



**EURASIA  
PARTNERSHIP  
FOUNDATION**

# **Assessing the Application of UN Mechanisms on Freedom of Religion in Armenia**

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## Introduction

This study is being carried out by the Eurasia Partnership Foundation from December 2014 to February 2015 and focuses on issues of freedom of religion in Armenia. It particularly examines the extent to which UN Human Rights mechanisms--and in particular, recommendations of UN Charter and Treaty Bodies on freedom of religion--are incorporated into Armenian legislation or reflected in governmental policies and practices.

The research is intended to be useful first and foremost to the Armenian Government. However, we believe that it can also be used by international organizations, intergovernmental bodies and local NGOs dealing with human rights. Taking into consideration the anticipated reader group of the paper, the study is rather concentrated on concrete recommendations, analyses and principles, while omitting widely-known facts and details. Nevertheless, wherever we feel that there is an obvious lack of information, or more elaboration is needed for grasping the argument, we also provide the necessary basic data.

There are a number of studies and reports produced by local and international NGOs, intergovernmental organizations and foreign agencies such as the US Department of State. Many of them contain up-to-date comprehensive analyses of freedom of religion in Armenia, Armenian legislation, the commitments the country has to fulfil as well as a few studies of specific issues such as public perceptions and the rights of children from minority groups. Obviously, some of the existing documents refer to findings and recommendations of the UN Charter and treaty bodies, thus repeating and strengthening nested arguments. Nevertheless, it seems that reviewing the recommendations of UN Human Rights mechanisms from the given point of view is being done in Armenia for the first time.

Methodologically, the research is based on desk study and in-depth interviews conducted with key governmental and non-governmental stakeholders. The respondent list includes representatives of the administration of the Government of Armenia, Ministry of Justice, Office of the Ombudsman, UNDP, Armenian Helsinki Committee, Collaboration for Democracy NGO and others. Initially, the interviews were planned as a supporting tool to prove the findings of the desk research. However, during the process it became clear that the interviews, especially the ones conducted with the condition of anonymity, were much more useful, enlightening and informative than often inconsistent and inconclusive pieces of official documentation. Therefore, it was decided to carry out more interviews than initially scheduled, keeping the respondents anonymous.

The specific objectives of the study are:

- To review and highlight the most important recommendations of UN Human Rights bodies on freedom of conscience and religion in Armenia;
- To find out the extent to which the key recommendations are reflected in the Armenian legislation or governmental policies and practices;
- To learn whether civil society organizations are aware of UN Human Rights mechanisms, including procedures of alternative reporting and individual complaints.

Aiming to meet the specific objectives or research questions articulated above, the paper summarizes the findings of desk research and information gained through in-depth interviews, puts forward some general observations on the topic and suggests a number of practical recommendations in order to improve the situation.

## Literature review

The desk research in the first instance covered vast amounts of documentation including the official state reports to relevant UN bodies, recommendations of UN Treaty and Charter bodies, communication between the two, alternative reports submitted by civil society organizations as well as other relevant and available online documents. The reports and recommendations of the Council of Europe’s monitoring bodies, especially the one of the Commission against Racism and Intolerance (ECRI), often coincide with UN concerns on Armenia, providing essential information on key issues and helping to prioritize the most important problem areas.

Relevant primary governmental sources such as the National Human Rights Strategy, new draft Law on Religious Organizations, draft Anti-Discrimination Law and others were used for the purposes of the study. Some of them are publicly available on the web, while some were provided to EPF privately for research purposes only. A few other documents, although known as being under discussion, such as the National Security Strategy, remained unavailable.

Studies and analyses presented by Armenian NGOs and international organizations on issues of religious freedom and tolerance have been carefully reviewed and widely used in the paper. For instance, the domestic and international legislation on Freedom of Conscience and Religion is quite well assessed in studies by the Armenian Helsinki Committee "Freedom of Religion in Armenia", 2010 Chapter 2<sup>1</sup> (pp.14-27) and Collaboration for Democracy's "Religious Tolerance in Armenia", 2011 Chapter 3 (pp. 38-58)<sup>2</sup>. The US Department of State Religious Freedom reports<sup>3</sup> provide thoughtful analyses of the situation on the ground and focus on concrete cases of violation. It is also indicative that “societal discrimination” is highlighted and addressed. One

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<sup>1</sup>[http://armhels.com/wp-content/uploads/2012/06/344eng-Freedom\\_of\\_Religion\\_in\\_Armenia.pdf](http://armhels.com/wp-content/uploads/2012/06/344eng-Freedom_of_Religion_in_Armenia.pdf)

<sup>2</sup><http://www.religions.am/files/1577/english/library/Religious-tolerance-in-Armenia.pdf>

<sup>3</sup><http://www.state.gov/j/drl/rls/irf/>

can notice that in its recent, 2013 Human Rights Report, the US Department of State frequently cites the recommendations of UN treaty bodies and UN agencies such as UNICEF and UNFPA<sup>4</sup>. OSCE Toledo Guiding Principles are very useful and often cited in relation to issues of religion and education. The reports and interventions of the Armenian Ombudsman were also considered.

DATALEX<sup>5</sup>, the judiciary portal developed within the framework of the Second Judiciary Project funded by the Government of the Netherlands and the World Bank, provides easily searchable public information on the proceedings and verdicts of court cases. The resources available through that online tool were used in order to explore concrete cases of discrimination against religious groups as well as the existence or absence of references to UN human rights mechanisms. Some documents were obtained through lawyers and personal contacts as well.

There are also studies that observe and indicate the so-called “societal” or “non-state actor” discrimination against religious minority groups. In 2013, the Council of Europe commissioned the Eurasia Partnership Foundation (EPF) to conduct a comprehensive desk and field study on the rights of children from an ethnic and religious minority background. The study was presented to various stakeholder groups but has not yet been published. However, it is available for unofficial reference and has been used in this study. In 2012, EPF together with assistant professors from Yerevan State University conducted qualitative research on the public perceptions of religious groups in Armenian society. The findings of their research are incorporated in this paper.

On 29-30 May, 2013 a regional conference on Freedom of Religion in Georgia and Armenia was conducted in Tbilisi with the support of the OHCHR, Government of Netherlands and European Center for Minority Issues. The conference brought together state and non-state actors, traditional and non-traditional religious communities, including representatives from the Armenian Apostolic Church in Armenia and in Georgia. The UN Special Rapporteur on Freedom of Religion participated in the conference and addressed participants with a speech. The conference publication<sup>6</sup> is a very important source for this study since it incorporates statements and interventions by representatives of the Armenian Government, Office of the Ombudsman and other key stakeholders on the issue of our interest. The Special Rapporteur’s region-specific observations and comments are also very important since he had never been in Armenia and Georgia with an official mission.

