

The views and opinions stated in this report do not necessarily reflect the views of the organizers of the workshop. This paper is not, and does not purport to be, fully exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. The statements in the report do not represent an opinion of the Austrian Red Cross on the political situation in the country.

Armenia

Country Report

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Republic of Armenia¹

Location: South Caucasus, bordering Azerbaijan, Turkey and Georgia

Area: 29,740 sq km (after the Armenian exclave Artsvashen was taken by Azerbaijan in 1992)

Capital: Yerevan

Independence: May 30, 1918 (First Armenian Republic until December 2, 1920);
September 21, 1991 (from Soviet Union)

Constitution: July 5, 1995

Population (2002 est.): 3,2 millions. 120,000 persons belong to ethnic minorities

Ethnic composition of population²:

Ethnic group:	1.1.1979	12.1.1989	1.11.1997
Entire population	3.031.000	3.283.000	3.780.700 (1)
Armenians	88,6% (1.1.1972)	93,3 % (2)	96%
Azeri (3)	161000 (= 5,3 %)	-----	-----
Kurds and Yezidi (4)	51000	56100	60000*
Russians (5)	70000 (= 2,3 %)	51600	ca. 50000* (mid-94)
Assyrians		5900 (7500-8000*)	6000*
Percentage of minorities in all	10,3 %	148000 (6,7%)	1994: 130000 (4%)

(1) Figure includes the 800,000 – 1,000,000 migrants or expatriates. In fact the Republic's population figure of 1997 probably equalled the figure of 1979.

(2) As of 01.08.1989; deviant figures for 1989: 89,7% / 95,66% Armenians

(3) As a reaction to the forced displacement of Armenians from Azerbaijan, Azeris were either expelled or started to emigrate from Armenia in November 1988, as did about 5,000 Muslim Kurds.

(4) Soviet statistics did not differentiate between Muslim and Yezidi Kurds, a majority of whom consider themselves as a separate ethnic group

(5) Without the military troops stationed in Armenia

Data given by speakers of the ethnic groups (as of 1994, 1995)

Languages: Armenian (language of Indo-European origin; official language and language of state) 97%; 1,5% Kurdish (Zaza); Russian 1,5% as native speakers, 70% as second or third foreign language

Religions: App. 98% Christians, among them app. 94% members of the Armenian Apostolic Church, others: Roman Catholic, Evangelical Churches, Russian Orthodox; app. 2% Yezidi and Jews

Literacy: total population: 99%; male: 99%; female: 98% (1989 est.)

Suffrage: 18 years old; universal

Head of State

President Robert KOCHARIAN (b. 1954) elected 30 March 1998 by popular vote for a five-year term (percent of vote: 59,5%) – next elections: March 2003

Head of government: Prime Minister Andranik MARKARYAN (since 12 May 2000) appointed by the president

¹ Sources: CIA World Fact Book 2001; Atlopedia online; USDOS Background Note Armenia, November 2001

² Information as provided by Dr. Tessa Hofmann, Institute for Eastern Europe, Freie Universität Berlin; also see Library of Congress, Country Study Armenia, Ch. 'Nagorno Karabakh and Independence', Ethnic Minorities', Data as of March 1994

Political system

Executive branch: president (head of state) with wider powers relative to other branches; prime minister (head of cabinet; appointed by the president); Council of Ministers (cabinet), nominated by the prime minister and approved by the president

Legislative branch: unicameral National Assembly (parliament) or Azgayin Joghov (131 seats; members serve four-year terms)

Judicial: Constitutional Court

Administrative subdivisions: 11 marzer (provinces), including the city of Yerevan, which has the status of a marz.³

Armenian leaders remain preoccupied by the long conflict with Azerbaijan over Nagorno Karabakh, a primarily Armenian-populated exclave, assigned to Soviet Azerbaijan in the early 1920s by Moscow. In mid-February 1988, the executive body of Nagorno Karabakh applied legally for the unification with the Soviet Republic of Armenia, but was declined both by the central Soviet government and the Supreme Council of Azerbaijan. After Azerbaijan left the Soviet Union officially in August 1991, Nagorno Karabakh declared itself independent and held a national referendum in December 1991. Azerbaijan then attempted in vain to re-integrate Karabakh in an officially undeclared war (until mid-May 1994). Since then, a Russia-brokered ceasefire is more or less maintained. Although internationally not yet recognized, Karabakh has won a de facto statehood, holds elections, issues its own laws etc. It also occupies the neighbouring, previously Soviet Azerbaijani districts. The "ceasefire line" is monitored by the OSCE, which otherwise failed to broker a political settlement between Nagorno Karabakh and Azerbaijan.⁴

There are 94 political parties registered by Armenian authorities. These are some of the parliamentary and major non-parliamentary parties:

ACP or **HKK** Hayastani Kommunistakan Kusaktsutiun (Communist Party of Armenia)
[Vladimir DARBINYAN]

Agro-Industrial Union (formerly Stability Group) [Vartan AYZAZIAN]

ANM or **HSHS** Hay Hamazgayin Sharjum or **PANM** Pan-Armenian National Movement
[Alexander ARZUMANIAN]

AR (Arakelutun) or **MP** Mission Party [Artush PAPOYAN]
Armenia Party [Myasnik MALKHASYAN]

Armenian Monarchists Party [Tigran PETROSSIAN]

Armenian National Democratic Party – 21st Century [David SHAKHNAZARIAN]

ARP Azatakan Ramkavar Kusaktsutiun (Liberal Democratic Party) – not to be confused with **RAPA**

Ayots Tun [Vardan PETROSSIAN]

Azatutyun [Hrant BARGRATIAN]

AZHM or **NDU** National Democratic Union [Vazgen MANUKIAN]

CDU Christian Democratic Union [Azat ARSHAKIAN]

DASHNAK / **Dashnaktsutiun** or **ARF** (Armenian Revolutionary Federation) [Hrant MARKARYAN]

DPA Democratic Party of Armenia [Aram SARGSYAN]

Haykandoukht Women's Party [Armenouhi KAZARIAN]

HHK Hayastani Hanrapetakan Kusaktsutiun or **RP** Republican Party of Armenia
[Andranik MARKARIAN]

³ USDOS Background Note Armenia, November 2001

⁴ Information as provided by Dr. Tessa Hofmann, Insitute for Eastern Europe, Freie Universität Berlin; also see Library of Congress, Country Study Armenia, Ch. 'Nagorno Karabakh and Independence', Ethnic Minorities', Data as of March 1994

HZhK Hayastani Jorovrdakan Kusaksutiun or **PP** People's Party of Armenia [Stepan DEMIRCHIAN]
 Liberal Democratic Party [Vigen KHACHATRYAN]
M (Miasnutiun) or **UA** Unity Alliance

- **PP** People's Party
- **RP** Republican Party

NDP National Democratic Party [Shavarsh KOCHARYAN] broke away from NDU
NCP National Security Party [Garnik ISAGULIAN, Igor MURADIAN]
Nor Ughi New Way Party [Ashot BLEYAN]
 New Path Party [Ashot BLEYAN]
NSDU or **SDU** or **UNSD** (Union for National Self Determination) [Paruyr HAYRIKIAN]
OY (Orinats Yerkir) = Country of Law Party [Artur BAGHDASARIAN]
RAPA Ramkavar Azatakan Kusaksutiun (Democratic Liberal Party) [Ruben MIRZAKHANIAN]
SDHP Social Democratic Hnchak Party [Ernst SOGOMONYAN]
SICU Scientific-Industrial Union [Alexander AGALVALIAN]
SWM Shamiram Women's Movement [Shogher MATEVOSYAN]
 UI Intellectual Armenia (Hovhannes TOKMAJIAN)
UND Union of National Democrats [Arshak SADOYAN] broke away from NDU
URF Union of Right Forces (includes: "Azatutyun", 21st Century Armenian National Democratic Party, ANM and Liberal-Democratic Party)
USF Union of Socialist Forces [Ashot MANUCHARIAN]

Parliamentary election results (elections last held 30 May 1999, next to be held in the spring of 2003) – Please note that reports contain differing data and that seats by party change frequently.

Seats by party: M 29, HHK 23, ACP 11, DASHNAK 9, AZHM 6, IM 6, OY 6, HZhK 3, HSH 1, DPA 1, AR 1, NCP 1, independent 32, invalid 2⁵

Seats by party: Miasnutiun 45, Communist Party of Armenia 8, DASHNAK 10, AZHM (NDU) 4, Iravunk & Miabanutyun (the Right & Unity - Artashes GEGHAMYAN) 7, OY 5, Agro-Industrial People's Union 12, "Hayastan" (Armenia) - 12, "People's Deputy" 16, independent 12⁶

Seats by party: ACP 10, AZHM 6, DASHNAK 9, M, 57, SDHP 2⁷

Social and economic data⁸

Life expectancy: 70.5 years men, 74.5 years women
 Infant mortality: 15.6 per 1,000 live births
 Unemployment rate: official 2001 rate 9,8 – 11,7% (depending on source), unofficial estimates 25-40% (incl. "hidden unemployment")⁹
 Population below poverty line: 55% (2001 est.)
 Inflation rate (consumer prices): 0.4% (2001)
 GDP per capita: \$ 503.6 (2001)
 Imports: --\$966.2 million (2001)
 Exports: --\$446.8 million (2001)
 Currency: 1 Dram = 100 luma

⁵ The Political Reference Almanac, April 2001; Electionworld.org, March 2002

⁶ Data as provided by Mr Ayaki Ito, Protection Officer, UNHCR BO Yerevan

⁷ Data as provided by Dr. Tessa Hofmann, Institute for Eastern Europe, Freie Universität Berlin

⁸ Data as provided by Mr Ayaki Ito except where indicated differently

⁹ Reuters Foundation, Alertnet 2001 (*Source: UNDP Human Development Report 2000*); CIA World Fact Book 2001; USDOS Background Note Armenia, November 2001; Deutsch-Armenische Gesellschaft, Bericht zur Lage in Armenien, Dezember 2001; data provided by Dr. Tessa Hofmann

ARMENIA

Country Report

This report is based on the notes and transcripts of the presentations given by Dr. Gerayer Koutcharian, Chairperson of the Coordinating Group Armenia of the Society for Threatened Peoples, and Ayaki Ito, Protection Officer, UNHCR BO Yerevan, on 29 June 2002

I. Background and human rights situation

Presentation Dr. Gerayer Koutcharian, comments Ayaki Ito

I.1. Introductory remarks

AI:

Historically, the South Caucasus region, including Armenia, Georgia and Azerbaijan has been a very turbulent region and many issues are highly emotionalized. As a consequence, most people, depending on which ethnic or national group they belong to, take very subjective views on historical and current political developments. Therefore, persons involved in refugee status determination (RSD) have to be very careful what kind of sources and statistics they are using and to consult as many sources as possible in order to get a balanced view on the situation.

I.2. Historical background¹

GK:

In order to understand Armenia, its current problems and the way it deals with these problems, it is important to consider historical developments that fundamentally shaped Armenia's past. However,

"History is a politically sensitive subject. [...] For that reason any attempt to offer a dispassionate record of historical facts is bound to be challenged by either party to the dispute, or both.

In addition, in the Caucasus, much like in the Balkans, recollections of past events (some going back centuries in time) are still likely to have an immediate impact on public sentiments and direct relevance for current political decision making."²

¹ Chapter I.2. is based on the presentation by Dr. Koutcharian and the Library of Congress - Country Study Armenia. The statements do not represent an official opinion by UNHCR, the Austrian Red Cross or ACCORD on the history of the South Caucasus.

