

**Alternative report / October, 2016**

**By Foundation Against the Violation of Law NGO  
Armenian Rehabilitation and Development Center  
for Torture Victims – ARDCen-TV**



**Reparation and rehabilitation of torture victims in  
Armenia**

**Alternative report to the UN Committee against  
Torture**

**On implementation of Article 14 of the Convention**

The present report is prepared by the “Armenian Rehabilitation and Development Center for Torture Victims – ARDCen-TV” of the Foundation against the Violation of Law (FAVL) NGO as per organization’s area of expertise. It covers the following main issue area: reparation and rehabilitation of victims of torture and ill-treatment. The report is structured under specific thematic issue with an indication of how this section relates to UNCAT provisions and questions from the LOIPR.

## TABLE OF CONTENTS

### I. Introduction

### II. Reparation and rehabilitation

#### 2.1. Issue summary

*2.1.1. History of formation of ARDCen-TV center*

*2.1.2. Issue of torture and ill-treatment on domestic level*

*2.1.3. Legal frameworks for monitoring groups and National Preventive Mechanism (NPM)*

#### 2.2. Major legislative developments in Armenia

*2.2.1. Investigations into Allegations of Torture*

*2.2.2. Practical access to redress and rehabilitation*

*2.2.3. Evidence extracted under torture*

#### 2.3. Situation with provision of rehabilitation services in Armenia

*2.3.1. Investigation and documentation of allegations of torture – the Istanbul Protocol*

*2.3.2. State funded rehabilitation service provider*

*2.3.3. Problems with the public healthcare system*

#### 2.4. Rehabilitation and reparation for victims of domestic violence

#### 2.5. Rehabilitation and reparation for LGBTs

### III. Recommendations.

## II. Reparation and Rehabilitation

*Article 14 and LOIPR questions 19 and 20*

### 2.1. Issue summary

Torture is the most traumatic life time event for a person to experience. It is a trauma that affects a person both psychologically and physically. The consequences of torture may be fatal, long lasting if not treated in proper and timely manner or repetitious – flashback of torture over a period of time.

#### *2.1.1. History of formation of ARDCen-TV center*

The Foundation against the Violation of Law (FAVL) was founded in the fall of 1991 in response to the notorious “Operation Ring” campaign carried out by Soviet and Azeri forces in the border villages of Karabakh. The organization focused its initial efforts on freeing the mass number of hostages, prisoners, and refugees which resulted from this shocking breach of fundamental human rights. It went on to work with the Red Cross, United Nations, Amnesty International and Human Rights Watch to counter such large-scale abuses taking place in Karabakh.

The clients of FAVL experienced war abuses experienced serious psychological trauma, including painful thoughts and memories of torture, which made them be detached from society and their family members, they were depressed and experience anxiety and anxiousness, sometimes overreacting through anger towards family members, especially wife and children.

Having dealt with above mentioned groups, the importance of rehabilitation of victims of torture and ill-treatment was raised for the first time in 1995 by FAVL NGO during organization of first in the region international conference involving international experts in this regard.

It was the initial step for FAVL to create the ARDCen-TV center in 1997, which was assisting the former hostages, prisoner of war and refugees – the victims of pogroms in Baku and Sumgait to get rehabilitation services in the center and assist them in the slow process of their reintegration into society. On the part of government of Armenia were only solved their housing issues, where the refugees and IDPs were getting rooms in dormitories, hotels, kindergarten buildings and hospitals.

The ARDCen-TV rehabilitation center was created by modest funding from UMCOR Armenia in 1997 and continued up to date its operation through support of the UN Voluntary Fund for Victims of Torture. In 2002 ARDCen-TV was officially licensed by the Ministry of Health of Armenia for provision of medical services to the victims of torture or ill-treatment.

ARDCen-TV passed accreditation process and became a member center of International Rehabilitation Council for Torture Victims in 2008.

