

# Human

Rights and  
Human  
Development

Action for Progress



Human  
Development  
Report

Armenia  
2000

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## Foreword

This annual National Human Development Report, "Human Rights and Human Development: Action for Progress" is the fruit of rewarding and extensive work carried out with the sponsorship and under the auspices of the United Nations Development Program.

Though the research, analyses and recommendations rendered by independent specialists do not always coincide with the views of the authorities, at the current stage they can contribute greatly to the formation of civil society and statehood based on the rule of law in Armenia. The annual National Human Development Report enables our country, having taken the path of multilateral cooperation, to make more visible the past route, with its achievements and shortcomings, and make more discernable today's urgent problems. It is also a model example of cooperation between the State, international and local organizations, where efforts are united by sincere motivation and concern for promoting progress in Armenia.

That the Council of Europe has extended an invitation to Armenia to become a member testifies to the undeniable achievements made towards democracy that have been recorded in Armenia since gaining Independence. Such reports as the one at hand represent an important step towards reinforcing and realizing the principles of a democratic state.

The National Human Development Report reflects in full the acuteness of the current insufficient state of affairs in Armenia's economy, which, as a result, lead to numerous social problems confronting the population. Naturally, they cannot but adversely impact the most diverse spheres of people's lives.

Armenia's people have made their choice to build a sovereign and democratic state. Even in the most unfavorable conditions, they have held fast to that choice. This reality inspires us with the belief that the current problems are solvable. The policy pursued by the Armenian authorities, aimed at deepening international cooperation and strengthening practical relations with the Diaspora, is directed at finding and securing a niche in the world economy for Armenia based on the available professional workforce, organizational skills and political stability.

I would like to commend the authors of this deep and multi-dimensional work and those who have contributed to its preparation. Thanks to these efforts Armenia receives another opportunity to address the international community as well. I am hopeful that the next National Human Development Report on Armenia will record significant progress in human development.



**Robert Kocharyan**

President of the Republic of Armenia

## Preface

Among the activities of the United Nations Development Program, Global and National Human Development reports rightfully deserve an outstanding reputation for their pioneering efforts and courage in introducing revolutionary approaches and for challenging the world to provide a better life through the people and for the people. In 1990, the first Human Development Report (HDR) introduced the 'human development concept'. Since then, HDRs have been raising awareness of the urgent problems common for our global home and suggesting solutions, always striving for a more equitable world. Each new publication of the Global HDR, through its main themes, recorded paradigmatic changes committed to enhancing opportunities. The themes of the Reports were: Concept and Measurement of Human Development (1990), Financing of Human Development (1991), Global Dimensions of Human Development (1992), Popular Participation (1993), New Dimensions of Human Security (1994), Gender and Human Development (1995), Economic Growth and Human Development (1996), and Social Cohesion and Human Development (1997), Consumption (1998), Globalization (1999), and **Human Rights and Human Development (2000)**.

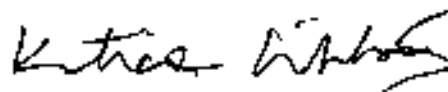
Armenia has been preparing National Human Development Reports (NHDR) since 1995. Each has focused on a specific area of human development, along with analyzing the situation in the country. NHDR Armenia 2000, prepared by a group of independent experts selected on a competitive basis with the sponsorship of the UNDP and the Presidency of the Republic of Armenia as executing agency, concentrates on human rights and human development in Armenia in the context of political and economic transition. The Report draws on the possibilities that could open up if human rights, human development and human security as human-centered concepts are reckoned with and realized both in planning and everyday life. The Report also analyzes the achievements made as well as the shortcomings that Armenia still has to overcome.

Human rights and human development are the greatest visions of our time. Unfortunately, they are sometimes elusive and vague, and require the efforts of the whole world to become sustainable. The Report has made an attempt to view them as a global outcome and challenge for all of the players.

Armenia's commitment to present an unbiased and independent view, an innovative approach and with transparency were highly appreciated at the Second Global Forum on Human Development (Rio de Janeiro) where NHDR 1999 Armenia received two awards. This is both a reward and a challenge for the country and UNDP in the effort to make democracy stronger, more inclusive and equitable. This has also inspired the team of authors for NHDR 2000 to arrive at concrete recommendations for establishing the comprehensive machinery required to produce effective remedies and redress human rights violations, which would include the wise and pragmatic blend of institutions, legislation, norms and a favorable economic environment. Committed to constructive dialogue, the group has seen its main objective in compiling an informative and analytical document, rather than elaborating on case-by-case human rights violations. We value the authors' intellectual independence and professional integrity and the principle of participation and transparency of the entire process. We also hope that this Report will be of help and use for those teachers who will be teaching civic education in high schools starting September 2001. At the request of agencies responsible for the training of teachers, each school in Armenia will receive a copy of NHDR 2000. Human rights teachers can find there and extensive information and independent views on the developments in Armenia.

We believe that the group of authors, through a sincere, dedicated and tolerant attitude toward the tasks set before them, has succeeded in presenting the picture of human rights and human development in Armenia, while also providing for a diversity of approaches and visions. The conclusions and views offered as an evaluation of developments in Armenia and its preparedness to meet the challenges in the 21st century, seen through the prism of human concepts, may be debatable. However, they are certain to generate discussions around Armenia's ultimate goals and the means of attaining them.

Once again, we would like to congratulate the authors' group on their successful completion of the Report and hope that it will contribute to Armenia's well-being with enhanced respect, protection and fulfillment of human rights, human development and human security.



**Katica Cekalovic**

UN Resident Coordinator  
UNDP Resident Representative

## Abbreviations

<b>AIDS</b>	Acquired Immunodeficiency Syndrome
<b>AMD</b>	Armenian Dram (national currency)
<b>BSEC</b>	Black Sea Economic Cooperation
<b>CE</b>	Council of Europe
<b>CIS</b>	Commonwealth of Independent States
<b>CSO</b>	Civil Society Organization
<b>EU</b>	European Union
<b>GDP</b>	Gross Domestic Product
<b>GoA</b>	Government of Armenia
<b>GTZ</b>	German Agency for Technical Cooperation
<b>HD</b>	Human Development
<b>HDI</b>	Human Development Index
<b>HDR</b>	Human Development Report
<b>HEI</b>	Higher Educational Institutions
<b>HIV</b>	Human Immunodeficiency Virus
<b>HR</b>	Human Rights
<b>HS</b>	Human Security
<b>IOM</b>	International Organization for Migration
<b>MSB</b>	Minimum Subsistence Basket
<b>NA</b>	National Assembly
<b>NAP</b>	National Action Plan
<b>NGO</b>	Non -governmental Organization
<b>NHDR</b>	National Human Development Report
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>RA</b>	Republic of Armenia
<b>SHD</b>	Sustainable Human Development
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Program
<b>UNDPI</b>	United Nations Department of Public Information
<b>UNHCR</b>	United Nations High Commissioner for Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>USA</b>	United States of America
<b>USAID</b>	United States Agency for International Development
<b>USD</b>	United States Dollar
<b>WB</b>	World Bank
<b>WFP</b>	World Food Programme
<b>WHO</b>	World Health Organization
<b>WTO</b>	World Trade Organization

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The team expresses its special gratitude to the Presidency of the RA and in particular to Zorab Mnatsakanyan- National Project Director -for the close collaboration and support in preparation of the Report.

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Recognition is due to the RA Ministries of Foreign Affairs, Justice, Social Welfare, Education and Science, Health, Interior, Culture, Sport and Youth Issues, and Finance and Economy, RA Central Bank as well as the Offices of the Prosecutor General and Military Prosecutor for their reviews, valuable additions and recommendations. Special thanks are due to the National Statistical Service of RA for extensive statistical data and information on poverty trends.

The final editing of the Report benefited from the contributions of the members of Human Development Experts' Club, in particular Karine Danielyan, Nelson Shakhnazaryan, Edward Ordyan, Samvel Musoyan, Anahit Melkumyan, Ashot Yesayan and Heghineh Manasyan. We would like to thank independent reviewers too, especially Susanna Yeghiazaryan.

The Report benefited also from the variety of opinions presented in boxes by various human rights NGOs. Special thanks are due to the A.D. Sakharov Armenian Human Rights Center, Armenian National Committee for the International Campaign to Ban Landmines, Armenian Round Table of the World Council of Churches, Armenian Helsinki Committee, Association "For Sustainable Human Development", "August 23, National Alliance" Human Rights Protection Union, Center for Conflict Resolution of Armenia, Cooperation

and Democracy, Ecumenical Church Loan Fund, "For Family and Health" Family Planning Association, Fund Against Violation of Law, Institute for Human Rights and Democracy, Institute of Oriental Studies, Inter-party Socioeconomic Council, "Mets Nerses" Religious Benevolent Union, "Mission Armenia" Benevolent Union, National Center for AIDS Prevention, National Survey for Seismic Protection, "Spiritual Armenia" Cultural Union, Union for Protection of Consumer Rights, "Women's Republican Council". Recognition is due to the Constitutional Court, National Assembly of the RA, and the Human Rights Commission within the Presidency of RA for the information concerning their activities in the field of human rights.

The Project cooperated with different international organizations and we would like to specify the invaluable input of the IOM, UNHCR, UNDP, UNICEF and WFP Armenia Offices, OSCE, and others.

Colleagues in UNDP provided very useful comments, recommendations and advice. The team expresses its appreciation to the UNDP staff and consultants. We would also like to thank the scientific editor of the Report Vladimir Hovhanesian, Deputy Chairman of the Constitutional Court of RA, who generously contributed his time and professional skills to the preparation of NHDR 2000. Special thanks are due to Anahit Harutunyan - the Armenian editor and Elizabeth Winship - English editor. Recognition is due to Samvel Partamian for design.

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Thankful for all the support that they have received, the authors assume full responsibility for the opinions expressed in the Report.

# Contents

## Foreword

## Preface

## Abbreviations

## Acknowledgements

## Executive Summary

## Basic Facts about the Republic of Armenia, 2000

## Introduction

## Chapter 1. Human Concepts and their Reflection in Armenian Legislation 17

### 1.1 Human Rights (HR) 19

### 1.2 Human Development (HD) 22

### 1.3 Human Security (HS) 23

### 1.4 Reinforcing Inter-Linkages of Human Rights and Human Development 25

### 1.5 Participation of Armenia in the UN and Regional Agreements Related to Human Rights Protection 26

### 1.6 International Agreements on the Protection of Human Rights and the Legal System of the Republic of Armenia 31

### 1.7 Legislative Framework of Human Rights in Armenia 32

## Boxes

### 1.1 Historical-Cultural Traditions of Human Rights Protection in Armenia

### 1.2 Shahamir Shahamirian's Rule-of-law Utopian Republic

### 1.3 Seismic Security in Armenia

### 1.4 Armenian's Participation in the Millennium Summit

### 1.5 The Parliamentary Assembly of the Council of Europe States that Armenia Undertakes to Honor the Following Commitments 10

## Figures

### 1.1 Dynamics of Annual Crime Change 10

### 1.2 The Inter-linkages of HR and HD 10

### 1.3 Dual Impact of HR and HD 10

## Tables

### 1.1 Laws in Effect Adopted as Further Development of the Articles of the Constitution in the Area of Human Rights 10

## Chapter 2. Human Rights in Armenia in the Context of Political Transformation 37

### 2.1 Developments Affecting Human Rights and Human Development in the Process of Transition 39

### 2.2 Political and Civil Rights 40

### 2.3 Judicial Reforms in the Period of Political Transformations 43

### 2.4 Influence of Conflicts on Human Rights and Human Development 46

### 2.5 Non-Governmental Organizations and Human Rights in the Transition Period 51

## Boxes

### 2.1 Human Rights Protection

### 2.2 Civil and Political Rights Coverage in the Armenian Press

### 2.3 The 1700 year-old Armenian Church Entering a New Millennium

### 2.4 The System of Constitutional Justice in the Republic of Armenia

### 2.5 Rights of Prisoners of War and Hostages

### 2.6 Mines as a Threat to Right to Life and an Obstacle to Economic Development in RA Borderline Regions

### 2.7 Culture of Peace

### 2.8 Protection of the Right to Self-Determination of the Nagorno Karabagh People

### 2.9 The Armenian Army

### 2.10 The State of Human Rights and Freedoms in RA

## Figures

- 2.1 The Number of Judges
- 2.2 Professional Experience of the Judges

## Tables

- 2.1 The RA Judicial System

# Chapter 3. Human Rights and Human Development Issues in Light of Economic Transition

53

3.1	Issues of the Past Decade's Transition: Economic Reforms in the RA and their Effect on Human Rights and Human Development	55
3.2	Poverty	61
3.3	The Right to Work	63
3.4	Social Security	65
3.5	The Right to Ownership and Entrepreneurship	68
3.6	The Right to Health	70
3.7	The Right to Education	73
3.8	Cultural Rights- Enjoyment vs. Obligations	75
3.9	Problems of Special Groups in the Transition Period	78
3.9.1	Women	78
3.9.2	Children	79
3.9.3	Pensioners, Disabled	80
3.9.4	Refugees and Internally Displaced Persons	81

## Boxes

- 3.1 Trafficking in Migrants
- 3.2 Access to Food as a Human Right
- 3.3 Poverty Trends
- 3.4 Church Contributes to Poverty Eradication
- 3.5 Social Exclusion of the Most Vulnerable Population Groups in the RA
- 3.6 Consumers' Rights
- 3.7 The Right to Sexual and Reproductive Health
- 3.8 AIDS and Protection of Human Rights
- 3.9 Factors Hindering the Development of Culture
- 3.10 The Imperative for the Improvement of Women's Situation
- 3.11 Rights of Children in Special Institutions Endangered
- 3.12 The Necessity of a Law on Social Assistance to the Elderly
- 3.13 Citizenship Law

## Figures

- 3.1 The RA GDP Dynamics
- 3.2 Real GDP (the changes with previous year, %)
- 3.3 Real GDP as compared with 1989, %
- 3.4 Dynamics of the Average Annual Rate of Registered Unemployment (as % of EAP)
- 3.5 Circulation of Armenian Newspapers (1996-2000)
- 3.6 Structure of Current Expenditures of the RA Population for 1999
- 3.7 Age Composition of the Unemployed in the RA
- 3.8 Distribution of Labor Force by Marzes
- 3.9 Distribution of Unemployment by RA Marzes
- 3.10 Dynamics of the Main Demographic Features
- 3.11 Expenditures Envisioned for Various Spheres of Education in 2000 State Budget as % of Overall Education Expenditures
- 3.12 Education and Science Expenditures in 1998-2000 Budget as % of Total Expenditures
- 3.13 The Ratio of Libraries and Readers
- 3.14 The Proportion of the Book Stock and Materials Served
- 3.15 Number of Disabled Children under 16 Years Receiving Social Pensions in the RA

## Tables

- 3.1 Proportion of Vulnerable Groups in Poverty Ratio
- 3.2 Process of Enterprise Privatization in the RA as of July 1, 2000
- 3.3 The Rate of Population Morbidity in the RA
- 3.4 Basic Indicators of the RA Education System

<b>Chapter 4.</b>	<b>Manifestations of Human Rights Dual Nature</b>	<b>83</b>
4.1	Developments Affecting the Human Rights Enjoyment-Obligation Paradigm	85
4.2	Enjoyment- Obligations of Human Rights for the RA Citizens	86
4.3	The Practical and Legal Aspects of Enjoyment and Obligations of Human Rights	87
4.4	Political and Psychological Aspects of Enjoyment and Obligations of Human Rights	88
4.5	Accountability	89
4.6	Good Governance as a Result of State and Civil Society Functioning	92
4.7	Process of Globalization in Human Rights	95
<b>Boxes</b>		
4.1	From Self-Protection to Misdemeanor	
4.2	The Main Principles of the Draft Law on Civil Service	
<b>Figures</b>		
4.1	The CHREO System	
4.2	Crises Phases in Armenia Impacting HR & HD	
4.3	Marginal Populist Model of Participation	
4.4	Model of Liberal Participation	
<b>Tables</b>		
4.1	The Corruption Perception Index according to 2000 TI Report	
4.2	Assistance Rendered to Armenia in the Field of Governance	
4.3	Freedom Rating of Countries	
<b>Chapter 5.</b>	<b>Human Rights Protection Strategies Within the Context of Human Development</b>	<b>97</b>
5.1	Basic Prerequisites for the Implementation of Human Rights	99
5.2	The Priorities of the National Strategy for Human Rights and Human Development	100
5.2.1	Rule of Law over Politics and Separation of Powers	100
5.2.2	The Creation of a Favorable Economic Climate is the Major Goal of the Efficient Socioeconomic Policy	100
5.2.3	Further Evolution of Civil Society, Establishment of New Structures, Consolidation of Consolidation of Efforts and Broadening of Participation	102
5.2.4	Improvement of the Decision-making System and Decentralization	103
5.2.5	Drawing up and Implementing a National Action Plan in the Human Rights Field	104
5.2.6	Human Rights Education	104
5.2.7	National Development Programs Based on Human Concepts	108
5.2	Conclusions and Recommendations	108
<b>Boxes</b>		
5.1	Human Rights and Rights of the Earth and Life in All its Diversity	
5.2	Cooperation of Parties over Programs on the Enhancement of Economy	
5.3	First Steps Towards an Ombudsman Institution in Armenia	
5.4	Freedom of Speech and Human Rights Protection in Mass Media	
5.5	International Humanitarian Law Education	
5.6	Information and Freedom are Indivisible	
5.7	Internet and Human Rights	
<b>Annex I</b>	<b>Statistical Tables</b>	<b>111</b>
<b>Annex II</b>	<b>Human Development Index</b>	<b>124</b>
<b>Annex III</b>	<b>Constitution of the Republic of Armenia</b>	<b>129</b>
<b>Annex IV</b>	<b>Concluding Observations of UN Treaty Bodies on Armenian National Reports</b>	<b>141</b>
	<b>Bibliography</b>	<b>149</b>

# Executive Summary

## Chapter 1.

### Human Concepts and their Reflection in Armenian Legislation

This chapter is devoted to human concepts - human rights, human development and human security. It introduces the main principles on human rights, freedoms, their types and specificities, field and level of realization. Human development is characterized as a process for enhancing people's choices, incorporating such vital spheres of life as the economic, social, cultural, political, environmental, etc. Human security is given in its evolved concept, putting equal weight to freedom from fear and freedom from want. The chapter also touches upon the inter-linkage of human rights and human development.

Armenia's accession to international and regional agreements and membership to international organizations are presented briefly.

The analysis of human-rights related RA legislation over the past decade is conditionally divided into two phases - prior to the adoption of the Constitution and following. The author states that during the first phase, society's democratic aspirations found reflection in the Armenian legislation. In the second phase the legislation was considerably enriched, however a certain decline has been observed in terms of quality.

## Chapter 2.

### Human Rights in Armenia in the Context of Political Transformation

Chapter 2 presents the constitutional and legislative guarantees related to human rights that have been formulated over the past ten years, the spectrum of civil and political rights enshrined in the RA Constitution and the legal framework, in comparison with the human rights field of Soviet times. The newly established human rights institutions and their activities are touched upon. Special attention is attached to legal defense, with the current state of affairs in judicial reforms, legislative developments and the system of judicial guarantees. The Chapter underscores the importance of the unimpeded realization of human rights as a pivotal factor for human development.

The chapter touches upon human rights issues in the army and prisons, the influence of conflicts on the realization of human rights; the role of non-governmental organizations as an active actor and voice in protecting human rights as well as monitoring activities.

## Chapter 3.

### Human Rights and Human Development Issues in Light of Economic Transition

A brief analysis of issues and difficulties of the transition period is presented in the Chapter. The author contends that economic reforms have not yet yielded desirable results. Despite some positive shifts, neither a framework for competition nor equal conditions have been established, economic indicators are low, the state apparatus dealing with the management of the economy is corrupted and ineffective. A major reason given for emigration is the meager income and the dismal realization of economic and social rights. Civil and political rights notwithstanding, all shortcomings are in a better standing. However, the oversight of one will eventually erode the achievements of the other.

The chapter summarizes the main reasons which hamper the realization of economic, social and cultural rights, elaborates on the right to entrepreneurship, to employment, social assistance, to culture, to health and to education as well presents recommendations for improvements in the above mentioned spheres.

The problems of certain groups, specifically women, children, pensioners, disabled, internally displaced persons, which are aggravated during the transition period have also been discussed in the Chapter.

## Chapter 4.

### Manifestations of Human Rights Dual Nature

The dual nature of human rights - enjoyment and obligations in the context of the globalization process are in the center of this Chapter, paying attention to their legal enforcement as well as practical manifestations. These analyses lead to the conclusion that state, public, political and economic relations are either as yet insufficient or have eroded to the extent that they damage what should be a harmonious link between the enjoyment and obligations of human rights.

Five major crises are named as major causes for the yet imbalanced perception of human rights' dual nature - distribution, legitimacy, mobility, identity and participation, followed by an elaboration on how they can be overcome. The urgent need for the formation of an efficient institute of civil service, reinforcement of a participatory and competitive approach as critical factors for good governance, the scope of activities and responsibilities of the State, civil society, private sector and international community in HR and HD field, that is, conformity in top-down, bottom-up reforms, and their timeliness are seen as guarantees for improving the situation. Globalization trends in regard to the enhancement of the respect, protection and fulfillment of human rights are also discussed in the Chapter.

## Chapter 5.

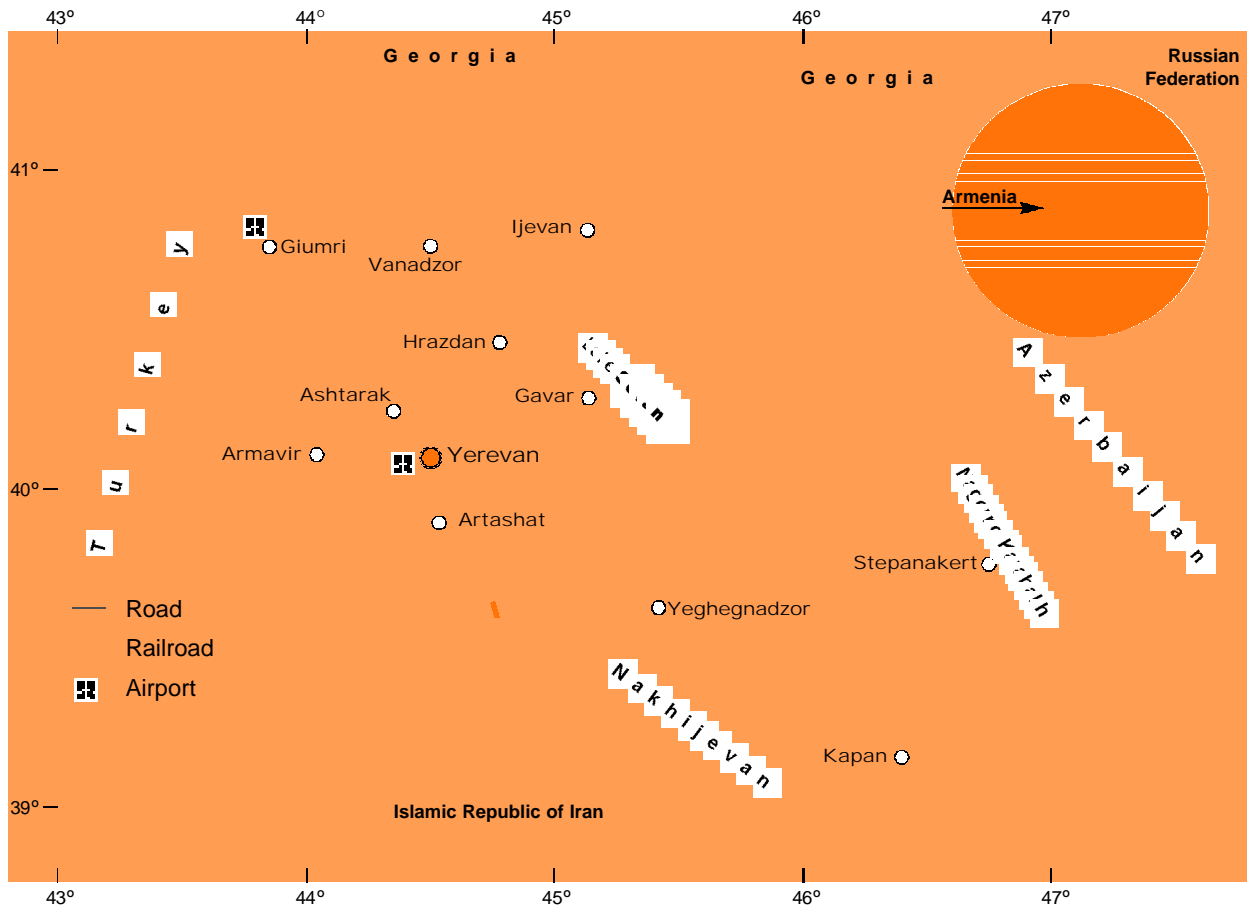
### Human Rights Protection Strategies within the Context of Human Development

The seven priorities for the promotion of HR and HD, as the authors see it, are based upon the cultural - historical, informational - educational, social-economic, political prerequisites. Among the seven priorities are

1. Rule of law and separation of powers, which are certain to ensure progress and genuine independence of the judiciary.
2. Effective socioeconomic policy, aimed at securing poverty reduction, personal security, healthy lifestyle and environment, promotion of investments and integration in globalization processes
3. Education and Human Rights Education as major contributing factors to the rule of democracy, establishment of civil society, sustainable economy and people's participation.
4. Improvement of the decision making system, which implies amendments to the main law of the country, more transparency and accountability, and decentralization
5. Development of a National Action Plan for human rights, which would provide the country with priorities in HR and a comprehensive set of actions aimed at the promotion of human rights and human development, voice the concerns of the country, special groups and facilitate channeling the efforts of interested actors in the same direction.
6. Development of civil society and enhancement of participation, establishment of new institutions and consolidation of cooperation.
7. Design of national development programs based on human concepts, which would envision planning activities at every level, taking into consideration the main factors of HR, HD and HS.

The Chapter concludes with a compendium of recommendations.

# Basic Facts about the Republic of Armenia, 2000<sup>1</sup>



## General Information

Religion	<b>Armenian Apostolic Church</b>	
Official Language	<b>Armenian</b>	
Currency	<b>Dram (AMD)</b>	
Exchange rate	<b>1USD =535.13 AMD</b>	
Fiscal year	<b>January/December</b>	
<b>Human Development Index</b>	87/174 (HDR 99) <sup>2</sup>	93/174 (HDR 2000)
<b>Land Area</b>	29, 743 km <sup>2</sup>	
	<b>001.01.99</b>	<b>01.01.2000</b>
<b>Population</b>	3,798,239	3,803,395 <sup>3</sup>
<b>GDP per Capita</b>	500.5 USD	485.0 USD
<b>Land Use</b>		
Land used for agriculture (thousand, ha)	1328,8	1329
Forests and reserves(thousand, ha)	1316,1	1316
Land of other land-users (thousand, ha)	329,4	329

<sup>1</sup> All figures are provided by the National Statistical Service of RA unless otherwise indicated.

Vital Statistics	01.01.99	01.01.2000
Population density (person/ km <sup>2</sup> )	128	128
Population growth rate	0.2%	0.2 %
Population distribution		
Urban	66.8%	66.7 %
Rural	33.2 %	33.3 %
<b>Health</b>		
Life expectancy at birth	74.7 years	73.2 years
Male	70.8 years	70.7 years
Female	78.1 years	75.5 years
Infant mortality rate	14.7 %	15.4%
Maternal mortality rate	25.4	32.9
Population per doctor	292	301.0
Population per hospital bed	150.1	161
<b>Education<sup>4</sup></b>		
1st, 2nd, 3rd level gross enrolment ratio (7 and 17 years, annual, %)	61.4	60.2
Net school enrolment ratio, %	86.5	86.7
1st, 2nd, 3rd level gross enrolment ratio (7 -22 years, annual, per 1000 people), including	590	597
General education system (7-16 years)	787	790
Secondary vocational education (17-20) <sup>5</sup>	120	129
Higher education (17-22)	150	151
Adult literacy rate	99%	99%
<b>Economic Indicators</b>		
Real GDP	1892.3 USD m	1844.6 USD m
Real GDP growth (annual % of change)	7.3%	3.3%
GDP by main activity		
Industry	19.9%	21.0%
Agriculture	30.8%	26.2%
Construction	8.0%	8.8%
Services	31.8%	35.2%
Inflation		
Inflation (end period)	-1.3%	2%
Inflation (period of average)	8.7%	0.6%
State Finances		
Total Revenues	334.0 USD m	356.8 USD m
Total Expenditures	405.2 USD m	432.9 USD m
Budget Deficit	71.2 USD m	76.1 USD m
<b>External Sector</b>		
Balance of Payment		
Exports (fob)	359.6 USD m	383.1 USD m
Imports (fob)	999.9 USD m	919.1 USD m
Private Transfers	64.7 USD m	80.3 USD m
Current Account Deficit	-402.54 USD m	-306.9 USD m
As % of GDP	21.3%	16.6%
External Debt	775.4 USD m	840.1USD m
As % of GDP	41.0%	45.5%
Unemployment	9.3%	11.2%

<sup>4</sup> Figures have been calculated based on the RA permanent population figure as well as the number of students of state and private educational

# Introduction

## What is Sixth NHDR

The sixth National Human Development Report Armenia 2000, prepared by a group of independent national specialists and sponsored by the United Nations Development Program, with the Presidency of the Republic of Armenia as executing agency, analyzes the developments in Armenia of the past years through the inter-linkage of human rights (HR) and human development (HD), at the same time viewing human security as a necessary condition to make the results of mutual reinforcement work. Each of NHDRs prepared in Armenia since 1995 looked into a certain burning issue (social cost of transition, poverty, social cohesion, the role of the state, the evaluation of human development over five years) in light of sustainable human development (SHD). NHDR 2000 goes forward to build on the opportunities that could be achieved if the combination of HR, HS and HD, their mutual goals and impact, are used as guidelines in the long-term policy making.

## The Selection of the Theme

The selection of the theme of the NHDR 2000, critical at this point for the development of the Armenian statehood, has been dictated by a number of the factors, including the lack of insufficiently developed institutes and clear-cut benchmarks and measurements of human rights applicable for the country and implementation mechanisms; the lack of accountability and transparency; the need to enhance public awareness on HR and HD issues and to strengthen HR education with a more comprehensive elaboration of human

rights "enjoyment and duties"; the urgent need to start the process of rebuilding trust between authorities and society, and respect to individual human rights; the absence of human rights national concept paper and action plan (though Armenia, as a signatory to UN Vienna Conference main documents has the obligations to elaborate them); to enhance opportunities that could be achieved if human rights and human development are thoughtfully integrated in the human development planning. The theme has also acquired special resonance with respect to Armenia's scheduled accession to the Council of Europe.

## Global HDR

The idea of preparation of National and Regional Development Reports has derived from the Global Human Development Reports, which being prepared for the first time in 1990, have always been faithful to the challenge they took - to introduce new, bold and innovative ideas and concepts, and shift the global attention to the people, viewing them both as a means and an end of human development. Global HDRs can righteously take pride in making the problem of human rights, human development and human security in all their dimensions an overarching issue all over the world, and through rich statistical data, examples of both setbacks and achievements, make comparisons possible, both in the quantitative and qualitative aspect and experience. The results are clearly seen in the changing attitude of orthodox economy-and-product driven governments and international organizations.

## Box I.

### Global HDR 2000: Human Rights and Human Development

Global HDR 2000 entitled "Human Rights and Human Development", draws at the inter-linkage of human rights and human development and the need to develop them in unison, capitalizing on the strong sides of both of them. Human rights (HR) and human development (HD) share a common vision and a common purpose - to secure the freedom, well-being and dignity of all people.

HR express the bold idea that all people have claims to social arrangements that protect them from the worst abuses and deprivations - and that secure the freedom for a life of dignity. HD, in turn, is a process of enhancing human capabilities - to expand choices and opportunities so that each person can lead a life of respect and value. When HD and HR advance together, they reinforce one another- expanding people's capabilities and protecting their rights and fundamental freedoms.

The 20th century's advances in HR and HD were unprecedented - 1945 Charter of the UN, 1948 Universal Declaration of Human Rights, 1966 International Covenant on Economic, Social and Cultural Rights, 1966 International Covenant on Civil and Political Rights, and 1979 Convention on the Elimination of all forms of Discrimination against Women, 1986 -Declaration on the Right to Development, 1989- Convention on the Rights of the Child, the establishment of the position of the High Commissioner for Human Rights, 1998- Rome Statute to establish the International Criminal Court, etc.

The goal of the 21st century is all rights for all people. Seven key features are needed for a broader approach to securing human rights.

1. Strong social arrangements for securing human freedoms-with norms, institutions, legal frameworks and an enabling economic environment. Legislation alone is not enough.

2. Inclusive democracy- protecting the rights of minorities, providing separation of powers and ensuring public accountability. Elections alone are not enough.
3. Poverty eradication is not only a development goal- it is a central challenge for human rights in the 21st century.
4. The state-centered model of accountability for HR and HD must be extended to the obligations of non-state actors and to the state's obligations beyond national borders.
5. New and better statistics to generate information and evidence that can break down barriers of disbelief between the authorities and society, and mobilize changes in policy and behavior.
6. Action and commitment from the major groups in every society.
7. International action, especially to support disadvantaged people and countries and to offset growing global inequalities and marginalization.

Global HDR 2000 comes up with priorities and actions to be taken at the national and international level for the promotion of HR and HD all over the world and provides a summary of actions to realize a vision for the 21st century.

## NHDR 2000 - The Underlying Logic

The logic of the Report and the underlying approach is based on the paradigm shift in human concepts- from segmented to holistic approach and the growing recognition of their multi-faceted inter-linkages centered around the human being, aimed at securing basic freedoms, the human well-being and dignity.

**Human rights** are viewed as universal, indivisible and interdependent birthright of all human beings, with an equal weight on the enjoyment and duty aspects. While the State is still seen as central for the protection, promotion and realization of human rights as claims to protect the people from the worst abuses and deprivations, the process is increasingly involving the other players as stakeholders.

**Human development** is a process of enhancing human capabilities - to expand choices and opportunities so that each person can lead a life of respect and value. HD emphasizes equity, sustainability and participation in the socioeconomic context.

**Human security**, in its new and evolved perception of the UN, incorporates economic, food, health, environmental, personal, political, community security shows how people can enjoy the rights and take advantage of the opportunities safely and freely.

The team of authors, along with analyzing the situation with the human rights and human development in light of political and economic transitions in Armenia, has attempted to open up perception and balance of the enjoyment and the duty aspects of the above mentioned, thus shifting the conventional balance used in NHDRs. The group has taken as a guideline the universality, interdependence and indivisibility of human rights, the mandate of human development on enhancing people's choices and opportunities and enunciating the priority of the human aspect of security, as well as the importance of social norms, laws, institutions, and the enabling economic environment in place for human concepts to be realized in life.

Among the objectives of the Report is to contribute to spreading the human rights education, enhancing the understanding of the new concepts, and to establishing human rights institutes, clear-cut benchmarks and

indicators. It also vests great value in the constructive diversity of opinions and enhancing the sense of ownership and common cause. This is perhaps the reason for such a mushrooming of boxes by non-governmental organizations, which are given the opportunity to raise issues of common concern and share their expertise (even if in some cases their views are incongruent with those of the core team of authors). We would like to reiterate that the Report is prepared by a group of independent experts, both the core and the boxes, and does not necessarily represent the opinions and views of the Government or the UN.

We would also like to stress that for the first time non-governmental organizations, both from the Capital and the region are part of the team of authors which could be seen as another impetus for spreading the HR and HD concepts and capacity building.

Well aware that the inter-linkage of human concepts (HR, HD and HS) involves an enormous amount of themes, which we have not been able to touch upon, we have tried to be selective in raising those which seem to be urgent at this point of development in Armenia.

It should be mentioned that Armenia has experienced a decline in the main Human Development indicators, GDP per capita, adult literacy rate and life expectancy, which could be partially ascribed to the consequences of the 1998 Russian crisis and political developments. Further decline in the HD indicators is predicted impacted by events of October 27, 1999 when the political balance achieved as a result of 1999 parliamentary elections, was shattered, as gunmen broke into a session of the National Assembly, assassinating the Prime Minister, the Chairperson of the National Assembly, his two deputies, a minister and three other members of the Parliament. Though all political parties manifested solidarity with the President of the country and maintained stability at that extremely difficult moment for the country, October 27 events adversely impacted the situation in the country in all aspects and spheres and its consequences will be felt for long, in economic, political and social expressions.

## Conclusions

The host of problems that Armenia is currently facing adds up to the difficult socioeconomic situation. This mix of problems both common for countries in transition and specific to Armenia include lack of transparency in the decision-making, the unwillingness of certain groups to acknowledge the existence of problems, the urgent need for inclusive democracy and much more. Well aware that Armenia has not escaped the trap of disappointment, disillusionment and fragmentation, we have tried, nevertheless, along with the objective and critical view, bring to your attention the potential that the country has, the achievements it has reached and the hope that is there, on this ancient and very beautiful piece of land.

With the accession to the Council of Europe Armenia will make new commitments and enter a new phase of development. Among the undeniable achievements of independent Armenia are the freedom of speech and the freedom of association. Among other achievements that have paved Armenia's way to the European family, are the incorporation of HR related international norms in Constitution and the legislative framework, initiation of judicial reforms, the creation of the human rights commission at the RA Presidency (though of consultative power), preparation of a draft law on Ombudsman, trends in the elections that inspire hope for the enlargement of democratic processes, practical discussions of constitutional amendments, absence of ethnic discrimination, etc. At the same time, we are well aware that the situation with human rights has yet long way to go for the rule of law and inclusive democracy to reign which needs real separation of powers, really independent mass media, the active functioning of civil society and transparent policymaking. Special attention should be attached to social and economic rights and human development opportunities. A set of urgent actions to be undertaken for the respect, protection and fulfillment of human rights and human development are presented in the Report.

Chapter

# 1

## Human

Concepts and  
their Reflection  
in Armenian  
Legislation



# Human Concepts and their Reflection in Armenian Legislation

1.1	<b>Human Rights (HR)</b>	19
1.2	<b>Human Development (HD)</b>	22
1.3	<b>Human Security (HS)</b>	23
1.4	<b>Reinforcing Inter-Linkages of Human Rights and Human Development</b>	25
1.5	<b>Participation of Armenia in the UN and Regional Agreements Related to Human Rights Protection</b>	26
1.6	<b>International Agreements on the Protection of Human Rights and the Legal System of the Republic of Armenia</b>	31
1.7	<b>Legislative Framework of Human Rights in Armenia</b>	32
<b>Boxes</b>		
1.1	Historical-Cultural Traditions of Human Rights Protection in Armenia	20
1.2	Shahamir Shahamirian's Rule-of-law Utopian Republic	21
1.3	Seismic Security in Armenia	24
1.4	Armenian's Participation in the Millennium Summit	27
1.5	The Parliamentary Assembly of the Council of Europe States that Armenia Undertakes to Honor the Following Commitments	28
<b>Figures</b>		
1.1	Dynamics of Annual Crime Change	24
1.2	The Inter-linkages of HR and HD	25
1.3	Dual Impact of HR and HD	25
<b>Tables</b>		
1.1	Laws in Effect Adopted as Further Development of the Articles of the Constitution in the Area of Human Rights	35

# Human Rights (HR)

In today's civilized world, human rights and freedoms take first priority in considerations of social justice. Though the roots of the concept of human rights (HR) trace back to the early period of mankind's history, in their modern perception, HR were formulated and legally formalized after World War II, starting with the United Nations Universal Declaration of Human Rights. The entire concept of HR stems from one unquestionable value - human dignity. It is the root of human rights and freedoms... **"the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world..."**<sup>1</sup>. HR are not granted by the State or any one person. It is not by stroke of a Legislator's pen that people are granted or deprived of their rights. HR are considered to be natural and inalienable, due to people just for belonging to the human family. In some cases, it is impossible to deny some rights even if the individual chooses to do so (e.g. surrender personal freedom and become a slave). HR are:

- | Universal - in that they belong to all people
- | Interdependent - in that civil and political rights help realize economic, social and cultural rights and vice versa
- | Indivisible - in that no one can be deprived of his/her rights and that all rights belong to all.

Human rights are characterized by certain criteria:

- | All persons, without discrimination, have all basic rights and freedoms
- | All rights and freedoms are universal for all regardless of the public and governance structure, political regime, and the international status of the country
- | HR are freedoms having no connection to location and/or time. In all his/her movements, a human being has basic natural rights and freedoms regardless of the fact whether the territory is free, autonomous or of other status
- | HR protection is not an issue of any country's internal matter alone and is one of the main guarantees of peace and security in the world
- | It is impossible to prioritize or neglect in principle any HR category (civil -political or social - economic and cultural). Such an approach in the end erodes the achievements of the entire HR spectrum.

HR are predominantly affected by state-individual relations operating in vertical dependence (though in an ideal model the State and individual are on an equal footing, characterized by horizontal relations). It seems that HR are also of significance to horizontal relationships between spheres such as civil, criminal, family and others that are independent of one another. These

## 1.1

legal relationships are characterized as HR violations, only if they are not properly defined by judicial-legal bodies, i.e. the State, through the decisions made to this or that tort. Hence, it is the primary obligation of the State to respect (refrain from violating), to protect (to secure that a third non-state party does not violate) and fulfill (undertake all the necessary measures) human rights, which is partially manifested in the country's national legislation and accessions to international agreements.

In this context, a State's model of governance may be the guarantor of HR protection. It implies **democratic governance** (when the Constitution provides for people's participation in decision-making and the protection of the rights of minorities, that is, the limited powers of the majority and a clear legal structure) and the **rule of law**.

Over time, HR have been classified and categorized in different ways for the sake of analysis. The distinctions include:

*Material rights* are rights to have access to certain goods, such as food, shelter, education and housing, in contrast with *procedural rights* which are rights to be treated in a certain way, such as to have a fair trial, to be free from arbitrary arrest and to be given an adequate remedy when any right is violated.

*Negative rights* are those rights that place the State under an obligation not to interfere with people's freedoms, such as free speech, freedom of movement and freedom of association. In contrast *positive rights* are those, which place the State under an obligation to take action to help secure people's freedoms, such as education and health. Although this distinction may appear helpful, in fact it masks the fact that realizing every right places both positive and negative obligations on the State - to remove barriers and to create enabling laws and institutions.

What are human rights as defined under international law? They can be summarized in seven fundamental freedoms, as follows:

1. Freedom from discrimination - regardless of gender, race, ethnicity, national origin, sexual orientation or religion.
2. Freedom from fear - of threats to personal security, from torture, arbitrary arrest and other violent acts.
3. Freedom of thought and speech and to participate in decision-making and form associations.
4. Freedom from want- to enjoy a decent standard of living.
5. Freedom to develop and realize one's human potential.

6. Freedom from injustice and violations of the rule of law.
7. Freedom for decent work - without discrimination.

How will these freedoms be realized? Not through enacting **legislation** alone - though this is of great importance. Realizing rights also requires building **social norms** that respect and promote a culture of rights; creating and strengthening **institutions** such as the judiciary, the education system and the social security services; and creating an **enabling economic environment** that generates enough resources, in terms of both government revenue and household incomes, to purchase the goods and services needed. The focus of this Human Development Report is to ask to what extent these measures are being taken in Armenia in order to realize human rights.

Since the adoption of the UN Declaration of Universal Human Rights in 1948, HR have found their development in different international agreements, conventions and structures, particularly the adoption of six major UN conventions (see 1.5).

In 1950, the Council of Europe adopted the Convention on the Protection of Human Rights and Basic Freedoms. According to that Convention, many rights stipulated by law can be restricted in time of war or

emergency. However, no limitations may be put on the right to freedom from torture or being illegally held captive or in slavery.

As a further step in the reconciliation of human rights and human development to join their efforts to promote the freedom, well being and dignity of all individuals worldwide is the UN Declaration on the Right to Development adopted in 1986. The UN Working group on the Right to Development (October 1995) summarized this Declaration as *"...multidimensional, integrated, dynamic and progressive. Its realization involves the full observance of economic, social, cultural, civil and political rights. It further embraces the different concepts of development of all development sectors...and the concept of indivisibility, interdependence and universality of all human rights... Realization of the right to development is the responsibility of all actors in development.... at both national and international levels..."*<sup>2</sup>.

Though it is rather difficult to evaluate HR in Armenia, a country that had been deprived of statehood for centuries, many principles of rights and freedoms have found reflection in ancient and medieval philosophical and legal documents. Also attempts have been made to compile constitutions (see Boxes 1.1 & 1.2).

### Box 1.1

#### Historical-Cultural Traditions of Human Rights Protection in Armenia

Rights are one set of values that have emerged and evolved throughout the development of mankind's history, and through interactions have traversed cultural and national boundaries since ancient times. Many legislative provisions of the ancient world can be found in Greek-Roman, Near and Far Eastern legal perceptions and codes. Being located at the crossroads connecting East and West, Armenia was influenced by these perceptions while forming its own legal framework. A considerable part of these provisions is documented in manuscripts. Since ancient times testaments of many neighboring nations had been received, translated and absorbed into Armenian law, adapted to the needs of the Armenian environment and adjusted to her legislative heritage. At the same time, numerous independent Court-books, Rulebooks, Statutes and Constitutions were created to regulate the clerical-secular life of ancient medieval Armenia. These were areas related to marriage and morality, publicly condemnable and socially unacceptable practices. Concurrently, before the 20th century, certain provisions of the Armenian law were applicable in Georgia, Turkey, Russia, Poland and other countries. In Court-books and Rulebooks that have been preserved until today, the whole consummation of the Armenian perception of human rights is presented. Its study and dissemination may stimulate a new perception and cultivate the seeds of human rights in the social edifice of Armenia<sup>3</sup>.

Institute of Oriental Studies at the National Academy of Sciences

<sup>2</sup> Integrating Human Rights with Sustainable Human Development. UNDP policy document, UNDP January 1998

<sup>3</sup> Bibliographie zur Rezeption des byzantinischen Rechts im alten Rußland sowie zur Geschichte des armenischen und georgischen Rechts/ Unter Mitwirkung von Azat Bozoyan, Igor Cicurov, Sulchan Goginava, Kiril Maksimovic und Jaroslav Scapov, zusammengestellt von Ludwig Bugmann und Hubert Kaufhold, Frankfurt am Main 1992, S.89-187 (Forschungen zur byzantinischen Rechtsgeschichte/ Herausgegeben von

## Shahamir Shahamirian's Rule-of-law Utopian Republic

### Box 1.2

Shahamir Shahamirian was one of the renowned figures of the Armenian national liberation ideology of the 18th century. While his contemporaries were groping for ways to establish an independent Armenian state, he had significantly advanced in his search and succeeded in outlining the structure of the future Armenian state grounded on supremacy of human rights and freedoms.

He summarized his vision and projects in a publication "A Book Entitled Trap of Vanities" (Madras, 1773), which even today has not lost its timeliness, is of great cognizable value and is rightfully regarded as an extraordinary monument of Armenian legal and political thoughts.

"Trap of Vanity" consists of two parts. In the first - theoretical - part, the author scrutinized the principles of the public-political system, while the second part elaborated on the draft of Armenia's future constitution.

According to Shahamirian, due to belonging to the human family, people are born equal, hence should have equal rights in public life. People should establish laws in accordance with the "natural and reasonable type of the human being" and should express natural rights, which are liberty and equality. Whereas laws should be mandatory for everyone, protecting the security in person and freedom, so that everyone can "think, speak and believe freely..."

Shahamirian viewed future Armenia as a state with republican governance, where the people are the masters of their faith. It is possible, according to the author, through the selected persons, who will express the will of the society, as "a handful of wheat, taken from the main pile".

The second part consists of 521 articles, spelling out the entire state system. In Shahamirian's utopian republic the bodies - legislative (Armenian Home), the executive (Ministry) are elected for a three-year period. Both deputies and officials could be called back in case they do not live up to the expectations of the people. The parliament, the Armenian Home, is the supreme body and all the others are accountable and subordinate.

There are many provisions in the draft, which define the rights, freedoms, and duties of citizens, the election system, the legal-judicial system, and the criteria for the appointment.

It is noteworthy that Mr. Shahamirian, inspired by ideas of the French enlightenment, proclaimed human rights and freedoms and principles of democratic governance in Madras, India when both French and American constitutions were yet in the future, while it took almost 1.5 centuries for the establishment of an independent Armenia.

As far back as in 1988-1990, yet in the Soviet times, a pan-national movement started, calling for civil freedoms, too. In 1990, through free elections to the Supreme Council of the Armenian Soviet Socialist Republic, an end was put to the monopoly of the Communist party rule and powers were taken up by democratic forces. The Declaration of August 23, 1990 proclaims Armenia's commitment to democratic values.

After Independence, the Republic of Armenia, having joined international organizations, acceded to a number of international conventions and agreements, which embrace the sphere of human rights. The second chapter of the Armenian Constitution, adopted in 1995, reinforces basic human rights and freedoms. Judicial-legal reforms got underway in 1998.

However, Armenia has inherited Soviet traditions in regard to rule of law. Despite a large number of adopted laws and ratified agreements and conventions, the people rightfully do not have the sense of being protected by law. The regulation of a large number of spheres and relations depends more on the whim of the authorities or bureaucrats than on the rule of law. It should also be mentioned that society does not fully realize the importance of rights and freedoms, either. On the one hand, large groups of the population are unaware of rights to which they are entitled. On the other hand, due to the difficult socioeconomic situation, citizens find it difficult to avail themselves of their procedural rights (because of court fees, the high price of sophisticated attorney service, etc).

## 1.2

## Human Development (HD)

Human development (HD) is the process of enlarging people's choices in life. It aims to increase people's capabilities - what they can do and be - because this is what helps to achieve human dignity and freedom. The process of human development is one that emphasizes participation, equity and sustainability, which are present in economic (equitable growth aimed at improving the people's lives), social (access to health and education and investment in human capital), political (empowerment and participation), cultural (enhancement of cultural and moral values), environmental (preservation of ecology and prudent use of natural resources) development. In this way, human development is both a means and an end - and it pursues the very same goals as human rights.

Shifting from an economy-centered approach to development, HD places people at the core. The fact that the new world economic order increasingly recognizes the role of the human being in development and tries to "humanize" international economic relations is indeed the victory of the HD concept. What seemed pioneering when the Human Development Report was launched in 1990 is now a commonly accepted approach in policy making both in developed and developing countries.

The Human Development Index (HDI), introduced in 1990 as a measure for HD captures just the three most basic capabilities of life - living a long and healthy life, being knowledgeable and having a decent standard of living. When people have these three most basic capabilities, then many more choices are open to them in life. The GDP index, which defines opportunities to have a decent standard of living (measured by income per capita); the Education Index, which characterizes knowledge (measured by adult literacy and combined school enrolments); and the Health Index defined by longevity (measured by average life expectancy at birth) are the three components, which together make up the Human Development Index (see Annex 2).

The choice of the above-mentioned components implies a caution against concentrating on economic growth as an automatic link to prosperity and well-being. Worldwide experience has demonstrated how in some countries economic growth (characterized through GDP index), though modest, has directly benefited the poor. Other countries, though having striking

economic growth, have failed to reduce poverty. The gap has widened between the richest and the poorest, thus leading to fast growth and slow human development. The other two components of the HDI bring in health and education as the most basic indicators of a much wider concern with the condition of people's lives.

According to HDR 2000, among the countries that are ranked by their HDI (174 countries, total)<sup>4</sup>, Armenia occupies 93rd place, indicating a certain backslide as compared with HDR 1999 (87th place)<sup>5</sup>, which is ascribed to a decline in the GDP index (0.51 as compared to 0.53). Calculation of Armenia's HDI by Armenian specialists (using national data that have not been standardized for international comparison) reveals some deviations from the figures of the Global HDR, however their figures also indicate a declining tendency for this year. Unfortunately, Armenia has failed to translate slow, though steady economic growth observed over the past years, into an improved lifestyle for the majority of the population.

A decline has been observed in regard to the other indicators too. Armenia has been "exploiting" the human capital accumulated in the former times, however, erroneously assuming that quality education or widely accessible health care could continue merely by inertia. Painfully meager state allocations to education and health, even if they could be explained and/or justified by objective and subjective reasons (restricted budget, lack of strategy, etc) are already yielding destructive results, such as decline in life expectancy, quality of education, increasing migration, polarization of society, etc. Once eroded, these systems will require much larger resources and time to be revived than now, when the question is to preserve and to sustain the existing capacities. Even though the political situation is not quantitatively evaluated within the HDI (it is indirectly reflected in HDI components) it has tremendous impact on human development.

Recent findings<sup>6</sup> indicate that the level and characteristics of poverty have basically remained the same since 1996, testifying to yet insufficient activities undertaken in the reduction of poverty, which is regarded both as a development goal and rights issue. Such an approach is pertinent to Armenia, since it is of equal importance to improve the living standards of the population as well as to reinforce their participation, to build their welfare through enhanced opportunities.

<sup>4</sup> Human Development Report 2000, Oxford University Press, New York, 2000 p. 158

<sup>5</sup> There is a two- year lag in the HDR data. The calculations for HDR 2000 are based on the data as of 1998, and those in HDR 1999 are based on the data as of 1997.

The understanding of the HD concept, which has become an indispensable part of a number of countries' policy making, is relatively new in Armenia. Being promoted in a number of ways, including within programs of some institutions of higher education, the activities of certain NGOs, professional groups and the Human Development Experts' Club, HD principles are already noticeable in the programs of governmental and non-governmental organizations in regard to social development and eradication of poverty.

