

Political Prosecutions, Freedom of Expression, and Human Rights Defenders

The RA Constitution guarantees the protection of fundamental freedoms and human rights in conformity with the principles and norms of the international law. Yet the government fails to ensure proper implementation of human rights and freedoms both in legislation and practice. Nevertheless, in 2013, the RA President established a professional committee to develop constitutional reforms arguing that the existing Constitution did not provide mechanisms for effective human rights protection and rule of law. Challenging the actual need for the reforms, political opposition and civil society in general believe that the reforms are launched to consolidate the power of the ruling Republican Party by switching the country into a parliamentary republic and stipulating in the Constitution the need for a solid majority in the Parliament.

The proposed changes provide extensive detail on human rights and fundamental freedoms and refer to the ECHR and ECtHR to narrow down rights and freedoms rather than ensure their proper protection. For instance, the right to freedom of assembly is stipulated in Article 29 of the effective Constitution as “Everyone shall have the right to freedom of peaceful and unarmed assembly. Restrictions on exercising these rights by the employees in the armed forces, police, national security, prosecutor’s office, bodies as well as judges and members of the Constitutional Court may be prescribed only by the law.” While the new draft stipulates: “Article 43. Freedom of Assembly 1. Everyone shall have the right to organize and participate in peaceful assemblies. 2. In cases prescribed by law, outdoor assemblies shall be conducted on the basis of prior notification made within a reasonable period. 3. Restrictions on the exercise of the right prescribed by this article by servicemen of the armed forces, the police, national security agencies, the prosecution office and the investigation bodies, as well as for judges may be prescribed only by law. 4. The freedom of assembly may be restricted only by law with the aim of protecting state security and the public order, preventing crime, protecting health and morals, and protecting the fundamental rights and freedoms of others.” Proposed Constitutional amendments deprive the Armenian citizens of a right to spontaneous meetings, stipulating that every public gathering should be notified with the authorities beforehand. The pro-governmental jurists claim that the legitimate aim pursued by this amendment is enabling police to provide better security for the public events and their participants.

The years of 2014-2015 were a significant diversion from the pre-September 3, 2013 agenda, when the RA President unilaterally made a decision to suspend the Association Agreement with the EU and to join the Customs Union and the Eurasian Economic Union. In 2014, Armenia rapidly implemented activities envisaged by the Roadmap to joining the Eurasian Economic Union and became a member of it in January 2015.

Armenia's decision to join the EEU influenced not only the economic situation, which significantly deteriorated under termination of trade opportunities with the EU and significant drop of remittances as a result of economic crisis in Russia, **but gave rise to human rights violations and specifically violations to the rights to freedom of assembly, liberty, and security.** 2014 and 2015 continued seeing significant rise in protests, political and civil activism, yet violations against civil and political activists became particularly violent with the police setting a new record of the number of detained peaceful assemblers (June 23, 2015, 237 people apprehended).

The rights of human rights defenders were particularly violated in the contexts of freedom of expression and freedom of assembly. There were several threats, attacks and criminal cases brought against advocates. There was a significant rise of violence against journalists and reporters. According to the Committee to Protect Freedom of Expression, there were 5 cases of violence against journalists affecting a total of 20 journalists and cameramen in the first half of 2015 alone. This number is higher than that of the 2008 when 18 journalists were injured including during March 1, 2008 events (violent crackdown on peaceful protesters, which left at least 10 people dead).

In general, the complaints and reports on police violations submitted by human rights organisations and activists were not properly investigated and prosecuted. At the same time, surprisingly, several administrative lawsuits filed by the Police against protesters were dropped or rejected.

According to the official information provided by the Yerevan municipality, there were 119 notifications about assemblies received by the municipality in 2014 and 118 notifications received by September 1, 2015. The significant decrease in the number of notifications compared to that of 2013 can be attributed to the fact that 2013 was the year of Presidential Elections with several pre and post election rallies, while the assemblies in 2014-2015 were mostly spontaneous actions of protests. As seen in the table below, in 2015, the municipality placed more restrictions or suggested more amendments to the assemblies (about 25 %), while about 10 % of notifications were returned to the organizers for noncompliance with technical requirements of the law.