In November, 2015 ARDCen-TV Center with assistance of IRCT has started “The Data in the Fight Against Impunity (DFI) project, the objectives of which are:

1. Capacity of rehabilitation centers worldwide in collecting and disseminating essential data on torture and its survivors is strengthened and harmonized.
2. Documentation of torture is integrated at all stages of the rehabilitation process to strengthen the fight against impunity through holistic rehabilitation, prevention and individual legal cases.

#### *ARDCen-TV center client profile*

Most of ARDCen-TV clients are refugees, prisoners of war, hostages, which come from rural areas, are generally financially needy, victims of police brutality during peaceful demonstrations, prisoners, former prisoners, illegally detained, army servicemen, persons with mental issues etc. The majority of victims of torture or ill-treatment of ARDCen-TV center are men (70%), reflecting the fact that men were more often tortured during the war, as well as non-war situations.

Over 60% of centers clients have been diagnosed with PTSD. Together with posttraumatic stress disorder, the most frequently established diagnosis was one of the depressive disorders (35%), anxiety disorders (30%), somatic and other disorders.

ARDCen-TV clients represent population with high risk of developing somatic disorders. In more than 50% of clients cardiovascular diseases were established as the primary diagnosis, of which 65% of patients were diagnosed with arterial hypertension and 8% with coronary diseases. The second most frequent group of disorders were those with developing cancer (40%)

Working with clients showed that war conflict, as well as events in non-war situations, such as torture and ill-treatment in prisons, during detention formed a large number of secondary torture victims, which were involved in supporting the primary torture victims in their healing processes. Mainly they suffer from trauma and stress passed to them from the primary victim. The number of secondary torture victims grow taking into account the number of family members, involved in support process.

The Article 14 of the UN CAT provides that victims of torture and ill-treatment have a right to rehabilitation, which provides the States obligation to ensure that specialized rehabilitation services are available, appropriate and accessible to all victims without discrimination. Even though 25 years has passed after war with Azerbaijan, however, the victims of torture and ill-treatment still experience physical and psychological consequences and are in need of appropriate reintegration into society. Most of the clients of this group have financial problems, are unemployed, have inadequate housing and live in remote communities, which make it even harder to achieve full rehabilitation.

### ***2.1.2. Issue of torture and ill-treatment on domestic level***

Later on the issue of torture and ill-treatment became of interest on domestic level, which was connected to the number of deaths of army serviceman, as well as appearance of the later on Azerbaijani side and their consequent apprehension in non-combat conditions.

A monitoring group was formed by concerned group of individuals and NGOs called “Zinvori mayr” (“Mother of soldier”), which concluded that the mentioned events happen due to improper and non-statutory relationship of commanders and servicemen, psychological pressure and physical abuse, which led to suicides or running, as result of which they appeared on Azerbaijani territory due to absence of clear borders between two countries.

In 1999 when the issue was even more pressing FAVL NGO working with Georgian and Azerbaijani partners brought an experience of Georgia of creation of monitoring group of prisons. A coalition of NGOs in cooperation with the Ministry of Justice created a monitoring group of prisons, in the framework of which was very difficult to work due to long formal process of applying for permit to visit the prison facilities.

### ***2.1.3. Legal frameworks for monitoring groups and National Preventive Mechanism (NPM)***

On 18.04.2000 a Commission dealing with Prisoners of War, Hostages and Missing persons was created. The aim of the Commission is to conduct activities directed towards identifying location of persons taken hostage and missing and their return during military operations and military service.

On November 18, 2005 by the decision of the Minister of Justice of Armenia was created a Group of Public Monitors Implementing Supervision over the Criminal-Executive Institutions and Bodies of the Ministry of Justice of RA, where the group members can visit those institutions at any day, including weekends. Various NGOs, including FAVL are members of the mentioned group.

The Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 18 December 2002 (signed by the RA National Assembly on 31 May 2006) envisages the creation of independent national prevention mechanisms endowed with broad powers and guarantees to have free access to and conduct relevant studies in all the places where people can be kept under arrest locally. In 2008 the RA Law on the Human Rights Defender was amended with Article 6.1, recognizing the RA Human Rights Defender as the

national preventive mechanism. Even though a number of NGOs were recommending the HRD being recognized as NPM together with local NGOs, however, that possibility was ruled out.

In 2009, the Torture Prevention Expert Council was established with the EU assistance which has assisted the RA Human Rights Defender's office to study all the closed institutions of Armenia where people may undergo torture or violence. Various NGOs, including FAVL are members of Torture Prevention Expert Council and the above mentioned monitoring groups.

## **2.2. Major legislative developments in Armenia**

Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states:

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

During 2015 after so many years of recommendations pressing by international bodies and Armenian human rights organizations several legislative changes have been made to the Civil Code of Armenia. In particular, the definition of torture was brought into compliance with the Article 1 of the UN CAT. However, legislative settings, related to all aspects of torture are still deficient due to lack of comprehensive tools to fight against torture. Some of the legislative provisions together with systemic issues and the overall judicial and investigative practices make all be in routine cycle of impunity.

### ***2.2.1. Investigations into Allegations of Torture***

However, law enforcement bodies still lack the capacity to conduct proper investigations in torture and ill-treatment allegation cases. Corruption in this sphere also plays its major role. The judiciary's lack of independence puts the courts in the role of "notaries" affirming the decisions of the law enforcement bodies. As a result, the system not only fails to effectively investigate torture allegation cases, but also prevents those to be raised. Thus, the perpetrators stay free and unpunished, leaving victims of torture or ill-treatment with no chance of restoration and reparation of their violated rights.

In the frameworks of the above mentioned DFI project of FAVL inquiries were made to the Human Rights Defender, Ministry of Justice, Ministry of Health, Ministry of Labor and Social Issues, RA Police to find out whether those institutions are also collecting data, including number, type of torture, type of torture event, type of victim's affiliation, rehabilitation programs in their respective authority. The results of inquiries showed that none of the mentioned institutions, besides the RA police, which provided information on the number of applications of allegations of torture, ill-treatment or punishment and the cases sent to court or cases have been discontinued, none of the above mentioned file proper documentation or keep statistics on torture or ill-treatment.

Specifically, the RA Police mentioned in the letter, that in 2015 the RA police internal security service has received 29 applications of torture or ill-treatment allegations, out of which 14 were left without consequences, 9 were in process, 6 were sent by subordination.

In 2015 were reported 3 cases punishable under article 119, 5 and 309 prime 1 articles of the Criminal Code or RA. One of the case was discontinued on basis of no complaint, the other was discontinued as a result of negotiation with victim and third case was sent to court, were the policeman was convicted for 3 years, however the sentence was not implemented, instead probation was appointed.

In first quarter of 2016 were received 31 applications, 23 were left with no consequences, 4 were in process, 4 were sent by subordination.

In comparison to the number of applications (60) and the number of cases instituted or sent to court shows that improper investigations are carried out by the law enforcement bodies.

### ***2.2.2. Practical access to redress and rehabilitation***

On November 5, 2013 the RA Constitutional Court made a strong decision ruling that the existing legal regulations of types of damages were unconstitutional for not stipulating redress for moral damages to persons being subjected to torture or ill-treatment.

As a result, the Civil Code of Armenia has been modified on 19.05.2014 and amended on 21.12.2015, which provides that victims of torture, ill-treatment or punishment have the right to remedy.

