

ARMENIA

Briefing for the United Nations Committee against Torture

Introduction

Amnesty International submits this briefing to the Committee against Torture in advance of the Committee's examination, in November 2000, of Armenia's second periodic report on measures taken to implement the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This briefing supplements and updates a previous Amnesty International report, *Armenia - Torture and Ill-Treatment: Comments on the forthcoming review by the United Nations Committee against Torture*.¹

In concluding its consideration of Armenia's previous (initial) report,² in 1996, the Committee expressed concerns over several issues, both legal and practical, including "the number of allegations it has received with regard to ill-treatment perpetrated by public authorities during arrest and police custody."³ The Committee made a string of legislative and practical recommendations to rectify the situation.⁴ On the eve of this current review Amnesty International remains concerned that Armenia has failed to implement fully its treaty obligations in general, and most of the Committee's recommendations regarding its initial report in particular.

There are persistent and worrying allegations, for example, that law enforcement officials have subjected people to torture and ill-treatment as a tool for obtaining confessions and coercing testimony, or for intimidation and extortion. In some cases detainees have reportedly died as a result. Amnesty International's concern about these reports has been compounded by the apparent reluctance on the part of the authorities in many cases to conduct prompt and comprehensive investigations, or to initiate proceedings against those alleged to be responsible. Army conscripts are also said to have been subjected to brutal hazing while officers turn a blind eye, and death sentences continue to be meted out, despite a moratorium on actual executions, with over 30 men on death row at the time of writing.

Amnesty International is concerned that the authorities' failure to meet their obligations to initiate impartial and thorough investigations of ill-treatment and torture, and the failure to bring alleged perpetrators to justice in the course of full and fair proceedings, creates both an impression that torture and ill-treatment by law enforcement officials is acceptable conduct, and also allows law enforcement officials to engage in

¹ April 2000, AI Index: EUR 54/02/00. Hereinafter referred to as the AI Report.

² UN Doc. CAT/C/24/Add.4/Rev.1.

³ UN Doc. A/51/44, 9 July 1996. The quotation is from para. 95.

⁴ *Ibid.*, paras. 96-101.

such conduct and violate people's human rights with impunity. Amnesty International recognizes the problems which may exist within the law enforcement system, for example those caused by lack of funding for professional staff, training and infrastructure, or those caused by a lack of confidence in the willingness of such a system to address abuses. However, these problems do not excuse or justify torture and ill-treatment. Neither should they be an excuse for delaying the implementation of safeguards and procedural changes which would narrow the potential scope for abuse or for impunity for perpetrators.

Concerns by Article of the Convention against Torture

Articles 1 and 16 - Torture and other cruel, inhuman and degrading treatment or punishment

a) Cases of torture and ill-treatment.

The Committee against Torture has expressed concern at instances of police brutality in many countries whose reports it has reviewed.⁵ Allegations of torture in Armenia have come from a wide variety of sources and situations, most particularly police cells, pre-trial detention facilities, and the army, where brutal hazing has been widely reported. In some cases prisoners and servicemen are said to have died as a result.

i) There have been many allegations of torture, for example, in the case of those arrested following the armed attack in the Armenian parliament on 27 October last year, during which eight men died including the Prime Minister and the Speaker of Parliament. Member of parliament **Musheg Movsisian**, detained on 6 November 1999, told a group of visiting parliamentary colleagues on 25 December that year that he had been severely beaten while held in Yerevan's Nurabashen prison, including being hit with batons on the soles of his feet. He and another detainee in this case, **Arutiun Arutiunian**, further alleged that while in detention officials had tried to drug them earlier this year as a means of extracting testimony (see page 10 of the AI report). Both men were later released and charges against them dropped.

