Introduction

2016 began with the assault of LGBT activists but the perpetrators were neither identified nor brought to justice. Although tangible positive changes were noticeable throughout the year, no action has been taken at the state level to ensure that LGBT people feel protected. Among the positive developments for 2016 were the establishment of the “Right Side” NGO which advocates for transgender rights, and the launching of the documentary film “Listen to Me: Untold Stories Beyond Hatred”, in which ten LGBT people talk about their experiences in front of the camera. The reactions of online media on LGBT issues this year were also positive. Throughout 2016, a number of media outlets collaborated with LGBT people and human rights organizations to present their material properly.

Nevertheless, the population of Armenia still has a very negative attitude towards LGBT people. In 2016 a study conducted by “Public Information and Need of Knowledge” (PINK Armenia) and “Caucasus Research Resource Center” revealed that 86.6% of Armenia’s population wants homosexuality to be outlawed. The study also found that there are no LGBT people in circles of those with a negative attitude towards LGBT people and those who have LGBT acquaintances, in contrast, are more friendly.¹

According to another study - “Hate Crimes and Other Hate Motivated Incidents against LGBT People in Armenia”,² prepared by PINK Armenia and “Socioscope” Societal Research & Consultancy Center in 2016, 79.7% of 198 respondents have been victims of hate crimes, with 20.3% of them having witnessed hate-motivated violence committed between 2010 – 2016. At the end of this report, there are also recommendations which stem from the study of hate crimes.

During the year, PINK Armenia documented 27 cases of human rights violations against LGBT people. 4 LGBT people have applied to the Human Rights Defender’s Office of the Republic of Armenia. 1 of them contacted the Defender’s Office by a written notice and 3 of them used telephone calls for the communication. This proves that despite the existing problems, LGBT people prefer not to apply to state authorities, including the Ombudsman, to protect their violated rights. Instead, they continued to rely on the support of NGOs.

In 2016 PINK Armenia has documented cases regarding the violation of the right to life, the right to protection from torture or inhuman, degrading treatment, the right to be free from discrimination and hate speech, the right to a private and family life, dignity and honor, and the right to equality and equal protection before the law.

This report summarizes cases recorded and documented by PINK Armenia in 2016, transcripts of interviews conducted with LGBT people, judicial proceedings, and publications from online and mass media.

¹ “Public Information and Need of Knowledge” NGO (PINK Armenia) and “Caucasus Research Resource Center” (CRRC), “From Prejudice to Equality: Study of Societal Attitudes Towards LGBTI People in Armenia, Yerevan (2016).
² “Public Information and Need of Knowledge” NGO (PINK Armenia) and “Socioscope” Societal Research & Consultancy Center; “Hate Crimes and Other Hate Motivated Incidents against LGBT People in Armenia: From Theory to Reality”, Yerevan (2016).
The violation of LGBT people’s rights is presented in the report in the following structure.

1. The main provisions of national and international legislation related to human rights protection that have been violated or restricted in the recorded cases.

2. General descriptions of specific cases of recorded rights violations.

At the end of the report are PINK Armenia’s recommendations for governmental bodies, the media, international and regional organizations, the Ombudsman office, the realizations of which will make possible the creation of a safe environment for LGBT people in society, where they can exist as full members of society, and have the possibility to realize their rights and freedoms in a productive way.
1. Obligation of the state to respect and protect LGBT people’s human rights

1.1. The 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

The state’s responsibility to secure the realization of a person’s right to life presumes not only that the state not interfere directly in that realization, but also that the state protects it against attacks from private individuals. In other words, even if the state is not directly responsible for interfering with an individual’s right to life, this does not eliminate the state’s responsibility when such a violation occurs. Nevertheless, the right to life must be interpreted in such a way that a disproportionately heavy load is not placed on authorities. In the event that a third party commits a violation, an encroachment on the right to life can be reported when it is established that the state was aware of or is obliged to be aware of the real and immediate danger inflicted by a third party to an individual’s life and, did not undertake, in the framework of its obligations, necessary and adequate measures to prevent this threat.

Threats to harm one’s life or health, and other threats

On the Facebook page of Pink Armenia, a user named Davit Malayan left a note containing profanity, threatening to continue ‘eliminating’ homosexuals from Armenia.

In particular, he wrote: “… we’re doing right that we curse, beat, and we’ll keep on doing it until you vanish from this country. … watch out; you live among the Armenian nation, and your lives are in danger every second…”

A report of crime had been presented the RA Prosecutor General’s Office. During the preparation of the case materials Davit Malayan told the investigative body, that he was the one to post that note, however, he did not mean to threaten anyone, but rather he expressed his anger towards homosexuals. Eventually, a case was not filed.

According to a case registered with PINK Armenia, a gay man applied to the organization, saying that his acquaintance, abusing trust, took his computer and promised to give it back. Then, via telephone correspondence, he threatened to reveal the man’s sexual orientation if he reports about the theft of computer to the police.

According to another case registered with PINK Armenia, a person applied to the organization announcing that someone had started to threaten their friend through a telephone call after they got to know about their sexual orientation.

A case has also been registered by the organization in which classmates took an underage boy’s phone, read his messages, discovered that he was gay and blackmailed him. In particular, they demanded money in order not to reveal his sexual orientation.