By the National Human Rights Action Plan the government of Armenia shall envisage by legislation of the Republic of Armenia the regulation of proportionate compensation and rehabilitation for damages caused by tortures, in accordance with Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

However, the systemic issues do not give opportunities for victims of torture and ill-treatment to realize their right to receive compensation for the damages and traumas suffered, as the perpetrators are not getting convicted. Usually the perpetrators are not convicted because the criminal cases instituted are subsequently discontinued on the basis of lack of proof, and more interestingly the burden of proof mostly lies on the victims. Meanwhile, according to international standards, it is the state's positive obligation to conduct proper investigation of torture allegations and the victims of torture can still seek compensation even if there is no conviction against the perpetrator.

Up until now no torture victims or ill-treatment have been able to apply or there is a decision of a court in regard to compensation for non-pecuniary damages envisaged by the Civil Code of Armenia, mainly because they are not granted the status of torture victim or ill-treatment under criminal case.

### ***2.2.3. Evidence extracted under torture***

According to the same National Human Rights Action Plan the State shall guarantee by law that in all cases when a person claims by justification that he or she has confessed through tortures, effective investigation of those claims must be ensured, providing for the possibility of suspending the court proceedings until the end of investigation into that issue.

Up to date there is no legislative framework for suspension of the case hearings by the court on the ground of allegation of torture and ill-treatment by the accused, which makes impossible for the later to further make claims for compensation. Usually, if the case is sent by court to the Special Investigative Service (SIS), which entails that the SIS should conduct proper and detailed investigation of torture claims, the decisions on denial of institution of criminal case on the grounds of lack of evidence are presented to court so rapidly that there is no reasonable doubt that the investigation was not conducted properly as such.

## **2.3. Situation with provision of rehabilitation services in Armenia**

Governmental bodies such as Ministry of Health, Ministry of Justice, Ministry of Labor and Social Issues, Ministry of Defense, State Migration Service of the Ministry of Emergency Situations do not have sufficient capacity and knowledge related to delivery of reparation and rehabilitation for torture victims. This includes identification of torture victims according to the Istanbul Protocol; interdisciplinary and holistic approaches to rehabilitation of victims of torture; confidentiality; and



secondary traumatization. So while victims expect the Government to implement their right to such services, the Government is unable to deliver on this obligation.

### ***2.3.1. Investigation and documentation of allegations of torture – the Istanbul Protocol***

Proper documentation of torture and ill-treatment remains an issue in Armenia. Even though through non-governmental organizations has been conducted number of trainings on the use of Istanbul Protocol, however, it is not implemented on a large scale basis. Non-governmental organizations, such as FAVL and few trained psychologists use and provide services to lawyers on documentation of torture and ill-treatment for lawyers according to the Istanbul Protocol.

In 2015 the Medical University of Armenia through assistance of the Open Society Foundations in Armenia has included the Istanbul Protocol training as mandatory in their curricula for family doctors. More actions are required to provide such trainings for corresponding professions, such as doctors, including ambulance doctors, psychologists, psychiatrists, lawyers etc.

### ***2.3.2. State funded rehabilitation service provider***

The Ministry of Justice by government decision N 2118-N in 2005 has established a Rehabilitation Center for Offenders, the main goal of which is to work with offenders in prison or with offenders with no deprivation of liberty to prevent repetitious crimes through social, psychological and educational programs. However, the Center does not provide services to the torture victims, as per their explanation there are no court decisions recognizing the later as such.

In Armenia there is no specialized center with multidisciplinary, holistic rehabilitation services for victims of torture and ill-treatment, established or financed by the Government. The only center for the rehabilitation of torture victims, which provides holistic rehabilitation that includes medical, psychological, legal and social services, and is completely financed by international donors is ARDCen-TV of FAVL NGO. While ARDCen-TV Center does provide the mentioned appropriate services, it is unfortunately not able to cover the existing needs of victims with its current capacity – 1 doctor, 1 psychologist, 1 psychiatrist, 1 social worker, 2 lawyers. Consequently, many victims from the past and present are left with severe unaddressed physical and mental trauma, which cannot disappear itself.

