngngo.net/en/2022/11/23/cedawrecommendations/>

[6] [https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCSS%2fARM%2f49892&Lang=en)

[symbolno=INT%2fCEDAW%2fCSS%2fARM%2f49892&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCEDAW%2fCSS%2fARM%2f49892&Lang=en)

CASES OF HUMAN RIGHTS VIOLATIONS

SEVERAL OF THE MOST NOTABLE CASES OF HUMAN RIGHTS VIOLATIONS RECORDED BY NG NGO DURING JANUARY-DECEMBER 2022 ARE PRESENTED BELOW.

CASE DESCRIPTION

CASE 1 R.M. (name changed) was regularly subjected to beating, as well as to continuous psychological abuse by family members, in particular by the father and older brother, because of R.M.'s alleged sexual orientation. Besides, the person was deprived of the opportunity to leave the house, communicate with friends, use the phone or computer. All this had been going on for months.

The person applied for legal assistance on January 20, 2022 only after having managed to escape from home [7].

Case type

Domestic violence.



Provided assistance and process

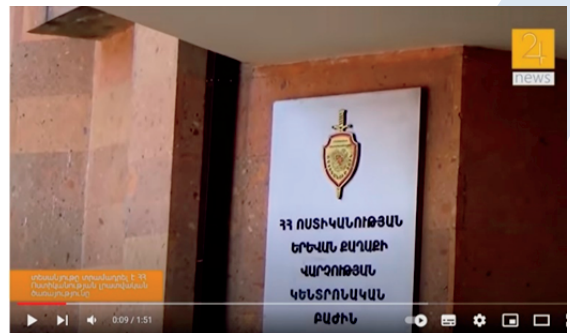
The case was not processed because the victim did not want to apply to the law-enforcement bodies, fearing that comprehensive, complete and impartial investigation of the case would not be carried out, and it might just be terminated on some ground.

[7] <https://ngngo.net/en/2022/01/24/domestic-violence-2/>

[8] <https://ngngo.net/2022/06/20/24-tv/>

CASE DESCRIPTION

CASE 2 In February 2022, it was revealed that a video was posted on the official YouTube channel “24 TV” owned by “24 News” LLC on August 14, 2018, in violation of the principles of the right to inviolability of private life and presumption of innocence of a



Համասեռամոլների արկածները ոստիկանության բաժնում

group of persons. The video reveals the persons' faces [8].

The video reveals the persons' faces. Back in 2018, as a result of the cooperation established between NG NGO and the Office of the Human Rights Defender of the Republic of Armenia, the video captioned “Women at first sight, but in reality, men dressed in girls' clothes and their supporters broke into the police station” which referred to the

above-mentioned case, was removed from the official website of the Police of the RA.

The video was removed on the ground that it revealed the persons' faces, thus violating the principles of the right to inviolability of private life and presumption of innocence of a group of persons.



Case type

Violation of the principles of the right to inviolability of private life and presumption of innocence, spread of hatred.



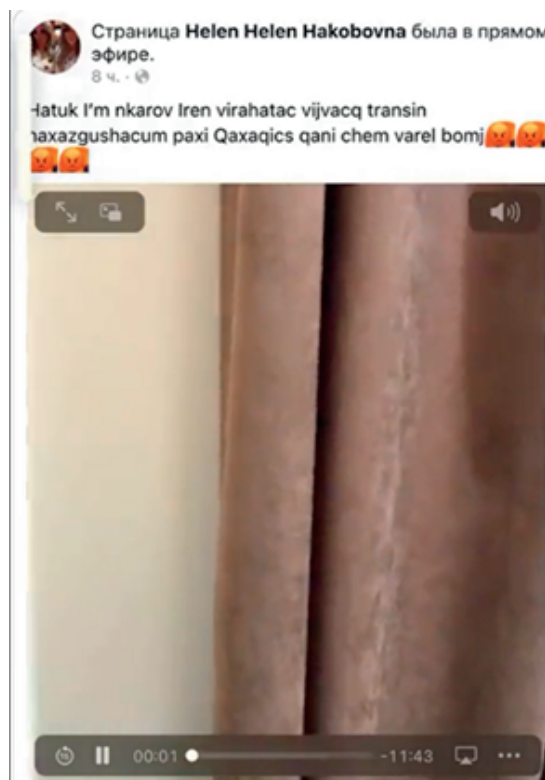
Provided assistance and process

NG NGO sent a letter to “24 News” LLC, however, after receiving no feedback from the Company, applied to the Human Rights Defender of the RA, the Police of the RA and Agency for Protection of Personal Data of the Ministry of Justice of the RA.