HD can be applied to scientifically based development programs for all levels. As a holistic approach, it will engender mainstreaming and include certain benchmarks and indicators on human concepts in the country's long-term programs and budgeting, thus harmonizing them with Armenia's priorities and specificities.

## 1.3

### Human Security (HS)

When discussing security in this Report, we have in mind its evolved concept, which is correlated with human rights and the concept of human development, being of a universal, people-centered interdependent nature and giving equal weight to freedom from fear and freedom from want. The many spheres of human security, which may come under threat, differing for individuals at different times, fall into seven main categories: economic, food, health, environmental, personal, community and political security<sup>7</sup>.

Previously the notion of security primarily implied the military security of a nation-state. The current understanding of human security (HS) has its focus on the security of an individual, his/her fears, freedom from poverty, violence, crime, and protection of jobs, health and the environment. This is considered as important as the prevention of armed conflict.

HS is a universal concern. Although of different scale and intensity, the problems are the same for both rich and poor countries - poverty, disease, injustice of authorities, crime, drugs, AIDS, unemployment, etc. In both cases, only an efficient solution to human security problems may become a reliable basis for continuous and sustainable human development.

Economic security for Armenia in the transition period requires, first of all, overcoming crisis tendencies in the economy, struggling against poverty and unemployment, and protecting the most vulnerable segments of the population. To what extent the State succeeds at solving these problems is discussed in Chapter 3.

Food security concerns the citizens' vital need - supply of food. It has become an extremely urgent problem for Armenia in 2000, as a countrywide drought has resulted in losses estimated to be nearly USD 100 million. Practically all agricultural sectors were heavily affected. It is expected that the drought will bring down the economic growth in 2000 by 1-1.5%.

Armenia is a poor country in terms of energy resources. Thus, ensuring energy security means finding various ways of importing fuel and enabling the energy sector to utilize a wide spectrum of fuels.

Any discussion of the threats to human health, together with reduced access to basic services and the prevalence of disease, requires special emphasis on the need for psychological protection of the population. Over the last 12 years Armenia has experienced a number of psychological shocks. The 1988 earthquake in Spitak, massacres of Armenians in Azerbaijan, the Karabagh conflict, the stress of adjusting to new living conditions, accompanied by loss of employment, welfare and job prospects, emigration of close relatives, have all drastically aggravated the psychological environment of the country and have contributed to an increase in levels of anxiety and feelings of psychological insecurity among the majority of people.

Once the majority of large industrial enterprises (especially chemical) ceased operations, environmental problems in Armenia eased to a certain extent. However, some serious problems still remain in the area of environmental protection. For example, maintaining and increasing Lake Sevan's water level, the struggle against deforestation and desertification in Armenia, etc.

In short, the perception of personal security is conditioned by the degree to which, under given conditions, a person considers himself/herself and his/her relatives protected, including from those threats mentioned above. It is also connected with the question, whether there is protection from any arbitrary action and crime (including physical torture, wars, ethnic tensions, rapes, domestic violence, child abuse) regardless of the perpetrator - be that a criminal or a state official (e.g. law enforcement institutions). It should be noted that today fear of the criminal world in Armenia is not too great (probably with the exception of racketeers. See Figure 1.1)

## 1.3 Human Security (HS)

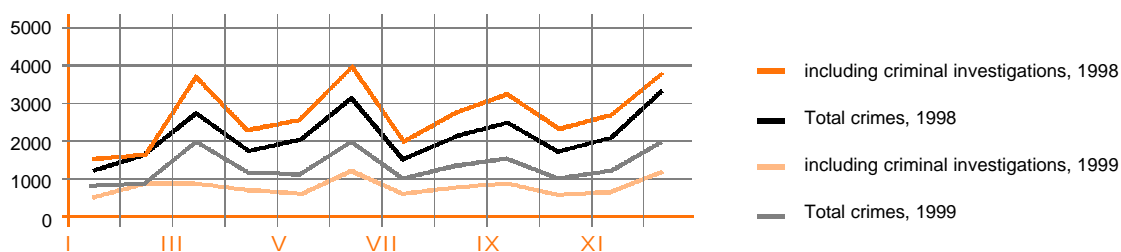


Figure 1.1

Dynamics of Annual Crime Change by Months<sup>8</sup>

Within communities, problems have been piling up. Among the concerns of the public are the preservation of society's genetic and intellectual potential, its quantitative and gender composition, the birthrate, and problems of emigration. In Armenia's case, it should be mentioned that the support of relatives (both from abroad and within the country) is a factor that has traditionally enhanced the level of community security, facilitating a more mitigated adaptation to difficult socioeconomic conditions.

Political security presently means protection of individual citizens, organizations and large groups of people (e.g. during demonstrations) from persecution for their political beliefs. Fear from arbitrary acts of law enforcement agencies and/or military establishments has always been present in the sub-consciousness of members of society, given the 70-year-old Soviet heritage. The persecution of the opposition from 1994-1998, culminating in the events following the 1996

presidential elections (when tanks were brought onto the streets to oppose the demonstrators protesting the elections), prepared the ground for a resurgence of the old fears. Since 1998 the situation has grown calmer. However, on October 27, 1999 assassins broke into the National Assembly, shot and killed the Prime Minister, the Speaker, and five others. These events and the ensuing controversial investigation restored to the population feelings of personal insecurity, concerns over an apparent absence of state guarantees for their security, and generally an absence of objective law enforcement.

For Armenia and the region on the whole, seismic security is of particular concern, due to geographic location. Certain steps have been taken to enhance regional cooperation. Given Armenia's accumulated experience due to its grief-laden history of frequent earthquakes, its lead in the process can be of use for the region (see Box 1.3).

## Box 1.3

## Seismic Security in Armenia

Armenia is located in a disaster-prone zone in which most of the existing types of disasters are potentially present. Security from natural disasters, particularly earthquakes, is a serious issue given that its entire territory is estimated as pro-seismic. According to the breakdown of damage caused by disasters to Armenia between 1988-1999, that from earthquakes overwhelmingly prevails (close to 94%).

The need for a special policy on seismic security became urgent especially after the devastating earthquake of 1988 which involved around 40% of RA territory, killed about 25,000 people and left 500,000 homeless and destroyed 25% of the country's industrial potential. In 1991 a state management body, "The National Service for Seismic Protection", responsible for the provision of seismic security for the population was established. The joint efforts of this state organization and the "Armenian Fund for Seismic Protection" (NGO) resulted in national standards on seismic-proof construction, recommendations on behavioral patterns for the population during seismic activity, and the assessment of seismic risk, which are used by other states as well. According to the RA Government decisions (## 392 and 429, June 1999), programs on reducing the seismic risk for the Republic and specifically for Yerevan with a 30-year implementation period have been put into effect. The elaboration of the draft law on the "Seismic Protection of the Population" is underway which will secure legal regulation of the problem.

## National Survey for Seismic Protection

The main principles of state security and public security are usually summarized in a National Security doctrine. This has not been adopted in Armenia yet. It would be desirable that such a doctrine be written,

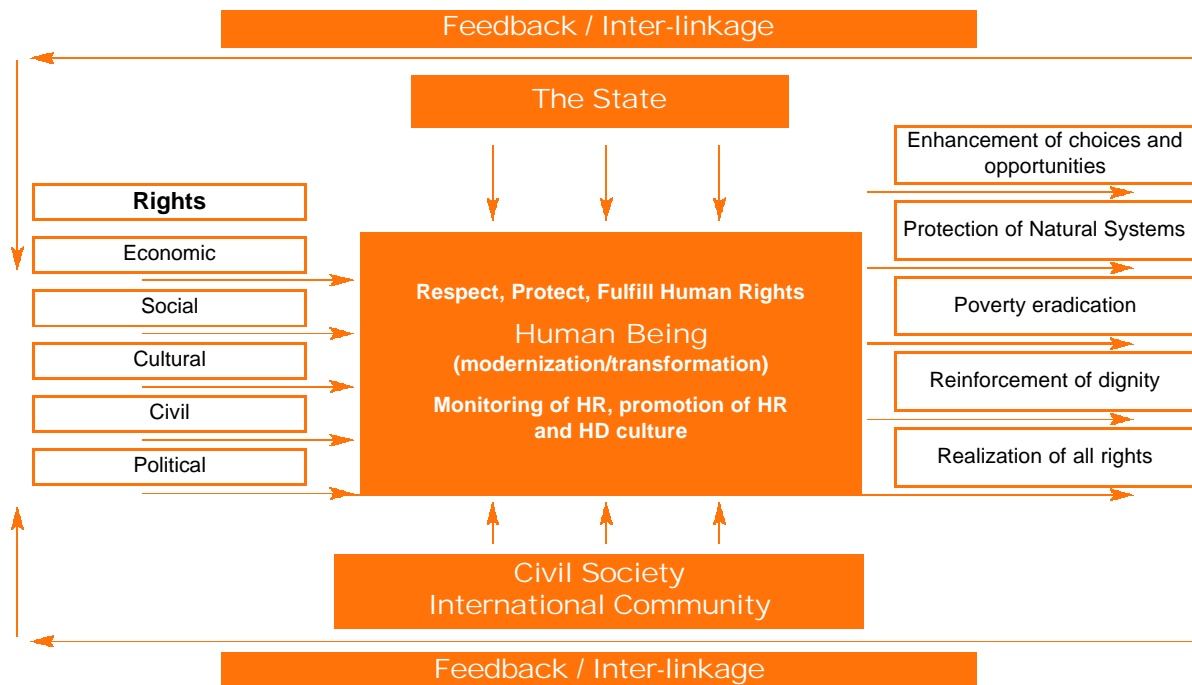
incorporating new approaches, taking into account the specific interests of individuals, their security, protection of their rights and freedoms and prospects for broadening their choices.

## 1.4

## Reinforcing the Inter-Linkage of Human Rights and Human Development

Globalization, already a reality, opens up unprecedented opportunities for progress. However, not all countries and peoples can make maximal use of those opportunities. Indeed, some are doomed to find them-

selves in a worse situation. The best response to this predicament lies in the increase of links between various spheres. This could include inter-linkages among such areas as protection of environment, money or information flows, combating crime or drug trafficking, and the struggle against natural or man-made disasters. In other words, it is important that the inter-linkages among all human concepts (HR, HD, HS) at all levels are put together. In this way, they work better, reinforcing one another and turning a vicious circle into a virtuous one (see Figure 1.2).

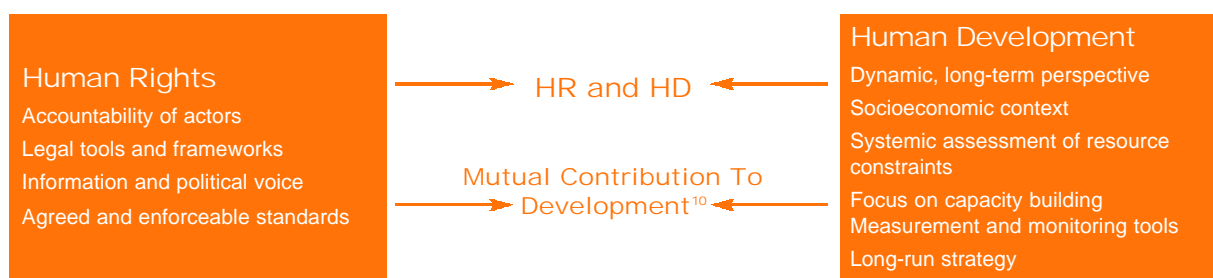


The Inter-Linkages of Human Rights and Human Development<sup>9</sup>

Figure 1.2

The combination of human concepts based on human dignity is not a mere summary of tools and leverage factors. HDR 2000 presents the qualitative description of HR and HD inter-linkages, mentioning that changes in one and through one can impact the characteristics of the other. Such an "alliance" between HR and HD can contribute a new quality to people's overall well-

being. For instance, HD with its expertise in long-term perspective and concentration on the socioeconomic context contributes to the realization of human rights. Once HR complements this process with its legal tools and frameworks, the overall impact and achievements could be measured by HD monitoring tools.



Dual Impact of HR and HD

Figure 1.3

HR also contributes to HD with the principles of moral legitimacy and social justice for those excluded from society mainly because of discrimination. With the common goals that they share, which are expanding freedoms, securing well-being and guaranteeing dignity they are mutually interdependent, since rule of law, participation and equity make up the most beneficial environment for human rights to be protected, promoted and realized. The latter enhances people's opportunities to be self-sustainable and make choices.

People-centered concepts have traditionally operated at diverse levels, with HR, as primary target looking at the individual and the realization of his/her rights as a guarantor of a spillover to society, and HD that centers at people, concentrates at the community/group that opens up opportunities for an individual, testifying once again to direct links and inter-relations between them. Evolution and paradigm changes in due course have broadened the field for HR, HD and HS, the levels of leverage and concentration, approached them to one another, thus allowing to achieve simultaneously certain positive results in the mentioned directions through similar ways. Assuming the reciprocity and inter-linkages of HR, HD and HS, two approaches aimed at progress could be discussed

1. to determine the impact of scheduled activities of one (e.g. HD) direction on others (e.g. HR and HS).

2. to make the selection of priorities or activities conditioned by the highest possible impact on the mentioned three directions.

The above issues and their practical implementation require clarification of institutional and quantitative links among the human concepts. The need and usefulness of such studies is apparent, and to seek practical solutions for enumerated issues, as an initial approach could be to

- a) select the prioritized goals for national development and the expedient ways and means for their achievements
- b) assess the impact of their realization on the main indicators of HR, HD and HS and to check the level of their acceptability
- c) verify the goal-setting of development if the scope of impact is not acceptable and to proceed with the second iteration of the elaboration of development strategy
- d) continue the process until expedient and favorable development strategy that meets the main demands of HR, HD and HS is found.

If certain principles of human concepts are laid in the basis of national development strategy, then the planning is made through the same approaches, with taking into consideration the impact on other principles.

## 1.5

### Participation of Armenia in the UN and Regional Agreements related to Human Rights Protection

By gaining Independence the Republic of Armenia (RA) obtained unprecedented opportunities to accede to international agreements related to the protection of human rights, to join international organizations and to participate as sovereign entity in international summits and conferences. Having reiterated times and again its commitment to the protection of human rights (1990 Declaration of Independence, 1995 the Constitution, etc), during the last ten years Armenia has acceded to those fundamental documents that were signed at global as well as regional levels.

Armenia joined the **Universal Declaration of Human Rights**, which had substantially contributed to the enhancement of respect towards human rights and fundamental freedoms in Armenia.

The **International Covenant on Civil and Political Rights**, acceded by Armenia in 1991, defines basic human rights and freedoms (right to self-determination for all peoples; right to life; to equality before the law, to liberty and security of person; freedom of thought, conscience and religion; to take part in the conduct of public affairs, to vote and to be elected; rights of ethnic minorities; prohibition of torture, slavery, compulsory work, etc.) that should be recognized by all States Parties. They are obligated to undertake all required legal and other measures for the realization of these rights in accordance with their constitutional procedures.

In 1993 Armenia acceded to the **International Covenant on Economic, Social and Cultural** rights thereby recognizing the rights to work according to international criteria; to just and favorable conditions of work; to social security, to adequate standard of living; to education, health and other rights.

In 1992 Armenia acceded to the **Convention on the Rights of the Child** which not only defines that the children have the right to enjoy all the basic rights but also obligates the State Parties to pay primary attention to the protection of child's rights while making any

legislative, administrative and judicial decision concerning children. For the States Parties the Convention sets forth implementation of certain activities, particularly adoption of a special law.

Armenia acceded to the **Convention on Elimination of All forms of Discrimination Against Women** in 1993. According to this international legal document, the States Parties are obliged to undertake instrumental action in political, economic and social areas in order to ensure the possibility of women for enjoying all human rights. The Convention particularly emphasizes the importance of embodying the principle of the equality of men and women in national constitutions or other appropriate legislation as well as adoption of legislative and other measures prohibiting all discrimination against women, including punitive sanctions.

In 1993 Armenia also acceded to the **International Convention on the Elimination of All Forms of Racial Discrimination**. According to this international legal document, the States Parties are obliged to adopt laws, which preclude any incidence of discrimination. The enforcement of the basic civil, political, economic, social and cultural rights spelled out in the Convention should be guaranteed regardless of race, color, tribal, ethnic and national origin of the individual.

In 1993 Armenia also acceded to the **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** thereby asserting not only its readiness to reject and prohibit torture and degrading treatment but also taking a commitment to make this official prohibition a reality. Particularly, to recognize torture as a criminal felony and define a relevant penalty, as well as to review periodically the legislation, regulations, methods and practices related to interrogation, detention and imprisonment in order to preclude torture.

Over the years 1991-1994 Armenia also acceded to the Conventions on Prevention and Punishment of the Crime of Genocide; Status of Refugees and other four Geneva conventions and their additional protocols making a commitment to respect human rights during the armed conflicts.

Armenia as a member to the Organization for Security and Cooperation in Europe (1991), the Commonwealth of Independent States (1991), the United Nations (1992) is also a party to a number of regional agreements on human rights, including the Helsinki process in the framework of OSCE and the CIS. Involvement and cooperation with these organizations has considerably fostered the processes of democratization, human development and adoption of international standards in the Republic.

It should be noted that almost all the above-mentioned international agreements envisage the establishment of international institutional mechanisms for the supervision over the implementation of their provisions. These institutions are entitled to review the periodic reports of the States Parties on the implementation of their commitments in the area of human rights as well as applications regarding the violations of human rights. Armenia as signatory to the above-mentioned international legal agreements, has submitted its reports to relevant bodies. In 2000, Armenia presented its national report on the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. National periodic reports on the Rights of the Child and on the International Convention on the Elimination of all the Forms of Racial Discrimination will be presented in early 2001. At the same time, Armenia has not submitted yet the national report on the implementation of international conventions signed in the framework of the United Nations Educational, Scientific and Cultural Organization. The detailed chronology of submitted national reports and concluding observations by treaty bodies are presented in Annex IV.

The RA has taken part in the majority of UN Global conferences, initially as part of the USSR and then as a sovereign state. Conferences and summits, with their people-centered focus, have raised global issues and on the whole consolidated a comprehensive conceptual basis for human rights and human development. The 2000 Millennium Summit voiced the most serious challenges facing the world in the 21st century and the main strategies combating them (see Box 1.4).

## Armenian's Participation in the Millennium Summit 2000

Box 1.4

The Millennium Summit, the largest gathering of world leaders ever, was held at the United Nations Headquarters in New York, from 6 to 8 September, 2000. It brought together a total of 190 participating delegates (out of which 104 heads of states and 48 heads of governments).

The main official outcome of the Summit was the Millennium Declaration, which was approved unanimously at the closing ceremony of Summit. It consists of eight parts: I. Values and Principles; II. Peace, Security and Disarmament; III. Development and Poverty Eradication; IV. Protecting our Common Environment; V. Human Rights, Democracy and Good Governance; VI. Protecting the Vulnerable; VII. Meeting the Special Needs of Africa; and VIII. Strengthening the United Nations. The Declaration, though the result of long negotiations that began well before the Summit, in fact addresses all the main issues raised by the States in their statements.

RA President Robert Kocharyan, while addressing the Millennium Summit reflected on the role of the UN and its potential, the need for collective efforts to materialize the positive outcome of globalization and to prevent its negative consequences as well as the process of building open society in Armenia, based on democracy and the rule of law. Special place has been attached in the address to the international condemnation of the 1915 Genocide of Armenians in Ottoman Turkey and the peaceful resolution of the Karabagh conflict.

The invitation in the Fall of 2000 for Armenia's accession to the Council of Europe is a serious testimony of its advancement, which should be accompanied by signing the European Convention for the Protection of Human Rights and Fundamental Freedoms and its rat-

ification within a one-year period. In addition, stemming from the requirements of the Convention, Armenia has committed itself to certain changes in the HR related legislation (See Box 1.5).

### Box 1.5

#### The Parliamentary Assembly of the Council of Europe States that Armenia Undertakes to Honor the Following Commitments

##### In the Area of Conventions

###### **To sign upon accession and to ratify within one year**

- the European Convention on Human Rights and Fundamental Freedoms including the changes introduced by protocols No. 2 and 11 as well as its protocols No. 1, 4, 6 and 7, the main agreement "On Privileges and Immunities" and its protocols;
- the European Convention for the Prevention of Torture, Inhuman or Degrading Treatment or Punishment, and its protocols, the European Charter on Regional and Minority Languages.

###### **To sign and ratify within two years after accession**

- the European Convention for Cross Border Cooperation and its protocols as well as Conventions of the Council of Europe for Extradition, Legal Assistance in Criminal Cases, Confiscation and Expropriation of Crime Results, Transfer of Sentenced Persons meanwhile applying the main provisions defined by them before the ratification of these conventions.

**To sign within two years and to ratify within three years after accession** the European Social Charter and from that moment starting to implement a policy in consonance with the principles mentioned in the Charter.

##### In the Area of National Legislation

**To adopt within one year after accession** the second (special) section of the Criminal Code thereby de jure abolishing death penalty and decriminalizing homosexual relations by mutual consent between adults, new laws on mass media, political parties, non-governmental organizations and the law on civil service.

**To adopt within six months after accession** a law on transferring the imprisonment institutions (including detention isolators) and reformatories (corrective labor facility) from the supervision of the Ministries of Interior Affairs and National Security to the supervision of the Ministry of Justice thereby ensuring broad reforms in the imprisonment and detention system including its demilitarization, and to ensure the efficient implementation of the law within six months after its adoption, except the actual transfer of isolators and detention institutions which should be done within one year after the adoption of the law.

**Before the next elections to local self-governing bodies** to make changes in the law on local self-governing bodies to broaden their authority and enhance their autonomy taking into account the relevant recommendations made by the Congress of European Local and Regional Authorities.

**Before the next elections** to correct the deficiencies of the Electoral Code particularly in the sections referring to the working procedures of the electoral commissions and entities responsible for the compilation of voter lists.

**In the Area of Human Rights**

- **To ensure nondiscriminatory activities of all churches** and especially of so-called "non-traditional" ones, to fully implement the reforms in the judicial system guaranteeing complete independence of judges, unhindered and direct participation of attorneys in the defense of criminal cases (if needed, the expenses of these services should be covered by the State).
- To cooperate closely with NGOs for guaranteeing the respect for the rights of detainees and convicts.
- **To adopt within three years after accession the law "On Alternative Service"** according to European norms. Meanwhile, to declare an amnesty for those sentenced to imprisonment or convicts into disciplinary battalions who have refrained from the military service because of religious motives and to allow them to pass their military service in non-militarized divisions or to replace the military service with civil service (before the law "On Alternative Service" is in effect).
- To replace the national television channel with a public television channel, administered by an Executive Board.

**National Assembly, Department of Foreign Relations**

Thereby Armenia will not only reiterate its commitment to respect human rights and fundamental freedoms but also will provide an additional functional and powerful legal instrument to the Armenian citizens for protection of their violated rights by recognizing the jurisdiction of the European Court of Human Rights.

The list of global and regional agreements related to human rights to which Armenia has acceded as of September 1, 2000 is presented below<sup>11</sup>.

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>  International Covenant on Civil and Political Rights of 16 December 1966 and Protocol Thereto, Armenia acceded to on 1 April 1991</li> <li>  Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1949, Armenia acceded to on 10 December, 1991</li> <li>  International Covenant on Economic, Social and Cultural Rights of 16 December 1966, Armenia acceded to on 9 June 1993</li> <li>  Convention of Non-Applicability of Statutory Limitation to War Crimes and Crimes Against Humanity of 26 November 1968, Armenia acceded to on 31 March 1993</li> <li>  Convention on the Prevention and Punishment of Crimes Against the Persons under International Security and Diplomatic Agents of 14 December 1973, Armenia acceded to on 12 April 1993</li> <li>  Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment of 14 December 1984, Armenia acceded to on 9 June 1993</li> <li>  Convention and Protocol relating to the Status of Refugees of 28 July 1951, Armenia acceded to on 12 April 1993</li> <li>  Convention relating to the Status of Stateless Persons, 28 September 1954, Armenia acceded to on 16 March 1994</li> </ul> | <ul style="list-style-type: none"> <li>  Convention on the Reduction of the Statelessness of 30 August 1961, Armenia acceded to on 16 March 1994</li> <li>  Employment Policy Convention, 9 July 1964, Armenia acceded to on 21 December 1993</li> <li>  Workers' Representatives Convention of 23 June 1971 Armenia acceded to on 21 December 1993</li> <li>  Convention on Working Relations in Civil Service of 27 June 1978, Armenia acceded to on 21 December 1993</li> <li>  Convention on the Nationality of Married Women of 20 February 1957, Armenia acceded to on 16 February 1994</li> <li>  Convention on the Rights of the Child of 20 November 1989, Armenia acceded to on 1 June 1992</li> <li>  International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, Armenia acceded to on 29 March 1993</li> <li>  International Convention on the Suppression and Punishment of the Crime of Apartheid of 30 November 1973, Armenia acceded to on 31 March 1993</li> <li>  Convention on the Elimination of All Forms of Discrimination Against Women of 31 March 1953, Armenia acceded to on 9 June 1993</li> <li>  Equal Remuneration Convention of 23 May 1953, Armenia acceded to on 21 December 1993</li> <li>  Discrimination (Employment and occupation) Convention of 25 June 1958, Armenia acceded to on 21 December 1993</li> <li>  Convention Against Discrimination in Education of 14 December 1960, Armenia acceded to on 22 June 1993</li> </ul> |
|--|--|

- | Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, Armenia acceded to on 31 March 1993
- | Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, Armenia acceded to on 31 March 1993
- | Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, Armenia acceded to on 31 March 1993
- | Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armies in Field of 12 August 1949, Armenia acceded to on 31 March 1993
- | Protocol I Additional to Geneva Convention and relating to the Protection of Victims of International Armed Conflicts of 8 June 1977, Armenia acceded to on 31 March 1993
- | Protocol II Additional to Geneva Convention and relating to the Protection of Victims of Non-International Armed Conflicts of 8 June 1977, Armenia acceded to on 31 March 1993
- | Agreement Relating to the Restoration of the Rights of Displaced Persons, National Minorities and Nations of 9 October 1992, ratified by Armenia on 9 June 1993
- | Agreement on Guarantees for the Rights of the Citizens of CIS Countries for Pension Maintenance, Armenia ratified on 27 September 1993
- | CIS Agreement on Mutual Recognition of Property Rights and Regulation of Relations of 9 October 1992, ratified by Armenia on 29 March 1994
- | Convention on the Protection of Cultural Values in Armed Conflict, adopted in May 1954, Armenia acceded to on June 22, 1993
- | CIS Agreement on Assistance to Refugees and Displaced Persons of 24 September 1993, Armenia ratified on 4 July 1994
- | Convention on Protecting the Rights of the Representatives of National Minorities of 21 October 1994, Armenia ratified on 11 October 1995
- | CIS Agreement on Top-Priority Measures relating to the Protection of Victims of the Armed Conflicts of 24 September 1993, Armenia ratified on 6 November 1995
- | CIS Agreement on Collaboration in the Field of Protection of the Copyrights and Adjacent Rights of 24 September 1993, ratified by Armenia on 6 November 1995
- | Convention on the Preservation of World Cultural and Nature Heritage, adopted in November 1975, ratified by Armenia on 22 June 1993
- | CIS Agreement on Joint Measures on Foreign Humanitarian Aid, ratified by Armenia on 9 June 1993
- | Convention on Measures Relating to the Prohibition and Prevention of Illegal Import, Export and Transfer of Property Rights of Cultural Values, adopted in November 1970, Armenia acceded to on 22 June 1993
- | Convention on the Technical and Professional Education, ratified by Armenia on 22 June 1993
- | Convention on Legal Relations Relating to Civil, Family and Criminal Cases, ratified by Armenia on 23 June 1993
- | European Convention on the Protection of National Minorities of February 1995, Strasbourg, ratified by Armenia on 17 February 1998
- | European Cultural Convention, adopted in December 1954, Armenia acceded to on 18 February 1997.

## International Agreements on the Protection of Human Rights and the Legal System of the Republic of Armenia

Being a signatory to international agreements related to the protection of human rights, Armenia has made a commitment to undertake all the necessary measures for the implementation of norms and provisions enshrined in these international documents. These activities are being carried out in two directions: elaboration of legislation and elaboration of law enforcement mechanisms. However, relevant research<sup>12</sup> reveals that despite Armenia's accession to almost all the major HR related international conventions and agreements, the majority has not been officially translated into Armenian yet. At the same time, there are serious shortcomings and gaps in realization of the international commitments of the RA in regard to the transformation and implementation of Constitution and the Armenian legislation in adherence with international norms and the creation of national institutional mechanisms securing their realization. The RA Constitution and laws often contain provisions that directly contradict international agreements ratified by Armenia. Concrete comments and recommendations that will improve the concordance of the Armenian legal framework to international standards were rendered resulting from a conducted comparative analysis. The Armenian Association of International Law (AAIL) and the organization of Central and Eastern Europe Law Initiative (ABA/CEELI) are preparing for publication several series of the translation of international agreements and conventions that Armenia has acceded. They will be considered official translation and will be applicable for the use of judges, prosecutors and other legal-legislative bodies.

Legislative activities are a necessary but not sufficient condition for the enforcement of human rights. The other important side of implementation of international commitments in the area of human rights is the actual execution of provisions set forth by international agreements and domestic legislation. The implementation or its failure are conditioned by the existing situation and realities in a given country. Therefore in addition to the legal factor there are many others like historical, political, psychological-mentality related, geopolitical, socio-economic, etc., that play a decisive role.

According to the Constitution of Armenia, the ratified international agreements are an integral part of the Armenian legal system (Art. 6). Moreover, according to the same Article, in case of any discrepancy between the two, then the norms of international agreements overrule (the primacy of international agreements is recognized). Prior to the ratification by the National Assembly, the RA Constitutional Court discusses correspondence of obligations defined in the agreements to the RA Constitution (Art. 100). International agreements that contradict the Constitution can be ratified only after making corresponding amendments in the Constitution (Art. 6).

Actually the only legal document that has precedence over international agreements is the Constitution and an agreement cannot be ratified if it contradicts the Constitution. Theoretically this may create serious problems especially given the imperfections of the Constitution. However, the experience of the past years showed that ratification of international agreements does not create any problems or difficulties. This can be probably explained by the Constitution itself, according to which the rights and freedoms listed in it are not exhaustive and cannot preclude other fundamental human rights (Art. 43).

Thus the international agreements ratified by the National Assembly are an integral part of the Armenian legal system and have precedence over the effective legislation, including the laws. This extremely important provision facilitates for the time being the neutralization of deficiencies, to some extent, of the Armenian legislation in the area of human rights.

Unfortunately, the direct application of international agreements domestically cannot be considered yet an inalienable part of the Armenian legal culture. The existing legal tradition does not perceive the international agreements as a fully-fledged source of law. This is conditioned by a number of factors. First, it has not been sufficiently clarified which agreements related to human rights are directly applicable domestically without being transformed into legislation and without contradicting it. It should be mentioned that according to the Soviet legal mentality, which is still prevailing among many citizens and lawyers, for the international agreement to be applied in practice, it should be formally recognized in domestic legislation as a law or a regulation. Lack of awareness on the part of citizens and some lawyers of international agreements reinforcing human rights and freedoms enshrined in them is another important factor of adverse impact. Under these circumstances the Armenian courts rarely apply international agreements directly. Therefore, it is difficult to mention a court decision that was made based upon provisions of international agreements.

RA judges have not mastered yet the culture of the use of international agreements, while international agreements are considered integral to the country's legal system and are subject to mandatory implementation. To fill in this gap, it is also necessary to organize special training of prosecutors and attorneys.

Certainly, the solution of the problem concerning the application of international agreements generally depends on the process of judicial reforms (Chapter 2). Undoubtedly, the solution of this problem in the near

future will become more vital. Armenia's accession to the Council of Europe will put on the agenda the issue of harmonizing the decisions made by the European Court of Human Rights and the Armenian legislation, especially the law enforcement practice.

The existing situation demonstrates that public education, training and retraining of specialists and research in the area of international standards of human rights have become issues to be addressed since long ago.

## 1.7

### Legislative Framework of Human Rights in Armenia

The legal aspect of inter-linkages between human development and human rights implies an existing legislative framework that regulates human rights. That is, the possibility for people to enjoy their rights given them by birth and defined by law, legal protection of human rights and responsibility of the State to implement its international commitments.

Legislative activities in the Republic of Armenia actually started in October 1990 with the adoption of the Law "On Private Property in the Republic of Armenia" (later renamed the "Land Code," adopted in January 1991, confirming ownership rights on land).

Changes in the form of property and market relations created a need for entirely new legal instruments. The following laws were adopted: "On Privatization and Denationalization of State Owned Enterprises", "On the Employment of the Population", "On Enterprises and Entrepreneurship Activities".

In 1991 normative acts necessary for the regulation of newly emerged legal relations and promotion of human rights were adopted: laws on public-political organizations, on language, on press and mass media, on freedom of conscience and religious organizations as well as the decree "On Protection of Women, Motherhood and Childhood and Preliminary Measures for Strengthening the Family" adopted by the Supreme Council of Armenia.

In 1992 and 1993 a series of laws regulating the social sphere were adopted on state pensions, social conditions of the disabled, etc. As a positive fact it should be mentioned that in 1993 the Law "On Privatization of State and Public Housing" was adopted, enabling a large number of citizens to become apartment owners. During this period, draft laws were made public in the pages of the official press and were discussed with

NGOs, allowing democratic inspirations to be reflected in normative regulations. Thus, the law "On Military Service" (1991) included a provision on alternative service; the Law "On Pensions Provided by State" (1992) envisaged a lower level of pension age and a fairer accrual of pensions based on the employment history; the law "On Employment of the Population" (1991) provided additional employment guarantees to five groups of the population. Due to later amendments in laws, alternative service was excluded, the pension age was substantially raised and additional employment guarantees for four groups of population were abolished.

With the adoption of the Constitution in 1995, the legal framework regulating human rights was considerably broadened and enriched. Most importantly, these rights acquired a constitutional basis. The Constitution affirmed the provisions proclaimed in the Declaration of Independence of 1990, particularly the sovereign, democratic, rule-of-law, social nature of the State (Art. 1). It also endorsed the protection of human rights and freedoms based on the Constitution and laws in accordance with the principles and norms of international law (Art. 4), guarantees for precedence of law, and precedence of ratified international agreements (Art. 6); Chapter II - "Basic Rights and Freedoms" - and other chapters of the Constitution actually include the entire spectrum of human rights with certain exceptions. For example, there are no articles explicitly providing for the equality of men and women, the ombudsman institution, and the citizens' right to apply to the Constitutional Court.

Later, a number of legal documents were adopted that regulate new public relations: the Law "On Citizenship of the Republic of Armenia" (1995), a number of laws on elections (1995-1996), the law "On the Rights of the Child" (1996) and the law "On Public Medical Aid and Services" (1996).

Amendments and additions were made in the existing Codes, thereby completing to a certain degree the legal framework. Those Codes are: Civil (1964), Civil Legal Procedure (1964), Criminal (1961), Criminal

Legal Procedure (1961), Marriage and Family (1969), Employment (1972), Administrative Violations (1985), Housing (1982).

Nevertheless, a declining quality, formal nature, rigidity, the presence of contradictions and absence of implementation mechanisms typify the regulatory legal documents adopted in the mid '90s. For example, the amendments made in the law "On Freedom of Conscience and Religious Organizations" determine that for the creation of a religious organization, 200 believers/followers are needed instead of the previously determined 500. Membership of children aged below 18 is forbidden in religious organizations. This is contrary to Article 10 of the law "On Rights of the Child" wherein the age limit is 16. As opposed to the Constitution, which defines freedom of conscience and religion for every person (Art. 23), the law and its amendments are only applicable for the citizens of the Republic of Armenia.

Without enforcement mechanisms, the laws "On Rights of the Child" and "On Public Medical Aid and Services" are formalistic in nature, contradictory and in fact do not function. The law "On Rights of the Child" defines that medical services for the child (below 18) are free of charge (Art. 7). The law "On Public Health Care and Services" envisages free medical services for the child only within the limits of targeted state programs (Art. 10). Actual practice shows that free inpatient medical services are provided to children under 8 years and in cases of certain diseases to children under 15. According to the law "On Public Medical Aid and Services" the state guarantees free primary health care (Art. 2). At the same time, free health care is limited within the framework of targeted state programs (Art. 4), whereas the bylaws completely nullify these rights.

Although the law "On Non-Governmental Organizations" declares non-interference of state institutions and officials into the activities of NGOs, at the same time it establishes quite strict control of the Ministry of Justice over their activities. The law defines the obligations of non-governmental organizations as:

- I publication of annual reports on the use of private property,
- I provision of copies of the decisions adopted by their supreme bodies upon the request of the Ministry of Justice,
- I definition of the maximum rate of organizational expenses in their charters, issues related to the remuneration of persons in charge of the NGO management, etc.

The law "On Public-Political Organizations" is also imperfect. Contrary to the Constitution, wherein the right to create and to become a member of political parties is restrictive only for servants/employees in the

armed forces and law enforcement agencies (Art. 25), the law expands this restriction to include the employees of the Ministry of Justice, judicial bodies and Customs Office. Instead of listing the rights of political parties, the law spells out the limitations: not to be administered by an organization located outside Armenia, not to receive financial and material assistance from an organization located outside Armenia as well as from state institutions, establishments, etc. Both laws mentioned above are in the process of review and adaptation.

The right, declared in the Constitution (Art. 26), to organize peaceful, non-armed gatherings, meetings, marches and demonstrations is regulated by a decree adopted by the Presidium of the USSR Supreme Council, 1988. Fortunately, the absence of a relevant law does not impede, for instance, meetings organized by refugees and no punitive actions taken by law enforcement institutions have ever been registered in this regard. It is worth mentioning that the Armenian government has endorsed the draft of the respective law submitted to the National Assembly for discussion. There is also a need to adopt a law regulating the organization of strikes.

The right to unimpeded creative work and the right of national minorities to develop their traditions, language and culture, declared in the Constitution (Art. 36, 37), are not enforced by legislation either. These rights are partially defined in the laws "On Language" (1993) and "On Intellectual Copyright and Associated Rights" (2000). The need to adopt a law regulating specific legal relations of ethnic minorities also seems to be critical. One positive step worth mentioning is the adoption of Civil, Civil Legal Procedure and Criminal Legal Procedure Codes, which are in effect since January 1, 1999.

The Electoral Code, which was adopted in February 1998, has unified all election-related regulations in a single legal document bringing them in compliance with the Constitution of Armenia. However, the Code is so inadequate that the issue of amending and modifying it is on the agenda of all the sessions of the National Assembly.

Unbalanced and unelaborated procedures have deprived many groups of the electorate of their voting rights. For example, the disabled as well as those who have (mobility) difficulties in participating in elections are required to go to the polling station on order to cast a vote (Art. 2, paragraph 4). Without mobile ballot boxes, the disabled, elderly and sick are deprived of their voting right.

Another problematic area is the right of any citizen to question the inclusion or removal of another citizen from the voter lists (Art. 14, paragraph 1). This is an outright violation of the latter's voting right. That voter

may appeal to the courts to request his/her inclusion on the voter list in question, but only on the day of elections. It is the Court's decision, whether to give immediate consideration to such appeals. Thus, elections to the National Assembly in May 1999 revealed the senselessness of Article 14 of the Electoral Code. A good illustration of the flawed design of the Code can be found in the court of the first instance in Armavir region on voting day, May 30, 1999. The Court received 116 voter complaints, of which only 29 were discussed.

The electoral campaign also features obstacles and restrictions. Charitable and religious organizations are excluded from the list of non-governmental organizations allowed to participate in electoral campaigns (Art. 18). These organizations may not finance elections (Art. 25). The Code prohibits the employees of taxation and customs authorities, social security services, clergymen, managers of mass media, and foreign citizens to be proxies (Art. 27, paragraph 4). One could find numerous similar restrictions in the Code. On the whole, it is difficult to guess the logic guiding legislators (for employment, social, educational, judicial protection and other regulations) while drafting laws (see Chapters 2, 3).

The process of legislative reforms in Armenia has not been completed yet. As has been evidenced, not only the laws of the Soviet period but also many regulations adopted in the recent years need revision. Naturally, gaining familiarity with new legislation is not easy - not

only for the population but also for the lawyers. Imperfect laws and lack of public awareness provide state officials with excellent opportunities for arbitrary interpretation and application of the legislation to their benefit. From this point, it is one step further to violations of human rights and corruption.

Although the right to apply to courts is legislatively regulated, the population rarely uses that right. Applying to courts has not become a habit. Social conditions play a crucial role in this, as the majority of the population cannot afford to cover costs associated with legal procedures.

The years since gaining independence feature positive as well as negative features. Undoubtedly, with regard to the seven fundamental freedoms, achievements have been made. At the same time, losses can be seen in that the right to lead a life free from want and fear is not being realized.

The legal framework regulating human rights could be improved by making amendments to the Constitution. In particular, articles should be included declaring the equality between men and women, stipulating the right for citizens to apply to the Constitutional Court, and establishing the institute of Ombudsman. The improvement of legislation in the area of human rights and human development is also an imperative. Of equal importance is the elaboration of public education programs designed to disseminate awareness on human rights and relevant legislation.

**Laws in Effect Adopted as Further Development of the Articles  
of the Constitution in the Area of Human Rights**

Table 1.1

Article No.	Contents of the Constitutional Article	Laws Adopted to Develop the Articles of the Constitution
14	Procedures for acquiring and terminating citizenship	"On Citizenship of the Republic of Armenia" November 16, 1995 "On the Status of Foreign Citizens in the Republic of Armenia" June 17, 1994 "On Refugees" March 27, 1999
16	The right to equality before the law	The Civil Code of the Republic of Armenia, 1998 The Civil Procedure Code of the Republic of Armenia, 1998 The Criminal Procedure Code of the Republic of Armenia, 1998 The Criminal Code of the Republic of Armenia, 1961
17	The right to life	The Civil Code of the Republic of Armenia, 1998 Family and Marriage Code, 1969 The Criminal Code, 1961 "On Medical Aid and Services", April 4, 1996
18	The right to freedom and the right to be secure in their person	
19	No one may be subjected to torture and to treatment and punishment that are cruel or degrading to the individual's dignity. No one may be subjected to medical or scientific experimentation without his or her consent.	
20	The right to defend his/her private and family life from unlawful interference	
21	The right to privacy in his/her own dwelling	
22	The right to freedom of movement and residence	"On Citizenship of the Republic of Armenia", November 16, 1995
23	Freedom of thought, conscience, and religion	"On Freedom of Conscience and Religious Organizations" June 17, 1991
24	Freedom of speech	"On Press and Mass Media", October 8, 1991
25	The right to form associations with other persons	"On Public-Political Organizations", February 26, 1991 "On Non-governmental Organizations", November 1, 1996
27	The right to vote and to be elected	The Electoral Code of the Republic of Armenia, 1999
28	The right to private property and inheritance	The Land Code of the Republic of Armenia, 1991 The Civil Code of the Republic of Armenia, 1998 "On Privatization of State and Public Housing Fund", June 23, 1993 "On Privatization of State Property", January 13, 1998
29, 30	Freedom of choice in employment, right to rest	The Labor Code of the Republic of Armenia, 1972
31	The right to an adequate standard of living and to adequate housing	The Civil Code of the Republic of Armenia, 1998 The Housing Code of the Republic of Armenia, 1982 The RA Family and Marriage Code, 1969

Table 1.1

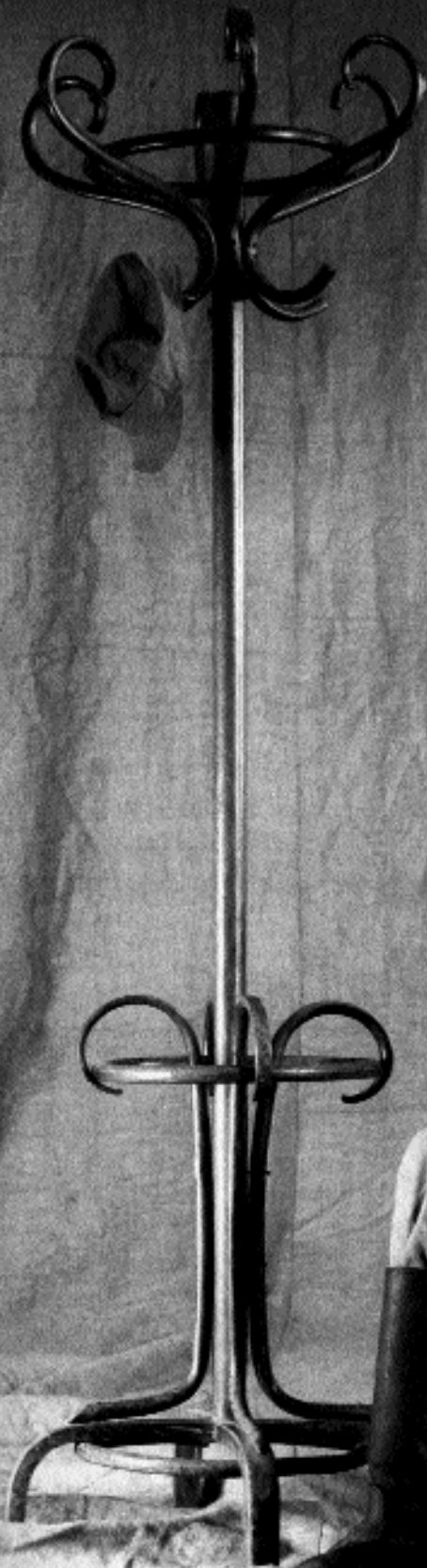
Article No.	Contents of the Constitutional Article	Laws Adopted to Develop the Articles of the Constitution
32	The right to enter into marriage and to form a family	The Family and Marriage Code of the Republic of Armenia 1969 "On the Rights of the Child" May 31, 1996
33	The right to social security during old age, in case of disability, sickness, loss of an income earner, unemployment and in others	"On Provision of State Pensions to the Citizens of the Republic of Armenia" December 29, 1995 "On Employment of the Population" December 26, 1996 "On Social Protection of the Disabled" May 24, 1993 "On Social Security of Servicemen and members of their Families" November 25, 1998 "On the Conditions of Defining Labor Pensions for long term Service" April 4, 1996 "On Obligatory Social Insurance Payments" December 30, 1997
34	The right to health care	"On Medical Aid and Services", April 4, 1996
35	The right to education	"On Education", May 8, 1999
36	The right to creative work and protection of intellectual property	"On Copyright and Adjunct Rights" January 12, 2000
37	The right of national minorities to the preservation of their traditions and development of their language and culture	"On Language" April 17, 1993
38-41	The right to defend rights and freedoms in courts, the right to receive legal assistance and other procedural norms	The Criminal Procedure Code, 1998 The RA Criminal Code, 1961

Chapter

# 2

## Human

Rights in Armenia  
in the Context  
of Political  
Transformation



# Human Rights in Armenia in the Context of Political Transformation

<b>2.1</b>	<b>Developments Affecting Human Rights and Human Development in the Process of Transition</b>	<b>39</b>
<b>2.2</b>	<b>Political and Civil Rights</b>	<b>40</b>
<b>2.3</b>	<b>Judicial Reforms in the Period of Political Transformations</b>	<b>43</b>
<b>2.4</b>	<b>Influence of Conflicts on Human Rights and Human Development</b>	<b>46</b>
<b>2.5</b>	<b>Non-Governmental Organizations and Human Rights in the Transition Period</b>	<b>51</b>

## Boxes

<b>2.1</b>	<b>Human Rights Protection</b>	<b>40</b>
<b>2.2</b>	<b>Civil and Political Rights Coverage in the Armenian Press</b>	<b>41</b>
<b>2.3</b>	<b>The 1700 year-old Armenian Church Entering a New Millennium</b>	<b>42</b>
<b>2.4</b>	<b>The System of Constitutional Justice in the Republic of Armenia</b>	<b>43</b>
<b>2.5</b>	<b>Rights of Prisoners of War and Hostages</b>	<b>47</b>
<b>2.6</b>	<b>Mines as a Threat to Right to Life and an Obstacle to Economic Development in RA Borderline Regions</b>	<b>48</b>
<b>2.7</b>	<b>Culture of Peace</b>	<b>48</b>
<b>2.8</b>	<b>Protection of the Right to Self-Determination of the Nagorno Karabagh People</b>	<b>49</b>
<b>2.9</b>	<b>The Armenian Army</b>	<b>50</b>
<b>2.10</b>	<b>The State of Human Rights and Freedoms in RA</b>	<b>51</b>

## Figures

<b>2.1</b>	<b>The Number of Judges</b>	<b>44</b>
<b>2.2</b>	<b>Professional Experience of the Judges</b>	<b>44</b>

## Tables

<b>2.1</b>	<b>The RA Judicial System</b>	<b>44</b>
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## 2.1

## Human Rights in Armenia in the Context of Political Transformation

Armenia was proclaimed an independent and sovereign republic by the referendum of 1991, conducted as a result of the collapse of the USSR. Thus, the process of transforming from a socialist to a democratic system was initiated. Systemic transformations were accompanied by the implementation of reforms in the economic, legal and human rights spheres, and the formation of genuine factors promoting human development.

In its political developments, Armenia committed itself to securing basic human rights and freedoms, and creating favorable conditions for enhancing the legal environment within which to realize them. The State, as mandated by its primary role, demonstrated its commitment to and was guided by the true principles. The process of establishing democracy and the full respect, protection and promotion of human rights saw those rights and freedoms enshrined and reinforced in the RA Constitution and legislation. Legal mechanisms realizing and guaranteeing them were formed. Naturally, the transition period could not be devoid of mistakes and shortcomings. In the case of Armenia, these problems were mainly predetermined by the political crises, the inertia of the inherited Soviet mentality and mechanisms, the ethnic-cultural specifics of the people, as well as other factors including the Karabagh conflict, the economic blockade, etc. Over the past ten years, achievements in the realization of human rights have become obvious. However, the progress made still falls short of the universal achievements at the global level.

A genuine separation of powers in RA has not been successfully completed yet, slowing down the process of overall legal developments and the establishment of legislatively secured mechanisms. The insufficient pace and results of the formation of democratic institutions impact the realization of human rights and their protection.

Due to shortcomings and difficulties, opportunities for

the realization of a number of fundamental human rights were gradually minimized. Serious drawback was registered in 1995-1996 from the achievements of political legitimacy, which was the result of a breach in the free realization of the right to vote.

Under conditions of intolerance and no rule of law, the vulnerable sector of society gradually expanded. At the same time, people's interests and their problems were left unprotected and non-addressed, thus engendering within a large portion of the population widespread distrust towards the authorities.

The adoption of the Constitution of 1995 marked the outset of the HR systematized legal framework. This was aimed at the legislative classification of democratic processes that have taken place after Independence, and the establishment of a legislative framework that facilitates new possibilities for development. In its Constitution, Armenia has acknowledged such important political rights as the citizens' right to exercise power through free elections and referenda and to participate in the government of the State directly or through their freely elected representatives (Articles 2, 3, and 27). The civil, economic, social, cultural and spiritual human rights and freedoms were legislatively enforced by the Constitution, which represents significant progress over the limited possibilities of the former political system. Developments boosted by the political transformation resulted in the need for establishing new institutions that would enhance democratic values and secure basic human rights. Of these institutions, one was the Human Rights Commission, which functioned within the Supreme Council in 1991, but which ceased operations in the 1995 National Assembly. Meanwhile, as a signatory to the Vienna Human Rights Conference, Armenia is obligated to set up a human rights commission with certain authorities and liabilities. Though this commitment has not been yet realized, the Human Rights Commission established by the RA President in 1998 to some extent mitigates the situation.

## Box 2.1

## Human Rights Protection

The Human Rights Commission within the RA Presidency was established by one of President Robert Kocharyan's first decrees (April 27, 1998). It is a consultative body, which means that its decisions are not legally binding for officials and state bodies.

The main objectives of the Commission can be classified into three groups:

- a) Promoting and ensuring the discussion of individual applications to the Commission, and drafting comments related to the advancement and immediate protection of human rights and fundamental freedoms.
- b) Improving legislation, including the examination of legal acts submitted for the President's approval, recommendations on laws submitted to the President for his signature, advice to the President on applying to the Constitutional Court.
- c) Advocating for human rights protection.

The Commission prepares annual reports on the status of human rights in Armenia. The conclusion to the 1999 Report mentioned specifically that proof of the inadequate level of human rights protection in the Republic can be found in the violation of citizen's equal access to participating in state governance, the harsh social conditions, and excessive emigration. However, Armenia's anticipated accession to the Council of Europe will unquestionably create favorable conditions for the solution of the above-mentioned problems.

**Human Rights Commission within the Presidency of the Republic of Armenia**

## 2.2

## Political and Civil Rights

The right to **participate in state governance and local self-governance** is among the most important political rights. In Armenia this right is guaranteed by a law that was drafted in conformity with the Universal Declaration of Human Rights (Article 21), the International Covenant on Civil and Political Rights (Article 25), as well as in the spirit of the European Conventions. Today every citizen of Armenia is entitled to:

- I Participate in state administration both directly or through the representatives elected in free elections on both republican and local levels;
- I Vote and be elected in legitimate and regular national and local elections that are held by universal, equal, and direct suffrage by secret ballot and secure the free choice of the voter;
- I Be recruited for civil service by general standards and under equal conditions.

