

**THE HUMAN RIGHTS DEFENDER'S OBSERVATIONS
ON APPLICATION OF THE CONVENTION AGAINST
TORTURE AND OTHER CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT**

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INTRODUCTION

The Institution of the Human Rights Defender of the Republic of Armenia (hereinafter the HRDI) was established by the Law of the Republic of Armenia on the Human Rights Defender adopted on 21.10.2003 and entered into force on 01.01.2004. The Human Rights Defender is entrenched in the Constitution of the Republic of Armenia by Article 83.1 of the Constitution.

In 2006 the Institution of the Human Rights Defender of Armenia was accredited by the [International Coordinating Committee of National Human Rights Institutions](#) (ICC) with 'A status', meaning its full compliance with the Paris Principles.¹

¹ Currently the HRDI is under the procedure of the periodic re-accreditation by the ICC Sub-Committee on Accreditation.

According to the Constitution of the Republic of Armenia the Human Rights Defender is an independent official who implements the protection of the violated human rights and freedoms by state and local self-government bodies and their officials.

According to the 2nd article of the HRD Law the Human Rights Defender (hereafter – the Defender) is an independent and unaltered official, who, guided by the fundamental principles of lawfulness, social co-existence and social justice, protects the human rights and fundamental freedoms violated by the state and local self-governing bodies or their officials. The wording of the second article of the Law implies that the competence of the Human Rights Defender extends to all the state bodies, local self-governing bodies and their officials without any exception. When executing his powers the Human Rights Defender is guided not only by national legislation but also by norms and principles of international law; as a result he can directly cite norms prescribed in international documents and well-recognized principles of international law.

The Law itself provides for all the necessary authorities for the Defender to accomplish this function. The Law provides for all the resources for the Defender to promote human rights. According to Article 8 and 12 of the RA Law on the Human Rights Defender, the Defender is authorized to:

- have free access to any state institution or organization, including military units, prisons, preliminary detention facilities and penitentiaries;
- require and receive information and documentation related to the complaint from any state or local self-governing body or their officials;
- receive from the state or local self-governing bodies or their officials with the exception of Courts and judges, information clarifying the issues that arise in the process of examination of the complaint;
- instruct relevant state agencies to carry out expert examinations and prepare findings on the issues subject to clarification during investigation of the complaint;
- have guaranteed confidential, separate, unrestricted communication with persons in military units, under in preliminary detention or serving their sentence in penitentiaries, as well as persons in other places of coercive detention;

- conversations of the Defender or his/her representatives with persons mentioned in this paragraph shall not be subject to any interference or eavesdropping;
- in exercising his/her powers the Defender shall enjoy the right of urgent reception by state and local self-governing bodies and their officials as well as by top management of organizations and other officials and coercive detention facilities .

The geographic jurisdiction of the HRDI covers the whole territory of the Republic of Armenia. The Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (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.

Proceeding from the above mentioned, in 2008 the RA Law on the Human Rights Defender was amended with Article 6.1, recognizing the Defender as the national preventive mechanism. In the early 2009, the Expert Council was established with the EU assistance which has assisted the RA Human Rights Defender's office to monitor all the closed institutions of Armenia where people may undergo torture or violence. Reports were published in 2009, 2010 and 2011.

Taking into account the international experience and the best practices of the national preventive mechanisms, the current Defender, highlighting the problems of the above mentioned sphere and in order to reach more targeted solutions, created the Department of Prevention of Torture and Violence of the HRD's Office in 2011. Besides, Torture Prevention Expert Council was set up, which replaced the Expert council funded by the EU and includes a wide range of representatives of the civil society who are appointed by The Human Rights Defender. Torture Prevention Expert Council consists of 11 members, 7 non-governmental organizations and three independent experts who have specialized in psychology, sociology and law.

Based on investigation of the complaints filed with the HRDI and through monitoring and analyses of the situation in the field, particularly through visits to places of detention, the Human Rights Defender of the Republic of Armenia has decided to provide UN Committee against Torture with his observations on application of the Convention against Torture by Armenia(hereinafter: the Observations).