² Caucasian Regional Studies, Vol. 5/Issue 1&2: Sergiu Celac, Romanian Ambassador: The Nagorno Karabakh Question: An Update, 20 May 2000
<http://poli.vub.ac.be/publi/crs/eng/Vol5/nkquestion.htm>

One important factor is the early Christianization of Armenia which has been influencing Armenian culture and society for more than 1,700 years. Other crucial developments in Armenian history include major losses of territory in the 19th and early 20th centuries as well as genocide³ and expulsion experienced during the years 1915 to 1922.

In 1922 Armenia was combined with Azerbaijan and Georgia to form the Transcaucasian Soviet Federated Socialist Republic (TSFSR), which was a single republic of the Soviet Union until the federation was dissolved and each part given republic status in 1936.⁴

As in the rest of Soviet Union, massive persecutions of clerics and religious believers took place in the 1920s, followed by purges of alleged nationalists in the years 1936 until 1939. During World War II, Armenia lost a further 250.000 inhabitants. After the death of Stalin (March 1963), and in particular from 1965 onwards, the articulation of moderate nationalism were viewed with more tolerance although overt political opposition remained tightly restricted. For instance, a memorial for the victims of the 1915 genocide was erected in 1967 in Yerevan in an attempt of the Soviet leadership to appease the Armenia population, after a demonstration of several hundred-thousand Armenians, including high ranking Communist Party representatives was held on the occasion of the 50th anniversary of the Genocide. This caused considerable Turkish-Soviet friction, which resulted in the discharge of the Party's leadership in Armenia in order to reconcile to Turkey. In subsequent years, statues of Armenian national heroes were erected, including one of Saint Vardan, the fifth-century defender of Armenian Christianity. Economically, Armenia continued its transformation from a basically agrarian nation to an industrial, urban society. Yet, as the ruling elite remained largely unchanged, corruption and favoritism spread, and black markets and bribery flourished.⁵

In the 1980s a broad-based national-democratic movement emerged before the background of Mikhail Gorbachev's reform policies and the dissolution of the Soviet state. After a referendum in September 1991 this movement achieved sovereignty for Armenia. Armenia's first democratically elected president, Levon Ter-Petrosian was re-elected under much disputed circumstances in 1996 but had to resign in January 1998, following public demonstrations against his policies on Nagorno Karabakh.⁶ He was replaced by Prime Minister Robert Kocharian, who was elected President in March 1998 and is likely to be re-elected in the upcoming elections in February 2003.

³ "The United Nations Committee on Human Rights (1985), the European Parliament (1987) and the French Parliament (the Senate on 8 November 2000, the National Assembly on 18 January 2001) have adopted resolutions on the Armenian genocide."

European Parliament: Note On The Political And Economic Situation In Turkey And Its Relations With The European Union (PE 318.202), 30 May 2002, p. 18

<http://www.europarl.eu.int/meetdocs/delegations/turk/20020613/470533EN.pdf>

please also see: European Parliament: European Parliament resolution on the communication from the Commission to the Council and the European Parliament on the European Union's relations with the South Caucasus (P5_TAPROV(2002)0085), 28 February 2002, lit. 19

<http://www.europarl.eu.int/meetdocs/delegations/caus/20020327/Gahrton%20resolutionen%20en.pdf>

⁴ Library of Congress: Country Study Armenia: Into the Soviet Union, Data as of March 1994

<http://lcweb2.loc.gov/frd/cs/amtoc.html>

⁵ Library of Congress: Country Study Armenia: Communism after Stalin, Data as of March 1994

<http://lcweb2.loc.gov/frd/cs/amtoc.html>

⁶ This report uses the most common name for the region, which is of partially Russian (*nagorny* = mountainous) and Turkish (*karabakh* = black garden) origin. The Armenian name for Karabakh is *Artsakh*, the Azeri name *Gharabagh*. Nagorno Karabakh is also sometimes referred to as the *Republic of Mountainous Karabakh*.

I.3. Politics

Political System

AI:

In general, the workings of Armenian politics are very complicated and difficult to explain. Nevertheless, one can observe that after the coup of 27 October 1999, which left two of the most powerful politicians, then-prime minister Vazgen Sargsian and then-speaker of the National Assembly Karen Demirchian, dead, the authority and power of Kocharian and the presidency has been paramount. Since the October 1999 events, the overall political situation has stabilized.

As none of the political parties represented in parliament has an absolute majority or anything similar to a majority, and the party system in Armenia is very fragmented, the authority indeed lies with the president and not with any of the 94 political parties officially registered in Armenia. Therefore, many believe that Robert Kocharian will be re-elected in the upcoming presidential elections in February 2003. Likewise, the so-called "power ministries" – Ministry of Defence, Ministry of Interior and Ministry of National Security - wield great influence over the political scene while the prime minister has considerably less political clout.

As a consequence, there is no effective opposition in the Armenian parliament. Moreover, it is difficult to discern political agenda of the opposition apart from their anti-presidential stance. It is often observed that both opposition and government have a similar agenda in the form of their aspiration for positions of power. Thus, although Armenia has been independent for ten years now, democratic structures have not yet solidified.

Legally, both the government and the legislature have a right to initiate a law. But in practice, in most cases the government prepares draft laws. Typically, one of the ministries works out a draft that gets circulated within the government and, after approval by the cabinet, is forwarded to the National Assembly. The National Assembly normally has at least two readings, whereby the second reading means the adoption of the law.

Domestic politics in Armenia cannot be seen in isolation from foreign and international politics, especially in light of the closure of the borders with Azerbaijan and Turkey and resultant economic impact. Armenia has to carefully balance between the interest of its partners, Russia and Iran, on the one hand and the United States on the other. Iran and the Russian Federation of course are not interested in the United States wielding too much influence in the Caucasus, if indirectly via the Turkish government.

Political Parties

AI:

The political alignments in Armenia are very confusing and difficult to understand. Certainly, the clear dichotomy between the ruling party or parties and the opposition, as suggested by the model of Western democracy, may not be applicable for Armenia. Of

course, there is a president, pro-president parties, and pro-president politicians. Yet, people in certain parties also move their allegiances, depending on where the political gravity is, or sometimes depending on where the money is.

There are 94 political parties registered with the authorities, but only parties with at least 20,000 members may participate in nationwide elections and are thus represented in the National Assembly. Within the National Assembly you have different factions and groups. The factions are formed by the deputies, who are elected in proportional representation, whereby candidates are listed on their respective party ballots and then win seats according to the proportion of votes for their parties. In addition, some seats are elected by direct voting, based on a simple majority vote. The deputies elected based on majority voting can either join a faction with the approval of that faction or form their own group themselves.

MS:

It is important to note that, looking at the results of the last elections, like for all other statistics in Armenia, the numbers maybe not always be correct or reflect reality. Furthermore, the numbers are constantly shifting as party affiliations of parliament deputies are shifting. For instance, the election results taken as a basis for the country profile prepared by ACCORD were compiled from a number of sources that provided quite different figures regarding the percentage of votes received by a party and in particular the number of seats a given party was assigned. Although the statistics from December 2001 that was chosen for the COI Seminar country profile seems to be reliable, the numbers it provides may change and should therefore not be taken too seriously. On a more general level, this also means that the question if there are six or seven members of parliament of a particular party is probably not the most relevant element in establishing whether a party is powerful or wields influence.

AI:

Before the violent incident in the Armenian parliament on 27 October 1999, the Unity Block had been quite powerful, due to the influence of its two key party leaders, then-prime minister Vazgen Sargsian and Karen Demirchian, then-speaker of the National Assembly and former first secretary of the Armenian Communist Party. Both were killed on 27 October and subsequently the Republican Party, created by Sargsian, and the People's Party, created by Demirchian, began to fall apart. They had formed the Unity Block and had been supporting the government. The Orinats Yerkir, the Party of Law, is also quite close to the government and the president.

After the 27 October event, the Unity Block de facto disintegrated and some of the Unity Block members became quite hostile to the President, as there was suspicion amongst the leadership of these parties that the attack was orchestrated by the president himself. In addition, in particular the followers of Levon Ter-Petrosian tried to establish the responsibility of Robert Kocharian for these killings.

There is, of course, no proof for these suspicions and it is very difficult to determine who was really behind the assassination of seven leading Armenian politicians, but almost by default, after Vazgen Sargsian's death President Kocharian became the single most powerful politician in Armenia. The sons as well as supporters of the assassinated former prime minister and former president of the National Assembly were rather offended by

the way the criminal investigations were carried out in the aftermath of the event. Some of them subsequently left the People's Party, and some also left the Republican Party.

GK:

It is difficult to establish whether family members of people involved in the attack of October 1999 have to face difficulties, as the investigations and the trial have just been very intransparent. Certainly, some people had initially been arrested but later had to be released, because in fact no connection to the assassinations could be proven. Concerning an asylum application, e.g. on grounds that a person claims to have been a bodyguard of Demirchian and evidence supports the claim that the IC has indeed worked as a bodyguard, it cannot be ruled out that the person would not have had any problems.

Yet, it is important to understand that the HSh (Pan-Armenian National Movement), which is still very much structured according to the nomenklatura⁷, and having its own people in the ministries, is capable of exerting power and has a certain interest in blaming this attack on the Kocharian presidency.

The Armenian Revolutionary Federation, or Dashnaktsutiun (short: Dashnak), has a strong link with the Diaspora and is quite powerful. It is the traditional socialist party in Armenia and a member to the Socialist International. Under former President Ter-Petrosian, the Dashnak party was illegalized and its activities banned, activists were arrested at meetings and rallies and the leader of the party was expelled from Armenia. Many other parties were, like the Dashnak party, illegal and members of these parties were arrested, including parties that were actively involved in the struggle for the autonomy of Nagorno Karabakh. In 1998, when Robert Kocharian was elected president, the Dashnak party was reinstated and is now actively involved in politics again. Virtually all observers agree that there are no more political prisoners in Armenia. As concerns the Dashnak party's position, while not being outright supporters of Kocharian, they have in general been supporting the Kocharian government and the president. Still, they have from time to time been voicing criticism on foreign as well as domestic policy matters. Furthermore, the Dashnak party runs two newspapers, "Yerkir" ("Country") and Hayots Ashkhar ("Armenian Land"/"World of the Armenians"), and is again represented in the Armenian parliament, after securing roughly 8% of the votes and 9 corresponding National Assembly seats in the elections in May 1999.

In terms of the traditional role of the opposition, the National Democratic Union (NDU), has persistently been quite vocal against Kocharian's government. But other parties, even the Communists, whilst part of the opposition, are sometimes supporting Kocharian's issues, sometimes opposing them. Therefore, it is very difficult to determine who exactly is the opposition, and who is pro-government.

AI:

The Yerkrpah, the War Veterans Association, is not a real political party, but it contains cross-cutting segments of society from military officers to ordinary former soldiers, even important politicians. Recently, a general assembly of the War Veterans Association took

⁷ The term "nomenklatura" applies to the ruling cast or class or decisionmakers in previously Soviet society. In a broader sense, "nomenklatura" relates to the politically and economically influential strata in post-Soviet societies. It is only partly identical with the "old" nomenklatura of Soviet times.

place. Officially they declared that they are not a political movement, which means they are not supporting any political parties or movements. But they are quite influential and many important people are involved with them: generals as well as leading proponents of pro-government and opposition parties.

GK:

Although the Yerkrpah emphasizes that it is not a political party or movement it was somehow linked to the Pan-Armenian National Movement Party (HHS) that tried to blame Kocharian for the 27 October attack, and this is one of the reasons why the still pending trial against Nairi Hunanian and others had taken so long. This trial has been highly politicized, in particular in late 1999 and the first three months of 2000, when the military persecutor, the Ministry of Defence, high ranking representatives of Yerkrpah and HHS representatives tried to link the Hunanian case with president Kocharian and those close to him.