Prior to the adoption of the Constitution, electoral legislation was drafted in Armenia aimed at creating legislative guarantees for securing the right to vote. However, serious drawbacks in legislation led to mass infringements of the **right to vote** in the 1995 parliamentary and the 1996 presidential elections. The latter

naturally produced public discontent and was manifested in protest demonstrations. Counteractions taken by the then newly-formed powers ranged from pressure to legal violations and persecutions. The 1995 and 1996 elections were condemned not only by the public but were criticized by international monitors and organizations, too. Later, due to political changes and developments, all the necessary measures were undertaken to improve and develop relevant legislation. Nonetheless, the free exercise of these rights in practice still bears the imprint of the aforementioned negative factors. Still, the 1998 Presidential and the 1999 parliamentary elections showed that, along with the law, the fraud mechanisms (election bribes, manipulation with election lists) were honed. Infringements, though seemingly milder or more "civilized" this time, rather than being eradicated became externally and nominally more invisible (see Chapter 1). These are genuine circumstances which have aroused mass skepticism and which pose serious obstacles to the advancement and exercising of not only these rights, but many other political ones, in general.

The right to form and enroll in political parties is equally important. After independence was declared, the first reforms were accompanied by the development of the multi-party political arena, as one of the main preconditions of a democratic state. The Constitution has stipulated a **multi-party system** (Article 7), which has already become a reality. There are 94 political parties in Armenia.

Currently no party is either suspended or persecuted by the government, though such cases had been observed in the past. It is also impossible to point to an instance where a citizen has been subjected to suspension or other constraints for his/her partisanship. Meanwhile there are many cases when a citizen's political affiliation has affected his/her career advancement. Meanwhile, the reality is that parties, due to their pro-government or oppositional stance find themselves on unequal footing. It is well known that just before the 1995 and 1999 parliamentary elections the authorities formed "their parties" which, though not acknowledged by the population, easily overcame 5 % of the total number of votes cast for party lists, something that many prominent opposition parties failed to accomplish.

Armenia's legislation confirms the citizens' right to **hold peaceful meetings, rallies, demonstrations and processions**, in recognition of this important condition for people's democratic governance and as a widely accepted form of citizen participation in state and local governance. However, there are omissions in the exercise of this right. For example, there is no mention in the law of a citizen's right to picket. Where hold-

ing meetings or demonstrations are concerned, the requirements for obtaining permission from the local self-governing body and for meeting the deadline for preliminary notification are restrictive. Experience has shown that public activities could also be banned. However, a more disappointing fact is that this right has almost no value and yields no results since it has no effect on the ruling powers. On the other hand, the marginalized society itself is not keen on exercising this right.

In Armenia the rights to **hold and assert opinions, to freedom of speech, to freedom to seek, receive and disseminate information and ideas through any medium of information** are enshrined in the Constitution (Article 24). Freedom of speech is one of the greatest achievements of democracy and mankind, and Armenia's successes in this regard are significant. However, during the past years a number of cases have been observed ranging from arbitrary restriction to persecution. At the same time, mass media does not fully use its potential to raise and voice issues related to human rights, human development and human security (see Box 2.2).

## Civil and Political Rights Coverage in the Armenian Press

### Box 2.2

Human Rights (HR) are not among the most important topics for the highly politicized Armenian press. However, articles devoted to HR do regularly appear. This is not the result of the newspapers' editorial policies. Simply, they have correspondents regularly writing about HR who often are NGO activists.

Articles connected with the freedom of speech appeared in the press during the first half of 2000 more frequently than on any other HR issue. Some NGOs claim the situation with freedom of speech in Armenia is one of the best in the CIS.

Inexplicable deaths of conscripts, torture, and poor morale in the military units are in the focus of attention. However, coverage on this topic is in many respects events-oriented, rather than issues-oriented.

Many of these issues covered in the media, as well as those connected with religious and sexual minorities, are relevant to Armenia's candidacy for Council of Europe membership. However, the articles frequently emphasize that the right of conscience should not apply to the Jehovah's Witnesses; and that male homosexuals should be punished under Criminal Law.

There are very few stories about gender issues and refugees' rights.

Cooperation and Democracy, NGO

In Armenia limitations on the freedom of speech are defined by the norms of the Criminal Code, adopted in 1960s. This undoubtedly has become an obstacle to the development of that right. Meanwhile there are essential gaps in legislation, which seem to be addressed, though with certain delays. One example is the law on public television.

The RA Constitution guarantees civil rights, including **the right to life** (Article 17), **the freedom and security in person** (Article 18), **the right not to be subjected to torture and to cruel or degrading treatment**

**and punishment, and to medical or scientific experimentation** (Article 19), **the right to defend one's private and family life from unlawful interference and defend one's honor and reputation from attack, the right to confidentiality in one's correspondence, telephone conversations, mail, telegraph and other communications** (Article 20), **the right to privacy in one's own dwelling** (Article 21), **the freedom of movement and residence** (Article 22), **the freedom of thought, conscience, and religion** (Article 23), and **the freedom of choice in**

**employment** (Article 29). On the eve of the 1700th anniversary of the adoption of Christianity as the state religion in Armenia, the current comportment of the

Armenian Church on its mission and role as national and leading Armenian Church, the challenges facing it are of special interest (see Box 2.3).

### Box 2.3

## The 1700 year-old Armenian Church Entering a New Millennium

Since 301 AD, with the adoption of Christianity the Armenian Church, the state, the nation and the motherland have lived and survived in unity. The history of the Armenian Church is identical with the history of the Armenian nation with vicissitudes. Especially in the times when Armenia was deprived of statehood, the Armenian Church assumed a number of state functions.

With the revival of Independence in Armenia, the law on "Freedom of Conscience" adopted in 1991, proclaimed the freedom of religion and conscience and declared the Armenian Apostolic Church as the national Armenian Church. However, no guarantees or legally enforced protection is provided to that very Church.

The Armenian Church is registered with the State as a unity represented by the Holy See of Etchmiadzin. In line with the provisions of legislation, 51 religious organizations of diverse orientations are registered in Armenia. Up to date, the only organization refused registration is *Jehovah's Witnesses*.

The Armenian Church, as the indigenous church, naturally is not likely to encourage a coexistence with such a divergence of religious organizations. The Armenian Church perhaps would like to have a status of dominance (as it is with the Church in Greece or Spain) however the acting law does not provide for that. The Armenian Church and the Armenian Catholicos enjoy deep respect of the State and the population, however they have no outstanding privileges in comparison with other churches. On the contrary, a number of churches and sects with their external financial resources and other investments sometimes are more visible and have wider access than the Armenian Church.

Other trends of the Armenian Church - Catholics and Evangelists sometimes are closer and more accessible to the population through their opened hospitals, granted tuitions, distributed food. When facing need and difficulties, the people do not find much difference between churches. This is of concern for the authorities of the Armenian mother church.

On the other hand, no matter how bonded the State feels to the Church, the former is guided by the principle that "education is secular" and does not want to permit unimpeded access of the Armenian Apostolic church to schools. In the meantime, other trends sometimes get into the schools through schoolmasters capitalizing on the offers of financial resources.

To settle these issues, an international conference was held in Tsakhkadzor on "The Church and the State" in May 2000, while a Memorandum of Intentions was signed between the State and Church authorities in Etchmiadzin on March 17, 2000. The document was aimed at improving the legislation regulating State-Armenian Apostolic Church relations, clarifying the issues relating to the Church as a legal entity, as well as prioritizing the need for preaching and teaching the principles of the Armenian Church, etc. The questions as how the Armenian Church will perform as the national church and as a protector of Christian freedom of conscience and religion are still open. However, we should not forget that the imperative of love is ours, since the Church is "one flock and one shepherd".

**Mets Nerses**, Religious Benevolent Foundation

Criminal legal defense has an important place among the legislative guarantees for the implementation of civil rights. In Armenia relevant legislation was developed in the 1960s. As mentioned above, it cannot cover the whole spectrum of civil rights, as is the case in stable democracies. Though the judicial protection of civil rights is stipulated by the Constitution, the mechanism of these rights' full-fledged implementation has not been operating efficiently. Up to July 2000, the citizen had no right to file a complaint directly to the Court of Cassation in regard to the sentence of the court after its sentence was put into effect, which was possible only through attorneys with special license. The amendment in the RA Civil Procedure Code

enabled a citizen to appeal to the Court of Cassation in a 15-day period after the enforcement of the sentence.

In practice not all civil rights could be protected in the courts since the capacity of the legislation is limited. The legal and judicial reforms are aimed at securing the full implementation of the right to legal defense. In respect to the legal development of civil and political rights, one positive trend can be seen in the constitutional provision whereby international legal acts acknowledged and ratified by the Republic of Armenia can be directly implemented in the legal system. It is a separate issue that no practical mechanisms so far have been provided for the implementation of this norm (see Chapter 1).

## 2.3

## Judicial Reforms in the Period of Political Transformations

Judicial reforms in the Republic of Armenia were conceived and commenced with the adoption of the

Constitution in 1995. This legal instrument established a new judiciary system, procedural principles, structural approaches to the administration and governance of justice, their structure and scope of activities. A further step in improving the judiciary system was the formation of the Constitutional Court, legislative ratification of the order of its functioning, its jurisdiction and principles (see Box 2.4).

### The System of Constitutional Justice in the Republic of Armenia

Box 2.4

The adoption of the RA Constitution on July 5, 1995 laid the foundation for a specialized institution of constitutional review - the RA Constitutional Court. Based on the principles spelled out in the Constitution (Articles 99-102) and the RA law "On the Constitutional Court" (adopted on December 6, 1995), the RA Constitutional Court (CC) was created on February 6, 1996. It comprises nine members, five of whom are appointed by the National Assembly, and four by the RA President.

The RA CC is entitled to define the conformity of laws, the National Assembly resolutions, the orders and decrees of the RA President and the Government resolutions, as well the obligations assumed through international treaties with the RA Constitution. It rules on disputes concerning referenda and the results of presidential and parliamentary election, decides on the suspension or prohibition of a political party, draws conclusions on the existence of a basis for RA President's impeachment, in concordance with measures envisioned in Article 55 (point 13,14) of the Constitution on the inability for the President to perform his/her duties. The Court decides on the suspension of the authorities of a CC member, his/her arrest, holding that member responsible for administrative or criminal charges raised in judicial form. Article 101 of the RA Constitution, which lists the bodies having standing before the CC, reserves the right to dispute in the CC the constitutionality of the abovementioned normative legal acts only to the President of the Republic and at least one third of parliamentarians in the National Assembly. Such bodies as the courts of general jurisdiction and citizens are deprived of standing before the RA CC, while they are the most probable subjects to raise an alarm in case of the existence of anti-constitutional normative acts in the country's legislation. The fact that only four out of 263 cases heard by the CC refer to the issue of the conformity of the RA laws to the RA Constitution is conditioned by that circumstance. Though the CC has heard few such cases, the decisions of these cases have contributed to the promotion of HR protection. In particular, the CC ruled unconstitutional the provisions of the RA Laws on Refugees, on Local Self-Governance and the RA Electoral Code depriving refugees of the right to participate in the elections of local self-governing bodies, and secured the possibility for refugees to own community property by democratic principles and participate in matters affecting community life. The legal proceedings in the CC of cases on disputes related to the results of the elections to the National Assembly has contributed to the strengthening of the people-led government, and the equal and direct right to vote.

**Constitutional Court of the Republic of Armenia**

The course of judicial reforms was advanced by the adoption of the Law on the Judiciary and the Law on the Status of Judges in the course of 1998, as well as, later, by adoption of the Law on Compulsory Enforcement of Judicial Acts, the Law on the Service Ensuring the Compulsory Enforcement of Judicial Acts, Criminal Procedure Code and Civil Procedure Code.

Judicial reforms have resulted in a new judicial system that is designed for and aims at guaranteeing the full exercise of human rights and, what is more, at secur-

ing the practical judicial review in the event of restrictions thereof.

The legal acts mentioned above secured the structural process of judicial reforms. In 1998 the Law on Attorney Activity was adopted as well, which for the first time legally regulated the principles and order of organization of attorneys' activities, in particular the principle of alternative organization of activities. In fact, the legislation enabled the organization of attorney activities according to a competitive principle, which should be viewed as a positive shift in comparison to the former system.

In Armenia the courts of first instance hear all civil, commercial, economic, criminal, and military cases, and cases on torts and administrative violations in their essence. They also address problems connected with custody issues, search warrants, as well as with the restriction of the right to secrecy of correspondence, telephone conversations, postal, telegraphic and other means of communication in the order established by law.

In Armenia there are 17 Courts of first instance, three appellate courts (Civil, Commercial, and Criminal and Military) and one Court of Cassation, which is headed by the Chairman of the Court of Cassation, and has a chamber for civil and commercial cases, and a chamber for criminal and military cases (See Table 2.1).

2.1 Table

## The RA Judicial System

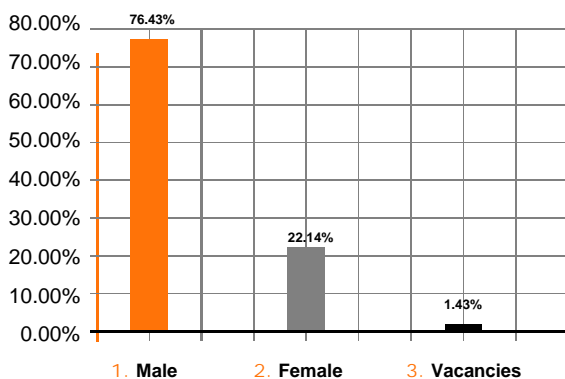
THIRD INSTANCE (RA COURT OF CASSATION)		
Chamber on Civil and Economic Cases	Chamber of Criminal and Military Cases	

SECOND INSTANCE (RA APPELATE COURTS)		
The Court on Civil Cases	The Court on Economic Cases	The Court on Criminal and Military Cases

FIRST INSTANCE COURTS	
of General Jurisdiction	
There are ten marz courts and seven community courts in the city of Yerevan	

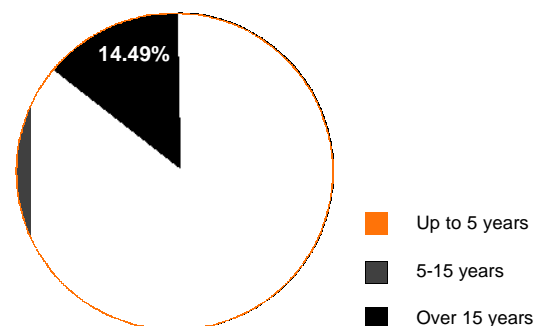
In the courts of first instance, cases are heard by one judge alone. In the appellate courts, cases are heard by a panel of three judges. In the Court of Cassation cases are heard by all the judges of the respective chamber (Chamber Chairman and five judges of the

Chamber). In these courts justice is administered by around 139 judges, 29 of whom are female. The average age of judges does not exceed 44. Judges with up to fifteen years of professional experience predominate (see figure 2.1 & 2.2).



The Number of Judges

Figure 2.1



Professional Experience of Judges

Figure 2.2

The viability of the new system is attested to by the quantitative increase in the number of cases heard, in comparison with the former judicial system (9,365 civil cases - 1995 - 1999; 50,977 in 1999 - 2000). At the same time, a decreasing tendency can be tracked for the number of criminal cases heard in the period under comparison. In 1999 and 2000, of the 2,197 appeals brought by courts of first instance against civil case decisions, at least half were upheld by the appellate courts. The picture is the same for the appeals to the criminal court. Throughout the course of judicial reforms, the number of crimes has shown a tendency to decline, which is not only a fortunate fact, but also a criterion for the system of rule-of-law and legality.

The RA Constitution has provided for the establishment of commercial courts. The new Civil Procedure Code (adopted on June 17, 1998) spells out the cases subject to the jurisdiction of commercial courts. However, in reality special commercial courts have been established only in the courts of second instance, thus resulting in difficulties of resolving economic disputes in courts.

The main objective of constitutionally stipulated judicial reforms in Armenia was the transition from a command system (administrative - authoritative) of human rights protection to that of an open judicial trial, based on the legal system where the court, as the main link providing that protection, should be governed exclusively by law and legal instruments defining rights. The preparatory stage of judicial reforms lasted until the end of 1998, while before that the inherited Soviet judicial system was in effect. No matter what efforts were exerted to make it consistent with democratic requirements, the old system remained a body performing formal justice only. Formerly, courts were deprived of powers to review cases of human rights restrictions and, meanwhile, of judicial oversight over laws. All of this posed an obstacle to the development of a comprehensive judicial power.

The newly established judicial system in Armenia has a number of advantages as compared to the former system, and is more harmonious with the principles of democracy. In legislative developments the judicial system underwent fundamental modifications, which partially alleviated the omissions and shortcomings in the reform process. Meanwhile there still are many problems to be resolved in this area.

The autonomy of courts and the genuine independence of judges and their dependence exclusively on laws have not been secured yet. In particular, the arrangement of courts in accordance with administrative territorial divisions is a negative factor since it produces their potential dependency on the executive and administrative bodies. The analysis of judicial reforms shows that the legal, social and material guarantees for judges are in need of significant improvement.

Gaps in legislation adversely affect the pace and development of judicial reforms as well. Until now the laws on the qualification of the legal professional staff, their competence and professional advancement, termination of their office tenure have not been adopted. However the laws "On the Judicial Council", "On Attorney Activity", "On the Status of Judges", "On Procuracy", adopted within the framework of judicial reforms regulate these issues to some extent.

The existence of still unsettled systemic issues leads to human rights violations in Armenia. Thus, the rights and obligations of convicts are still regulated by the former Soviet legislation. Convicts sentenced by court to imprisonment serve their terms in corrective labor institutions or prisons of various regimes.

Prisons operate within the system of the Ministry of Interior Affairs and are subject to the Department of Implementation of Criminal Punishments. Civil servants of the interior system are engaged in the administrative structure of prisons. They have special ranks, depending on their position and the tenure in the office.

Prisons and corrective labor facilities operate and in accordance with legislation and internal regulations, which define both the rights and obligations of those sentenced and the powers of the personnel, as well as regulate the relationships between the convicts and the employees of the corrective institutions. Responses to relevant questions addressed to respective bodies reveal shortcomings existing in the system, including the fact that neither in detention, custody, nor in corrective labor facilities are adopted rules or instructions of behavior for the personnel that would stem from international norms. It is essential that such norms be adopted as well as training be carried out in line with the requirements of Article 10 of the Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, whereby education and information regarding the prohibition against torture are fully included in the training of law enforcement bodies, civil or military, medical personnel, public officials or other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

Due to the ineffectiveness of the legislation, relationships in places of imprisonment are regulated either through administrative-command methods, or "rules" imposed by criminal authorities.

Because of the generally deteriorating economic condition of the post-Soviet years, the capacity to provide convicts with work and occupation is very low. As a result, the convicts are deprived of the opportunity to assist their families financially, to meet alimony obligations and to pay damages imposed on them. The right of convicts to receive legal aid in places of imprisonment has not been ensured appropriately yet. The

prison personnel believe that the convict, after being sentenced to a prison term, has nothing more to do with the attorney services, and so they decline any such request.

The convict, deprived of legal aid and subsequently, of the opportunity to manage his/her vital problems, becomes dependent on the administrative personnel. The convicts can address issues related to the protection of their rights to the administrative personnel, and if not satisfied with the actions of the latter, they can appeal only by supervisory order, which, as a rule, does not guarantee a solution to the problem. In Armenia the convicts have no right for judicial protection against any arbitrariness or infringement of their rights on the part of the prison's administrative personnel. The absence of the given right has rendered prisoners absolutely unprotected.

Among the convicts are dozens who have received death sentences. Though capital punishment is not carried out, it has not been replaced yet by any other punishment.

At present, within the structure of the RA Ministry of Justice a unit has been established to ensure the structural adjustment of prisons. It aims to create a relevant legislative framework for resolving the issue of transferring the prisons to the Ministry of Justice, which undoubtedly is a progressive step.

### Rule of Law in the Transition Period

Judicial reforms in Armenia are targeted at the creation and development of legal guarantees ensuring the free

exercise of human rights. The newly-developed legal framework in Armenia rejects by its conception the Soviet maxim: "Right is the public will, raised to the status of law;" and adopts the idea of individual's natural rights which would facilitate the formulation of a liberal law-consciousness and ensure the free exercise of human rights contributing ultimately to human development. At the same time, the legacy of the old mentality and Soviet legal ideology, and out-dated legal acts still in effect influence by inertia the evolving developments.

The boundaries, scope of competence and objectives of the judiciary need further clarification. In fact the principle of real separation of powers has been disturbed. The constitutional requirement for the supremacy of law is not reinforced by legislation as yet and the application of laws, as a rule, is considered in terms of pragmatic expedience rather than legal factors. For this reason the effectiveness and mandatory power of law is weakened. Besides, laws in the transition period are controversial. They contradict both one another and the Constitution. A number of newly-adopted laws have no clear conception for the protection and exercise of rights, and this renders them into simple rules. In addition, it should be mentioned that Soviet-style relationships based on the one-sided responsibility of citizens prevail altogether because of the absence of structures ensuring the application mechanisms of the legal norms and the normative foundation, society's lack of understanding of the rule of law, the non-transparent activities of state bodies, thus resulting in the distortion of the bond between the citizens and the state.

## 2.4

### Influence of Conflicts on Human Rights and Human Development

Thousands of people were killed as a result of the Karabagh conflict. About 430,000 people became refugees. Numerous settlements were destroyed in Nagorno Karabagh and borderline regions of Armenia. A long term blockade stalled the natural pace of the economy, deteriorated the social situation of the population and restricted a large number of human rights and freedoms. During the entire period of military

actions, the rights to life of the population residing in Armenia's borderline regions were jeopardized. The conflict inflicted thousands of deaths, killed and wounded, prisoners of wars and hostages. The latter were kept in detention, where they were subjected to incredible tortures. Many of them were martyred and for many, the nightmare is not finished yet (Box 2.5).

## Rights of Prisoners of War and Hostages

Box 2.5

Between 1989 - 1990 around 2,000 inhabitants of Armenia and Nagorno Karabagh suffered unheard-of tortures in captivity and as hostages, returning later to their homeland through various means. So far, more than 900 people are on the lists of the missing. It is known that more than 120 persons died in captivity being unable to bear inhuman torments that fell to their lot.

The Fund Against Violation of Law (FAVL) has played an important role in the rescue and repatriation of these persons. Since 1991, FAVL has been gathering, filing and disseminating information about hostages, assisting their repatriation by applying, among others, to Amnesty International (AI), the International Committee of Red Cross (ICRC), the Russian NGOs ("Memorial," "Sostradanie," etc.), Azerbaijani (Human Rights Center of Azerbaijan, "Buta", etc) and local (Refugees Foundation, Motherhood Foundation, etc.) NGOs as well as to governmental bodies of Armenia, Nagorno Karabagh and Azerbaijan.

During the period of extensive military operations beginning in 1992, hundreds of Azerbaijani soldiers were taken into captivity in Nagorno Karabagh and Armenia, and dozens of peaceful Azerbaijani residents appeared in the zone of military operations. FAVL, following the norms of international humanitarian law, visited those captives, worked on their repatriation and contributed to the improvement of conditions in prisons.

In practice, all Armenian hostages and prisoners of war suffered the most ruthless tortures and other cruel and degrading treatment on a regular basis. Proof of this can be found in particular statements by AI, the report of "Physicians for Human Rights" (United Kingdom) on the results of examining 65 repatriated hostages and prisoners of war, as well from the releases of Azerbaijani attorneys.

As international experience shows, all persons subjected to cruel and inhuman and degrading treatment, as well as families of those lost without any trace, need lasting and repeated social, medical and psychological rehabilitation. In recent years the FAVL with the support of a number of international organizations (UMCOR, Rehabilitation Center for Torture Victims, UNV Fund for Torture Victims, Physicians for Human Rights) has been assisting its beneficiaries by providing multi-functional medical, psychological, legal and social assistance.

In order to receive information about the missing, it is necessary to create a regional commission to search for and clarify information about them. Its existence will become an assuring evidence of the endeavors on both conflicting sides to resolve the problem by peaceful means. Furthermore, joint efforts will help to heal one of the deepest wounds inflicted by years of hostility and hatred, will restore peace and serenity in thousands of households on both sides and will become a weighty argument for the truth that the inhabitants of the region have no other alternative to peace.

It should also be mentioned that in Armenia until now the issue of protecting the rights of victims of tortures and organized violence, including hostages, is not covered by legislation. Adoption of relevant legislation is one of the urgent and most important problems of the human rights organizations in the country.

**Fund Against Violation of Law**

In this current stage, which is commonly accepted as a post-conflict period, new HR-HD-HS related problems have emerged which predominantly concern the population of borderline regions. Additionally, the overall socioeconomic situation seems to be the tensest there. A large number of people became homeless due to destruction and shelling, physical and social infrastructures have turned into ruins, the right to life of the population is still endangered.

The problem is not only that the ceasefire is being violated from time to time. Shots are heard from the oppo-

site side, people and cattle are kidnapped. The 900 km long line of contiguity between Armenia, Nagorno Karabagh and Azerbaijan is mined and the mine explosions repeatedly affect both servicemen, and peaceful civilians.

Extensive territories adjacent to the borderline are now considered to be dangerous due to mines. They are agricultural and forest land plots, which appeared to be in the zone of military activities and shelling. The Tavush and Syunik marzes have suffered most in the "mine war" (see Box 2.6).

## Box 2.6

### Mines as a Threat to the Right to Life and an Obstacle to Economic Development in RA Borderline Regions

Surveys conducted in ten villages of the Syunik marz revealed that 1699 hectares out of 183000 hectares of the land plots allocated for agricultural work are mined; 251 hectares of mined land are privatized and given to farmers, including 236 hectares of pastures and 15 hectares of vineyards. In the region 1448 hectares of non-privatized land are also mined, including 393 hectares of arable lands, 1055 hectares of pastures. Other than the agricultural land plots, 10 km of roadside land and 300 hectares of forest area are mined. During 1994-99 in the result of mine explosions in the various regions of the Syunik marz 30 people died and 44 were wounded. Due to the mines 197 heads of animals (livestock, sheep, horse) and 27 agricultural and other communication means also exploded.

In the Tavush marz 42 out of 62 village communities are neighboring the border. Here 9409 hectares of privatized land are mined, 4777 hectares of which are arable lands, 1198 hectares are vineyards, 1082 hectares are orchards, 678 hectares of hayfields, 1674 of pastures. The proximity of the border and the mined areas are a severe hindrance to agricultural work. Orchards in the village of Berkaber dried out because the pumping station of the Djoghaz reservoir was mined.

According to the military experts' evaluations, the mine clearance operations will take 8-10 years. In the marzes neighboring Azerbaijan 1700 hectares of territory is in need of engineer reconnaissance. According to the calculations of international experts, the de-mining of one square kilometer will take around one million dollars and Armenia can resolve this problem only with the assistance of international community.

Mines remain a serious obstacle towards the socioeconomic development of borderline regions and mine-clearance operations on the agricultural plots must be regarded as a first and foremost task in terms of sustainable development of society.

**Armenian National Committee for the International Campaign to Ban Landmines (ICBL)**

Most of the population in borderline regions is deprived of the opportunity to cultivate privatized land. The ongoing socioeconomic crisis and poverty there have become a reason for mass migration from those regions. One can witness extensive negligence of people's right to life, education, work and security. The population is not fully exempt from land tax, the use of which in fact is life threatening.

The military conflict has left its imprint. The danger of its recurrence exists unless the Karabagh conflict is resolved. The concept of the "culture of peace" put into circulation by the international community has vital importance and it is not incidental that many NGOs seriously deal with conflict prevention and conflict resolution (see Box 2.7).

## Box 2.7

### Culture of Peace

Currently, inspired by high principles of culture of peace, and concerned with various ongoing conflicts, in parallel with problems of traditional social groups in the area of human rights, new social layers and new problems related to them have appeared on the society's agenda for discussion and oversight: in particular, the protection of human rights in the army, soldier - officer relationships, instances of murder in the army and their revelation, prisoners' living conditions, and, most urgent of all, health conditions in prisons.

The issues connected with maintaining national identity for Armenia's ethnic minorities - Assyrians, Yezidis, Greeks, Kurds, Germans, Poles, Russians, including the Molokans, Ukrainians and others - are at the center of attention. These include concerns for ensuring the most auspicious conditions for the development of their languages and cultures. Discussion of these issues comes from the angle of protecting the rights of collective groups. The Center for Conflict Resolution of Armenia with the participation of the Union of Nationalities of Armenia has developed and submitted to the authorities a package of relevant suggestions.

Significant steps have been taken toward ensuring the rights of refugees, though accomplishments are far from satisfactory. Attempts have been made to channel work in two directions. Firstly, to solve the issue of the legal status of refugees currently residing in Armenia, to create employment and supply them with housing. Secondly, to prevent a new flow of refugees into Armenia. The difficult social, economic, cultural and educational conditions of the Armenians living in Javakhk, Georgia (a region predominantly inhabited by Armenians), as well as the fact of their being deprived of the opportunity to

practically participate in or influence the administrative governance of the region, constitutes a real danger in this regard.

In order to prevent this flow, concrete tasks have been undertaken by the Center for Conflict Resolution of Armenia and the Center of Democracy Development and Conflict Resolution of Georgia, who have repeatedly discussed these issues with the representatives of Javakhs Armenians.

The results in the areas mentioned, though modest, are encouraging since the issues are on the agenda of NGOs.

#### The Center for Conflict Resolution of Armenia

NGO activities within the framework of the culture of peace supplement steps taken by the authorities in regard to the peaceful solution of the Karabagh conflict with the involvement of numerous and diverse players and approaches (see Box 2.8). They trace back yet to 1992, starting with hearings at the Security Council at the United Nations. The issue was further transferred to OSCE (at that time CSCE), as a regional organization. Consequently, the Minsk group was established,

and within the latter's framework is carried out the intermediary mission on facilitating the search for the peaceful solution to the problem. The parties of the conflict - Azerbaijan and Nagorno Karabagh as well as Armenia as party in the negotiating process, reiterate their readiness to seek peaceful solutions, and periodic meetings of the Armenian and Azeri Presidents also give input to that process.

### The Protection of the Right to Self-Determination of the Nagorno Karabagh People

Box 2.8

Nagorno Karabagh, equally as Nakhichevan, was an integral part of the Armenian statehood for thousands of years and became part of the Soviet Union in 1920. By an arbitrary decision of an unconstitutional and unauthorized party organ of the Caucasian Bureau of the Central Committee of the Russian Communist (Bolshevik) Party, dated 5 July 1921, they were recognized as part of the Soviet Republic of Azerbaijan. As a result, the right to self determination was flouted, and the will of the Armenian population, which comprised 95% of Nagorno Karabagh, was not taken into consideration. Later, in 1923 Nagorno Karabagh acquired the status of autonomous region within Azerbaijan and became an entity of the united federal union.

Azerbaijani authorities pursued a policy of displacement, assimilation and destruction of Armenian cultural monuments and of national discrimination. In 1988, when national movements started, the Karabagh representative body, in line with the USSR laws, applied to the Azerbaijani and Armenian Supreme Councils to discuss and positively resolve the issue of integrating Nagorno Karabagh in the composition of Armenia. In a few days, in response Armenian massacres started in the Azerbaijani city of Sumgait, which was later continued in Baku, Kirovabad and other Azeri settlements, evoking the Karabagh conflict.

In 1991, August 30, the Azerbaijani authorities proclaimed the restoration of national independence of 1918-1920 thereby initiating the process of secession from the USSR. On 2 September 1991, the joint session of people's deputies of all levels of the autonomous region of Nagorno Karabagh and the adjacent district of Shahumian, guided by the "On the Procedure for dealing with matters arising from the secession of a Union Republic from the USSR", proclaimed the creation of the Republic of Nagorno Karabagh (NKR).

After the breakup of the USSR, at the moment of Azerbaijan's international recognition, Nagorno Karabagh was not part of that country. However, neglecting that reality and the principle of self-determination, Azerbaijan embarked upon a war against NKR, occupying 25% of NKR territory. The NKR people were compelled to counterattack and prevent Azerbaijan from attacking NKR from adjacent regions, which in turn allowed the signing of the ceasefire in 1994 that has been maintained up to date.

Recognizing the right of self-independence of the peoples of Karabagh and aimed at reaching a fair and legitimate resolution of the problem, Armenia brings its active participation to the process of a peaceful regulation of the conflict.

In 2000 NKR conducted its regular parliamentary election in the presence of 118 international observers. International law recognizes the state as an international legal subject only in the context when as a result of self-determination all the necessary attributes of democratic state have been created - legitimate legislative, executive and judiciary power structures, regular army, multi-party political system, etc, which are a reality in NKR today. NKR has factual relations with the OSCE.

The situation in the army raises a host of problems directly or indirectly related to human rights. Though some progress has been registered in the dialogue on

the army between society and the authorities, human rights violations in the military still remain one of the most urgent issues (see Box 2.9).

### Box 2.9

### The Armenian Army

The regular Armenian army was established in 1991 after the dismantling of the Soviet system. Based on the model of the Soviet army, the newly-established Armenian army also inherited some negative tendencies characteristic of the Soviet army. For example, "*dedovshchina*," "*starik - molodoi*" ("grand-fathers" "senior-freshman") and brutal hazing, which are expressed through acts of repression such as imposing humiliating tasks, appropriating valuables, establishing strata of soldiers who would perform errands at the whim of other soldiers. Added to this was a lack of professional officers. Most often, these positions were filled by commanders of voluntary troops formed in the early stage of the Karabagh conflict, among whom some had criminal records.

Non-formal units ("*observers of units*"), which carry out the wishes and orders of the commanding officers, have become common in the military. These units accumulate the actual power and even dictate prison customs. According to the new Law on National Military Service, during the 2000 spring conscription individuals who formally were convicts for up to three years have been drafted to into special battalions. Those who were convicted for a term of more than three years are not recruited into the armed forces. It is common in the army to exploit the soldiers for the purposes of commanders' personal needs. From the first day in the military unit, the process of "breaking" starts. This is group suppression against the soldier to humiliate his individuality, which frequently ends tragically.

Before 1994, due to the war it was impossible to establish the number of soldiers lost in the army as a consequence of the non-regulated relationships. Notwithstanding the fact that for six years there have been no military operations on the RA borders, the number of victims in the army is immense. The Military Procuracy, as a rule, records the military unit's hypothetical explanations: "died during military service, suicide, accident, etc.

Thus, from 1994 - 1997, in peaceful times, 800 cases of servicemen's deaths were recorded, 260 out of which took place in 1996, 217 in 1997, and 196 in 1998. Since 1999 a proportional decrease of the number of victims has been noticed: 93 cases in 1999, and 57 as of the first half of 2000. Until 1997 the army, as a subject for discussion, was off limits the public. In October 1997, subsequent to protests from the Helsinki Committee of Armenia and parents of the dead servicemen, the RA Ministry of Defense and the Military Procuracy initiated certain steps aimed at normalizing the situation. Particularly, the latter started re-investigating cases previously defined as suicides. Accounts of army problems have appeared more frequently in the press as well. Perhaps the decrease in the number of victims since 1999 could be attributed to this reason, too.

Helsinki Committee of Armenia

## Non-Governmental Organizations and Human Rights in the Transition Period

As a result of the political transition, the formation of non-governmental organizations (NGOs) in Armenia has taken on a new quality. NGOs in fact have become the voices of the population's needs and moods, thus playing an important role in the protection of human rights.

Despite the mushrooming of NGOs (more than 2,100 registered within the Republic of Armenia) fewer than 10% are actually in operation. Among the NGOs the sphere of activity and concentration is approximately as follows:

61 - predominantly human rights, 52 women's issues, 10 - refugee issues, 17 - children's issues, 13 - issues of the disabled, and 5 - issues related to prisoners. They are involved in advocacy, monitoring and participatory activities.

The RA Constitution, having recognized the comprehensive civil and human rights and fundamental freedoms in consistence with international standards, has not envisaged the establishment of an institution stipulated to protect human rights. Delays of lawsuits, cer-

tain financial expenditures, incomplete legislation, and nonexistence of application mechanisms for many normative acts force the citizens to apply to legal or human rights NGOs which would listen to them, give advice, and guidance. The activities of NGOs dealing with human rights in this area have the following directions:

- I Participation in the drafting of legislation (discussion of draft laws, as well as commentaries and examination of passed normative acts).
- I Provision of legal and moral aid to the population (free legal consultation, defense in the lawsuits, mediation to the government bodies, etc.).
- I Provision of legal training to the population (establishment and enhancement of legal resources and libraries, publications on legal topics in mass media, organization of lectures and courses on human rights in secondary schools and universities, publication of newsletters and books, organization of seminars, workshops, roundtables, conferences, press releases - see Box 2.10).

### The State of Human Rights and Freedoms in RA

#### Box 2.10

The A.D. Sakharov Armenian Human Rights Center (together with its regional branches) provides legal services and attorney's counsel to more than 500 RA citizens monthly. Based on the data of its activities, the information released by other organizations and mass media, the Center prepares annual review, "The State of Affairs in Respect to Human Rights and Freedoms," and is of the opinion that the main rights violations occur in various structures of law enforcement and the justice system. The excerpts below are from the annual review, covering the period July 1999 to July 2000.

*Fundamental Human Rights and Freedoms Proclaimed in the Constitution of the Republic of Armenia*

**The right to life** - At the present stage of Armenian statehood, under conditions of social and political instability and due to the arbitrariness of law enforcement bodies and the military police, torture occurs, sometimes with deadly consequences. These cases are given a formal investigation only, having no purpose to identify the principal guilty parties. The families of servicemen who died in the army during peacetime are quite unsatisfied with the findings of the RA Office of Military Prosecutor, which has determined most of those cases to be suicides.

No politically motivated murders have been reported.

The moratorium on the execution of death sentences continues to be in force.

Should we consider the right to life in the very wide sense, the lack of guarantees for physical survival of many people represents a violation of this right. Two children died of mal-nourishment at the Children's Home for the Children with Physical and Mental Disabilities

**The right to liberty and security** - No arbitrary political detentions have been reported for the period covered, nevertheless several unjustified detentions have taken place. In connection with the inquiry into the shootings in the RA National Assembly on 27 October 1999, four persons (NA parliamentarian, a staff member of the RA President's administration, a serviceman of the RA Armed Forces and a journalist) were detained on the grounds of evidence forcibly taken from one of the principal defendants. The detainees were also interrogated with unlawful methods. Everything was done to confirm a political plot surrounding the shootings at the RA National Assembly.

Most of junior or medium-level personnel have been in the practice of violating the right to liberty and security as a means of extortion, to supplement their incomes.

**The right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment** - This right is often violated by state officials, especially, by the military policemen. The cases of brutality towards prisoners and detainees have been mentioned above (in the core text of the annual review).

**The right to take part in the government of one's country** - the Armenian public is kept removed from the government. Regardless of the adequacy of electoral legislation, as a rule, the elections are "predicted" by nepotistic and criminal groups. In small towns and villages most voters are either "bought" or intimidated by local authorities or law-enforcement bodies. The draft laws of vital importance for the Armenian people are not submitted to them for public discussion. Armenian citizens have no access to the officials of governmental bodies to submit to them their requests or proposals. There is no regular relationship between the Deputies to the RA National Assembly and their voters. Their voices cannot be heard by their duly elected representatives.

**The right to legal assistance and to a lawyer when under arrest, taken into custody or charged with a crime** Actually, prosecutors, like the law-enforcement system as a whole, are not interested in having the advocacy institute. They do their best to impede the access of counselors to their clients. The licensed lawyers require such high payments for their services, that indigent people cannot afford hiring them. The indigent people are rendered free legal and counselor assistance by some NGOs.

**The A.D. Sakharov Armenian Human Rights Center**

However, it should be mentioned that NGOs operate mainly within the frameworks of specific projects, without a niche and field of permanent activities, and as a rule are outside the practical interests of the state. The Government does not implement any projects in this area, therefore the relationship and cooperation of NGOs with the governing bodies is not sufficiently strong.

To ensure the further development of society in Armenia, it is necessary to develop plans for social development and governance. The latter will significantly stimulate the establishment and development of a system for monitoring human rights as an important condition for developing civil society and as a primary factor for ensuring human development.

Hence, during the ten years of systemic political reforms in the transition from socialist to a democratic system, there have been both progress and regress, achievements and shortfalls in the realization of human rights, freedoms and human development from the legal and practical aspect.

Among achievements can be considered active and participatory elections carried out in concordance with high democratic standards in the first years of Independence; the formation of institutes typical of a democratic state; initiation of reforms in the judicial system; the formation of a new decentralized system of

territorial administration and local self-governance; the adoption of the Constitution in 1995; Armenia's accession to the majority of human rights international instruments and agreements, the opportunities opened up for the unimpeded implementation of the right to free movement; privatization of land and shelter (apartments) and the right to private property; a relatively high level of state guarantees and demonstration of the unhampered implementation of those rights; the reality of forming non-governmental organizations and political parties and the unimpeded right to their membership; to start a business or be involved in entrepreneurship.

Shortcomings and setback can be seen in the pro-authority formulations of the Electoral Code, deviations from democratic principles in regard to the right to vote and be elected, the ineffective work of state institutions, and corruption in those institutions, the slowdown in the process of judicial reforms, digression from democratic criteria, the instances of legal violations, the facts of non-objective legal protection of HR, sometimes followed by bribes, the lack of activities aimed at promoting public awareness on legal consciousness, insufficient service of attorneys, and absence of law on territorial governance, the low level of state support of improving local self-governance and unacceptably low social security of the population.

Chapter

# 3

## Human

Rights and  
Human  
Development  
Issues in Light  
of Economic  
Transition



# Human Rights and Human Development Issues in Light of Economic Transition

3.1	<b>Issues of the Past Decade's Transition: Economic Reforms in the RA and their Effect on Human Rights and Human Development</b>	55
3.2	<b>Poverty</b>	61
3.3	<b>The Right to Work</b>	63
3.4	<b>Social Security</b>	65
3.5	<b>The Right to Ownership and Entrepreneurship</b>	68
3.6	<b>The Right to Health</b>	70
3.7	<b>The Right to Education</b>	73
3.8	<b>Cultural Rights- Enjoyment vs. Obligations</b>	75
3.9	<b>Problems of Special Groups in the Transition Period</b>	78
3.9.1	<b>Women</b>	78
3.9.2	<b>Children</b>	79
3.9.3	<b>Pensioners, Disabled</b>	80
3.9.4	<b>Refugees and Internally Displaced Persons</b>	81
<b>Boxes</b>		
3.1	Trafficking in Migrants	57
3.2	Access to Food as a Human Right	58
3.3	Poverty Trends	62
3.4	Church Contributes to Poverty Eradication	62
3.5	Social Exclusion of the Most Vulnerable Population Groups in the RA	65
3.6	Consumers' Rights	69
3.7	The Right to Sexual and Reproductive Health	70
3.8	AIDS and Protection of Human Rights	72
3.9	Factors Hindering the Development of Culture	76
3.10	The Imperative for the Improvement of Women's Situation	78
3.11	Rights of Children in Special Institutions Endangered	79
3.12	The Necessity of a Law on Social Assistance to the Elderly	80
3.13	Citizenship Law	82
<b>Figures</b>		
3.1	The RA GDP Dynamics	55
3.2	Real GDP (the changes with previous year, %)	55
3.3	Real GDP as compared with 1989, %	56
3.4	Dynamics of the Average Annual Rate of Registered Unemployment (as % of EAP)	56
3.5	Circulation of Armenian Newspapers (1996-2000)	59
3.6	Structure of Current Expenditures of the RA Population for 1999	61
3.7	Age Composition of the Unemployed in the RA	64
3.8	Distribution of Labor Force by Marzes	64
3.9	Distribution of Unemployment by RA Marzes	64
3.10	Dynamics of the Main Demographic Features	71
3.11	Expenditures Envisioned for Various Spheres of Education in 2000 State Budget as % of Overall Education Expenditures	73
3.12	Education and Science Expenditures in 1998-2000 Budget as % of Total Expenditures	76
3.13	The Ratio of Libraries and Readers	76
3.14	The Proportion of the Book Stock and Materials Served	76
3.15	Number of Disabled Children under 16 Years Receiving Social Pensions in the RA	81
<b>Tables</b>		
3.1	Proportion of Vulnerable Groups in Poverty Ratio	61
3.2	Process of Enterprise Privatization in the RA as of July 1, 2000	68
3.3	The Rate of Population Morbidity in the RA	71
3.4	Basic Indicators of the RA Education System	74

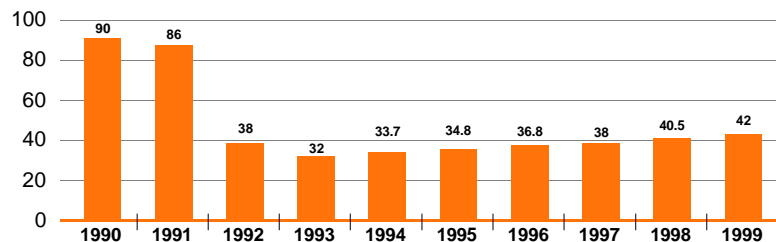
## Issues of the Past Decade's Transition:

## Economic Reforms in the RA and their Effect on Human Rights and Human Development

The field of **economic rights** was legislatively enlarged in the post-Soviet years. A number of important rights were recognized, including the right to private property, the right to equal participation in uninhibited development of all forms of proprietorship, the right to equal legal protection of all forms of property, the right to free entrepreneurship, freedom of economic activity and free economic competition (RA Constitution, Articles 8 and 28). While the Constitution has stipulated the right to property, current legislation confirms its absolute and inviolable nature. **Social** and

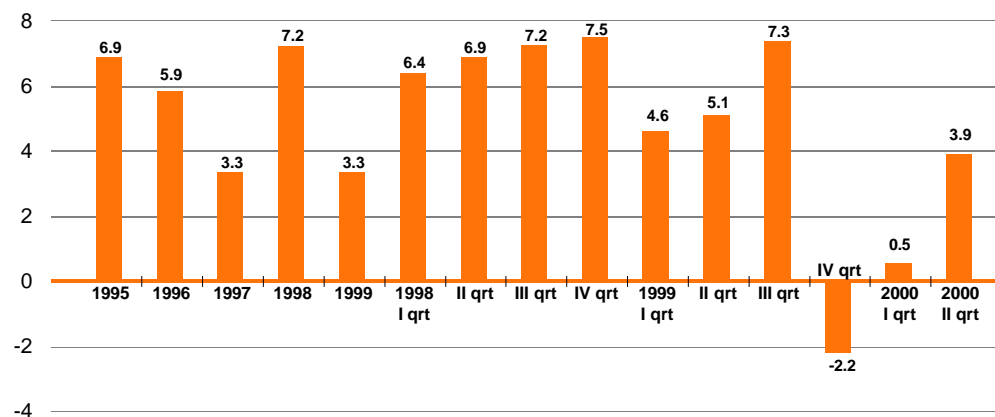
**cultural rights** stipulated in the RA Constitution include the right to employment, right to rest, to an adequate standard of living, to social security, health, education, the freedom to create and to be part of society's cultural life. However, both the acting legislation and the programs realized by the State aimed at exercising these rights have not yet reached the desired outcome and do not meet the requirements set for countries with sustainable human development.

In this context, from 1990-2000 fundamental market reforms have taken place in the Republic of Armenia. Among them are implementation of the privatization of land and livestock at no cost, liberalization of prices on goods and services, introduction of a national currency, the Dram, privatization of most (70%) small, medium and large enterprises, establishment of banking, tax and customs structures, the broadening of the legislative framework regulating their activities, etc.



The RA GDP Dynamics<sup>1</sup>

Figure 3.1



Real GDP, the changes with previous year (%)<sup>2</sup>

Figure 3.2

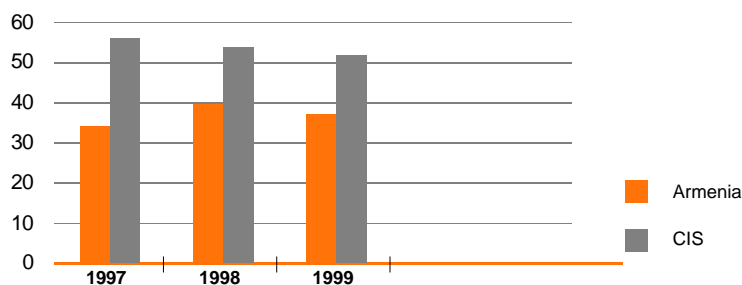
However, the total outcome of economic reforms can hardly be considered reassuring. Following the movement of the GDP (see Fig. 3.1) one can notice that though since 1993 there has been stable growth (mainly in trade and services) the rate is almost insignificant, and the 1999 GDP amounts only to 40% of 1989. If in the first quarters of 1999 (see Fig. 3.2)

compared to 1998, there was insignificant growth, then in the fourth quarter a 2.2% decline took place, which was obviously determined by political instability caused by the October 27 tragic events. The situation was partially rectified in the first half of 2000. The estimated real growth for 2000 is set at about 5%.

### 3.1 Issues of the Past Decade's Transition: Economic Reforms in the RA and their Effect on Human Rights and Human Development

The share of production in the GDP continues to decrease; also, since 1994 the budget revenue portion has been falling. And this is happening in the context of powerful loan support from international financial organizations (the total contractual amount of Armenia's loans is 1250 million USD)<sup>3</sup>. The inefficient

use of loan monies has become a serious problem, 70% of privatized enterprises do not function or are on the verge of bankruptcy<sup>4</sup>. Meanwhile, such conditions are not so typical of all CIS countries: on the whole, the situation in the CIS is somewhat better (see Fig. 3.3).

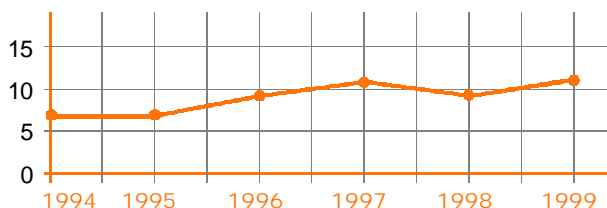


**Figure 3.3** Real GDP as compared with 1989, %<sup>5</sup>

This makes us seek the reasons for this predicament in inefficient state governance, the lack of an economic development strategy, the incongruence between the economic and political reforms, in bureaucracy's corruption and control (traditionally, in this respect we are amongst the leaders in the CIS, see chapter 4), the tax burden, arbitrariness of taxation officers, the lack of guarantees for investors, etc. As an example of positive steps, one can mention the law on the simplified taxation of small and medium businesses adopted by the RA National Assembly (NA).

The reference to harsh initial conditions is no longer valid, since most of the factors, predetermining the course of developments in the RA have already lost their severity or disappeared. The main obstacle to economic development is that over ten years neither a framework for competition nor equal conditions for all

entrepreneurs have been established in the RA (perhaps with the exception of the banking system). Clans operate in various spheres, enjoying the patronage of influential persons, which makes them in fact monopolists, exempting them from taxes (or part of them), etc. Sometimes the State itself carries out privatization by means, which result in the creation of monopolies. To date, the anti-monopoly (anti-trust) legislation is in the process of elaboration and discussions. In October 2000, the National Assembly discussed and adopted it in the second reading. The established system at best can be described as a quasi-market, where most market mechanisms and advantages do not function, causing huge imbalances in the distribution of property. The State's weak economy has led to a decrease in citizens' income and the reduction of employment (see Fig. 3.4), in turn narrowing the field of human development, economic, social and cultural rights.



**Figure 3.4** Dynamics of the Average Annual Rate of Registered Unemployment (as % of EAP)<sup>6</sup>

The greatest decline in citizens' living standards and, hence, in the implementation of economic and social declarative rights took place in 1993. As a result of the liberalization of prices and the introduction of the national currency, annual inflation in 1994 amounted to 5,060% and per capita monthly income dropped to 5 USD. Along with the energy crisis, this became the initial reason for mass emigration (in 2000, a special parliamentary commission gave its preliminary conclu-

sion: from 1992-1993 it had been objectively possible to provide not 2 or 3, but 24 hours of electricity to the population).

After 1994 the situation improved slightly, mainly thanks to the revival of small trade, the inflow of foreign goods, recovery of the power supply, and remittances from individuals who had left the country. According to experts, between 1994-1998 these remittances

<sup>3</sup> National Human Development Report, Armenia, Yerevan 1999, p. 23

<sup>4</sup> Ibid, p. 24

amounted to 850 million USD<sup>7</sup>. Meanwhile, after a certain limited stabilization, the situation continues to be dismal. Privatization has further exacerbated the polarization of property in society.

As of 1998, 84% of families had 1.9-3.9 times less income than the consumer basket (the AMD equivalent of about 66 USD per capita)<sup>8</sup>. The per capita monthly income in 1999 amounted to about 22.1 USD (11,848 drams)<sup>9</sup>. Obviously, with such income there is no talk of expenditure on cultural events, decent recreation, books, newspapers, paid education or sport. Where medical aid or medication are concerned, most resort to them only in extreme situations. People cannot afford to eat adequately. They have to economize extensively on clothing, transport and electricity. Low income leads to a breach of an entire range of economic and social rights: the right to decent living standards, education and health, and care in old age (considering the amount of the pension is almost negligible).

Naturally, the State allocates certain monies from its scarce budget for social needs (social insurance, education, science, health, culture, sports). For example,

in 1999 social allocations amounted to 28.3% of budget expenditure, or 33.9 USD per capita (18,140.9 drams)<sup>10</sup>, which is extremely little and inadequate for essentially improving the situation in the field of social rights.

Continuous emigration from Armenia to near and remote countries is a dramatic indicator of the poor social situation. By different estimates, at least 800,000 persons have left the country over the period of 1991-1999. No doubt, the main reason for emigration is the non-realization of economic and social, rather than of political or civil rights, whose status, despite all drawbacks, is much better. Most people lost hope that the situation can improve radically in the near future and they do not see resoluteness in the authorities' activities to pursue a comprehensive approach in pulling the country out of crisis and establishing regular economic relations. On the other hand, other countries too often turn out to be unsafe for emigrants fleeing human rights violations in their home country. Moreover, they become subjected to other sorts of HR violations (see Box 3.1).

