

**Name:** Helsinki Citizens' Assembly Vanadzor (HCA Vanadzor)

**Country:** Armenia

**Date of submission:** 15/06/2012

**Questionnaire on the use of legislation, including criminal legislation, to regulate the activities and work of human rights defenders**

It would be greatly appreciated if responses were brief. They may be submitted in bullet-points if preferred.

For non-governmental organizations, should they wish, their identity will remain confidential (only the country where they operate will be disclosed). Furthermore, they need only answer questions which are relevant to them, and may share information about defenders other than themselves.

1.	<p>a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.</p> <p><i>There is no specific law or a legal act in the Republic of Armenia to encourage or to protect the activities of human rights defenders, there is only the the Law of the Republic of Armenia on the Human Rights Defender (the Ombudsman) and the Law of the Republic of Armenia on Public Organizations, which regulates the issues of establishment, structure and accountability of non-governmental organizations to state agencies. However this law does not have any special provisions for independent human rights defenders.</i></p> <p>b) Please indicate how these laws and regulations are in line with international human rights standards, including, but not limited to, the Declaration on Human Rights Defenders.</p> <p><i>N/A</i></p> <p>c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work.</p> <p><i>There are no legal or administrative safeguards. All issues they are regulated by the Criminal Procedure Code, Criminal Code, Administrative Code, like for all other citizens. By the way, there is the Law on the Activity of Mass Media which stipulates the rights and responsibilities of reporters, and the Criminal Code prescribes punishment for obstructing the work of journalists, but there is no such norm for human rights defenders.</i></p>
2.	<p>a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.</p> <p><i>There are virtually no measures taken to ensure that human rights defenders are not restricted by national security-related laws. In fact Article 226 of the RA Criminal Code (cited below) is often used by various officials to threaten human rights defenders article has not yet been used against human rights defenders, for the reason that their activity "distorts the state reputation and does not bring any good". There are articles periodically published in the media, demanding to</i></p>

launch a criminal case against human rights defenders for damaging the reputation of the state, This concerns especially those human rights defenders, who deal with the issues of religious or sexual minorities and security-related issues, such as the situation in the armed forces.

\*“Article 226 of the RA Criminal Code. Inciting national, racial or religious hatred.

1. Actions aimed at the incitement of national, racial or religious hatred, at racial superiority or humiliation of national dignity, are punished with a fine in the amount of 200 to 500 minimal salaries, or with correctional labor for up to 2 years, or with imprisonment for the term of 2-4 years.

2. The actions envisaged in part 1 of this Article committed:

1) publicly or by mass media, with violence or threat of violence;

2) by abuse of official position;

3) by an organized group, are punished with imprisonment for the term of 3 to 6 years.”

Most recently the article was used against a citizen of Armenia, who obtained books entitled “Armenian Terrorism” and tried to sell them in the market. The verdict of 4 years of imprisonment is currently being appealed.

Very often the causes which human rights defenders advocate for will be represented by the government and its media, as harmful for the Armenian national security and national identity, and will make the activists vulnerable to attacks both by the government and some organized nationalistic groups. Most recently, there were attacks on the head of the Caucasus Centre for Peace Making Initiatives, Giorgi Vanyan, for organizing an Azeri film festival and on Helsinki Citizens’ Assembly – Vanadzor and Asparez Journalists’ Club in Gyumri for providing their premises for screening the Azeri films.<sup>1</sup>

Another attack took place in May 2012 and targeted a gay-friendly bar in Yerevan.<sup>2</sup> In both cases the attacks continued verbally on those, who condemned the actions, and the attacks were labeled as patriotic and aimed at preserving the Armenian Identity, while human rights defenders were labeled as traitors. This criticism against human rights defenders generated or was directly supported by the representatives of the authorities.

b) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.

The only measure taken in advancement of freedom of expression was the decriminalization of the Defamation Law; however the extremely high administrative penalties are frequently used by representatives of the authorities to intimidate media outlets and human rights defenders and to impose self-censorship. The number of lawsuits filed against individual journalists, media companies, and human rights defenders shows that the decriminalization of the Law on Defamation did not make freedom of expression and opinion less vulnerable. It also shows that while human rights defenders can sue someone for damaging their reputation and will demand a symbolic amount<sup>3</sup>. The representatives of the authorities will

<sup>1</sup> <http://www.amnesty.org/en/library/info/EUR54/001/2012/en>

<sup>2</sup> <http://araratmagazine.org/2012/05/arson-attack-on-gay-friendly-bar-in-yerevan-raises-fears-of-nationalist-extremism/>

<sup>3</sup> <http://hcav.am/en/events/hca-vanadzor-vs-vladimir-gasparyan-was-taken-into-proceedings/>