In 2016, the organization recorded four cases of threats against LGBT individuals, three

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4 Angelova and Iliyeva v. Bulgaria Number 55523/00 ECHR ruling, §93.
6 Osman v. United Kingdom Number 23452/94 ECHR ruling.
of which involved the outing of an individual’s sexual orientation or gender identity (SOGI). The consequence of very negative attitudes of society towards LGBT community is that many homosexual people conceal their sexual orientation because of shame or fear. This creates a possibility for others to use the vulnerability of LGBT people and abuse them by threatening to reveal their identity once they learn about their sexual orientation or gender identity. The change of public opinion is crucial in preventing such crimes.
1.2 The right to be free from torture or inhuman, 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.

Torture is any act by which a state official or a person acting in an official capacity, or by their instigation 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 third party related to a crime committed by that person or a third party, as well as intimidation or coercion of a person or 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.

A person’s freedom from torture and ill-treatment is an absolute right and cannot be subject to limitation. In order to cause cruel treatment in violation of the rights of a person, it is necessary to reach a minimum level of severity; depending on the specific circumstances of the case, other factors should also be taken into account, such as the nature of the treatment, the context of what happened, its duration, its physical and psychological consequences, and in some cases, a person’s age, gender and health status. It is necessary to distinguish between torture and inhuman and degrading treatment, where torture is the intentional infliction of pain by a person that is very severe and causes cruel suffering, whereas degrading treatment can be considered the attitude of a person that causes a person to feel fear, threatened or in danger, and humiliation, harms the agency and reputation of the person, their human dignity, and makes the person act against their will or conscience. In some cases, discrimination and threats based on sexual orientation or gender identity can be considered degrading treatment. In these cases, it is not necessary to establish intent on behalf of the state in order to recognize the violation of the right to freedom from inhuman or degrading treatment.

The situation of LGBT people in the armed forces

In 2016, PINK Armenia registered three complaints from LGBT individuals undertaking in the military service. In the event of disclosure of one’s sexual orientation during the military service, an individual is typically subjected to violence, degrading treatment, and ridicule by fellow servicemen, as well as by command staff and other employees of the military unit.

State bodies are guided by the RA Defense Minister’s Order No. 410-13 (on Health Conditions of Conscripts and Servicemen) for the release of homosexual persons from compulsory military service. According to the order, the list of mental disorders “include personal and behavioral disorders, including specific and mixed disorders of the individual, disorders of habits and inclinations, sexual identification disorders, sexual preference disorders, psy-

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7 Article 26, RA Constitution, accepted 06.12.2015.
8 Article 1, Torture and cruel, inhuman or degrading treatment and other forms of punishment against 1984 UN Convention.
9 Pretty v. United Kingdom ECHR Ruling Number 2346/02, §49.
11 Aydin v. Turkey ECHR Ruling Number 23178/94.
12 East African Asians v. United Kingdom ECHR Ruling Number 4715/70, 4783/71 and 4827/71.
13 Smith and Gredi v. United Kingdom ECHR Ruling Number 33985/96 and 33986/96.
14 Pierce v. Greece ECHR Ruling Number 28524/95, as well as the U.N. report on Torture and cruel, inhuman or degrading treatment and other forms of punishment Doc. No. A/56/156 2001.
chological and behavioral disorders associated with sexual development and orientation”.

In response to “Public Information and Need of Knowledge” NGO’s inquiry, The RA Ministry of Defense has informed on 27.07.2016, that the fact that an individual is homosexual is being possible to find out by the military medical expertise. The response read, “Current psychological and personality traits, biographical data and peculiarities, personal identification documents, etc. are being taken into account. At the same time, during the examination, the attitudes of the person under examination, his attitude towards that phenomenon are of great importance. Thus, if a person under examination sees his homosexuality as a normal and natural phenomenon, if he does not have insecurities, psychological barriers, and a problem of adaptation in society, then he is considered mentally healthy and is therefore suitable for military service. And if an individual has a problem accepting his (sexual) orientation, if he has mental distress and tries to conceal his feelings due to social position or a fear of not being accepted by society, if he demonstrates unaccountability and inconvenience between himself and the reality, then within the scope of the examination that person is seen as having psychological and behavioral disorder regarding sexual identity, sexual preference, sexual development and orientation. In the given case, pursuant to requirements of Article 8 of RA Defense Minister’s Order No. 410 of 08.04.13, a person is recognized as unsuitable for military service”.

In the described case, the person’s ego-dystonic sexual orientation is taken into account. The International Classification of Diseases (10th Revision, 1990)\(^\text{15}\) describes ego-dystonic sexual orientation as follows: “the gender identity or sexual preference is not in doubt but the individual wishes it were different because of associated psychological and behavioural disorders and may seek treatment to change it”.

Consequently, such an approach is legitimate, in accordance with the relevant decision of the expert psychologist / psychiatrist, releasing a homosexual person from military service is not a violation of his rights.

The problem is that once the homosexual orientation of an individual is revealed, an individual is exempted from military service based on his sexual orientation, regardless of whether there is an actual problem or not.

Military service is mandatory for those who have reached the age of conscription and have not been recognized as legally incapable for service.

That is, a person to whom this practice applies is deprived of the opportunity to perform military service, and persons recognized as fit for military service are deprived of the privilege of exemption from military service due to their sexual orientation, thus being subjected to indirect discrimination.

In the event of disclosing one’s sexual orientation during the service, an LGBT person is being isolated from others, not allowed to eat in the cafeteria, brought to the medical point, sometimes taken to the hospital to receive a ‘treatment,’ and eventually, in many cases, sent to hospital service.