In July 2022, the lawyer of NG NGO had a meeting with the Head of the Agency for Protection of Personal Data of the Ministry of Justice of the RA. The case is in progress.

CASE DESCRIPTION

CASE 3 On March 6, 2022 at around 6:20 pm, the Facebook user under the name “Helen Helen Hakobovna” had a live broadcast on their page on the Facebook social network, during which, in addition to numerous insults, the user voiced public calls for violence, in particular, threatened to burn homosexual persons. The user openly declared intentions to use force, calling the followers to subject homosexual persons to violence.





Case type

Hate speech, threat of violence.



Provided assistance and process

NG NGO filed a report on the crime with the RA Police [9].

The Yerevan Department of the Police of the RA informed in a reply letter that the report of NG NGO was sent to the Central Division of the Yerevan City Department of the Police of the RA to resolve the case through investigation. On March 29, 2022 NG NGO received the Decision issued by H. Gasparyan, Senior Investigator at Central Division of the Yerevan City Department of the Police of the RA. The Investigator issued a decision on rejecting the initiation of a criminal case due to absence of an element of a crime.

NG NGO appealed against the said decision to a higher authority - the Prosecutor General's Office of the RA [10].

After a while, the user deleted the broadcast and the complaint lodged with the Police was rejected.

CASE DESCRIPTION

4 On March 23, 2022, trans* person T.A. (name changed) applied to the Marash division of the Passport and Visa Department of the RA in order to obtain a passport of the RA. The employees did not accept the application package for the issuance of the RA passport, moreover, they showed a discriminatory attitude towards the person, laughed and used insulting language [11].



Case type

Discrimination.



Provided assistance and process

The lawyer of NG NGO contacted the staff of the relevant division, demanding clarification in connection with the rejection of accepting the application and display of discriminatory attitude. The relevant employee didn't clarify the issue, nevertheless, the employee accepted the person's application and processed it accordingly.

[9] <https://ngngo.net/en/2022/03/21/violence-against-homosexuals/>

[10] <https://ngngo.net/en/2022/04/08/fb-hate-crime-eng/>

[11] <https://ngngo.net/en/2022/03/28/trans-person-reported/>

CASE DESCRIPTION

CASE 5

V.A. (name changed) lives with the brother and brother's family. They have always had disagreements because of the sexual orientation of V.A. The brother, not tolerating the fact that V.A. is a homosexual person, subjected V.A. to beating, causing V.A. bodily injuries and damaging V.A.'s property.



Case type

Domestic violence.



Provided assistance and process

Legal advice was provided to the victim, thereafter on March 21, 2022, V.A. filed a report on the crime with the Police.

A criminal case was initiated, the police officers implemented the decision on urgent intervention. After a while, the brother compensated for the damage caused and left the house together with his family.

The victim withdrew the complaint.

CASE DESCRIPTION

CASE 6

H.V. (name changed) worked in the service sector for a long period of time. The latter was in constant conflict with the colleagues at the workplace due to H.V.'s alleged sexual orientation.

There was an argument during the work and a colleague struck H.V.



Case type

Violence, discrimination.



Provided assistance and process

On May 12, 2022, H.V. applied to NG NGO and legal advice on the victim's rights and responsibilities, as well as the legal procedures related to the case was provided thereto. The person filed a report on the crime with the Police.

A criminal case was initiated.

CASE DESCRIPTION

**A
S
E
7** N.Gh. underwent a gender-affirming surgery in the Republic of Armenia a year ago. After the post-surgery period, the person took some steps to change the gender marker in the passport. In March, 2022, N.Gh. submitted an application to the Ministry of Justice of the RA in order to be granted the relevant permission. N.Gh. also enclosed in the application the medical document certifying the performance of the gender-affirming surgery. Since the doctor had arrived from a medical facility of a foreign country in order to perform the surgery, the medical document had been provided on behalf of the mentioned foreign medical facility. Two months have passed after the submission of the application, but so far, the applicant has received no response from the relevant division of the Civil Status Acts Registration Agency of the Staff of the Ministry of Justice of the RA.