The Armenian media and their attitude towards religious minority groups have been professionally monitored previously. The publications of the Collaboration for Democracy Union and Armenian Helsinki Committee mentioned above provide references to their studies.

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<sup>4</sup> <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220251#wrapper>

<sup>5</sup> <http://www.datalex.am/?lang=eng>

<sup>6</sup> [http://www.ecmcaucasus.org/upload/reports/FoRB\\_conf\\_Report.pdf](http://www.ecmcaucasus.org/upload/reports/FoRB_conf_Report.pdf)

The most recent media monitoring was commissioned by EPF and implemented by Yerevan Press Club in 2012.

The religions.am website, which is dedicated to freedom of religion in Armenia and run by the Collaboration for Democracy Union should be especially acknowledged since it provides extremely valuable information, analyses and news on the issue. A relatively newly established page of the Armenian Helsinki Committee<sup>7</sup> website on freedom of conscience is an important and useful resource too. The paper also refers to publications in the Armenian media.

## **UN Human Rights Mechanisms and Freedom of Religion**

The United Nations' work on human rights is carried out by a number of bodies. For human rights issues, a distinction must be made between charter-based and treaty-based human rights bodies. A full and comprehensive description with respective links can be found at the OHCHR web site. Nevertheless, we would like to stress the most important mechanisms relevant to the topic of our study along with concrete references to Armenia.

### **a. Charter bodies**

The current charter-based bodies are the Human Rights Council and its subsidiaries, including the Universal Periodic Review Working Group, the Advisory Committee and Special Procedures, such as Special Rapporteurs. They have carried on their work since 1947, reporting first to the Commission, then to the Council<sup>8</sup>.

*The Human Rights Council* is responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them. More about the Council can be found on their web page<sup>9</sup>.

*The Universal Periodic Review (UPR)* is a unique process which involves a review of the human rights records of all UN Member States. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed. Armenia passed the first circle of reviews in May 2010. Country specific information, including the

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<sup>7</sup> <http://kron.armhels.com/>

<sup>8</sup> <http://research.un.org/en/docs/humanrights/charter#13202474>

<sup>9</sup> <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx>

National Report, Questions submitted in advance and a review outcome are available online<sup>10</sup>. During its Universal Periodic Review, Armenia accepted recommendations related to the freedom of religion. The second circle of review is scheduled for January-February 2015.

*The Human Rights Advisory Committee* is an expert body that functions as a think-tank for the Council. It mainly focuses on studies and research-based advice and is a relatively new body, established in 2008. The Committee is composed of 18 independent experts from different professional backgrounds representing the various regions of the world. Experts are nominated by Governments and elected by the Council. More about the Advisory Council can be found on their page<sup>11</sup>. Although the Advisory Council has not issued any particular studies on Armenia or freedom of religion, the study on promoting human rights and fundamental freedoms through a better understanding of the traditional values of humankind<sup>12</sup> provides interesting food for thought and valuable arguments in the ongoing discussion on universal values and cultural determinism. The paper addresses important notions of freedom, dignity and responsibility in the context of traditional values and universal human rights. We believe that it is a useful reading for governments, experts and civil society actors.

*The Special Procedures* constitute a system that is a central element of the United Nations human rights machinery and covers all human rights: civil, cultural, economic, political, and social. As of 1 October 2013 there are 37 thematic and 14 country mandates<sup>13</sup>. More about Special Procedures can be found online<sup>14</sup>. Special procedure mechanisms include:

- special rapporteurs
- special representatives
- independent experts
- working groups

Among the thematic mandates covered by UN Special Rapporteurs, Independent Experts and Working Groups are, first and foremost, the Special Rapporteur on Freedom of Religion and Belief as well as the Independent Expert on minority issues, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance as well as the Working Group on the issue of discrimination against women in law and in practice.

Mandate holders carry out country visits to analyze the human rights situation at the national level. In 2006, Armenia issued a so-called “standing invitation,” which means that the country, in

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<sup>10</sup> <http://www.ohchr.org/EN/HRBodies/UPR/Pages/AMSession8.aspx>

<sup>11</sup> <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/AboutAC.aspx>

<sup>12</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/185/77/PDF/G1218577.pdf?OpenElement>

<sup>13</sup> <http://www.ohchr.org/EN/HRBodies/SP/Pages/Welcompage.aspx>

<sup>14</sup> <http://www.ohchr.org/EN/HRBodies/SP/Pages/Introduction.aspx>

principle, is prepared to receive a visit from any thematic special procedures mandate holder. The Special Rapporteur on Religion and Belief has visited Azerbaijan (2006) and Georgia (2003) in an official capacity, but not Armenia<sup>15</sup>. To our knowledge, he has also never issued official statements, urgent appeals or letters of allegation regarding the country.

However, the general approach, annual reports and recommendations are relevant to Armenia along with other UN country members, and are instrumental for the purposes of our study. We would like to highlight the most important points here.

The primary instruments upon which the Special Rapporteur bases his activities are Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. There are also relevant articles from other core Conventions. The approach is based on the following principles<sup>16</sup>:

- To promote the adoption of measures at the national, regional and international levels to ensure the promotion and protection of the right to freedom of religion or belief;
- To identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and present recommendations on ways and means to overcome such obstacles;
- To continue her/his efforts to examine incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate;
- To continue to apply a gender perspective, inter alia, through the identification of gender-specific abuses, in the reporting process, including in information collection and in recommendations.

We also believe it is important to focus the attention of the Armenian Government on the following statement of the Special Rapporteur: “Under international human rights law, States are obliged consistently to respect, protect and promote the human right to freedom of religion or belief. These three layers of state obligation mean that respect for freedom of religion is a respect for the right and not the result of administrative procedures. For example, registration of religious organizations can be useful but the freedom of religion or belief extends also to non-registered entities. The fact of non-registration does not make them illegal. Protection means

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<sup>15</sup> Mandate holders who visited Armenia have done so three times only – the RSG on Internally Displaced Persons (13-17/05/2000), SR on Human Rights Defenders (14 - 18 June 2010), Working Group on Arbitrary Detention (6 to 15 September 2010). <http://www.ohchr.org/EN/HRBodies/SP/Pages/countryvisitsa-e.aspx>

<sup>16</sup> <http://www.ohchr.org/en/issues/freedomreligion/pages/freedomreligionindex.aspx>



active involvement by the state in relation to all communities, not only selected ones and in all spheres of the state responsibility. Promotion of existence of religious diversity through public education is one of the obligations”<sup>17</sup>.

b. Treaty bodies

The human rights treaty bodies are committees of independent experts that monitor implementation of the core international human rights treaties. The recommendations of treaty bodies are more country-tailored and more specific, especially in the case of Armenia and our topic of research. Hence, throughout the paper, we are merely referring to recommendations and concerns expressed in the documentation of the treaty bodies.