NGOs

AI/GK:

The NGO community is very open and very active in Armenia although they are sometimes left to their own devices and could certainly need more international support. The independent activities of the NGO community are quite impressive and they are a very good source of information. Overall, there are more than 2,500 NGOs registered in Armenia. That does not necessarily mean that all of them are active. In fact, most NGOs are dormant, but there are quite a number of very active human rights NGOs that UNHCR works very closely with.

For the time being, NGOs do not face many difficulties with the authorities and they are quite vocal about certain government policies. Yet, there are not many NGOs representing causes of Azeri minorities. Nobody talks much about the situation of Azeri minorities in Armenia and those representing the interests of Azeris, if any, are not very visible. Of course, this may be related to the fact that the number of Azeris is very small but also that those Azeris who stayed in Armenia prefer to keep a low profile. However, some NGOs are quite vocal about defending the rights of Jehovah's Witnesses and homosexuals. They seem to have no problems with the authorities and are relatively free in operating in Armenia.

I.4. Economic and Social Conditions

Demographics⁸

GK:

Contemporary Armenia covers a small territory of 29,740 square kilometers which is situated between the Caucasus and Asia Minor. Two thirds of the territory are mountainous and cannot be cultivated. Official statistics for the year 2002 mention a population of 3.2 millions.

⁸ ArmeniaWeek: Slow Count: A year later, no results on Armenia's census, 29 November 2002
<http://www.armenianow.com/2002/november29/news/slowcount/>

Similar to other statistics relating to Armenia, it is very difficult to obtain reliable data on demographic developments. Ultimately, nobody can state with certainty how many people are currently residing in Armenia. The population figure most frequently quoted is 3.2 million people. However, the official statistic of April/May 2002, based on the preliminary results of the latest census, refers to a number of 3.4 million Armenians who are supposed to be registered in the country. Of those, 3 million people allegedly reside in the country, and 400,000 are outside the country. Other observers insist that even the figure of 3 million in the country is largely inflated and that there are only 2 or 2.5 million living in the country.

More specifically, 120,000 Armenians died in the earthquake of 7 December 1988 and during the armed conflict around Nagorno Karabakh in the years 1991 to 1994. There are even sources in Armenia that publicize that about 50% of Armenians have left the country. Overall, an estimated 8 to 8.5 million Armenians live all over the world, with the largest communities residing in the Russian Federation (more than 2 million since the early 1990ies) and the United States (1 million), followed by France (500,000).

Economy

GK:

For understanding the general situation in Armenia it is important to consider that after the break-up of Soviet Union, the economic situation had deteriorated dramatically. During the Soviet period, Armenia had generated 70 percent of its national income from industries that were dependent on the import of energy and raw materials from other Soviet republics into Armenia for processing. Afterwards, the products had to be transferred to other Soviet republics or abroad. After the dissolution of the U.S.S.R., trade relations with the other former Soviet republics deteriorated considerably and the supply of energy and raw materials dried up. Meanwhile most factories are either inoperative, completely outdated or neglected, or have been transferred to private ownership.

Moreover, in 1989 Azerbaijan imposed an economic blockade on Armenia and Nagorno Karabakh which has been supported by Turkey since 1993. In several of its resolutions the European Parliament called on Turkey to end the blockade but without a result so far. Turkey does not even allow humanitarian aid to be transported to Armenia via Turkish state territory. Until today Azerbaijan and Turkey have no diplomatic relations with Armenia.

One of the national factors very negatively affecting the Armenian economy is the fact that there is very little accountability on the part of the elected officials and politicians. Corruption is rampant. Foreign aid, whether given as a loan or as humanitarian aid, is normally not distributed in a fair way but often ends up in the pockets of certain government officials. Foreign investors are still reluctant to invest owing to concern about the uncertain legal conditions in Armenia. Likewise, this affects consumers, who have no guaranteed rights concerning e.g. the reliability of prices, the specification of goods and the origin of goods.

It is crucial to bear in mind that, in Armenia, the influence of an official or a post means much more than their nominal powers as provided for by the law would suggest.

Although the new government of Robert Kocharian is stable and although compared to previous years tensions between government and political parties have ceased, Kocharian has not yet been successful in ending corruption, clan dependency and nepotism, despite several new laws and regulations. The so-called nomenklatura of Soviet times persists and will persist until the day of a considerable improvement in economic and social conditions.

Social conditions and social security

GK:

Despite the fact that the economy has recovered somewhat in recent years and Armenia has achieved a growth of its GDP in 2001, the overall economic situation is still extremely dire. The official figure of unemployment is said to be 11,7% whereas the percentage of hidden unemployment is believed to be 12,7%. Female unemployment is as high as 63,8 %, but is surpassed by the 70% of unemployment among refugees from Azerbaijan, Georgia and other former Soviet republics. All in all, experts believe that the real average figure of unemployment is as high as 40 to 45%.⁹

Furthermore, being employed or not is meaningless in the Armenian reality, as many who are officially employed and work hard do not get their salaries on a regular basis, or with much delay or in some cases not at all. In particular those are affected who work in state hospitals or as teachers in public schools.

Since 1991, at least 800,000 persons have left the country. 90% of these emigrants work and live now in the Russian Federation. In Armenia, the average wages are 20 to 60 USD a month, whereas a family needs at least 200 USD per month in order to survive. 55% of the population is living under the absolute poverty line (according to the World Bank criteria), which means an income of less than 1 US-Dollar a day. These people are not in a position to secure a minimum for their existence, including health care and education. Although the inhabitants of Armenia have a legal right to health, many are not able to buy medicine. Some of the estimated 400,000 refugees from Azerbaijan, Georgia and other previous Soviet republics are even more seriously affected, with 14,500 families being homeless until today.

As a consequence, the people in general are losing hope in the future of the country which pushes many to seek better economic opportunities abroad. For instance, Armenians can travel without visa to Russia, and tend to do so in great numbers, looking for job and economic opportunities. But, as mentioned above, even the figure of 3 million people who supposedly reside in the country is rather overestimated. Poor economic conditions and a high unemployment rate, together with corruption, nepotism and the abuse of official powers are the main reason for continuing emigration. Furthermore, Armenians have had a long tradition of emigration and there is a huge Diaspora community spread out all over the world, which further adds to the ongoing migration trend.

⁹ Estimates of the real extent of unemployment in Armenia vary widely. Most observers state 30-40%, the German-Armenian society, in its Situation Report December 2001, even contends about 50% unemployment. (The report is accessible in German only at <http://www.deutsch-armenische-gesellschaft.de/dag/klar.htm>)

AI:

The extent of government assistance distributed to vulnerable families via the PAROS system varies from case to case, depending primarily on the size of the family. Benefits range from 5,000 Drams (less than USD 8) to - in rare cases - 20,000 Drams (USD 30) per family. However, as the public social security system is very costly and the state can hardly afford it, PAROS payment is often late and not sufficient to cover all needs of vulnerable families.

Health care

GK:

Although the citizens of Armenia have a right to basic health care, many cannot afford to buy medicine. In theory, there is medical insurance, but in practice the cost of medical treatment in a hospital can be quite high. More specifically, as no salaries are paid to hospital staff people who want to get treatment in hospitals usually have to pay a share of those salaries and also have to pay for the medicine. It is not easy to give an estimate of the costs, because these vary with the length of stay in the hospital as well as the kind of illness and required treatment, including surgery, a person may need. Yet, it is important to emphasize that indeed about 70 % of the population do not have access to health care, due to the high costs involved. Given the above-mentioned average salary of USD 20 – 60, the expenses for a very simple surgical treatment during a one-week stay in hospital of about 100 USD, would amount to two to five times a monthly salary. Additionally, some drugs or medicines are so expensive that people have to work for half a year in order to afford them.

There have been cases in German jurisprudence where Armenian asylum seekers with chronic illnesses were deemed non-returnable because of the high costs of medical treatment in Armenia. The reasoning is that if you cannot get necessary medical treatment it can constitute ill-treatment or cruel treatment. For instance, an individual who was in need of dialysis could not return to Armenia since three weekly hospital visits to receive this kind of treatment would simply be unaffordable.

Moreover, in many cases the hospitals do not have the necessary technical equipment or the medical staff is not qualified to work with sometimes expensive or sophisticated medical equipment that has been provided as a gift from the international community or from the Diaspora. In fact, technical equipment sent from abroad is mainly provided by the Diaspora.

AI:

In contrast to the majority of the Armenia population, expats have access to medical care comparable to Europe at higher costs. Likewise, Armenians who have enough money can get fairly decent medical care. For instance, recently one of the local UN staff had a multiple bypass surgery in Armenia, which was a complete success. So the skills are there, and if you have the resources, you can have access to the best medical care available in the country. On the other hand, if you do not have the resources, even though you theoretically have free access to basic health care, you will not be able to afford medical treatment. This is exacerbated by the fact that often the required medicine is not available, the quality of the service is low and sometimes corruption also comes into play.

To illustrate the above, an issue in the Diaspora magazine ArmeniaWeek of February 2002 features the story of a writer of the magazine, who is stationed in Yerevan and gave birth in a local hospital. It is important to note that the following account of her personal experiences also contains references to the small and large fees paid to hospital staff, that overall amount to more than USD 200, which is exorbitant compared to an average monthly salary of USD 20 – 60:

"Inside [the hospital], another staff member slept in a chair as I paid 18,000 Drams (\$33) to obtain medical service. This fee is intended to cover all of your requirements while in hospital - but in fact is only the beginning of your bill. [...]"

The medical staff said they needed to give me injections with noshpa, a painkiller. There was only one problem. "We don't have it. Call your family and tell them to bring it," they told me. But before my relatives could get to the hospital from the other side of town, I had already given birth to my daughter. [...]"

Then I realised that they were all racing to be the first to "announce the good news" to my husband so that they could ask for *magharich* - a gift or money that people can request from the one receiving the good news about himself or his family. [...] But *magharich* is an unwritten rule that must be followed. [...] In my case, the doctor valued his "perfect" service at \$150. The obstetrician's price was \$25 though nobody could say what for - instead of taking care of me she had slept all night. She was eventually satisfied with 5,000 Drams (\$9). Some staff were late with the announcement, but pleaded: "Anyway, we came down three floors to tell you, give us at least 1,000 Drams."

Nobody was interested in how I was feeling at that time. One hour after giving birth, I was transferred to a ward. The journey of a few meters by wheelchair cost another 2,000 Drams (\$3.50). I stared at the dirty gray sheets on the bed. The nurse said: "If you want clean linen give us 5,000 Drams or tell your relatives to bring it. And be careful of the bed, you can fall out of it." [...]"

The day started at 7am when the cleaning lady came to clean my room, requesting that I give her 500 Drams. I found that people had two ways of asking for money - directly telling you to give an amount, or simply saying: "Don't you want to see me?" At first I had no idea what they were really saying, but after five days in hospital I was very tired of seeing everyone.

In Armenia, women are normally kept in hospital for three days after giving birth - they told me I had to stay longer because my child was unwell. Alisa was fine. But the longer I stayed the more I had to pay - each day in hospital I had to pay 1,000 Drams for the room and the staff requested another 1,000 to wash the baby.

My husband, anticipating such charges, had given me a roll of 500 Dram notes when I entered hospital to pay the various demands for service. All the staff visited my room on the day I was due to go home. One asked for my flowers, another for my box of tissues, a third for coffee, and a fourth for sugar. The cleaning lady told me: "Leave your soap, it has a good smell."

All new mothers in Armenia have to undergo this difficult experience [...].¹⁰

¹⁰ ArmeniaWeek: New Life: The lonely, costly journey to motherhood, by Gayane Abrahamian, 1 February 2002 <http://www.armeniaweek.com/feb012002/birth.html>

It can also be observed that in rural areas even physical access to health care facilities is very bad because the state system collapsed. There is an increase in the delivery of babies at home in rural areas. They cannot even go to the nearest posts, so they deliver babies at home, with all the health risks involved. A phenomenon that UNHCR is concerned about is that sometimes babies are not registered and therefore face the risk of being stateless in the future.