Notifications about assemblies in Yerevan	2013	2014 (January 1 – September 1)	2015 January 1 – September 1
Notification acknowledged	241	119 (71)	118
Amendments/restrictions to the venue or the route	20	3(0)	32
Return for noncompliance with the law	3	1(0)	11
Cancellation by the organizer	0	4(3)	1
Total	264	140 (85)	165

The rhetoric of maintaining public order has been largely abused by the Armenian authorities at the expense of freedom of assembly: protesters, activists, and reporters were coercively apprehended and taken to police stations from the assembly venues without any legal grounds.

Violation of the right to freedom of assembly during this period and unlawful police conduct against peaceful demonstrators peaked on 23 June, 2015 – when the police used excessive force and water cannons to disperse the peaceful sit-in. 237 demonstrators, including 16 journalists, were unlawfully and violently apprehended¹. 25 people requested emergency medical assistance; 15 were taken to hospitals with different injuries. 13 journalists suffered from police actions, with their equipments deliberately damaged during the violent crackdown.

The protests against the electricity fair hike commenced on June 19, 2015 and attracted thousands of protesters who blocked Baghramyan Avenue (where the Presidential Palace and Parliament building are located) demanding revision of the price. The protests were nicknamed “Electric Yerevan” and multiplied in the number of demonstrators after the June 23 events as citizens were outraged by police brutality against the protesters. On June 27, 2015, Serzh Sargsyan announced that there will be an audit conducted in the “Electric Networks of Armenia” to determine whether the price increase is justified; meanwhile the government would subsidize the difference in price. The decision led to a split between protesters with some moving to Freedom Square and the majority remaining on the blocked avenue. With the disagreements boiling between organizers following the fake allegations of turning the electricity protests into a “Maidan”, the first protest wave gradually died out and the last participants were forcefully removed from Baghramyan on July 6, 2015 with 46 people apprehended (including 6 minors).

HCA Vanadzor conducted media monitoring of the right to freedom of assembly and revealed that there were 215 assemblies held in Armenia in 2014 (135 by 1 September, 2014) and the right to freedom of assembly was allegedly violated during 43 of them (29 by September 1, 2014). By September 1, 2015, there were 270 assemblies held, with alleged violations during 68 of them. According to media reports, in 2014, 106 protesters were apprehended (96 by 1 September, 2014), while 371 protesters were apprehended by 1 September, 2015. While only two of the apprehensions ended in a short arrest and none in detention, and apprehended protesters were released within a few hours spent in the police station, this sharp increase in the number of

¹ HCA Vanadzor report on violations of human rights of protesters against electricity price hike, Helsinki Citizens' Assembly – Vanadzor, September 2015, http://hcav.am/wp-content/uploads/2015/09/Electricity-Price-Hike-Protest_2015-ARM.pdf

apprehensions clearly speaks of police intolerance of protest and dedication to use arbitrary deprivation of liberty. It is to be strongly emphasized that the authorities have sharpened the legal and judicial actions against any utilization of a right to a freedom of assembly, and all the violations described above have already become a pattern of regulation of political life in Armenia.

In 2014-2015, political prisoners received particularly harsh sentences.

In July 2014, court sentenced Volodya Avetisyan to 6 years in prison.² In May 2013, Volodya Avetisyan started a sit-in strike demanding social benefits for Karabakh War Veterans. Volodya Avetisyan was supported by several other veterans who protested with him in Yerevan and even traveled together to different cities to mobilize supporters and get their voice heard. After meetings with government representatives, Volodya Avetisyan was convinced that their issues would not be resolved.³ During the entire sit-in strike Avetisyan and his supporters were intimidated and even offered money to stop the protests.