The treaty bodies perform a number of functions in accordance with the provisions of the treaties that established them. These include the consideration of State parties' periodic reports, consideration of individual complaints, conducting country inquiries and also the adoption of general comments, interpretation of treaty provisions and organization of thematic discussions related to the treaties. When a country ratifies a treaty, it assumes a legal obligation to implement the rights recognized in that treaty. Each State party is also under an obligation to submit periodic reports to the relevant treaty body on how the rights are being implemented. In addition to State parties' reports, the treaty bodies may receive information on a country's human rights situation from other sources, including national human rights institutions, civil society organizations - both international and national, United Nations entities, other intergovernmental organizations, and professional groups and academic institutions. Most committees allocate specific plenary time to hearing submissions from CSOs and UN entities. In the light of all the information available, the relevant treaty body examines the report in the presence of a State party's delegation. Based on this constructive dialogue, the Committee publishes its concerns and recommendations, referred to as “concluding observations”<sup>18</sup>. State parties are obliged to implement these recommendations and to report on measures they have taken in this respect - either in the course of a follow up procedure, which some treaty bodies have put in place, or in their next periodic report.

NGOs can play an important role in the monitoring of implementation of recommendations. When a treaty body is preparing to consider the report of state parties, the experts depend on alternative information that NGOs provide in the form of written and oral briefings. National and international NGOs are often a main source of alternative information to a state party's report. As the treaty bodies' consideration of state reports culminates in the adoption of recommendations which the state party is obliged to implement, it is important that the treaty

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<sup>17</sup> See his speech at the conference [http://ecmcaucasus.org/upload/reports/FoRB\\_conf\\_Report.pdf](http://ecmcaucasus.org/upload/reports/FoRB_conf_Report.pdf)

<sup>18</sup> <http://www.ohchr.org/EN/HRBodies/Pages/WhatTBDo.aspx>

bodies are in possession of a range of information which accurately reflects the situation in a country<sup>19</sup>.

As it was mentioned above, freedom of religion is guaranteed by a number of treaties and is a subject of monitoring for a few treaty bodies including the Human Rights Committee (CCPR), Committee of Elimination of Racial Discrimination (CERD), Committee on the Rights of the Child (CRC), Committee on Elimination of Discrimination against Women (CEDAW) and to some extent Committee of Economic, Social and Cultural Rights (CESCR). CRC addresses the rights of children from minority groups, CEDAW targets girls and women, CESCR monitors the fulfilment of economic, social and cultural rights for all without discrimination.

### c. Other mechanisms

Many United Nations agencies and partners are also involved in the promotion and protection of human rights and interact with the main human rights bodies. Particularly relevant for our topic of study are UNICEF, UN Women and UNDP. More about other bodies can be found online<sup>20</sup>.

## Pending recommendations

The Republic of Armenia became a member of the UN in 1992 and embraced the principles of the universal values, human rights and democracy as an integral part of its state ideology<sup>21</sup>. Since then Armenia has signed and ratified a number of international agreements, treaties and conventions on Human Rights. Among the most important conventions ratified are the International Covenant on Civic and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), Convention on Rights of the Child (CRC) and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Torture Convention).

Armenia became a full member of the Council of Europe on 25 January 2001, signed and ratified 58 Conventions of the Council of Europe, including the European Convention on Human Rights (ECHR) joined to the 7 Partial Agreements<sup>22</sup>.

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<sup>19</sup> <http://www.amnesty.org/en/united-nations/treaty-bodies/role-of-civil-society>

<sup>20</sup> <http://www.ohchr.org/EN/HRBodies/Pages/OtherUnitedNationsBodies.aspx> and <http://www.un.org/en/rights/index.shtml>

<sup>21</sup> <http://mfa.am/en/international-organisations/UN/>

<sup>22</sup> <http://www.conventions.coe.int/>

The Constitution of the Republic of Armenia states that international treaties are a constituent part of the legal system of the Republic of Armenia. Therefore, the provisions of the above-mentioned Conventions should be implicitly or explicitly reflected in the domestic legislation, governmental acts and court decisions, and should be implemented in practice.

Undoubtedly, significant progress on the issue has been registered in the country since the late 1990s, when the first reports were submitted to UN treaty bodies. A good number of recommendations, including the adoption of a new Criminal Code, establishment of the Institute of the Human Rights Defender (Ombudsman), creation of a Coordinating Council on National Minorities, establishment of the Department for Ethnic Minorities and Religious Affairs of the Government of the Republic of Armenia, adoption of the Law on Alternative Military service and many more took place and were commended by the Commissions.

The Law on Alternative Military Service was eventually favorably changed in May 2013 as a result of pressure from the international community, as well as the famous *Bayatyan v. Armenia* European Court of Human Rights case<sup>23</sup>. Hopefully, thanks to the changes in the law, young men practising conscientious objection will be able to perform labor service not connected with the armed forces. A very detailed analysis of the situation in Armenia up to June 2012 can be found in the alternative report of the International Fellowship of Reconciliation and Conscience and Peace Tax International to the 105<sup>th</sup> Session of the Human Rights Committee<sup>24</sup>.

Nevertheless, there are still issues of constant concern that require action. The pending recommendations, as usual, are cross-cutting and incorporated in documents produced by various treaty bodies. Here are the most pressing and frequently voiced areas of concern:

- a. Absence of anti-discrimination legislation
- b. Armenian Law on Freedom of Conscience and Religious Organizations
- c. Issues of religion and education
- d. Absence of disaggregated statistical data

## **I. Anti-discrimination legislation**

The issue of anti-discrimination legislation is of very high concern to the international community including the UN, Council of Europe and EU. The most recent Concluding Observations on Armenia from the UN Human Rights Committee, adopted on 9-27 July 2012, state:

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<sup>23</sup> <http://www.strasbourgconsortium.org/common/document.view.php?docId=4467>

<sup>24</sup> [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ARM/INT\\_CCPR\\_NGO\\_ARM\\_105\\_8002\\_E.doc](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ARM/INT_CCPR_NGO_ARM_105_8002_E.doc)

"The Committee is concerned about the lack of comprehensive legislation on discrimination. It is also concerned about violence against racial and religious minorities, including by civil servants and high level representatives of the executive power, and about the failure on the part of the police and judicial authorities to investigate, prosecute and punish hate crimes (articles 2, 18, 20, 26). The State party should ensure that its definition of discrimination covers all forms of discrimination as set out in the Covenant (race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status). Further, the State party should combat violence and incitement to racial and religious hatred, provide proper protection to minorities, and ensure adequate investigation and prosecution of such cases. Moreover, the Committee encourages the State party to strengthen its efforts to ensure the effective implementation of the laws adopted to combat racial discrimination and to ensure the achievement of their objectives<sup>25</sup>."