Not surprisingly, given the miserable overall state of the Armenian health care system, the rights of the physically and mentally disabled or the chronically sick are either not developed or not getting enough attention.

Refugees and IDPs

Categories of refugees and IDPs

AI:

At least nine different categories of displaced populations in Armenia, which are neither definite nor official, can be determined. The biggest caseload certainly are 260,000¹¹ ethnic Armenian refugees from Azerbaijan, who arrived between 1988 and 1992. They are mostly urban oriented people, from big cities like Baku or Sumgait and are often well-educated. Many of them are more comfortable with speaking Russian than Armenian, especially the older generation, aged about over 40 or 50. When somebody speaks to them, first they start speaking in Armenian, but then normally switch to Russian. The percentage of elderly among the refugee population is very high: 44% are over 60 years old, which means also that they are particularly vulnerable because they are economically not very active and may in many cases only rely on pension payments.

Almost all refugees from Azerbaijan were ethnic Armenians and were granted prima facie refugee status upon arrival but, unlike ethnic Azeri refugees from Armenia in Azerbaijan, not naturalised by the operation of law. The legal basis for the status of these refugees is the definition of refugees as determined by the Law on Refugees of 1999. The definition of refugees contained in the law is identical with that of the 1951 Convention.

One interesting aspect about the Refugee Law is that it gives some preference or affirmative action to ethnic Armenians. Although ethnic Armenians are not explicitly mentioned, Art. 25 stipulates that "The provisions of this Law restricting the rights of applicants for refugee status shall not apply to persons forcibly displaced to the Republic of Armenia in 1988-1992."¹²

Refugees from Azerbaijan can obtain Armenian citizenship through a facilitated procedure where no approval is needed; rather citizenship is simply granted to those who apply for it. For various reasons the refugees from Azerbaijan are nonetheless

¹¹ Statistics on the number of refugees and IDPs in Armenia vary considerably. For instance, while estimates of the original number of refugees who arrived until the end of 1992 range from 260,000 to 360,000, the current figure is estimated by some observers to be slightly more than 100,000.

¹² see Law on Refugees of the Republic of Armenia (unofficial translation), adopted in the second reading by the National Assembly on 3 March 1999 [http://www.unhcr.ch/cgi-bin/texis/vtx/rsd/+CwwFqzvw_n9W8XDFme26btqo2lyP0HEPpzmwwwwwwwwwwww3zmxwwwwww/rsddocview.html](http://www.unhcr.ch/cgi-bin/texis/vtx/rsd/+CwwFqzvw_n9W8XDFme26btqo2lyP0HEPpzmwwwwwwwww3zmxwwwwww/rsddocview.html)

reluctant to apply for Armenian citizenship. For one, many of them do not really see the point of getting it because of their limited economic prospects. Given the dire overall economic situation in Armenia they do not believe that the acquisition of citizenship would significantly improve their socio-economic situation. Secondly, they think that by keeping refugee status they can get more humanitarian assistance, which is a misconception, as this support is more than limited. Especially now, after the crisis is over, emergency aid has subsided and been replaced by a more inclusive approach, that is rather development-oriented, not only targeted at refugees. Thirdly, they think that by having refugee status they can migrate rather easily, which is again not true.

In fact, a massive protest was staged in front of the UN building in Yerevan when the Law on Refugees was introduced in 1999. The protesters were demanding Convention travel documents (CTD) thinking that with the CTD they could go everywhere they wanted. When they found out that this was not the case they were rather disappointed. Actually, it would have been better for them to have Armenian passports, which would allow them to travel to Russia without a visa, whereas with the CTD they would need a visa.

Still, they cling to these hopes and assume that it is better to wait for the situation to miraculously improve, simply because even with citizenship many are unable to earn a living. According to the official statistics, only 15 % of the refugees have naturalised. The government has a policy of local integration of refugees and refugees have almost the same rights as citizens including the right to vote in local elections. In fact, the only rights they do not have are the right to vote in presidential and National Assembly elections and the right to own land.

Naturally, as non-citizens refugees are not obliged to serve in the army, but according to the Refugee Law, they have the right to serve in the army and many of them indeed do so. Moreover, completion of the military service prior to the application is not a *sine qua non* condition to be granted the citizenship of Armenia. Yet, if a male refugee acquires citizenship, he would have to serve in the Armenian army.

In addition to refugees from Azerbaijan proper, Armenia hosts an officially estimated number of 13,000 displaced people from Nagorno Karabakh. They are not given refugee status, and, as far as the government is concerned, they are encouraged to go back to Karabakh. On the other hand, they are not citizens of Armenia either but are issued Armenian passports with different serial numbers that are in practice indistinguishable from regular Armenian passports.

Likewise, some 11,000 displaced people from Georgia, Abkhazia and Russia/Chechnya, who are almost exclusively ethnic Armenians and came during the Georgian/Abkhazian conflict and the two wars in the Russian Republic of Chechnya, do not enjoy any official status. The government is reluctant to grant them refugee status or even allow them access to the refugee status determination procedure (RSD). Yet, they are tolerated and some of them are even given citizenship. The Government has been working towards amending the existing Law on Refugees to give this category of displaced people a certain legal status, comparable to a humanitarian status.

Furthermore, the government claims that there are 72,000 IDPs, so-called conflict-induced IDPs. Quite interestingly, the starting point was a visit by the Representative of the UN Secretary-General on Internally Displaced Persons, Francis M. Deng, that prompted the Armenian government to elevate the existence of conflict-induced IDPs to a more visible position a decade after their displacement. Certainly, there are people who were displaced mainly because of fighting along the border with Azerbaijan (mainly in the Tavush region) at the beginning of the armed conflict. However, as it has been almost ten years since the conflict started, there remains considerable doubt about the number itself.

The 72,000 who had to leave this region are considered to have come mostly from Armenian border areas. In addition, the figure also includes those who came from the Armenian exclave of Artsvashen. During the conflict between Armenia and Azerbaijan, Artsvashen, administratively under the jurisdiction of the Republic of Armenia, came under Azerbaijani control in August 1992 and Armenian residents of the enclave fled to Armenia.

Finally, it is important to bear in mind that in 1988 Armenia suffered a huge earthquake in the Northwestern region of Spitak. Homes as well as the social and economic infrastructure were destroyed on a massive scale and even today there are a large number of people who are displaced and homeless and do not have employment.

Social conditions

GK:

In general terms, the social conditions for refugees and IDPs are, of course, worse than those for the general population. Most of the refugees are unemployed and many of those 800,000 people, including a considerable number of refugees, who have meanwhile left the country left because they could not get any work. Yet, the unemployment rate would even be higher if those people had not had the opportunity to go somewhere else.

AI:

Nowadays refugees and IDPs are scattered all over the country. There is no concentration of refugees perceived, with some exceptions, such as the area around Lake Sevan. Many former Azeri villages were situated in this region and were re-settled later with ethnic Armenian refugees from Azerbaijan. Besides the high number of refugee villages there, Yerevan, owing to its central location, also hosts a large number of refugees.

Still, housing continues to constitute a serious problem for many refugees. According to the government 13,500 refugees are in need of permanent shelter. Out of these 13,500, 8,000 are mainly living in so-called communal centers such as former student dormitories and containers. Those living in containers often do not have access to running water or electricity. The remaining 5,500 are living with their relatives, family members or renting houses. Still, the government considers them as in need of permanent shelter. From UNHCR's perspective, the actual figures are probably lower. This concerns both populations, those who are living in communal centers as well as those who are living with their relatives and friends. Yet, in general, statistics in Armenia

are unreliable and often controversial, whether it concerns the Armenian population, refugees or IDPs. So that is why it is important to quote the government figures bearing in mind that their credibility needs to be ascertained.

As mentioned above, in terms of humanitarian assistance, the emergency phase is over. As a consequence, refugees and the displaced population as such do no longer receive extra humanitarian assistance and many international organisations and NGOs pull out from humanitarian assistance and focus increasingly on long-term development programs. In addition, refugees are included in the nationwide welfare system, PAROS, that distributes cash payments to vulnerable families. PAROS is based on an index containing a set of criteria, such as number of family members, female-headed household, etc. that, however, does not recognise displacement as one of the elements contributing to the vulnerability and eligibility for social assistance of a given family.

Concerning health care, in principle, IDPs and refugee families in Armenia have equal access to health facilities. This basically means that for them it is as bad as for everyone, i.e. they have to pay for medicines and treatment and often bribe medical staff. In other words, in theory they have access, but in reality they may not receive the treatment that they would need. There are also some free-of-charge health care programs run by NGOs that cater to the refugee population, especially in rural areas, and include even visits to isolated villages.

I.5. Human Rights

Freedom of expression

GK:

In a country where bad Soviet habits and traditions persist, a genuine opposition and independence of the media is impossible. Nevertheless, some mass media are considered to be at least more or less independent or oppositional, such as "Chorord ishkhanutiun", "Orran", "Aravot", "Haykakan jamanak" and the TV channel "A1 plus", whom the authorities recently denied a continuation of its registration.¹³ Compared with these media, the percentage of commercial and yellow press is much higher. On the whole, the freedom of the media as well as the freedom of association and assembly were observed.

AI:

Overall in Armenia freedom of expression exists in the sense that a wide range of views, from very pro-government to very anti-government, can be expressed. As mentioned above, however, one of the main problems of the Armenian media is their lack of financial independence. Most media outlets cannot sustain themselves, especially newspapers. They usually have to rely on businessmen or other benefactors. These people again may quite often be linked to political parties, even opposition parties. Thus, in terms of independence from any form of influence, it is difficult for local media to stand on their own as they do not have sufficient financial resources.

GK:

In practice, one rarely ever finds a newspaper which is not supported by one or the other party organisation. In the Diaspora the situation is very similar, i.e. there is only one newspaper which is private and actually independent. Given that despite their party affiliation all newspapers are sold rather than being distributed for free, and that most people in Armenia do not have much money, print runs of newspapers are generally very small.

AI:

Radio Free Europe/Radio Liberty reported on 18 June 2002:

"Armenia boasts seven national dailies, two biweeklies and two weeklies, which among them offer a broad range of opinion. All but one are privately owned, belonging to their editors, staff, or political parties. At least six of them support Kocharian, despite occasionally criticizing some government policies. Their average print run is between 4,000 and 5,000, which is the main reason why they are unattractive to major advertisers. The latter prefer to deal with regional and national television stations that have far bigger audiences and are more profitable."¹⁴

¹³ for details see International Helsinki Federation: Human Rights in the OSCE Region, Report 2002, Armenia <http://www.ihf-hr.org/reports/AR2002/country%20links/Armenia.htm>

Institute for War & Peace Reporting (IWPR): Armenia: Independent Channel Kicked Off Air, 4 July 2002 http://www.iwpr.net/index.pl?archive/cau/cau_200207_136_2_eng.txt

¹⁴ Radio Free Europe/Radio Liberty: Armenia: The Murky Business Of Media Funding, 18 June 2001 <http://www.rferl.org/nca/features/2002/06/18062002172019.asp>

Concerning pressure of the government on independent or oppositional media, there was the case of A1 plus, an active, quite interesting TV programme, that was basically 'unplugged' by the government through a nominally legal system of allocation of frequencies. The example of A1 plus shows that there are typically no violent acts against independent journalists or the political opposition, but through legal means those in power try to somehow restrict the work of those who voice criticism.