Case type

Discrimination, lack of legislative regulations.



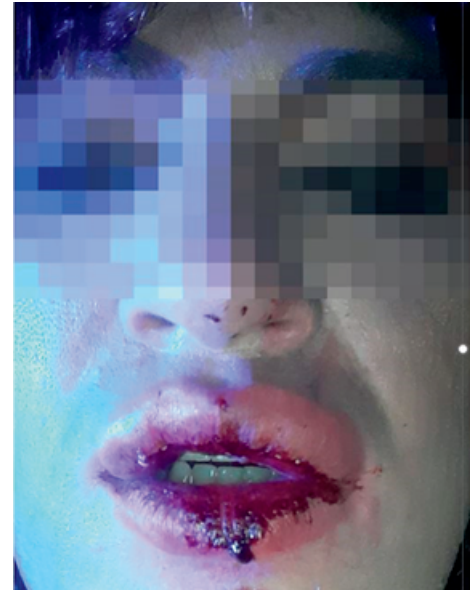
Provided assistance and process

N.Gh. applied to NG NGO on May 18, 2022. A letter was submitted to the Ministry of Justice of the RA to obtain information about the progress of the case. The relevant Division of the Civil Status Acts Registration Agency of the Staff of the Ministry of Justice informed in a reply letter that the case had been suspended because they had applied to the foreign competent authority to obtain an expert opinion thereon. The response to the afore-mentioned inquiry made by the Civil Status Acts Registration Agency of the Ministry of Justice was received in September 2022, denying the performance of N.Gh.'s gender-affirming surgery in their medical facility. Currently, the case is in progress.

CASE DESCRIPTION

CASE 8

On the night of June 5 into the morning of June 6, 2022, at around 02:20 am, H.A. (name changed) was taking a walk in one of the streets in the city of Vanadzor, when a group of people approached H.A. H.A. told them that H.A. was a trans* person, and those persons attacked H.A. The victim tried to escape and hide in other person's car. However, the persons chasing H.A. found the victim with the help of the driver transporting the victim and severely beat the victim.



The victim called the Police, but the persons that had attacked the victim snatched the victim's phone and threw it away.



After listening to the sounds on the phone, the police officers immediately arrived at the scene.

After seeing the police cars, the offenders left the victim in a helpless condition and left. The victim sustained serious bodily injuries. The Police arrived at the scene. The victim was mocked by the police officers while being transported to the police station [12].



Case type

Violence, discrimination, hooliganism.



Provided assistance and process

Legal advice was provided to the victim and contact therewith was maintained by NG NGO. The police officers took the victim to the relevant police station for the victim to file a written report.

After filing the report, the victim returned home, where the victim's health declined sharply. With the assistance of NG NGO lawyer, the victim called an ambulance and was taken to Vanadzor medical center where the victim was provided with the necessary medical care.

The case is at the stage of preliminary investigation.

[12] <https://ngngo.net/en/2022/06/07/continuous-hatred-and-threats/>

CASE DESCRIPTION

CASE 9 A.N. (name changed) left the house, forgetting to take the cellphone, and before A.N. would return home, A.N.'s mother had taken the phone and looked through it. The mother found some personal files in the phone and learnt that A.N. was homosexual. When A.N. came back home, A.N.'s mother subjected the victim to beating regularly for days in order to "bring A.N. to senses", however, after failing to do so, the mother posted A.N.'s personal files on the Internet.



Case type

Domestic violence



Provided assistance and process

The person was able to apply to NG NGO after managing to leave the house, i.e., June 13, 2022. Legal advice was provided to the person, but A.N. refused to proceed with the case, since A.N. did not wish to file a report against the parent.

CASE DESCRIPTION

CASE 10 On the night of June 13 into the morning of June 14, 2022, at around 4:30 am, trans* person S.A. (name changed) was beaten by a stranger visiting the victim's house, leaving the victim with a broken nose.

After the stranger left, the friends of S.A. immediately took S.A. to Armenia Republican MC, where the victim received first aid. After providing the necessary medical aid, the doctor stated that there was a need for surgery, for which they demanded AMD 150,000 /one hundred and fifty thousand/ from





the person accompanying S.A. During the provision of medical aid, the medical personnel was disrespectful towards the victim due to the latter's sexual orientation and gender identity.