In addition, there was a case in which a person stated that he was homosexual and Armed Forces tried to find out and prepare materials on whether the person is, in fact, gay or if he had made the claim with the intention of avoiding compulsory military service so that the Armed Forces could file a criminal case against him in the event of the latter. During the preparation of the materials of the criminal case, family members, friends, and acquaintances of the individual were interrogated, as a result of which they also got to know about his sexual orientation, which is a violation of the right to privacy and confidentiality.

A question arises: What is the purpose of preparing the materials of a criminal case if homosexuality does not itself contain elements of any criminal offense? In practice, in similar situations materials are being prepared to find out if there are elements of crime committed by a person to avoid military service. However, if according to RA laws homosexuality is not a basis for exemption from the military service, then what makes the military police see the homosexuality as a basis for initiating a criminal case or preparing materials on it?

Additionally, a forensic medical examination was appointed and conducted in order to find out his sexual orientation. The procedure for conducting the examination implies a humiliating procedure, which should actually be used not to detect a person’s sexual orientation but to clarify the case of violent sexual acts.

PINK Armenia found out how that examination is being done. Thus, “the examination determining one’s sexual orientation” is carried out by the Ministry of Health. In response to PINK Armenia’s inquiry, the ministry has informed:

“For the purpose of clarifying homosexualism-related issues, a person who is being examined is given a “knee-elbow” position, and under these conditions, the rectal area – anal canal, its depth, perianal area, its form, wide dilatation, the condition of the anal mucosa, the existence of scars or injuries is examined. If necessary, ointments are used to determine the presence of semen. After summarizing all the data, an expert’s conclusion is given, which is then passed to the preliminary investigation body.

Those in service do not want to take any steps to restore violated rights, explaining that the attitude of the commanding staff may further deteriorate.

Attitudes towards LGBT people in the healthcare sector

In 2013, under order N06 of the Minister of Health, homosexual people were considered a risk group and were banned from being blood donors. The offensive term ‘homo-addict’ is used in the order instead of ‘homosexual’.

LGBTnews sent an inquiry to Ministry of Health with a view to find out why homosexuals are considered a risk group, why the term “homo-addict” is used in the order, and how medical facilities are determining potential blood donor’s sexual orientation or gender identity. In response, Smbat Daghbashyan, the chief hematologist in the Ministry of Health stated, that homosexuality does not pose a problem in donating blood, but homosexuals belong to a risk group due to the high prevalence of HIV among them in the world. Nevertheless, the hematologist also noted that they follow the international standards for blood services; the question of making possible changes in the guidelines for blood donation from homosexuals is also currently discussed by the Armenian blood service. In the future, it should focus on person’s sexual behavior, rather than their homosexuality.

At the time of receiving this answer, according to data by the Republican Center for AIDS Prevention of RA Ministry of Health, only 2.8% of HIV transmission cases in Armenia were through homosexuals (3% at the time of writing this report).

Ridicule towards a transgender person

In 2016, there have been cases of degrading treatment and discrimination in the sphere of health care.

In particular, a transgender person (G.A) was attacked outside and then admitted to University Hospital N1 Clinic to treat their injuries. The medical staff providing the service mocked the patient. Specifically, the medical personnel grinned at G.A’s presence and laughed loudly from the next room. Among them were the urologist and other medical personnel.

After the examination of first-aid doctors, G.A. asked if further testing is needed to be carried out, in response to which a healthcare provider said: “Let’s get you a blood test and see if you have any abnormalities we could cure”. The environment created by the staff of the hospital has constrained G.A. to undergo full examination.

Attitudes towards LGBT people in families

There were 7 cases of domestic violence registered on the basis of sexual orientation and gender identity in 2016.

Parents usually get to know about the sexual orientation of their children by hacking (accessing without permission) their social media accounts and reading their personal correspondence. There have been a casewhen parents got to know about child’s sexual orientation from his school.

In such situations, violence is common; it can last for months, and almost the whole family takes part in “punishing” actions. In addition to beatings and psychological violence, family members illegally keep children under home arrest. There was a case in which a child was withdrawn from the educational institution against their own will.

When possible, a person finds refuge in shelters provided by friends or NGOs. But even in these cases a person is not fully protected as family members continue to look for them. When located, they are typically brought back home by force or lies, and then the violence and home arrest continues.

In the case of domestic violence, a person is vulnerable not only due to financial reasons and the threat of being left outside with no shelter but also because of the sense of impossibility to restore their violated rights. This is conditioned by the fact that the case is never brought to law enforcement bodies, as the person does not want to call the police against family members. Additionally, the fear of increasing the frequency and intensity of violence is also a reason for not contacting the police. There was a case when the victim was afraid to go to the police not only for her own security but also because of the fear to harm her friends, as family members have also threatened the friends.

Hate Crimes

Three cases of hate crime were documented in 2016. These crimes are often perpetrated based on one’s gender identity.

LGBT activists were beaten

Five LGBT activists were beaten on February 15, 2016, in one of Yerevan’s central streets.

On February 15, 2016, three unknown persons attacked and beat five LGBT activists in Yerevan. Two of the victims were workers for the PINK Armenia NGO, and two were trans-gender persons.

The unknown men had carefully watched activists walking in the neighborhood, after which one of them started shouting profanities and then attacked them immediately afterward. The two others joined him and started beating the group.
One of the transgender persons, G.A, was particularly affected by the beating. G.A. was hit on the head, face, ear, back, and genitals (see “Ridicule towards a transgender person”, where G.A. applied to medical center). The perpetrators blamed the transgender person for their appearance and called sexually abusive words towards G.A.