### ***2.3.3. Problems with the public healthcare system***

Although torture victims in Armenia have a right to access health care as any regular Armenian citizen, they are not recognized as a special group that needs specialized services. If a person who has survived torture or ill-treatment asks for medical examination by a specialist in public health institution, it may happen that the person due to multidisciplinary examinations has to wait, or cannot pay for the services provided. Usually financial capacity of the victim makes him also incapable to make further proceedings. In the mental health centers torture victims can receive psychiatric examination and medicines free-of-charge, quality psychotherapy is generally not available due to improper approach of the therapists towards victims.

Taking the above mentioned it means that existing public services are only broadly available and are more focused on diagnostics than treatment. Holistic approach towards victims of torture or ill-treatment is absent, which is very important to ensure appropriate rehabilitation. Medical doctors do not have enough knowledge to identify torture victims and to write appropriate medical-legal report. This makes prompt identification of victims difficult.

Issues with medicine exist, due to costly medicines the torture victims are not able to purchase on their own, which makes the healing process slower or impossible. ARDCen-TV being accredited for charitable projects receives medicine from the Ministry of Health available there under

charitable status. However, it is not enough to organize proper treatment of the clients, since the medicine provided are painkillers and the Centre is forced to get medicine from pharmacies with special deals.

Finally, neither free-of-charge legal assistance is available for torture victims. Even though by law the victims of torture or ill-treatment have a right as any other citizen to public defender under criminal cases against them, however, distrust towards public defenders and also lawyers not being specially trained to deal with torture cases, which most of the times leads cases into dead-end, prevents the victims of torture or ill-treatment properly and timely present their complaints.

#### **2.4. Rehabilitation and reparation for victims of domestic violence**

Domestic violence remains one of the most pressing issues in Armenia. In 2010-2015, for the past five years 30 murder cases involving domestic violence have been registered. Several other cases have left unreported or improperly recorded as suicides or accidents<sup>1</sup>. The police have registered 784 cases of domestic violence in 2015 and have instituted criminal cases towards 150 cases. In 2014, police has registered 678 cases, out of which 76 criminal cases were instituted.

The adoption of the domestic violence law was due in 2010 under UPR first cycle; however, up until now the government of Armenia has not adopted such legislation. The draft law presented by NGOs was rejected by the government basing that the Criminal Code of Armenia solves that issue under general form of crime. In 2012 a revised draft law on domestic violence was presented by coalition of NGOs, which currently is developed under supervision of the Ministry of Justice, however, participation of NGOs has been protracted. The domestic violence legislation is being awaited to be adopted by 2017.

Absence of proper legislation makes the perpetrators walk free with just only fines of around 50000 AMD (100 USD). Domestic violence which does not result in deaths or serious bodily injury envisage criminal responsibility in the form of fine or imprisonment of not more than 5 years.

For the past 3 years there is a special police department dealing with domestic violence cases. However, the department does not poses tools, nor has powers to intervene with domestic violence cases, such as take the husband abusing his wife and/or children to police. Instead, without registration the batterers are taken to police stations and police officers are using their own tools of “up-bringing” the batterer. Meanwhile, as it is considered by police a “family matter” they try to convince the victims not to complain.

Judges hearing cases of domestic violence are not professionally dealing with those cases, considering also those cases as “family matters”, and if the case did not result in death, improper questions are being asked to the victims, such as “what did you do to provoke your husband”.

Under National Human Rights Action Plan the government has taken responsibility to teach officials of territorial law-enforcement authorities, social workers, the personnel of preschools and educational institutions, as well as medical institutions the skills of identifying, communicating with and providing proper consulting to the victims of domestic violence, which are by action plan conducted since 2014 on regular basis. No results or positive feedback whatsoever have been registered yet.

There are no specialized state institutions providing medical, psychological rehabilitation services to the victims of domestic violence. The only institutions providing services for such victims are

---

<sup>1</sup> Coalition to Stop Violence Against Women, 2016, “Femicide in Armenia: A Silent Epidemic”



ARDCen-TV Center, Coalition to Stop Violence against Women, Woman Resource Center, and “Light House” providing also limited shelters for the later.