The medical staff also refused to provide some services to the victim [13].



Case type

Violence, discrimination.



Provided assistance and process

NG NGO immediately applied to the Ministry of Healthcare of the RA, however received no proper response from the Ministry.

Thereafter, the doctor treating S.A. was contacted, and as a result of the discussion, an agreement was reached to perform the surgery provided that a contract on deferral of payment was concluded.

After conclusion of the contract, the surgery was scheduled, but some hours later the doctor informed that the surgery could not be performed unless the payment was made. Once again, the Ministry of Healthcare was contacted, but again there was no proper response therefrom, after which the lawyer of NG NGO contacted the Office of the Human Rights Defender.

As a result, the victim also filed a report on the incident with the Police.

At the same time, the senior management of the Medical Center was contacted regarding the disrespectful attitude shown towards the victim, as well as provision of services, only after which the Medical Centre showed respectful attitude towards the victim and provided proper medical care.

[13] <https://ngngo.net/en/2022/06/14/another-manifestation-of-violence/>

CASE DESCRIPTION

CASE 11 On the night of June 18 into the morning of June 19, 2022 at around 2 am, several boys approached trans* person M.K. (name changed) and M.K.'s friends on Zakyán Street, demanding to leave the area. M.K. and friends refused to leave, after which those persons attacked them and beat them. As a result of the beating, M.K. and M.K.'s friends sustained bodily injuries. M.K. called the police. About half an hour later, the police officers arrived at the scene, took the persons who had beaten M.K and M.K.'s friends to the Central Police Division [14].

An ambulance was called at the police station due to the deterioration of one of the victim's health condition.



Case type

Violence, hooliganism.



Provided assistance and process

Legal advice was provided to the victim. A criminal case was initiated.

[14]<https://ngngo.net/en/2022/06/21/violence-against/>

CASE DESCRIPTION

CASE 12 On July 27, 2022 N.E. (name changed) visited a store for shopping. When the store assistant understood that N.E. is a trans* person, the store assistant refused to provide the service to N.E. N.E. called the Police and filed an oral report with them.



Case type

Discrimination



Provided assistance and process

NG NGO provided legal advice via telephone during the incident. The store manager apologized to N.E. and provided the service to N.E. N.E. withdrew the report.

CASE DESCRIPTION

CASE 13 S.A. underwent medical examinations within the scope of January 2020 military conscription, and since according to Decision No 404-N of the Government of the RA, homosexuality is considered to be a mental illness, S.A. was declared unfit for military service upon that ground.

After the launch of “Armed” system, S.A. visited the local polyclinic in July 2022 and found out that the general practitioner had learned about his homosexuality through the mentioned System.

The latter served as a ground for stigma and discrimination against the person. Moreover, disclosure of the victim’s personal data to the mentioned healthcare worker had occurred through the given System which would have no substantial or significant impact whatsoever on the person's illness and/or treatment history.



Case type

Violation of the right to protection of personal data, to privacy of private and family life, discrimination.



Provided assistance and process

NG NGO applied to the Ministry of Healthcare of the RA, Human Rights Defender of the RA and the Agency for Protection of Personal Data of the Ministry of Justice of the RA, requesting to ensure unavailability of the information on persons’ sexual orientation and gender identity displayed in “Armed” system.

The Ministry of Justice of the RA informed that some processes aimed at aligning “the International Classification of Diseases” in place in the domestic system with international standards are envisaged to be implemented.

CASE DESCRIPTION

CASE 14 On July 31, 2022, at around 03:35 a.m., Facebook user under the name “Beda Yegiazaryan” had a live transmission, during which the user had been following trans* persons for rather a long time. Then, when only one trans* person remained in the area, the Facebook user approached the trans*



person and subjected the latter to violence, punching and kicking the victim, causing the victim bodily injuries. During the attack, the Facebook user also called for violence, urging people to beat all trans* persons.

Hours later, YouTube user named Karen Arayan posted a video captioned **“HE DESTROYED A TRANSGENDER IN THE STREET OF YEREVAN / GOOD JOB, VAHE!”**.