POSITIVE IMPROVEMENTS

- In February 2012 the Police and the Chamber of Advocates have signed a memorandum of understanding and cooperation with aim to guarantee the participation of a Defense Attorney in those cases when it is prescribed by Law as obligatory
- Steps have been taken in rebuilding and repairing Penitentiary Institutions, also new medical equipment has been acquired.
- Most recommendations by the Defender regarding the individual cases of violation of the right not to be tortured have been accepted by state bodies and implemented.
- Amendments and changes on the law establishing disciplinary code of the Police of Republic of Armenia have been approved. The main purpose is to establish a permanent committee for investigating unlawful acts of police officers.

MAIN CONCERNS

- In some cases the police operational staff have engaged in physical and mental ill-treatment of detained persons and witnesses during initial interviews in the period of inquest and preliminary investigation
- In most cases individuals have been invited to police stations, and were kept there by the police operational staff for hours without their consent and without granting them a procedural status in accordance with the Criminal Procedure Code.
- In some cases compiling/preparation of the protocol of the arrest of suspects considerably exceeded the three hours limit set in the law.
- There have been cases when the time limit that individuals could be kept in detention facilities was exceeded.
- In separate cases individuals brought by force to police department were deprived of the right to have a defense attorney.
- In some cases the National Security Service operational staff has engaged in ill-treatment of detained persons during initial interviews and interrogations of suspects and witnesses in the period of preliminary investigation.
- There have been complaints from the relatives of detained person's concerning the obligation of police officers to inform the detained person's relatives of his or her situation within three hours of arrival on police premises.
- The state of the medical units of the penitentiary institutions is not satisfactory to provide appropriate medical services, and also there are cases when the medical staff is reluctant to register cases of violence
- There have been complaints concerning the conditions in Penitentiary institutions for prisoners' who have declared a hunger-strike.
- In most cases prisoners complain about overcrowding in Penitentiary institutions.
- There have been complains of physical and mental ill-treatment by military officers towards their fellow soldiers.

- The Ministry of Defense in the year 2010 has prepared a draft Law on new Military Disciplinary Code which would improve the discipline in military establishments, however the Code has not been adopted yet
- Steps have been taken to review the alternative civil service program, specifically the Government of Armenia approved Ministry of Defense's proposal to amend the Law on Alternative Military Service, however up till now the Law has not been amended.

LEGISLATION

1. Although torture is prohibited under the Armenian Constitution, a major obstacle in bringing alleged perpetrators to justice is the lack of a specific offence of torture, as defined under Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.

Current definition of torture in Article 119 of Armenian Criminal Code does not satisfy the requirements laid down in Article 1 of the UN Convention. In particular, it lacks the requirement of intentional infliction of severe pain or suffering for a specific purpose, such as obtaining a confession, intimidation, or punishment. Also the wording is missing which would prescribe not only a direct involvement of public official in the acts of torture but also hold public officials responsible "at the instigation of or with the consent or acquiescence of a public official or other

person acting in an official capacity” as the UN Convention stipulates. Practice has shown that individuals usually complain of ill-treatment from state authorities for the purpose of obtaining information or a confession from them.

2. Concerning the physical and mental ill-treatment by military officers towards their fellow soldiers, the HRDI stresses the opinion that the physical and mental ill-treatment in military establishments takes place as a consequence of the non-enforcement of the Military Disciplinary Code, lack of effective preventive measures by the Ministry of Defense and also as a result of insufficient control by Officials of Military Establishments. The Ministry of Defense in the year 2010 has prepared a draft Law on new Military Disciplinary Code which would improve the discipline in military establishments, and would enforce the rights of soldiers, however the Code has not been adopted yet.

3. Immediate measures should be taken to review the alternative civil service program, specifically the provisions of the Law on Alternative Military Service which specifies supervision by a body military personnel of those people who apply for the alternative civil service program. The above mentioned provision in the Law should be amended, and the supervision should be exercised by a specific body which would consist not only of military personnel but would also include the element of civic participation.