On September 19, 2013, Volodya Avetisyan's family received a phone call from the Military Police informing them that Avetisyan was with them. On September 20, 2013, Avetisyan was charged with Article 178.2.2 of the RA Criminal Code for swindling in large amounts. According to the indictment, Avetisyan allegedly demanded 500 USD from A. Matosyan on July 29, 2014, in return for arranging that his son continued his military service as a computer operator at a military unit in Nagorno Karabakh⁴.

Avetisyan's supporters are convinced that both charges are fabricated and Avetisyan is a political prisoner.

Avetisyan's detention continued throughout the preliminary investigation despite the fact that the alleged victim was nowhere to be found and there were no sufficient grounds for keeping Avetisyan in detention. Although the official indictment included only the count presented above and was not been modified, on April 2, 2014, the prosecuting attorney presented another count, according to which Avetisyan allegedly received 2000 USD from H. Zakaryan for assisting in releasing the citizen's son from mandatory military service.⁵ While Avetisyan was detained, one of his sons was drafted to the army despite severe health condition and being previously recognized unfit for service. Avetisyan's family argued that if Avetisyan was able to release someone from military service, he could have released his son, who has been in military hospitals since the beginning of his service. The court decree was appealed to the Court of Appeal which upheld the decree above, and the Court of Cassation dismissed the appeal.

On October 14, 2014, the Court of General Jurisdiction of Kentron and Nork-Marash administrative districts of Yerevan announced its judgment on the case of Shant Harutyunyan and his supporters, who were arrested on November 5, 2013 during their march to the Presidential Palace⁶. Hence, Shant Harutyunyan was sentenced to 6 years of imprisonment, and his 14-year-old son, Shahen Harutyunyan to 4 years of imprisonment; however, the Court ruled to replace the imprisonment of the young man by a conditional sentence. Vahe Mkrtchyan was sentenced to 7 years of imprisonment, Albert Margaryan to 6, Sevak Mnatsakanyan to 5,5, the reserve Lieutenant Colonel Vardan Vardanyan, Liparit Petrosyan and Avetis Avetisyan to 5 years of imprisonment, respectively. Hayk Harutyunyan was sentenced to 4,5 years of imprisonment; Aleq Poghosyan and Mkrtich Hovhannisyanyan were sentenced to 4 years of imprisonment respectively. Armen Hovhannisyanyan was sentenced to 2 years of imprisonment, and Tigran Petrosyan – to 1 year of imprisonment.

The court ruling was appealed with higher courts. However, on February 2, 2015, the Court of Appeal upheld the judgment by the court of general jurisdiction and dismissed the appeals. The court verdict was appealed with the Court of Cassation. The Court of Cassation rejected the appeal. The case has been submitted to the ECtHR.

Comedian Vardan Petrosyan, well known for his criticism of the regime was sentenced to five years in prison for unrelated charges⁷. Nevertheless, the biased and controversial examination of his case showcased the political motives of the prosecution and the bankruptcy of the system of justice.

² Prosecuting attorney asked for 6.5 years of imprisonment for Volodya Avetisyan, accessed on June 30, 2014, <http://www.pastinfo.am/hy/node/45343>

³ Freedom Fighter Volodya Avetisyan was arrested for swindling, accessed on June 15, 2014, <http://www.aysor.am/am/news/2013/09/20/volodya-avetisyan-1/>

⁴ Court trial of Volodya Avetisyan, http://datalex.am/dl_case_view_page.php?caseType=1&courtID=0&caseID=14918173765708800

⁵ There is no victim in freedom fighter Volodya Avetisyan's case, <http://www.lrahos.com/ազատամարտիկ-վոլոդյա-ավետիսյանի-գործ-2/>

⁶ Armenian Opposition Parties Declare Shant Harutyunyan and Friends "Political Prisoners", Hetq, October 20, 2014 <http://hetq.am/eng/news/56956/armenian-opposition-parties-declare-shant-harutyunyan-and-friends-political-prisoners.html>

⁷ Armenian Court Sentences Vardan Petrosyan to Five Years, Hetq, January 29, 2015 <http://hetq.am/eng/news/58322/armenian-court-sentences-wardan-petrosyan-to-five-years.html>