Quite similar concerns are expressed in the documentation of almost all treaty bodies that observe the rights of minorities, children, women and people with disabilities i.e. all beneficiaries of anti-discrimination legislation and practices. The argument of absence of criminal cases per se as evidence for the absence of discrimination is continuously used by the Armenian Government in a variety of documents, and clearly considered unqualified by international monitoring bodies. The main counterargument is that if there are no complains that might simply mean that there is low awareness or no trust towards the courts and law enforcement bodies.

"The Committee reminds the State party that the absence of complaints and legal action by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies." CERD, 2002

EPF collected striking evidence of intolerance and discrimination towards the "others," over the last years while working on religious tolerance within the projects funded by the Government of the Kingdom of Netherlands. The National Youth Report<sup>26</sup> developed by the Ministry of Youth and Sport in 2011 contains example of such vocabulary used and conclusions drawn in its content. According to the Report, 88.6% of respondents consider belonging to the Armenian Apostolic Church (AAC-the main traditional Armenian Church) a criterion for 'being an Armenian,' i.e. belonging to Armenian ethnicity. This excludes hundreds of thousands of ethnic Armenians living in Armenia which belong to other denominations, and probably more than a million living outside it. Answering the question "Would you agree if your closest relatives marry people from other denominations?" the interviewed young people rated "sectarian

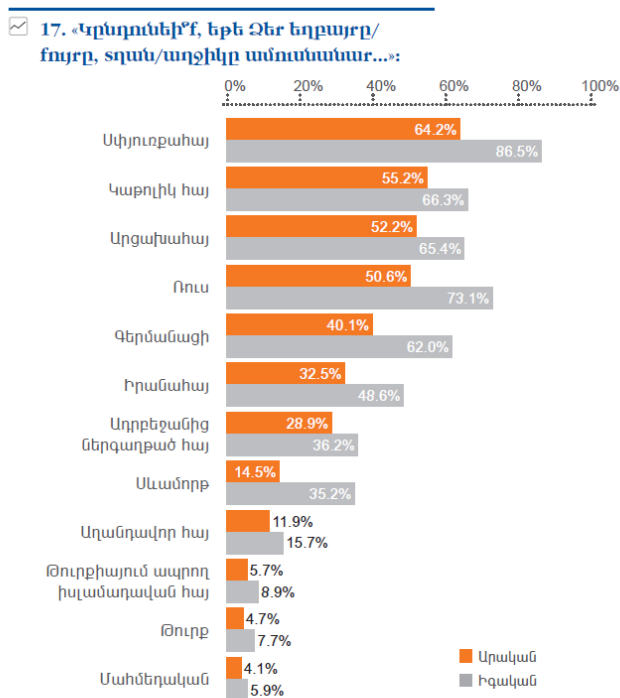
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<sup>25</sup> CCPR/C/ARM/CO/2 [www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.ARM.CO.2-3\\_AV.doc](http://www2.ohchr.org/english/bodies/hrc/docs/co/CCPR.C.ARM.CO.2-3_AV.doc)

<sup>26</sup> The report targeted 1,200 young people (18-30 years old) from rural and urban areas all over Armenia.

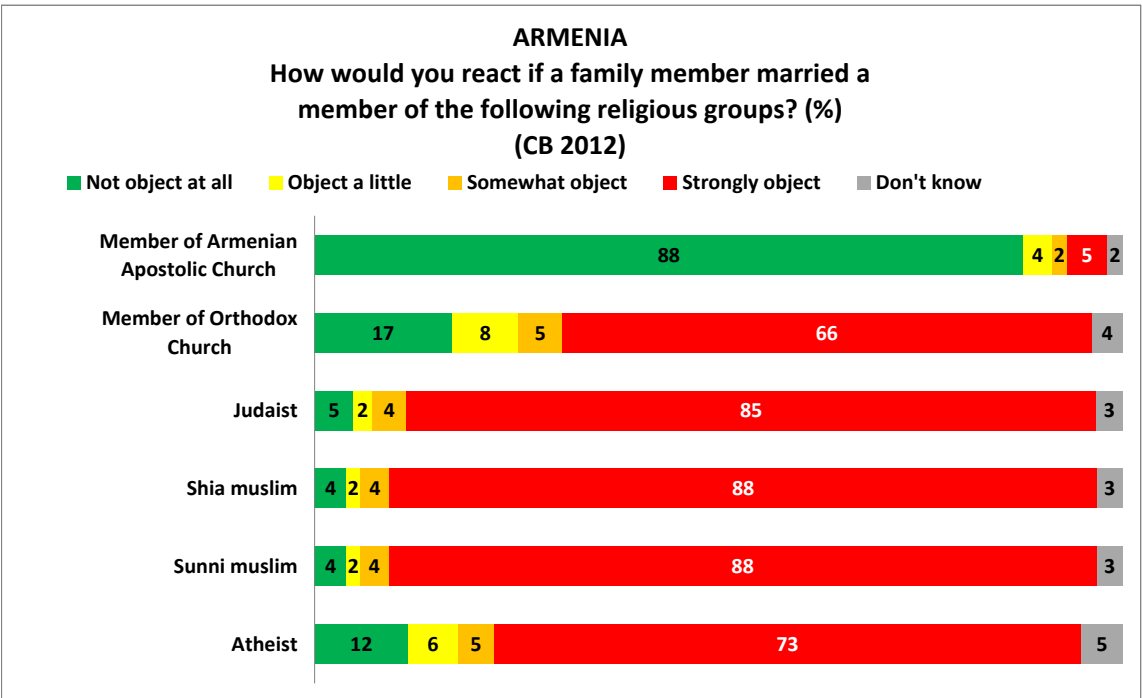
Armenians" (as in the report) less preferable than black people and a bit more preferable than Turks and ‘Muslims.’