4. Regarding the issue of inviting individuals to police station's, and keeping them there by the police operational staff for hours without their consent and without granting them a procedural status in accordance with the Code of Criminal procedure (hereafter CCP), the HRDI stresses the opinion that these issues occur because of a legal vacuum in the CCP, i.e. the process of inviting and keeping individuals at police station's is not regulated by the CCP, or any other legal act.

5. As for the obligation of police officers to inform the detained person's relatives of his or her situation within three hours of arrival on police premises, the HRDI stresses the opinion that the three hour time limit is usually breached by the police officers, because of the contradiction in the CCP Article 63 paragraph 2 item 9 which stipulates a maximum period of twelve hours during which close relatives should be notified, while Section 5 of the Police Act places an obligation on police officers to inform the detained person's relatives of his or her situation within three hours of arrival on police premises. According to the Law on Legal acts of RA article 9, in cases of collision between the provisions stipulated in a Code and in an Act or Law the preference would be given to the provision of the Code.

6. The HRDI has received complaints concerning conditions in Prison service establishments from prisoners who have declared a hunger strike. It is necessary to state that the Penitentiary code or other legal acts do not regulate the conditions of isolating hunger strikers in prison service establishments. As a result, prisoners who have declared a hunger strike are kept in punishment cells where people that have the status of infringers are kept. Therefore there is a need to make an amendment in the Penitentiary code by providing a special provision which would regulate the conditions in Penitentiary institutions for prisoners' who have declared a hunger-strike.

7. International and national legislative provisions on the population of detainees and convicts in penitentiaries are not always enforced, as a result of which in most Penitentiary Institutions there are disturbing cases of overcrowding.

INSTITUTIONS

The HRDI has received numerous complaints against police, military, national security service, and prison service establishments which also included cases of alleged torture, or ill-treatment throughout the period from the year 2009 - 2011. In the year 2009 the HRDI received 339 complaints against above mentioned state bodies which also included cases of alleged torture, or ill-treatment. In 2010 there have been 314 and in 2011 there were 380 complaints.

Based on complaints filed with the HRDI and through monitoring and analyses of the situation in the field, particularly through visits to detainee units, prisons, military establishments and mental health institutions, the HRDI stresses the opinion that torture, or ill-treatment is usually allegedly

conducted by Police forces, Military forces/soldiers/, National Security forces, and in Prison Service establishments.

Police/ Police Establishments

The HRDI has received numerous complaints against the Police during the period of 2009 until 2011. Most of the complaints against the Police are connected with the actions of inquest or pre-trial investigation bodies, specifically complaints connected with comprehensive, full and objective investigation of case circumstances.

Individuals have also addressed complaints to the HRDI concerning the issue of physical and mental ill-treatment of detained persons, suspects, and witnesses by the police operational staff during initial interviews in the period of preliminary investigation. During the year 2011, the HRDI received a complaint from citizen A.A. concerning the actions of investigator S. Sedrakyan who was from the Kotayk marz police department. According to citizen A.A.'s complaint, investigator S. Sedrakyan had conducted mental ill-treatment towards A.A. In response to our recommendation Head of General Investigation Department of the Police informed us that Sos Sedrakyan was released from his position. In this case we can conclude that as a result of HRDI's interference the Police had thoroughly analyzed the case and have taken measures to execute disciplinary charges against the official who had conducted ill-treatment towards the individual. Nevertheless the HRDI stresses the opinion that in similar cases of ill-treatment by Police official's mere disciplinary action is not sufficient in order to prevent such cases in the future.