It becomes clear from the video that Karen Arayan is the president of “Luysi Banak” (Army of Light) military-patriotic benevolent NGO. During the entire video Karen Arayan publicly justifies the perpetrated violence and informs that “Luysi Banak” military-patriotic benevolent NGO awarded Vahe Eghiazaryan with a certificate of gratitude as the latter had done a

patriotic act by beating up the trans* person. Moreover, user Karen Arayan announces in his video the start of the campaign of beating up trans* persons [15].



Case type

Violence, hate speech, public justification of and call for violence.



Provided assistance and process

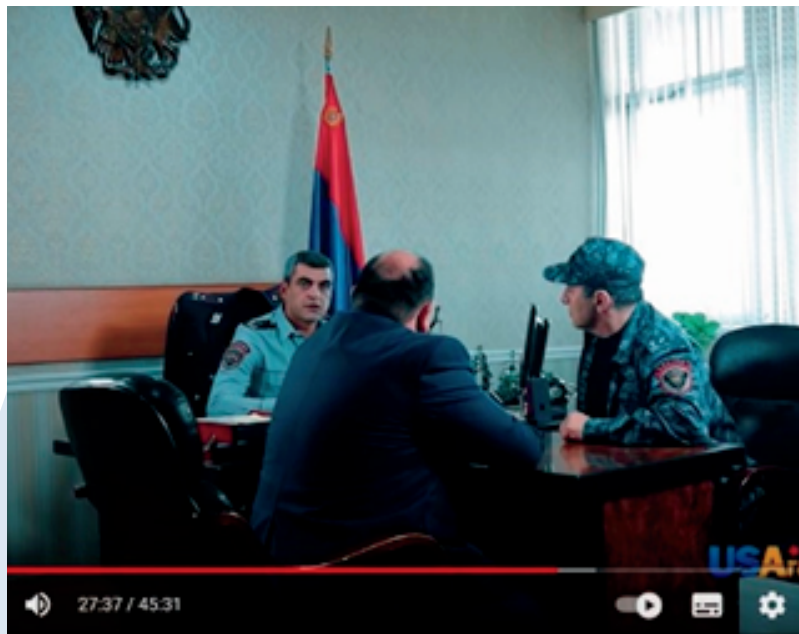
NG NGO applied to the relevant authorities - to the Police of the RA on the issue of initiating a criminal case with regard to the incident, and to the State Revenue Committee of the RA on the issue of liquidating an organization that promotes violence and propagates hatred.

A criminal case was initiated based on the report on crime filed by NG NGO. The case is at the stage of preliminary investigation. At the same time, the letter on liquidating the said Organization was forwarded by the State Revenue Committee of the RA to the Prosecutor General's Office of the RA, requesting a legal assessment thereon [16].

CASE DESCRIPTION

ASE
15

“Corruption 2. Retribution” TV-series directed by Gor Vardanyan, airs on Yerkir Media TV program. A number of episodes of the series refer to homosexual persons. In the aired episodes, the character of a police officer portrayed by Gor Vardanyan, uttered expressions which justify violence, called for violence



against LGBTI people, insulted and humiliated trans* people, propagated hatred towards people due to their gender identity. [17]

[15] <https://ngngo.net/en/2022/08/02/violence-is-perpetrated/>

[16] <https://ngngo.net/en/2022/12/05/a-criminal-case-was/>

[17] <https://ngngo.net/en/2022/06/08/corruption-2%e2%80%a4-retribution-tv-series/>



Case type

Hate speech



Provided assistance and process

On June 8, 2022, New Generation Humanitarian NGO sent a letter to the Commission on Television and Radio (The Commission), requesting that relevant actions be taken with regards to the aired scenes, as provided for by law and within the framework of the powers provided by the RA Constitution. Administrative proceedings were initiated [18].

On July 27, 2022, during the session called with regards to the administrative proceedings initiated on “Corruption 2. Retribution” TV-series, the Commission recorded that the restrictions on the broadcast of the audiovisual program (degradation and undermining of universal human values, vulgarity and profanity) had been violated in “Corruption 2. Retribution” TV-series. As a result, a decision was made to impose a fine upon “HUSABER” CJSC prescribed by part 12 of Article 57 of the Law of the RA “On Audiovisual Media”, in the amount of 400-fold of the established minimum wage [19].