The graph below represents the distribution of positive answers to that question in the following order: 1. Armenian from the Diaspora; 2. Catholic Armenian; 3. Armenian from NK; 3. Russian; 4. German; 5. Armenian from Iran; 6. Armenian from Azerbaijan (i.e. a refugee); 7. Black person; 8. Sectarian Armenian; 9. Muslim Armenian living in Turkey; 10. Turk; 11. Muslim. The orange color designates the answers by men and the grey color by women.



This data is corroborated by EPF through other findings, including personal interviews as well as public discussions and talk shows. The ‘mainstream’ Armenian young people draw very strict borders between who is ethnically Armenian and who is not, and discriminate against the latter in their attitudes. The research data also demonstrates that social contacts with representatives of distant nations are more acceptable for Armenia’s ‘mainstream’ young people than such contacts with neighbors, as well as the representatives of non-mainstream ethno-cultural groups of Armenia proper<sup>27</sup>. These findings are supported through data collected by the Caucasus Research Resource Centres in the 2012 Caucasus Barometer.

<sup>27</sup> [www.erit.am/pdf\\_fayler/book\\_zekujc.pdf](http://www.erit.am/pdf_fayler/book_zekujc.pdf)



In October 2012, the Office of the Armenian Ombudsman initiated an Anti-discrimination draft law, outlining also the importance of activities aimed at the prevention of discrimination. Preliminary agreements were reached with the OSCE/ODIHR and the European Commission to review the project after completion and to give an expert conclusion<sup>28</sup>. At the same time, the initiative was opposed by conservative circles of Armenian society. The Religion Subcommittee of the Public Council, for instance, released a statement, saying that this bill is “legalizing lechery and perversion in Armenia. Once adopted, the bill would openly legalize the expansion of sexual minorities and the advocacy of their lifestyle in Armenia<sup>29</sup>.” To our knowledge, the initiative is also opposed by the religious community of the country, including dominant Apostolic and Protestant/Evangelical denominations; marginal but loud public groups such as the “Stop Gender” initiative and some conservative MPs.

A dominant opinion is that Armenia does not need a special legislation on anti-discrimination since those norms are already incorporated in the Armenian Constitution, Criminal Code, Labor Code and other acts. At the same time, we have learned that the legal text developed by the Office of Human Rights Defender (the Ombudsman) also causes discontent and disagreement from different points of view. According to the head of PINK Armenia<sup>30</sup> Mamikon Hovsepyan, groups that are the potential subjects of the law are not clearly defined (for example, LGBT people are not mentioned in the draft law at all). Other points of disagreement include the proposed mechanisms of prevention and response (Chapter 2), as well as issues of prescribing

<sup>28</sup> [http://ombuds.am/en/pages/downloadPdf/file\\_id/1690](http://ombuds.am/en/pages/downloadPdf/file_id/1690)

<sup>29</sup> [http://www.armenianow.com/society/46835/karen\\_andreasyan\\_khachik\\_stamboultssyan\\_gender\\_equality](http://www.armenianow.com/society/46835/karen_andreasyan_khachik_stamboultssyan_gender_equality)

<sup>30</sup> <http://www.pinkarmenia.org/en/>

responsibility in cases of violation of the law (Chapter 3). There is an opinion articulated by some experts that the role of Human Rights Defender is exaggerated, but at the same time the law enforcement mechanisms are very vague.

In the light of Armenia's recent move towards the Customs Union and suspension of negotiations over the EU-Armenia Association Agreement, there is a danger that the process could be postponed indefinitely or even stopped altogether.

## **II. Law on Freedom of Conscience and Religious Organizations**

A serious portion of criticism goes to the Armenian Law on Freedom of Conscience and Religious Organizations. The concern is clearly repeated in the questions and observations of the Human Rights Committee and CERD. Although the constitution and the law establish a separation of church and state, they recognize “the exclusive mission of the Armenian Apostolic Church as a national church in the spiritual life, development of the national culture, and preservation of the national identity of the people of Armenia.” The law grants privileges to the Armenian Apostolic Church that are not available to other religious groups. For example, the church may have permanent representatives in hospitals, orphanages, boarding schools, military units, and places of detention, while other religious groups may have representatives in these places only upon request. The law prohibits but does not define ‘soul hunting’ - a term describing both proselytism and forced conversion. This prohibition applies to all religious groups, including the Armenian Apostolic Church.

In the recent Concluding Observations following the examination of the periodic review of the progress of implementation of the International Covenant for Civil and Political Rights by the Government of Armenia, the UN Committee on Human Rights stated that it is concerned about the limitations and restrictions on freedom of religion and belief, including the criminalization of proselytism (Article 18 ICCPR). It recommended that the State party should amend its legislation in line with the requirements of Article 18 of the Covenant, including the decriminalization of proselytism. (Para 24, CCPR/C/ARM/CO/2, July 2012)

The Human Rights Committee, in its list of issues to be taken up in connection with the consideration of the second report of Armenia (2011), raises the following questions. “Please explain how the conditions for registration of religious communities imposed by the 2009 amendments to the Draft Law on Freedom of Conscience and Religious Organizations, including the prohibition of registration of non-Trinitarian Christian communities, are compatible with the Covenant. Please

explain any legal restrictions on proselytization, and explain how they are compatible with the Covenant.<sup>31</sup>”

The Armenian Government, in its report to the UN Human Rights Committee in 2012, gave the following explanation. “The mentioned law was adopted taking into account the historical role of the Armenian Apostolic Church in the life of the Armenian people. Meanwhile, it should be mentioned that the provisions of this law do not impair in any way the rights and freedoms of other religious organizations stipulated by the legislation of the Republic of Armenia and by international treaties. This step of the State aims, among others, to compensate the harm inflicted on the Church in the years of the regime of atheism.<sup>32</sup>”

There are a number of other shortcomings in the current law. For instance, the guarantee of the rights on Freedom of Conscience and Religion set forth in Article 1 of this law refers only to the citizens of Armenia, whereas Article 26 of the Armenian Constitution stipulates that “everyone shall have the right to freedom of thought, conscience and religion.” Therefore a problem of compliance arises, considering the provisions of the current law with the Constitution as well as article 9 of the ECHR and Article 18 of the ICCPR.

Based on the concerns raised by the UN, CoE and other international organizations, the Armenian Ministry of Justice has prepared an entirely new draft Law on the Freedom of Conscience and Religions, as well as Changes and amendments to the Law on Relations between the Republic of Armenia and Armenian Apostolic Holy Church, Changes and amendments to the Code of Administrative Offences, and Changes and amendments in the Criminal Code.