During the visits to Penitentiary Institutions and interviews with prisoners the NPM staff was informed about cases of physical and mental ill-treatment mostly that were conducted in police departments during initial interviews in the period of preliminary investigation. One of the examples is the case of prisoner E.T, who complained that the investigator beat him, threw him on the ground and jumped on his knees, spat on him and humiliated him. According to him afterwards he was tied to a pipe attached to the wall so that his feet did not touch the ground, and was forced to confess the details of the crime that he was arrested for. E. T. showed the scars on his hands and his legs that were swollen near the ankles. E. T. also stated that he neither had a

defense attorney during his interrogation nor he was informed about his right of legal assistance. E. T. had not addressed a complaint to Police about the above mentioned illegal actions that were conducted towards him because of distrust in Police.

There have been other complaints of physical and mental ill-treatment by the police operational staff which were accepted for consideration by the HRDI, and recommendations after thorough analysis of those cases were sent to the Head of the Police. In most of those cases service investigations had started, however the results were not satisfying because the HRDI usually received an answer according to which the individuals had suffered physical harm not as a consequence of ill-treatment towards them, but because of the use of force by police operational staff during the apprehension of those individuals, or the individuals had suffered physical harm prior to being apprehended by the police etc. Thus, effective investigation of complaints on police brutality remains a serious concern.

One of the main concerns for the HRDI are the cases when the compiling/preparation of the protocol of the arrest of suspects exceeds the three hours limit. Article 131.1 of the CCP of the Republic of Armenia prescribes that within three hours after taking a person suspected in the committal of a criminal offence to the inquest body, to the investigator or the prosecutor, a protocol shall be drawn up on the arrest of the suspect, the copy of which shall be provided to the arrestee upon signature. The importance of the above mentioned provision has also been stated in the 2009 CAT report of the Republic of Armenia in paragraph 52. However, according to the oral and written complaints addressed to the HRDI, there are numerous cases when the 3 hour time limit is breached. Nevertheless difficulties arise in the process of preventing and finding the above mentioned breaches of law, specifically because the police operational staff does not register the entrance of those suspects to police stations in the record papers. Therefore the unlawful actions of the police operational staff members are almost impossible to prove.

The HRDI has received both in oral and written form complaints concerning the process of inviting individuals to police station's, and keeping them there by the police operational staff for hours without their consent and without granting them a procedural status in accordance with the CCP. In those cases the HRDI investigations show that the police operational staff justifies their

actions by claiming that those individuals were cooperating with the police and they did not have a procedural status because they were invited to the police station. This issue is of grave concern for the HRDI, because as stated in the chapter of this report on Legislation, the process of inviting people to police stations is not regulated by law, and according to the complaints in all those cases there are risks of torture and ill-treatment.

One of the main concerns connected with police is that the time limit that individuals could be kept in detention facilities is exceeded. Concerning this issue there are cases when the requirements set in the provisions of article 137 CCP are breached, specifically that individuals cannot be kept in detention facilities for more than 3 days. According to complaints addressed to the HRDI individuals are kept in detention facilities for more than 3 days. Usually police officers explain this by the difficulty of every day transportation of detainees because of the location of detention facilities, whereas the provisions of article 6 of the Law on treatment of arrestees and detainees define that if it is impossible to move a detainee from the place of detention every day to conduct investigative activities and court examination outside the prison service establishments the detainee may be transferred to a detention facility for a period of up to 3 days by a decision of the investigator, prosecutor or the court.

In 2011 the HRDI has received a complaint from citizen T. D. who stated that her husband D. G. was kept in the detention facility for more than 3 days. The fact was confirmed by the first deputy of the head of police. The HRDI demanded explanations concerning the above mentioned issue, in response to which the Police had started a service investigation and subjected the officer responsible for the breach of the law to a disciplinary penalty.

During visits to detention facilities and penitentiary institutions NPM staff has raised an issue connected with the time limit of conducting interrogations by Investigators. Provisions of article 205¹ provide a time limit of eight hours during a day for interrogations. According to the NPM staff there are numerous cases when the time limit of conducting interrogations are exceeded. One of the examples is the case of prisoner M.A, who informed the NPM staff that he was interrogated in violation of the time limit set in the CCP and that mental and physical ill-treatment was conducted towards him by the Police staff. By examining the register books in detention facilities the NPM staff members revealed that the protocol of arrest of M.A. was done

at 09:40am, while the latter was transferred from the police department to the detention facility on the next day at 03:30am.