The fighting lasted about 3 minutes. Seeing that other people are approaching, the attackers ran away. Victims appealed to the police, but the perpetrators were not identified.

A transgender person was stabbed

In an area adjacent to the Yerevan Children’s Park, an unknown person approached a transgender person, stabbed their in the back and fled. The transgender person has since undergone surgery following the attack. Other people have since identified the attacker, leading to his arrest.

In order to prevent the initiation of the criminal case as a result of the materials prepared by the police, the perpetrator signed an official document, confessing that the act was committed by him and has committed to compensate the cost of surgery for the victim, provided that the injured party will take back the complaint filed against him. The complaint was withdrawn, but the compensation was never received.
1.3. The right to freedom from discrimination and hate speech

The ban on hate speech and on speech containing intolerance implies not only that the state must not disseminate such speech, but also a responsibility to take appropriate measures to ensure that such speech is not encouraged by third party persons. In this regard, it is the responsibility of the state to take legislative and other measures to prevent the spread of intolerant and hate speech toward people in certain platforms and forms of content dissemination.

In 2016, the sharing of hate speech against LGBT people was almost no different from previous years. However, it should be noted that the media were more balanced when addressing LGBT topics, and often tried to use the correct terminology. In comparison with previous years, in 2016 one could find more articles in media in which LGBT people were presented in a positive light. This is evidenced by the coverage of cases on the assault on LGBT activists and a homosexual man being kicked out from a dance group (see cases below). A number of media outlets have been willing to provide a comprehensive presentation of these cases, in collaboration with LGBT human rights defender organizations, in using the correct terminology.

Nevertheless, at a press conference on anti-discrimination, one of the hraparak.am reporters asked LGBT human rights activists: “Do you find it admissible to see homosexual people during the day walking in the streets if anti-discrimination legislation is passed? (...) if kids see homosexual couples as a loving couple in parks, wouldn’t it affect their psychology at such young age?” To this PINK Armenia’s executive director Mamikon Hovsepyan answered, “Don’t you see homosexual during the day now?” and the journalist replied, “I do, and it is not normal”. In response to her statement, Hovsepyan asked if it was “normal” for the journalist to be talking to him, to which she said, “Yes.” But after Hovsepyan openly stated that he was gay and repeated if it was normal to be talking to him now, the journalist said that it was not normal.

In May 2016, a new homophobic website has appeared. www.stop-g7.com targets those engaged in LGBT activism by sharing articles promoting hatred towards them. The site uses offensive terms and presents activists and supporters as a threat to the Armenian nation. The website is actively distributed on social networks, causing many users to call for the elimination of LGBT people.

Calls of hatred and crimes during one of the most popular TV-programmes

On February 19, 2016, on the episode of “kisabac lusamutner” (Half Opened Windows) aired on A-TV, Edgar Nahapetyan, a resident of Armavir region, complained that he cannot find a job because of his sexual orientation, as employers do not want a gay person to work with them.

Edgar Nahapetyan personally contacted A-TV, hoping that participating in the program will help him find a job. However, one of the experts of the program, lawyer Garik Galikyan

18 Ozgur Gundem v. Turkey ECHR Ruling Number 23144/93.
shouted at Edgar Nahapetyan, using a number of offensive terms, threats and hate speech during the program.

In particular, the lawyer said, “I always fought against them [LGBT people], I fight and will continue fighting. Whenever I see them, I will smash them, trample them, and yes – they must be burnt (...) Do you know how many people are rotting in prison people of people like him? What for? Just because of their one word. Yes, I always smashed them, will smash them and I will move forward like that. You can file a criminal case against me, do whatever you want”. He also added “Yes, know that you are persecuted, and I will always persecute people like you. And when your friends say that the psychologist called to burn you, it was me who said it, not the psychologist. If it’s a threat, you can file a case”.

Another guest of the program, director Sargis Mikayelyan, addressed Edgar, saying “I will break a person’s head with a hammer who will give you a job. My child walks in the streets of Yerevan and it is not pleasant for him/her to see things like you out there”.

The other guest of the program, psychologist Mariam Mehrabyan called on Edgar and homosexuals to be treated (by her).

After broadcasting, the program has been widely disseminated on the Internet, and Edgar and LGBT people have been targeted by hate calls and degrading comments. People started recognizing Edgar outside and began shouting at him. Edgar’s mother, who was also present during the program, was fired from her job. After few days she was recovered to the workplace.

After the show broadcasting, on the basis of the request made by LGBT human rights organizations, chamber of attorneys, taking the investigation of the application, gave disciplinary proceedings for Galikyan’s expressions. At the same time, president of the chamber of advocates Ara Zohrabyan made several discriminatory expressions in the conclusion of the proceedings, writing, “The union of two men and two women is unnatural, as they are not physiologically characterized to have children. The mentioned approach is also fixed in the spiritual life of the Armenian people, in the Christian religion, which is of exceptional importance in the development of its [Armenians’] national culture and the preservation of national identity.

Nevertheless, the chamber of advocates brought Garik Galikyan to disciplinary responsibility, giving a reprimand as a penalty.