On July 25, 2022, NG NGO again submitted a letter to the Commission, requesting to take appropriate action with regards to another episode of the series containing obvious violence committed against the person portraying a homosexual person, as well as threats of committing violence against homosexual persons and hate towards them. The Commission rejected the letter, stating that they could address the complaint related to the episodes containing hate speech, after the law-enforcement bodies had recorded the violation.

NG NGO filed a report on the crime with the Police, which was rejected.

[18] <https://ngngo.net/en/2022/06/14/corruption-2-compensation-administrative-proceedings/>

[19] <https://ngngo.net/en/2022/08/03/administrative-penalty-was-imposed-on-husaber-cjsc-for-certain-episodes-of-corruption-2-retribution-tv-series/>

CASE DESCRIPTION

16 **A S E** On August 18, 2022 H.V. (name changed) was taking a walk in one of the streets in the city of Vandzor, when two strangers approached H.V.

The strangers immediately attacked and beat H.V, striking H.V. on different parts of the body. Then they held the knife in the direction of H.V, demanding that she left their city, since she was a trans* woman and it was a shame for them.

At the same time, they threatened to kill her if she didn't leave. H.V. called the Police. The police officers having arrived at the scene took everyone to the police station. However, there is no information about the offenders in the files drawn up.

The police officers did not let the victim make calls, as well as mention the sustained injuries when the victim was filing the report at the station.



Case type

Violence, discrimination, threat



Provided assistance and process

H.V. applied to NG NGO approximately a month after the incident. NG NGO lodged a complaint on the violation committed by the police officers while drawing the report. A criminal case was initiated, which is at the stage of preliminary investigation.

CASE DESCRIPTION

17 **A S E** On September 4, 2022, at around 8:30pm, A.S. left the beauty salon adjacent to A.S's house building, where a man struck A.S. on the face, as a result of which A.S. fell down and sustained bodily injuries in the face and arm areas.

The victim called the Police, however the Police refused to arrive at the scene of the incident, stating that the victim had to visit the police station.



Case type

Violence



Provided assistance and process

Legal advice was provided to the victim. The report on the crime was drawn up by the Police. A criminal case was initiated, which is currently in progress.

HATE SPEECH ON

ONLINE PLATFORMS



As of now, hate speech has no common definition either at domestic or international levels.

In practice, it has been formulated by international institutions in general terms, which serve as guidelines for legally prohibiting certain types of speech [20]:

In the modern world, including in Armenia social networks occupy a significant place in the society's day-to-day life. Simultaneously, manifestations of discrimination, intolerance and hate speech are also present on online platforms. Such manifestations can be noticed among both individual users and official social platforms of the media. LGBT persons are one of the main targets for discrimination, intolerance and hate speech manifested on the Armenian online platforms. The latter are regularly subjected to hate speech by a significant part of the users. The most notable incidents are introduced in Cases 2, 3, 14 and 15 of this Report, wherein explicit hatred against the LGBT people was propagated. In Case 14 the person was even subjected to violence, which was broadcast live and during which a public call for committing violence was made. Moreover, certain organisations publicly justified the committed violence: the perpetrator of violence was awarded with a certificate of gratitude by "Luysi Banak" military-patriotic benevolent NGO, since the latter had performed a patriotic act by beating up the trans* person.

At the same time, hate speech is spread and violence is justified through public broadcasting. In particular, in Case 15 the broadcast TV-series explicitly justifies violence. All of this inevitably impacts public perception and attitude. This becomes apparent from the fact that the cases of discrimination, hate and intolerance against LGBT people have significantly grown during 2022, especially in the second half of the year.

[20] <https://drive.google.com/file/d/1-RAMwAOWOrbHiwn6q-xdXHOY-3mvsprV/view>

The targets of discrimination and hate speech on online platforms are not only LGBT people but also organizations dealing with their issues. Starting from August 2022, NG NGO became a target for Facebook and YouTube user “Vardan Ghukasyan”. The user also provided his platform to another person, who made defamatory statements against NG NGO. The purpose of the latter actions is to discredit NG NGO and create obstacles for the activity of the NGO which is aimed at the welfare of vulnerable groups, as well as to hinder the National Program on HIV/AIDS Prevention implemented by the NGO, thus increasing the existing stigma, discrimination and, consequently, risks of HIV-transmission among the key groups defined by the Program.