GK:

More specifically, the authorities took advantage of a failure of A1 plus's management to apply for the required annual registration within a given deadline, which they had known before. The deadline was the same as every year and the TV station just failed to re-register on time. Basically, it was merely a use of existing regulations and it was not that the deadlines were shortened or that A1 plus was given a deadline which was already over. They knew it but failed to submit the registration on time. The authorities, of course, readily took the opportunity to give the license to a more government-friendly TV station because A1 plus was very critical and perceived as a nuisance. Since the TV station could not work anymore the staff were dismissed and had to find new jobs.

AI:

Another question asked is that of political prisoners in Armenia, the answer to which largely depends on the definition and on the observer's starting point. Certainly, what does not happen anymore, is that if you are part of the political opposition, you are thrown into jail. Likewise, there have been no recent reports of journalists in custody. However, if somebody is somehow a nuisance to the government, then there are various ways and means those in power can use, e.g. it is well possible that a charge will be raised against this person and that s/he will be taken in detention. Still, it is difficult to be specific about which issues the government considers to be a headache.

GK:

Generally speaking, however, there have been no political prisoners in Armenia since Kocharian has come to power, including journalists. Moreover, in principle, there is no overt pressure by the government on media outlets or individual journalists. Yet, usually they find ways to still exert some kind of pressure and to make it a little more difficult for certain journalists and news agencies to work.

One case of such intimidation practices involves a journalist who wrote a very good article on the situation of prostitutes and prostitution in Yerevan. As prostitution is one of the taboo topics in Armenia, she was summoned to the Ministry of Interior, verbally reprimanded, and it was made clear to her that she should not continue to write articles like that. It is a pity because many people who are dealing with the topic of prostitution said it was a very well researched article and she had actually spent a lot of time preparing it. Now she would basically have to stop dealing with the issue because of very direct pressure. It caused uproar within the group of intellectual journalists in Armenia. But because democratic principles have not yet permeated the political system of Armenia and also the community of intellectual journalists, a routine of self-censorship – acquired in Soviet times – is already applied before people publish or talk about something. Most people, including journalists, simply refrain from doing or saying something because in the back of their minds they know that they should not talk about this in a certain way.

The latest attempt to intimidate and physically harm a journalist occurred on 22 October 2002 when Armenian free-lance journalist Mark Grigorian suffered serious injuries from a grenade thrown at him as he walked through the center of Yerevan. Referring to a RFE/RL report, the Committee to Protect Journalists (CPJ) mentions that Grigorian had recently interviewed several witnesses and politicians for a story on the October 1999 killings and subsequent trial. CPJ also points out that since the Parliament shooting, several Armenian journalists have been harassed or attacked in retaliation for their coverage of the government's investigation into the incident. According to Agence France-Press, the Prosecutor General's Office in Yerevan announced that the Interior Ministry has opened an investigation into the incident.¹⁵

Ill-treatment in detention

GK:

Under the recent laws and regulations a citizen can be held in detention without charge for a maximum period of 96 hours by national law enforcement officers, the forces of the Home Office or by order of the Public Prosecutor. Although during detention people are routinely beaten up, tortured and frightened, in most cases the responsible officials get away without charge.

Death penalty

AI:

Under the current penal code, which is based on an old Soviet law, there are some twenty crimes punishable by death as a maximum sentence. As one of the conditions for membership of the Republic of Armenia, the Council of Europe demanded the abolition of the death penalty. In late June 2002, the new penal code passed the first reading which retains the death penalty for certain grave crimes as a transitory clause. Yet, the discussion on the death penalty is still ongoing. Certain circles of people, government officials as well as politicians of other parties, want to keep some legal provisions for death penalty, so that it can be applied to the perpetrators of the 27 October attack in the parliament. In July 2002, the Council of Europe set June 2003 as a new deadline for Armenia to completely abolish the death penalty in peacetime.¹⁶ Therefore, the outcome of the debate on the amendment of the penal code is yet to finalize.

Due to a presidential moratorium, there have not been any executions since 1991. Yet, according to a source, three men were sentenced to death in 2001 and approximately 40 people overall are on death row today.

¹⁵ Committee to Protect Journalists (CPJ): Armenia: Prominent independent journalist injured in grenade attack, 24 October 2002 (ACCORD)

<http://www.cpj.org/news/2002/Armenia24oct02na.html>

¹⁶ Radio Free Europe/Radio Liberty: Council of Europe sets Deadline for Armenia to abolish Death Penalty, 13 September 2002

<http://www.rferl.org/newsline/2002/09/2-tca/tca-130902.asp>

Fair trial

GK:

The new post-Soviet conditions of life and laws which are not yet well-suited to these conditions cause a situation where the average citizen much more often than in the past would need or like to seek his right at the courts. But only two percent of the population are in a position to afford a court case.

Disregarding the financial difficulties, most citizens are completely frustrated when it comes to courts. The legal process is considered to be corrupt, and this opinion is certainly well based, for in most cases the verdicts are already taken before a court session is held. The outcome usually depends on which party pays the higher bribes to the presiding judge. In effect, the independence of the judiciary in Armenia is highly questionable.

AI:

One example is the recent alleged killing of an ethnic Armenian from Georgia by presidential guards in a popular café in Yerevan. There have been many reports indicating that one or more of the presidential guards had beaten the victim to death. Nevertheless, the court only gave one presidential guard a suspended sentence. The speculation is that because he was a presidential guard the judiciary gave him a 'slap' instead of a real sentence.

To add to the above, under the current legal framework judges are appointed by the Judicial Council, whose members are appointed by the president. This again reflects negatively on the independence of the judiciary.

In everyday life, corruption, bribing and extortion of money are so common that most people pay without thinking or complaining about it. Certainly, if it concerns larger amounts of money or other excesses by law enforcement officials than bribe-taking, the victims could be more inclined to turn to the courts for help. In some cases support by an influential NGO may help the victim achieve a favourable verdict or a friendly settlement. Yet, the actual outcome is very hard to determine and depends on the magnitude of the problem and if e.g. political elements are involved.

Ultimately, although there are initiatives to improve the situation, at the moment, corruption remains endemic and the impartiality of the judiciary is not guaranteed.

Corruption/Organised crime

AI:

As already mentioned, corruption is widespread in Armenia and an integrative part of the relations between the general population and the authorities. For instance, if you drive down the streets of Yerevan, every 200 meters there is a police man standing, flagging you down and asking for money - and you simply pay. It is reported that the policemen often "buy" assignments to serve as traffic police since this is considered a lucrative post.

Many believe that there is a general tendency of collusion between law enforcement and the underworld. Many politicians run a profitable business and are quite wealthy, and could be linked to the underworld. However, while connections between police, politicians and organised crime certainly exist, it is very difficult to generalise and contend that the police do not intervene in any cases related to persecution by the Mafia. Nevertheless, when considering related asylum claims, arguing that the concerned individuals should have sought the protection of domestic authorities before going abroad, it should be borne in mind that in Armenia there is a general lack of trust in the law enforcement, be it Mafia-related or not.

GK:

More specifically, while in theory there is a mechanism to prosecute and bring to justice perpetrators of organised criminal activities, in practice it is highly questionable whether levelling charges would actually lead you to getting a remedy against acts by non-state agents and especially the Mafia. Despite the fact that the Mafia in Armenia is not like the Mafia in Italy, i.e. it is not some kind of para-state structure, the Mafia would not be able to act as freely as they currently do if government officials were not involved at all. So whatever happens that is related to organised crime somehow has a connection to the government.

AI:

The chances for remedy are very much affected by the perceived and actual independence of judiciary, which, as mentioned above, in practice is at least questionable. Thus, while you could always have access to courts, the effectiveness of the court decisions and their actual implementation as well as police protection remain quite often rather in doubt. For instance, at the moment no witness protection program exists in Armenia. As a consequence, under certain circumstances, protection may have to be provided by another powerful person or group. Although family ties are important, no pervasive culture of blood feud or revenge exists in Armenia and there are usually no 'clans' protecting their members. Often these people also contact NGOs, which are sometimes quite effective in addressing these kinds of problems.

GK:

To illustrate the above observations we can e.g. take a look at a murder or theft case or a car accident. Normally, of course the police would intervene, investigate, and maybe arrest someone. The key issue, however, is what happens during the court proceedings, which in many cases will be subject to manipulation efforts. Likewise, differential treatment before the Law of the general population and influential members of society applies in cases involving government permissions and prohibitions. For instance, there used to be a green zone in the city centre of Yerevan where according to Armenian civil law nobody was allowed to build anything. Yet, recently the mayor of Yerevan allowed one powerful figure with good connections to build a big restaurant there. Although unlawful, in practice, there is nothing the general population or an ordinary person can do against that.

Military service

GK:

Many members of the Armenian Diaspora as well as people in Armenia were shocked to find out that even in times of peace - or relative peace - many young recruits who did their military service died without any fighting. For instance, in 1996 260 servicemen died out of combat, most of them during military service. More recently, the number has decreased considerably to 72 in 2000 and 92 in 2001, albeit still a remarkably high number for a small country with a small army. Responsibility for the killings lies with those officers who tolerate the abuse and ill-treatment of recruits or even commit abuses themselves.

The Republican "Charitable Committee of the "Soldier's Mother"¹⁷ (Zinvari Mayr) that was founded about four or five years ago on the initiative of Greta Mirzoyan, the aunt of chess world champion Gary Kasparov, has been investigating and following up on these cases. In those instances where they were able to identify the perpetrators they would also try to bring them to justice and sue them in court. Chairperson Ms. Mirzoyan stated that it was not very easy to find out why these killings happened and that it was even more difficult to bring the perpetrators to justice, as usually nobody wanted to talk about these incidents. According to her, even if people might have witnessed killings, they were extremely reluctant to speak about it in court.

Yet, it is important to note that Greta Mirzoyan, who is originally from Karabakh, voluntarily fought in the armed conflict in Karabakh and "Soldier's Mother" has increasingly become integrated into the mainstream. Thus, it is worth mentioning another officially registered organisation, "Soldier and Law", which was founded in 1996 by the parents of killed draftees and has quite actively been criticizing human rights abuses in the Armenian army.

As indicated above, it is mainly the training officers within the military who are responsible for these killings. They are typically rather uneducated whereas many of the killed recruits had had better education than their training officers. In the majority of cases the officers obviously tried to extort bribes and money from the recruits, who were supposedly wealthier or at least better educated, so maybe had better access to money. The young recruits were abused by being forced to work extraordinarily hard and being put under pressure which would leave many of them more or less mentally and psychologically broken or even getting killed.

Indeed, unaccounted deaths of army recruits in peacetime are a phenomenon that is most shocking to Armenians. The main reason they usually come up with - besides the economic plight that seriously affects all Armenians - is that it is a relic from Soviet times, i.e. that older officers just try to get back at young recruits and just do what they have always done. Yet, many feel that this is also connected to problems with the integration of former voluntary Karabakh fighters into the regular army.

¹⁷ For more details please visit the organisation's website at <http://www.legalaid.am/english/members/zm/zm.htm>

AI:

Generally speaking and leaving the death cases aside, treatment of conscripts in military barracks is reported to be quite bad. Severe hazing of new recruits is common and some do indeed flee. Some officers treat their unit like their kingdom, as if they could do whatever they wanted. Only recently, the situation seems to have improved somewhat.

Concerning the possibility of military service in Nagorno-Karabakh it should be noted that the military service is Armenia compulsory and no recruit has a free choice of where he would like be deployed. Thus, depending on the individual circumstances, a recruit may be sent to Nagorno Karabakh or somewhere else. This also applies to refugees from Azerbaijan, who, unlike Armenian citizens, are not obliged to but may voluntarily serve in the Armenian army, and may also get sent to Nagorno Karabakh and the Azerbaijani territory now under the control of Armenian troops - the so-called occupied/liberated areas.