Negative attitude of government officials towards LGBT people

President of Armenia and the head of The Republican Party Serzh Sargsyan sent a letter of condolences to US President Barack Obama following the terror attack in Orlando, which killed and wounded dozens of innocent victims. Serzh Sargsyan strictly condemned that phenomenon of intolerance and emphasized that “this tragedy once again proved the friendly American people that all forms of hatred, the overcoming of which is everyone’s collective duty and mission, still continue to be a serious challenge for humanity even in the 21st century”.

Regardless of sending such a message, the MPs of the ruling party express hate speech and intolerance towards LGBT people, and the government does not take any steps to overcome these manifestations of hatred.

In addition to the fact that many government officials have a stressed negative attitude towards LGBT people, they also get irritated when questions regarding LGBT people’s issues are raised.

**Khosrov Hartutyuntyan, MP**

Khosrov Hartutyuntyan, MP for ruling Republican Party and Former Prime Minister of Armenia, considers the discussion of anti-discrimination legislation as “an artificial issue to get a grant”. In an interview with LGBTnews.am, he requested the journalist to bring examples of anyone being discriminated based on sexual orientation, then added without letting the journalist speak, “It is very simple, the purpose of talking about such issues is just to get a grant. It is for your grants that you started to talk about those issues”. Harutyunyan then quickly left the scene while continue to shout and refused to reply any other questions.

**Mikayel Melkumyan, MP**

MP of “Prosperous Armenia” faction Mikayel Melkumyan has a very negative attitude towards LGBT people. In an interview with LGBTnews.am, he at first avoided answering questions regarding LGBT people. However, when the journalist asked a question on whether LGBT people shall have equal rights to marry, he responded with a “meh, (oof) I already said that I have a very negative attitude towards that phenomenon”. In response to the journalist’s question on whether such an attitude is not discriminatory, Melkumyan said, “Let it be, no problem”. The MP also mentioned, “As an individual, I reject this phenomenon, but if the law gives them a right to do some things, let them do it”. Finally, Melkumyan demanded to end the interview, saying he would no longer answer any questions.

**Armen Rustamyan, MP**

Head of the ARF fraction of the National Assembly Armen Rustamyan does not accept LGBT people, as according to him, LGBT people “are not biologically capable of procreating” and humanity does not multiply through them.

“We are a nation with character. We have the Constitution, where it is clearly stated that a man and a woman...If we follow your logic, a man should marry a man... I think there are two genders, not six”, said Rustamyan in an interview with LGBTnews.am.

He is also of an opinion that discrimination does not exist towards LGBT people, but rather ensuring their rights is discriminatory.

“Discrimination is turning the two into a six (meaning sexes). There are two genders, not six. There can’t be sixteen or thirty-two genders”, said the MP.

To the question of the journalist on how are LGBT marriages going to limit the MP Rustamyan’s rights, the latter told the journalist, “Go praise LGBT people somewhere else”.

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21 A civilized way outwardly and a rejected opinion inwardly: The “Resolution” of MP Melkumyan (in Armenian), LGBTnews.am, 04.12.2016. [https://goo.gl/FjL1L1](https://goo.gl/FjL1L1)

He refused to answer any further questions, saying that the interview was over.

**Vahe Enfiajyan, MP**

MP of “Prosperous Armenia” faction Vahe Enfiajyan is against same-sex relationships and considers it a perversion. In an interview with LGBTnews.am, he claimed that he supports liberal approaches, but at the same time he values “moral norms and principles—not perversion and deformity”. Enfiajyan stated, “I believe that no one on this planet should be discriminated against, but at the same time society’s perceptions should not be distorted”.

The MP is concerned that if there is a provision or reference to LGBT persons in the law on equality (anti-discrimination), then the effects of their activity will permeate into the society. He also called that kind of an ‘activity’ a “harmful” one.

“I’m a conservative; I belong to the Armenian Apostolic Church, and I do not support same-sex marriages and relationships. Everyone lives their own life, but at the same time let us state that personal preferences should not influence other people’s lives so that the effects of their harmful activity do not permeate into the society”, said the MP.

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1.4. The Right to Freedom of Assembly

*Everyone shall have the right to freely participate and organise peaceful, unarmed assemblies.*

**Article 44, RA Constitution**

An “assembly” is an intentional and temporary gathering in a private or public space for a specific purpose. It, therefore, includes indoor meetings as well. The right to freedom of peaceful assembly plays a decisive role in the emergence and existence of effective democratic systems, as they are a channel allowing for dialogue, pluralism, tolerance and broad-mindedness, where minority or dissenting views or beliefs are respected.

The right to hold and participate in peaceful assemblies entails the fulfilment by the State of its positive obligation to facilitate the exercise of this right. Such obligation includes the protection of participants of peaceful assemblies from individuals or groups, who aim at disrupting or dispersing such assemblies.

**National Assembly Deputy Speaker Eduard Sharmazanov, MPs Hayk Babukhanyan and Levon Martirosyan are against the idea of LGBT community to hold an assembly**

_During the discussion in the National Assembly on the Law on Non-Governmental Organizations, Hayk Babukhanyan, a member of the Republican Party (RPA) expressed his concern that by making European countries’ examples an ideal, gay parades may be held in Armenia:_

“Do not make the European example an ideal, otherwise we will have gay parades, I do not want to live in such a country.” In response to Babukhanyan, another MP from the Republican faction and the deputy speaker of National Assembly Eduard Sharmazanov assured that there would never be such a thing in Armenia. Responding to this, Babukhanyan said: “It’s hard to tell. I do not share your optimism”. Sharmazanov then assured that the majority of those sitting in the NA hall do not welcome “colorful parades”.