## Trafficking in Migrants

### Box 3.1

Migrant trafficking is not a new problem, but it is growing in scale and complexity. Worldwide 700,000 women and children are trafficked each year, according to recent estimates. There is a growing recognition that trafficking entails fundamental human rights abuses. In terms of migration Armenia is an origin country and to a smaller extent a transit country for nationals of developing countries trying to reach Western Europe. Over the last ten years net emigration from Armenia has been exceptionally high owing to strong push factors. Preliminary research indicates that this large movement of people also includes trafficking. Intermediaries take advantage of people wanting to migrate illegally to countries such as Germany, Belgium and the Netherlands. Women have been recruited or coerced by intermediaries to work as sex-workers in places such as Dubai and Istanbul or have been victims in sham marriages in Germany.

There is a need to go beyond the sketchy information available and establish more precise data via a baseline study on the nature and incidence of trafficking. IOM, with UNICEF and OSCE, have launched a research project and results will be disseminated in early 2001. Additionally, the following measures should be taken to prevent trafficking and protect its victims.

- I Public awareness campaigns to warn potential migrants on the risks of trafficking and to prevent intermediaries from exploiting the limited knowledge of potential migrants.
- I Adopt legislation that will criminalize trafficking and put in place stiff sanctions, in order to deter traffickers.
- I Trafficked migrants should be treated more as victims than offenders in destination or transit countries; to this end sensitization is necessary for police and immigration authorities, for instance, to differentiate between trafficking and irregular migration.
- I Provide counseling, medical support and voluntary return and reintegration services to victims.
- I Coordination among governments in origin, transit and destination countries and networking among international organizations and NGOs working on the issue.

Finally, receiving countries need to consider ways in which more legal migration opportunities can be created in order to reduce migration pressures.

**International Organization of Migration, Armenia Office**

<sup>7</sup> National Human Development Report, Armenia, Yerevan 1999, p. 23

<sup>8</sup> Ibid, p. 29

### 3.1 Issues of the Past Decade's Transition: Economic Reforms in the RA and their Effect on Human Rights and Human Development

Among the main reasons for emigration is also the psychological problem of adapting to the changing circumstances (this is connected with the package of yet unsolvable problems of re-education and re-training), lack of certainty in the future and the sense of personal insecurity (see Chapter 1). This particularly concerns the business sector.

Globalization, development of information technologies and communication, has broadened the concept of "*a citizen of a country*". From this perspective, the intent to provide for one's worthy existence and that of one's family, even though outside the country, cannot be reproached. Nevertheless, the State must seriously look into the reasons for this alarming phenomenon of

emigration in search of work. According to authoritative economists, the economic situation of the country is critical, but not hopeless. It can be amended by radically reforming governance, struggling against corruption, promoting a market economy and competition, and by creating guarantees and favorable conditions for domestic and foreign investors. If the economic breakthrough succeeds, this will lead to the reduction of emigration, and in due course, the repatriation of some citizens. One positive tendency could be seen in the first examples of recovering industrial enterprises following the 1999 parliamentary elections when the RA government started to work on the real sector of the economy.

#### Box 3.2

#### Access to Food as a Human Right

Consistent with its mandate and in line with international instruments, stipulating the right to food (International Covenant on Economic, Social and Cultural Rights (Article 1, 2), WFP in Armenia continues to use food aid to address the nutrition needs of groups at risk through food relief assistance and labor intensive food-for-work (FFW) projects creating assets and promoting the self-reliance of poor people and communities.

Under FFW projects, denuded forests and areas prone to erosion and landslides have been planted, renovated or newly constructed irrigation canals have made large areas of farmland useful again. Tens of thousands of children have benefited from the renovation/winterization of schools and kindergartens. Hospitals and polyclinics have been repaired to improve access to public health care. FFW has created employment and income for able-bodied unemployed people. FFW has helped the people restore positive thinking and regain human dignity.

Needless to say, accomplishments reached through a wide range of community-based food-for-work projects directly touch upon a wide spectrum of closely related human rights - the right to employment, the right to education, the right to a clean environment, the right to enjoy a healthy livelihood, etc.

Since the beginning of 1994, WFP has helped improve the nutritional status for a yearly average of 200,000 people at risk. To date, WFP has distributed over 45,000 tons of food purely for relief and 16,000 tons of food for FFW activities.

The situation has been aggravated by a drought of unprecedented scale, inflicting additional problems on the country. According to the Government, agriculture has suffered approximately US\$100 million dollars in losses. Grain crops will be less by 100,000 tons and potato losses will amount to some 90,000 tons.

Under the planned Emergency Operation, WFP will assist a total of 297,000 subsistence farmers in the country's six northern provinces. This is in addition to the 170,000 beneficiaries already receiving food aid under the current Protracted Relief & Recovery Operation (PRRO). The relief component of the PRRO targets vulnerable households living in cities, and refugees. The Emergency Operation will be complementary to the PRRO in targeting relief distribution to an additional 175,820 beneficiaries living in drought-affected rural areas. Another 121,180 beneficiaries will receive drought relief food by participating in FFW and food-for-training (FFT) activities.

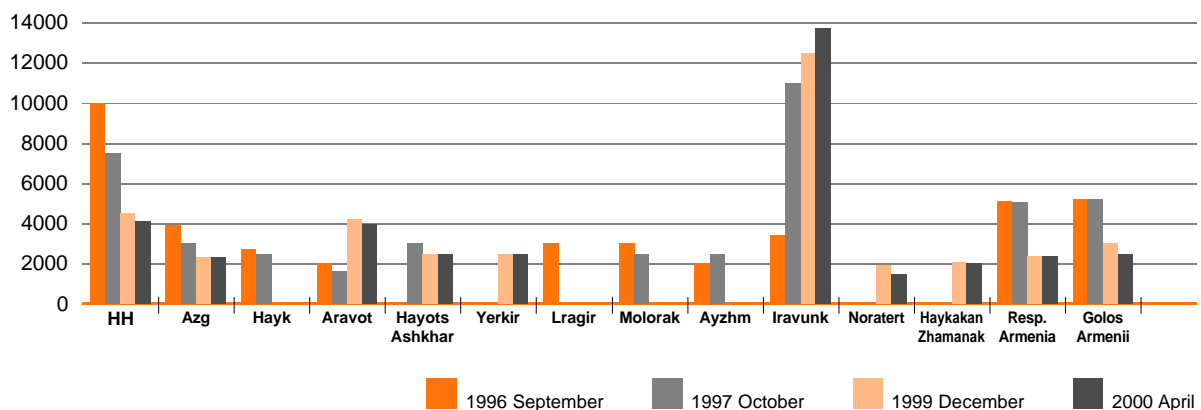
United Nations World Food Programme, Armenia Office

Economic difficulties complicate not only economic security, but also pose a threat to citizens' food and energy supplies (see Box 3.2). The issue of food security should be considered twofold. Firstly, does the average income allow the people to provide themselves with minimal first-priority goods? As of today, the answer seen from the above is, unfortunately, negative. Secondly, is food procurement guaranteed (regardless of purchasing capacity) under any conditions (say, during war)? The classical example of a radical solution to the problem (experienced by many countries) is in the country's agricultural capacity to provide the population with basic food staples. Nowadays, Armenia is incapable of solving this problem. However, specialists contend that this issue could be included in the priority list of strategic tasks, given Armenia's potential and resources. Otherwise the country will have to look for alternative means for importing food (especially, given the partial transport blockade of Armenia). To this end, in 2000 a realistic and promising project has been under discussion for the transportation of rail cargo by powerful ferries to Novorossiysk.

Undoubtedly, from 1990-1993 the problem of securing Armenia's energy was not resolved. This paralyzed people's every-day life and the economy on the whole. The nuclear power plant had been shut down since 1989. Delayed shipments of fuel oil and explosions on the gas pipeline (in Georgian territory) caused the disruption of the whole energy system. The situation

improved dramatically thanks to the re-commissioning of the nuclear plant and some organizational measures, which provided round-the-clock power supply to Armenia's population, and even facilitated the export of electricity. Armenia's energy security will further improve after the commissioning of the Iran-Armenia gas pipeline, on which an agreement has already been reached. It is understood that the State must promote for the development of mini and alternative power generation, too. The problem has a flip side: can the consumer afford, in an economically full-fledged fashion, to use energy that the State provides 24 hours a day, at 25 drams per kilowatt (about 4.6 cents)? Obviously, if we take into account actual income levels, this tariff is unaffordable. Moreover, independent experts believe this tariff is simply groundlessly inflated. The principles adopted for the privatization of the power distribution networks, unfortunately, will not promote a solution to the problem since they will not lead to free competition in the energy sector.

The negative impact of the economic crisis over the past years has resulted not only in an insufficient implementation of economic and social, but also civil and political rights, thus jeopardizing the democratic achievements of the first years of Independence. For example, there are various publications providing diverse coverage of events. However, the print run of all daily newspapers (1999) is about 3.9 units per 100 persons, and for economic reasons, are simply unaffordable for the majority of citizens (see Fig. 3.5).



Circulation of Armenian Newspapers (1996-2000)<sup>11</sup>

Figure 3.5

On the other hand, newspapers with such an insignificant print run cannot cover their costs and have to rely on sponsorship. In the sphere of political and public organizations, the situation is the same. Because of modest-sized memberships (particularly, due to unresolved constitutional processes in society) and low incomes, it is impossible to run their activities based entirely on dues. The State, too, is incapable of providing adequate support. Reliance on sponsors or sponsoring groups obviously contributes to a loss of independence for civil society institutions. This distorts

the very essence of democratic reforms and creates unequal conditions for activities. The fact that in many cases these sponsors reside outside the RA is also a negative factor.

Hence the activity of monopolistic economic structures naturally spills over into the field of political and civil rights, becoming a factor of political power. The 1999 parliamentary elections can serve as an example. They were held without essential formal violations of law. This opened a window of opportunity for Armenia

towards accession to the Council of Europe (see Chapter 1). However, most RA citizens, in dire financial straits, voted not by their conviction but under pressure of widely used polling bribes. Financial and authoritative leverage of candidates and parties seemed to outweigh professionalism and political programs in the final choice. Such elections can hardly be called truly fair. The low salaries of public servants have created a favorable environment for violating law and citizens' rights. This phenomenon is extremely alarming, especially within law enforcement bodies where violations have been observed over this entire period. The State leadership, political forces and society at large must fully realize that, should the economic crisis continue for a rather long time, the achievements of the first years of independence - especially in human rights - will be gradually lost. Without doubt, an underfed citizen is simply incapable of enjoying his/her rights and freedoms stipulated by law, particularly when the law is enforced by an underfed bureaucrat.

Many of the social and economic rights enshrined in the RA Constitution (see Chapter 1) have not been enforced sufficiently by laws and legislative acts, which would ensure their day-to-day functioning. For instance, the recently revised Labor Code of 1969, which is still in force, in many of its provisions contradicts today's realities and market relations. As a result, enterprise managers often totally and unreasonably ignore the Code, refusing to pay employees' wages for vacation, pregnancy, sick leave, etc. Laws on civil service, trade unions, and enterprise dissolution have not been adopted yet.

It is commonly accepted that the requirements for implementing social and economic rights cannot be as strict as in the case of political and civil rights, since they are determined not only by the authorities' political will and skills, but also by the level of the State's economic capacity. However, most countries prefer to include them in their legislation, since the list of declarative economic and social rights primarily indicates the social orientation of the State and the problems to be solved, should a higher economic level be achieved. While considering the above said in light of "negative" and "positive" rights (see Chapter 1) some voice concern that the latter can cause too much reliance on the State (as in Soviet days) and undermine initiative and the trust in one's own potential. Unfortunately, Armenia faces serious problems with the HR implementation from both "negative" and "positive" aspects. As mentioned above, many of social and economic rights are not sufficiently regulated by law, something that has been overlooked by parliamentarians. Hence, an important distinction should be made between cases when the State does not have the opportunities to create conditions for HR promotion (that is, the rights are not realized) and those cases when the State has opportunities but does not implement them to the full

extent (when the rights are violated) because of subjective nomenclature reasons.

As already mentioned, in recent years about one third of the RA state budget has been allocated for the social spheres, including science, culture and sport. However, these insignificant funds are incapable of improving the situation with regard to economic and social rights even in one individual sphere. Some experts suggest concentrating the available funds on employment creation rather than spending them on allowances. They are right from the point of view of pure liberalization, but they forget that these allowances help people survive right now and not in the future. They overlook the fact that free (actually, semi-free) secondary and higher education is for many the only possibility to get an education. The Armenian Government's most urgent problem today is to clear the arrears in salaries, pensions and allowances, overdue for months. There is also a need to raise allowances and pensions or at least to adjust them to inflation if the raise is infeasible. Likewise, it is important to increase the efficiency by which can be identified the most needy families. However, the most important strategic issue is the promotion of employment creation.

To summarize, the difficulties in implementing citizens' social, economic and cultural rights could be conditionally viewed both as of objective and subjective nature:

1. The country's difficult economic situation hampers the allocation of sufficient financial resources to address social problems.
2. The extremely low incomes of the majority which, on the one hand render the right "to a decent living standard" unrealized and deprive citizens of the enjoyment of rights belonging to them by birth and stipulated by law.
3. An incoherent and inadequate legal framework for taxation, arbitrariness of the taxation inspectors, the existence of monopoly groups and the absence of antitrust legislation, which essentially limit private entrepreneurship, open competition and the field of investment.
4. The absence of law on trade unions, civil service, the urgent need for a new Labor Code.
5. Insufficient social services, specifically in the psychological rehabilitation of citizens and in vocational re-training.

## 3.2

## Poverty

With the collapse of the USSR and transition to a market economy, Armenia as well as other CIS countries in a short period downscaled from high to mid-level human development, recording an unprecedented increase in inequality. In 1996, 54.7% of the population was considered poor<sup>12</sup> (whose current average per capita expenditures fell below the calculated factual minimum subsistence basket - about 25 USD monthly in AMD equivalent) and 27.7% were very poor (with current average per capita expenditures below the calculated minimum food basket - about 15 USD monthly in AMD equivalent). Since there was no officially calculated and adopted minimum subsistence basket (MSB) or poverty line, which could be considered as the poverty threshold, it was necessary to determine a factual calculation.

Fluctuations in the economy drastically impact the incomes of the population and move them into or out of poverty pockets. At the same time, the socioeconomic characteristics of those who managed to get out of poverty and those who became chronically poor do not differ significantly. Along these lines poverty, a brutal denial of HR and HD, has not met with relief in any

positive trends over the past years. The results of an integrated survey of 3,600 households from 1998-1999 come up with almost the same level of poverty - 55%, with the factual poverty line at about 23 USD and factual food line at 14 USD. It may seem that in comparison with 1996, poverty in 1999 has deepened since the factual poverty line has appeared at a lower amount. However, the picture is different in the Armenian drams, an increase is seen in prices to 11,732 AMD for factual poverty line and 7,194 AMD for factual food line (respectively 10,784 AMD and 6,612 AMD in 1996). It should be noted that the only positive trend noticeable is the decrease of the very poor up to 22.9%. Analysts ascribe it partially to family allowances.

According to official calculations, the Jini coefficient has not undergone major changes either. It is 0.593 by incomes and 0.372 by expenditures (respectively 0.602 and 0.4 in 1996)<sup>13</sup>. However, it should be noted that still in 1996, Armenia was among the first by income inequality in a number of European, Central Asian, Latin American and South Eastern countries<sup>14</sup>. The factors contributing to poverty have not changed either (see Table 3.1). The poor and very poor in Armenia mainly comprise the urban and landless rural population, including the less educated, unemployed, disabled and large families.

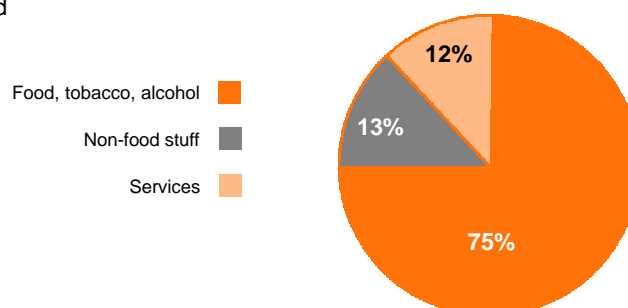
**Proportion of Vulnerable Groups in Poverty Ratio**

**Table 3.1**

	The size of household	Children from the age of 0-14 per each household	Elderly in the age of 60 and above per each household
Non poor	3.83	0.93	0.55
Poor	4.52	1.33	0.62
Very Poor	5.13	1.69	0.69
Total	4.29	1.19	0.60

The proportion of expenditures between the 20% richest and poorest segments of the population is 6.6 times. Most of a family's income is expended on food products, while expenditures for services and non-food

are insignificant (see Figure 3.6), while the picture of overall expenditures in developed countries is the opposite.



**Structure of Current Expenditures of the RA Population for 1999**

**Figure 3.6**

<sup>12</sup> Survey of 5040 households conducted by the Ministry of Statistics, with technical and financial support of the World Bank, 1996 November-December.

<sup>13</sup> Jini coefficient is a measure of income inequality. It is calculated as the ratio of the average of the squares of the incomes to the square of the average income.

In a country where the average level of education, the percentage of specialists with university and professional credentials is high, the issue of poverty and an impoverished society is painfully perceived, especially because that poverty has become a widespread phenomenon only in the recent past. Poverty is even more devastating in the earthquake zone and among refugees, of whom 35% of families have no means to earn money for food, while one out of five is incapable of earning his/her daily bread (literally, bread). In the earthquake zone more than half of the population is poor, out of which 15% is extremely poor<sup>15</sup>.

In Armenia, the perception of poverty has been conditioned by an entire system of cultural-ethnic and sub-cultural values that were connected with a particular era. These perceptions in part no longer correspond to

the current situation. Now the poor include people of art and science, with higher levels of education, whereas previously these people occupied a certain standing in society.

The Government has neither adopted comprehensive strategies on combating emigration and poverty, nor has it an officially adopted minimal subsistence basket. At the same time it should be mentioned that certain steps have been undertaken in this direction - discussions on the Poverty Reduction Strategy Paper as well as on a concept emigration policy are underway. The activities of certain organizations at different levels are aimed at poverty reduction, including humanitarian assistance, lending programs, research, etc. (see boxes 3.3. & 3.4).

### Box 3.3

#### Poverty Trends

The Institute for Human Rights and Democracy (IHRD) is a non-governmental independent organization, whose main objective is to assist in the development of a democratic state based on human rights principles. Among other activities, in May 2000 the IHRD published a book entitled, "Poverty and Democracy in Armenia" which discusses the process of impoverishment that has taken place in Armenia over the last ten years. It analyzes the manifestations of poverty, causal factors, social-psychological and cultural changes conditioned by poverty and their relationship with the ways governing society. At the core of the book is the assertion that Armenia, although having proclaimed itself a democracy, is growing even more impoverished. During the last ten years, Armenian authorities have been reiterating their commitment to the legal implementation of democratic and human rights principles. Legislative and structural changes are in progress, elections are held, governments replace each other. However, the full and comprehensive cognition, interpretation and implementation of those principles by the authorities are put under question and the country continues to grow poorer.

**Institute for Human Rights and Democracy**

### Box 3.4

#### Church Contributes to Poverty Eradication

The Armenian Round Table of the World Council of Churches (WCC Armenian RT) is an inter-church ecumenical project of the Armenian Apostolic Church and the World Council of Churches, with the participation of the Armenian Catholic and Armenian Evangelical Churches. It was initiated in 1996 by Catholicos Karekin A. It brings together the Armenian Churches, local NGOs, as well as European and American ecumenical agencies with a shared commitment to working together to address some of the fundamental problems of the country. The RT projects are instruments for the development of education, social diaconia and agricultural sectors. The projects are aimed at poverty eradication through small loans and grants provided both to individuals and farmers' unions, as well as to the development of income generating initiatives in the Dioceses and communities. Social diaconia includes soup kitchens for the most vulnerable and summer camps for children with the participation of the Dioceses.

##### **Armenian Round Table of the World Council of Churches (WCC Armenian RT)**

The Ecumenical Church loan Fund (ECLOF) is a non-profit ecumenical organization with offices at the World Council of Churches (WCC) in the Ecumenical Center in Geneva, Switzerland, and National ECLOF Committees in some 40 countries throughout the world. Since March 1999, ECLOF Armenian branch operates in the Mother See of Holy Echmiadzin and implements a Lending Program in the impoverished regions of Armenia. The ECLOF -Armenia was initiated by the Armenian Apostolic Church and with the participation of the Armenian Catholic and Armenian Evangelical Churches as well as NGOs "Shen", "Mission Armenia", UMCOR Armenian branch, etc.

The mission of ECLOF-Armenia is to contribute to the socioeconomic development of low income social sectors of the country and to provide soft loans to the emerging small and medium scale enterprises, poor and excluded groups and communities to overcome the persistent socio-economic hard-

ships persistent in Armenia. The Program is based on group lending methodology where members are self-selective and share the risks of loan repayment. ECLOF- Armenia offers two basic lending modalities to its customers: middle scale loans to the emerging small businesses and small scale loans to the groups of people in rural areas, with the involvement of village authorities as loan guarantors.

Currently among the priorities of ECLOF-Armenia are agricultural and agro-related projects. As of August 1, 2000, ECLOF-Armenia financed 31 projects in Yerevan, Armavir, Lori, Vayots Dzor, Aragatsotn and Gegarkunik.

**The Ecumenical Church Loan Fund (ECLOF)**

## 3.3

### The Right to Work

At present, the revival and further protection of the people's right to work is a major challenge aimed at the establishment and sustainability of civil society and socioeconomic stabilization.

There are serious problems in the field of employment in Armenia; they hamper people's rights, state interests, as well as economic development, dramatically decreasing the solvent demand on the market and burdening the state budget with the solution of social problems. In fact, the burden of the problem remains on the taxpayers' shoulders, i.e. the problem finds its solution at the expense of tax revenue levied from the employed.

The Constitution, RA's main law, ambiguously and vaguely states "the free choice of work", implying most probably, that such a choice exists. Meanwhile, the extremely tense situation on the RA labor market does not point in favor of the availability of choice. As of September 2000, 183,600 job seekers were registered with the National Employment Service (NES); 87% of them were granted the status of unemployed. Compared with the same month of the previous year, the number of unemployed has decreased by 6.7%. However, in reality the unemployment rate is 2-2,5 times as high. Most unemployed do not register because the paid allowance is just symbolic (3178 AMD monthly - about 5,5 USD), and the unemployed get this allowance only 7-10 months (the number of the unemployed who get allowances in the RA is 15,600). The current quantitative, geographic and professional discrepancies between the supply and demand of workers on the labor market has led to inefficient provision of employment and chronic unemployment. In other words, there is a marked disparity between the available labor force, its demand, professionalism and distribution in the RA marzes. With little variation, this situation has remained unchanged since 1992. The low efficiency of employment services can be seen in the fact that, in September 2000, each vacant job was

claimed by an average of 288 unemployed and the average duration of unemployment was 14.9 months.

The numerous objective and subjective factors affecting unemployment are of political, economic, social and legal nature. The economic factor is evidently the most decisive one, since previously operating large and medium-sized companies are now idle or demolished. As a result, a real labor market has not been established. In these conditions the State has failed to introduce a system of so-called social insurance (including insurance from unemployment). The concept has been recently adopted in the Government, which is seen as the starting point in the process of implementation.

To solve the unemployment problem and to find work for the economically active population (EAP), the RA government should pursue a more active and effective policy in undertaking:

- ▮ Professional training and re-education for the unemployed.
- ▮ Promotion of small business and entrepreneurship.
- ▮ Financial support of those unemployed who set up their businesses.
- ▮ Creation of new jobs at the expense of investments.
- ▮ Organization of social works projects.
- ▮ Development of programs at the national and marz levels.
- ▮ Provision of employment for uncompetitive groups on the labor market, etc.

In the transition to a market economy, the demand for engineers, technologists, and various highly qualified workers has dropped dramatically. The salaries of teachers (50,000), physicians and nurses (43,000), people engaged in the arts and adjacent professions, i.e. the occupations mainly involving women, are absurdly small.

Without radical amendments in the Labor Code, which is obsolete but still in force, it will be impossible to make a transition to the market model of economic development. In a free market economy, this outdated legislation does not provide for the regulation of issues associated with employer-employee relations, employment security, resolution of labor disputes and labor contracts. Hence thousands of working citizens in fact have found themselves on the verge of real unemployment-

ment. The current legislation does not protect their interests and rights. For instance, the RA law "On Employment" stipulates that the Regional Employment Centers re-train the officially registered unemployed within a certain timeframe and offer them "adequate jobs". Nevertheless, it is no secret that this provision is only on paper. The constitutional provision stipulating that the employed person should be able to satisfy his/her minimal survival needs is not realized.

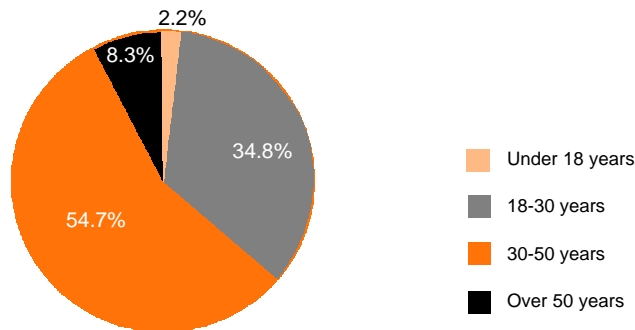


Figure 3.7

Age Composition of the Unemployed in the RA<sup>16</sup>

Employment issues are the tensest in the territories and cities where people own no land, and the former medium and large-sized enterprises are idle. These cities include Gyumri, Vanadzor, Artik, Charentsavan, Hrazdan, Kapan, etc, where the unemployment rate is 2-3 times higher than the average in Armenia.

The rights of landowner farmers are also neglected. They are overburdened with taxes and other duties and cannot sell their agricultural produce even for a small profit. The agricultural products market is of an unregulated nature. Prices on goods are too low and intermediary costs are too high.

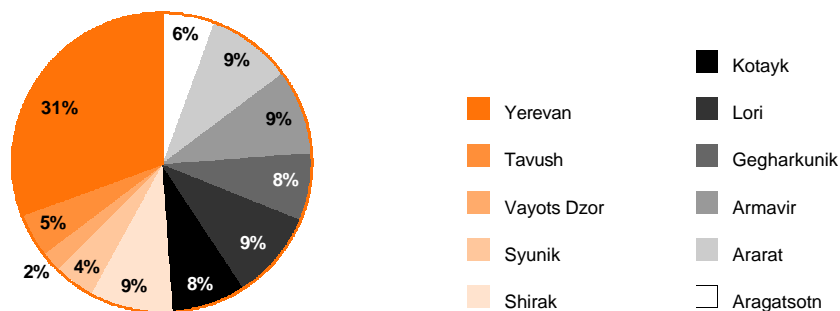


Figure 3.8

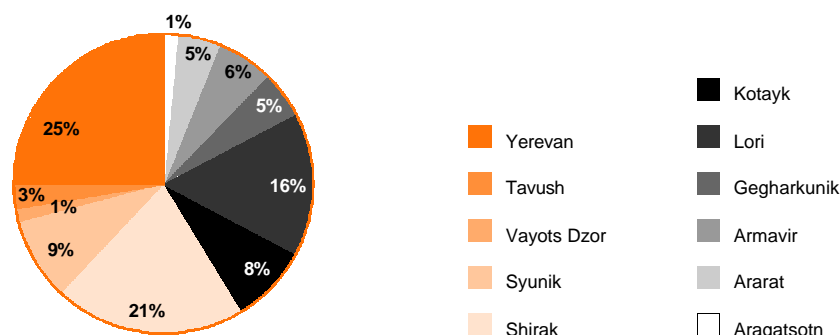
Distribution of Labor Force by Marzes<sup>17</sup>

Figure 3.9

Distribution of Unemployment by RA Marzes<sup>18</sup>

<sup>16</sup> National Employment Service of the RA, data as of 01.01.2000.

As can be seen from the diagrams above (Fig. 3.8 and 3.9), the highest rates of unemployment in proportion to the available labor force fall to Shirak, Lori and Syunik marzes. This attests to the fact that the social

conditions in the northern marzes and especially in the earthquake zone as compared to other marzes are still poor.

## 3.4

### Social Security

There is also a need for a real protection of human rights and freedoms in the sphere of social support and security. The family allowance system introduced on January 1, 1999, which involved about 230,000 families (190,000 families as of 2000), in fact does not cover the social needs of these families. With a base level of the family allowance amounting to 3,500 AMD, and the 1,300 AMD supplement for each family member, the average for a 4-member family makes up 8,000 AMD (about 15 USD). Given that the estimated MSB is worth around 66 USD (calculated on a quarterly basis by the National Statistical Service of RA), the family allowance is too far from meeting even the most elementary needs. According to the formula in use, the family allowance is granted when 36 points have been scored based on a number of parameters: disability, singleness, joblessness, minimal power of consumption in summer months, etc. There are also some provisions which deprive the needy of a family allowance, be that a monthly consumption of electricity exceeding 150 kW/h, or registration of a child or grandchild in the apartment of a single pensioner, even if they are absent from the country. Such a system of allowance allocation does not stem from the interests of the State or the recipients and is in need of fundamental improvement.

It is necessary to calculate and adopt officially the

MSB, to curtail drastically the number of allowance recipients, reconciling the value of their allowances with the real MSB. Such a curtailment is possible through better targeting, focusing support on the neediest, who are no longer capable of working. As for the other thousands of recipients, the State should phase in re-training and re-qualification programs to solve their employment problems. By undertaking the establishment of a real labor exchange, the State can contribute to the promotion of a solvent demand, and anticipate positive results in the alleviation of the tense labor market situation.

Another supporting institute could be the establishment of an Accreditation and Testing Center at the National Employment Service. Any one must have the opportunity to evaluate one's knowledge and professional skills, which would ensure the possibility of getting adequate employment. Thus, one must be aware of job opportunities awaiting, if one meets certain requirements. And the State in this case must function as a guarantor.

It is worth mentioning that the social and economic reforms carried out in the Republic of Armenia so far have not had an effective impact on micro-level promotion of entrepreneurship and have not contributed to a desirable extent, to the improvement of the social conditions of the most vulnerable groups (see Box 3.5).

#### Social Exclusion of the Most Vulnerable Population Groups in the RA

#### Box 3.5

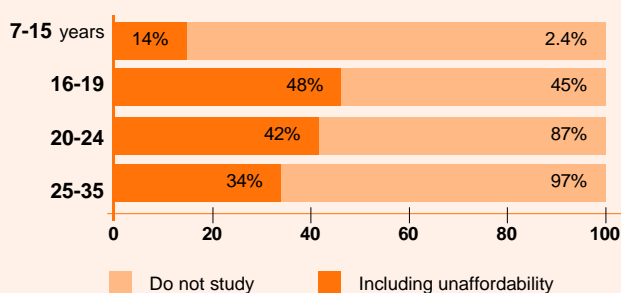
In 1999 a group of independent experts sponsored by UNDP and UNHCR conducted a survey of 2002 households countrywide (1000 refugee and 1002 local households). The survey was conducted in relatively poor regions and among the most vulnerable population, both local and refugees with a purpose of revealing the basic indicators of the living conditions and poverty of the most vulnerable groups, and conducting a comparative analysis of the local population and refugees. The survey also enabled them to study some social indicators, to assess the social exclusion of the vulnerable groups of the population.

**1. Involvement in the labor market.** 56% of the surveyed pool of active working age (16-60 years) at the moment of the survey had no job, and refugees were 1.3 times as less involved in the labor market than the locals. "Refugeeism" has been the reason for losing the job for every 7-8 out of 10 refugees driven out from the labor market in Armenia. After having lost their job due to resettlement, they never integrated themselves into the RA labor market. The unemployed (those who have no job and are actively looking for one) constitute 73% of those driven from the labor market, with 58% of locals and 53% of refugees. The basic sex and age description is presented in the Table 1.

**Table 1.**

Indicators	Locals	Refugees
Portion of women amongst the jobless, %	51.0	60.0
Age structure of the jobless, %		
* 16-24	26.0	24.3
* 25-39	39.1	38.3
* 40-49	27.0	24.1
* 50-59	7.9	13.3
Average duration of unemployment (months)	49	54

**2. Involvement in the educational system and access to education.** More than half (54%) of the surveyed pool of 7-35 year-age group do not study in any educational institution; in particular 36% of them cannot afford to study (they have to work, their financial resources are insufficient). Among the locals of the mentioned age group, the involvement is 1.2 times as high, and inaccessibility of education is more seldom. From the point of view of vocational education, 66% of the surveyed most active 16-24 years age group does not study, especially, for about 40% of them, the reason is lack of access (see Diagram 1).

**Diagram 1. Enrollment and Access to Education, %**

**3. Involvement into health care system and access to health care.** 13% of the surveyed population is seriously sick (amputations, chronic illnesses or disability), out of them 76% does not receive necessary treatment from the state health care system. 47% of those who had fallen ill during the three months preceding the survey, did not apply to medical aid (43% locals; 50% refugees) mainly due to the lack of money (78%). In terms solvency, inaccessibility of health care amongst refugees is 1.2 as high than amongst locals (see Table 2).

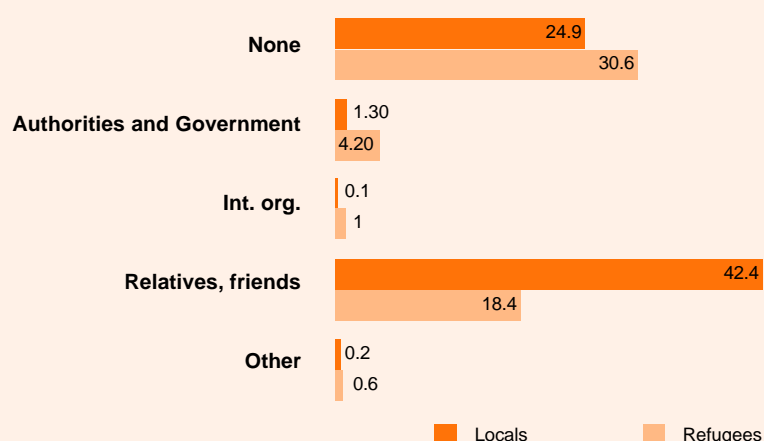
**Table 2. Main reasons why patients did not apply to health care system, %**

Reasons	Locals	Refugees	Total
Did not feel necessary	24.2	10.4	16.8
Specialist/med. institution is not easily accessible	2.4	0.5	1.4
Could not pay	67.5	86.6	77.8
Other	5.9	2.5	4.0

**4. Participation in public life.** In 94% of the surveyed households, there are no members of political parties or NGOs. In particular, refugees participate even more passively in political and public life. In about half (48%) of surveyed families all members entitled to vote participated in the 1999 parliamentary elections; in 20% of families, only part of voters; and in 33% of families, none. The analysis of interlinkages existing in society showed that 28% of surveyed families cannot receive real aid from anybody when they face problems (financial, moral, psychological); 69% of them get this aid from friends, neighbors, relations, and only 3% get aid from the state authorities and structures (see Diagram 2). The surveyed households are rather passive in their relations with local self-government bodies. Thus, 77% of households surveyed in 1999 did not apply to local self-government bodies at all; 18% did apply, but never got any real aid, and only 4.4% applied and got real aid from them. The latter mainly belong to the local population. Thus the surveyed population, both locals and refugees, being the most vulnerable from the very outset, are rather isolated from society, the State, political and public organizations.

**Distribution of Aid Sources, %**

**Diagram 2.**



**Poverty of Vulnerable Groups in Armenia; Yerevan 1999, UN Office**

Activities aimed at improving the legal framework in the sphere of social security and social assistance are underway. The draft laws "On Social Assistance", "On Benevolence and Sponsorship", "On Rehabilitation of the Disabled" have been elaborated. Among other issues, these draft laws encourage the activities of NGOs as social partners. Hence an attempt will be made to secure the participation of the population in resolving social problems. In this context the Ministry of Social Welfare initiated the establishment of the "Social League" (a union of NGOs), thus assuming the role of the coordinator of NGOs dealing with social issues.

Instability and social polarization render the implementation of the right to work impossible. Too often, one is forced to take work for which one is over-qualified, or in a job that one finds denigrating. Thus, thousands of engineers, economists and teachers with higher education are engaged in petty trade and the like. This depletes the intellectual potential of the country. The imperfection of the professional education systems and their inaccessibility for the public at large, in particular, contribute to an increase in unemployment. To solve these problems, it is necessary to create an

independent service for employment and regulation of labor potential, which would supervise the enforcement of labor legislation requirements, to ensure the interests of the hired labor force.

Worldwide, there is a wealth of experience in state and social development where protection of human rights and human development are concerned. For example, in the USA, a person's success and enrichment leads to the prosperity of the State, which is considered pivotal for development. In Japan the collective development of society, based on national conscience, overweighs the prosperity of individuals. In Germany priority is given to the progressive development of small and medium-sized companies. In the RA so far, due to the economic transition, this problem has not been raised and will be solved only within a long period, under conditions of economic growth and stable progress.

Nevertheless, a realistic way to resurrect the right to work is to dramatically boost the growth of the population's income (including salaries) in the RA. This should increase solvent demand, and in turn will promote the development of small and medium business.

This can be achieved through a number of methods, however the swiftest solution is programmed inflation (25-30% annually). An inflow of free working capital into the market will create more or less favorable initial conditions for the population and the business com-

munity to conduct a justifiable entrepreneurial and investment policy. No doubt, this must be followed by an adequate active investment policy, which will enhance Armenia's export capability.

## 3.5

### The Right to Ownership and Entrepreneurship

Both the right to ownership and the right to entrepreneurship, including the inviolability of property, the right to collateral and property are stipulated in Armenia's Constitution, the Civil Code and other legislation pertaining to civil law norms. At present entrepreneurship, including small- and medium-sized businesses, is not affordable even for well-off social strata due to current economic, legal, political, and educational problems. The small market volume, economic risk, almost non-existent solvent demand, tax burden and ignorance of modern business rules are among economic prob-

lems, while legal problems comprise difficulties in registering enterprises, licensing complications, etc.

It can be assured that at present the liquidity of real estate and other forms of property is so low that any investment into it brings about relative loss of capital. The problem is that businesses working with invested capital generate no profit or in some cases only scarce profitability. Large-scale privatization (denationalization) of state property has been underway in the Republic of Armenia (see Table 3.2) already for some time.

## 3.2 Table

Process of Enterprise Privatization in the RA as of July 1, 2000<sup>19</sup>

#	Form of privatisation	Approved by government decree	Total
1	Open joint stock company (subscription); total	1338	1310
	<i>Including: Subscription</i>	1273	1245
	Lot auction	65	65
2	Direct sale	146	146
3	Property sale to the lessee	194	194
4	Auction	31	30
5	Bidding	153	151
6	International bidding	17	17
7	Stock exchange	3	2
8	Liquidation	170	
9	State share	21	
	Total	2073	1850

From 1995-2000, 7,000 small companies have been privatized (256 were sold through auction, 28 by bidding), however, only 10% of them earn a profit. The situation is especially disheartening in rural areas as well as in small and medium-size towns. The violation of a series of rights, including the rights of a consumer to

work and to subsistence, also drastically reduce conditions under which the rights of 'small' businessmen may be upheld (see Box 3.6). At the same time, productivity opportunities for sustainable human development are curtailed.

## Consumers' Rights

### Box 3.6

At present the RA domestic market is inundated with goods and services of foreign and local origin, which pose a threat to the life, health, and property of the consumer and are dangerous for the environment.

The fact that no law has been adopted so far on the protection of consumers' rights, makes Armenia a rather attractive place for the dumping poor-quality goods unsold on other markets. In the absence of the law, obvious widespread violations of consumers' rights take place in Armenia. For example:

- I Food (almost every kind of food staple) is sold on the streets, by just anyone, violating sanitation and hygiene rules. Storage and conservation requirements are not followed.
- I Certification on the adequacy of goods and services is unavailable, even though the Government established a list of primary food staples to be imported which are subject to obligatory certification. Obligatory certification is important not only for consumers but also for taxation authorities, enabling them to reduce the shadow trade.
- I The lack of measuring devices or the use of inaccurate measuring devices violates the rights of consumers. The vendor or service provider using accurate measuring devices loses competitiveness, for having so-called high prices. Short weight has become a decisive factor in price generation.
- I There is no information on goods. Almost all goods imported from foreign countries (except CIS) have inscriptions in languages incomprehensible to Armenians. Not only their ingredients and usage purposes but also recommendations on use and in some cases, expiration dates are not clear.
- I There is no information on the vendor (the enterprise and immediate seller), which makes the exchange or return of poor-quality goods to the seller very difficult, if not impossible.
- I Although cash registers are widely used, vendors overwhelmingly fail to provide receipts, which speaks of the extensive size of the shadow economy.

Given these conditions, the Union for the Protection of Consumers' Rights sees as its priority the implementation of an independent expert assessment of goods and services and presentation of unbiased information on this matter to the consumer, participation and assistance in the establishment of a complete legal framework, and enhancement of consumer knowledge in society.

#### Union for Protection of Consumers' Rights

Now that the right to ownership has been established, it is important that, in the context of that right, the idea of co-ownership or group ownership should be recognized. The main mistake made in the privatization process was the preference given to option of a single owner who later failed to operate the company by him/herself. No doubt, a more efficient way for development is the attraction of domestic investment by means of mass co-ownership. That is the development, protection and promotion of the right to ownership.

At present, the daily turnover of a small company in Armenia fluctuates between 20,000-100,000 AMD, which provides for only 7-10% income and actually does not leave any space for business reproduction. Moreover, in terms of business and efficient realization of ownership, it makes no sense.

Thus the frameworks of the ownership and entrepreneurship rights are intertwined. However, in Armenia they are much narrower and limited as compared with

natural sizes. In other words, say, only 15 customers frequent a small business daily instead of 100. The principle of the socioeconomic justification for the employer's running the 'small' business is breached, i.e. the expected profit is insufficient to cover minimal subsistence needs.

Many companies have entered the process of bankruptcy and liquidation. Particularly, in 1999-2000 the RA Government has made decisions to dissolve 173 companies. As of June 1, 2000, 16 companies were dissolved, and 22 companies were submitted for bankruptcy due to their inability to repay their debts. The process of liquidation and bankruptcy often times is conducted with the violation of the social and entrepreneurship rights.

Property should be transformed from real estate into an instrument of efficient resource reproduction and could become more secured and protected by means of new investments. In particular, it is essential that a number of steps be taken including the granting of five-

nies; elimination of the requirements for accounting balance sheets; prohibition of any inspections (except criminal); reduction of the VAT parallel to the creation of

new employment; comprehensive provision of a legal and economic basis for the inviolability of property.

## 3.6

### The Right to Health

There are serious complications in Armenia with the comprehensive realization of the citizens' right to health. It is sufficient to say that the number of those who visit health institutions has dropped dramatically. The reasons are mainly of a social nature, i.e. the public at large has little or no access to health services; for-pay services are often unaffordable, and there is insufficient funding to provide free, state subsidized

health care for all who need it. Depriving a citizen of access to health care is a violation of a basic human right. Without a sufficient base of patients who can either pay or who have state-subsidized (welfare) health insurance, a health-service market cannot sufficiently take form and develop. As a result, neither are widespread services provided, nor is the quality of service guaranteed (see Box 3.7).

#### Box 3.7

#### The Right to Sexual and Reproductive Health

The ICPD Program of Action (1994) provides a sound basis for work in the area of Population and Development, with special emphasis on sexual and reproductive rights and health, which is integral to a person's physical, mental and social well-being. During the last five years considerable experience has been gained in Armenia on how governmental policies and programs can be designed and implemented to address population and development concerns. The right to Family Planning and Sexual and Reproductive Health has found expression in the RA law "On Medical Aid and Services" that was amended in 1996. According to this law, all people in Armenia have full right to decide freely and responsibly the number and spacing of their children and to have access to information and medical services on Sexuality, Family Planning and Reproductive Health. Starting from 1996, the Ministry of Health of Armenia is successfully implementing the National Program on Reproductive Health (NPRH) with support of the United Nation's Fund for Population Activities (UNFPA) and the World Health Organization (WHO). Several local and international NGOs are working in partnership with the Government of Armenia towards achievement of the goals and objectives of the NPRH. One of the main players in this field is Family Planning Association of Armenia "For Family and Health", which is a member of the International Planned Parenthood Federation. It is committed to advancing the basic human rights of all women, men and youth to make free and informed choices regarding their own sexual and reproductive health, and advocate for the means to exercise this right. In fact, the current social and economic environment in the country is not favorable for most people to enjoy their basic human rights, including sexual and reproductive.

The official statistical data as well as results of a series of epidemiological studies carried out from 1997-1998 under the auspices of the NPRH indicate that in spite of the increasing use of modern methods of contraception, thousands of women face unwanted pregnancies each year as a result of failure to use family planning methods. Most couples are using unreliable methods, which are free or have little cost. Induced abortion is still the main method for fertility regulation. There is a significant number of unsafe abortion cases with the high rate of serious and potentially life-threatening complications and consequences. The rate of prevalence for secondary infertility is elevated throughout the country. For many infertile couples investigation and treatment is not affordable. Awareness and knowledge about Sexually Transmitted Diseases (STD), including HIV infection and AIDS, are very poor among both genders. Socioeconomic considerations weigh heavily in limiting the family size to less than the ideal and desired number of children expressed by couples. Declines in fertility levels are producing fundamental changes in the age structure of the population. The maternal and child mortality rates in Armenia still compare unfavorably with the average for the European Union and with the WHO target for Europe.

Family Planning Association "For Family and Health"

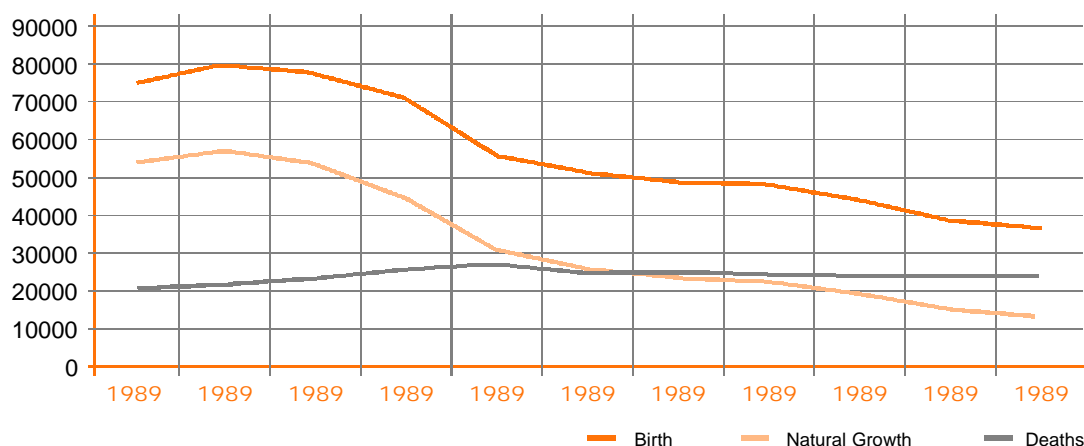
Dynamics of the Main Demographic Features<sup>20</sup>

Figure 3.10

The general crisis of the health service system, among other factors, has adversely impacted the country's demographic situation (see Fig. 3.10). Over the last 10 years the number of births, and subsequently, natural growth, has been dramatically declining (while mortality rate is relatively stable). Thus, compared with the 80,000 newly born in 1990, their number made up

36,500 i.e. in 1999 has dropped 2.5 times. The main reasons are severe social conditions, emigration, etc. Besides, the impact of the so-called "demographic waves" should be taken into consideration. In this case we witness the fourth demographic wave after the World War II, which is observed in other countries as well.

The Rate of Population Morbidity in the RA<sup>21</sup>

Table 3.3

#	Indicator	1988	1991	1996	1999
1	Population morbidity total	1,890,427	2,264,092	1,462,330	1,156,642
2	Morbidity recorded among adults and minors	1,225,426	1,476,518	976,208	788,398
3	Morbidity among adults and minors, per 100,000 of the appropriate age	50,508.0	58,746.0	35,832.0	27,595.3
4	Recorded morbidity among children under 14	665,001	787,574	486,122	368,244
5	Morbidity among children under 14, per 100,000 of appropriate age	64,619.7	71,428.8	46,332.6	39,017.2

The dynamics and rate (per 100,000) of morbidity in the RA (see Table 3.3) can be regarded as factors indicating the faulty implementation of the right to health service. On the one hand, actual figures show an absolute decrease. However, this declining tendency is incongruent with emigration figures, i.e. in reality this decline is rather ascribed to more people leaving the

country than fewer falling ill. On the other hand, a large number of patients does not visit health institutions, and so there is no record of their diseases. An issue of paramount importance is AIDS and its prevention. The data available on AIDS/HIV are more than alarming (see Box 3.8).

## Box 3.8

## AIDS and Protection of Human Rights

In 1997 the law on the "Prevention of Disease Caused by Human Immunodeficiency Virus" was passed in the Republic of Armenia. The reason for discrimination towards people living with acquired immunodeficiency and human immunodeficiency virus (HIV/AIDS) is the lack of knowledge on AIDS-related issues. Moreover, ignorance of one's own rights makes HIV-infected and AIDS patients more vulnerable.

In Armenia the registration of cases of human immunodeficiency virus infection has started since 1988.

- 1988** - registration of the first HIV carrier infected through heterosexual practice
- 1988** - registration of the first patient with AIDS
- 1989** - registration of the first mortal case from AIDS
- 1990** - registration of the first HIV infection case with an injecting drug user (IDU)
- 1996** - registration of the first HIV carrier woman
- 2000** - registration of the first HIV carrier case transmitted through homosexual practice
- 2000** - HIV prevalence among IDUs is in the range of 14%.

From 1988 to November 1, 2000, 135 cases of HIV carriers have been registered in the RA. Men prevail in the total number of HIV carriers - 101 (74.8%) women represent 34 cases (25.2%). The majority of the HIV carriers (80,7%) are in the 20-39 age group.

The number of HIV carriers registered in 1999 exceeds fourfold the number of HIV carriers registered in 1998. Twenty-four HIV infected were diagnosed with AIDS, in particular, eight (33.3%) in 1999. Since the beginning of the epidemic, 14 patients with AIDS patients have died, four of them passed away in 2000 and one in 1999.

According to HIV infection transmission modes, the percentage ratio of HIV carriers in the RA is as follows:

Transmission through heterosexual practices	46,7%
Transmission through homosexual practices	0,7%
Transmission through intravenous drug usage	40,7%
Transmission through blood	0,7%
Unknown	11,2%

In recent years the number of infection incidents via intravenous drug usage transmission mode has considerably increased. All persons infected via injecting drug use have been men, with the majority having temporarily resided and been infected with HIV in the Russian Federation.

The maximum number of HIV carriers was recorded in the city of Yerevan (50.4%). Of new cases, 62.5% registered in 2000 are also reported in Yerevan. The marz of Gegharkunik is in second place in terms of HIV infection expansion (8.9% of all cases).

There are several groups at high risk of HIV infection, who perform risky forms of sexual behavior. Such groups are IDUs, female sex workers (FSW), homosexuals, migrants and people in the places of confinement. According to the data from the Rapid Assessment of Drug Abuse and HIV Prevalence Situation (Rapid Assessment), the number of drug users in Yerevan is approximately 19,000-23,000. Of these, about 10% are injecting drug users. The actual rate of expansion of HIV among IDUs is higher than it is represented in official data. According to the data of the Sentinel Epidemiological Surveillance, it is 14% and in the calculated 90% confidence range it is within the limits of 9-19%. According to the Rapid Assessment, 300-350 individuals out of the total number of IDUs are HIV infected.

WHO data indicate that 40-60% of IDUs may become HIV infected in 2-3 years under the current situation. According to the data of the Sentinel Epidemiological Surveillance, the level of HIV prevalence among FSWs is in the range of 0.5-6%. This means the number, expressed in absolute figures, of HIV infected FSW is 38-450 (the average is 244).

National Center for AIDS Prevention

Naturally, the State implements certain policies within the framework of ensuring state order, for example, in the sphere of childbirth and frequently recurring diseases. However, often delayed financing and lack of reforms have caused serious drawbacks and shortcomings in health care institutions. The already developed "Concept on a Strategy for the Privatization of Health Care Institutions in the RA" envisages the following:

- I With no expectation of fiscal results, to elaborate and apply a differentiated evaluation method for the property of privatized health institutions, with the purpose of increasing the participation of staff in the process of privatization.
- I Privatization of health institutions in special cases in the form of a transfer of state property with the right to privatize health institutions.
- I Integrated privatization of polyclinics and avoidance of post-privatization complications, to make appropriate decisions to privatize the premises occupied by these institutions.

- I To allocate shares to the staff of state health institutions (subject to privatization) in the amount of the state-order financing shortfall.
- I Application of privileged loans.
- I Establishment of favorable mechanisms for outstanding payments.