GK:

Generally, however, deployment in Nagorno Karabakh may not necessarily be considered to be a 'bad deployment'. Actually, for some it could even be the opposite, as professional soldiers receive double payment and especially high-ranking officers can actually make a lot more money, if stationed in Nagorno Karabakh.

Women

GK:

The law does not discriminate against women. However, in the social, political or professional reality they are treated unfairly or are discriminated against. The roots are to be found in the Soviet value system as well as in Armenian traditions. Among the 131 members of parliament only three are women, only five women are deputies of ministers and there are only 35 female judges in Armenia.

1.6. Return and Readmission

AI:

Concerning return and re-admission, UNHCR often receives questions about who may return to Armenia. For instance, could a rejected asylum seeker in a recipient country, who is originally from Baku and has gone through Armenia, but did not have refugee status, be sent back to Armenia? Gagik Yeghanyan, the Head of the Department for Migration and Refugees, emphasized that the key issue is whether or not the person has previously been registered as a refugee in Armenia. According to the authorities, an individual can only be readmitted if he/she has been registered as a refugee in Armenia in the past. In case there are no records of this person, which means that at least on paper this person has never been living in Armenia, would have to go through either a regular immigration procedure or RSD as an individual asylum-seeker.

So far, there have not been any reported cases of people without prior registration in Armenia being sent back to Armenia. Therefore, the described framework has not been truly tested. Admission and RSD in accordance with the 1999 Law on Refugees is

certainly one way to cope with such an eventuality. In addition, Article 25 of the Law on Refugees provides for preferential treatment for ethnic Armenian asylum-seekers.

Concerning bilateral re-admission agreements, some exist already – such as the one with the Czech Republic - and many more are in the pipeline. With Western Europe there is the so-called 'Cluster Process' which is coordinated by IOM. In the context of this initiative, the countries of the South Caucasus Armenia, Azerbaijan and Georgia, IOM and asylum countries in Western Europe meet occasionally to discuss topics such as re-admission.

1.7. Nagorno Karabakh¹⁸

GK:

What has been said above about human rights and other issues only holds true for Armenia, but not for Nagorno Karabakh. For instance, compared to the Republic Armenia there seems to be more democracy in Nagorno Karabakh. More specifically, parliament wields greater power, corruption is not prevalent and women have more rights in Nagorno Karabakh, even two ministers are women - the Foreign Minister and the Minister for Health.

Concerning its international status, it has to be noted that in 1994, Nagorno Karabakh intended to accede to Armenia, because originally, in 1923, it had been divided from Armenia and given to Azerbaijan. However, the Karabakh administration soon realised that the International Community would not accept that, as a unification of Nagorno Karabakh and Armenia was perceived to prompt not a war between Nagorno Karabakh and Azerbaijan, but between Armenia and Azerbaijan.

As a consequence, the local administration decided to establish its own republic. Without recognition by the International Community, however, the residents of Nagorno Karabakh are not yet free to decide if they want to have their own independent state or if they want to unite with Armenia. Even Armenia has not officially recognised Nagorno Karabakh and there is no provision in the Armenian constitution which specifically refers to Nagorno Karabakh. What seems currently most important for the people living in Nagorno Karabakh is to know that they are not under Azerbaijani rule anymore. It is also symbolically and economically significant that Nagorno Karabakh has introduced the Armenian currency.

Nagorno Karabakh maintains a liaison office in Yerevan that issues visa to those foreigners who wish to travel there from Armenia. These travel documents are usually examined at a checkpoint before crossing near Goris into the territory of the Republic of Karabakh. Armenian citizens do not need a visa in order to travel in and out of Nagorno Karabakh. The same is true for Nagorno Karabakh residents who intend to travel to the territory of Armenia proper. Diaspora Armenians, however, have to obtain a visa in order to get into Nagorno Karabakh.

¹⁸ As far as the UN is concerned, officially Nagorno Karabakh is part of Azerbaijan, therefore the UNHCR office in Yerevan does not have a mandate for Karabakh. Neither UNHCR Armenia nor UNHCR Azerbaijan does access to or has a presence in the region. The information UNHCR has on the Nagorno Karabakh region is rather limited.

Like regular Armenian citizens, people from Nagorno Karabakh are issued Armenian passports for the purpose of traveling abroad, yet with a registration number containing a code that indicates that the bearer is from Nagorno Karabakh. In other words, only the civil servants responsible for issuing passports know that the bearer is actually from Nagorno Karabakh, because no one else knows the code or would be able to recognise the Nagorno Karabakh origin of the bearer by just taking a look at the passport. The fact that those in the enclave hold special passports is not a matter of discrimination. As Nagorno Karabakh is a separate political and administrative entity the passports simply serve to identify who is a genuine citizen of the Republic of Armenia and who is a citizen of the Republic of Nagorno Karabakh, even if the latter has not been officially recognised.

Of the 200,000 people living on the territory of the present Republic of Nagorno Karabakh (comprising the former autonomous republic of Nagorno Karabakh as well as the occupied/liberated areas) before the conflict today only about 120,000 people have remained and 300,000 to 500,000 former Karabakh residents live in the Diaspora. In contrast to Armenia, Karabakh accepts dual citizenship, which allows people to return while retaining their foreign citizenship. Typically, anyone who returns to Karabakh goes directly to Karabakh and not to the occupied/liberated areas.

In the occupied/liberated¹⁹ areas around Nagorno Karabakh, there are quite a high number of villages which were deserted by Azerbaijanis but also ethnic Armenians who had been living there. The occupied/liberated areas are under Karabakh jurisdiction, i.e. the people are required to perform their military service in Karabakh, but can also vote for the Karabakh parliament. The benefits for Armenia and especially for the unofficial Republic of Nagorno Karabakh of control over these areas are obvious: For one, the defence line is much shorter and it is easier to defend one continuous territory, which is under Armenian or Karabakh control, and two, a direct land connection to Armenia, that did not exist before, is not only of strategic but great economic significance.

As to the military service, draftees from Nagorno Karabakh also have to complete their service in Karabakh. In contrast to Armenia, however, where men of draft age may postpone their military service until completion of their university degree, Nagorno Karabakh students cannot graduate from university before completing their service. Given that there is no established peace in the region, but a continued cease-fire, students may study for two years, but then have to begin their two-year military service and only after its completion may continue their studies.

So far, there have not been any reports on draft evasion or desertion from the Karabakh army, although it is in principle possible. Yet, in general, the local population is proud to serve in the army there, as the Armenian population of Nagorno Karabakh has a century-old tradition of military self defense. There has only been one case in the Karabakh army, unconnected to military service, where someone was charged with killing three people and subsequently sentenced to prison.

¹⁹ The qualification of this area, which constitutes about 15-20% of the territory of the former Soviet Republic of Azerbaijan, as liberated (Armenian) or occupied (Azerbaijani) depends on the party concerned and its sense of historical entitlement to the area under discussion.

II. Groups at risk²⁰

Presentation Ayaki Ito, comments Dr. Gerayer Koutcharian

II.1. Ethnic minorities

AI:

According to some statistics, minorities today comprise less than 3% of the Armenian population which makes Armenia a more or less monoethnic country. Before Armenia's independence the share of minorities was much larger, but many of them left, including Azeris, Kurds and also Russians. For those national minorities who have a home country to go to, such as Russians, Poles and Germans, emigration was easier than for others and almost none of them have remained in the country. All in all, even given a probably inflated population estimate of 3 million for Armenia, 3% amount to less than 100,000 people.

There are 11 "national minorities" in Armenia which are officially recognised by the government: Yezidis, Kurds, Russians, Belarussians, Ukrainians, Poles, Jews, Greeks, Assyrians, Germans, and Georgians. They are all represented in the Presidential Council on National Minorities. The criteria for a group to be recognised as a national minority remain to be clearly defined. One of the main conditions is that an ethnic community needs to be organised and have a leader. Yet, owing to the informal nature of the criteria, even if because of internal conflicts there are two or three leaders within one national minority group, this usually does not affect its official status as a national minority. Azeris, however, who appear to keep a low profile and are not organised as far as the government is concerned, are not recognised as a national minority.

GK:

In general terms, it can be observed that Armenian law and the national government in principle do not discriminate against members of ethnic minorities in Armenia. However, the Armenian majority does not always treat members of minorities respectfully. In addition and in contrast to Soviet times, when the state supported and subsidised ethnic minorities to preserve their culture and traditions, the Armenian state nowadays cannot do likewise, and does not want to do likewise. Currently, there are no members of ethnic minorities represented either in local councils or in the National Assembly of Armenia.

Azeris

AI:

The most relevant ethnic minority in terms of RSD are probably ethnic Azeris, children of mixed ethnic origin and Armenian spouses of Azeris living in Armenia. Most of those who stayed in Armenia reportedly come from mixed ethnic families, i.e. either Azeri wives of Armenian men or descendants of mixed Armenian-Azeri marriages. Their overall number is estimated to be very small, although it is impossible to obtain reliable figures. This is partly because Azeri are keeping a low profile and are not inclined to openly say that

²⁰ Mr. Ito preferred to refer to this set of persecution-related issues as "categories of asylum seekers", as the term "groups at risk" would already infer a judgment. However, as the latter term is widely used to describe the questions subsequently discussed, we will apply the term while stressing that Mr. Ito's statements are no general assessments but rather accounts of typical asylum claims put forward by Armenian asylum seekers.

they are ethnic Azeris. For instance, most of them have reportedly changed their family names to Armenian-sounding names, e.g. by adopting a name that ends with '-ian'.

As an ethnic community, the Azeri minority population is not organised, but most of its members are rather assimilated and accepted by their neighbours and their local community. Neighbours usually know that they are Azeris, or that a person's father was Azeri. Still ethnic and mixed ethnic Azeris themselves are not really willing to talk about their origin. In fact, they do not want to be disturbed, and usually say, just leave us alone. Moreover, they express fear that once there is someone inquiring about their situation they suddenly get singled out and attract attention. Therefore, they would rather want to be left alone within the community, well aware of the fact that their neighbours know that they are Azeris.

Preliminary results of a study conducted by the Armenian Sociological Association²¹, which also interviewed some 30-35 Azeri individuals, confirms this impression. According to the researcher, and quite interestingly, Azeris do not identify as Azeris, but with a specific local community. Thus, they feel quite safe as long as they stay in their communities. But once they leave their local communities or villages, they do not know how strangers would react. Yet, we have not received any reports of a targeted discrimination or attacks against them. Some of them still have a job while others do not have it.

In order to be able to assess the risk upon return of ethnic Azeris and mixed ethnic Azeris whose asylum claims were rejected the key question is: When did they leave? Based on the above-mentioned concept of community, the situation may not be too difficult if the returnees only left a relatively short while before their return, because their community still knows them. Yet, if an ethnic or mixed ethnic Azeri had left e.g. five years ago and if s/he had been living in Russia for a longer period, subsequently moving to Europe to apply for asylum, the return of this person to Armenia would be risky, because this individual may no longer identify with his/her old community and vice versa. Thus, the key element is which local community they used to belong to, where they could feel safe, where their attachments are.

Besides fear to leave their local communities, one of the worries of ethnic Azeris now is that if there is a resurgence of the military conflict with Azerbaijan, they could become targets, even if they stayed with their communities. At the beginning of the conflict, the tension was high, a situation that is in no way comparable to today. In contrast, many Armenians contend that no pressure was exerted on Azeris in Armenia and that they just left while Armenians, e.g. living in Baku, were expelled and had to go through many negative experiences.