Levon Martirosyan, another member of the Republican faction, joined the conversation saying that he is against the “gay parades” in general and, in particular, he is against pride events being held in Armenia. Martirosyan then continued with an anecdote on how “a gay parade is organized by the traumatology offices to quickly bring the beaten gays to the doctors”.

Although there has been no initiative to hold LGBT parade in Armenia yet, the above-mentioned conversation shows that the authorities have a tendency to hinder the realization of the constitutional right of assembly.

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24 Article 44, RA Constitution, accepted 06.12.2015.
26 Ibid, para. 84.
27 Ibid, para. 27.
28 Ibid, para. 33.
29 “MPs in National Assembly complain about “gay parades” and tell anecdotes about beaten gays” (in Armenian), aravot.am/2016/10/06/813096, 06.10.2016.
1.5. The right to private and family life, honor and dignity

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

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. It includes the state’s responsibility to recognize an individual’s sex and gender identity as provided by the individual exercising the right to privacy.

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

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

Expelling a homosexual man from a dance group

An American-Armenian man, Kyle Khandikyan, was removed from the Armenian folk dance group he had been practicing with after instructor Harut Baghdasaryan found out that he was gay. The instructor claimed that homosexual people do not belong to the Armenian “nation,” that they shall be stoned and they have no right to dance Armenian dances, adding that he will make sure that every dance instructor in his circle knows Kyle’s name and so they won’t let him dance.

Different media outlets tried to get a comment from Harut Baghdasaryan, but he refused to speak.

30 Article 31, RA Constitution, accepted 06.12.2015
32 See 35 Articles 16 & 17, Human Rights Committee overall comment 16.
33 See 9.
34 Y.F. v. Turkey ECHR Ruling Number 24209/94.
35 See 38.
36 Connors v. United Kingdom ECHR Ruling Number 66746/01.
1.6 The Right to Equality and equal protection of the law

Protection of equal rights implies not only a ban on direct intervention by the state, but also the state’s duty to protect possible interference by third parties. Tolerance of such interferences by the government is unacceptable, because it would mean that prejudice and discrimination against certain minorities is justified and acceptable. Proper implementation of this law means the implementation of necessary legislative, administrative and other measures by the state to fulfill its obligation to ensure the equality of persons before the law and de facto. Moreover, securing the principle of equality does not mean identical treatment in identical conditions for all people, but also provides for constructive means of action by the state in cases when it is necessary to reduce or eliminate any conditions that cause or spur discrimination against a particular group.

The Attitude of the Courts towards LGBT People

An article entitled “When the grant-sucking defenders of homosexuals receive state support” was published in 2014 in “Iravunk” newspaper, where the journalist Ilona Azaryan expressed her indignation about the fact that Ministry of Sports and Youth issued a commendation to LGBT human rights “New Generation” Humanitarian NGO as the best organization of the year in Shirak region. Azaryan’s article read: “We tried to find out from the Head of Youth Policy Department of the Ministry of Sports and Youth Issues for which values has this organization defending anti-moral human scraps and staining the Independence Day of September 21 with their pacifistic-tolerance actions, been recognized as the best organization of the year…”

“New Generation” NGO found that the article damaged the professional reputation of the organization and applied to the Court of General Jurisdiction Court in Yerevan. However, the court rejected the suit, considering that Azaryan had exercised her right to freedom of speech. “New Generation” appealed the case at the Appeals Court. In March 2016, according to the decision of the Court of Appeal, the suit was once again denied, leaving the verdict of the court of general jurisdiction in force.

Composed of journalists and lawyers, the Information Disputes Council also expressed their position on the case. The Council found that the article included statements and appeals which are demonstrations of extremism and hate speech. However, the court has not included this circumstance under its examination, although plaintiffs clearly raised this issue in their application.

The Attitude of Law Enforcement Bodies towards LGBT people

Instead of proceeding the case, the police sent the victim to a psychiatric institution

According to a case documented in Pink Armenia, a transgender person reported to the police that while acting as a sex worker in Yerevan’s cruising park, an unknown person forced them into a car, held a knife to their throat and stole the keys to their apartment, and all the cash they had. Then he stopped the car at an ATM and forced them to withdraw money.

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37 Article 61, RA Constitution, accepted 06.12.2015, part 1.
38 Union of Jehova’s Witnesses of Gldan v. Georgia ECHR Ruling Number 71156/01, §141.
39 Human Rights Committee comment 18, part 6.
40 Ibid, part 18.
from the ATM.
A few days after the incident was filed, the police called the victim and asked then to come
to a police station, reasoning that they would direct her to a psychiatric institution for an
examination of health conditions.

**Police are interested in the homosexual man’s identity**
According to a case recorded in Pink Armenia, a gay man reported that the police asked
neighbors who lived in an apartment he had rented. In addition, the individual noted that it
was not the first case when the police were concerned with him. He believes it is related to
his sexual orientation.

**The police have overturned the case against the victim**
A gay man informed PINK Armenia that he reported to the police that he had a dispute with
his cousins, as a result of which the latter hit the gay man few times with a stick. The police
filed a criminal case, but later the uncle’s wife testified to the police that, in fact, her sons did
not hit the person, but rather he had attacked her. According to the applicant, the investiga-
tor, showing obvious bias, decided to involve him as a defendant in the case.