The above stated draft law was considered by the Venice Commission and the OSCE/ODHR Joint Opinion (Strasbourg, 17 October 2011) to be fully in line with international standards and marking improvements compared to the current law, despite the fact that there are still additional changes to be made. Subsequently, the recommendations of the Venice Commission were generally taken into account. For example, one of the remarkable changes is that the term “proselytism” – an integral part of the fundamental freedom to conscience and religion, be it exercised individually or through a religious organization and prohibited by the current law - was changed into “improper proselytism,” although the definition itself should have been given a more clear legal formulation in order to avoid arbitrary interpretation in the future<sup>33</sup>.

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<sup>31</sup>CCPR/C/ARM/Q/2

<sup>32</sup><http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhstYAv5VIHmi3dCE%2fVC3G%2fg4iMP8s6seOCU%2b9kMBdeOfr5sJ%2b%2fbzoTf%2f296oJFnqSHfsVU2Hd8zCuX2fiwYTDYw5MdDk10Zg9Nwaki4Jnyq0q>

<sup>33</sup> Please see the intervention of the representative of the Human Rights Defender (pp.39-44) [http://www.ecmcaucasus.org/upload/reports/FoRB\\_conf\\_Report.pdf](http://www.ecmcaucasus.org/upload/reports/FoRB_conf_Report.pdf)



In his interview to the website religions.am, Deputy Minister of Justice Grigor Muradyan touched upon the term of ‘improper proselytism’ and the criminalization of forceful change of religion. He mentioned that there is a probability that a better term will be invented, but stated that ‘improper proselytism’ is used in accordance with an ECHR precedent. According to Mr. Muradyan, the law should be presented to the National Assembly by the Spring Session<sup>34</sup>. The draft law prepared by Ministry of Justice is available online<sup>35</sup>.

### **III. Issues of religion and education**

On 22 February 2007 the National Assembly adopted a Law on the Relations between the Armenian Apostolic Church and the Republic of Armenia, which guaranteed the church a privilege position to play a special role in Armenian public schools. This also enabled the AAC to establish closer relations with various state institutions. That cooperation resulted in the replacement of the subject ‘History of Religions’ being piloted in schools with one on “The History of the Armenian Church.”

In the summary record of the 1,790th meeting of UN Committee of Child Rights, available online, serious issues were brought to the attention of the Armenian delegation by the country rapporteurs. For instance, Country Rapporteur Mr. Gastaud mentioned that the subject of religion was compulsory in school and covered only the Armenian Apostolic Church. He asked what steps were taken to ensure the right to freedom of religion of children from religious minorities.<sup>36</sup>

The law mandates that public education be secular. However, courses in the history of the Armenian Apostolic Church are part of the public school curriculum and are taught by public school teachers. The church has the right to participate in the development of the syllabus and textbooks for this course and to define the qualifications of its teachers. The church may also nominate candidates to teach the course. The class is mandatory; students are not permitted to opt out of the course, and no alternatives are available to students of other religious groups. In addition, the law grants the Armenian Apostolic Church the right to organize voluntary extracurricular religious classes in state educational institutions. Other religious groups may provide religious instruction to members in their own facilities<sup>37</sup>.

Armenian NGOs, international organizations and intergovernmental bodies claim that the compulsory school subject violates the RA Law on Education as well the norm of freedom of religion. The Ministry of Education, in turn, assures that the subject ‘The History of the

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<sup>34</sup> <http://goo.gl/mce9Oj> (in Armenian)

<sup>35</sup> [http://moj.am/storage/files/legal\\_acts/legal\\_acts\\_8857051\\_4.pdf](http://moj.am/storage/files/legal_acts/legal_acts_8857051_4.pdf) (in Armenian)

<sup>36</sup> CRC/C/CR.1790

<sup>37</sup> <http://photos.state.gov/libraries/armenia/231771/PDFs/irfr2012.pdf>

Armenian Church' is of a secular nature and does not contain any elements of religious teaching or indoctrination.

A recent assessment of textbooks on the History of the Armenian Church conducted by Armenian experts with the support of the Open Society Assistance Foundations-Armenia in 2013 expresses certain concerns on the content as well as the involvement of the Armenian Apostolic Church in the development and teaching of the subject<sup>38</sup>. However, even more alarming is the attitude of some teachers. The field study conducted by EPF for the Council of Europe, assessing the situation with children from minority groups, indicates that there are numerous cases of the humiliation of children due to their belief.

The study points out that “During the History of the AAC course some teachers arbitrarily, without following the program methodology, start the class with the ‘The Lord’s Prayer’ during which children stand up and at the end they make the sign of cross. This ritual which is carried out regularly during the class is in conflict with the religious beliefs of some religious organizations, specifically, Jehovah’s Witnesses. Some teachers display an obviously disrespectful attitude towards the religious beliefs of children. This is what one of the children told us: *‘When the teacher entered the classroom for the first time, she asked whether there is anybody of a different religion. We stood up and said that we are Jehovah’s Witnesses. Then she insulted us, said that we go and pray with old dull people. We did not say anything. On the next day I asked whether it would be okay if we did not pray and she told us to pray but not make the sign of cross. I did not pray and did not make the sign of cross. The teacher told me to learn the Lord’s Prayer, I learned from the Bible but she said ours is in old Armenian and yours is in secular Armenian. She said: learn ours.’*”

#### **IV. Issue of data collection**

The concern of lacking disaggregated data on the demographic composition of the population, as well as on the socio-economic situation of ethnic and national groups, including a gender perspective, has been expressed in a number of UN documents<sup>39</sup>. For instance in 2000, in its Concluding Observations on Armenia, the UN Committee on the Rights of the Child noted, "The Committee is concerned at the absence of a mechanism to collect and analyze disaggregated data on persons under 18 years in all areas covered by the Convention, including the most vulnerable groups (i.e. children with disabilities, children born out of wedlock, children who are living and/or working on the streets, children affected by armed conflicts, children living in rural areas,

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<sup>38</sup> <http://www.religions.am/files/3290/library/legal/L011.pdf> (in Armenian)

<sup>39</sup> For example see: Concluding observations of the Committee on the Elimination of Racial Discrimination, 2011 (CERD/C/ARM/CO/5-6) [http://www.gov.am/u\\_files/file/kron/Armenia\\_AUV.pdf](http://www.gov.am/u_files/file/kron/Armenia_AUV.pdf)

refugee children and children belonging to minority groups." Nevertheless, there is little progress registered in this regard, partly due to lack of funds but also due to quite an undeveloped methodology of data collection.