Yet, in the last three or four years no incidents, no cases of active or open discrimination against ethnic Azeris have been reported. Certainly, those who were able to leave have indeed left. All those who for one or the other reason could not leave had to stay in the country and somehow to accommodate to the present situation. This holds especially true for older people, who had to stay there, because they were not mobile, or did not want

²¹ Armenian Sociological Association (ASA): Selected Groups of Minorities in Armenia (Case Study), Yerevan 2001; also available at www.ecoi.net

to leave the country, because they had been living there their whole lives. Nowadays, there are no indications that they are overtly discriminated against and they reportedly receive their pensions, although they are as low as for everyone else.

GK:

In contrast to Armenia proper, where only few Azeris are left, quite a number of Azeris and mixed couples are still living in Nagorno Karabakh. Other minorities residing there include Russian, Ukrainians and Greeks. Thus, people of Azeri or mixed Azeri origin who return to Nagorno Karabakh would actually get funding from the local social ministry. What makes return in practice very difficult is that people cannot access the region directly, but have to travel through Armenia, where they are faced with many complications especially regarding the issuing of documents and visa. Concerning military service of ethnic Azeris, it is not clear if Armenian citizens of Azeri origin would be deployed in Nagorno Karabakh during their military service, but it certainly cannot be excluded as a possibility.

Yezidis

AI:

After most Azeris have left the country, Yezidis are now the largest ethnic minority group in Armenia. Yezidis try to keep themselves apart from Kurds although they speak the same language. Their main distinction is their religion, which contains elements from Zoroastrianism, Manicheism, Judaism, Christianity and Islam, while Kurds are typically Muslims. In fact, they constitute a religious minority as well as an ethnic minority. Officially, Yezidis are recognised as one of the 11 national minorities in Armenia. It is also important to note, that a small group consider themselves not Yezidis but Yezidi Kurds, i.e. religious Yezidis but ethnic Kurds.

Yezidis are primarily pastoral people, concentrated in the villages north of Aparan and living off sheep farming. Their main problem is that after the collapse of the Soviet Union land ownership was transferred from state to private. During Soviet times, they were able to use the mountains freely and were allowed to let their sheep graze there. In February 2002, however, the government, to whom the mountains in fact still belong, rented out parcels of land to the highest private bidders. Yezidis, who are mostly living in economically difficult conditions, did not manage to acquire the usage rights for many parcels, while a large part of the land went to wealthy individuals and interest groups from Yerevan. Yet, as shepherders and a pastoral people, denial of the right of way or access to the land needed for tending their sheep leaves their livelihood and also the survival of their cultural traditions at stake.

Therefore, while Yezidis have not been the target of overt, systematic and policy-based discrimination, their economic situation is quite bad and the way in which the land was divided or privatised did certainly not favor them. Yet, it is sometimes difficult to get a clear picture as Yezidi representatives express different criticism and demand different solutions. Observers, no matter if from very radical or pro-government NGOs, invariably agree that there is internal disagreement within the leadership of the Yezidi communities, mainly stemming from the fact that the urban city-based intellectuals (Yezidi Kurds) and the pastoral people living in the villages have diverging grievances and interests.

II.2. Religious minorities

GK:

The Armenian national Church views non-apostolic churches and sects with centers abroad as foreign communities, and also as a challenge. It also wields considerable moral and social power, as Armenians are very proud of their Church and last year Armenia celebrated the 1,700th anniversary of the Christianization of Armenia. Still, this does not necessarily mean that all Armenians are practicing believers. In general, they tolerate foreign religious communities and are well aware that most members join these communities because they are in a very bad social and economic situation. Many seem to be not only attracted by the beliefs and practices of these communities but also by the fact that they provide social and material aid to their members. The Armenian national Church obviously expects that once the social conditions in the country have improved everybody will flock back to the Armenian national Church.

Owing to the Armenian national culture and also to the culture of the former Soviet republics nothing similar to a church tax system could develop. This posed no serious problem during Soviet times, when the number of churches and their activities were limited. Nowadays, however, the Armenian national Church has to serve a largely increased number of parishes and parishioners and needs an enlarged clergy. As it does not have sufficient funds there is considerable resentment against foreign communities which indeed command more funds than the Armenian national Church.

AI:

According to the Law on the Freedom of Conscience and Religious Organisation, every religious organisation in Armenia needs to be registered. Some criteria for registration are included in Article 5:

"1.) It does not contradict the provisions of Article 3 of the present law." (Article 3 determines: "Any compulsion or coercion over the citizen in deciding over his or her attitude towards the issue relating to his or her participation or abstention in the clerical service, religious rite and ceremonies, religious education shall not be permitted.")

"2.) This organisation should be based on historically canonised holy scripture." This is, of course, a matter of interpretation and in effect a quite arbitrary criterion.

"3.) Its religion is included in the system of the world's modern religion clerical communities." This provision can again be interpreted in a very subjective way.

"4.) This organisation should be free from pursuing material oriented goals and it is directed for purely spiritual spheres."

5.) Finally, the organisation should comprise at least 200 members nationwide in order to be registered and children under eighteen cannot become members of the religious organisation.

Jehovah's Witnesses

AI:

Currently an estimated 50 religious organisations are registered in Armenia according to the above criteria. However, Jehovah's Witnesses are not registered, and their application has already been turned down twice. Previously, the official registration procedure was conducted by the Religious Council that had originally been appointed by

the president, but has now been dissolved. A new body replacing the previous council under the Prime Minister's office is in the making.

In the case of the Jehovah's Witnesses the government and the authorities argue that their principles and goals as well as the structure of their organisation contradict the Law. Of course, the Jehovah's Witnesses are very active and their very aggressive proselytising evokes resentment. For instance, one of the leaders of the Jehovah's Witnesses was charged on suspicion of having attempted to forcibly convert children but was eventually acquitted under a considerable degree of international pressure. In response, the Presidential Commission on Human Rights recently issued an opinion demanding that this judgment should be reconsidered because the children were being forcibly involved in religious activities and this went against the Convention on the Rights of the Child.

Nonetheless, the charge of proselytising is clearly more of an excuse and the key conflict between the government and the Jehovah's Witnesses seems to be linked to their refusal of military service, although both explanations are not mutually exclusive. Looking at Mormons, it can be observed that active proselytising on their part poses no problem, that they are more or less accepted and have managed to obtain official registration, at least partially because they fulfill their legal obligation to serve in the Armenian military.

In contrast, Jehovah's Witnesses maintain their principal (conscientious) objection to military service on grounds that their members should neither bear arms nor serve anybody, including a military commander, but God. However, when it comes to military service Armenians are quite principal, expecting that every Armenian should serve his country and thus also serve in the military. The Jehovah's Witnesses refusal to serve creates frictions that, together with the current legal context that does not foresee an alternative military service, have led to a number of convictions of Jehovah's Witnesses for draft evasion, which carries a maximum sentence of up to 3 years in prison. Currently, 22 Jehovah's Witnesses are serving their sentences for draft evasion, ranging from 1 to 2 years in prison, and an additional 8 have been released, but are still technically under arrest. Overall, a RFE/RL report as well as the Helsinki Association mention more than 100 young men prosecuted for draft evasion, most of them Jehovah's Witnesses.²²

Although a draft law on alternative military service is in the making it still contains passages that are objectionable to the Jehovah's Witnesses and it will certainly take some more time before an acceptable and durable solution will be found. (please see Ch. II.4 on Draft evasion/Desertion)

²² Radio Free Europe/Radio Liberty: Armenia: Crackdown On Jehovah's Witnesses Strains Ties With Europe, 25 September 2002

<http://www.rferl.org/nca/features/2002/09/25092002142506.asp>

please also see Helsinki Association: Open Pages #2: The Hundredth Jehovah's Witness In Prison

<http://www.hahr.am/english/open2/obsrelvardan.htm>

Helsinki Association: Open Pages #5: The Clergyman beats the Jehova's Witness

<http://www.hahr.am/english/open5/weeklykaren.htm>

Helsinki Association: Open Pages #6: Restrictions of Freedom of Conscience

<http://www.hahr.am/english/open4/obsrelres.htm>

GK:

In March 2002, according to a high ranking official of the Ministry of Defense, there was a court proceeding against a Jehovah's Witness who refused to perform his military service and he won this trial.

AI:

One may be tempted to think that a person could join the Jehovah's Witnesses merely to raise the credibility of his asylum claim. Similarly, some people and some NGOs contend that these people have converted just because they wanted to avoid military service. Yet, it is important to note that according to one researcher dealing with the Jehovah's Witnesses, their meetings are quite intense and very well organised. She had attended sessions for a period of three weeks and recounted that at every meeting a role-play based on bible verses was performed. If a person misquoted the bible s/he was quite harshly and publicly reprimanded during the meeting. Therefore, to be able to go through this kind of molding a person must presumably be a quite convinced believer. Ultimately, as in all RSD cases, it depends on the individual circumstances if a person's claim is credible or not.

Coming back to the issue of registration, the Jehovah's Witnesses are not overtly inhibited in exercising their faith, they are not arrested and do not have their activities broken up by the police. The disadvantage of not being registered is, however, that this can always serve as an excuse for the authorities to disrupt their activities, arguing that a religious organisation that is not registered is carrying out illegal activities. This could be used whenever the authorities wanted to put pressure on them.

GK:

Otherwise, the only advantage of registration is that a community is officially entitled to act as a registered clerical organisation within the confines of Armenian law. As religious communities do not receive any funds from the state non-registration does not carry any negative financial implications.

AI:

In social life, the Jehovah's Witnesses are not a target of overt violence, attacks or harassment. But there is certainly societal pressure, the press is opposed to their practices and Armenian judges are not 'very keen' on supporting cases of members of the Jehovah's Witnesses, to put it mildly. Sometimes, individual believers experience strong ostracism from the community. Many people do not want to get in touch with Jehovah's Witnesses and, according to one researcher, do not even want to speak about it. Given the importance of social networks in Armenia for economic survival social isolation can have quite serious consequences for a Jehovah's Witness. Likewise, the official Armenian Church does not regard them very kindly but despite issuing very critical and negative statements does usually not encourage acts directed against Jehovah's Witnesses.

Other groups

AI:

More than 50 religious communities, such as Mormons, Adventists or 7th Day Adventists, are registered in Armenia. In general, all registered religious communities seem to be practicing freely and to have no reported problems with the authorities. Interestingly, Jews are not only a registered religious community, but are also considered one of the 11 officially recognised national minorities. According to the statistics, before the conflict 1988-92 there were in total 676 Jews who mainly came from Azerbaijan and Georgia to Armenia.

GK: Now they number about 400-500 persons.

AI:

With regard to the Hare Krishna community, apparently considerable pressure was exerted on its members in 1995. These days they are no longer very active, partially because of the pressure in 1995, and the main problem of the community seems to be its dwindling membership. They are not registered, which, according to some sources, is due to the fact that they do not have the minimum number of members required by Law for registration, i.e. 200 nationwide. Since 1995, there have not been any reports of harassment of the Hare Krishnas.

There has been no report of difficulties in practicing Islam mostly because of the tiny number of the Muslim population. There is a mosque in Yerevan, but it is mostly for Iranians residing in Armenia. Azeris tend to keep a low profile and therefore would not attend a mosque but one can conjecture that they practice their faith in private. However, there is no concrete information on whether Islam is actually practised or to which extent it is practised. On the other hand, in the area around Lake Sevan, where many Azeris had been living before the conflict most Muslim cemeteries are damaged and destroyed, with only a few of them remaining intact. Yet again, there is no information on whether and how Azeris or other Muslims in Armenia are currently carrying out religious ceremonies, including burials.

II.3. Sexual minorities

AI:

The Armenian Sociological Association has recently finished a survey on religious, ethnic and sexual minorities.²³ The researcher who was responsible for sexual minorities stated that in contrast to male homosexuality female homosexuality is not a criminal act. Rather, while not being openly accepted, lesbian women are more tolerated and not targeted. Due to the fact that Armenian society is a male-orientated society, male homosexuality is very much suppressed, not talked about, and even feared, whereas female homosexuality is more or less ignored.