The man also stated that previously he also had a problem with the police as he was known
for his sexual orientation as a result of participating in the A-TV’s “Kisabac Lusamutner”
(Half opened windows) program.

**The police ridiculed a gay man while the latter was filing a complaint**
A homosexual person informed Pink Armenia that he had contacted the police after his be-
longings were stolen. In the police station, he was humiliated when the police learned about
his sexual orientation. He was subjected to ridicule and profanity. Eventually, no action was
undertaken regarding his complaint.

**Artsakh Police Against Trendy Haircuts**
The Armenian mass media reported in February that the police of the Nagorno-Karabakh
Republic (now the Republic of Artsakh) entered the hairdressing salons of the capital Stepa-
anakert and, aiming to combat homosexuality, demanded from the hairdressers not to make
trendy haircuts for children. According to the Haykakan Zhamanak newspaper, the police
told the hairdressers that no schoolchildren should get trendy haircuts as the city is getting
filled with ‘faggots’.

Although the hairdressers confirmed this information, the head of the NKR police spokes-
man denied it, claiming that there are no gay people in Karabakh. “It is absolutely not true;
the police do not do such actions. And regarding you alleging that Karabakh is filled with
individuals with I don’t know what kind of sexually orientated, it seems to me an absolute
misinformation. People of Karabakh defends borders in the frontline just about 50km away
from here, so there can be no such things in Karabakh”, said Harutyunyan.

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41 Nagorno-Karabakh Republic Policemen Forbid Teenagers to Get Trendy Haircuts in Salons (in Arme-
2. Obligation of the state to secure individuals’ rights and to create a safe environment

A woman and a man having attained the marriageable age shall have the right to marry and form a family with free expression of their will. The marriageable age and the procedure for marriage and divorce shall be prescribed by law.

RA Constitution, Article 35

Pursuant to the changes in relevant articles in RA Constitution in 2015, one can observe that same-sex marriages are banned, as the article on freedom of marriage stipulates that a woman and a man have the right to marry each other.

Nevertheless, LGBTnews’s correspondent A. Manukyan, who is lesbian and wishes to marry her partner, sent an inquiry to Minister of Justice Arpine Hovhannisyan to find out what is the procedure to follow to marry her partner.

In response to this inquiry, Head of the Civil Registry Agency of Ministry of Justice Argam Stepanyan wrote: “Article 35 of the Armenian Constitution states that ‘Man and woman of marriageable age have the right to marry and form a family according to their free will.’ The first section of Article 10 of the Family Code states that ‘marriage conclusion requires the mutual and voluntary consent of a man and a woman, both of whom must be of marriageable age’.”

After receiving this response, Manukyan sent a second inquiry to the Ministry of Justice, again addressing Minister Arpine Hovhannisyan, which read:

“Mr. Stepanyan’s letter does not provide an answer to my question regarding the procedures my partner and I should follow in order to register a same-sex marriage and/or a union in the Republic of Armenia.

Please inform me with this inquiry,

1. Can same-sex couples register a marriage and/or a union in the Republic of Armenia?
2. If yes, what is the procedure and which government bodies should one refer to?
3. If no, what are the provisions in the Constitution that prohibit same-sex marriages in the Republic of Armenia?

The second response was again sent on behalf of Argam Stepanyan, inviting Manukyan to the Ministry to receive clarifications on her inquiry.

Manukyan went to the Ministry. LGBTnews am wrote about the meeting:

“On the appointed day Manukyan met with Argam Stepanyan. A staff member of the Civil Registry Agency Albert Virabyan and another employee were also present at the meeting. They were constantly interrupting Stepanyan’s and Manukyan’s conversation. Stepanyan’s first question to Manukyan was about her address of residency. It is important to note that prior to the meeting, Stepanyan had collected information on Manukyan’s home address, as well as information on the owner of the apartment where she resides. The transcript of the recorded conversation is provided below.

– Is your home address really the address from where your letters are sent to us?
– Currently, I reside at that address.
– Are you renting?
– No, it is my relative’s apartment who is not residing in Armenia.

42 Article 35, RA Constitution, accepted 06.12.2015
Which part of our response does not satisfy you?

First, I would like to ask the individuals who entered the room to introduce themselves, so I’m aware who is taking part in our conversation.

We will introduce them, if that’s what you want. Alik Virabyan and (the other name is inaudible in the recording—ed.); they are staff members. We want to understand what your concern is. We thought our response would satisfy you.

And how is your response going to satisfy me?

You want to register a marriage, and we are saying that it is not possible.

On what grounds? As far as I know, there is no law prohibiting same-sex marriages, and what is not forbidden is permissible. Am I wrong?

The law clearly states—a man and a woman... What else do you want?

Is there a law that prohibits same-sex marriages?

Are you saying that if the law doesn’t prohibit marriage between two men or two women, then it is allowed?

I’m asking you.

If we are not authorized to perform an act, then we cannot. Officials and state authorities can only perform authorized acts. We are not authorized by law.

Would you put your explanation in writing?

If I perform an act, it is within the law. I have to be authorized to do it. For example, I cannot register the same marriage four times, I cannot register a marriage between minors, and I cannot register a marriage for a person who is already married. Why? Because I am not authorized to do so.

Very well. Please provide that in writing.

As far as I understand, you need everything in writing. This is what we were trying to understand—what your concern is and what is not clear to you. Now we understand. You are saying that if nothing prohibits us to register same-sex marriages, then why are we not registering? My response is that I’m not authorized. We will prepare our written response in such a way that will satisfy you.