	<p><i>demand the maximum amount, explicitly showing that their aim is not only the public retraction of defaming information but enormous financial sanctions on respondent, which could lead to bankruptcy.</i><sup>4</sup></p>
3.	<p>a) Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.</p> <p><i>Justice is selective in Armenia and the Judicial Power is fully dependent upon the Executive Power, thus application of law is not unequivocal. An outcome of it was the one-day strike of advocates, against the arbitrariness of the Court of Cassation.</i></p> <p>b) Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.</p> <p><i>There are no measures taken to ensure that human rights defenders are not discriminated against. Usually the only effective measure is the pressure from the international community, which happened in the case of Mariam Sukhudyán, an environmental activist, who was released from punishment only upon the pressure from international organizations</i></p>
4.	<p>a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organisations. Please cite the names of any such laws or regulations in full.</p> <p><i>The Law of the Republic of Armenia on public organizations</i></p> <p>b) Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.</p> <p><i>There are no problems with forming associations or NGOs both in practice and in law. Although, in August 2010, the RA Government formed a supervising body for monitoring the compliance of the activities of non-commercial legal entities (NGOs, religious organizations, foundations, political parties, trade unions) to the RA Legislation. However there is no further information about the creation and activity of this entity.</i></p>
5.	<p>a) Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?</p> <p><i>There are no direct legal norms for obstructing the activity of unregistered entities. But there are some restrictions in the legislation, in the administrative and civil codes, as well as the criminal procedure code, which restricts the possibility of representing citizens' rights in court. Until most recently, any citizen could represent another citizen in court. And it was a useful mechanism for human rights defenders to be involved in protecting the rights of citizens.</i></p> <p>b) If such a legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.</p> <p><i>As mentioned above, the most recent challenge is the restriction in the RA Criminal Procedure Code, according to which only legal attorneys can</i></p>

<sup>4</sup> <http://hetq.am/eng/print/12788/>

	<p><i>represent citizens.</i></p> <p><i>Another challenge is that when citizens' rights are violated and the human rights activists try to restore them, the authorities may not only force the victim to refrain from the complain, but also try to intimidate the human rights defenders no to move on with the case, threatening to launch a case on false statement or even applying pressure and threats against the citizen to extort testimony.</i></p>
6.	<p>Please indicate the measures taken, if any, to ensure that internal security and official secret-related laws are not used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observance of human rights standards.</p> <p><i>Articles 306 and 307(cited below) of the RA Criminal Code prescribe punishment for releasing state secrets. The issue with the state and official secrets is that the lists of classified information are defined by the heads of the specific departments/ministries. And these lists are also classified. This means that when requesting information we cannot know whether the requested information is classified or not. This norm was found unconstitutional by Decision 1010 of the Constitutoional Court, but it has not been applied yet.</i></p> <p><b>* "Article 306. Divulging a state secret.</b></p> <p><i>1. Willful publicizing of a state secret by the person who was entitled to access to state secrets and who was entrusted with secrets, or learnt due to service, if elements of high treason are absent, is punished with arrest for the term of 2-3 months, or with imprisonment for the term of up to 4 years, with or without deprivation of the right to hold certain posts or practice certain activities for up to 3 years.</i></p> <p><i>2. The same action committed negligently, is punished with arrest for up to 2 months, imprisonment for the term of up to 2 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.</i></p> <p><i>3. The acts envisaged in part 1 or 2 of this Article, that negligently caused grave consequences, are punished with imprisonment for 3-7 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.</i></p> <p><b>Article 307. Breach of rules for handling documents containing state secrets or computer data.</b></p> <p><i>1. Breach of rules for handling documents containing state secrets or computer data, as well as, other items containing state secrets, by the person who must observe these rules, if this negligently caused the loss of these documents or items or computer data, is punished with correctional labor for the term of up to 1 year, or with arrest for the term of up to 2 months, or imprisonment for the term of up to 1 year, with or without deprivation of the right to hold certain posts or practice certain activities for up to 2 years.</i></p> <p><i>2. The same act which negligently caused grave consequences, is punished with correctional labor for the term of up to 2 years, or with arrest for 2-3 months, or imprisonment for the term of up to 3 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years."</i></p>
7.	<p>a) Please indicate the measures taken, if any, to avoid the use of defamation, slander or blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.</p> <p><i>As mentioned above the only measure taken in the decriminalization of the Defamation Law was the only measure taken to protect from restriction of freedom of opinion and expression; however the way it is applied, shows that the decriminalization of the Law on Defamation did not increase freedom of</i></p>

	<p><i>expression and opinion but made human rights defenders and media more vulnerable to administrative sanctions.</i></p> <p>b) How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?</p> <p><i>The administrative sanctions for defamation are inadequate and serve a punishing and restraining measure. The amount is up to 2 million Armenian Drams (\$8000) which is over 17 times the average salary and over 60 times the minimum wage.</i></p> <p><i>Considering that the Judicial Power does not provide fair trial and generally serves the Executive Power, there is a real threat that the citizens criticizing the government and its activities will be silenced with these disproportional punishing measures.</i></p>
8.	<p>Please indicate if any other type of legislation is used to regulate the activities of human rights defenders in your country and how the application of the legislation mentioned affects the activities of human rights defenders. Please cite the names of any such legislation in full.</p> <p><i>The Law on Public Organizations, the Law on charitable foundations, the Law on Freedom of Information, the Law on State and Official Secrets. There are no special legal acts or laws specifically for human rights defenders, except for the Law on the Ombudsman.</i></p> <p><i>The human rights defenders are able to create public organizations in order to conduct human rights protection activity, but the scope and field of activity of the organization does not provide for any specific rights or responsibilities.</i></p> <p><i>The human rights defenders are able to use the law on the freedom of information to request information on behalf of their beneficiaries and themselves, however the law on state secrets is often recalled for denying this information.</i></p>