In separate cases individuals brought by force to police department were deprived of the right to have a defense attorney. According to complaints addressed to the HRDI authorized officials of the Police did not provide the individuals their right of inviting a defense attorney and legal assistance until the completion of the protocol of detention. The right of an individual to be entitled to legal assistance is defined in the provisions of article 20 of the Constitution of RA and also in Section 63-2 (4) of the CCP. It is noteworthy stating that for regulating this issue in the year 2010 Head of the Police also gave the 12- (12-C) order, which was intended for providing individuals the right to be interrogated in the presence of a defense attorney, if a necessity of taking explanations had occurred before the completion of the protocol of detention or the selection of the precautionary measure. Nevertheless the order given by the Head of the Police was not sufficient to exclude the above mentioned unlawful actions, thus complaints concerning the issue were again addressed to the HRDI in the year 2011.

Ministry of Defense /Military establishments/

The investigations in military units have revealed several issues concerning physical and mental ill-treatment by military officers towards their fellow soldiers. The officers do not take sufficient measures to enforce the Disciplinary code, shape tolerance among soldiers. There have been cases reported when the servicemen use violence against one another in interpersonal conflicts. Concerning the physical and mental ill-treatment by military officers towards their fellow soldiers, the HRDI stresses the opinion that the physical and mental ill-treatment in military establishments takes place as a consequence of the non-enforcement of the Military Disciplinary Code, lack of effective preventive measures by the Ministry of Defense and also as a result of

insufficient control by Officials of Military Establishments. The fact that the Ministry of Defense in the year 2010 has prepared a draft Law on new Military Disciplinary Code, is a positive improvement, because the new Code would improve the discipline in military establishments, however the Code has not been adopted yet. The HRDI has received several complaints concerning the above mentioned issue. Z. M. in a complaint addressed to the HRDI had stated that he had undergone beating and degrading treatment by other soldiers of the military unit. Injuries were reported on different parts of the body (legs, hand, ear) which were caused by kicking, burning with cigarettes and in other ways (criminal proceedings have been launched). Because of those actions the mental condition of Z. M. had deteriorated. The HRDI had taken the complaint into thorough consideration, and as a result Z. M. was discharged from military service, and criminal proceedings are still in progress.

It is a positive improvement that steps have been taken to review the Law on Alternative Military Service, specifically the provision concerning military supervision of those who apply for alternative military service. However up till now the Law has not been amended, as a result of which currently more than 60 people are imprisoned for evasion from regular military service.

The studies have revealed that the medical posts in some military units do not have wards. The commander of one of the military units located in Armavir region stated that servicemen, who have complaints concerning their health condition, if necessary, receive first medical aid in the military unit and after are sent to hospital. It is of concern that first medical aid is provided without having a ward. In the medical post of one of the medical units in Yerevan 4 conscripts were registered for in-patient treatment, however they were on active duty together with other conscripts due to the lack of conditions in the medical post.

In some military units, the studies have revealed cases of inaction from medical staff of military units. In one of the military units located in Yerevan, the NPM staff was informed that soldiers suffering from chicken pox are not being isolated from other servicemen and are not under proper medical supervision.

Ministry of Justice, Penitentiary Institutions

The HRDI has received written and oral complaints concerning conditions in Penitentiary institutions for prisoners' who have declared a hunger-strike. As it has been stated in the chapter of this report on Legislation, the rights of prisoners who have declared a hunger strike are not regulated by the Penitentiary code. In the year 2011 there have been cases when prisoners' who have declared a hunger-strike were kept in punishment cells where people that have the status of infringers are kept or they were not isolated and were kept in general cells due to the problem of overcrowding. As a consequence in those cases they witnessed other prisoners eat, which is a form of psychological pressure on hunger-strikers. Another issue connected with those prisoners who have declared a hunger strike, is the need to regulate daily medical supervisions for them, because practice has shown that prisoners who have declared a hunger strike tend to have serious issues with health. It is noteworthy that the issue of daily medical supervision of these prisoners

is also not regulated by the Penitentiary Code (hereafter PC). In 2011 the HRDI had received a complaint from A.M. who is serving a life sentence in Nubarashen PI, the latter had declared a hunger strike in December, 2011. Only after some time the complainant was isolated from other prisoners, however he was transferred to a punishment cell. The administration of Nubarashen PI had informed the HRDI staff members, that because of the overcrowding and lack of free cells issue, the prisoner for isolation purposes had been transferred to a punishment cell.