On behalf of Argam Stepanyan, a written response was sent to Manukyan a few days later. The letter stated, “As a response to the question you raised during our meeting at the Civil Registry Agency regarding the permissibility of registering same-sex marriages in the absence of legislation that prohibits it, I would like to inform you, that according to Section 2 of Article 5 of the Constitution, ‘state and local self-government bodies and public officials are competent to perform only such acts for which they are authorized by Constitution or laws.’ Therefore, Civil Registry Agency cannot perform an act, including registering same-sex marriages, for which it is not authorized”.

It follows from this story, that the assertion that the restriction on gay marriages in Armenia is a misunderstanding. In fact, there is a legislative gap in LGBT people’s right to marry, and not a restriction.

On this occasion, during a Facebook press conference hosted by Azatutyun, a question was raised for Minister Arpine Hovhannisyan about addressing legal regulations in order to register same-sex marriages, to which the minister responded,

“Manukyan was invited to meet with the head of the agency and was provided with a complete and appropriate response that was in accordance with legal regulations. I don’t have much to add”.
Conclusion

2016 has also shown that there is not sufficient will to respect the rights of LGBT people in Armenia. The President of the Republic of Armenia demonstrates a double standard approach. On the one hand, he condemns the manifestations of hatred towards citizens of another country and, on the other hand, takes absolutely no steps towards eliminating harassment and honoring the human rights of LGBT citizens in the country he is ruling.

The ruling Republican Party continues to humiliate and preach hatred against LGBT people, which creates a sound basis for other government agencies to discrimination against LGBT people and to approach LGBT issues with ridicule and indifference.

Prohibition of discrimination is stipulated by provisions of the RA Constitution and international treaties that are part of the RA’s domestic law. The existence of these provisions, however, does not ensure that LGBT persons are free from discriminatory treatment by state bodies.

The absence of legislative arrangements to ensure the proper realization of LGBT persons’ rights is the reason that the homophobic part of the society has no sense of responsibility when carrying out attacks against LGBT people. Moreover, the overlapping of the opinions of the law enforcement agencies and the homophobic part of the society is a hindrance to the disclosure of the offenses and crimes committed against LGBT people. As a result, disclosure of hate crimes based on one’s sexual orientation and/or gender identity and succeeding in bringing the perpetrators to justice is practically unsuccessful within the framework of existing legislation.

This kind of attitude towards LGBT people extends from the authorities to families, and under such conditions, parents cannot accept their LGBT children. In addition, there is no law on domestic violence in Armenia that could create mechanisms for the prevention of ill-treatment of LGBT persons in their families.

LGBT people are often reluctant to even approach PINK Armenia for their violations of human rights as they have distrust towards law enforcement and judicial bodies. They do not proceed such cases as they fear that during the preliminary investigation their sexual orientation or gender identity will be revealed because there have been such cases in practice.
Recommendations

To State Institutions:

- Damaging statements that incite hatred and discrimination against LGBT people from representatives of state bodies must stop. Take appropriate measures to prevent hate speech against LGBT people that incite hatred and intolerance from representatives of state bodies, and hold those who do spread hate speech accountable.

- Realize complete, objective and thorough investigations of the violations of rights of LGBT people, without discriminatory, prejudiced attitudes towards LGBT people by investigative bodies that stop LGBT people from applying for assistance after incidents, to the detriment of the victims.

- Take appropriate measures to ensure the safety of LGBT people in closed institutions to prevent cases of cruel and degrading treatment, and conduct proper investigations when such cases arise.

- Take appropriate steps to prevent discrimination against LGBT people in state bodies, including among staff serving with police and public authorities, and in the courts, through training, awareness-raising, and other methods.

- Adopt a separate, comprehensive legislation that will prevent and prohibit discrimination and define civil, administrative and criminal responsibility, and that will ensure individuals’ protection from discrimination on the grounds of sexual orientation and gender identity.

- Review the RA legislation that prohibits hate speech, and define the concept of “hate speech,” and put into force a ban on hate speech against people with certain characteristics, including 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 developing appropriate legal and procedural mechanisms for identifying the motive of the crime.

- Encourage the victims of hate crimes, as well as witnesses to report on crimes committed.

- To document and conduct 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, ensure the safety of the individual and provide comprehensive compensation mechanisms for damages.

- Promote the concepts of tolerance and equality within state bodies, particularly among the deputies of the National Assembly, representatives of the government of the Republic of Armenia and other officials.

- Promote the concepts of tolerance and equality in society, particularly with public statements that promote tolerance and that recognize LGBT people as full members of society and as citizens.
To media:

- Stop publications that incite hatred and intolerance toward LGBT people and give the public educated, unbiased, ethically acceptable materials that respect the human rights of LGBT people.
- Do not exploit topics concerning LGBT people in media reporting, thus avoiding the spread of hatred and intolerance.

To international and regional organizations:

- Accurately monitor the implementation of international commitments on the rights of LGBT people undertaken by the Republic of Armenia.
- Publicly stand in support of LGBT people and the protection of their rights in Armenia with official announcements, stressing their importance and priority.
- Refer to the 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 in a democratic society.
- Raise public awareness about the illegality of hate speech and its dissemination.
- Advocate for developing a strategy to create and adopt a law on Equality, as well as to define effective measures for the protection of LGBT persons in other legal documents.
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