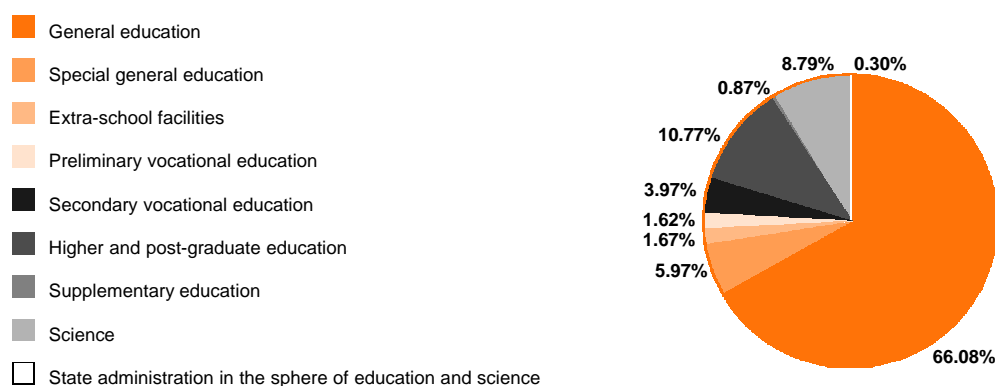
However, full-fledged implementation of the right to health is possible only through a state policy targeted at vulnerable groups and the formation of a real market of services. Privatization alone and envisaged resultant positive changes cannot ensure the implementation of the citizens' right to health. Comprehensive, integrated measures and the implementation of a unified state policy are essential in this matter. Among the steps to be undertaken in the first place are ensuring affordable medical insurance, maintaining a focus on the health care needs of the impoverished and urgent solution of funding problems; establishing a system of family doctors and implementing a state policy on comprehensive preventative health measures.

## 3.7

## The Right to Education

Upholding the right to education is one of the fundamental processes of an efficient use of human potential. By ensuring the formation of the individual, it constitutes a crucial component to human development. The past decade has left a heavy socioeconomic imprint on the sphere of education, which is currently facing severe problems. Presently, secondary, vocational and higher education systems are in an acute

need of financial resources. Having assumed the partial provision of educational expenditures, the State still finds it hard to secure even this portion of financing. A positive shift in this regard is an increase in state budget allocations for education and science (see Figures 3.11 & 3.12)<sup>22</sup>. However, this alone will not rectify the situation, hence emphasis should be on a more effective use of available resources.



**Expenditure Envisioned for Various Spheres of Education in the 2000 State Budget as % of Overall Education Expenditures**

**Figure 3.11**

## 3.7 The Right to Education

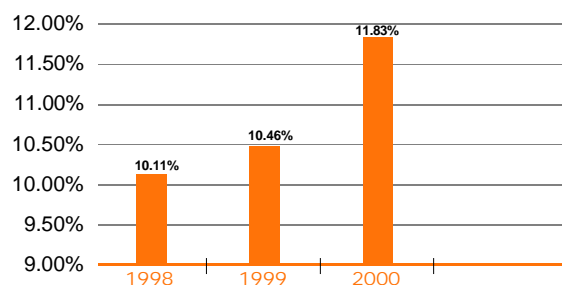


Figure 3.12

### Education and Science Expenditures in 1998-2000 Budget as % of Total Expenditures

In fact, the main burden of financing the education system falls on the shoulders of the population. However, due to the scarcity of resources, the public at large cannot afford to fully support this system financially. The population has to meet high tuition fees in private education, pay for textbooks (though the price of textbooks has been reduced to a minimum through a World Bank loan program), clothing and transportation expenses. This situation has brought about such negative phenomena as decrease in the number of children attending school (especially in villages and small towns). According to the RA Ministry of Education and Science, 20% of students drop out of school after the 8th grade. Experts contend that, according to the results of sample surveys, the number is much higher - 40%.

Schools and education in general are becoming discredited as institutions. Even though there is an oversupply of teachers (65,000 available as against a need for 43,000), there are some 1,600 vacancies, especially in borderline and high mountainous regions. This can be seen as the consequence of the shortfall in school financing, the teachers' low salaries, and hence, the deterioration of the quality both of teaching

and learning. As a result of this erosion of quality, gaining entrance into an institution of higher education has become nearly impossible, based on the insufficient knowledge acquired in school.

The same situation can be found in secondary vocational and higher educational institutions. Steadily increasing unemployment and continuous emigration attest to the fact that nowadays higher education and professional knowledge are not at all sufficient for finding adequate employment. Nor do they address the problem of preparing youth for employment.

Nevertheless, even under such conditions, the number of educational institutions is growing, which means that expenses for maintenance and payroll are also growing. As compared with the early 1990s, both the number of secondary schools and higher educational institutions has grown, even though the number of students has decreased. If in 1990, enrollment in secondary vocational and higher educational institutions was 46,000 and 68,000 respectively, nowadays, the numbers have almost halved. However, it must be noted that the number of the graduates from higher educational institutions each year is the same: over 7,000 people.

## 3.4 Table

Basic Indicators of the RA State Education System<sup>23</sup>

	Indicator	1990	2000
1.	Number of general education schools	1397	1388
2.	Pupils (in thousands)	608.8	597.5
3.	Teachers (in thousands)	57.0	59.0
4.	Number of middle vocational/professional institutions	70	77
5.	Students (in thousands)	45.9	28.0
6.	Number of state HEIs	14	16
7.	Students (in thousands)	68.4	39.8

In addition to the state higher educational institutions (HEI), the number of various private HEI has been growing continuously, amounting to 84 (compared to 16 state HEI), and the level of education is considered to be lower than in state institutions. Nevertheless, a sizable portion of the population attends these institutions, receiving the certificates of private HEIs. Now that the process of accreditation of private HEIs is underway, 11 private HEIs have ceased functioning. For example, about 50 private HEIs function in Yerevan alone, totaling about 13,000 students. Individually, each has a rather small enrollment (only 100-200 students), while students enrolled in the most prestigious ten schools number 8,000.

Under the conditions of ongoing unemployment, the economic crisis and low levels of investment, training so many specialists further aggravates the unemployment problem and causes an imbalance between the citizen's acquired education and the demand for professions. As a result, young professionals become jobless or perform work for which they are overqualified. There is no doubt that the financial resources spent on education and study (or training) both by the State and the population (which is considered a profitable investment in the modern world) in terms of expected results are not justified. The outcome is an overall negative impact on the spheres of education, employment and the labor market.

As of today, there is no concept on the implementation of a comprehensive educational policy in the Republic of Armenia. Generally, the quality of actual education provided in schools and subsequently the educational level of school graduates is far from desirable. The teachers' absurdly low salaries and outmoded teaching

facilities/aids hinder the organization of a favorable educational process. Almost the same problems can be found in the HEIs where, alongside good students, are many whose knowledge does not meet standard requirements.

The RA educational system's decade-long history can be divided into two phases - up to 1999 and after, when the Law on Education was adopted. To realize the principles of the latter, a comprehensive program on the preservation and development of the educational system was designed and the issues elaborated therein are in the process of implementation. The contents of general education are corrected against the indicators for the secondary (full) education, adopted by the Government this year. The Government will also submit for the National Assembly's adoption the "State Program on the Development of Education" which is expected to become the core of state policy in the sphere of education.

*In conclusion, it could be stated that there are a number of problems in the RA concerning the development of civil society and sound human living conditions. In particular, there is no field for free competition among entrepreneurs. However, Armenia is on the right track in regard to policy guidelines and the optimal route for achieving prosperity. To this end, it should pursue equal liability before the law for all, the rehabilitation of the natural volume of the market by means of dramatic growth of solvent demand, the transparency of undertakings and decisions, the promotion of any investment, small or large and last but not least, the rehabilitation of the educational, scientific and cultural potential.*

## 3.8

### Cultural Rights - Enjoyment vs. Obligations

The RA Constitution defines the right of every citizen to the freedom to create and make use of scientific and cultural achievements and participate in cultural society. It also declares the State's responsibility to create an atmosphere conducive to creative activities.

The analysis of this spiritual-cultural-creative atmosphere bears mentioning three important players

- I. the State, as responsible for securing that atmosphere and as the most interested party,
- II. artists, and representatives of culture who create and offer cultural "products" and "services" and,
- III. society as a whole, as consumer and evaluator.

The rights of the State in the cultural sphere are restricted to receiving or demanding products adequate and relevant to the conditions secured by the State itself. As for the obligations of the State, its responsibility could be formulated as:

1. Understanding the role of culture, as a means for promoting the progress and development of a nation, the institutionalization of a respective spiritual-cultural policy.
2. Viewing the national culture as an integral part of world culture and civilization and securing a system for their inter-relation.
3. Formation, in a systematized and comprehensive fashion, an overall cultural atmosphere and high standards for culture.
4. Securing guarantees for the right to intellectual property<sup>24</sup>.

### 3.8 Cultural Rights- Enjoyment vs. Obligations

Issues related to authors' and other relevant rights, which are not regulated by the RA Civil Code, have found detailed reflection in the new law "On Copyright and Adjacent Rights" (adopted on January 12, 2000). It should be mentioned that the RA law on the right to intellectual property is in line with the principles of the Bern Convention on the Preservation of Literary and Art Works. The range of artists' rights and obligations include the creation of "genuine culture" works that are competitive on the world market, that are original, and

able to enrich the treasury of world culture. Society, as consumer, has duties and responsibilities that are limited to the preservation and promotion of current cultural values and assets, while rights in this sphere are rather extensive, being protected and guaranteed by the Constitution. As consumer, society is entitled to make use of and utilize cultural values. Unfortunately this is not realized fully due to a number of objective reasons, primarily of a social nature.

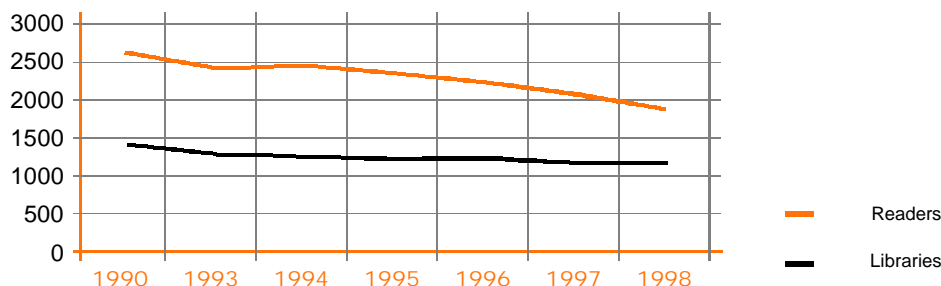


Figure 3.13

The Ratio of Libraries and Readers

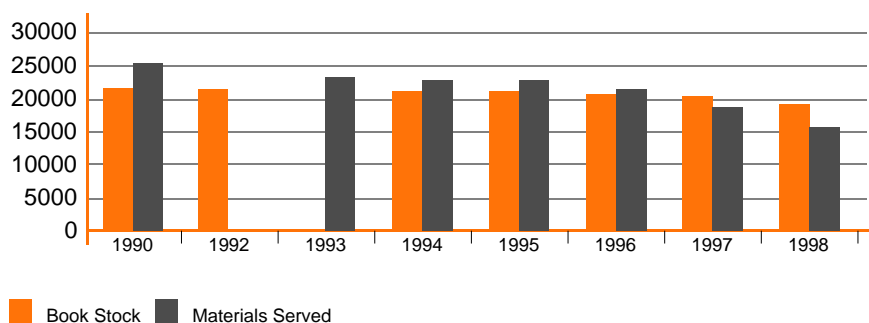


Figure 3.14

The Proportion of the Book Stock and Materials Served

The difficult socioeconomic situation has a dual impact on the development of culture. On the one hand, the dismal situation of the population hampers the formation of a real market for culture. The artists' inadequate living conditions, on the other hand, force them to

engage in rather "non-creative" but relatively profitable activities. Many are obliged to leave the homeland, thus diminishing the cultural potential of the country and obstructing the development of culture (See Box 3.9).

#### Box 3.9

#### Factors Hindering the Development of Culture

During the past ten years only three laws have been adopted in the sphere of culture "On the Export and Import of Cultural Values" (1994), "On Copyright and Adjacent Rights" (1996 and the new in 2000), "On the Preservation and Utilization of the Historical and Cultural Monuments and the Historical Environment" (1998).

The former was elaborated in the spirit of international conventions on the prohibition and prevention of illegal import, export and transfer of the right to property and was adopted with the aspirations of the nation's development. However, of concern were the discord and complications that have emerged after adoption of the law specifically regarding the provision whereby any item of high cultural value and over 100 years old could be exported by a RA citizen from the country after receiving an export permit from a respective Department and Council, whereas the State can purchase them in a year's time from those who temporarily leave the country. Despite complaints, too often heard, that the State functions solely prohibitively without performing its duties, there is no evidence of even one instance that a complaint was filed against the decision of the above-mentioned bodies. The issue of human

rights violation in this sphere is worth scrutiny. Nevertheless, a dozen of items of high cultural value have been purchased from RA citizens over the past few years, according to the Department of the Preservation of Cultural Values.

The indignation of artists at the red tape and taxes levied for obtaining export permits for their works of art was fully justified. The procedure also involved buyers of art pieces. As a result, the businessmen dealing with art-business "imported" the artists instead of their works, who lived and worked abroad and sold their works on the spot.

The situation was considerably eased with the adoption of a decision "On the Regulation of the Export of Cultural Values and Items" 1999, whereby cultural values up to 50-years-old could be taken unprompted out of the country without any permission if the owner's signature and the date of acquisition are available.

Surprisingly enough, the State is as watchful on keeping valuables belonging to individual citizens in the country, as it is indifferent to preserving those national cultural values belonging to the country itself. The draft laws "On Culture" and "On Libraries" for different reasons have failed to be included on Parliament's agenda already for many years. The absence of laws is the main reason why more than one hundred libraries have closed (see Figures 3.13 & 3.14), a number of museums have found themselves in the streets, while bookstores, cinemas and cultural clubs have been transformed into various businesses, and amateur ensembles have been dissolved. The sale of the building of Yerevan History Museum to a foreign investor a couple of years ago had raised big clamor. The "exiled" museum is now deprived of any possibilities to make exhibitions and cannot afford to acquire or build a new building. Meantime, the above-mentioned law obligates not only to prohibit the export of cultural values but also to promote the creation and development of museums.

**"Spiritual Armenia"** Cultural Union

Another important reason is the lack of moral and financial interest. The fact that the State and/or its institutions do not distinguish, recognize or appreciate in any way the spiritual, cultural, or intellectual level of an individual causes indifference in regard to mastering or developing cultural values.

The State does not have an overarching goal and concept for a comprehensive cultural policy. Thus, the existing situation could be described simply as people growing overwhelmingly distanced from culture. Undoubtedly, this is dangerous in terms of national security since Armenia may be threatened with losing cultural identity.

In this context, serious obstacles to human development may emerge on the whole. A cultureless environment itself brings about the expansion and development of low-quality and ill-taste in cultural preferences. It leads to the establishment of measurements and indicators corresponding to those levels. This not only

distances society from real cultural development but also devalues spiritual-cultural relations and hampers human and societal development on the whole.

To improve the situation, a program should be developed and adopted that will safeguard, protect, support the creation of works of culture in the country and a policy must be formulated to foster development and progress in cultural spheres. Foundations must be laid for building economic and moral interest in philanthropy. A system is needed for evaluating an individual's intellectual, spiritual and cultural capacities and potential according to levels commonly accepted by the State and by society. Works of genuine art and culture should be made as accessible as possible. Their demand ought to be guaranteed. A concept for cultural cooperation must be developed and made operational within a to-be established respective institute. Finally, marketing and advertising of cultural events should be effectively targeted and systematized.

## 3.9

## Problems of Specific Groups in the Transition Period

Over the period in question, problems of specific groups and the implementation of their rights take on a particular urgency, especially for the more vulnerable groups such as women, children, pensioners, disabled, refugees and the internally displaced persons.

### 3.9.1 Women

In 1993 and 1994, the Republic of Armenia became a signatory to Conventions against all forms of discrimination against women, on equal compensation of women and men for equal work, on elimination of discrimination in employment and labor and on the citizenship of married women. Yet, in Armenia there are legislative or normative acts (secondary legislative acts) that are discriminative in essence or contradict international documents. At the same time, even the RA Constitution does not contain an article stipulating equal rights and opportunities for men and women.

The RA Labor Code (1972), with its latest amendments, prohibits any restriction of rights or granting advantages on the ground of gender when recruited to work (Article 16), and refusing to hire women or cutting their salary for reasons of pregnancy and child care (Article 197). The labor and social legislation effective in this country envisages sufficient and broad privileges for mothers. The problem is the absence of work.

Labor market surveys indicate that out of 10 employed women, nine are hired labor force. The overwhelming majority of them is partially employed. They work in spheres where salaries are traditionally the lowest, and for those very reasons they are paid much less than men. In 1998 the average salary of a working woman amounted to 48% of that paid to a man. Unemployed

women constitute 63.8% of the total, while 60.1% of the 20-59 age group of economically inactive women, who are a potential labor force, have temporarily left the labor market and are currently "discouraged" workers<sup>25</sup>.

On the policy and decision making level, the absence of quotas for women as a special temporary measure has led to the reduction of the number of women in governmental bodies. The number of women elected to Parliament in 1995 was 12 (6%), whereas the 1999 RA Parliament has 4 parliamentarians (about 3%). The 1999 Electoral Code (Article 100) envisaged a 5% quota for proportionate elections in party lists. The goal was not achieved since women were mainly at the end of party lists. As a result, only 3 women were elected by proportionate procedure. It is interesting to note that not only authorities and governing bodies, but also most of society have a negative attitude toward quotas, believing that the quotas violate the principle of gender equality. There are only five female deputy ministers (Health, Education and Science, Culture, Sports and Youth Issues, Justice, and Urban Development). In the judiciary, out of 139 judges, 29 are female.

The problem of violence against women in domestic life is of some concern. If worldwide every third woman is treated violently, then in Armenia, according to available data, women are much less exposed to violence in private life. Some contend, however, that in most of the cases, especially if it is domestic violence, victims hide the fact of violence.

It should be stated that there is discrimination against women in the Republic of Armenia. Naturally it is not encouraged by the State. However, the measures undertaken to combat discrimination, even if ever applied, have been very inefficient (See Box 3.10).

### Box 3.10

#### The Imperative for the Improvement of Women's Situation

Over the past decade, women's situation in Armenia has drastically deteriorated, with increased rates of unemployment and poverty, and women being left out of the decision-making processes. The national legislation that regulates rights of women and children is of a declarative nature, since mechanisms securing their implementation are either non-existent or ineffective. There are neither provisions in the legislation defining women's discrimination, nor are there those securing equal opportunities; hence the current difficult socioeconomic conditions only deepen the gap and supremacy of one gender over the other.

The fact that Armenia has not yet joined the Convention on the Political Rights of Women testifies to this problem. Thus in 1998, the national program adopted by the RA government envisaged 28 mea-

asures on the improvement of the conditions of women to be implemented in 1998-2000. However, they have mainly remained on paper. Three years have passed but those documents have not received any publicity and in the most have not been carried out. This speaks to the lack of information, the absence of political will and weak cooperation of relevant NGOs.

The realization of documents adopted by the government on women's issues is infeasible without enhancing women's opportunities and reinforcing cooperation of NGOs and mass media, the effective dialogue of NGOs and the authorities and partnerships with international organizations.

**Women's Republican Council**

### 3.9.2

## Children

Armenia's legislation upholds children's rights. As far back as in 1992, the Convention on the Rights of the Child was ratified. As a follow up to the RA Constitution, the RA law "On Child's Rights" was adopted (1996). The legal relations concerning children are regulated by the new RA Law on Citizenship (1998), by the Marriage and Family Code and other normative acts. However, there are still contradictions and the most evident example of a breach of children's rights at a legislative level can be found in the field of health care (see Chapter1).

Among the most vulnerable groups are children without one or both parents, from families that have lost a breadwinner, divorced families or families with numerous children, and single mothers' children. The problem of children residing in temporary shelters is most urgent for Armenia - amounting to about 4,200 refugee-children and about 43,500 children in the earthquake zone. The number of beggar and vagrant children who live or work on the street is growing day by day at an alarming rate. Statistical data show that the number of children enrolled in the first grade does not correspond to the overall number of school-aged children. And not only in the first grade. Though few, there have been cases when parents are unaware of what their children are doing. Sometimes, it was the parents who drove their children into the street to make a living by begging.

About 75% of children in orphanages and boarding schools are orphans deprived of one or both parents. The issues of their adoption are regulated by RA government decree No.64 (February 12, 2000). The remainder of children in orphanages are those whose parents have sent them to the orphanage where they will be provided with food and clothing.

Armenia's legislation covers in detail the question of minors engaged in work or employment. According to the law, teens aged 16, and in exceptional cases those aged 15, are permitted to work. In terms of compensation, the minors are equal to adults. In terms of working conditions, they have been granted significant privileges. However, in recent years children under 15 have been increasingly engaged in street trade. Naturally, the conditions of their labor are not legally established, hence there can be no talk of the protection of their rights. These extraordinary phenomena, new for Armenia, are quite alarming.

At the community level, commissions on minors' affairs track and record the numbers of homeless children. The Ministry of Education and Science has been working on a concept for dealing with such children. However, due to lack of funds the burden of this problem falls mainly on the NGOs, including international ones (see Box 3.11).

### Rights of Children in Special Institutions Endangered

#### Box 3.11

From June-August, 2000, with the assistance of an international consultant, UNICEF conducted the assessment of children's needs and rights in residential-care institutions in Armenia. The analysis covered 25 of the 47 institutions functioning in the country, which are under the administration of the Ministries of Health (psychiatric hospitals), Social Welfare (orphanages) and Education (special boarding schools). The conclusions show that, at present, children's survival, development and protection rights are at serious risk in most of the institutions. Major findings show that of all the institutions visited during the assessment: 80% cannot provide adequate food, shelter, health, education or social services; 75% function in buildings that are hazardous for children; 50% do not organize any play or leisure activities to foster children's integral development; 30% have staff who are not adequately qualified or trained to assist in the integration or rehabilitation of children with special needs or disabilities; 80% of rehabilitation programs are not tailored in accordance with the needs of the individual child; 60% have accepted large numbers of "socially vulnerable" children, but only a small number of institutions are aware of the special protection needs of these children and their rights.

On a more positive trend, the study found that institution staff have gradually become more aware and sensitive towards the child need for keeping ties and contacts with his or her family and community. This trend, largely a result of the interventions by various organizations to assist these institutions in the last 7-8 years, was confirmed during the planning workshop that followed the conclusion of UNICEF study. The three-day workshop, facilitated by the consultant who led the study, included the participation of 30 national and local government officials, staff from residential-care institutions and national and international NGOs. The main purpose of the workshop was to analyze the results of the study and, on the basis of the national laws for child protection adopted by the country in 1996, propose a "plan of action" to strengthen non-residential alternatives for children. The proposed plans are mainly for application at the local/community level and inter-sectoral, including local government and non-governmental organizations. The most positive result of the workshop was the renewed debate among various organizations and groups and restored dialogue between national and local authorities. Also, both the "situation analysis" and the workshop raised considerable awareness about the urgent need to re-define services on the basis of children's needs and rights.

United Nations Children's Fund, Armenia Office

### 3.9.3 Pensioners, Disabled

The number of pensioners in Armenia amounts to 583,000. The 1995 RA Law on State Pensions, which is a revision of the 1992 law, has changed eligibility requirements and support levels, and this has led to drastically worsening conditions for pensioners. It has raised women's retirement age from 55 to 63, and that of men from 60 to 65. Women who have four or more children, as well as women who have under their care officially registered disabled children under 16, become pensioners at the age of 58, instead of the previously accepted 50. The pension amount is insignificant and does not cover even minimum expenses. A person with 40 years of work experience receives 4,800 AMD (about 9 USD). Children disabled since childhood, before turning 16, get a social pension of 3,200 AMD (about US\$6). When there is a loss of a breadwinner, each orphan with one parent gets 3,200 AMD.

All allowances and privileges envisaged for these categories were lifted from January 1999 when the family allowance system was introduced. The amount and indicators for the allocation of the family allowances

have been bitterly criticized not only by the population but also by the social workers. At the same time, the utility, electricity and telephone tariffs are growing.

It is not incidental that under the above-mentioned background, the elderly begging in the streets and digging in trash bins have become part of ordinary life in Armenia. As a rule, they are single and deprived of help. On the whole, the elderly in Armenia can be considered a tragic generation. Cataclysms or transition shatter the life of any generation, while the elderly in Armenia have experienced it twice -the beginning and the end of their lives have coincided with two extreme phases of society's transformation, neither initiated of their own will. The first shift began with their parents' generation, and this latest shift, by their children. Their lives were of difficult years and diligent work, ending with the dissipation of all their hard-earned income, saved in banks for a secure old age. The reimbursement of their accounts is an issue yet to be resolved in the future, though it is mentioned in every pre-election campaign. Hence an imperative for the present time is the social assistance to the elderly and the legislation regulating their survival (see Box 3.12).

#### Box 3.12

#### The Necessity of a Law on Social Assistance to the Elderly

In Armenia the ratio of the elderly in the 1960s did not exceed 7-8%, in the 1970s it amounted to 9%, while today the factual ratio of the population above 60 is 16% and 20% in the borderline marzes. The ratio of the elderly increases the burden on the economically active population and consequently provokes social tension.

One of the main shortcomings of the social protection system for the elderly is the lack of legislative acts regulating the spheres of social assistance and benevolence. The issues of social assistance are mainly covered by NGOs, which are permanently encountered by the gaps and imperfections in the legislation. Of special evidence is the lack of legislatively envisioned guarantees for the health care of the elderly, financial-economic insurance, social services provided at home, legal and psychological consultancy on the privileged basis, the obligatory care of parents by their children, the prevention of infringements towards the elderly and the protection of their rights.

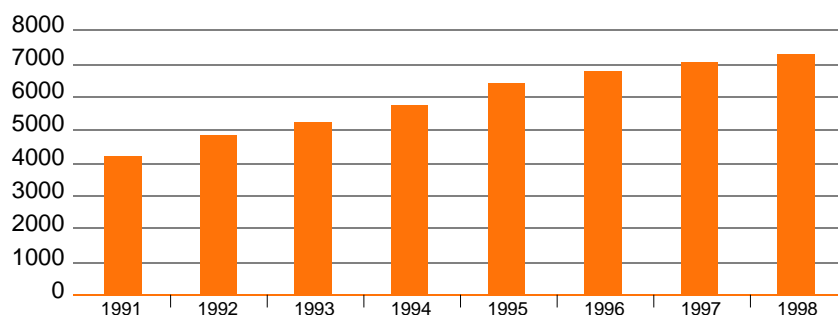
Mission Armenia Benevolent Union

To resolve the existing issues of pension security and adapt the system to emerging socioeconomic conditions, a new policy has been adopted. In 1999 the Government adopted "The Concept on the Introduction of Individual Social Security System for the Citizens in the RA" and endorsed the concept of the law "On Obligatory Pension Insurance" in 2000. The new pension system will comprise obligatory insurance, state pension security and voluntary pension insurance.

At present disabled people in the country number approximately 110,000 (about 3% of the population). The provisions of the 1993 RA law "On the Social Protection of the Disabled" fully comply with the Declaration on the Rights of the Disabled (1975), which Armenia joined in 1992. However, in reality most of these provisions are not implemented. At the same time, some legal acts on disability and the disabled dating back to Soviet times are still effective, which

provide limited possibilities to engage them into social life (the situation is aggravated by insufficient physical accessibility to buildings in Armenia). According to these acts, the classification of disability is based on the degree of the person's loss of working capacity or the extent of its decline. At present the "By-laws of Medical Expert Commissions" and "Procedure of Recognizing a Person Disabled" as well as indicators and classifications used in expert assessment have been developed.

The employment provision for the disabled has not been solved up to date. The attempt to make an amendment in legislation (establishment of employment quotas for the disabled) did not exert any results. The increase in the number of disabled children in Armenia is matter of serious concern (see Figure 3.15).



Number of Disabled Children Under 16 Years Receiving Social Pensions in the RA

Figure 3.15

### 3.9.4 Refugees, Internally Displaced Persons

The forced migration of refugees into Armenia started in 1988. By 1994, 419,000 refugees were registered. Most, 360,000 persons, came mainly from Azerbaijan. The others arrived from Abkhazia, Chechnia and former Soviet republics. The majority of them were ethnic Armenians.

The RA ratified the 1951 Convention on the Status of Refugees in 1993 and the RA Law on Refugees was adopted in 1999. It, in fact regulates the legal relations of the newly arriving refugees whose number in this country is insignificant.

As of August 1, 2000, refugees in Armenia amount to 289,680 people. About 64,000 refugees have left for

other countries, mainly, Russia. Shelter and employment are the major problems that refugees encounter: out of 60,000 refugee families, 14,500 still do not have permanent place of residence. The unemployment rate amongst the refugees of working age is 70 % (see Box 3.5).

By GoA decrees, in all issues, except exit and entry into the country, the refugees have been actually equalized with the RA citizens, they have the right to elect and be elected into local bodies of self-government, the right to serve in the army, etc (see Box 3.13). International organizations, including the UN office in Armenia offer great assistance in the solution of the refugee problems.

## Box 3.13

## Citizenship Law

On 26-27 July 2000 the Office of the United Nations High Commissioner for Refugees (UNHCR) in Armenia organized a Workshop on Statelessness/Acquisition of Nationality in co-operation with the Council of Europe. Major issues discussed during the workshop included the 1954 Convention on Status of Stateless persons, the 1961 Convention on the Reduction of Statelessness (Armenia acceded to these two international agreements in 1994) and the 1997 European Convention on Nationality. Linkage was made between the application of the above-mentioned international and regional instruments in the Armenian legislation.

The workshop discussed the correspondence of the RA Citizenship Law to requirements of international instruments related to Citizenship/Nationality. The Workshop covered all aspects of the above law. In particular it was noted that almost all major provisions of the 1954 and 1961 Conventions are reflected in this law.

The RA Citizenship Law requires that the norms qualified in the international treaties adopted by the RA prevail over the norms of this law. It follows that generally Armenia abides by basic norms of the 1954 and 1961 Conventions.

In accordance with Article 32 of the 1954 Convention "the Contracting States shall as far as possible facilitate the naturalization of stateless persons". This provision is clearly reflected in Article 8 of the RA Citizenship Law, which says that the Republic of Armenia encourages the adoption of RA citizenship by stateless persons. For instance, in relation for the ethnic Armenian refugees the above-mentioned article is fully implemented and for the period of 1999 up to August 1, 2000, 14,547 refugees have naturalized.

The whole concept of international protection is based on the idea of providing assistance in seeking for permanent solutions for refugees. The majority of refugees are de jure or de facto stateless, and their naturalization acquires special importance in view of efforts of international community to cope with statelessness. By virtue of Article 11 of the 1961 Convention, UNHCR was assigned by the UN General Assembly as a "body to which person claiming the benefit of this Convention may apply for the examination of his claim and for assistance in presenting it to the appropriate authority". Proceeding from this, the UNHCR is interested in organization of such kind of discussions in the country like Armenia, where after the collapse of Soviet Union the refugees are de facto stateless in order to elucidate the gaps in legislation and find the solutions for existing problems.

**United Nations High Commissioner for Refugees Armenia Office**

Issues related to the internally displaced persons (those who have been forced or obliged to flee or leave their homes or places of habitual residence, and have not crossed an internationally recognized state border) are another serious concern of the country. According to official data, as of May 2000 there are 192,000 internally displaced persons (IDPs) in Armenia as a result of -i) military activities on the borderline areas (72,000); ii) the 1988 earthquake (100,00); iii) landslides in Voghjaber, Yeghegnadzor, Dilijan (10,000); iv) disruptions in the economic activity (Yeghvard, flood due to cracks in Akhurian reservoir, etc - 10,000). Though the State has exerted certain efforts to pursue differentiated policy in regard to IDPs (in 1998 the GoA approved

a special program on the social economic development of borderline and high elevation regions), the realization of their rights mainly those of housing and employment is far from satisfactory.

The current situation with specific groups in the RA dictates a preparation of a comprehensive poverty eradication policy a strategy for its implementation, involving all the interested players. The acuteness of employment provision prompts development of a program targeting women, young people, refugees, IDPs and disabled. The establishment at the RA government structures of National commissions on women's, children's and youth problems is seen as an effective facilitating phase.



Chapter

# 4

## Manifestations of Human

Rights  
Dual Nature

4.1	<b>Developments Affecting the Human Rights Enjoyment-Obligation Paradigm</b>	85
4.2	<b>Enjoyment- Obligations of Human Rights for the RA Citizens</b>	86
4.3	<b>The Practical and Legal Aspects of Enjoyment and Obligations of Human Rights</b>	87
4.4	<b>Political and Psychological Aspects of Enjoyment and Obligations of Human Rights</b>	88
4.5	<b>Accountability</b>	89
4.6	<b>Good Governance as a Result of State and Civil Society Functioning</b>	92
4.7	<b>Process of Globalization in Human Rights</b>	95
<b>Boxes</b>		
4.1	From Self-Protection to Misdemeanor	87
4.2	The Main Principles of the Draft Law on Civil Service	90
<b>Figures</b>		
4.1	The CHREO System	88
4.2	Crises Phases in Armenia Impacting HR & HD	89
4.3	Marginal Populist Model of Participation	93
4.4	Model of Liberal Participation	93
<b>Tables</b>		
4.1	The Corruption Perception Index according to 2000 TI Report	94
4.2	Assistance Rendered to Armenia in the Field of Governance	94
4.3	Freedom Rating of Countries	96

## Developments Affecting the Human Rights Enjoyment-Obligation Paradigm

The transition from one value system to another, as in other post-soviet republics, likewise in the Republic of Armenia has turned into a lengthy period of social, political, economic, cultural, public, individual self-determination and fundamental transformations of public administration systems<sup>1</sup>.

These processes aimed at changing the Communist mentality targeted the development of individuals who are self-determined, fully responsible for their destiny, actions, and behavior, who are committed to democratic values, abiding law-and-order and who enjoy social protection.

Conditions for reaching that objective include the existence of a sovereign, democratic, rule-of-law, social **state**, adequate **institutions** and protocols enabling individuals to act in accordance with their liberal and democratic values, as well as of **civil society** which safeguards people's interests and articulates their problems.

Throughout Armenia's period of transition, the individual's process of self-determination and the establishment of institutions of human rights and freedoms were affected not only by the habits of the former communist value system, and the social, ethnic, and cultural characteristics of the Armenian identity, but also by the following factors:

- | **The challenge of globalization and integration:** the objective necessity of Armenia's participation in world integration and progressive cooperation in all fields.
- | **The challenge of statehood:** the objective necessity and unprecedented opportunity for creating the sovereign Armenian state.
- | **Semi-presidential form of governance in RA,** depending on the situation, this creates favorable conditions for political processes with sometimes "super-prime-ministerial" and sometimes "super-presidential" tendencies and the establishment of democracy with limited participation [2]\*.
- | **"Five crises of political development": distribution, participation, identity, mobility, and legitimacy.**
- | **Democratization's "revolutionized" starting-point:** Democratization emerged as a nationwide movement, resulting in "revolutionized" attempts at submerging values, preconditioning anti-social

## 4.1

behaviors, and establishing public and state institutions advocating on behalf of corrupted group interests.

- | **Absence of uniform logic and mutual relations among the accomplished reforms:** the artificial character of reforms and low level of supervision, the calculation of acceptable limits of changes, done without foresight, in many cases the inadmissible character of reforms from psychological and moral standpoints.
- | **The Karabagh - Azerbaijan Conflict, and, consequently, Armenia's economic blockade,** which directly or indirectly restricts and sometimes even infringes upon the rights of the citizens of RA.

Given the impact of the above-mentioned factors, in the course of fulfilling the aforementioned objectives, the following negative phenomena - along with positive processes - have occurred in Armenia:

- | A multitude of socially unprotected, marginally poor avoid taking control of their own destinies or are deprived of that opportunity. In an environment of non-tolerance, these individuals do not share homogeneous value systems and avoid performing their duties and responsibilities given the conditions of absence of rule-of-law within a legal system that implies the supremacy of law;
- | The State is not a fully-fledged rule-of-law, democratic and social.
- | Institutions of civil society are semi-dependent or non-independent.
- | People's interests are insufficiently protected and solutions to fundamental problems are inefficient.

Rights, freedoms and obligations of individuals and citizens have found their legal codification in Chapter 2 of RA Constitution and in the RA legislation. However, as regards implementation, there are a number of fundamental, theoretical as well as practical legal-political-psychological issues. In the Armenian reality, no matter how perfect the legal formulation of those rights, freedoms and obligations could be, their enjoyment is predicated by the substantive mechanism of the institutions of those rights and obligations. That is, functional, behavioral and structural models, as well as realization mechanisms, i.e. the socio-political environment, can foster a gradual evolution of the necessary institutions and political culture.

## 4.2

## Enjoyment - Obligations of Human Rights for RA Citizens

Chapter 2 of RA Constitution, **Fundamental Human Rights and Freedoms**, enshrines the following system of rights and freedoms:

a) *in a functional perspective* - stipulates for a citizen of the Republic of Armenia claim-rights, freedom-rights, the rights which presuppose certain powers and immunity, and that may be exercised both individually and in conjunction with others.

b) *in a behavioral perspective* - in regard to one's freedoms and power, a citizen is ensured the right to legally stipulated, admissible and possible behavior. These include, inter alia:

1. the right to undertake certain positive actions,
2. the right to demand actions from others,
3. the recourse to the State system of enforcement in case the other party fails to abide by the assumed obligations,
4. the opportunity for availing of certain social benefits.

c) *in a structural perspective* - these rights and freedoms combine the social, political, economic and cultural systems in RA, thus providing a foundation for shaping the institutions and actors that perform relevant functions in those systems and that display possible and admissible behavior as well as the relations between the State and individual, between individual and individual and between individual and the society.

The same holds true for the obligations stipulated by the RA legislation. This is a mechanism, which:

a) *in a functional perspective* - ensures the implementation of certain legally prescribed functions (e.g. economic ones, the protection of the country, etc.), permeates the entire social organism both vertically and horizontally, stabilizes it and renders it healthy, and precludes the "war of all against all";

b) *in a behavioral perspective* - ensures legally stipulated (and codified) human behavior within the context of necessity and subordination, including

1. the necessity of undertaking of certain mandatory actions (e.g. payment of taxes and duties, preservation of the natural and historical environment, etc.) as well as the necessity of refraining from some actions (e.g. from infringing on the rights of others),

2. the necessity of meeting and responding to legitimate demands of other citizens and actors (e.g. to act as a defendant),
3. the mechanism that incurs the liability for failing to meet those demands (legally stipulated negative sanctions),
4. the necessity of not impeding others to make use of the available social goods and benefits (e.g. the right to social security);

c) *in a structural perspective* - this is identical to the above mentioned institution of the enjoyment of rights and freedoms.

Whereas some obligations are explicitly formulated, in fact each human right stipulated or implied by RA Constitution does in its turn presuppose, albeit indirectly, an obligation. With feedback, coordination and harmonization, these two elements (right vs. obligation), as a rule, sustain each other and ensure social compromise and mutual understanding as well as a rational balance between the interests of the State and society at large, on the one hand, and their constituent elements, on the other.

The RA Constitution contains an extensive list of human rights and freedoms, whereas the unambiguously formulated obligations are few. It is noteworthy that an individual's obligations vis-a-vis the State and Natural-Historical environment are spelled out: to comply with the Constitution and the laws (Article 48), to pay taxes and duties, to make other mandatory payments (Article 6), to preserve Nature (Article 8), to display a careful attitude toward natural resources and to historical and cultural legacy (Articles 10, 11), to be called up for active military service (Article 47). Other obligations of a RA citizen proceed indirectly from his/her rights and are mostly related to the relations between individuals, between individual and the society and between individual and social institutions and to social order. For example, as for the obligation to respect the rights of others as well as for tolerance, caring and responsible attitude and other obligations deduced from the respective rights, these obligations are reflected in such phrases as "a person may not be subjected to...", "it is prohibited," "all are equal...", "each individual citizen has ..." and other formulations.

## 4.3

## The Practical and Legal Aspects of Enjoyment and Obligations of Human Rights

The imbalance between rights and obligations in RA result in violations of law. At the same time, as a precondition for bilateral and multilateral relations, those rights and obligations have an open-ended structure, thus making the involvement of new actors possible. Hence, the bilateral violation of rights and obligations results in a snowball effect of numerous and multilateral violations (See Box 4.1).

### From Self - Protection to Misdemeanor

#### Box 4.1

On December 10, 1999 ... RA citizen, unemployed Kirakossian, stole ... a 30-cent-worth hanging trinket... from the car (make VAZ 21-06, with license plate # B 58-60 AP) failing to see a sleeping driver inside. He committed that offense with the intention to barter the trinket ... for two pounds of beans and to feed his large family that day. One of Kirakossian's children died; the second is disabled, whereas his wife is unemployed like him. The offender was taken to the police station of Erebuni district and criminal proceedings were instituted against him in conformity with Part 2 of Article 92 of the RA Criminal Code (theft of property of small value). That Article stipulates the sentence of 1-year imprisonment or a fine of up to 50,000 AMD.

... The case was taken to the court of first instance of Erebuni and Nubarashen community. Besides the aggrieved party, five witnesses were called to the trial ... to give their testimonies ... against Kirakossian ... and these would have to travel quite a distance since they reside outside the capital city. The judge decided to mete out the mildest punishment of the fine that equals 50 minimum wages. Kirakossian heard the sentence with bewilderment saying that he would not be able to pay a sum like that, which would make it possible for his family to subsist, albeit barely, for an entire year.....

(L. Avagian. The case of a 30-cent trinket. Aravot daily, August 1, 2000).

Numerous and multilateral violations of rights and obligations in the case cited above are obvious. It was incumbent upon the State to ensure the right of the RA citizen Kirakossian and of his family to adequate living standards by taking necessary steps (Article 31). The provision of Article 32 that "family, motherhood and childhood are under the guardianship and protection of the society and the State" was not complied with and the respective rights of the Kirakossian family were violated. Also violated were the rights of the RA citizen Kirakossian's family, of his wife and disabled child "to social security in cases of disability, disease, ... unemployment and in other cases stipulated by law" (Article 33), etc.

In order "to restore" his and his family's right to adequate living standards via the intention of bartering the stolen hanging trinket for 2 pounds of beans, Kirakossian resorted to a negative behavior, infringed upon Gegham Matevossian's ownership of the hanging trinket as well as upon the rights of others (at least of 5 individuals) and transgressed against public order by verbally assaulting Matevossian. The court's ruling and law-enforcement personnel of Erebuni community also violated another legal norm. According to Article 7 of the Criminal Code, "the action or lack thereof, which, even though formally contains the features of a crime, as qualified by the Criminal Code but which, owing to its minimum significance, does not pose social danger, shall not be considered crime". Material damage was done to the State, too, considering trial-related expenses as subpoenas, envelopes, postage stamps, salaries, travel expenses, etc. Five witnesses would have incurred travel-related and other expenses if they had indeed come from quite a distance to the court to testify against the unemployed Kirakossian.

It is typical that even when a RA citizen sees his/her obligations towards the State as mandatory, not infrequently s/he does not see his/her obligations towards society and other people as equally mandatory since these are only indirectly related to the relevant rights and are generally perceived by RA citizens as belonging to the sphere of ethics.

Thus, where the perception of rights is concerned, in the Republic of Armenia it is necessary to clarify the rights and obligations and to simplify and unify their implementation mechanisms. Democracy as reality is to a great extent predicated on how full-fledged is the enjoyment of rights and how unambiguously and consistently the obligations are met.

## 4.4

### Political and Psychological Aspects of Enjoyment and Obligations of Human Rights

**Political and psychological aspects.** In this period of transition the delicate balance between human rights enjoyment and obligations has been upset in RA to a greater extent than in stable, democratic countries. The disturbance of that balance has brought about societal disequilibria thus impeding the formation of a climate favorable for the improvement of living standards. The political crises in the RA have essentially contributed to the emergence of that situation, adversely impacting the respect, protection and fulfillment of human rights and **the culture of human rights enjoyment and of obligations** (hereinafter the CHREO)(Figure 4.1).

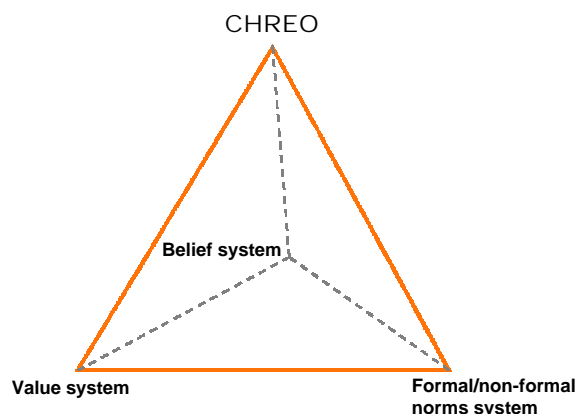


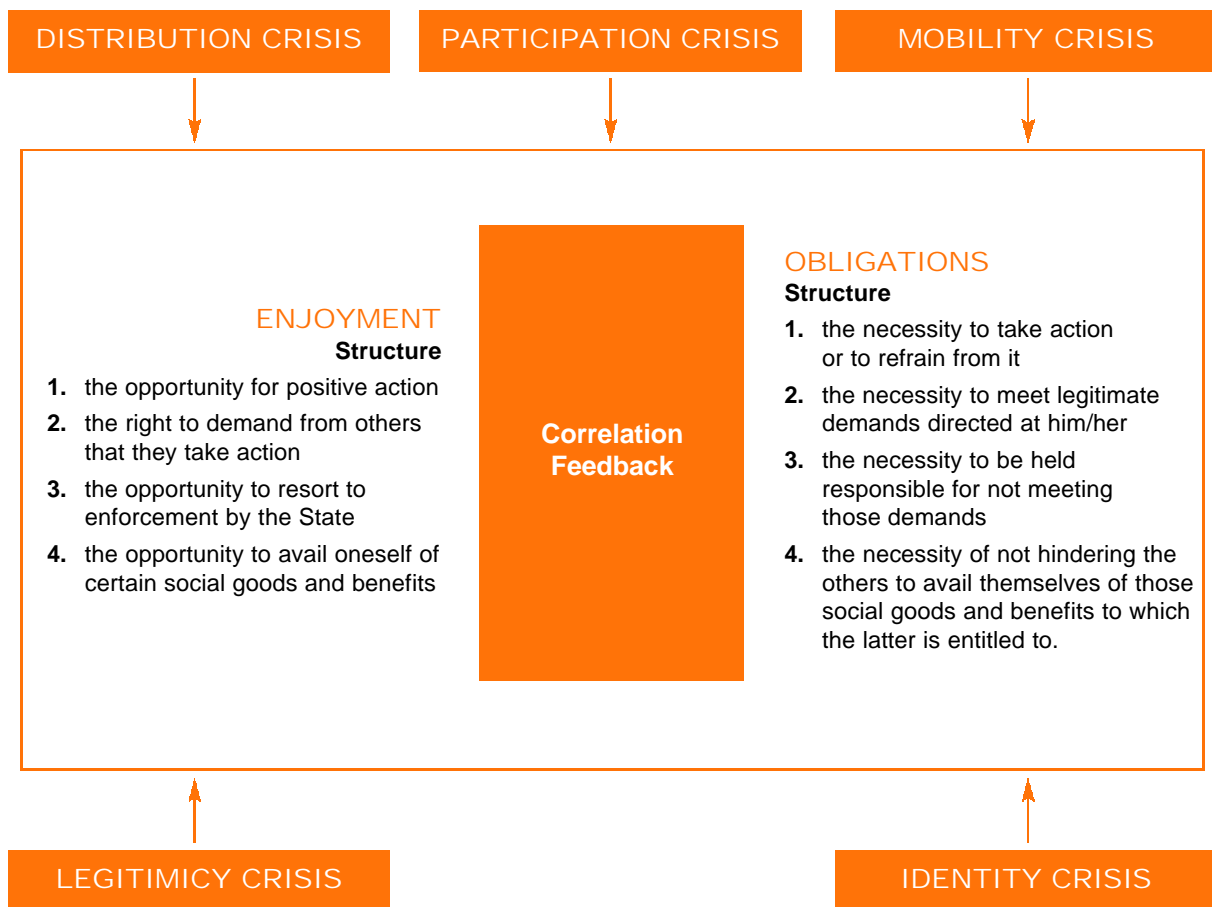
Figure 4.1 The CHREO System

unfolding against the background of political, economic and other privileges being granted to certain social groups and of societal polarization, in the aftermath of which the traditional Soviet equality vs. inequality ratio was thrown off balance. The privileged groups and individuals were afforded the opportunity to influence profoundly the behavior and political decisions of other actors. The participation of the majority of actors in almost all areas was severely limited, bringing forth the **participation crisis** reflected via absenteeism or marginal populist participation.

The groups with no leverage on political processes have come to demonstrate the phenomena of disappointment, alienation and anomie and to experience devaluation of social norms and prerequisites. That was the reason why eventually deviant, asocial behavior was on the rise, including deviance from normal and admissible behavior, flight from the realm of freedom and power, in fact the flight from one's own rights and freedoms. Essentially, it means that value-normative system (poles I and II), including human rights and freedoms and the values of duty and obligation, is going through a crisis, thus having a drastic impact on the sub-systems of those values and norms and especially on the belief system (pole III)(Fig. 4.1).

The CHREO system has been affected adversely not only by disappointment but also by the discrepancy between expectations and available opportunities. As a result of that psychological factor, the gap (frustration) between the expectations (beliefs) of a population segment, of certain social groups in the RA in terms of exercising their own rights and freedoms and the existing opportunities for meeting them has been gradually growing. The inherited value system and political order have been struck by the **legitimacy crisis**. New models of conduct and new values are perceived with distrust, which is a serious impediment for any social group to identify with the ideal. That leads to the **identity crisis**. Alienation, decline of social mobility and the wanderings in various socio-economic and political groups caused by the identity crisis have, in their turn, brought about the **mobility crisis** (Figure 4.2).

The **distribution crisis** was the first that emerged in the course of implementation of reforms in the RA in the 1990s. The transition from a merely declarative Soviet equality to an open social structure required firstly the redistribution of social goods, roles, statuses and material resources. The redistribution process was



Crises Phases in Armenia Impacting HR &amp; HD

Figure 4.2

Thus, in the Republic of Armenia the value, norms and belief sub-systems of the CHREO (three poles) are going through crisis. As a result, the balance between the HR enjoyment and obligations has been disturbed. Alienation, limitation of participation, distribution, mobility, legitimacy and identity crises have divested an individual of the opportunity of enjoying natural rights and freedoms and have contributed to a breach

of obligations, hence, to a crisis of the CHREO.

The axiom is that smooth functioning of society is predicated on the balance between rights and obligations and between freedom and responsibility. It is only through an adherence to that principle that will make the balanced, sustainable and durable development of this country possible.

## Accountability

From the human rights enjoyment and obligations perspective, the issue of accountability boils down to answering two key questions:

1. To what extent do RA citizens recognize, respect and ensure each other's rights and freedoms?
2. To what extent are the reciprocal obligations fulfilled?

The greater the gap between the HR enjoyment vs. the obligations components in the RA, the lower the degree of accountability. The latter presupposes a

multi-party dialogue. Depending on how efficient such a dialogue is in the RA, as a form of participation displayed by all parties involved, the degree of accountability will vary accordingly. In daily life, the mechanism of accountability of the State-individual, individual-society, is easier to see, even though that mechanism is no less important at other possible levels (individual-individual, individual-private sector, individual-civil society and RA citizen-international community, etc.).

In the Republic of Armenia a negative phenomenon persists in the mechanism of mutual accountability of intra-State actors, viz. their position in the hierarchy. A truly democratic regime would have opted for a mecha-

nism of horizontal accountability for all the incumbents, whereas so far the Armenian hierarchic nature of the past has been preserved.

*The State.* The principles of the State's accountability to society and its members is stipulated by Article 2 of the RA Constitution. The areas of the State's accountability precisely coincide with the obligations and functions of the State and its institutions as set forth in the RA Constitution and the laws (fulfillment of human rights through exercising legislative, executive and judicial powers in compliance with the Constitution and the laws (Article 5), etc.). An important integral indicator to accountability is the degree of the legitimacy of power, which sums up the real outcome of the answers to the two questions mentioned above. It is also incumbent upon the State, as a principal structure that ensures the RA citizens' rights and freedoms, to set up such conditions and institutions that will promote not only human rights but also human development and human security. Among such conditions and institutions are a full-fledged sovereign, democratic, social State based on the rule of law, civil society building, the safeguarding of supremacy of law. In terms of the listed criteria, numerous indices could be mentioned for the RA, ranging from social and economic (poverty-, unemployment-, emigration-, crime- and shadow economy-related measurements) through political ones (citizen participation in elections and in governance of the country), etc. It has to be noted, however, that these

indices testify that the relationship between the HR enjoyment and obligations is weak and far from harmonious, irrespective of whether the actors are the State, RA citizens, civil society or private sector. If the rift between those two components is huge, there will be no chance for starting a meaningful theoretical or practical dialogue about the issue in question and, consequently, for accountability.

It is also noteworthy that the promises given to the RA citizens during election campaigns as per the same marginal populist pattern serve merely the purpose of winning the votes; however, as a rule, those promises are not fulfilled. And if after they come to power, the promise-makers launch the political or other discussions of those issues, more often than not the decisions are not made at all (or, if made, are not implemented) or else the decisions made reflect the interests of the clans. In any case, they are not in the best interests of the RA citizens. That is the outcome of the plain reality that in the RA the role of a social State grounded in social justice has been distorted.

Incidents of violation of the rights of civil servants and of arbitrary discharge from their positions, etc. are not a rare occurrence because laws on government and civil service are non-existent. In this regard as a positive step could be viewed the draft law of civil service elaborated by the working group of the Commission on Governance reforms and put into circulation for discussion (see Box 4.2).