During visits to Penitentiary institutions (hereafter PI) the NPM staff was informed that PI administration breaches its obligation set in the provisions of article 108 of the PC which regulates the rights of prisoners who were sentenced to life imprisonment a possibility for a one hour daily walk, as a result of which those prisoners are deprived of their right to one-hour daily walk. In separate cases when the HRDI had made recommendations for enforcing the above mentioned right of those prisoners the PI administrations have complied with it. However the issue of the daily walk of prisoners who have been sentenced to life imprisonment still remains an issue which is mostly a consequence of overpopulation in penitentiary institutions.

One of the main issues connected with PI's, is the issue of overcrowding, which is evidence that the international and national legislative provisions on the population of detainees and convicts in penitentiaries are not always enforced. Analyzing this issue, the HRDI stresses the opinion that if PI's encounter overpopulation, cases of violence are unavoidable. It is not accidental that most European countries and the U.S. Supreme Court consider overpopulation as a form of violence. Even though, there is a project for creating new penitentiary institutions in Armenia, still the penitentiaries of our country have been unable to solve the issue of overcrowding. When detainees and convicts move to penitentiaries, the issue of selection of persons to share the same cell is important. Meanwhile, persons serving sentences for different criminal offenses and different criminal behavior have to share the same cell due to a dense population, which hinders the rehabilitation process of prisoners and also brings to an atmosphere, were those who have committed lesser criminal offenses are being physically and mentally abused by the others.

During the visits to Penitentiary Institutions the NPM staff has revealed obvious breaches of the requirement of the living space per detainee and convict in Nubarashen PI where 16-20 inmates live in cells intended for 8 people. Facts of overcrowding have been reported, namely in Vardashen PI there were 241 people instead of the permitted 154 at the time of the visit, in Erebuni PI there were 576 people instead of the permitted 391, in Nubarashen PI there were

1200 people instead of 840. The issue of overpopulation is aggravated due to the irregular and incommensurate approaches of the administrations of penitentiary institutions and the independent committee of early conditional release from serving a sentence, concerning cases when the remaining term of sentence can be changed into a milder punishment. The latest amnesty has relieved the penitentiary institutions but as of today four penitentiaries are overpopulated (Nubarashen, Vardashen, Kosh, Sevan PIs).

In response to the inquiry of the RA Human Rights Defender on addressing the overcrowding, the RA minister of justice stated that the issue will be resolved completely within ten years. From the point of view of human rights, this is not a reasonable period of time, especially because the overpopulation of the penitentiary institutions tends to grow. As of April 2006, this number was 2997, while in November 2011 it was 4868. Thus, a 60% growth has been reported. It should be noted that all the penitentiary institutions of Armenia together admit 4395 people as prescribed by the law.

Medical units have been created in all PI's to organize medical services for detainees and convicts. Besides, the Prison Hospitals PI operates within the penitentiary system where the persons deprived of their freedom are transferred when the treatment cannot be organized at the medical units of the penitentiary institutions.

Nevertheless, the state of the medical units of the penitentiary institutions is not satisfactory to provide appropriate medical services, specifically there is shortage of members of medical units of the penitentiary institutions, also there is absence of necessary premises, equipment and medicine, and also there are cases when the medical staff is reluctant to register cases of violence against prisoners.