## Governmental Practices

According to a number of reliable sources, including the US Department of State International Religious Freedom Report, most registered religious groups report no significant legal impediments to their activities<sup>40</sup>, especially after amendments to the Law on Alternative Military Service and release of all Jehovah's Witnesses serving term in prisons. The government did not enforce its prohibition against the foreign funding of religious groups based abroad either. However, as it was mentioned above, there are cases of societal discrimination, including media bias towards religious minority groups. A new strategy on human rights, which was developed by the National Security Council, also received alarming feedback. According to some of our respondents, the strategy includes a chapter on religious organizations and addresses issues of 'totalitarian' or 'destructive' cults. It is not yet clear how and based on what criteria the distinction between religious organizations and 'destructive cults' will be made. The draft of the Strategy was not available to us. A number of people, especially representatives of civil society, expressed a concern regarding the strategy and possible consequences of its application.

### *Courts*

There is little practice if at all to refer to recommendations of UN treaty bodies in Armenian courts. The concern was repeatedly articulated in documentation of various UN commissions. In the Concluding observations of the CEDAW Committee (2009), it is mentioned that "the Committee remains concerned that the provisions of the Convention and its Optional Protocol as well as the Committee's general recommendations, the views adopted on individual communications and inquiries, are not sufficiently known across all the branches of the Government, including the judiciary law enforcement personnel and women themselves. It is further concerned that there is no case law where the Convention is used, and that no judicial cases on the elimination of discrimination on the grounds of sex and gender were brought to the Committee's attention."<sup>41</sup>

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<sup>40</sup> <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

<sup>41</sup> CEDAW /C/ARM/CO/4/Rev.1

It is noticeable, though, that in the administrative case of Jehovah's Witness versus Yerevan Municipality over the construction of a place of worship<sup>42</sup>, the recommendations of the UN Human Rights Committee along with ECHR decisions are cited in the application. The lawsuit is currently in progress.

Another relevant case is the one of advocate Diana Grigoryan versus the Ministry of Education and Science of Armenia. In February 2012, the Catholicos of the Armenian Apostolic Church Garegin II and Minister of Education and Science of Armenia Armen Ashotyan convened a joint meeting where Mr. Ashotyan announced that "sectarian" teachers were expelled from their jobs because of religious preaching at schools<sup>43</sup>. Lawyer Diana Grigoryan asked the Ministry of Education and Science to deliver information on the fired teachers. The Ministry rejected the request. Referring to the Armenian Freedom of Information Act, Diana Grigoryan went to the administrative court. The judicial process is in progress.

On July 31, 2012 a trial court rejected the libel and defamation suit of the Word of Life Church and its senior pastor Artur Simonyan against two periodicals, *Iravunk Hetaqnnutyun* and *Argumenti Nedeli v Armenii*, and ordered the co-plaintiffs to pay AMD 300,000 (\$739) for the periodicals' legal expenses. In 2011, the two periodicals published articles insinuating a connection between the church and pornography. On May 11, the Information Disputes Council, composed of independent media experts who volunteer expertise on defamation cases, issued an opinion concluding that the absence of factual data in the articles made them offensive, and that the repeated use of the word "sect" constituted incitement of religious hatred. On November 8, the court of appeal upheld the trial court decision and ordered the co-plaintiffs to pay an additional AMD 100,000 (\$246) for legal expenses<sup>44</sup>.

### *Non-State Actors, Media*

During the Tbilisi conference mentioned earlier, the UN Special Rapporteur on Freedom of Religion formulated discrimination on the basis of religion. He mentioned that this kind of intolerance often involves a relationship with the state religion and with society at large. Media also play an important role, in particular public media. Legislative provisions for freedom of

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<sup>42</sup> In his interview to the web site religions.am, Tigran Harutyunyan, head of Public Relations at the Jehovah's Witnesses Christian Religious Organization, Armenia, stated, "We faced some challenges with the construction of worship sites. In particular, we asked the Mayor's office for the permission to construct three halls in different areas of the city; however they provided the same answer for all three cases, rejecting the applications. They stated that those sites are located in residential neighborhoods which could cause the discontent of neighbors, whereas you can see worship sites of different religious organizations or churches even in densely populated areas. This approach is discriminatory, for that reason we went to Court. We hope that the solution of this issue will bring positive results."

<sup>43</sup> <http://www.religions.am/eng/articles/lawsuit-against-the-ministry-of-education-and-science-of-armenia/>

<sup>44</sup> <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

religion need to be neutral, allowing all religions and religious organizations to be treated equally<sup>45</sup>.

The Armenian media, especially mainstream ones, do not treat all religious groups and denominations equally. There are a number of studies that show this. A media content analysis conducted by the Armenian Helsinki Committee in 2010 for the years 2001-2009 shows that the mass media overall reported rather positively on the Armenian Apostolic Church and rather neutrally and often negatively on other religious denominations (see chapter 3, pp 27-35).<sup>46</sup> The report included concrete examples from various media outlets.

A study by the Collaboration for Democracy NGO titled ‘Religious Tolerance in Armenia’ also addresses the issue of mass media and focuses on specific media publications. The authors suggest that the media plays an extremely strong role in the formation of negative stereotypes of religious minorities in general and Jehovah’s Witnesses in particular.

The Yerevan Press Club<sup>47</sup> monitored the coverage of religious issues by the media for the period from 18 November 2011 to 25 July 2012. The volume of studied media material includes 1,020 pieces which touched on religious issues in one way or another, but only 96 of them (less than 10%) contained value-based convictions and stereotypes towards any religions, religious denominations and religious communities. On one hand, these numbers suggest a relatively neutral position by the Armenian mass media towards religious issues. On the other hand, there are very few, if any, reports and materials providing affirmative information or creating a positive image of religious minorities.