## Box 4.2

### The Main Principles of the Draft Law on Civil Service

Recently issues related to civil service have acquired special attention, and been actively discussed in the National Assembly, Government and NGOs. The Commission on Governance Reforms and relevant working groups, formed by the Prime Minister's decree, have worked out a draft of the "Law of the Republic of Armenia on Civil Service" which consists of 8 chapters and 57 articles and regulates the organization, management of civil service (CS) in the Republic, the legal status of civil servants and other relations. The law defines the conceptions of political and discretionary posts, the sphere and scope of effect of this law.

According to the draft law, the posts of the RA President, NA parliamentarians, RA Prime Minister, ministers, the heads of communities are considered political posts. Discretionary posts are considered those of deputy ministers, the heads of RA President's and Prime Minister's staffs, heads of departments, Marzpets (heads of local governments), the Mayor of Yerevan city, heads and member in the regular payroll of standing commissions (councils) formed by the laws of the Republic of Armenia, including the chairpersons and members of the Civil Service Council. Civil servants are considered persons occupying a post contained in the roster of civil service posts.

The law also defines the CS main principles, particularly stability, transparency, uniformity, political restraints, professionalism. The CS grades are divided into the following groups - the highest, chief, leading, and junior posts. It is envisioned that civil servants will be granted classification grades. Each CS post should have its passport (job description), which is a legally approved document on the envisioned rights, duties and requirements for a respective classification grade. The law also defines the scope of persons eligible for joining civil service, limitations to that right, the competitiveness of the selection, relations regulating the vacancy filling, working experience and the signing of working agreements, presents the qualification and training of the civil servant, their inclusion in rosters.

The draft law further relates to the legal status of a civil servant, his/her rights, responsibilities, restrictions associated with service as well as social security issues, defines the incentives, responsibilities and termination of the authorities of civil servants. The law also regulates the relations with top management of the civil service authorities, particularly the Civil Council and the chief of staff. A uniform state policy on CS is carried out by the Civil Service Council, which is accountable to the RA President. Finally, the draft law provides for relations on putting the law into effect and responsibility for violating the law. A series of legal acts stemming from the law are envisaged.

#### Working Group on the Civil Service Reforms

The stereotype of an almighty State that regulates everything and provides everything is still firmly rooted in the mentality of the RA citizens. In the Armenian reality the State is still perceived as a locus of patriarchal power (*Patriar Potestas*). On the other hand, shedding the overwhelming part of its former multiple and all-encompassing functions, the State and its institutions have reduced their responsibilities to the minimum. Owing to such a stand, the State is almost unaccountable to the society, private actors and citizens, whereas it expects them all to be accountable to it.

*Civil society.* In the Republic of Armenia this important social institution is underlain by such values stipulated by the Constitution as a multi-party system, the right to establish and to become a member of associations, including trade unions as well as all the legislatively and constitutionally stipulated mechanisms (e.g. peaceful demonstrations, rallies, strikes, etc.) that protect all human rights and interests. Despite the diversity of civil society institutions (including those with the mission of protecting human rights and freedoms) in the Republic of Armenia, alienation and mutual distrust divide those institutions and the RA citizens. This can be evidenced by a very limited number of people involved in political parties, alliances, NGOs and rallies as well as by a low rating of those institutions and/or by significant changes in that rating within a brief period of time.

Non-governmental organizations and other institutions of civil society are engaged primarily in "contractual" (alias, non-formally institutionalized) relations with the State and its entities and with the actors from the private sector. These hierarchic, patron-client relations ensure the support of some segments of population (mainly seen as electorate) in exchange for a certain "fee". Small wonder that it is extremely difficult, if not downright impossible, for these institutions to protect the rights of the RA citizens from their own "sponsors" who do not fulfill their obligations. The intent to insure themselves, in the interests of self-preservation, against possible persecution in the future plays a no less important role. Financial dependence on the structures of government or clans and on international organizations coerces those institutions to express

mostly "commissioned" interests, as instructed. At the same time, as mentioned earlier (Chapter 2) a number of NGOs undertake human-rights activities and are rather successful in their efforts.

Mass media have a unique role to play in the protection against HR violations and for HD promotion. Independent newspapers and TV channels highlight the violations of human rights of RA citizens and the negative aspects of the protection of those rights in court. Besides, they also engage in all sorts of investigative reporting. However, for fairness' sake, it has to be noted also that sometimes journalists violate the norms of professional ethics and certain human rights (e.g. defamation, slander, etc.).

*Actors in private sector.* These, too, are dependent on executive, legislative and judicial authorities, hence they are not in a position to be full-fledged protectors of human rights. The semi-developed state of the private sector and the lack of a new Labor Code, of antitrust and of labor market regulations and other laws and sub-legislation become the reason for the violation of the RA citizens' labor and other rights and impede the formation of regulated relations in the private sector.

*International community.* Operating through diverse structures the international community is an important actor, which pursues HR protection goals in the RA (see Chapter 1). Among preconditions for Armenia's membership, international organizations prioritize the state of affairs with HR protection and the application of international standards in that realm. Likewise, importance is placed on the implementation of reforms necessary for the self-realization of the RA citizens and the provision of favorable conditions so that citizens' potential could be realized. Such examples are securing the uninhibited enjoyment of a large spectrum of human rights, making concerted efforts to rule out monopoly, promoting the free market relations and establishing the infrastructure of democracy.

## 4.6

## Good Governance as a Result of State and Civil Society Functioning

Human beings are the most important resource for the development of the State and society. It is incumbent on these two institutions to ensure favorable environment and conditions for the activities of the people. The first of these two implies the existence of such legal and political mechanisms that will enable RA citizens to exercise freely their rights and to fulfill their obligations. The existence of the second will ensure the continuity of that practice, thus broadening the opportunities and choices for people.

The top priority for State governance in the RA is still assigned to the enhancement of participation and competition as factors that have a direct impact on the above processes. It might be useful to approach the strategic priorities of good governance from the perspective of three approaches to participation [8].

1. From the *rational choice* perspective the main agent of participation is the individual who acts freely in his/her interests (of personal well-being) and pursues own ends. In the RA, full-fledged citizen participation is feasible only in case of such governance when the anticipated profit from their participation exceeds the losses as per the principle of "profit maximization" ( $R = pB - C + D$ ).

From that perspective, the positive outcome of participation is not observed in case of a concrete right (e.g. of ownership, to elect and be elected, etc.) since for RA citizens the likelihood that their participation can prove to be decisive ( $p$ ) is little, whereas potential losses ( $C$ ) are heavy. Besides, proceeding from the expediency of the moment a citizen strives for "situational" profit ( $D$ ). In fact, the component of a long term expected "profit" ( $pB$ ) is negligible, thus accounting for a small profit anticipated from participation ( $R$ ).

Good governance should pursue as its major goals, the strengthening of the understanding ( $P$ ) among citizens of the decisive role of the long-term "profit" anticipated ( $B$ ) from citizens' participation and the importance of their own participation as well as the minimization of the risk of potential losses ( $C$ ).

Under such circumstances, a citizen will think, perhaps, not about privatizing and re-selling an enterprise (i.e. not about getting situational profit) but about putting to good use the privatized enterprise or, likewise, not about selling his/her vote for a bribe but about voting for the candidate s/he believes is the best, etc.

2. From the perspective of the incentives to participation those related to ideological, normative and role-playing, are believed to be the most comprehensive. The goal of good governance is to promote the strengthening, stability and development of those incentives in the political thinking of RA citizens. Due to ideological incentives (when such operate) the individual tends to be positively inclined towards the commonly accepted ideology of the State, and that of society, and consequently, secures identification of individual values with those of the State. In case the normative incentive is offered, the RA citizen's behavior is orderly and predicated on the values of the political system, while the subordination to the legal order and political system are perceived as the only and rational orientation, which contributes to personal safety, security, self-realization and self-expression. The provision of the role-playing incentives depends primarily on the RA State policies, viz. on the efficiency of an individual's socialization. The behavior of the individual is directly related to his/her social status and self-appraisal. The lower the social status, the greater the likelihood that the individual in question will have a radical stance vis-a-vis the authorities. Thus, the emerging middle class and meritocratic elite play a key role as stabilizing factors in smooth functioning of the State and civil society. So far the ruling elite in Armenia and "*nouveaux riches*" have not expressed the interests of broad segments of the population and have not contributed to the civilizing of the social reality.
3. From the perspective of social factors, the goal of good governance is the transition from the marginal populist to the liberal model of participation (Figures 4.3 & 4.4).

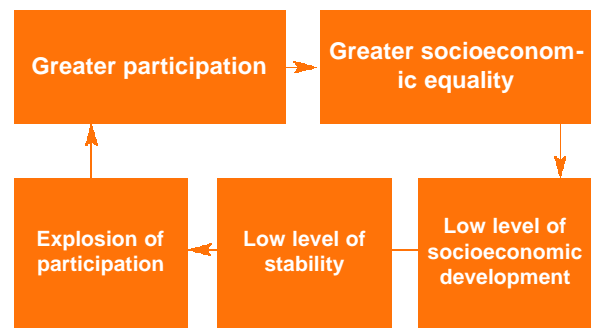
**Marginal Populist Model of Participation**

Figure 4.3

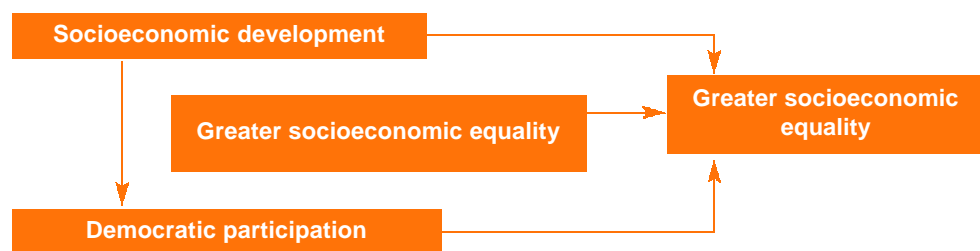
**Model of Liberal Participation**

Figure 4.4

The prevalence of the marginal-populist model in the RA has given rise to non-institutionalized participation. The model is directed at the redistribution of material goods and property. Besides being an impediment to technical modernization, it also worsens the social conditions of economic development and leads periodically to instability. Unresolved problems pile up, the number of claimants and claims laid to the political, economic, social and other systems is on the rise, political participation is growing unevenly and the circle is closed (Figure 4.3). Essentially, participation does not result in the strengthening and modernization of the political, economic, social and other systems and in serving the interests of diverse social groups. Since it destabilizes those social systems, participation in this case is not conducive to human development and human security either.

Consequently, good governance should seek to assist the liberal model of participation in gaining ground in RA, for the dynamic socioeconomic development to be instrumental in ironing the social, political, economic and other inequalities and in reinforcing the stability (Figure 4.4). It is only along these lines that in the Republic of Armenia five crises of political development will be overcome, the crisis of the culture of human rights enjoyment and obligations system forestalled and favorable conditions created for each RA citizen in terms of life, family and opportunities.

The other core element of good governance is securing transparency and raising the efficiency of the RA state governance structure. In the hierarchical structure of state governance, of equal importance are both

the securing of unimpeded, efficient communication between various levels in governance and the provision of unmediated, direct cooperation between various entities on the same level, provided these entities are independent in exercising certain powers and are free in their decision making. In that case, the direct reciprocal influence of the RA citizen-governance body will lead, within a relatively short time, to the solution of the problems of RA citizens. It should be emphasized that because of the extremely difficult socioeconomic situation of a sizeable portion of RA citizens and the abundance of those citizens' applications to various structures of governance in anticipation of the improvement in their situation, those systems are extremely overburdened, which affects their operation. Not surprisingly, at times, some of these requests or demands are ignored or rejected.

Corruption, as one of the major threats to good governance, is a major concern for the country. The anti-corruption theme is present in all government programs. Issues raised in this regard vary in scope and importance, a number of steps have been taken in 2000 to combat corruption.

Transparency International, the leading anti-corruption organization, presented in its Annual Report 2000, the Corruption Perceptions Index (CPI) for 90 countries. According to the Report, where corruption is at its worst, disillusionment with democracy is at its highest. This is shown to be particularly so in Central and Eastern Europe. The democratic gains of the past decade are quite literally put at risk, TI said.

**4.1 Table** The Corruption Perception Index according to 2000 TI Report<sup>2</sup>

Country Rank	Country	2000 CPI score	Surveys Used	Standard Deviation	High-Low Range
1.	Finland	10.0	8	0.6	9.0-10.0
2.	Denmark	9.8	9	0.8	8.1-10.6
3.	New Zealand	9.4	8	0.8	8.1-10.2
7.	Singapore	9.1	11	1.0	6.2-9.7
10.	United Kingdom	8.7	9	0.6	7.3-9.7
14.	USA	7.8	10	0.8	6.2-9.2
18.	Chile	7.4	8	0.9	5.7-8.4
22.	Israel	6.6	8	1.3	4.3-7.8
27.	Estonia	5.7	4	1.6	4.4-8.1
35.	Greece	4.9	8	1.7	3.7-8.1
39.	Italy	4.6	8	0.6	4.0-5.6
43.	Belarus	4.1	3	0.9	3.4-4.9
50.	Turkey	3.8	8	0.8	2.1-4.5
57.	Latvia	3.4	3	1.3	2.1-4.4
66.	Kazakhstan	3.0	4	1.2	2.5-4.4
<b>76.</b>	<b>Armenia</b>	<b>2.5</b>	<b>3</b>	<b>0.6</b>	<b>2.4-3.5</b>
83.	Russia	2.1	10	1.1	0.6-4.1
87.	Azerbaijan	1.5	4	0.9	0.6-2.5
90.	Nigeria	1.2	4	0.6	0.6-2.1

2000 CPI scores - relate to the perception of the degree of corruption as seen by business people, risk analysts and the general public, and ranges from 10 (highly clean) and 0 (highly corrupt). At least three surveys are required for a country to be included in the CPI. Standard Deviation indicates differences in the values of sources, high-low range provides the highest-lowest values of the source. According to the Report, Armenia's score has not changed as compared with 1999 (Transparency International, 1999).

Among the undertakings to fight corruption in Armenia are the preparation of a draft resolution, comprising

anti-corruption policy on measures to be taken to combat administrative corruption, establishment of a national anti-corruption commission and an international working group. As a first step toward cooperation, a joint Armenian/International Task Force has been created for drawing an anti-corruption strategy and improving the anti-corruption draft law.

Government's efforts to improve governance has been extensively supported by the international community along the whole spectrum of relevant fields (See Table 4.2).

**4.2 Table** Assistance Rendered to Armenia in the Field of Governance<sup>3</sup>

1.	Legislative Reform	USAID, EU
2.	Decentralization	EU, GTZ, USAID, UNDP
3.	Civil Society Empowerment	USAID, WB, EU, DFID, IOM, UNDP
4.	Media	EU, USAID
5.	Gender Equity	UN, Swedish International Development Authority /SIDA/
6.	Legal Reform	USAID, GTZ
7.	Judicial Reform	EU, USAID, WB, GTZ
8.	Civil Service Reform	WB, EU, DFID
9.	Anti-corruption	OSCE, WB, IMF, UNDP, EU, USAID, UK, FRA, GR, Russia

## Process of Globalization in Human Rights

Human concepts have not been left out of globalization - the current omni-present processes of world integration; moreover, it would be fair to mention that the initial tendencies of those processes were demonstrated in the area of human rights. Indeed, natural human rights are not restricted either in time or space, therefore, their integration or globalization on the whole pursues the following objectives:

- I Recognition and protection of natural and inalienable human rights all over the world, that is to say, ensuring universal, common, and identical rules of conduct for the entire humanity, since *"individuals enjoy rights not only as citizens of particular countries, but also due to the quality, advantage, and benefit of being constituents of general humanity"*.
- I Ensuring a common future, and uniform development for humanity, as different from the times of the Socialist camp, when humankind was dichotomized. In addition, humankind's future is open for the operation of all human-centered global governance systems and integration processes. This would facilitate carrying out good governance in the area of human rights on both regional and global levels.

Globalization in the area of human rights, having expressly intensified since the 1990s, is based on the neo-liberal conception, unites universal and particular mentalities and gives supremacy to human dignity, thus assuming the necessity for a universal moral code of human rights.

From the human rights perspective, while considering the issues of globalization-integration processes and RA relationships, the following circumstances should be clarified:

1. To what extent has Armenia been integrated into the world with respect to human rights?
2. Where does the region, to which Armenia is a part, stand in the scope of human rights indices?

The RA, after adoption of the Constitution, in conformity with democratic and liberal norms, has undertaken the enactment of liberal-democratic laws to organically complement the Constitution; this process is still under progress. Armenia's accession to international human rights instruments and organizations is essential for the country's participation in the globalization process (see Chapter 1). In particular, Armenia's membership to the United Nations, Organization for Security and Cooperation in Europe, Commonwealth of Independent States, Black Sea Economic Cooperation, as well as the scheduled accession to the Council of Europe and the World Trade Organization is notable progress. It is anticipated that accession to the Council of Europe will enable RA citizens to appeal to the European Court of Human Rights, naturally, after having exhausted all the resorts of the national judicial power and tried all remedies in the state, which could redress the complaint. Thus, under globalization, when state mechanisms are insufficient, international norms come into force.

By acceding to international legal instruments, the RA should fulfill the commitments assumed by the signature thereof. This is a new quality of harmonization of relationships between international standards and local norms, as well as international organizations and the State. Formerly undisturbed principles of sovereignty and non-intervention could be restricted, starting with a certain margin.

However, there are serious problems in terms of applying international legal norms at the practical level in daily life. Unemployment, poverty, and emigration remain serious obstacles to the expansion of these opportunities.

The measurement of the second question is the rating of liberty in the countries within the region with respect to political rights and civil freedoms, the intensity and efficiency of their interrelations in this area, and the existence of respective regional organizations. Certain conclusions in this regard could be drawn from the data contained in Table 4.3<sup>4</sup>.

## 4.3 Table

Country	PR	CF	Freedom Rating
Andorra	1	1	free
Spain*	1	2	free
Portugal*	1	1	free
France*	1	2	free
Belgium	1	2	free
Switzerland*	1	1	free
Germany*	1	2	free
Austria	1	1	free
Hungary*	1	2	free
Poland*	1	2	free
Belize*	1	1	free
Italy*	1	2	free
Greece*	1	3	free
Cyprus (Greece)*	1	1	free
Macedonia*	3	3	partially free
Yugoslavia (Bosnia and Herzegovina)*	5↑	5↑	partially free
The Netherlands*	1	1	free
Denmark*	1	1	free
Finland*	1	1	free
Norway	1	1	free
Sweden*	1	1	free
Lithuania*	1	2	free
Latvia*	1	2	free
Estonia*	1	2	free
United Kingdom+*	1	2	free
Iceland	1	1	free
Ireland	1	1	free
United States*	1	1	free
Canada*	1	1	free
Australia	1	1	free
Japan*	1	2	free

Armenia's rating (4 scores for both political rights and civil freedoms) is a long way away from indices of complete freedom. The two other Trans-Caucasian republics are in a similar situation. The RA citizen will be able to protect his/her security in person, freedom, power and claims through local mechanisms, provided conditions of a maximally free regime are secured.

Certain contradictions and conflicts among the countries in the region (the disagreements between Armenia and Azerbaijan around the Karabagh issue, the contradictions between Armenia and Turkey, Iran and Turkey, Russia and Turkey, and others, the Chechen conflict, the Kurdish issue, etc.) have undermined cooperation among these countries in the area of human rights and attempts at resolving existing problems through combined efforts of regional organizations. The first steps in this regard include, for example, efforts aimed at the establishment of a regional security system, cooperation in economy, the banking system, and other spheres. In particular, of paramount priority are issues related to poverty eradication, nature protection, the ensuring of rights and security of

## Freedom Rating of Countries

Country	PR	CF	Freedom Rating
Russia*	4	5↓	partially free
Belarus	6	6	not free
Ukraine*	3	4	partially free
Moldova*	2	4	partially free
Armenia*	4	4	partially free
Azerbaijan	6	4	partially free
Georgia*	3	4	partially free
Tajikistan	6	6	not free
Turkmenistan	7	7	not free
Uzbekistan	7	6	not free
Kazakhstan	6	5	not free
Kyrgyzstan	5	5	partially free
Turkey*	4	5	partially free
Iran	6	6	not free
Saudi Arabia	7	7	not free
United Arab Emirates	6	5	not free
Iraq	7	7	not free
Lebanon	6	5	not free
Syria	7	7	not free
Israel*	1	2↑	free
Afghanistan	7	7	not free
Pakistan	7↓	5	not free

Note: "PR" and "CF" stand respectively for "political rights" and "civil freedoms."

1 is considered "the freest," and 7 is the lowest rating of freedom.

↑↓ - up and down arrows mean changes in PR and CF since the latest data.

\* denotes electoral democracies.

+ indicates "including Northern Ireland."

individuals and nations in conflict zones, conflict resolution in general, protection against deportation and genocide of people and nations, etc.

Needless to say, the multi-faceted processes of globalization are not devoid of negative aspects, which refer mostly to instances of abrupt transitions from a closed system to an open system, when the effects of globalization could produce lasting unbalanced conditions in the inter-state developments of newly independent states under transition [12]. A number of societies, still in a traditional or early industrial stage of civilization, are poorly linked with global information systems, and as a result of the "digital divide", become sources of cheap labor and raw materials [13]. At the same time, globalization should not mechanically unify local civilizations, since every society is free to adopt from among the assortment of universal values those, which it needs and is able to accept. Besides, the process of globalization in the perception of groups of people/communities with cultural, belief and value diversity is seen as a challenge to preserve identity, to maintain one's individuality as distinct from uniformity.



Chapter

# 5

## Human

Rights Protection  
Strategies Within the  
Context of Human  
Development

# Human Rights Protection Strategies Within the Context of Human Development

5.1	Basic Prerequisites for the Implementation of Human Rights	99
5.2	The Priorities of the National Strategy for Human Rights and Human Development	100
5.2.1	Rule of Law over Politics and Separation of Powers	100
5.2.2	The Creation of a Favorable Economic Climate is the Major Goal of the Efficient Socioeconomic Policy	100
5.2.3	Further Evolution of Civil Society, Establishment of New Structures, Consolidation of Consolidation of Efforts and Broadening of Participation	102
5.2.4	Improvement of the Decision-making System and Decentralization	103
5.2.5	Drawing up and Implementing a National Action Plan in the Human Rights Field	104
5.2.6	Human Rights Education	104
5.2.7	National Development Programs Based on Human Concepts	108
5.2	Conclusions and Recommendations	108

## Boxes

5.1	Human Rights and Rights of the Earth and Life in All its Diversity	101
5.2	Cooperation of Parties over Programs on the Enhancement of Economy	101
5.3	First Steps Towards an Ombudsman Institution in Armenia	102
5.4	Freedom of Speech and Human Rights Protection in Mass Media	104
5.5	International Humanitarian Law Education	105
5.6	Information and Freedom are Indivisible	106
5.7	Internet and Human Rights	107

Attaining Armenia's human rights (HR) and human development (HD) goals at the end of a ten-year transition period and upon entering a new millennium requires that the prerequisites for the implementation of those goals be brought to a common denominator and the strategic priorities be identified based on the findings of the previous chapters.

## 5.1

### Basic Prerequisites for the Implementation of Human Rights

Currently, prerequisites for the implementation of HR in Armenia could be conventionally grouped into the following spheres: historical-cultural, political, legal, socio-economic, educational and informational.

- I **Historical-cultural prerequisites.** Numerous studies provide evidence that historical-cultural prerequisites for the implementation of human rights are rather favorable in Armenia. Armenian culture has been interacting with world cultures since times immemorial<sup>1</sup>. Numerous documents that have come down to us indicate that the level of legal thinking has always been high (Chapter 1, Box 1, 2). The positive input of national customs and traditions has also to be emphasized, and this in turn, opens up opportunities for spreading social norms conducive to HR.
- I **Legal prerequisites** tend to be favorable, albeit not to the necessary extent. The RA Constitution is, on the average, in line with international standards. Armenia has acceded to major HR - related international instruments that have primacy over domestic legislation. However, the legislative field of social, economic and cultural rights has not been adequately elaborated. Ratification of a number of important international instruments will be the order of the day in the near or distant future (for example, the Second Optional Protocol on the Elimination of Capital Punishment, the Protocol on the Use of Anti-Infantry Landmines, a number of important agreements of the International Labor Organization, etc). The national legislation is not flawless, at the same time there are serious contradictions between the provisions of laws, the Constitution and ratified international agreements.
- I It would be far-fetched to regard, even with reservations, the **socioeconomic prerequisites** in Armenia as sufficient. Radical reforms have been carried out, viz. land, animals, apartments, small and medium-size enterprises and a greater part of

large enterprises have been privatized and banking and tax structures, etc. have been established. However, the moribund state of the key industrial sectors, inefficiency of the State machinery, a large-scale shadow economy and rampant corruption, the formation of clans, and a heavy tax burden have brought about an unbridgeable budget gap, mass unemployment and social polarization. It is only under more egalitarian conditions of rehabilitation and development of the national economy that the programs seeking to achieve social justice, to eliminate poverty and discrimination will become feasible.

- I **Educational and informational prerequisites.** The existing intellectual potential and the population's high proportion of well-educated Armenians are the best prerequisites for the HR and HD ideas and knowledge to be disseminated and to gain ground. However, a formidable obstacle is posed by the lack of information and by the inadequate use of the education system and of mass media for the dissemination of human concepts and HR education, for raising public awareness and in general for developing a human rights culture.
- I **Political prerequisites.** The existence of democratic institutions, political pluralism and freedom of speech, the opportunity for the formation of government through elections as well as for the evolution of civil society institutions in Armenia have established the prerequisites necessary for the respect, protection and fulfillment of human rights. However, the experience of the elections held in the not-too-distant past, political instability and lack of trust between the public and the authorities have generated serious problems. Thus, further advancement of human concepts in this country shall be predicated to a large extent on overcoming political crises and re-establishment of social accord.

## 5.2

### The Priorities of the National Strategy for Human Rights and Human Development

#### 5.2.1. Rule of Law over Politics and Separation of Powers

Supremacy of law over politics is the engine for society's progress. The law, being freed from different political pressures, serves as a basis for civil society, as a means for checks and balances and an indispensable tool for fair decision-making.

Absolute independence of the judiciary and the rising level of a legal culture and of social self-consciousness are the conditions sine qua non for achieving the supremacy of law.

Article 5 of RA Constitution on the principle of the division of powers is a step backward in relation to Article 9 of the 23 August 1990 Declaration of Independence of Armenia, which stipulated that the legislature must ensure the separation of powers.

The separation of powers is an important precondition for good governance. Thus, the system of bodies of power should be reorganized through changes in the Constitution that would safeguard those bodies' independence from one another and introduce checks and balances. Clear separation of executive and judicial powers as well as further development of judicial reforms will secure:

- a) a truly independent judiciary,
- b) a constitutionally reinforced provision that gives citizens, legal entities and courts of general jurisdiction the right to apply to the Constitutional Court, based on the discrepancies between the RA Constitution and normative acts and international agreements,
- c) an institute established to provide official interpretation of the RA laws, normative acts and to establish the principle of judicial review,
- d) the establishment of economic courts of first instance,
- e) creation of extra-judiciary structures, which settle issues, particularly of administrative - legal nature,

- f) establishment of reconciliation courts, chambers or other structures, which would settle disputed questions by coming to an agreement, through simplified procedural norms and by seniority,
- g) access to justice for everyone, regardless of citizenship, gender, religion, etc.,
- h) alternative legal assistance and consultation for socially vulnerable social sectors through means and mechanisms stipulated by the State.

#### 5.2.2. The Creation of a Favorable Economic Climate is the Major Goal of the Efficient Socioeconomic Policy, which will bring about poverty reduction, personal security, protection of the environment and the country's integration into globalization processes (See Box 5.1).

As a necessary, albeit insufficient condition for HR, HD and HS, the country's economic development dictates the following top priorities of the economic strategy:

1. Ensuring free competition and equal conditions for all economic actors, gradual eradication of the shadow economy and carrying out antitrust measures.
2. Alleviation and simplification of the tax burden, adoption of antitrust and labor legislation.
3. Radical reform of the State governance system, adoption of a law on civil servants.
4. Adoption and implementation of a comprehensive program and legislation targeting the development of small and medium-size business ventures.
5. State support to large-scale industry and agriculture.
6. Elimination of the partial blockade of Armenia within the context of the peaceful settlement of the Karabagh conflict.
7. Extension of foreign economic ties, the RA membership in international economic organizations (in particular in the World Trade Organization and Customs Union).
8. Creation of an environment that will attract investments.
9. Consolidation of constructive forces in society for the promotion of a sustainable economy (see Box 5.2).

## Human Rights and Rights of the Earth and Life in All its Diversity

Box 5.1

In 1994 the Earth Council and International Green Cross designed and submitted to the world community for discussion the Earth Charter (EC), thus initiating the worldwide debate on universal human values and ethics. The Charter is a direct outgrowth of the Rio Declaration and the Declaration of Earth People adopted in 1992 at the UN Conference on Environment and Development (Rio de Janeiro).

For the first time within the context of sustainable development the Earth and biodiversity rights have been perceived alongside human rights. The rights of future generations are emphasized too: "The freedom of any generation is limited by the demands of successive generations". The goal of the Charter is consensus regarding the formation of a new worldwide coexistence based on respect for human rights and rights of nature, on economic justice and a culture of peace.

As regards the Earth Charter, worldwide discussions were organized, over 40 national committees were established and numerous national and international conferences were held. Pursuant to the provided recommendations, the Charter was revised twice and the most recent version was submitted, within the framework of the Rio+10 process to the UN General Assembly for adoption.

Armenia is involved in these processes. In 1999 the EC National Committee was set up on the basis of the Association "For Sustainable Human Development", the Charter was translated into Armenian and Russian and was discussed in the Republic. The suggestions put forward by the Committee in the course of the on-line conference were for the most part accepted. A book devoted to the EC has been published and a national conference held on this issue.

Association **"For Sustainable Human Development"**

## Cooperation of Parties over Programs on the Enhancement of Economy

Box 5.2

The Political Council (PC) affiliated with the RA President was established on June 19, 1999 by presidential decree and comprised 12 influential political parties. Among the six sub-committees of the PC, the Socioeconomic Subcommittee authored nine out of 11 expert opinions and recommendations prepared and submitted to the RA President within the ten months of the Council's existence.

After the 1999 parliamentary elections the PC was dissolved. However, six political parties (Scientific-Industrial & Civic Union, Democratic Party of Armenia, "Ramkavar Azatakan" Liberal Party of Armenia, Union of Socialist Forces of Armenia, National Self-Determination Union and Union of Intellectuals) and a number of independent experts decided to carry on, now with an independent status, the effective activities of the sub-committee of socioeconomic issues and established the Inter-Party Socioeconomic Council (IPSEC). The People's Party of Armenia subsequently joined the Council's activities. IPSEC presents the results of its work on a regular basis at press conferences and also submits them to the RA Government and National Assembly. Within the past two years it has come up with over twenty proposals and programs, including "On Electricity Fees", "On Regulating the Baking and Sale of Bread", "On State Non-market Obligations (bonds)" as well as "Foreign Economic Ties" and "Amarant" agricultural program, the conceptual framework for the economic development of the Republic of Armenia, "On Armentel Private Joint-stock Company", "On the Operation of the RA Civil Aviation", the development of small and medium-size entrepreneurial ventures, recommendations about the privatization of electricity distributive networks, etc.

**Inter-party Socioeconomic Council**

While pursuing the goals of making State policies efficient and well targeted and of establishing a viable system of social insurance, the principal directions of social policy and its implementation are suggested as following:

- I The official calculation and adoption of the "minimum subsistence basket" (MSB).
- I Ensuring increments in allowances of needy beneficiaries with a view to closing the gap between the MSB and the allowances through the reduction of the number of beneficiaries.
- I Better targeting of the allowances with major focus on the most vulnerable, i.e. on those who are no longer capable of working.

- I The solution to the employment problem of other needy groups by way of retraining and professional development to be followed by mandatory provision of jobs.

- I Introduction of an efficient system of mandatory social insurance.

### 5.2.3. Further Evolution of Civil Society, Establishment of New Structures, Consolidation of Efforts and Broadening of Participation

The nationwide net of civil society institutions, further supplemented by new institutions (e.g. institutions of national human rights protection or of ombudsman, see Box 5.3), should be developed and reinforced.

## Box 5.3

### First Steps Towards an Ombudsman Institution in Armenia

Many countries in the OSCE area have newly established national human rights protection institutions (NHRPI) to implement their international commitments in the fields of democracy and human rights. A NHRPI is a structure established by government in accordance with the constitution and/or national legislation, in order to promote and protect human rights. There are two main types of NHRPI: human rights commissions and ombudsman (mediator) institutions. However, differences increasingly blur between these two types of institutions. Indeed ombudsman institutions have tended to extend their mandate and scope of activities.

Each country tailors its NHRPI to its own traditions, needs and environment. Nevertheless, international standards and best practices have been developed in recent decades with the growing number of NHRPI. According to a UN training manual published in 1996, several "objective factors" helping to measure effectiveness of NHRPI can be determined as independence, precise definition of the institution's competence and powers, accessibility, cooperation with relevant international and domestic structures, technical effectiveness and regular evaluation. From their side, OSCE experts have highlighted four main characteristics for a classical ombudsman institution: independence, impartiality and fairness, credible review and investigation process, confidentiality.

The process of establishing a NHRPI in Armenia - in this case the ombudsman institution - began in 1998. A draft law on a Human Rights Defender Office is now under review in the National Assembly. According to international and domestic commentators, several points in the draft law should be amended before its adoption. Some of them are listed below.

According to Chapter 2 of the draft law, the ombudsman is appointed and dismissed by the President (Article 4.2), which fails to meet the crucial independence criteria. The mandate and powers of the institution, as set out in Chapter 3 are not clearly determined in the draft law. Article 8 restricts the ombudsman's competence to reception and treatment of individual complaints while Article 2.2 has a broader interpretation of the institution's mandate, which includes human rights awareness and education. Third parties cannot submit a complaint on behalf of others - which might constitute a problem for children, disabled persons and NGOs. The possibility for the ombudsman to act upon his own initiative is restricted in the draft law. Finally, the ombudsman does not have a constitutional basis and is not entitled to apply to the Constitutional Court regarding norms that contradict the Constitution and/or international agreements ratified by Armenia.

It is essential that the ombudsman institution enjoy broad support from the Armenian public. This can be activated only through the involvement of civil society and the launching of a public awareness campaign throughout the population. The ombudsman structure does not replace the judiciary, but it can be another instrument for conflict resolution and human rights violations remedy in Armenia.

**Organization for Security and Cooperation in Europe, Armenia Office**

It should be acknowledged that institutional relations of civil society are still feeble and that a culture of collaboration has not yet been properly developed. The current range of civil society organizations (CSOs) includes diverse structures. Some have been artificially created by certain interest groups (e.g. pro-government human rights organizations). There are as well those organizations, which totally rule out collaboration with the State. Both tend to be equally ineffective in the promotion of HR and HD. It is only in case of mutually beneficial relations among the State, private sector and civil society that the collaboration is efficient and productive and the development proceeds smoothly.

In Armenia, in line with traditions inherited from Soviet time, a disproportionately great role is still assigned to State bodies, which can be accounted for by the exceptional powers with which those bodies had been endowed. Accordingly, greater responsibility is ascribed to the State, meanwhile the latter is incapable, only by itself, of performing that role not only because it is not willing to do so but also because it does not have the requisite potential.

Consolidation of efforts and participatory approach is an imperative, be that State agencies or political parties, NGOs or private sector, communities or trade unions, educational, artistic and religious associations or press as well as intelligentsia and every individual, for civil society will become a reality when all segments of the society come together to protect common interests and shoulder their respective share of responsibility. Besides, when CSOs, local self-government bodies and individual citizens are left out of the decision-making process that affects profoundly the country's and their own life, development becomes uncontrollable and unsustainable.

The infringement of human rights and lack of human development at the local community level remains a more frequent and un-addressed occurrence not only because the system of State bodies is heavily centralized but also owing to the weakness of civil society institutions (political parties, NGOs, free press, etc.) especially at the regional level.

Negative processes (such as emigration, unemployment and poverty) pose a larger threat at local levels, particularly for localities situated near the country's borders and for other rural and remote localities. At the same time, the few remaining professionals and in general individuals who are in search of ways to earn a living tend to be attracted by the capital-city, where chances of getting gainful employment are better.

#### 5.2.4. Improvement of the Decision-making System and Decentralization

A democratic, transparent decision-making system in conjunction with reformed legislation could provide a

solid foundation for ensuring human development and human rights. In particular, amendments to the Constitution are important since in the process of reforms the national legislation, even at the initial stage, inevitably inherits the flaws of the 1995 Constitution.

Today all branches of government, the RA President, constructive political forces and the Commission for Constitutional Amendments tend to agree that priorities for amending the Constitution should be the following:

- I) Human rights supremacy as enhancement and enforcement of the core ideology of the Constitution.
- II) More unequivocal separation of the three branches of power.
- III) Ensuring the judiciary's genuine independence.

The expansion of human rights and freedoms requires that citizens and organizations be granted the right to apply to the Constitutional Court, and that a specified number of citizens of voting age (1-1,5%) be entitled to initiate the conducting of a referendum, through amending the law on referenda etc. Another requirement is abrogation of parliamentary immunity.

Governance will become much more efficient once the scope of responsibilities and rights of separate branches are better clarified. For instance, the National Assembly should be vested with the power to confirm the appointment of the Prime Minister or the composition and the program of the Government proposed by the Prime Minister. And the Prime Minister shall have the right to convene and chair by himself the sessions of the Government and to sign the decisions made by the Government. The RA President should have the right to dissolve the National Assembly only in cases stipulated by the Constitution.

Local self-government, an important tool in securing the effectiveness, quality of decisions and their implementation, is essentially in a precarious situation in Armenia. According to Article 109 of the Constitution, the Government has the right to remove the community head elected by the people from his office following the representation made by the Government-appointed regional governor.

Sustainable human development at a local level requires that appropriate territorial policies be designed, which first of all implies decentralization of power. The decentralization can be effected in three ways:

1. Devolution of important powers to local self-government bodies. It is well known that the more powers have been transferred to local communities the better protected an individual feels from arbitrariness.

2. Decentralization of finances, which will promote self-governance, enhance the feeling of ownership as well as the economic development of regions and borderline localities, and the eradication of poverty.
3. Development of a local system of community self-governance and decision-making guaranteeing the individual's active involvement on a daily basis as well as the transparency and accountability of self-governance.

#### 5.2.5. Drawing up and Implementing a National Action Plan (NAP) in the Human Rights Field

Activities aimed at drawing up and implementing the national action plan (NAP) in the human rights field were launched in Armenia in 1999. The issue was discussed at a number of seminars and at the 1999 conference held in Yerevan. The NAP, expected to be formulated in the near future, will be a human rights protection and human development-oriented working document, which will seek to strengthen organizations and institutions involved in HR protection, to broaden the opportunities for the collaboration between the Government and civil society actors, to secure the protection of the most vulnerable groups of the population, to emphasize the role of human rights in national development, to assist the Government in meeting international obligations and to enhance the revision of the legislative field for the purpose of bringing the latter into conformity with international criteria of human rights.

The Government, NGOs and other institutions of civil society should participate in drawing up the NAP, ensuring transparency of its activities. The NAP should be revised from time to time and appropriate measures should be taken at each new stage.

In order to be able to identify the priorities and elements of the NAP, the major national issues should be evaluated or the prerequisites should be examined (the existing programs for the protection or advancement of human rights, legal norms, documents on

human rights, organizational and financial capacity, other national programs, for example on women, children, etc., the overcoming of possible obstacles and the revision of international obligations).

At the international level, the NAP elements are ratification, implementation of and reporting on HR-related international agreements and other documents and regional collaboration, whereas at the national level, the elements are national legislation, civil service, electoral system, judiciary, police, defense agency and prosecutor's office. Taking into consideration the fact that Armenia, on the whole, has ratified the major international instruments on human rights, the NAP will focus the attention primarily on bringing the national legislation in line with the norms of international law. The other elements of the NAP are HR institutions, teaching and re-training in the HR field, vulnerable groups (children, women, minorities, needy groups, internally displaced persons, refugees and migrants) and assessment of the financial, human and institutional potential.

#### 5.2.6. Human Rights Education

A national action plan on human rights education should be formulated to be part of NAP for human rights given the crucial significance of education and specifically HR education to development, social progress and freedom<sup>2</sup>.

It is obvious that a person unaware of his/her rights cannot make use of them since the consequences of not knowing and not having the rights are the same. The ideas of human rights are instrumental in assisting an individual in overcoming the feeling of powerlessness. Knowledge enables individuals not only to recognize their rights but also to become aware of their responsibility for the State and societal policies.

HR education in Armenia is provided along three lines: teaching (through educational institutions), dissemination (primarily through mass media, see Box 5.4) and awareness-raising (through seminars, meetings, round table sessions and consultations).

### Box 5.4

#### Freedom of Speech and Human Rights Protection in Mass Media

Freedom of speech and democracy cannot be considered as truly existing even if censorship has been abolished by law but publications evoke no public response. It would be a fallacy to believe that freedom of speech and human rights are protected unless a violated human right is addressed and restored.

So far media coverage of the freedom of speech and other human rights issues has not been sufficient. One notable exception is "A1+" TV channel, which every Monday, jointly with the "23 August, National Alliance" Human Rights Protection Union, within the framework of the "Anatomy of Rights" series, broadcasts the "Buttress", a program devoted to human rights. In case public discussions regarding specific cases of human rights violations do not result in remedying the violation, the authors of the program apply to court against a civil servant, or to the Prosecutor's Office to start legal pro-

ceedings. For example, the Ministry of Nature Protection continued for three months to defy the 28 May 1998 court's verdict (requiring the reinstatement of an individual who had been unlawfully dismissed from a job). Newspaper publication about the results of the review of the submitted complaint had remained unanswered. And so, a written application was submitted to the RA Prosecutor General with a petition to commence a criminal case because of deliberate defying of the court's verdict. The verdict was immediately complied with and the person in question was reinstated in his former position.

Unfortunately it is not always that editorial boards comply with law and publish verified information. For example, on June 22, 1999 Respublika Armenia daily published a highly critical piece titled "Turkish Invoice Ended up with Non-existing Debts". Having listed in quite detail what was sarcastically referred to as "the position-related heroic exploits" of a judge of the First Instance Court in the Arabkir and Kanaker-Zeytun communities in the course of handing down a ruling regarding the demand of 35,000 USD, the newspaper went into detail, in a similar vein, as to the "violations of law" committed by the Appellate Court on civilian cases. The author named only the judge who was chairing the sessions of the trial. For totally unknown reasons, the publication failed to mention that cases are tried by three judges in the Appellate Court. A dialogue with the above mentioned judge during the "Anatomy of Rights" program helped to establish just the opposite, viz. that the First Instance Court had handed down a wrong verdict and the Appellate Court had overturned it. The verdict delivered by the latter was subsequently sustained by the Cassation Court.

**"23 August, National Alliance"** Human Rights Protection Union

In order to forestall HR violations, particular emphasis should be placed on training human rights educators/trainers, on professional development of law-enforcement personnel and on the introduction of new information technologies as well as enhanced access to information.

In the course of the first five years of the UN-declared Human Rights Education Decade (1995-2004) numerous educational programs have been implemented and numerous conferences, courses, seminars, round table discussions and meetings were held in Armenia. A large number of books, collections of documents and manuals were published (see Box 5.5).

## International Humanitarian Law Education

Box 5.5

The International Covenant on Civil and Political Rights provides the States Parties with a so-called derogation right (Article 4), which entitles them in time of public emergency to suspend a number of human rights stipulated by the Covenant. By contrast, the International Humanitarian Law (IHL) is effective in a mandatory way in times of war. It is well known that human rights violations take on a particularly harsh form in times of war.

IHL is a separate branch of international public law and is intended for restricting the use of force and for mitigating its consequences during armed conflicts by providing protection to the wounded, sick, shipwrecked, prisoners of war and to other vulnerable groups.

IHL is also called the Law of Armed Conflict or the Law of War (*jus in bello*). Its main international legal sources are the four Geneva Conventions adopted on August 12, 1949 and their two additional Protocols adopted on June 8, 1977 (see Chapter 1).

Of paramount importance for forestalling the HR violations in times of armed conflicts is the provision of IHL education both in times of war and in times of peace.

On the initiative of the International Committee of the Red Cross (ICRC), IHL teaching was organized in several educational institutions in Armenia. The course was initially taught at the Northern University in Yerevan and then in private colleges in the towns of Vanadzor and Alaverdi. It is also taught at the Department of Law (since 1999) and at the Department of Journalism (since 2000) of Yerevan State University.

IHL-related ideas are also disseminated among the students of secondary schools in Armenia and Nagorno Karabagh. Within the framework of the ICRC educational program the manuals "You are our Future" and "My Little Planet" for 4th and 5th graders were published in 1995 and 1997 respectively. The manuals were approved by the Ministries of Education and Science of the Republic of Armenia and of the Republic of Nagorno Karabagh and are used successfully at schools. "People Exist for Each Other" - a manual for 6th and 7th graders was first published in 1999 and its experimental use in 30 RA schools proved to be a success. A larger edition of this book will be published and distributed in RA and NKR schools in 2001.

Armenian Constitutional Rights Protective Center

Human rights libraries were opened in Yerevan, Gyumri and Vanadzor. Small libraries were established in the towns of Sevan, Armavir, Dilijan and Sissian. The establishment of a network of HR libraries is in progress and will involve those educational institutions where human rights are taught as part of the curriculum.

A block of civic education for high school, comprising "Human Rights and Democracy" for the 8th grade, "Civil Society" for the 9th grade and "The Principles of State and Law" for the 10th grade, has been included by order of the RA Ministry of Education and Science on the list of mandatory subjects for secondary schools starting September 2001. This undertaking is hard to overestimate in its importance. However, we are certain to face problems with teachers and textbooks on these subjects in the near future. Certain steps are being taken to organize intensive training courses for teachers.

With efforts to enhance HR education, access to information acquires particular interest and importance (see Box 5.6). Advanced democracy is predicated on freedom of speech and of the press, which is impossible without access to information. It boosts active participation in collective decision-making and in voluntary associations. This requires intellectual and spiritual freedoms as well as academic and educational freedoms. Media must thus be free to address political issues, to make people's voices heard, while resisting the temptation to get directly involved in politics or to otherwise institutionalize its power. In his annual report, the UN Secretary General says communication technologies provide unique opportunities to help advance economic and social development goals and to reduce poverty.

### Box 5.6

#### Information and Freedom are Indivisible

The rapid advancement of new information and communications technologies has been drastically transforming lives of individuals and societies and nations alike, being a factor and an agent of globalization. Freedom of the press is no longer limited to print media but applies to an ever-growing range of electronic media (radio, TV and Internet).

However, inequalities in the distribution of and the access to basic information and communication technologies have aggravated the polarization between the advanced and the developing countries, most vividly illustrated by the growing divide between "info rich" and "info poor" countries.

Thus, the new reality in the world of communications makes it imperative that serious consideration be given to the situation. The appeals that invoke "the right of communication" are quite timely and pertinent.

Speaking about the freedom of expression, Article 19 of Universal Declaration of Human Rights (UDHR) implies and connects with a number of related crucial rights and freedoms, primarily the freedom of the press. Even though the UDHR does not employ the terms like "the right to information" or "the rights of communication", it has been instrumental in setting the course for and mapping out the trajectory of the developments that resulted in recognition of legitimacy of these concepts and their close affinity with the spirit and letter of the Declaration.

The new millennium is bringing about another technological revolution. These developments raise both hopes and fears. Today only five per cent of the world's population has access to the Internet. It means that the vast majority of the world's peoples are denied the economic and social benefits that the information and communication technology revolutions can offer. Bridging the "digital divide" between the rich and the poor has become an increasingly important development goal for the United Nations. New information dissemination systems, which have a potential of reaching out virtually to every single community, if not individual, can play a crucial role of an effective tool for the promotion of human rights education.

United Nations Department of Public Information

Information technologies (IT), despite legitimate concerns raised by the "digital divide", open up new prospects for providing an impetus for rapidly improving services. The most notable activities in the domain of information technologies were those carried out by the US Government (IREX, ACCELS), the Open Society Institute (OSI), and the Information Technologies Foundation (ITF). The International Research and Exchanges Board through its *Internet Access and Training Program* (IATP) has provided free IT services and training in the regions of Armenia. ACCELS has equipped computer classes connected to Internet in a dozen of Yerevan's schools and is plan-

ning to do so in 80 more schools all over the country. The OSI is promoting models of community access to Internet resources as a means of Internet diffusion. The ITF is active in the development of strategic principles and policy on information technologies in education and in the organization of various ICT-related conferences, seminars, and workshops. The International Conference "Internet and Society" organized in July 2000 by the ITF and co-sponsored by UNDP, OSI, and the Council of Europe, was an important event for discussing ICT-related issues that need an urgent solution in Armenia and for the sub-region of the Southern Caucasus (see Box 5.7)<sup>3</sup>.

## Internet and Human Rights

### Box 5.7

Freedom of expression, which is protected under Article 19 of the Universal Declaration of Human Rights and Article 10 of the European Convention on Human Rights, is regarded as one of the pillars of democracy and is essential for the enjoyment of many other rights and freedoms. Internet, being a new medium of communication, encompasses all essential characteristics of traditional media and, at the same time, is unique in its kind as it goes beyond geographic boundaries and social differentiation. "Internet enables people to be connected directly who otherwise might remain divided by distance, culture and economic stratification."<sup>4</sup> Hence, access to Internet, and more widely, to modern information and communications technologies, acquires a status of a human right that is wider than the right to expression. It is more closely related to the right to development because Internet gives one the possibility not just for exchange of information but exchange of knowledge and, through that, becomes a veritable tool for human development.

Regrettably, the core of the information society, i.e. the persons who have access to Internet and to the information and knowledge provided by it, still resides in the developed countries. The information revolution has not yet gained a foothold in most developing countries, because they lack the basic infrastructure: phone lines, electricity, and/or literacy. The "digital divide" between people who are Internet-empowered and those who are not is wide and real.

The present situation in Armenia with respect to information and communications technologies is that of "under-development and under-use". Armenia has a rather low rate of Internet connectivity. The "digital divide" in Armenia is big and may turn into an impediment for the comprehensive development of the society.

Although the number of computers in the country has steadily increased for the last years, it is still insignificant, hardly reaching 40,000. The number of people on-line does not exceed 12,000, of which less than 4,000 have unlimited access to Internet.

These figures show that Internet in Armenia is a luxury that can be afforded by a small group of the elite only. No specific reasons exist for that matter besides those that account for the general poverty of the population.

To remedy this situation, UNDP has been providing free e-mail accounts and access to Internet at its Freenet site to everyone since 1998, while an ambitious program of expanding the Freenet services to the regions of Armenia was started in September 2000. The Program targets at supporting the formation of "information society" and strengthening the capacity of the country's governance institutional system, particularly of civil society organizations, local self-governing bodies, regional and central public administration, through horizontally and vertically linked networks and partnerships, by using information and communications technologies.

**Support to Information Society and Democratic Governance, UNDP Project**

### 5.2.7. National Development Programs Based on Human Concepts

There is no need to prove the urgent need for designing national development strategies. Attempts to elaborate such programs in RA have been made in different times (a three-year program of socioeconomic development, regional development programs). However, to date, there is no such publicly endorsed and officially adopted comprehensive program. The elaboration and adoption of the latter would guide and consolidate the activities of the Government and other state entities, and will promote the involvement of civil society in its implementation. Together with the international community's systemized assistance, all of these factors will boost the inflow of foreign investments to Armenia. To this end it would be expedient, while designing the development strategies, as an approach, to base the latter on meeting the main requirements of human concepts taking into consideration their inter-linkage, and mutual impact, as well as how they influence activities aimed at meeting national targets. Moreover, the efficiency and expediency of programs could be tested as to how they promote a) *accountability, participation, non-discrimination and rule of law* as main pillars of HR, b) *investments in human capital, empowerment of an individual as a social being and use of his capacities* as main pillars of

HD c) *individual and public security, freedom from physical, material and moral threats* as main pillars of HS.

No matter how mutually reinforcing and holistic human concepts are, they can "impede" one another on the way to achieving the ultimate goal - the prosperity of the people worldwide. Hence, each development strategy issue having HR, HD or HS as a prevailing guideline, while seeking solutions and implementation mechanisms as a must should take into consideration the requirements of others, their impact and scope on scheduled activities and vice versa (see Chapter 1).

Such an approach requires horizontal and vertical coordination of goals, methods and mechanisms for the achievement of national development programs, the evaluation of external impacts, the argumentation of the choice of activities under limited resources in a given period, provided that as a necessary condition the main requirements of HR, HD and HS, as the main components for the development of human community are met. It proves once again the need for the quantitative evaluation of the above-mentioned components and any impact on their promotion, as well as the implementation of a mechanism appropriate for those goals. The elaboration and use of the latter taking into consideration the specifics of the country is now Armenia's imperative.

## 5.3

# Conclusions and Recommendations

The preceding analyses of separate HR, HD and HS spheres, with their problems, achievements and setbacks suggest that for making the leap in expanding freedoms, securing well-being and guaranteeing dignity as the shared goals of human-centered concepts, efficient policies and concrete action should be initiated in the following directions:

- I Overcome the decline of RA economy by radically reforming governance, enhancing the transparency of RA state governance and public administration systems and increasing efficacy both between vertical and horizontal structures; curbing bureaucracy's corruption and control; promoting mechanisms for boosting market relations; establishing a competitive field and equal conditions for all players; creating an environment conducive to foreign and domestic investments, etc.