During visits to Penitentiary institutions the NPM staff revealed some breaches of the Penitentiary Code of RA connected with medical service of PI's. According to provisions of the Penitentiary code the convict has a right to health care and convicts that are kept in punishment cells must be under medical supervision / article 12 and article 98 PC/. According to provisions of article 66 of the Penitentiary code the convicts must be registered in the respective record-books from the moment that they are transferred to the penitentiary institutions. During visits to Penitentiary Institutions to "Yerevan-Kentron" penitentiary institution staff members of the NPM revealed that the medical staff of the institution does not work on Saturdays and Sundays, so during the time period that the doctor is missing, the convicts are out of medical supervision. So

based on the above mentioned there can be cases when convicts are transferred to PI's on Saturdays and Sundays they will not be examined by the medical staff, despite the obligation illustrated in the Penitentiary Code. The absence of the medical staff can also bring to unnecessary difficulties in proving the cases of ill-treatment towards convicts in police establishments i.e. prior to being transferred, because their physical condition will not be registered in the external examination record book, or the cases when the medical staff even though examines the physical conditions of convicts who have been transferred however are reluctant to register cases of violence. One of the examples is the case of 2 individuals in Abovyan PI. They informed the NPM staff members that when they were admitted and/or transferred to Abovyan PI the doctor examined different injuries on their bodies, which were recorded in the medical card but the recorded conclusion was absence of violence. During a private talk with the above mentioned persons it became known that they had undergone violence in the police station, however because of distrust in Police and other state bodies those individuals did not address a complaint about the above mentioned illegal actions that were conducted towards them.

National Security Service

Based on complaints filed with the HRDI and through monitoring and analyses of the situation in the field, particularly through visits to National Security Service establishments, the HRDI raises the issue of cases of ill-treatment of detained persons during initial interviews and interrogations of suspects and witnesses by the NSS operational staff. Those complaints which have been addressed to the HRDI, were accepted for consideration, and recommendations of thorough analysis of those cases were sent to the Head of NSS.

According to details of a complaint addressed to the HRDI the investigator of the NSS conducted ill-treatment to citizen E.A. to obtain information and/or confession from him during the preliminary investigation. The HRDI accepted the complaint into consideration. In response to the inquiry the Head of NSS responded with the usual answer that the citizen had suffered physical harm not as a consequence of ill-treatment towards him, but because of other reasons

not connected with the NSS. The HRDI stresses the opinion that measures should be taken by the Head of National Security Service to exclude ill-treatment by the NSS investigators and operational staff.

Psychiatric Institutions and care homes

The observation revealed that all the buildings need urgent renovation. In some institutions, the beds of patients are old and broken. The state of the bathrooms of the neuro-psychiatric clinic in Kapan is in poor condition. Sheets and bedding is not provided to the patients in time, or is worn, not fit to use. There were patients who had not taken a bath for ten days (Kapan Clinic).

During the visit to the old people's home in Nork and the care home in Yerevan (Fourth Village), rooms with different degrees of renovation were reported, which is a form of ill-treatment by the management. The NPM thinks it may contain an element of corruption.

The orphanages, psychiatric hospitals and care homes lack specialists with professional qualification. Due to the low salary the positions of specialists are filled in by people without a relevant education. The NPM staff has revealed that in Marie Izmirian Orphanage SNCO, the social worker has studied philology, and the psychologist has no professional education, also children are not under proper medical supervision. In the psychiatric care home of Vardenis, there is only one psychiatrist for 520 patients. The same situation is in Nork Care Home of and Care Home N1 of Yerevan. Some positions often remain vacant for a long time.

Specialists are not motivated to work in these institutions and take care of the troublesome beneficiaries. Hence, the risk of violation of the rights of beneficiaries and use of violence against them is obvious. In Care Home N1 of Yerevan, which is intended to take care of retired people, as well as homeless people, an additional issue occurs related to homeless people.

The point is that homeless people stay in this institution for up to 60 days after which they again face the issue of abode, which may cause an additional trauma. Some psychiatric institutions apply work therapy which is highly useful if it is free from factors of risk, and a person is not exploited, becoming a source of additional income.