## **2.5. Rehabilitation and reparation for LGBTs**

A pressing issue remains the issue of intolerance towards LGBTs. There are no steps taken by the government to ensure security of the LGBTs and raise public awareness on tolerance towards LGBTs.

In the shadow report submitted to 105<sup>th</sup> session of the Human Rights Committee in 2012 the Coalition of NGOs highlighted the issues of LGBTs in Armenia, in particular<sup>2</sup>:

1. The State of Armenia remains deeply oppressive toward LGBT individuals, as reflected by public officials’ statements against the LGBT community.
2. The Armenian State fails to protect LGBT individuals from public stigma and hate speech because it has failed to enact laws that criminalize hate speech, including against LGBT persons.
3. Individuals in Armenia are subject to discrimination on the basis of their sexual orientation and/or gender identity by both State and non-State actors, including in access to education, employment opportunities, and healthcare.
4. Though inadequate reporting makes exact numbers uncertain, local human rights groups report an alarming number of non-combat deaths in the army each year, including deaths of LGBT individuals. Gay and bisexual men serving in the army may be particularly at risk. The Armenian State fails to adequately prevent, investigate, and/or prosecute incidents of gender and sexual orientation-based killings, including against LGBT individuals.
5. Gay and bisexual men in Armenia suffer cruel, inhuman, and degrading treatment while serving in the army or detained in prison. In some instances, the State is responsible for this abuse or fails to adequately prevent, investigate, and/or prosecute incidents of violence toward LGBT individuals.
6. The Armenian State refuses to recognize the gender identity of transgender persons. By denying transgender individuals appropriate identity documents, the State withholds from them the status of legal personhood.

The investigations of violence are improper due to the fact that the person subjected to violence is LGBT, or they are afraid to complain, which prevents them to apply later for compensation. Inaction on the side of law enforcement bodies to properly investigate the cases leads to impunity of the perpetrators.

No state run institutions are in place to provide multidisciplinary services psychological, medical, and psychiatric for the LGBTs.

---

2 [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT\\_Armenia\\_HRC105.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/LGBT_Armenia_HRC105.pdf)

### **III. Recommendations.**

1. The Government of the Republic of Armenia shall ratify the European Convention on the Compensation of Victims of Violent Crimes.
2. The Government of the Republic of Armenia should full implement the right to rehabilitation for victims of torture and ill-treatment including by ensuring that specialized rehabilitation services are available, appropriate and promptly accessible without discrimination and free of charge. This can either be accomplished by building the necessary capacity and expertise within the public health system or by engaging non-State service providers such as specialized non-governmental organizations.
3. The Government of the Republic of Armenia should provide trainings for medical staff in identification of torture victims according to the Istanbul Protocol and proper elaboration of medico-legal reports.
4. The Government of the Republic of Armenia shall provide for proper and timely investigation of torture and ill-treatment allegations.
5. The Government of the Republic of Armenia should not apply statutes of limitation in relation to cases of torture and ill-treatment regardless of whether the proceedings are criminal, civil or administrative.
6. The Government of the Republic of Armenia should amend Criminal Code and the Civil Code to provide for right to compensation for non-pecuniary damages even in situations when the criminal cases are not solved.
7. The Government of the Republic of Armenia should recognize the Human Rights Defender plus NGOs as “National Preventive Mechanism” for prevention of torture.
8. The Government of the Republic of Armenia should adopt the law on Domestic Violence.
9. The Government of the Republic of Armenia should provide specialized trainings for law enforcement bodies and judges dealing with the cases of domestic violence.
10. The Government of the Republic of Armenia should promote public tolerance rising towards LGBTs.
11. The Government of the Republic of Armenia should provide specialized trainings for law enforcement bodies and judges dealing with the cases of LGBTs.