Hayk Kyureghyan, another political prisoner who, as a sign of protests, shot at a police officer with an air pistol near the court where the case of Shant Harutyunyan and friends was to be heard, was sentenced to 9 years in prison⁸. While no officer was hurt by his actions, Kyureghyan was severely beaten by the police immediately after he was handcuffed.⁹ The case initiated by the Special Investigation Service on the allegations of ill-treatment was closed without any consequences and is being appealed.¹⁰

The members of "Founding Parliament"(FP) (previously known as "Pre-Parliament" (PP) and the "Centennial without the Regime" movement (Movement) have been subjected to persecutions often by violent means, including by burning of cars belonging to them as well as beating and knife stabbing. Although criminal proceedings have been initiated in these cases, but no perpetrators have been found and punished. These acts of violence against the members of the Movement reached their peak on January 31, 2015, when uniformed police attacked the peaceful auto rally of the Movement in Berdzor, subjecting several activists to beating and severely damaging 20 automobiles belonging to them.

On April 7, 2015 ten residences and five offices associated with the Movement and its leaders were searched by units of the National Security Service and Special Investigative Division. Varuzhan Avetisyan, Pavel Manukyan, Gevorg Safaryan, Zhirayr Sefilyan and Garegin Chugaszyan were charged under Article 35-225(1) of the RA Criminal Code (preparing a crime; organizing mass disorders). Aram Hakobyan was charged under Article 235 of the RA Criminal Code (illegal keeping of weapons, ammunition).

On April 9-10, a 2-month detention was assigned against Varuzhan Avetisyan, Pavel Manukyan, Gevorg Safaryan, Zhirayr Sefilyan and Garegin Chugaszyan. Zhirayr Sefilyan, Varuzhan Avetisyan and Pavel Manukyan were transported to the 'Vardashen' penitentiary, and Garegin Chugaszyan and Gevorg Safaryan – to the 'Nubarashen' penitentiary. As for Aram Hakobyan, Founding Parliament Member, bail of 500,000 AMD was applied as a preventive measure instead of detention, and he was released on bail.

The RA Investigation Committee issued a statement reading that the actions scheduled by the Founding Parliament during the public events of the Armenian Genocide victims commemoration day contained the features of getting ready for an alleged crime of public disorders under the RA Criminal Code, and therefore the RA Investigation Committee Main Department for High-Profile Cases instigated a criminal case under Articles 35-225, RA Criminal Code. In its statement of March 18, the Founding Parliament had mentioned that on the day of Commemoration of the Armenian Genocide, April 24, the "Centennial without regime movement" will not take any steps that might undermine the planned actions scheduled by the program of the day. The movement has taken and will always take actions that comply with the law, Constitution and democracy. These arrests and the subsequent detention were unlawful since they were based only on suspicion, which was not substantiated by any credible evidence.

In the last years, protection of human rights and fundamental freedoms is rapidly becoming more difficult with space for human rights defender organizations and individual activist constantly shrinking with legislative amendments and punitive actions of the authorities.

The particular rise in violations of the right to freedom of peaceful assembly and freedom of expression, the use of justice system to harshly suppress any protest that would attempt to go further than an apolitical and quiet demonstration, show that the authorities have employed an openly punitive stance against any dissent.

⁸ Yerevan Court Sentences Hayk Kyureghyan to Nine Years for Shooting Air Pistol, Hetq, September 15, 2015, <http://hetq.am/eng/news/62614/yerevan-court-sentences-hayk-kyureghyan-to-nine-years-for-shooting-air-pistol.html>

⁹ Hayk Kyureghyan Tells Lawyer How He was Beaten in Police Custody: Haykakan Zhamanak, Epress, JJuly 4, 2014 <http://www.epress.am/en/2014/07/04/hayk-kyureghyan-tells-lawyer-how-he-was-beaten-in-police-custody-haykakan-zhamanak.html>

¹⁰ Policemen had beaten Hayk in the Police Car and in the Police Department: the Case has not yet been initiated, Iravaban, March 1, 2015, <http://iravaban.net/en/79218.html>