In the clinic of Kapan, the director organizes wash and technical maintenance of cars, runs a wood working facility through the patients but does not pay the patients. Moreover, a group of patients of the clinic complained that they are served meat twice a week, while butter and eggs are served very seldom.

National preventive mechanism under OPCAT

Starting from the year 2009 till 2011 more than 150 visits and studies were carried out in the penitentiary institutions, police departments, military units, psychiatric hospitals, orphanages, special schools, care homes of the Republic of Armenia by the Torture Prevention Expert Council with the aim of revealing and preventing cases of torture and other inhuman or degrading treatment or punishment. During visits the administrations of the above mentioned places did not create any obstacles or difficulties for the NPM staff. During its activities, the National Preventive Mechanism Expert Council takes into account the information of the [European Committee for the Prevention of Torture \(CPT\)](#), as well as information from human rights NGO's and RA Police Detention Facilities Public Observers' Group and RA Penitentiary Institutions Public Observer's Group.²

The territory to be covered by the NPM activities includes capital Yerevan and all the marzes (provinces) of the Republic of Armenia. However, while the Parliament assigned implementation of the NPM to HRDI, the budget allocated to it is severely restrictive and undersized. There is a constant need for enhanced

² The annual reports of the RA NPM are available at the HRDI official website - www.pashtpan.am.

monitoring of all the places of deprivation of liberty throughout the country which is considerably hampered because of inadequate State funding.

RECOMMENDATIONS

- Article 119 of Armenian Criminal Code should be amended, because the Current definition of torture does not satisfy the requirements laid down in Article 1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment.
- Take steps to provide police stations with video recording equipment, specifically in interrogation rooms for recording the process of the interviews and in other rooms where possible contact between suspects or witnesses and police officers can occur. Video recording of police interviews will provide facts concerning the duration of interrogations, prevent the potential ill-treatment or pressure that may be conducted towards the above mentioned individuals, also such kind of monitoring mechanism would show the time period starting from which the individuals were in the police department and whether the compiling/preparation of the protocol of the arrest of suspects exceeds the three hours limit.

- An amendment should be made in the Code of Criminal Procedure which would obligate police officers to inform the detained person's relatives of his or her situation within three hours of arrival on police premises.
- Make an amendment in the CCP that would strictly regulate the process of inviting individuals to police departments and giving them a legal status, and take measures to exclude the possibility of inviting individuals to police departments without granting them a legal status.
- Measures should be taken to ensure the enforcement of provisions of article 137 of the CCP concerning the time limit of keeping individuals in detention facilities.
 - Immediate measures should be taken to amend the Law on Alternative Military Service, as a result of which the cases of more than 60 people who have been prosecuted for evasion from regular military service will be reviewed.
 - Steps should be taken to immediately adopt the draft Law on the new Military Disciplinary Code which has been prepared by The Ministry of Defense in the year 2010. The new Code could make a reasonable attempt in the process of enforcing discipline in military establishments, which would reduce cases of physical and mental ill-treatment by military officers towards their fellow soldiers.
 - The issue of overpopulation should be addressed urgently by State authorities, because it is one of the main reasons for generating violence and inhuman treatment in Penitentiary Institutions. Three approaches are recommended:
 Implement the international practice which suggests that smaller penitentiary institutions are now recommended;
 Improvement of premises;
 Implementation of legislative amendments which will relieve the PIs;
 - increase the application of alternative measures of prevention;
 - increase the possibilities of replacing detention by milder forms of punishment
- Steps should be taken to make amendments in the Penitentiary code by providing a special provision which should regulate the rights and obligations of prisoners who have declared a hunger strike; also there should be an obligation on administrations of penitentiary institutions for isolating them.

- Measures should be taken by the State body to improve the state of the medical units of the penitentiary institutions most importantly by excluding cases when convicts in punishment cells or prisoners who have declared a hunger strike are not under medical supervision, and also the state body should execute disciplinary or administrative penalties or file criminal charges against those doctors who are reluctant to register cases of violence.