- I Improve the legal framework guided by HR internationally accepted standards, eliminate contradictions between the national legislation and international instruments, and fill in the gaps in the legal field, particularly by:

- I making amendments in the Constitution to secure HR supremacy as the pivotal idea; clear separation of powers; judiciary's genuine independence. Also, to enlarge the scope of entities entitled to apply to the Constitutional Court, declare the equality of men and women, establish the institute of Ombudsman etc.
- I elaborating and adopting new laws (e.g. on anti-monopoly; trade unions, civil service; anti-corruption; national minorities, Ombudsman, the Labor Code, Administrative Penal Code, Marriage and Family Code, etc), and amendments or revisions to laws (e.g. the Electoral Code, on mass media, NGOs, public-political organizations, etc.)
- I involving relevant CSOs in the elaboration and discussion of legislative acts and provide transparency and sense of ownership.

- | Secure real and full independence of the judiciary by legislatively reinforcing the constitutional requirement for the supremacy of law and rights; provision of effective guarantees for the independence of judges and access to justice; establishment of a structure of judicial review and optional structures for resolving issues related to administrative-legal issues; provision of alternative legal aid to vulnerable groups; unimpeded realization of the attorney activities. Also, to resolve finally the transfer of responsibility for the prison system to the Ministry of Justice.
- | Urgently re-activate the efforts of the authorities and society on regaining mutual trust; further widen the dialogue to improve the HR situation in the military; ensure elections that are more transparent and held according to democratic values; promote an environment conducive to the growth and empowerment of civil society, including a genuinely independent media.
- | Contribute to finding peaceful solution to the Nagorno-Karabagh conflict.
- | Launch public awareness campaigns to enhance knowledge on HR enjoyment and obligations; train and re-train specialists and conduct research in the area of HR international standards; promote public awareness on legal consciousness; use the opportunities of high technologies to provide access to information and HR education.
- | Elaborate a scientifically grounded national development strategy for various levels driven by and tested against human concepts (HR, HD and HS) and their principles; use HDI and relevant measurements in analysis and prognosis for planning. Design a National Security doctrine for Armenia, giving equal weight to the main principles of human and state security. Elaborate and implement a national action plan (NAP) for human rights.
- | Establish within the RA government structures of national commissions on women's, children's and youth problems.
- | Juxtapose civil/political and economic, social and cultural rights to ensure their harmonious advancement, eliminate incongruence between the economic and political reforms by securing the uniform logic, mutual relations among them and increased level of supervision.
- | Elaborate and adopt national policies and programs on the reduction of poverty and emigration, incorporating activities aimed at the preservation of human capital, intellectual and genetic potential, gender equality; secure land tax privileges for borderline regions, establish markets for the realization of agricultural production, design a leaner and more effective social security system; clear the arrears in salaries, pensions and allowances overdue for months; raise allowances and pensions.
- | Calculate and adopt officially the MSB, curtail drastically the number of allowance recipients reconciling the value of their allowances with the real MSB through better targeting and focusing support on the neediest, who are no longer capable of working.
- | Pursue a policy conducive to the creation and enhancement of employment as a strategic priority, through
  - | reducing unemployment-professional training and re-education for the unemployed; financial support for those unemployed who set up their businesses; creation of new jobs at the expense of investments; organization of social works projects; provision of employment for uncompetitive groups on the labor market, etc.
  - | enhancing institution and capacity building - establishment of a Labor exchange; Accreditation and testing center at the National Employment Service; Independent service for employment and regulation of labor potential.
  - | ensuring the right to entrepreneurship by granting certain privileges to SMEs; comprehensive provision of a legal and economic basis for the inviolability of property. Introduction and promotion of co-ownership or group ownership.
- | Create a demand-driven health care service through the privatization of certain health care institutions; targeted implementation of state order and urgent solution of funding problems; establish a system of family doctors; implement a state policy on comprehensive preventative health measures; ensure affordable medical insurance.
- | Adopt a concept of comprehensive education policy; increase the quality of actual education; adopt an overarching goal and concept for a comprehensive cultural policy formulated to foster development and progress in cultural spheres.
- | Realize HR from the "bottom-up" harmonizing all types of rights and contribute to resolving the crises conditioned by political developments. Clarify the paradigm of HR enjoyment vs. obligations, simplify and unify their implementation mechanisms; ameliorate that imbalance to enhance the culture of human rights enjoyment and of obligations.
- | Consolidate the efforts of the State, civil society, private sector and international community to contribute to enhancing democratic governance and the rule of law, as major guarantees for full-fledged HR, HD and HS promotion.

# Annexs

Annex	1	Statistical Tables	111
Annex	2	Human Development Index (HDI)	124
Annex	3	Constitution of the Republic of Armenia	129
Annex	4	Concluding Observations of UN Human Rights Treaty Bodies on Armenian National Reports	141
		Bibliography	149

Statistical Tables<sup>1</sup>

## Human Development Index

1.

	1996	1997	1998	1999
Life Expectancy at birth (years)	72.9	73.9	74.7	73.2
Adult literacy (%) 1989	98.8	98.8	98.8	98.8
Combined first-second-third -level enrolment ratio (% , 7-22 age)	66.3	64.8	61.4	60.2
Real GDP per capita	423.8	429.8	499.0	485.0
GDP per capita (PPP\$) <sup>2</sup>	1967	2064	2229	2323 <sup>3</sup>
Life Expectancy index	0.798	0.815	0.828	0.803
Education index	0.880	0.875	0.863	0.853
GDP index	0.497	0.505	0.518	0.525
Human Development Index (HDI) value	0.725	0.732	0.736	0.729
GDP per capita (PPP\$) rank minus HDI rank				

## Gender related Human Development Index

2.

		1996	1997	1998	1999
Gender related development index (GDI) rank					
Life expectancy at birth (years)	Female	76.3	77.3	78.1	75.5
	Male	69.3	70.3	70.8	70.7
Adult literacy rate (%), 89	Female		98.8		
	Male		98.8		
Combined first-second- and third-level gross enrolment ratio (%)	Female	71.9	68.2	68.1	63.1
	Male	56.7	58.7	59.1	57.3
Share of earned income (%)	Female	49.5	32.5	32.9	33.0
	Male	50.5	67.5	67.1	67.0
GDI value		0.710	0.719	0.732	0.722
HDI rank minus GDI rank					

## Gender Empowerment Measure

3.

	1996	1997	1998	1999
Gender empowerment measure (GEM) rank, as of beginning of the year	...	...	...	...
Seats in Parliament, held by women (%), as of beginning of the year	6.5	6.3	3.1	3.1
Female administrators and managers (%), as of beginning of the year	29.6	29.0	32.1	35.4
Female professional and technical workers (% of total)	66.2	68.5	65.1	65.6
Women's share of earned income (%)	0.850	0.498	0.684	0.496
GEM value	0.381	0.370	0.351	0.351

<sup>1</sup> Data is provided by National Statistical Service of RA if not otherwise indicated.<sup>2</sup> GDP per capita is calculated based on the data published by National Statistical Service of RA, "The Socioeconomic Situation of RA",

#### 4. Trends in Human Development and Economic Growth

Reduction in shortfall (1-HDI) in Human Development Index (HDI) value (%) /1994=100/	1995		100.6
	1996		94.6
	1997		90.5
	1998		87.4
	1999		
Real GDP per capita (USD, 1994 prices).	Lowest value during 1994-1998		172
	Lowest value during 1994-1999		172
	Highest value during 1994-1998		499.0
	Highest value during 1994-1999		499.0
	1994		172
	1996		423.8
	1997		429.8
	1998		499.0
	1999		485.0
	Average annual rate of change (%)	1960-1994	3.8
		1995-1998	4.1
		1995-1999	4.9

#### 5. Trends in Human Development

		1996	1997	1998	1999
Life expectancy at birth (year)		72.9	73.9	74.7	73.2
Population with access to	Health care (%)	78.1	80.0	80.5	81.2
	Safe water (%)	88.1	85.0	86.0	97.0
	Sanitation (%)	67.0	67.0	67.0	69.0
Daily calorie supply per capita		2040	2016		
Adult literacy rate (%), 1989		98.8	98.8	98.8	98.8
Gross enrolment ratio for all levels (%)		66.3	64.8	61.4	60.2
Daily newspapers (circulation per 100 persons)		3.6	3.65	3.6	3.9
TV ( per 100 persons)		14.4	14.4	14.9	15.2
Real GDP per capita		423.8	429.8	499.0	485.0
GDP per capita (PPP\$)		1967	2064	2229	2323

## Trends in Human Development

6.

Life expectancy at birth (years)	1996	72.9	Adult literacy rate (%)	1989	98.8
	1997	73.9		1999	98.8
	1998	74.7	Gross enrolment ratio for all levels (%)	1996	66.3
	1999	73.2		1997	64.8
Infant mortality rate (per 1000 live births)	1996	15.5		1998	61.4
	1997	15.4	Real GDP per capita	1999	60.2
	1998	14.7		1996	423.8
	1999	15.4		1997	429.8
Population with access to safe water (%)	1996	88.1		1998	499.0
	1997	85.0		1999	485.0
	1998	86.0			
	1999	97.0			

## Women's Access to Education

7.

			1996	1997	1998	1999
Female net enrolment	Secondary school	Ratio	94.2	90.8	91.8	95.6
		Index (1980=100)	99.1	95.6	96.7	100.7
Female tertiary students		(per 100 000 women)	1583	1550	1643	1740
		Index (1980=100)	90.0	88.2	93.5	99.0
Life expectancy of female at birth	Age		76.3	77.3	78.1	75.5
	Index (1970=100)		103.8	105.2	106.2	106.8
General fertility	Index		1.598	1.453	1.297	1.194
	Index (1970=100)		49.9	45.4	40.0	37.8

## Women's Participation in Economic and Political Life

8.

			1996	1997	1998	1999
Female administrators and managers	Female ratio (%)		29.0	29.4	31.7	34.3
	Female-male ratio (%)		40.8	41.6	46.5	52.2
Female professional and technical workers	Female ratio (%)		66.2	68.5	65.1	64.5
	Female-male ratio (%)		196.3	217.4	186.6	181.7
Female clerical and sales workers	Female ratio (%)		46.3	43.4	48.2	40.9
	Female-male ratio (%)		86.3	76.6	93.0	69.2
Female service workers	Female ratio (%)		60.7	62.0	62.5	62.2
	Female-male ratio (%)		154.5	162.9	166.6	164.4
Women in government	Total (%)		46.8	47.4	41.5	39.0
	At sub-ministerial level (%)		...	...	2	2.4

## 9. Child Survival and Development

	1995	1996	1997	1998	1999
Pregnant women aged 15-49 with anemia (%)	10.7	10.9	12.6	14.8	15.3
Births attended by trained personnel (%)	94.9	98.7	98.3	98.5	98.6
Low birth weight infants (up to 2500 grams ,%)	8.0	7.89	7.9	8.5	8.5
Maternal mortality rate (per 100,000 live births)	34.7	20.8	38.8	25.4	32.9
Infant mortality rate (per 1000 live births)	14.2	15.5	15.4	14.7	15.4
Under-five mortality rate (per 1000 live births) 1995,1996,1997	19.9	19.5	19.5	18.4	19.2
Mothers exclusively breast feeding at four months and more (%)	....	42.0	52.6	53.0	54.4

## 10. Health Profile

		1996	1997	1998	1999
One-year-olds fully immunized against	Tuberculosis (%)	82.0	72.3	94.9	95.0
	Measles (%)	89.0	91.5	93.5	94.8
AIDS cases (per 100,000 people)		0.79	1.1	1.1	0.2
Tuberculosis cases (per 100,000 people)		97.7	103.1	122.5	138.8
Malaria cases (per 100,000 people)		9.2	22.2	30.8	16.2
Cigarette consumption per adult (per cigarette per day)		16	15	16	16
The number of people attending per doctor		294	291	292	301
The number of people attending per nurse		129	143	147	154
People with disabilities (as % of total population)		2.67	2.66	2.62	2.60
Public expenditure on health (as % of GDP)		1.4	1.4	1.4	1.4

## 11. Food Security

	1996	1997	1998	1999
Food production per capita index (1979-81=100)	10.4	11.0		
Agriculture production (as % of GDP)	34.8	29.4	29.8	31.6
Food consumption ( as % of total individual consumption)	61.3	64.6	70.4	67.0
Daily per capita supply of calories	2040	2016		
Sea food per capita (annual)	5.5	2.5	2.6	4.3
Food imports (as % of the total merchandise imports)	34.1	30.7	32.6	26.1
Cereal imports (1000 tons)	147.2	221.9	310.5	272.7
Food aid in cereals (1000 tons)	49.5	114.6	98.8	7.4

## Education Imbalances

12.

		1996	1997	1998	1999
Obligatory education (duration by years)		10	10	8	8
Enrolment to secondary technical institutions (as % of enrolment to secondary institutions)		20.6	22.9	24.1	26.3
Tertiary natural and applied science enrolment (as % of total tertiary)		64	61	58	51.3
Enrolment to tertiary education (as % of total tertiary)		0.2	0.2	0.2	0.2
R&D scientists and technicians		2.1	2.0	2.1	1.7
Public expenditures on	Education (as % of GNP)	2.0	2.0	2.1	1.7
	Education (as % of total government expenditure)	15.5	11.1	9.5	8.2
	Primary and secondary education (as % of all levels)	51.3	83.6	61.6	74.5
	Higher education (as % of all levels)	13.8	15.5	15.1	13.7

## Profile of People in Work

13.

Labor force (as % of total population)		1996	42.0
		1997	40.6
		1998	38.9
		1999	38.5
Women's share of adult labor force (% age 15 and above)		1996	44.3
		1997	51.3
		1998	50.1
		1999	49.0
Percentage of labor force in	Agriculture & forestry	1996	40.8
		1997	41.3
		1998	42.5
		1999	43.3
	Industry	1996	17.8
		1997	16.7
		1998	15.7
		1999	15.0
	Services	1996	36.7
		1997	37.6
		1998	37.5
		1999	37.4
GDP per capita annual growth rate (%)		1987-1994	100
		1997	103.0
		1998	107.1
		1999	103.1

## 14. Access to Information and Communication

	1996	1997	1998	1999
Radios (per 1,000 people)	108	108	33	32
Televisions (per 1,000 people)	143.9	144	149	152
Printed books and brochures (per 100,000 people)	10.5	11.3	14.1	19.1
Printing and writing paper consumed (metric tons per 1,000 people)	0.60	0.66	0.71	0.77
Post offices (per 10,000 people)	2.1	2.2	2.4	2.4
Main telephone lines (per 10,000 people)	1.29	1.28	1.30	1.29
International telephone calls (per minute per person)	3.2	3.0	5.0	4.8
Cellular mobile telephone subscribers (per 1,000 people)	...	1.6	1.9	2.1
Internet users (per 10,000 people)	...	3.9	10.7	15.9

## 15. Investments in Social Sphere

		1996	1997	1998	1999
Expenditures on the payment of transfers in social safety nets (as % of GDP)		5.1	5.9	5.9	6.5
Expenditures by spheres	Allowances	16.9	16.0	25.8	30.7
(as % of Total social expenditures)	Education	39.8	34.1	29.4	29.6
	Health	27.2	24.2	23.8	21.1

## 16. Military Expenditures and resource use imbalance

Defense expenditures	As % of GDP	1996	4.3
		1997	3.9
		1998	3.5
		1999	3.6
	Per capita (USD; 1995 prices)	1996	15.3
		1997	11.5
		1998	17.8
		1999	17.5
Military expenditures (as % of combined health and education expenditure)		1996	128
		1997	135.0
		1998	109.2
		1999	109.8

## Resource Inflow

17.

		1996	1997	1998	1999
Total external debt	USD millions		640.4	738.8	840.1
	As % of GDP	32.5	39.1	38.9	45.4
Debt service ratio (debt service as % of exports of goods and services)		4.3	3.7	7.1	5.6
Total net official development assistance (ODA) received 1996, 1997	USD millions	118.0	150.8	118.7	97.6
	As % of GDP	7.3	9.3	6.3	5.3
	Per capita (USD)	31.1	39.4	31.3	25.7
Net foreign direct investment (as % of GDP)		1.1	3.2	12.2	6.6
Export/import ratio (exports as % of import)		41.4	34.6	35.9	41.6
Terms of trade (1987=100)					
Current account balance before official transfers (USD millions)		-407.8	-306.5	-402.9	-306.9

## Growing Urbanization

18.

		1996	1997	1998	1999
Urban population (as % of total)	1995, 1996, 1997	67.0	66.9	66.8	66.7
	2000		67.0		
Urban population annual growth rate (%)	1960=100			2.75	
	1997-2000	0.1		0.2	
Population in cities of more than 750.000	As % of total population	33.1	33.0	32.9	32.8
	As % of urban population	49.4	49.3	49.2	49.2
Largest city	City		Yerevan		
	Population (thousands)	1250.0	1249.7	1248.7	1248.2
	Growth	1990-95	-0.05		
	rate (%)	1996-2000	-0.05		

## Population Trends

19.

		1996	1997	1998	1999
Estimated population (millions)	1960		1.8		
	1996, 1997, 1998, 1999	3.7	3.8	3.8	3.8
	2000		3.8		
Annual population growth rate (%)	1960-96		2.1		
	1997-2000		0.20		
Crude birth rate		12.8	11.6	10.4	9.6
Crude death rate		6.6	6.3	6.1	6.3
Total fertility rate		1.6	1.45	1.3	1.19
Contraceptive prevalence rate, any method (per 1000 women of fertile age)		14.9	17.9	33.7	31.5
Dependency ratio (%)		59.4	57.8	59.5	60.0
Population aged 65 and above (as % of total population)		8.0	8.3	8.6	8.3

## 20. Energy Use

Electricity consumption	Total (millions of kilowatt / hours)	1996	6229
		1997	6030
		1998	6191
		1999	5717
	Index (1990=100)	1996	0.60
		1997	0.58
		1998	0.6
		1999	0.55
	Per capita (kilowatt / hours)	1996	1651
		1997	1593
		1998	1631
		1999	1503
Household energy from fuel-wood (oil equivalent), per capita, kg		1996	7.1
		1997	5.4
		1998	4.1
		1999	4.2
Commercial energy use (oil equivalent)	Total (million tons)	1996	1744
		1997	1686
		1998	1733
		1999	1601
	Per capita (tons)	1996	445
		1997	446
		1998	457
		1999	421
	GDP output per kilogram (USD)	1996	0.39
		1997	0.47
		1998	0.55
		1999	0.62

## 21. Profile of Environmental Degradation

	1996	1997	1998	1999
Land area (1 000 ha)	2974.3	2974.3	2974.3	2974.3
Forest and woodland (as % of land area)	11.2	11.2	11.2	11.2
Arable land (as % of the total territory)	16.6	16.6	16.6	16.6
Irrigated land (as % of total arable land)	41.0	41.1	41.1	41.1
Annual rate of deforestation (%), 1990-1997	0.2			
Forest and woodland (1000 km <sup>2</sup> per capita)	0.09	0.09	0.09	0.09
Annual rate of reforestation (%)	1.0	0.5	0.3	0.3
Internal renewable water resources per capita (cubic meters per year)	1.74	1.74	1.74	1.74

## National Income Accounts

22.

		1996	1997	1998	1999
GDP (billions USD)		1.6	1.6	1.9	1.8
Agriculture (as % of GDP)		34.8	29.4	30.8	26.2
Industry (as % of GDP)		23.4	22.5	19.9	21.0
Services (as % of GDP)		28.7	31.8	31.8	35.2
Consumption	Private (as % of GDP)	100.3	103.3	99.9	95.4
	Public (as % of GDP)	11.2	11.2	11.1	10.7
Gross domestic investment (as % of GDP)		20.0	19.1	19.1	19.5
Gross domestic savings (as % of GDP)		-2.6	-5.3	-2.2	-
Tax revenue (as % of GDP)		5.5	8.0	9.3	8.6
Government expenditures (as % of GDP)		6.3	6.5	6.6	7.1
Export (as % of GDP)		23.2	20.3	19.0	21.0
Import (as % of GDP)		56.0	58.3	52.8	49.8

## Trends in Economic Performance

23.

		1996	1997	1998	1999
GDP (million USD)		1599.3	1638.9	1892.3	1844.6
GDP annual growth rate (%)		105.9	103.3	107.3	103.3
GDP per capita annual growth rate (%)		105.4	103.0	107.1	103.1
Average annual rate of inflation (%)		18.7	14.0	8.7	2.0
Exports* (as % of GDP)		23.2	20.3	19.0	20.8
Direct taxes (as % of total taxes)		3.8	3.9	2.9	4.1
Tax revenue (as % of GDP)		14.9	12.8	13.6	22.4
Overall budget surplus/deficit (as % of GDP)		-4.3	-2.5	-4.2	-5.9

\*including services

## 24. Health Profile

			1996	1997	1998	1999
Adults who smoke (%)		Male	70	70	69	68.8
		Female	...	6	6.2	6.6
Alcohol consumption per capita (liter)			2.86	2.6	2.6	2.58
Likelihood of dying after age of 65	Heart disease (per 1000 people)	Male	335	317	322	306
		Female	326	306	285	307
	Cancer (per 1000 people)	Male	71	71	75	76
		Female	36	38	42	40
AIDS cases (per 100,000 people)			0.79	1.1	1.1	0.2
People with disabilities (as % of total population)			2.67	2.66	2.62	2.67
Public expenditure on health (as % of total public expenditure)			6.8	7.7	7.3	5.8
Private expenditure on health (as % of total health expenditure)			89.1	88.0	87.0	89.0
Total expenditure on health (as % of GDP)			1.4	1.4	1.4	1.37

## 25. Education

		1996	1997	1998	1999
Full-time students per 100,000 people (age 7-22)		60.5	60.6	60.1	59.7
Secondary full-time net enrolment ratio (%)		78.1	78.4	78.7	78.7
Enrolment ratio to secondary technical institutions (as % of total enrolment to secondary education)		41.8	40.2	40.0	39.2
Net ratio of tertiary students (as % of total tertiary, age 17)		19.2	19.6	19.4	21.3
Tertiary natural and applied science enrolment (as % total tertiary)		41.1	38.9	39.0	39.2
Public expenditure on higher education (as % of all levels)		13.8	15.5	15.1	13.7
Public expenditure on the 3rd level of education (USD, per student)		124.5	119.7	135.1	121.7
Public expenditure on education (as % of GDP)		2.0	2.0	2.1	1.9

## 26. Profile of People in Work

		1996	1997	1998	1999
Labor force (as % of total population)		42.0	40.6	38.9	38.5
Percentage of labor force in	Agriculture & forestry	40.8	41.3	42.5	43.3
	Industry	17.8	16.7	15.7	15.0
	Services	36.7	37.6	37.5	37.4
Future labor force replacement ratio		147.7	157.6	131.6	137.1
Real earnings per employee annual growth rate (%)		44.3	30.0	31.8	19.2
Labor force unionized (%)		61			
Expenditure on labor market programs (as % of GDP)		0.139	0.104	0.069	0.155

## Unemployment

27.

			1996	1997	1998	1999
Unemployment people (thousands)			159.3	174.4	133.8	175.0
Average unemployment rate (%)			9.3	10.8	9.4	11.2
Unemployment rate (%)		Male	2.7	3.1	2.8	3.8
		Female	6.6	7.7	6.6	7.4
Youth unemployment rate (%)		Male (18-22 age)	0.4	0.4	0.3	0.3
		Female (18-22 age)	1.0	1.0	0.6	0.7
Incidence of long term unemployment (%)*	6 months or more	Male & female	...	82.8	86.6	82.0
		Female	...	85.0	87.3	84.3
	12 months or more	Male	...	61.7	67.0	51.6
		Female	...	70.8	71.4	66.3
Involuntary part-time workers (as % of total labor force)**			...	...	...	1.3
Unemployment benefits expenditure (as % of total public expenditure)			0.8	0.4	0.3	0.5

\* As of the end of the year

\*\* Excluding employees of small and average private enterprises

## Social Stress and Social Change

28.

		1996	1997	1998	1999
Prisoners (per 100,000 people)		179	187	169	172
Young adult prisoners by men (as % of total prisoners)		5.4	6.1	4.4	5.1
Intentional homicides by men (per 100,000 people)		5.0	4.1	2.2	4.2
Drug crimes (per 100,000 people)		13.1	11.3	14.3	12.6
Reported adult rapes (per 100,000 people)		0.9	0.8	0.5	0.6
Injuries and deaths from road accidents (per 100,000 people)		4.6	4.9	5.6	4.6
Suicides (per 100,000 people)	Male	3.4	3.4	2.6	2.7
	Female	0.8	1.2	0.9	0.9
Divorces (as of thousands of married)		183	185	142	101
Single female parent homes (%)		10.1	4.5	6.3	8.2
Births to mothers aged 15-19 (as of thousands of mothers)		53.3	43.4	34.6	29.8
One -person households headed by women aged 65 and above (as % of all households)		4.6	4.5	3.3	1.2

## 29. Financial Resource Inflows and Outflows

	1996	1997	1998	1999
Export-import ratio (exports as % of imports)	33.9	34.6	35.1	41.6
Export growth rate (as % of import growth rate)	84.4	76.7	124.0	118.0
Dependence of trade (import-export combined as % of GDP)	71.7	70.2	59.1	56.5
Net foreign direct investment (as % of GDP)	1.1	3.2	12.2	6.6
Net workers' remittances from abroad (USD million)	55.7	124.0	82.3	79.7
Current account balance before official transfers (USD million)	-407.8	-306.5	-402.9	-306.9

## 30. Growing Urbanization

		1996	1997	1998	1999	
Urban population (as % of total population)	1960		50.4			
	1994, 1996,1997, 1998		67.0	66.9	66.8	66.7
	2000		67.0			
Urban population annual growth rate (%)	1960-1995		2.8			
	1995-2000		0.1		1.7	
Population in cities of more than 750,000	As % of total population		33			
	As % of urban population		49.4	49.3	49.2	
Largest city	City		Yerevan			
	Population (thousands)		1250.0	1249.7	1248.7	1248.2
	Growth rate	1970-75	3.2			
		1990-95	-0.05			
1996-2000		-0.5				

## 31. Managing the Environment

		1997	1998	1999
Greenhouse gas emissions	CO <sub>2</sub> , thousand ton	8.3	7.4	8.7
	Methan, thousand ton	22.1	17.6	4.0
	NO <sub>x</sub> , tons	1.2	0.3	0.7
Major protected areas (as % of national territory)		10.6	10.8	
Spent fuel produced (metric tons of heavy metal)		1.9	0.1	0.2
Hazardous waste produced (1,000 metric tons)		0.02	0.03	0.05
Municipal waste generated (kg, per person) 285		262.4	246.8	
Population served by public sanitation services (%)		67.0	67.0	67.8
Waste recycling (as % of apparent consumption)	Paper & cardboard	1.6	1.2	2.0
	Glass	27.0	28.4	35.6

## Human Development Index (HDI)

HDI rank	Life expectancy at birth (years)	Adult literacy rate (%)	Combined first-second and third-level gross enrolment ratio (%)	Real GDP per capita (PPP USD)	Life expectancy index	Education index	GDP index	Human Development Index (HDI) value	Real GDP per capita (PPP USD) rank minus HDI rank
<b>High Human Development (1-46)</b>									
1 Canada	79.1	99.0	100	23,582	0.90	0.99	0.91	0.935	8
6 Sweden	78.7	99.0	102	20,659	0.90	0.99	0.89	0.926	15
19 Italy	78.3	98.3	83	20,585	0.89	0.93	0.89	0.903	3
35 Argentina	73.1	96.7	80	12,013	0.80	0.91	0.80	0.837	3
46 Estonia	69.0	99.0	86	7,682	0.73	0.95	0.72	0.801	7
<b>Medium Human Development (47-139)</b>									
48 Costa Rica	76.2	95.3	66	5,987	0.85	0.85	0.68	0.797	18
57 Belarus	68.1	99.5	82	6,319	0.72	0.93	0.69	0.781	6
62 Russian Federation	66.7	99.5	79	6,460	0.69	0.92	0.70	0.771	-3
70 Georgia	72.9	99.0	72	3,353	0.80	0.90	0.59	0.762	29
85 Turkey	69.3	84.0	61	6,422	0.74	0.76	0.69	0.732	-24
90 Azerbaijan	70.1	99.0	72	2,175	0.75	0.90	0.51	0.722	29
93 Armenia	70.7	98.2	72	2,072	0.76	0.90	0.51	0.721	29
99 China	70.1	82.8	72	3,105	0.75	0.79	0.57	0.706	7
128 India	62.9	55.7	54	2,077	0.63	0.55	0.51	0.563	-7
139 Congo	48.9	78.4	65	995	0.40	0.74	0.38	0.507	16
<b>Low Human Development (140-174)</b>									
141 Madagascar	57.9	64.9	40	756	0.55	0.56	0.34	0.483	23
160 Angola	47.0	42.0	25	1,821	0.37	0.36	0.48	0.405	-34
174 Sierra Leone	37.9	31.0	24	458	0.22	0.29	0.25	0.252	0

HDI Ranking of Armenia Among Other Countries<sup>1</sup>

The Human Development Index (HDI) measures the achievements in human capacities or their absence and facilitates the classification of countries based on their progress in regard to the three most fundamental dimensions indicated by the components of leading a long life (Life Expectancy Index), being knowledgeable (Education Index) and enjoying a decent standard of living (GDP Index).

HDI and a country's ranking may change from year to year depending on internal and external developments. The HDI analysis by components reveals the state of affairs in a country within specific spheres and proves that the link between economic prosperity and human development is not automatic. Countries with similar income can have different HDI values (and vice versa) depending on the accumulated human capital.

#### Similar income, different HDI, 1998

Country	GDP per capita (PPP USD)	Life expectancy (years)	Adult literacy (%)	HDI value	HDI rank
Armenia	2,072	70.7	98.2	0.721	93
India	2,077	62.9	55.7	0.563	128

#### Similar HDI, different income, 1998

Country	GDP per capita (PPP USD)	Life expectancy (years)	Adult literacy (%)	HDI value	HDI rank
Armenia	2,072	70.7	98.2	0.721	93
Jordan	3,347	70.4	88.6	0.721	92

With normalization of the values of the variables that make up the HDI, its value ranges from 0 to 1. The HDI value for a country shows the distance it must travel to reach the maximum possible value of 1- or its shortfall - and the challenge for every country is to find ways to reduce its shortfall.

Armenia's HDI had been displaying a positive shift starting in 1996, after a sharp decline ascribed to the collapse of the economy in the early 1990s. Armenia's advancement could be explained by economic recovery and certain economic growth as well as the previous investment in human capital. Thanks to the latter,

Armenia was in a better position than could be concluded from the economic indicators. However, the repeatedly voiced concern that the current insufficient realization of economic and social rights and of development opportunities will eventually endanger overall achievements under the conditions of slow rehabilitation of the economy found its manifestation in the calculations of Global HDR 2000, registering a certain amount of decline in Armenia's education and income levels (see Figures 1 and 2). Respectively, Armenia found itself in 93rd place, declining from 87th (see Figure 3).

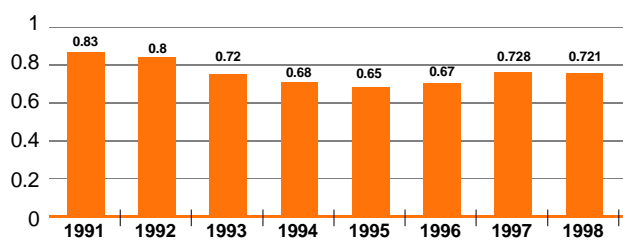


Figure 1

The Dynamics of Armenia's HDI<sup>2</sup>

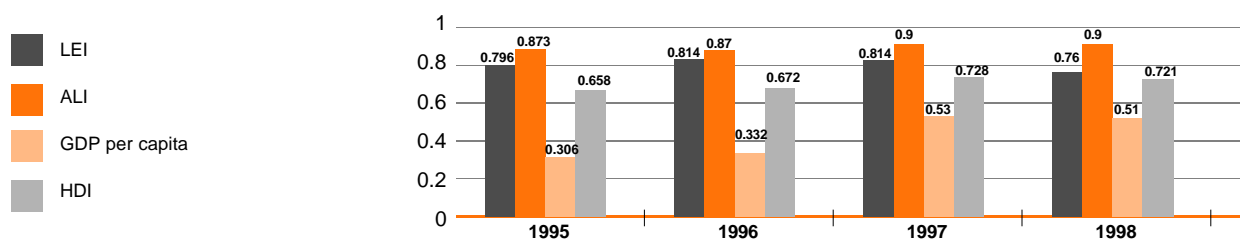
The Breakdown of HDI Components<sup>3</sup>

Figure 2

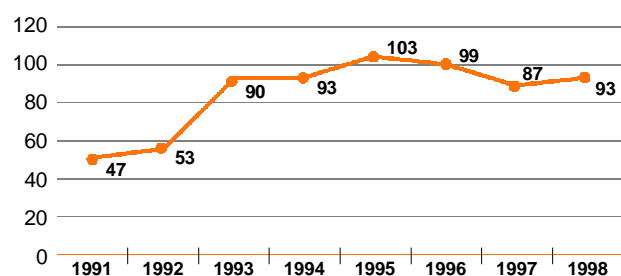
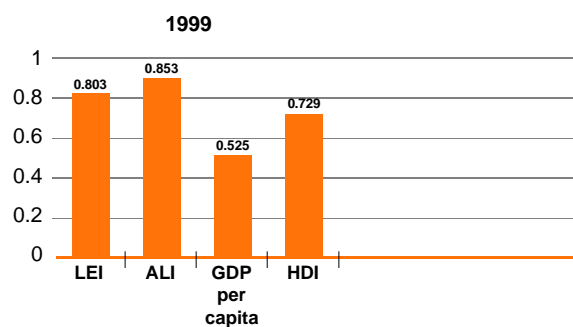
The Dynamics of Armenia's HDI ranking<sup>4</sup>

Figure 3

HDI calculation by Armenian specialists, based on the national official statistics (see Annex 1, Table 1) do not always correspond with those figures presented in

Global Reports, however they are useful in the sense of identifying future expectations (see Figure 4).



Armenia's HDI for 1999  
(based on national statistics and calculated by Armenian experts)

Figure 4

During the past decade, new options of HDIs have been established, which are widely used to indicate various aspects of SHD and allow comparisons among

countries in specific issues such as gender equality and poverty (see Table 2).

Index	Longevity	Knowledge	Decent standard of living	Participation or exclusion
HDI	Life expectancy at birth	1. Adult literacy rate 2. Combined enrolment ratio	Adjusted per capita income in PPP\$	-
GDI	Female and male life expectancy at birth	1. Female and male adult literacy rate 2. Female and male combined enrolment ratio	Adjusted per capita income in PPP\$, based on female and male income shares	-
HPI-1	Percentage of people not expected to survive to age 40	Adult literacy rate	1. Percentage of people without access to safe water 2. Percentage of people without access to health services 3. Percentage of underweight children under five	-
HPI-2 For industrialized countries	Percentage of people not expected to survive to age 60	Adult functional literacy rate	Percentage of people living below the income poverty line (50% of median personal disposable income)	Long term unemployment rate (12 months and more)

Table 2

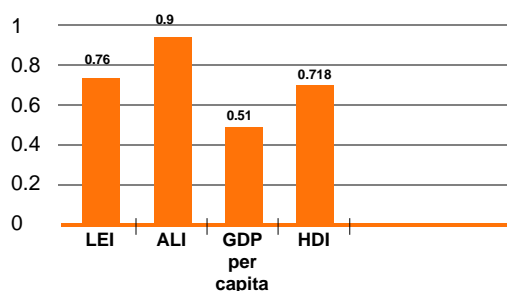
HDI, GDI, HPI-1, HPI-2 - same dimensions, different measurements<sup>5</sup>

Figure 5

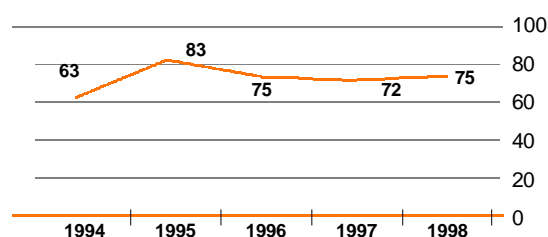
Armenia's Gender Related HDI, 1998<sup>6</sup>The Dynamics of  
Armenia's Gender Related HDI<sup>7</sup>

Figure 6

## Gender Empowerment Measure (GEM)

Global Reports do not give any indication of Armenia's Gender Empowerment Measure (GEM) due to the unavailability of relevant data. For the first time GEM has been calculated by the Armenian experts based on national statistical data using HDR methodology, hence the meanings, measurements and calculations of the separate components of the indicator are presented in more detail.

The GEM uses variables constructed explicitly to measure the relative empowerment of women and men in political and economic spheres of activity: women's and men's percentage shares of legislative bodies, administrative and managerial positions, and

their percentage shares of professional and technical jobs, involvement or generalized representation indexes of both sexes, as well as in terms of equal income distribution percent of equivalent. The first group of components is of a general nature and characterizes political and economic decision making capabilities. Because the relevant population for each is different and non-comparative, a separate index for each is calculated and then the two are added together. However, the employment index in the legislative bodies is taken with twice more weight.

An income variable used to reflect power over economic resources is calculated based on an unadjusted GDP per capita- opposite to the definition of the gender development index where adjusted GDP per capita is used.

<sup>5</sup> Human Development Report 1999, Oxford University Press, New York 1999, p. 127.

		1996	1997	1998	1999
Gender distribution of the population, %	Female	51.57	51.50	51.45	51.40
	Male	48.43	48.50	48.55	48.60
Gender distribution of the economic active population, %	Female	44.3	51.3	50.1	49.0
	Male	55.7	48.7	49.9	51.0
Income distribution of women and men employed in non agricultural sector, %		85.0	49.8	68.4	49.6
Representation Index in the legislative bodies		0.237	0.230	0.117	0.117
Representation Index in the administrative and management systems		0.820	0.813	0.862	0.862
Representation index in the positions of specialists and technical personnel		0.905	0.873	0.917	0.913
GDP per capita index	Female	0.036	0.026	0.035	0.035
	Male	0.058	0.074	0.073	0.078
Equivalent percent in income		0.044	0.038	0.047	0.048
Gender empowerment measure		0.381	0.370	0.351	0.351

### Gender Empowerment Index (based on national statistics and calculated by Armenian experts)

3 Table

### Human Poverty Index (HPI)

HPI for developed countries is calculated through  $P = [1/3(P_1 + P_2 + P_3)]^{1/3}$  displaying deprivations in HDI main components:

1. Life expectancy -  $P_1$  - percentage of people not expected to survive to the age of 40
2. Knowledge -  $P_2$  - exclusion from the world of reading and communication - the illiterate population of age 15 and above
3. Decent standard of living -  $P_3$  - low living standard conditioned by poor economic security, including average arithmetical of three varieties:  $[P_3 = P_{31} + P_{32} + P_{33}]$ , where

$P_{31}$  - the percentage of people lacking access to safe water;

$P_{32}$  - the percentage of people lacking access to health services

$P_{33}$  - the percentage of children under five who are moderately or severely underweight.

HPI has been calculated for the second time by the Armenian experts and certain adjustments have been made in the initial calculation.

Years	$P_1, \%$	$P_2, \%$	$P_{31}, \%$	$P_{32}, \%$	$P_{33}, \%$	$P_3, \%$	HPI-1
1996	0.11	1.2	11.9	21.9	5.0	12.93	8.97
1997	0.10	1.2	15.0	20.0	5.0	13.33	9.24
1998	0.09	1.2	14.0	19.5	5.0	12.83	8.90
1999	0.08	1.2	3.0	18.8	7.0	9.6	6.66

### Human Poverty Development Index for Armenia (based on national statistics and calculated by Armenian experts)

4 Table

Calculated for 85 countries (though Armenia's HPI has not been included yet in Global HDR), the HPI reveals that human poverty ranges from a low of 3.9% in Uruguay to 64.7% in Niger. Nine countries have an HPI-1 of less than 10%, which implies that they have overcome severe levels of poverty<sup>8</sup>.

Armenian scientists introduced the Environment related index in the NHDR 1995, Armenia (also presented at the International Conference on Sustainable Human Development of Countries with Economies in Transition, 16 - 18 April, 1997 Minsk (the calculation methodology is presented in Annex III, NHDR 1998).

Table 5 The Impact of the Environmental Factor on Human Development Index

	Indicator	Indicator's Description	Indicator's Estimated Value (with + or - symbol depending on the content)			
			1990	1997	1998	1999
1	2	3	4	4		
A - Territory Ecological Condition Indicator						
A <sub>1</sub>	Air-basin condition indicator	The values of the existing monitored pollutants in comparative excess of allowed limits	-0.230	-0.090	-0.121	-0.139
A <sub>2</sub>	Water resources (Surface water) condition	The comprehensive indicator of the water quality, based on presence of monitored pollutants in water exceeding the acceptable limits, and on the water quality index	-0.370	-0.120	-0.125	-0.132
A <sub>3</sub>	Land resources condition indicator	The integral indicator of soil pollution (with waste and other pollutants), secondary salinization, erosion, deterioration and desertification	-0.730	-0.620	-0.608	-0.642
A <sub>4</sub>	Biodiversity condition indicator	The integral indicator of deforestation, the evaluation of amounts of plant and animal species facing the danger of disappearance (or already disappeared)	-0.380	-0.400	-0.386	-0.320
A			-0.427	-0.308	-0.310	-0.308
B- Human Activity Ecological Assessment Indicator						
B <sub>1</sub>	Pollutants' emissions purification indicator	The comparative indicator of pollutants' emission into atmosphere	-0.500	-0.515	-0.467	-0.709
B <sub>2</sub>	Water resources Consumption Rationality Degree Indicator	The integral indicator of water withdrawal, sewage purification, and of population's access to clean water	-0.320	-0.300	-0.347	-0.336
B <sub>3</sub>	Solid waste management indicator	The integral indicator of communal waste sanitation, of waste treatment, utilization and underground disposal	-0.750	-0.780	-0.781	-0.779
B <sub>4</sub>	Energy consumptionEfficiency indicator	The oil equivalent of the actually used energy in GDP	-0.600	-0.470	-0.550	-0.620
B <sub>5</sub>	Biodiversity protection indicator	The national preserves	+0.590	+0.600	+0.617	+0.835
B <sub>6</sub>	Ecological Investment indicator	The rate of ecological investment in GDP	+0.100	+0.080	+0.100	+0.100
B <sub>7</sub>	The indicator of damage to a unique nature object of international or regional significance	Lake Sevan	-0.100	-0.100	-0.100	-0.100
B			-0.297	-0.276	-0.278	-0.294
P <sub>0</sub>			-0.362	-0.292	-0.294	-0.301
HSDI			-0.343	-0.440	-0.442	-0.428

# Constitution of the Republic of Armenia<sup>1</sup>

(Adopted on 5 of July, 1995)

The Armenian People, recognizing as a basis the fundamental principles of Armenian statehood and the national aspirations engraved in the Declaration of Independence of Armenia, having fulfilled the sacred message of its freedom-loving ancestors for the restoration of the sovereign state, committed to the strengthening and prosperity of the fatherland.

In order to ensure the freedom, general well being and civic harmony of future generations, declaring their faithfulness to universal values, hereby adopts the Constitution of the Republic of Armenia.

## Chapter 1. The Foundations of Constitutional Order

Article 1. The Republic of Armenia is a sovereign, democratic state, based on social justice and the rule of law.

Article 2. In the Republic of Armenia power lies with the people. The people exercise their power through free elections and referenda, as well as through state and local self-governing bodies and public officials as provided by the Constitution. The usurpation of power by any organization or individual constitutes a crime.

Article 3. The elections of the President, the National Assembly and local self-governing bodies of the Republic of Armenia, as well as referenda, are held based on the right to universal, equal and direct suffrage by secret ballot.

Article 4. The state guarantees the protection of human rights and freedoms based on the Constitution and the laws, in accordance with the principles and norms of international law.

Article 5. State power shall be exercised in accordance with the Constitution and the laws based on the principle of the separation of the legislative, executive and judicial powers. State bodies and public officials may execute only such acts as authorized by legislation.

Article 6. The supremacy of the law shall be guaranteed in the Republic of Armenia.

The Constitution of the Republic has supreme juridical force, and its norms are applicable directly.

Laws found to contradict the Constitution as well as other juridical acts found to contradict the Constitution and the law shall have no legal force. Laws shall take effect only after official publication. Unpublished juridical acts pertaining to human rights, freedoms, and duties shall have no juridical force. International treaties that have been ratified are a constituent part of the legal system of the Republic. If norms are provided in these treaties other than those provided by laws of the Republic, then the norms provided in the treaty shall prevail. International treaties that contradict the Constitution may be ratified after making a corresponding amendment to the Constitution.

Article 7. The multiparty system is recognized in the Republic of Armenia.

Parties are formed freely and promote the formulation and expression of the political will of the people. Their activities may not contravene the Constitution and the laws, nor may their structure and practice contravene the principles of democracy. Parties shall ensure the openness of their financial activities.

Article 8. The right to property is recognized and protected in the Republic of Armenia. The owner of property may dispose of, use and manage the property at his or her discretion. The right to property may not be exercised so as to cause damage to the environment or infringe on the rights and lawful interests of other persons, society, or the state.

The state shall guarantee the free development and equal legal protection of all forms of property, the freedom of economic activity and free economic competition.

Article 9. The foreign policy of the Republic of Armenia shall be conducted in accordance with the norms of international law, with the aim of establishing good neighborly and mutually beneficial relations with all states.

Article 10. The state shall ensure the protection and reproduction of the environment and the rational utilization of natural resources.

Article 11. Historical and cultural monuments and other cultural values are under the care and protection of the state.

Within the framework of principles and norms of international law, the Republic of Armenia shall promote the protection of Armenian historical and cultural values located in other countries, and shall support the development of Armenian educational and cultural life.

Article 12. The state language of the Republic of Armenia is the Armenian.

Article 13. The flag of the Republic of Armenia is tricolor made of three horizontal and equal strips of red, blue, and orange. The coat of arms of the Republic of Armenia depicts, in the center on a shield, Mount Ararat with Noah's ark and the coats of arms of the four kingdoms of historical Armenia. The shield is supported by a lion and an eagle while a sword, a branch, a sheaf, a chain and a ribbon are portrayed under the shield. The national anthem of the Republic of Armenia is the "Our Fatherland." The capital of the Republic of Armenia is Yerevan.

## Chapter 2. Fundamental Human and Civil Rights and Freedoms

Article 14. The procedures for acquiring and terminating citizenship of the Republic of Armenia are determined by law. Individuals of Armenians origin shall acquire citizenship of the Republic of Armenia through a simplified procedure.

A citizen of the Republic of Armenia may not be a citizen of another state simultaneously.

Article 15. Citizens, regardless of national origin, race, sex, language, creed, political or other persuasion, social origin, wealth or other status, are entitled to all the rights and freedoms, and subject to the duties determined by the Constitution and the laws.

Article 16. All are equal before the law and shall be given equal protection of the law without discrimination.

Article 17. Everyone has the right to life. Until such

## Constitution of the Republic of Armenia

time as it is abolished, the death penalty may be prescribed by law for particular capital crimes, as an exceptional punishment.

Article 18. Everyone is entitled to freedom and the right to be secure in their person. No one may be arrested or searched except as prescribed by law. A person may be detained only by court order and in accordance with legally prescribed procedures.

Article 19. No one may be subjected to torture and to treatment and punishment that are cruel or degrading to the individual's dignity. No one may be subjected to medical or scientific experimentation without his or her consent.

Article 20. Everyone is entitled to defend his or her private and family life from unlawful interference and defend his or her honor and reputation from attack. The gathering, maintenance, use and dissemination of illegally obtained information about a person's private and family life are prohibited. Everyone has the right to confidentiality in his or her correspondence, telephone conversations, mail, telegraph and other communications, which may only be restricted by court order.

Article 21. Everyone is entitled to privacy in his or her own dwelling. It is prohibited to enter a person's dwelling against his or her own will except under cases prescribed by law. A dwelling may be searched only by court order and in accordance with legal procedures.

Article 22. Every citizen is entitled to freedom of movement and residence within the territory of the Republic. Everyone has the right to leave the Republic. Every citizen is entitled to return to the Republic.

Article 23. Everyone is entitled to freedom of thought, conscience, and religion. The freedom to exercise one's religion and beliefs may only be restricted by law on the grounds prescribed in Article 45 of the Constitution.

Article 24. Everyone is entitled to assert his or her opinion. No one shall be forced to retract or change his or her opinion. Everyone is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of state borders.

Article 25. Everyone has the right to form associations with other persons, including the right to form or join trade unions. Every citizen is entitled to form political parties with other citizens and join such parties. These rights may be restricted for persons belonging to the armed forces and law enforcement organizations. No one shall be forced to join a political party or association.

Article 26. Citizens are entitled to hold peaceful and unarmed meetings, rallies, demonstrations and processions.

Article 27. Citizens of the Republic of Armenia who have attained the age of eighteen years are entitled to participate in the government of the state directly or through their freely elected representatives. Citizens found to be incompetent by a court ruling, or duly convicted of a crime and serving a sentence may not vote or be elected.

Article 28. Everyone is entitled to private property and inheritance. Foreign citizens and persons without citizenship shall not have the right to own land, except in cases prescribed by law. The owner may be deprived of private property only by a court in cases prescribed by law.

Private property may be alienated for the needs of society and the state only under exceptional circumstances, with due process of law, and with prior equivalent compensation.

Article 29. Every citizen is entitled to freedom of choice in employment.

Everyone is entitled to wages that are fair and that are no lower than the minimum established by the state, and to working conditions which meet sanitary and safety requirements. Citizens are entitled to strike in the defense of their economic, social and work interests. The procedures and restrictions applicable to the exercise of this right shall be prescribed by law.

Article 30. Everyone is entitled to rest. The maximum work period, rest days, and minimum duration of annual paid vacation shall be prescribed by law.

Article 31. Every citizen is entitled to an adequate standard of living for himself or herself and his or her family, to adequate housing, as well as to the improvement of living conditions. The state shall provide the essential means to enable the exercise of these rights.

Article 32. The family is the natural and fundamental cell of society. Family, motherhood, and childhood are placed under the care and protection of society and the state. Women and men enjoy equal rights when entering into marriage, during marriage, and in the course of divorce.

Article 33. Every citizen is entitled to social security during old age, disability, sickness, loss of an income earner, unemployment and in other cases prescribed by law.

Article 34. Everyone is entitled to the preservation of health. The provision of medical care and services shall be prescribed by law. The state shall put into effect health care protection programs for the population and promote the development of sports and physical education.

Article 35. Every citizen is entitled to education. Education shall be free of charge in state secondary educational institutions. Every citizen is entitled to receive higher and other specialized education free of charge and on a competitive basis, in state educational institutions. The establishment and operation of private educational institutions shall be prescribed by law.

Article 36. Everyone is entitled to freedom of literary, artistic, scientific and technical creation, to benefit from the achievements of scientific progress and to participate in the cultural life of society. Intellectual property shall be protected by law.

Article 37. Citizens belonging to national minorities are entitled to the preservation of their traditions and the development of their language and culture.

Article 38. Everyone is entitled to defend his or her rights and freedoms by all means not otherwise prescribed by law.

Everyone is entitled to defend in court the rights and freedoms engraved in the Constitution and the laws.

Article 39. Everyone is entitled to restore any rights which may have been violated, as well as to a public hearing by an independent and impartial court, under the equal protection of the law and fulfilling all the demands of justice, to clear himself or herself of any accusations. The presence of the news media and representatives of the public at a judicial hearing may be prohibited by law wholly or in part, for the purpose of safeguarding public morality, the social order, national security, the safety of the parties, and the interests of justice.

Article 40. Everyone is entitled to receive legal assistance. Legal assistance may be provided free of charge in cases prescribed for by law. Everyone is entitled to legal counsel from the moment he or she is arrested, detained, or charged.

Every convicted person is entitled to have his or her conviction reviewed by a higher court, in a manner prescribed by law. Every convicted person is entitled to request a pardon or mitigation of any given punishment.

Compensation for the harm caused to the wronged party shall be provided in a manner prescribed by law.

Article 41. A person accused of a crime shall be presumed innocent until proven guilty in a manner prescribed by law, and by a court sentence properly entered into force. The defendant does not have the burden to prove his or her innocence. Accusations not proven beyond a doubt shall be resolved in favor of the defendant.

Article 42. A person shall not be compelled to be a witness against himself or herself or against his or her spouse, or against a close relative. The law may foresee other circumstances relieving a person from the obligation to testify. Illegally obtained evidence shall not be used. A punishment may not exceed that which could have been met by the law in effect when the crime was committed. A person shall not be considered to be guilty for a crime if at the time of its commission the act was not legally considered a crime. Laws limiting or increasing liability shall not have retroactive effect.

Article 43. The rights and freedoms set forth in the Constitution are not exhaustive and shall not be construed to exclude other universally accepted human and civil rights and freedoms.

Article 44. The fundamental human and civil rights and freedoms established under Articles 23 - 27 of the Constitution may only be restricted by law, if necessary for the protection of state and public security, public order, public health and morality, and the rights, freedoms, honor and reputation of others.