## Findings and Conclusions

The conducted desk research, as well as interviews with key stakeholders, indicated a very low awareness and understanding of the UN and its human rights mechanisms. The study also showed that despite the progress in some, merely legislative areas, there is a lack of a genuine understanding of minority issues within the Armenian government and Armenian courts. There is also a definite misunderstanding of terms such as ‘gender’, ‘minority’, ‘discrimination’ and others. At the same time, other studies and reports indicate a low level of tolerance within society

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<sup>45</sup> [http://www.ecmcaucasus.org/upload/reports/FoRB\\_conf\\_Report.pdf](http://www.ecmcaucasus.org/upload/reports/FoRB_conf_Report.pdf)

<sup>46</sup> [http://armhels.com/wp-content/uploads/2012/06/344eng-Freedom\\_of\\_Religion\\_in\\_Armenia.pdf](http://armhels.com/wp-content/uploads/2012/06/344eng-Freedom_of_Religion_in_Armenia.pdf)

<sup>47</sup> Some references on this research can be found here:

[www.epfound.am/files/tolerance\\_in\\_armenia\\_occasional\\_policy\\_brief.pdf](http://www.epfound.am/files/tolerance_in_armenia_occasional_policy_brief.pdf)

as well as societal discrimination towards the people who do not fully conform to the proclaimed Armenian identity, along the lines of ‘one nation, one language, one church, one culture.’ Amnesty International recently released a special report titled ‘Armenia: No Space for Difference’ (2013), which strongly condemns restrictions of freedom of expression in "a number of issues, particularly those running counter to the core tenets of a mainstream Armenian identity"<sup>48</sup>.

Below are the basic findings and conclusions of the desk research and conducted interviews within the scope of this study.

**Historic background:** A purely legalistic and rather formal approach to the issue of freedom of religion, which is anthropological to a large degree, could be a mistake. That point of view is observed in the reports of UN Human Rights Advisory Committee and works of renowned representatives of academia. In case of Armenia, one should admit that, as many other Eastern and Orthodox churches, the Armenian Apostolic Church, indeed, played an important role in the life of the Armenian people, especially in the Ottoman Empire. For many centuries, notions of being Armenian and being a member of Armenian Apostolic Church were almost merged, first and foremost due to the religious-national structure of the Empire<sup>49</sup>. At the same time, it is important to note that the times of the Empire, as well as the ‘seventy years of atheism’ to which the Armenian government likes to refer, are gone and cannot serve as justification for unequal and discriminatory practices towards other denominations. In addition, we would like to mention that the largely objective feelings of fear and insecurity inherent in Armenian society due to unresolved conflicts in the region should also be taken into account while dealing with issues of religion, identity and tolerance.

**Narrow normative context:** It seems that the Armenian government is sticking to a very narrow normative, formal human rights framework and is failing to observe minority rights, and generally human rights, in a larger context. There is little understanding among bureaucrats that human rights are universal and inalienable, indivisible, interdependent and interrelated and that it is impossible to guarantee freedom of religion, for instance, without ensuring freedom of association, freedom of expression and freedom of assembly, without an independent judiciary and the overall democratization of the country. After reading the reports of the State party to the UN treaty bodies, one gets the impression that cases of societal discrimination, the attitudes of non-state actors, including the media as well as the ‘positive’ obligations of the state are largely neglected. There is an interesting note embedded in the Armenian Helsinki Association’s 2010 annual report that illustrates the approach “In contradiction of the statements of Thomas

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<sup>48</sup> <http://amnesty.org/en/library/asset/EUR54/002/2013/en/6d6a852f-6494-4ef5-bc13-1373f154e0de/eur540022013en.pdf>

<sup>49</sup> [www.britannica.com/EBchecked/topic/382871/millet](http://www.britannica.com/EBchecked/topic/382871/millet)

Hammarberg<sup>50</sup>, Karine Soudjan, Head of Human Rights Department of the Foreign Ministry stated in early December that the imprisonment of Jehovah's Witness conscientious objectors 'is not a human rights issue.'"

**Minorities are not a case:** Since 1998 and with astounding regularity, the Armenian government proudly reports to Human Rights Committee and CERD, that Armenia is 'mono-ethnic and mono-religious' country and gets the following reply - "The Committee is concerned about the view expressed in the State party report that Armenia is a mono-ethnic State, and the inconsistency of this notion with the existence of several national and ethnic minorities, although they are not very numerous. While welcoming the background information provided on each national and ethnic group, the Committee recommends that the State party carefully analyze the situation and reflect the reality." While studying the topic, one could get the impression that the problem does not exist out of the international conventions discourse, although several studies including this one indicate numerous cases of discrimination and growing intolerance.

**Low awareness and understanding of UN human rights mechanisms:** Despite quite a significant workload on State reporting to UN Treaty bodies as well as to Universal Periodic Review, the reports and recommendations of UN Human Rights monitoring committees are extremely understudied and almost unknown out of a narrow circle of professionals. A shared understanding among interviewed experts is that UN Human Rights Mechanisms are insufficiently known, promoted and employed in Armenia. This observation applies both to government and civil society organizations. There are definitely very few specialists responsible for the monitoring and implementation of UN recommendations in Ministries other than the Ministry of Foreign Affairs and Ministry of Justice. People interviewed in UNDP Armenia mentioned that even within the UN there is a lack of awareness of human rights instruments and recommendations. There is no OHCHR office in Armenia. Since the second circle of UPR is approaching (2015), the government, international assistance agencies, international organizations and local NGOs to a certain extent are getting active. However, this is not a holistic approach but rather a sectorial one involving targeted players.

**'Not binding' approach:** Representatives of both the Government and civil society mentioned in their interviews that the recommendations of Council of Europe and especially judgments of the European Court of Human Rights are taken more seriously, since they are of an obligatory and of binding nature. Also, some concrete recommendations (more precisely pre-conditions) of the EU were taken into account before 3 September 2013, when the U-turn towards the Customs Union occurred. The majority of the respondents with whom we talked mentioned that UN human rights mechanisms are of a recommendatory nature and are hence not considered 'important' by the Government or 'useful' by civil society. It seems to be a general trend that the

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<sup>50</sup> Thomas Hammarberg is former CoE Commissioner for Human Rights

Armenian Government is not eager to take steps to improve the situation on the ground without pressure from international organizations. However, it is known that organizations such as the European Commission and many other international donors are not conducting monitoring of the situation in the country themselves but rely on recommendations provided by others, including the OSCE and CoE, but UN treaty bodies first and foremost.

**Armenian Civil Society** is very poorly informed about UN Human Rights mechanisms and the role that civil society can play. The majority of respondents in this particular study as well as other NGOs and CSOs with whom the Eurasia Partnership Foundation is working definitely do not use all the possibilities that UN bodies provide for articulation and promotion of country issues and the protection of human rights. Using a searchable database of OHCHR, we checked how many alternative reports were submitted by Armenian NGOs to the treaty bodies and on what issues. Unfortunately, more than half of all reports ever submitted on Armenia are produced by international NGOs, sometimes in cooperation with local partners. The overall number of alternative reports, is insignificant when compared to the number of active civil society organizations in the country.