²³ Armenian Sociological Association (ASA): Selected Groups of Minorities in Armenia (Case Study), Yerevan 2001; also available at www.ecoi.net

According to the law that is still in force, male homosexual acts are punishable with up to five years of imprisonment and forced homosexual intercourse or sexual relations with juveniles with three to seven years. However, as with the provisions relating to the death penalty, Armenia is required to eliminate the respective provisions on homosexuality from its Penal Code in order to be able to become a full member of the Council of Europe. The draft criminal code that was passed in the first reading in June 2002 no longer contains provisions on homosexual acts, but only carries sanctions for forced sexual intercourse.

Although lately there have not been any reported arrests or legal prosecutions, the fact that the practice of homosexuality constitutes a criminal act puts homosexuals under pressure and may cause blackmail of homosexuals, even by policemen. In other words, law enforcement officers would not actually apply this provision but rather take advantage of it by blackmailing a homosexual with the threat to apply the provision or to make his homosexual orientation public. For instance, there are reports that homosexuals have been summoned over the phone or picked up and taken to police stations, where they were confronted with three options: 1) to provide the name of wealthy homosexuals, who would be able to pay more bribes, 2) to pay hush money, which according to one human rights activist is between USD 500-1,000, 3) to get arrested and serve a prison term.

Given an average monthly income of USD 20 and 60, an amount of USD 500-1,000 is certainly a lot of money. Yet, somehow the people affected scratch together and borrow the money rather than choose the third option. Of course, in some cases the people taken to the police stations may implicate others who are then taken in or summoned and subsequently blackmailed. There are sometimes even reports of the blackmailing of a heterosexual person by falsely accusing him of being a homosexual and threatening to make that 'fact' known to the public. Certainly, the police and also some officials use that as a way to extort money.

Although this type of blackmailing is an ongoing phenomenon, it is not openly discussed because no one could just come out and admit that he is homosexual.

GK:

On a more general level, there are written and unwritten laws in Armenia and the unwritten laws are certainly those that are more strictly observed than the written laws. The neglect of social and legal issues, such as environmental protection, women's and homosexual rights, are a legacy of the Soviet Union and the social positions or attitudes towards these issues are quite different from what you can expect in Western Europe.

Al:

Homosexuality and sexuality as such are big taboos in Armenian society. For instance, and as already mentioned above, a journalist who some time ago had published an article on prostitution in Yerevan was admonished not to touch the subject again by the Ministry of the Interior. Another example is a recent TV show where a politician could not even utter the word homosexual.

Many of the homosexuals in Armenia are reported to belong to the art scene and know each other, but they are not organised. In fact, the Helsinki Association tries to help them

in building up an NGO, but as long as homosexuality is a criminal offence, it may face some difficulty in officially registering an NGO for homosexual rights.

Just the fact that someone was sitting in a café that is normally frequented by homosexuals would not necessarily get a person in trouble. The provisions of the Penal Code apply only in cases where two homosexuals were caught red-handed, which in reality never happens. Moreover, there are no cases reported that the police raided bars where gay people tend to go or arrested a homosexual couple in such a place.

In light of the above, of course nobody would openly admit to being a homosexual during his military service. Yet, one way or another he may be identified as a homosexual and then would be at a much higher risk than others of being subjected to the kind of treatment, including hazing, that prevails in the Armenian army.

GK:

It is mere speculation to try to estimate how many of those 100 or so soldiers who were killed during their military service were homosexuals. For instance, the chairperson of the Soldiers' Mothers, Greta Mirzoyan, said that she has not seen any reports of cases of homosexuals being subjected to hazing and other forms of inhuman and degrading treatment in the army. However, this can be interpreted either in the sense that there were indeed no incidents involving homosexuals or in the sense that because of the taboo nobody wants to speak about it. Ultimately, it is next to impossible to get tangible evidence as only eyewitnesses could testify as to the motive of these incidents but in reality nobody would tell you: "Yes, this actually happened, because he was a homosexual."

AI:

All in all, homosexuality is still criminalised, there is enormous societal pressure and neither law enforcement nor the government would offer much protection against discrimination and harassment of homosexuals. According to the Armenian Helsinki Association, there were seven murders of homosexuals last year, but in only one of them investigations were initiated. It is not clear why they were killed but they are assumed to have been killed because of their homosexuality. Nonetheless, it is very difficult to obtain official reports on this issue as it is so hidden and even the victims do not want to come forward. The only assessment that can be made with certainty is that even after the implementation of the recommendations of the Council of Europe and the associated decriminalisation of homosexual acts homosexuals in Armenia will continue to have very difficult lives.

II.4. Draft evaders/deserters

Conscription

AI:

According to Chapter 2/Article 5 of the 1991 Law on Military Duty the normal military service in times of peace is obligatory between the ages of 18 and 27 and lasts two years. Men between 16 and 18 may be subject to preliminary military registration,

including a medical examination. As soon as a young man turns 18 he is supposed to join the army but service may be postponed for students at state-run institutions.

An Armenian citizen who left Armenia before reaching the draft age and returns after he has reached 27, theoretically, i.e. according to the military prosecutor's office, would not have any obligation to serve after his return, for reasons of exceeding the draft age. Yet, it is important to differentiate between theory and practice. For instance, there are reports from NGOs that people over 27 are also called up for military service. Thus, while the position of the government and of the law is quite clear it may not always be implemented in practice.

GK:

In addition, there are regular call-ups for military exercises to give the army command indications as to how many soldiers would be at its disposal in case of an armed conflict. People who come to Europe sometimes might be those who are not actually fleeing military service as such, but those kinds of call-ups.

AI:

For the time being there is no alternative service but a draft law on alternative military service is in the making. Still, the introduction of an alternative service is currently one of the most controversial issues in Armenia. In fact, one of the obligations for Armenia to accede to the Council of Europe is to pass such a law. Primarily, this relates to the Jehovah's Witnesses and their principal (conscientious) objection to military service. As regards the content of the draft law, the latest version that was presented gives young men of draft age the possibility to serve in a military unit that does not oblige them to carry arms. However, this is not sufficient for the Jehovah's Witnesses who believe that their members should not serve anybody, including a military commander, but God. Furthermore, the draft law on alternative military service foresees a length of service of four instead of two years, which is quite long. Yet, this is not the final version and there are still a lot of sometimes heated debates on the issues.

GK:

Yet, in practice, some kind of alternative to the regular military service already exists, which would allow post-graduates to opt for civilian positions after completion of their four-month basic training. Typically, these individuals would obtain technical jobs or positions as teachers in border area village schools - in so called regions-at-risk. Nevertheless, this represents a compromise and can by no means be considered a full-fledged alternative service.

Refugees are exempted from conscription, but according to the Law on Refugees they have the right to serve in the army. In many cases their names are automatically included in the register of the recruitment office. When they go to the office some refugees may feel the pressure not to object and agree to beginning their military service. Yet, if they noticeably complain and prove that they are refugees they will not be forced to serve.

Draft evasion/Desertion

GK:

Concerning the social reality, it should be noted that most young Armenians have been and are still reluctant to do their military service. For instance, in 1993 in Hotel Armenia a young man was selling souvenirs and was breathing heavily after he had obviously been running away. The student explained that at the subway exits the authorities would just round up young men and detain them to check their identity and see if they had already completed their military service. Students and those who had completed their military service were set free. This is, however, a practice of the past that is today no longer applicable.

In 1994, in an interview, a general from the Military Commission, who was responsible for call-up and recruitment in one district of Yerevan, Shahumian, stated that he had sent out 107 letters to draftees as notification that they should do their military service. The deadline given to register with the recruitment office had been two weeks. Of the 107 people who had been contacted three people actually showed up. When the car picked up the three persons to go to the barracks one of them ran away.

Of course, since then there have been improvements in the situation of soldiers and recruits in the barracks and in the army, although there are still a high number of abuses and unaccounted deaths during military service. Furthermore, there is no open armed conflict at the moment, which previously had caused fears of serving in the military. Still, young people are not really motivated to go to the army, and the majority is still trying to avoid it. Therefore, the authorities try to exert pressure on draft evaders by a variety of means, including denial of access to public sector jobs and exit permits for travel abroad to those who have not completed their military service yet.

AI:

Draft evaders from previous years, e.g. 1995, would be facing the same sentences as new draft evaders, given that there is a record on these people. As records are fairly well-kept and as usually no one can enter the country without proper documents – which are not issued without prior registration – they would probably prosecute such a person.

The penalties imposed by the Penal Code are one to three years for draft evasion and three to seven years for desertion in peace time, while during times of war desertion can be punished with the death penalty. Currently, Armenia enjoys peace time.

GK:

In practice and law, the punishment for draft evasion and desertion is different. It is also important to make a difference between those who were recruits and tried to evade their two-year military service after they had been conscripted, and those who deserted as professional soldiers, thus violating their contract with the army. Naturally, professional soldiers would be punished more severely and harshly than those who deserted during military service.

A person who deserted several weeks or months after his conscription would, in the event of his capture and subsequent military court trial enjoy the right to legal counsel and representation. If he was sentenced, he would have to serve his prison term and then he would still have to serve in the army for that period which he "avoided". Not surprisingly, the statements regarding corruption in civil courts, albeit less so, apply to military courts as well. In military court cases the sentences will be less severe if bribery is involved. But while this happens, it does not happen in the majority of cases and the deserter would still have to serve a sentence.

The investigations of cases of draft evasion and desertion are carried out by the Military Commission, a body that has already been responsible for these kinds of issues in Soviet times. Initially, its officers write a letter, subsequently visit the place of residence of the draftee several times and interview the parents or other family members on the whereabouts of the draftee. If the family members know their rights, they will not let these officers from the Military Commission enter their house. But in many cases they actually do, because unwritten law is very crucial in Armenia. Quite similar to the situation in many other countries, there is an established practice that if you have a representative of the authorities knocking at your door saying: "We will just come inside your apartment, we are looking for your son", and you do not know your rights well, you are not going to argue with them, but will rather let them in. In most cases they will search the apartment to find out if the draft evader/deserter is hiding there. Yet, there is no legal provision which actually grants the Military Commission the right to conduct house searches.

Ultimately, not much happens to the families of draft evaders although the experience shows that some officers may try to extort bribes from them. There is no prosecution of parents who helped their sons evade military service, and in many cases even the parents may not know where their sons escaped to. In contrast, in the case of deserters family members will definitely be prosecuted, too. If there is evidence and the authorities have proof that the deserter was hiding at his family's place, then the family members will be prosecuted for assisting somebody who is committing a crime or breaking the law.

AI:

In those cases where the officers investigating a case of draft evasion/desertion would exceed their authority legal remedies in principle exist. Theoretically, it is possible to bring any kind of abuse by the military authority or military police to the attention of law enforcement authorities, also to the Presidential Human Rights Commission. It simply depends on the person affected and on if he wants to pursue this course of action. However, as already mentioned (see 'Fair trial'), there is a fundamental lack of confidence in law enforcement and the judiciary in Armenia. In many instances, the independence of the judiciary is not guaranteed and personal as well as political connections may influence the outcome of trials considerably. Moreover, it is always difficult to face up with agents of three power ministries: Ministry of Defence, Ministry of Interior and Ministry of National Security. Therefore, even if charges are levelled, remedy may be quite uncertain, and many victims show great reluctance to seek legal redress for abuses committed by agents of these ministries.

Concerning the risk of persecution of a person who brings a claim against the military police, it is difficult to generalise and depends on the case. If indeed the case touches a nerve or implicates an influential person with good connections, it could be possible that the authorities turned around and tried to charge the claimant for something he has not done. Still, while this is possible, it is not a generalised pattern.

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