Article 45. Some human and civil rights and freedoms, except for those provided under Articles 17, 20, 39, and 41 - 43 of the Constitution, may be temporarily in a manner prescribed by law, in the event of martial law, or in cases prescribed under paragraph 4 of Article 55 of the Constitution.

Article 46. Everyone shall pay taxes, duties, and make other mandatory payments in amounts and manners prescribed by law.

Article 47. Every citizen shall participate in the defense of the Republic of Armenia in a manner prescribed by law.

Article 48. Everyone shall uphold the Constitution and the laws, and respect the rights, freedoms and dignity of others.

The exercise of rights and freedoms shall not serve toward the violent overthrow of the Constitutional order, for the instigation of national, racial, or religious hatred or for the incitement to violence and war.

### Chapter 3. The President of the Republic of Armenia

Article 49. The President of the Republic of Armenia shall uphold the Constitution, and ensure the normal functioning of the legislative, executive and judicial authorities. The President of the Republic shall be the guarantor of the independence, territorial integrity and security of the Republic.

Article 50. The President of the Republic shall be elected by the citizens of the Republic of Armenia for a five-year term of office. Every person having attained the age of thirty five, having been a citizen of the Republic of Armenia for the preceding ten years, having permanently resided in the Republic for the preceding ten years, and having the right to vote is eligible for the Presidency. The same person may not be elected for the post of the President of the Republic for more than two consecutive terms.

Article 51. Elections for the post of President of the Republic shall be held fifty days prior to the expiration of the term of office of the President in office and in accordance with procedures set by the Constitution and the laws.

The candidate who received more than half of the votes cast for the presidential candidates shall be considered as having been elected President of the Republic. If the election involved more than two candidates and none received the necessary votes, a second round of elections shall be held on the fourteenth day following the first round of the election, at which time the two candidates having received the highest number of votes in the first round shall participate. The candidate who receives the highest number of votes during this second round shall be considered to have been elected.

In the event only one candidate is presented, the candidate shall be considered as having been elected if he or she has received more than half of the votes cast. If a President is not elected, there shall be new elections on the fortieth day after the first round of elections. The President elect of the Republic shall assume office on the day when the term of the previous President expires. A President who shall be elected by new or extraordinary elections shall assume office within ten days of such elections.

Article 52. In the event that one of the presidential candidates faces insurmountable obstacles, the presidential elections shall be postponed by two weeks. If during this period obstacles recognized as insurmountable are not removed, or in the event of the passing of one of the candidates prior to election day, new elections shall be held.

These new elections shall be held on the fortieth day following the determination of these obstacles to be insurmountable.

Article 53. In the event of the resignation of the President of the Republic, his or her passing, incapacity to perform his or her functions, or removal from office in accordance to Article 57 of the Constitution, special presidential elections shall be held on the fortieth day following the vacancy of the office.

Article 54. The President of the Republic shall assume office by pledging an oath to the people during a special sitting of the National Assembly.

Article 55. The President of the Republic:

- 1) shall address the people and the National Assembly;
- 2) shall sign and promulgate within twenty one days of receipt, laws passed by the National Assembly;

During this period, the President may remand a law to the National Assembly with objections and recommendations requesting new deliberations.

The President shall sign and publish the law within five days of the second passing of such law by the National Assembly;

- 3) may dissolve the National Assembly and designate special elections after consultations with the President of the National Assembly and the Prime Minister. Special elections shall be held no sooner than thirty and no later than forty days after the dissolution of the National Assembly.

The President may not dissolve the National Assembly during the last six months of his or her term of office;

- 4) shall appoint and remove the Prime Minister. The President shall appoint and remove the members of the Government upon the recommendation of the Prime Minister. In the event that the National Assembly adopts a vote of no confidence against the Government, the President shall, within twenty one days accept the resignation of the Government, appoint a Prime Minister and form a Government;
- 5) shall make appointments to civilian positions in cases prescribed by law;
- 6) may establish advisory bodies.
- 7) shall represent the Republic of Armenia in international relations, conduct and oversee foreign policy, make international treaties, sign international treaties that are ratified by the National Assembly, ratify intergovernmental agreements;
- 8) shall appoint and recall the diplomatic representatives of the Republic of Armenia to foreign countries and international organizations, and receive the credentials and letters of recall of diplomatic representatives of foreign countries;
- 9) shall appoint and remove the Prosecutor General upon the recommendation of the Prime Minister.
- 10) shall appoint members and the President of the Constitutional Court.

He may, on the basis of a determination by the Constitutional Court, remove from office any of his

or her appointees to the Court or sanction the arrest of such a member of the Court, and through the judicial process authorize the initiation of administrative or criminal proceedings against that member;

- 11) shall appoint, in accordance with the procedure provided in Article 95 of the Constitution, the president and judges. of the Court of Appeals and its chambers, the courts of review, the courts of first instance and other courts, the deputy prosecutors general and prosecutors heading the organizational subdivisions of the office of the Prosecutor General; may remove from office any judge, sanction the arrest of a judge and through the judicial process, authorize the initiation of administrative or criminal proceedings against a judge and remove the prosecutors that he or she has appointed.
- 12) is the Commander in Chief of the armed forces and shall appoint the staff of the highest command of the armed forces;
- 13) shall decide on the use of the armed forces. In the event of an armed attack against or of an immediate danger to the Republic, or a declaration of war by the National Assembly, the President shall declare a state of martial law and may call for a general or partial mobilization.  
  
Upon the declaration of martial law, a special sitting of the National Assembly shall be held;
- 14) in the event of an imminent danger to the constitutional order, and upon consultations with the President of the National Assembly and the Prime Minister, shall take measures appropriate to the situation and address the people on the subject;
- 15) shall grant citizenship of the Republic of Armenia and decide on the granting of political asylum;
- 16) shall award the orders and medals of the Republic of Armenia and grant the highest military and honorary titles and diplomatic and other titles;
- 17) may grant pardons to convicted individuals.

Article 56. The President of the Republic may issue orders and decrees which shall be executed throughout the Republic. The orders and decrees of the President of the Republic shall not contravene the Constitution and the laws.

Article 57. The President may be removed from office for state treason or other high crimes.

In order to request a determination on questions pertaining to the removal of the President of the Republic from office, the National Assembly must appeal to the Constitutional Court by a resolution adopted by the majority of the deputies.

A decision to remove the President of the Republic from office must be reached by the National Assembly by a minimum two thirds majority vote of the total number of deputies, based on the determination of the Constitutional Court.

Article 58. The acceptance of the resignation of the President of the Republic shall be determined by the National Assembly by a majority vote of the total number of deputies.

Article 59. In the event of the serious illness of the President of the Republic or of insurmountable obstacles affecting the performance of his or her duties, upon the recommendation of the Government and a determination by the Constitutional Court, the National Assembly shall adopt a resolution on the incapacity of the President of the Republic to exercise his or her duties with a minimum two thirds majority vote of the total number of deputies.

Article 60. In the event that the office of the President of the Republic remains vacant and until a newly elected President assumes office the presidential duties shall devolve onto the President of the National Assembly, and if that is not possible, onto the Prime Minister. During this period it is prohibited to dissolve the National Assembly, call a referendum, and appoint or remove the Prime Minister and the Prosecutor General.

Article 61. The compensation, servicing and security of the President of the Republic shall be prescribed by law.

## Chapter 4. The National Assembly

Article 62. Legislative power in the Republic of Armenia: shall be vested in the National Assembly.

Under cases provided by Articles 59, 66, 73, 74, 78, 81, 83, 84, 111, 112 of the Constitution, as well as for purposes of organizing its own activities, the National Assembly shall adopt resolutions which shall be signed and published by its President. The powers of the National Assembly are determined by the Constitution. The National Assembly shall operate in accordance with its rules of procedure.

Article 63. The National Assembly shall have one hundred and thirty one deputies.

The authority of the National Assembly shall expire in June of the fourth year following its elect on, on the opening day of the first session of the newly elected National Assembly, on which day the newly elected National Assembly shall assume its powers. The

## Constitution of the Republic of Armenia

National Assembly may be dissolved in accordance with the Constitution.

A newly elected National Assembly may not be dissolved during a one year period following its election.

The National Assembly may not be dissolved during a state of martial law, or under the cases foreseen under paragraph 14 of Article 55 of the Constitution, or when the removal of the President of the Republic from office is being deliberated.

Article 64. Any person having attained the age of twenty five, having been a citizen of the Republic of Armenia- for the preceding five years, having permanently resided in the Republic for the preceding five years, and who has the right to vote, may be elected as a Deputy.

Article 65. A Deputy may not hold any other public office, nor engage in any other paid occupation, except for scientific, educational and creative work. The compensation and guarantees for the normal functioning of a Deputy shall be prescribed by law.

Article 66. A Deputy shall not be bound by any compulsory mandate and shall be guided by his or her conscience and convictions. A Deputy shall not be prosecuted or held liable for actions arising from the performance of his or her status, or for the expression of his or her opinions expressed in the National Assembly, provided these are not slanderous or defamatory. A Deputy may not be arrested and subjected to administrative or criminal prosecution through judicial proceedings without the consent of the National Assembly.

Article 67. The powers of a Deputy shall terminate upon the expiration of the term of the National Assembly, upon the dissolution of the same, upon violation of the provisions of part I of Article 65 of the Constitution, upon loss of citizenship of the Republic of Armenia, for unfounded absences from half of the floor votes during a single session upon being sentenced to imprisonment, when deemed incapacitated and upon his or her resignation.

A Deputy's term of office shall be terminated in a manner prescribed by the rules of procedure of the National Assembly.

Article 68. Regular elections to the National Assembly shall be held within sixty days prior to the expiration of the term of the current Assembly. Procedures for elections to the National Assembly shall be prescribed by law.

The date of elections shall be fixed by Presidential decree. The first session of a newly elected National Assembly shall convene on the second Thursday following the election of at least two thirds of the total number of Deputies.

Until the election of the President of the National Assembly, its meetings shall be chaired by the Deputy who is most senior in age.

Article 69. The regular sessions of the National Assembly shall convene twice per year from the second Monday of September to the second Wednesday of December and from the first Monday of February to the second Wednesday of June. The sittings of the National Assembly shall be open to the public. Closed-door sittings may be convened by a resolution of the National Assembly.

Article 70. An extraordinary session of the National Assembly may be convened by the President of the Republic, at the initiative of at least one third of the total number of Deputies, or at the initiative of the Government.

An extraordinary session of the National Assembly convening upon the request of the majority of the total number of Deputies shall be held in accordance with the agenda and timetable of the Deputies requesting the session.

An extraordinary session may not last for more than six days. An extraordinary sitting of the National Assembly may be convened by its President, upon the initiative of the Government or of at least one third of the total number of Deputies.

Extraordinary sittings shall follow the agenda and timetable specified by the requesting party.

Article 71. Laws and resolutions of the National Assembly shall be passed by the majority vote of the Deputies present at a given sitting, if more than half of the total number of Deputies participate in the voting, except for cases covered under Articles 57, 58, 59, 72, 74, 84, 111 of the Constitution, and paragraph 4 of Article 75, the first paragraph of Article 79, and Section 3 of Article 83 of the Constitution.

Article 72. The National Assembly shall deliberate on a priority basis any law which has been remanded by the President. Should the National Assembly decline to accept the recommendations and objections presented by the President of the Republic, it shall pass the remanded law, again with a majority vote of the number of Deputies.

Article 73. There shall be six standing committees established in the National Assembly. Ad hoc committees may be established as necessary. The standing committees are established for the preliminary consideration of draft legislation and other proposals and for the submission of findings on such legislation and proposals to the National Assembly.

Ad hoc committees are established for the preliminary consideration of special draft legislation or for the submission of findings and reports on specific events and

facts to the National Assembly.

Article 74. Within twenty days of the formation of a newly elected National Assembly or of its own formation, the Government shall present its program to the National Assembly for its approval, thus raising the question of a vote of confidence before the National Assembly. A draft resolution expressing a vote of no confidence toward the Government may be proposed within twenty four hours of the Government's raising of the question of the vote of confidence by not less than one third of the total number of Deputies. The proposal for a vote of no confidence shall be voted on no sooner than forty eight hours and no later than seventy two hours from its initial submittal. The proposal must be passed by a majority vote of the total number of Deputies. If a vote of no confidence toward the Government is not proposed, or such proposal is not passed, the Government's program shall be considered to have been approved by the National Assembly. If a vote of no confidence is passed, the Prime Minister shall submit the resignation of the Government to the President of the Republic.

Article 75. The right to initiate legislation in the National Assembly shall belong to the Deputies and the Government. The Government shall stipulate the sequence for debate of its proposed draft legislation and may request that they be voted on only with amendments acceptable to it. Any draft legislation which is considered urgent by a Government resolution shall be debated and voted on by the National Assembly within a one month period. The National Assembly shall consider all draft legislation reducing state revenues or increasing state expenditures only upon the agreement of the Government and shall pass such legislation by a majority vote of the total number of Deputies. The Government may raise the question of a vote of confidence in conjunction with its proposed legislation. If the National Assembly does not adopt a vote of no confidence against the Government as provided by Article 74 of the Constitution, then the Government's proposed legislation will be considered to have been adopted. The Government may not raise the issue of a vote of confidence in conjunction with a proposed legislation more than twice during any single session.

Article 76. The National Assembly shall adopt the state budget upon its submittal by the Government. If the budget is not adopted by the start of the fiscal year, all expenditures shall be incurred in the same proportions as in the previous year's budget. The procedure for debate on and adoption of the state budget shall be prescribed by law.

Article 77. The National Assembly shall supervise the implementation of the state budget, as well as of the use of loans and credits received from foreign governments and international organizations.

The National Assembly shall examine the annual report on the realization of the state budget and adopt the report based on the findings of the National Assembly's Oversight Office.

Article 78. In order to ensure the legislative basis of the Government's program, the National Assembly may authorize the Government to adopt resolutions that have the effect of law that do not contravene any laws are in force during a period specified by the National Assembly. Such resolutions must be signed by the President of the Republic.

Article 79. The National Assembly shall elect its President for the duration of its full term by a majority vote of the total number of Deputies. The President of the National Assembly shall chair the sittings, manage its material and financial resources, and shall ensure its normal functioning. The National Assembly shall elect two Vice Presidents of the National Assembly.

Article 80. Deputies are entitled to ask questions to the Government. For one sitting each week during the regular sessions of the Assembly, the Prime Minister and the members of the Government shall answer questions raised by the Deputies. The National Assembly shall not pass any resolutions in conjunction with the questions raised by the Deputies.

Article 81. Upon the recommendation of the President of the Republic, the National Assembly:

- 1) may declare an amnesty;
- 2) shall ratify or revoke the international treaties signed by the Republic of Armenia. The range of international agreements which are subject to ratification by the National Assembly shall be prescribed by law;
- 3) may declare war.

The National Assembly, upon the determination of the Constitutional Court, may suspend the execution of the provisions of Sections 13 and 14 of Article 55 of the Constitution.

Article 82. The National Assembly, upon the recommendation of the Government, shall determine the administrative-territorial divisions of the Republic.

Article 83. The National Assembly:

- 1) shall appoint the Chairman of the Central Bank upon the recommendation of the President of the Republic;
- 2) shall appoint the Chairman of the National Assembly's Oversight Office upon the recommendation of the President of the National Assembly and members and the President of the Constitutional Court from among the members of the Court.

If within thirty days of the formation of the Constitutional Court the National Assembly fails to

## Constitution of the Republic of Armenia

appoint the President of the Constitutional Court, the President of the Constitutional Court shall then be appointed by the President of the Republic;

- 3) may, upon the determination of the Constitutional Court, terminate the powers of a member of the Constitutional Court the Assembly has appointed, approve such member's arrest, and authorize the initiation of administrative or criminal proceedings against such member through the judicial process.

Article 84. The National Assembly may adopt a vote of no confidence toward the Government by a majority vote of the total number of Deputies. The National Assembly may not exercise this right in situations of martial law or under circumstances provided by Section 14 of Article 55 of the Constitution.

## Chapter 5. The Government

Article 85. Executive power in the Republic of Armenia shall be vested in the Government of the Republic of Armenia.

The Government shall be composed of the Prime Minister and the Ministers. The powers of the Government shall be determined by the Constitution and by laws. The organization and rules of operation of the Government shall be determined by a decree of the President of the Republic, upon the recommendation of the Prime Minister.

Article 86. The meetings of the Government shall be chaired by the President of the Republic, or upon his or her recommendation, by the Prime Minister. Government decisions shall be signed by the Prime Minister and approved by the President. The Prime Minister shall convene and chair a Government meeting when requested by the majority of Government members under the circumstances foreseen in Article 59 of the Constitution.

Article 87. The Prime Minister shall oversee the Government's regular activities and shall coordinate the work of the Ministers. The Prime Minister may adopt resolutions. In cases prescribed by the rules of operations of the Government, resolutions approved by the Prime Minister may also be signed by the Minister responsible for the implementation of the resolution.

Article 88. A member of the Government may not be a member of any representative body, hold any other public office, or engage in any other paid occupation.

Article 89. The Government:

- 1) shall submit its program to the National Assembly for approval in accordance with Article 74 of the Constitution;
- 2) shall submit the draft state budget to the National Assembly for approval, guarantee the implementation of the budget and submit financial reports on the budget to the National Assembly;
- 3) shall manage state property;
- 4) shall ensure the implementation of unified state policies in the areas of finances, economy, taxation and loans and credits;
- 5) shall ensure the implementation of state policies in the areas of science, education, culture, health, social security and environmental protection;
- 6) shall ensure the implementation of the defense, national security and foreign policies of the Republic;
- 7) shall take measures toward the strengthening of legality, the protection of the rights and freedoms of citizens, and the protection of property and public order.

Article 90. The Government shall submit the proposed state budget to the National Assembly at least sixty days prior to the beginning of the fiscal year and may request that this proposal, with any amendments, it may adopt, be voted on prior to the expiration of the budget deadline. The Government may raise the question of a vote of confidence in conjunction with the adoption of the state budget. If a vote of no confidence is not adopted by the National Assembly, as provided under Article 74 of the Constitution, then the state budget and related amendments approved by the Government shall be considered adopted. In case of a vote of no confidence related to the proposed state budget, the new Government shall present the National Assembly with a draft state budget within a period of twenty days. This draft shall be debated and voted on by the National Assembly within a period of thirty days in accordance with the procedure determined by this Article.

## Chapter 6. Judicial Power

Article 91. In the Republic of Armenia justice shall be administered solely by the courts in accordance with the Constitution and the laws. In cases prescribed by law, trials are held with the participation of a jury.

Article 92. The Courts of general jurisdiction in the Republic of Armenia shall be the courts of first instance, the review courts and the court of appeals. In the Republic of Armenia, there shall also be economic, military and other courts as may be provided by law. The establishment of extraordinary courts is prohibited.

Article 93. Sentences, verdicts and decisions entered into legal force may be reviewed by the court of appeals based on appeals filed by the Prosecutor General, his or her deputies, or specially licensed lawyers registered with the court of appeals.

Article 94. The President of the Republic shall be the guarantor of the independence of the judicial bodies. He or she shall preside over the Judicial Council. The Minister of Justice and the Prosecutor General shall be the vice presidents of the Council. The Council shall include fourteen members appointed by the President of the Republic for a period of five years, including two legal scholars, nine judges and three prosecutors. Three Council members shall be appointed each from among the judges of the courts of first instance, the courts of review and the court of appeals. The general assembly of judges shall submit three candidates by secret ballot for each seat allocated to judges. The Prosecutor General shall submit the names of candidates for the prosecutors' seats in the Council.

Article 95. The Judicial Council:

- 1) shall, upon the recommendation of the Minister of Justice, draft and submit for the approval of the President of the Republic the annual list of judges, in view of their competence and professional advancement, which shall be used as the basis for appointments.
- 2) shall, upon the recommendation of the Prosecutor General, draft and submit for the approval of the President of the Republic the annual list of prosecutors, in view of their competence and professional advancement, which shall be used as the basis for appointments.
- 3) shall propose candidates for the presidency of the court of appeals, the presidency and judgeship positions of its chambers, the presidency of the courts of review, courts of first instance and other courts. It shall make recommendations about the other judicial candidates proposed by the Ministry of Justice;

- 4) shall make recommendations regarding the candidates for Deputy Prosecutor proposed by the Prosecutor General, and the candidates for prosecutors heading operational divisions in the Office of the Prosecutor.
- 5) shall make recommendations regarding training programs for judges and prosecutors;
- 6) shall make recommendations regarding the removal from office of a judge, the arrest of a judge, and the initiation of administrative or criminal proceedings through the judicial process against a judge;
- 7) shall take disciplinary action against judges. The president of the court of appeals shall chair the meetings of the Judicial Council when the Council is considering disciplinary action against a judge. The President of the Republic, the Minister of Justice and the Prosecutor General shall not take part in these meetings;
- 8) shall express its opinion on issues of pardons when requested by the President of the Republic.

The operational procedures of the Judicial Council shall be prescribed by law.

Article 96. Judges and members of the Constitutional Court are appointed for life. A judge may hold office until the age of 65, while a member of the Constitutional Court may do so until the age of 70. They may be removed from office only in accordance with the Constitution and the laws.

Article 97. When administering justice, judges and members of the Constitutional Court shall be independent and may only be subject to the law.

The guarantees for the exercise of their duties and the grounds and procedures of the legal responsibility applicable to judges and members of the Constitutional Court shall be prescribed by law.

Article 98. Judges and members of the Constitutional Court may not hold any other public office, nor engage in any other paid occupation, except for scientific, educational and creative work. Judges and members of the Constitutional Court may not be members of any political party nor engage in any political activity.

Article 99. The Constitutional Court shall be composed of nine members, five of whom shall be appointed by the National Assembly and four by the President of the Republic.

Article 100. The Constitutional Court, in accordance with the law:

- 1) shall decide on whether the laws, the resolutions of the National Assembly, the orders and decrees of the President of the Republic and the resolutions of Government are in conformity with the Constitution;

- 2) shall decide, prior to the ratification of an international treaty, whether the obligations assumed therein are in conformity with the Constitution;
- 3) shall rule on disputes concerning referenda and the results of presidential and parliamentary elections;
- 4) shall ascertain the existence of insurmountable obstacles facing a presidential candidate or the elimination of such obstacles;
- 5) shall determine whether there are grounds for the removal of the President of the Republic;
- 6) shall determine whether there are grounds for the application of Sections 13 and 14 of Article 55 of the Constitution;
- 7) shall determine whether the President of the Republic is incapable of continuing to perform his or her functions;
- 8) shall determine whether there are grounds for the removal of a member of the Constitutional Court, his or her arrest or initiation of administrative or criminal proceedings through the judicial process;
- 9) shall decide on the suspension or prohibition of a political party in cases prescribed by law.

Article 101. The Constitutional Court may hear cases submitted by:

- 1) the President of the Republic;
- 2) at least one third of the Deputies;
- 3) Presidential and parliamentary candidates on disputes concerning election results;
- 4) the Government in cases prescribed by Article 59 of the Constitution.

The Constitutional Court shall only hear cases that have been properly submitted.

Article 102. The Constitutional Court shall render its decisions and findings no later than thirty days after a case has been filed. The decisions of the Constitutional Court shall be final, may not be subject to review and shall enter into legal force upon their publication.

The Constitutional Court shall decide with a majority vote of its total number of members on matters pertaining to Sections I through 4 of Article 100 of the Constitution, and with a vote of two thirds of its members on matters pertaining to Sections 5 through 9 of Article 100.

Article 103. The Office of the Prosecutor General in the Republic of Armenia represents a unified, centralized system, headed by the Prosecutor General.

The Office of the Prosecutor General:

- 1) shall initiate criminal prosecutions in cases prescribed by law and in accordance with procedures provided by law;
- 2) shall oversee the legality of preliminary inquiries and investigations;
- 3) shall present the case for the prosecution in court;
- 4) shall bring actions in court to defend the interests of the state;
- 5) shall appeal the judgments, verdicts and decisions of the courts;
- 6) shall oversee the execution of sentences and other sanctions.

The Office of the Prosecutor General shall operate within the powers granted to it by the Constitution and on the basis of the law on the Office of the Prosecution.

## Chapter 7. Territorial Administration and Local Self-Government

Article 104. The administrative territorial units of the Republic of Armenia shall be the provinces and districts.

Provinces shall include urban and rural districts.

Article 105. Districts shall have local self-government.

To manage the property of the district and to solve problems of local significance, self governing local bodies shall be elected for a period of three years: a Council of Elders, composed of five to fifteen members, and a District Administrator: a City Mayor or Village Mayor. The District Administrator shall organize his or her staff.

Article 106. The District Council of Elders, upon the recommendation of the District Administrator, shall approve the district budget, oversee the implementation of the budget, and determine local taxes and fees as prescribed by law.

Article 107. The provinces shall be governed by the state Government.

The Government shall appoint and remove the Governors of the provinces, who shall implement the Government's regional policy and coordinate the regional activities of republican executive bodies.

Article 108. The City of Yerevan shall also be considered a province.

The President of the Republic, upon the recommendation of the Prime Minister, shall appoint and remove the Mayor of Yerevan. Local self-government shall be instituted in Yerevan through neighborhood districts.

Article 109. In cases prescribed by law, the Government may remove the Administrator of a district upon the recommendation of the Governor of the Province. When the Administrator of a district is removed by the decision of the Government, special elections shall be held within a period of thirty days. Until such time as the newly elected District Administrator may take office, an Acting District Administrator shall be appointed by the Prime Minister for urban districts and by the Governor for rural districts.

Article 110. The election procedure of local self-governing bodies and their powers shall be determined by the Constitution and the laws.

## Chapter 8. Adoption of the Constitution, Amendments and Referendum

Article 111. The Constitution shall be adopted or amended by referendum which may be initiated by the President of the Republic or the National Assembly. The President of the Republic shall call a referendum upon the request or agreement of the majority of the Deputies of the National Assembly. The President of the Republic may remand the Draft Constitution or the draft of constitutional amendments, within twenty one days following their submittal back to the National Assembly, with his or her objections and suggestions, requesting a reexamination. The President of the Republic will submit to a referendum within the period prescribed by the National Assembly a draft Constitution or draft constitutional amendments, when they are reintroduced by at least two thirds of the total number of Deputies of the National Assembly.

Article 112. Laws may be submitted to a referendum upon the request of the National Assembly or the Government in accordance with Article 111 of the Constitution. Laws passed by referendum may only be amended by referendum.

Article 113. A proposed legislation submitted to a referendum shall be considered to have been passed if it receives more than fifty percent of the votes, but not less than one third of the number of registered voters.

Article 114. Articles 1, 2 and 114 of the Constitution may not be amended.

## Chapter 9. Provisions for the Transitional Period

Article 115. This Constitution shall enter into force based on the referendum results and upon its publication.

Article 116. From the moment the Constitution enters into force:

- 1) The 1978 Constitution, its subsequent amendments and supplements, as well as related constitutional laws shall become inoperative;
- 2) Laws and other legal acts of the Republic of Armenia shall have the force of law to the extent they do not contravene this Constitution;
- 3) The President of the Republic shall exercise the powers reserved to him or her by the Constitution. Until the expiration of his powers, the Vice-President of the Republic shall carry out the instructions of the President of the Republic;
- 4) The National Assembly shall exercise the powers reserved to it by the Constitution. The provisions of Section I of Article 63, Article 64 and Section I of Article 65 of the Constitution shall apply to the sessions of the next National Assembly. Until that time, Articles 4 and 5 of the Constitutional Law dated March 27, 1995, shall be effective;
- 5) Until the formation of the Constitutional Court, international treaties shall be ratified without its determination;
- 6) Until the adoption of legislation pertaining to regional governments and local self-governing bodies in conformity with the Constitution, current village, town, city and regional councils of deputies and their executive bodies shall continue to exercise their powers as prescribed by law.

Until legislation on territorial government and local self-government is adopted, the right to adopt a vote of no confidence toward the chairmen of deputies to the city and regional councils belongs to the National Assembly;

- 7) Until the adoption of legislation pertaining to court systems and procedures and the establishment of the new judicial system in conformance with the Constitution, the regional (city) people's courts and the Supreme Court shall continue to operate in accordance with their previous authorities;

## Constitution of the Republic of Armenia

- 8) Until the establishment of economic courts, the State Arbitrage shall continue to operate in accordance to their previous prerogatives;
- 9) The authority of the judges of the regional (city) people's court shall be extended for a maximum period of six months, during which the President of the Republic, upon the recommendation of the Judicial Council, shall appoint new judges for these courts for a period of three years;
- 10) The authority of the members of the Supreme Court shall be extended until the establishment of the court of appeals, but not for a period to exceed three years;
- 11) Until the institution of the new judicial system, the Judicial Council shall consist of eleven members appointed by the President of the Republic, composed of two legal scholars, six judges and three public prosecutors. Three Council members shall be appointed from among the judges of the regional (city) people's courts and three from the Supreme Court, in accordance with the provisions of Article 94 of the Constitution.  
  
The Council shall be headed by the President of the Republic. The Minister of Justice and the Prosecutor General shall serve as its Council's Vice Presidents.  
  
The Judicial Council shall exercise the powers reserved to it by the Constitution;
- 12) Until the passage of the law on the Office of the Prosecutor General, the latter shall exercise the powers reserved for to it by the Constitution in accordance with current legislation;
- 13) The Supreme Court shall review court verdicts, judgments and decisions which have the force of law, when these are appealed by the Prosecutor General, his or her deputies and specially licensed lawyers registered with the Supreme Court;
- 14) Until the Criminal Code is made to conform with the Constitution, current procedures for searches and arrests shall remain in effect.

Article 117. The day the Constitution is adopted shall be proclaimed a holiday known as Constitution Day.

## Concluding Observations of UN Human Rights Treaty Bodies on Armenian National Reports

### International Covenant on Civil and Political Rights

Acceded: 1 April 1991. Optional Protocol: Acceded: 1 April 1991.

Armenia's initial report was considered by the Committee at its **October 1998 session**.

The Committee's concluding observations and comments **welcomed**, inter alia:

- | the establishment of the Constitutional Commission; the adoption of the law on the independence of the judiciary and a number of other laws and codes;
- | the establishment of the Commission on Human Rights as an advisory body to the President; the creation of a Human Rights Section within the Ministry of Foreign Affairs;
- | the proposal to establish the office of Ombudsmen with power to handle individual complaints;
- | the intention to abolish the death penalty by 1 January 1999; and the release of political prisoners following the last presidential elections.

The principal subjects of **concern** identified by the Committee were, inter alia:

- | the incompatibility of several constitutional provisions with the Covenant, noting those on citizenship, freedom of movement and stipulations related to derogation;
- | failure to guarantee fully the independence of the judiciary;
- | limits on recourse to the Constitutional Court;
- | failure to list in the present law all grounds for pre-trial detention;
- | the fact that very few detainees benefit from bail;
- | allegations of torture and ill treatment by law enforcement officials;
- | the poor conditions prevailing in prisons;
- | that de facto discrimination against women persists as a matter of custom, noting such areas as employment and representation in the conduct of public affairs;
- | the disproportionate level of unemployment among women and the government's explanation that this is due to economic hardship;

- | the existence of the phenomenon of street children;
- | the lack of legal provision for alternatives to military service in the case of conscientious objectors;
- | the conscription of conscientious objectors by force and their punishment by military courts, as well as reprisals against family members;
- | the requirement that religions be registered and the provision increasing the number of followers required for registration; discrimination against non-recognized religions in their entitlement to own private property and to receive foreign funds;
- | provisions in the 1991 Press Law, particularly related to the notions of "State secrets" and "untrue and unverified information";
- | the extent of the government's monopoly with regard to printing and distribution of newspapers;
- | the strict governmental control over electronic media; and
- | the statement of the government that it is not possible to ensure that small national minorities have access to educational facilities in their language of origin.

The Committee **recommended**, inter alia, that the government:

- | amend the RA Constitution to enable individuals to bring questions related to human rights to the Constitutional Court;
- | commute immediately the death sentences of all persons currently on death row;
- | consider ratification of the Second Optional Protocol;
- | establish an independent body to investigate complaints of torture and ill treatment by law enforcement personnel;
- | take specific protection and punitive measures with respect to all forms of violence against women, including rape, noting that the lack of data on cases of domestic violence should not be interpreted to mean that no such incidents occur;
- | compile relevant data for submission in the next periodic report; and
- | provide human rights training to the legal profession and the judiciary.

## International Covenant on Economic, Social and Cultural Rights

Acceded: 9 June 1993

Armenia's initial report has been submitted and was considered at the Committee's November **1999 session**; the second periodic report is due on **30 June 2000**. The Report prepared by the government contains information on the economic, social and cultural rights stipulated by the RA Constitution and relevant laws, the current situation and by respective articles of Economic, Social and Cultural Rights.

The principal areas of **concern** identified by the Committee included inter alia:

- | the legal status of the International Covenant on Economic, Social and Cultural Rights in the Armenian national legal order;
- | the slow and complicated process required for the adoption of new legislation with aims to give effect to economic, social and cultural rights in accordance with the State Party's obligations under the Covenant;
- | discrepancies in practice between men and women in the enjoyment of economic, social and cultural rights, despite equality between men and women before the law (high unemployment rate among women and relatively low percentage of women in high-level positions and the Parliament);
- | lack of clarity and statistics in regard to the exact situation with employment and the minimum wage for securing minimum subsistence of workers and their families;
- | inadequate efforts being made in regard to alleviating the crisis in the housing, health and education;
- | lack of clarity and information on the general deterioration of the health of the Armenian people, especially among the women;
- | reduction of budgetary allocations and high occurrence of carcinogenic and cardio-vascular disease;
- | the fact that abortion remains the most commonly used means of family planning due to inadequate education and high cost of contraceptives;
- | decline in the percentage of government allocations for education relative to allocations for other sectors and the increase of the fee-paying education sector.

The Committee's concluding observations and comments **welcomed**, inter alia:

- | the willingness and efforts of the State party to comply with the obligations under the Covenant;

- | efforts of the Armenian Government to cope with the consequences of many difficulties, in particular the natural disasters and armed conflicts that have led to its current deteriorated economic, social and political situation;
- | the equal treatment of refugees and Armenian citizens in the exercise of economic, social and cultural rights.

The Committee **recommended** that the government, inter alia:

- | provide more specific and detailed data, which are updated, and where necessary, disaggregated by gender. The data was specifically on housing, food, health and education;
- | provide more information on the exact status of the Covenant in the Armenian national legal system, and that it undertake measures to define the relationship between Armenia's international legal obligations and nation obligations;
- | set up the family planning for women, in particular to decrease the incidence of abortion, and programming for the prevention and treatment of cancer;
- | promote employment for women and their greater participation in public life;
- | take measures that the quality of the Armenian education system is monitored and guaranteed, particularly in private educational institutions, which have increased in number;
- | take measures that human rights education be ensured in curricula at all levels of education, as well as in relevant public institutions;
- | avail itself more actively of technical assistance from the Office of the High Commissioner for Human Rights, relevant UN Specialized Agencies and Programs, particularly in the preparation of the second periodic report to the Committee;
- | include in their forthcoming report the necessary statistical data on the evolution of the economy, personal incomes, the state of nutrition, housing, health, and education in the country;
- | disseminate the Concluding Observations of the Committee among all levels of society, and to consult with non-governmental organizations in the preparation of the second periodic report.

## International Convention on the Elimination of All Forms of Racial Discrimination

Acceded: 29 March 1993

Armenia's initial and second periodic reports were submitted as one document, which was considered by the Committee at its **March 1998 session**. The third periodic report is due **July 2000**. The Committee's concluding observations and comments noted the difficult period of political, economic and social reforms following the dissolution of the former Soviet Union and the fact that these elements, together with recent demographic movements, hinder full implementation of the Convention.

The Committee **welcomed**:

- | the government's stated commitment to ensure equality before the law;
- | the signing of the Commonwealth of Independent States (CIS) Agreement on questions relating to the restoration of the rights of deported persons, national minorities and peoples;
- | the CIS Convention on the safeguarding of the rights of members of national minorities; the process of drafting new legislation, including a new Penal Code, expected to be adopted by the end of 1998, as well as legislation regarding employment and the family;
- | the publication and dissemination of the texts and principles of the Convention and other human rights documents;
- | and the programme undertaken with the Office of the High Commissioner of Human Rights to organize seminars, train specialists and disseminate human rights literature.

The principal subjects of **concern** identified by the Committee included, inter alia:

- | the fact that article 69 of the Penal Code currently in force does not prohibit all dissemination of ideas based on racial superiority and incitement to racial discrimination;
- | the lack of information in the government's report on the incidence of racially motivated crime;
- | the reported cases of torture and other cruel or degrading treatment on the part of police and investigating officers;
- | the provision in law that teaching must be conducted in the official language (Armenian), and that, in practice, some minority groups are therefore denied access to education.

The Committee **recommended** that the government, inter alia:

- | comply fully with article 4 of the Convention and register statistics on racially motivated crimes;
- | include information on such crimes in the next periodic report, together with detailed information on complaints received and judgements issued by courts concerning racial discrimination;
- | consider adopting measures to ensure that ethnic and national minorities have access to education in their own language whenever possible;
- | include information in the next report about the results and effectiveness of the ongoing human rights projects carried out with the Office of the High Commissioner for Human Rights;
- | provide the Committee with the texts of new laws concerning racial discrimination once they are adopted and, subsequently, with information on the effectiveness of the reforms of the judicial system in practice;
- | include further information in the next report on, inter alia, the restoration of the rights of deportees who have returned to the country, the results of the national reform on education, and the access to health care, housing and employment of ethnic and national minorities; and consider establishing a human rights commission to take action on the recommendations brought forward by the Committee.

## Convention on the Rights of the Child

Acceded: 1 June 1992

Armenia's initial report was submitted on 19 February 1997 and the second periodic report is due **July 2000**. At its 603rd and 604th meetings (see CRC/C/SR. 603-604), held on **20 January 2000**, the Committee considered the initial report of Armenia (CRC/C/28/Add.9). In the concluding observations and comments the Committee has expressed its regret that the State party report was not prepared according to the Committee's guidelines for initial reports. In particular, apart from the spheres of health, welfare, and education, there are significant gaps in information relating to general measures of implementation, general principles, civil rights and freedoms, and special protection measures. The Committee notes the timely submission of the written answers to the list of issues, (CRC/C/Q/ARM/1), and the high-level of the delegation in attendance, which enabled a constructive dialogue to take place. Moreover, the Committee appreciated the frank and open nature of the dialogue.

Among the factors and **difficulties impeding** the implementation of the Convention, the Committee has mentioned serious economic, social and political challenges that the State party has had to face during the past few years posed by the transition to a market

economy, including increased unemployment, and poverty. The Committee further noted the major socio-economic problems experienced as a consequence of armed conflict. It takes particular note of the large population of refugees and displaced persons and that the consequences of the 1988 earthquake have had a serious impact on the welfare of the population, negatively affecting 40% of its territory and approximately one third of its population, including children.

The Committee **welcomed**:

- | the adoption of the 1996 Rights of the Child Act, which demonstrates the commitment of the State party towards its obligations under Convention;
- | the fact that the State party is party to the six major international human rights instruments;
- | the establishment of the Human Rights Commission and the Gender Commission;
- | the preparatory work towards the establishment of an Ombudsman;
- | the State party's intention to establish a National Commission for Children.

The principal subjects of **concern** identified by the Committee included, inter alia:

- | while the 1996 Rights of the Child Act reflects some principles and provisions of the Convention, other relevant laws are not in full conformity with the Convention, disparities exist between law and practice;
- | the lack of administrative coordination and cooperation at the national and local levels as a serious problem in the implementation of the Convention;
- | the absence of a mechanism to collect and analyze disaggregated data of all persons under 18 years for 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 in the streets, children affected by armed conflicts, children living in rural areas, refugee children and children belonging to minority groups);
- | the importance of setting up an independent mechanism with the mandate of regularly monitoring and evaluating progress in the implementation of the Convention at the national and local levels;
- | insufficient attention paid to article 4 of the Convention regarding the implementation of the "maximum extent of...available resources" of economic, social and cultural rights of children;
- | still limited cooperation with NGOs in the implementation of the Convention, including preparation of the report; difficulties involved with the system of official registration of NGOs;

- | the low level of awareness of the Convention amongst the general public, including children, and professionals working with children; lack of adequate dissemination and awareness-raising activities in a systematic and targeted manner by the state party;
- | disparities existing in legislation relating to minimum-age requirements, such as the minimum age for admission to employment (e.g. under the Civil Code, and the 1996 Rights of the Child Act);
- | de facto discrimination on the grounds of gender and the discrepancies in the enjoyment of rights in relation to certain vulnerable groups: children with disabilities, children living in rural areas, refugee children, children from poor families, children living and/or working on the streets, and those living in institutions;
- | limited respect for the views of the child (article 12) owing to traditional societal attitudes towards children in schools, care institutions, the courts, and especially within the family;
- | the prevailing policies and practices of institutionalization in Armenia. The Committee is concerned that institutionalization, quite apart from being an alternative for children deprived of parents, is effectively a substitute for parents who do not have the means to maintain their children. Moreover, the Committee is concerned at the high numbers of children in institutions, where the living conditions are inadequately organized to provide a family environment, to support family ties, or to meet the individual needs of each child; and that few community services are available to assist the parents to resolve the problems that force them to seek admission of their children; inadequate system to review placement, monitor, or follow-up the situation of children in institutions;
- | absence of national standards and statistics on foster care and adoption; with the current informal system of foster care, there are no mechanisms to review, monitor, and follow-up placement of children; vague adoption procedures and the absence of mechanisms to review, monitor, and follow-up adoptions;
- | failure to acknowledge and address the matter of domestic violence; ill-treatment of children, including sexual abuse, not only in schools and institutions, but also within the family; limited access to complaint mechanisms and the insufficiency of rehabilitation measures for such children;
- | the prevailing poor situation of children with disabilities, who are often institutionalized;
- | deterioration in the health of the Armenian people, especially women and children, and decreasing

budgetary allocations in this sector; the deterioration in the quality of care; inadequate prenatal and neonatal care; poor nutrition; that cost of care is a barrier to access to health care for poor households; and that abortion is the most commonly used means of family planning;

- | high and increasing rate of teenage pregnancies, and the consequent high rate of abortions, among girls under 18, especially illegal abortions; and the rise in rates of STDs and spread of HIV. Recognizing that parents play the most important role in this regard, nevertheless cultural attitudes, lack of personal knowledge and communication skills on the part of parents are barriers to accurate reproductive health information and counseling;
- | high incidence of environmental threats, including contamination of water supplies, which negatively impact upon the health of children; insufficient data available on access to clean water and sanitation;
- | the situation of children living and/or working on the streets, who are amongst the most marginalized groups of children in Armenia;
- | the decline in budgetary allocation to the education sector, and the deterioration in the quality of education; persistence of high dropout, repetition, and absenteeism rates, as well as poor access to education in rural areas; the requirement for teaching in the Armenian language may in practice deny full access to education to ethnic and national minorities. The Committee is concerned that low wages have forced teachers to offer private tuition, creating a two-tier system of education;
- | while the Committee welcomes the State party's openness towards refugees from neighboring countries, it remains concerned at the limited enjoyment of rights by refugee, asylum seeking, and unaccompanied children;
- | the negative impact of recent armed conflicts on children; the alleged conscription of young children into the State party's armed forces;
- | the negative effects of the current economic crisis that has resulted in an increasing number of children dropping out of school and taking up work; the existence of children working in the informal sector, especially in agriculture, many of whom are working in hazardous conditions; little awareness about the negative consequences of child labor and that there are inadequate measures to address it in Armenia;
- | the increasing use and traffic in illicit drugs, and the alarming rates of tobacco use among persons under 18 years;
- | insufficient data and awareness of the phenomena

of sexual abuse and exploitation of children in Armenia, and the absence of a comprehensive and integrated approach to prevent and combat this phenomena;

- | absence of a system of juvenile justice in Armenia, in particular, the absence of special laws, procedures, and juvenile courts; the length of pre-trial detention, and the limited access to visitors in this period; the use of detention not as measure of last resort; the often disproportionate length of sentences in relation to the seriousness of offences; conditions of detention; and the fact that juveniles are often detained with adults. The Committee is also concerned at the absence of facilities for the physical and psychological recovery and social reintegration of juvenile offenders.

The Committee **recommended** that the Government, inter alia:

- | pursue national and local levels of government; the state is encouraged to provide adequate support to local authorities for implementation of the Convention;
- | develop a comprehensive system for collecting disaggregated data as a basis to assess progress achieved in the realization of children's rights and help design policies to implement the Convention. The Committee encourages the State party to seek technical assistance from, inter alia, UNICEF, in this regard.
- | establish a statutory, independent national commission for children with the mandate of, inter alia, regularly monitoring and evaluating progress in the implementation efforts to ensure full compatibility of its legislation with the Convention, based on a child rights approach; take due account of the principles and provisions of the Convention and take greater steps to ensure that these measures are fully implemented;
- | adopt a comprehensive plan of action to implement the Convention and give attention to intersectoral coordination and cooperation between of the Convention. Further, such a Commission should be adequately empowered, composed and resourced so as to effectively take the lead in the process of implementing the Convention;
- | develop ways to establish a systematic assessment of the impact of budgetary allocations on the implementation of child rights and to collect and disseminate information in this regard; to ensure the adequate distribution of resources at the national and local levels, and where needed, within the framework of international cooperation;
- | consider a systematic approach to involve NGOs, and in general, civil society, throughout all stages of

the implementation of the Convention, including policy-making; to provide the necessary support to NGOs to facilitate and accelerate the registration process;

- I develop an ongoing program for the dissemination of information regarding the implementation of the Convention among children and parents, civil society and all sectors and levels of government; promote children's rights education in the country, including initiatives to reach the most vulnerable groups; strengthen its efforts and develop systematic and ongoing training programs on the provisions of the Convention for all professional groups working with children (i.e. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers). The Committee encourages the State party to seek technical assistance from, inter alia, the Office of the High Commissioner for Human Rights, and UNICEF, in this regard;
- I review its legislation with a view to ensuring that age limits conform to the principles and provisions of the Convention, and take greater efforts to enforce those minimum-age requirements;
- I make concerted efforts at all levels to address social inequalities through a review and reorientation of policies, including increased budgetary provision for programs targeting the most vulnerable groups; to ensure the effective enforcement of protective laws, undertake studies, and launch comprehensive public information campaigns to prevent and combat all forms of discrimination, to sensitize society to the situation and needs of children within the society, and particularly within the family, and where needed within the framework of international cooperation;
- I promote and facilitate within the family, the school, care institutions, and the courts respect for the views of children, and their participation in all matters affecting them in accordance with article 12 of the Convention; develop skills-training programs in community settings, for teachers, social workers, and for local officials in assisting children to make and express their informed decisions; and to have these views taken into consideration;
- I formulate and implement a national policy of de-institutionalization of children; to increase and promote the use of alternatives to institutionalization, such as community-based programs to assist parents, and foster care. In the event of closure of institutions, consideration needs to be given to planning and provision of substitute services for children who could be displaced by such closures; The Committee recommends further training of

personnel in institutions, adoption of regular periodic review of placement, and establishment of mechanisms to evaluate and monitor the conditions in these institutions.

- I establish a comprehensive national policy and guidelines governing foster care and adoption, and to establish a central monitoring mechanism in this regard; to accede to the 1993 Hague Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption;
- I ensure that all forms of physical and mental violence, including corporal punishment and sexual abuse against children in the family, schools and care institutions are prohibited; strengthen programs for the rehabilitation and reintegration of abused children and establish adequate procedures and mechanisms to receive complaints, monitor, investigate and prosecute instances of ill-treatment. The Committee recommends the State party launch awareness-raising campaigns on the ill-treatment of children, and its negative consequences, promote positive, non-violent forms of discipline as an alternative to corporal punishment, especially in the home and schools; the training of teachers, law enforcement officials, care workers, judges and health professionals in identification, reporting and management of cases of ill-treatment;
- I make greater efforts to implement alternatives to the institutionalization of children with disabilities, including community-based rehabilitation programs, to undertake a comprehensive national study on the situation of children with disabilities; undertake awareness campaigns, which focus on prevention, inclusive education, family care, and the promotion of the rights of children with disabilities; make adequate training available to persons working with these children, and develop special education programs for children with disabilities. The Committee encourages the State party to undertake greater efforts to make available the necessary resources, and to seek assistance from, inter alia, UNICEF and WHO, and relevant NGOs;
- I increase allocation of resources towards an effective primary health care system; to continue its efforts to distribute food to the poorest sections of society; expand use of iodized salt and establish family planning programs. The State party is encouraged to continue cooperation with and seek assistance from, inter alia, UNICEF, WHO, World Food Program, and civil society;
- I undertake a comprehensive study on the nature and extent of adolescent health problems, to be used as a basis for formulating adolescent health policies. In light of article 24, the Committee recommends that adolescents have access to and be

provided with reproductive health education, and child-friendly counseling and rehabilitation services;

- I take all appropriate measures, including international cooperation, to prevent and combat the damaging effects of environmental degradation on children, including pollution and contamination of water supplies. The Committee encourages the State party to collect data on access to clean water and sanitation;
- I establish mechanisms to ensure that children living and/or working on the streets are provided with identity documents, nutrition, clothing, and housing. Moreover, the State party should ensure these children have access to health care; rehabilitation services for physical, sexual, and substance abuse; services for reconciliation with families; comprehensive education, including vocational and life-skills training; and access to legal aid. The State party should cooperate and coordinate its efforts with civil society in this regard. The Committee recommends the State party undertake a study on the nature and extent of the phenomenon;
- I take all necessary measures to allocate the required resources (i.e. human and financial) to improve the access to education for the most vulnerable groups of children; and to ensure that the quality of education is monitored and guaranteed; strengthen its educational policies and system in order to establish retention programs and vocational training for drop-out students; direct greater efforts to improve the quality of teacher training programs, and the school environment. The Committee recommends the State party to take due regard of the aims of education laid down in article 29, and consider introducing human rights, including the Convention on the Rights of the Child, into the school curricula, including at the primary school level and seek assistance from, inter alia, UNICEF and UNESCO, and relevant NGOs;
- I Increase efforts to implement the 1998 Refugee Law and adopt implementing sub-legislation. Given that the requirement of housing registration may be a barrier to naturalization for refugees, the Committee recommends the State party to continue efforts to facilitate naturalization through factual residence registration as well as easing the procedure and eligibility for regular housing registration;
- I establish special status determination procedures for unaccompanied children, and provide documentation to legalize stay in Armenia for asylum-seekers; prevent the recruitment of refugees into the military. The Committee recommends the State party to continue its efforts to teach the Armenian

language to refugee children, and to address the trend of school drop-out among refugee adolescents; to continue and expand its cooperation with international agencies such as, inter alia, UNHCR and UNICEF to address the limited health, education and rehabilitation services available for refugee children, especially those residing in remote areas;

- I ensure respect for human rights and humanitarian law aimed at the protection and care of children in armed conflict, and to provide care and physical rehabilitation and psychological recovery measures for these children; refrain from conscripting children into the armed forces;
- I ensure that the minimum-age for admission to employment is enforced. Employers should be required to have and produce on demand proof of age of all children working on their premises. A national mechanism to monitor the implementation of standards at state and local levels should be established and empowered to receive and address complaints of violations. The Committee recommends the State party undertake a national survey on the nature and extent of child labor; carry out campaigns to inform, sensitize the general public, especially parents and children, of work hazards; and to involve and train employers', workers' and civic organizations; government officials, such as labor inspectors and law enforcement officials, and other relevant professionals. The State party should seek cooperation with relevant UN agencies, such as the ILO and UNICEF, and NGOs in this regard. It is also recommended that the State party ratify ILO Convention No. 138 concerning the minimum age for admission to employment, and No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor;
- I develop a national drug control plan, or a Master Plan, with the guidance of United Nations Drug Control Program (UNDCP); continue its efforts to provide children with accurate and objective information about substance use, including tobacco use; and to protect children from harmful misinformation through comprehensive restrictions on tobacco advertising; develop rehabilitation services for children who are victims of substance abuse. The Committee recommends cooperation with and assistance from WHO and UNICEF.
- I undertake a national study on the nature and extent of sexual abuse and sexual exploitation of children, so that disaggregated data be compiled and kept up to date to serve as a basis for designing measures, and evaluating progress; review its legislation and ensure that it criminalizes the sexual abuse and exploitation of children, and penalizes all those

offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalized. The Committee recommends the State party ensure that domestic laws concerning the sexual exploitation of children be gender neutral; provide civil remedies in the event of violations; ensure that procedures are simplified so that responses are appropriate, timely, child-friendly, and sensitive to victims; include provisions to protect from discrimination and reprisals those who expose violations; and to vigorously pursue enforcement; establish rehabilitation programs and shelters for child victims of sexual abuse and exploitation. There is a need for trained personnel. The Committee recommends the State party to carry out awareness-raising campaigns to sensitize and mobilize the general public on the child's right to physical and mental integrity and safety from sexual exploitation. Bilateral and regional cooperation should be reinforced, involving cooperation with neighboring countries;

- I take all measures to fully integrate into its legislation and practice the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System. Particular attention should be paid to ensure that the deprivation of liberty is only used as a measure of last resort, that children have access to legal aid and that children are not detained with adults. Facilities and programs for the physical and psychological recovery and social reintegration of juveniles should be developed;

- I take into account the recommendations adopted at its Day of General Discussion Administration of Juvenile Justice (CRC/C/46) and seek assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Center for International Crime Prevention, the International Network on Juvenile Justice, and UNICEF through the Coordination Panel on Juvenile Justice;
- I in accordance with article 44, paragraph 6, of the Convention, the initial report presented by the State party be made widely available to the public at large and that consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion and the concluding observations adopted thereon by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.



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