The domestic regulations on spread of hate speech, justification of violence on online platforms still remain incomplete and the existing ones do not function effectively, particularly in those cases when they are voiced on the ground of sexual orientation and gender identity.

In order to ensure compliance with the norms of international treaties ratified by the RA, principles of international law, the Constitution of the RA, as well as domestic criminal law, the new Criminal Code of the RA was adopted on July 1, 2022 [21]. Article 329 of the Code envisages liability for spreading public speech or distributing any material or subject matter aimed at inciting or propagating hatred, discrimination, intolerance or enmity against a person or group of persons due to their racial, national, ethnic or social origin, religion, political or other views, or other circumstances of personal or social nature. Thus, the crimes based on the above-mentioned grounds shall lead to a graver liability and punishment.

One of its purposes is to also ensure the safety of persons, the society and the state from criminal encroachment. SOGI, as a motive, is not included in the list of grounds aggravating the liability and punishment. The Program of Activities of the RA Government for 2021-2026 was approved by Decision N-1902 L, adopted by the Government of the RA on November 18, 2021 [22].

[21] <https://www.arlis.am/DocumentView.aspx?DocID=169566>

[22] https://www.arlis.am/Annexes/6/2021_N1902hav.1.pdf

The Program envisages submission of the Draft Decision of the Government of the RA “On approving the Action Plan for 2023-2025 arising from the National Strategy for Human Rights Protection of the Republic of Armenia” to the Staff of the Prime Minister by the 3rd ten-day period of June 2023. The Draft Decision envisages improvement of the legislation in order to prevent cases of violence, hate speech, enmity and ensure public peace. In this regard, New Generation Humanitarian NGO made an inquiry and was informed that as of yet no substantial steps have been undertaken.

There is also a necessity of legislative regulations on the application of the existing hate speech norms to those made on the online platforms. First of all, the issue of how to ensure that the laws applicable to the offline environment also become applicable to online environment must be addressed. Some countries, for instance Spain, have included a provision in the norms on hate speech stating that they are equally applicable to online environment, thus clearly defining that those legal norms are equally applicable to online materials.

Apart from the law criminalizing the hate speech, there a number of laws, legal acts and internal regulations in the RA which regulate, for instance, the web domain, activity of the media and other fields. Nevertheless, those regulations do not provide sufficient guarantees as regards the exercise of human rights protection in cases of hate crimes.

CONCLUSION



Cases of discrimination and human rights violations upon the ground of SOGI still comprise a significant part of human rights violations in the RA. The documented cases reveal the negative attitude shown both by the society and the law-enforcement bodies of the country towards LGBT persons due to persons' real or alleged sexual orientation and gender identity.

Many of the victims in the human rights violation cases recorded by NG NGO avoided applying to law-enforcement bodies, since they had concerns that their complaints would not be examined properly, they would be subjected to double discrimination, as well as their sexual orientation and gender identity would be revealed. As a result, the LGBT people subjected to stigma, discrimination, violence and/or torture become deprived of the possibility to restore their violated rights, which leads to the creation of a situation of impunity and, hence, formation of atmosphere of intolerance against LGBT people among the society, as well as engenders new crimes and contributes to the growth of human rights violations.

The human rights violations against LGBT people are directly related both to the low level of legal awareness of the society and stereotypes, as well as legislative gaps and incomplete regulations. In particular, to this day the issues related to gender-affirming medical interventions, as well as those related to changing the gender marker have not been legally regulated in the RA; the field continues to remain underdeveloped, creating a range of issues in healthcare, social, legal and other sectors. One of the issues is listed in the present Report (Case 7). This case once again proves the necessity of legal regulation of the process within the domestic system. Among other things, the issue was also addressed in the Report published in November 2022 as a result of the 83rd session of the UN Committee on the Elimination of Discrimination against Women (hereinafter also referred to as “the Committee”) [23].

[23] https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2582&Lang=en

The Committee expressed concerns about the reports on discrimination, hate speech against and oppression of LGBTI women, lack of legislative regulations on gender transition and change of gender marker, as well as low level of awareness about the rights of LGBTI women among healthcare workers in Armenia [24]:

It is noteworthy that the Government of the RA avoided answering the Committee's questions addressed to the RA which referred to issues on ensuring the rights of LGBTI people.

Since proclamation of its independence, the Republic of Armenia has joined a number of international organisations and has ratified a number of international documents, thus assuming the commitment of aligning the domestic legislation with the legal norms stemming from those international documents. Based on those commitments, a range of legislative reforms were implemented in the domestic system in 2022, in particular, the new Criminal Code of the RA was adopted on July 1, 2022, which decriminalizes a number of articles, as well as includes new articles, for instance, the Article on discrimination (Article 203). Apart from the Criminal Code, some legislative amendments related to the healthcare sector have been made. In particular, [Order No 105-N](#) "On making an amendment and supplement to Order No 06-N of the Minister of Healthcare of the RA of February 7, 2013" was approved by the Minister of Healthcare of the RA on December 16, 2022, by which absolute contraindications excluding donation and permanent ban on blood donation for a number of persons (homosexual persons, sex workers, persons in detention facilities etc.) have been removed. Over the previous years, New Generation Humanitarian NGO has continuously voiced the necessity of removing the ban and submitted the relevant legislative drafts, recommendations. The relevant amendment became possible thanks to the efforts of the working group "Community Rights, Gender", the permanent working group under the Committee for Coordination of Measures Against HIV/AIDS, Tuberculosis and Malaria, a number of non-governmental organizations, including New Generation Humanitarian NGO, as a result of effective and consistent cooperation with the Ministry of Healthcare of the RA.

[24] <https://ngngo.net/en/2022/11/23/cedawrecommendations/>

As a result of the effective cooperation of the above-mentioned group, the Government of the RA approved back on November 10, 2022 the [Draft Decision](#) “On defining the procedure, conditions and standards of care, form of support card, as well as the amount of money to be provided to elderly persons and/or persons with disabilities, on approving the list of diseases that serve grounds for declining the provision of care to elderly persons and/or persons with disabilities, as well as on making amendments to Decision No 1112-N of September 25, and Decision No 1292-N of October 29, 2015 of the Government of the RA”, by which the previously existing grounds for declining the provision of care to elderly persons and/or persons with disabilities having HIV and nonpathogenic tuberculosis were removed.

The legislative amendments, particularly, adoption of the new Criminal Code, as well as other actions undertaken by the Government comprise some positive steps towards investigation, detection and legal qualification of hate crimes, however, these legislative amendments cannot be effective if the atmosphere of impunity continues to prevail. It must be noted that despite the reforms implemented by the state, the legislative framework remains incomplete. In particular, as of yet the Draft Law of the RA “On Ensuring Equality Before the Law” has not been adopted, homosexuality continues to be considered a mental illness according to the domestic legislation, there are no legal regulations on gender-affirming medical interventions, as well as on those related to changing the gender marker etc.

RECOMMENDATIONS



- To include sexual orientation and gender identity as protected grounds of discrimination in Article 29 of the Constitution of the RA;
- To adopt the Law of the RA “On Ensuring Equality Before the Law”, where sexual orientation and gender identity shall be included in the list of protected grounds;
- To undertake active and effective steps towards the adoption of the Law of the RA “On changing the legal gender marker“;
- To align the international domestic classifier of diseases with ICD-11;
- To ensure unavailability of the information on persons’ sexual orientation and gender identity displayed in “Armed” system;
- To include sexual orientation and gender identity as protected grounds of discrimination, motive for public declaration of hatred, public call to violence and threat in Articles 203, 329 and 330 of the Criminal Code of the RA, respectively;
- To include sexual orientation and gender identity as protected grounds of discrimination in Article 3.1 of the Labor Code of the RA;
- To undertake active and effective steps aimed at the fulfillment by the relevant authorities of the provisions envisaged by the Law of the RA “On prevention of violence within the family, protection of victims of violence within the family and restoration of peace in the family“.

© Ձեկույցը հրատարակվել է «Նոր Սերունդ» Մարդասիրական ՀԿ-ի կողմից
© Ձևավորումը՝ «Նոր Սերունդ» Մարդասիրական ՀԿ-ի
© 2023. The Report was published by New Generation Humanitarian NGO
© 2023. Designed by New Generation Humanitarian NGO



ՆՈՐ ՍԵՐՈՒՆԴ
NEW GENERATION

ANNUAL LEGAL
REPORT