Journalist **Nairi Badalian** who was eventually released on 3 June this year and had all charges against him dropped, subsequently reported that he had been subjected to

⁵ For example Austria, when the Committee recommended that "...clear instructions be given to the police by the competent authorities to avoid any incident of ill-treatment by police agents. Such instructions should emphasize that ill-treatment by law enforcement officials shall not be tolerated and shall be promptly investigated and punished in cases of violation according to law;" (CAT/C/23/2, 12/11/99, para. 5(b)), or Poland: "The Committee notes that, in spite of the efforts of the State Party, some drastic acts of aggressive behaviour of police officers continue to occur, which has resulted in death in some instances."(CAT/C/24/1/Rev.1, 5/2/2000, para. 9)

sustained torture and ill-treatment at the hands of law enforcement officials in the Nurabashen investigation-isolation prison in Yerevan. He said he had been made to stand outside in freezing temperatures in the winter without warm clothing; doused with water; chained to a metal chair while some 10 people beat him, knocking out some of his teeth; and how he had been made to stand against a wall for extended periods of time without sleep. He also reported that officials had threatened to rape his wife and sister, as an additional pressure to force him to give “the necessary testimony”.

In May the alleged leader of the attack, *Nairi Unanian*, who remains in detention, wrote to President Robert Kocharian saying that he withdrew his testimony, including that which implicated some of the other accused, on the grounds that it had been extracted under duress. Charges against him include those which currently carry a maximum sentence of death.

ii) It has been claimed that allegations with regard to detainees are often treated in a perfunctory manner by the authorities unless there is a particularly tragic result, or the case has a high profile for some other reason. A criminal case is said to have been opened, for example, in connection with the death in custody last year of a senior military officer. *Lieutenant-Colonel Artush Leonovich Ghazarian*, the military commissar of Tashir district in the northern Lori region, was beaten so severely by law enforcement officials that he died in custody in the northern city of Vanadzor on 29 September 1999.

Artush Ghazarian was taken into custody at investigation-isolation prison No. 3 in Vanadzor on 17 September, having been charged three days earlier with failure to execute an order and abuse of authority (Articles 247 and 268 respectively of the military section of the Armenian Criminal Code). He is said to have frequently protested his innocence, and broken the internal regulations of prison for which he was placed in its punishment cell. He also declared a protest hunger strike.

The following account of events leading to Artush Ghazarian’s death was given to Amnesty International by the General Procurator’s Office of Armenia, in its detailed letter of 30 March this year.

As a result of the hunger strike and stress Artush Ghazarian’s health deteriorated, to the point that on 27 September 1999 a psychiatrist diagnosed reactive depression and stressed that the prisoner needed to be hospitalized. The prison administration ignored this recommendation, and decided to forcibly feed Artush Ghazarian rather than hospitalize him. To this end at around 5pm on 27 September two prison doctors and three other officials (their names were given to Amnesty International by the Procurator General) took Artush Ghazarian from the punishment cell to room No. 1 in the prison, where they laid him on an iron bed with no mattress and tried to force him to eat. To facilitate this forcible feeding one of the officials, “X”, tied Artush Ghazarian to the bed by his hands and feet. When Artush Ghazarian resisted, official “X” assaulted him. The attack appears to have been savage, as it led to Artush Ghazarian suffering bleeding in the brain and “softness” of the brain (encephalomalacia) - the direct cause of death - as well as a broken nose, six broken ribs, a ruptured lung and other injuries. Artush

Ghazarian passed out, and died without regaining consciousness at 7pm on 29 September 1999.

On the same day the procurator of Lori region opened a criminal case into the death of Artush Ghazarian, under Article 100 of the criminal code (intentional homicide without aggravating circumstances). On 30 September the Procurator General ordered that the case be transferred to the General Procuracy, and an investigatory group was established.

During the course of their work on this case investigators are said to have uncovered other instances in a period from 1996 to 1999 in which official "X" and others at the Vandazor investigation-isolation prison No. 3 had systematically beaten prisoners and extorted from them or their relatives sums of money, valuables, clothing and food.

At the time of writing official "X" is reported to be in custody, charged with intentional infliction of grave bodily injury (Article 105 of the criminal code), exceeding his authority or official powers (Article 183) and extortion (Article 94). However, the General Procurator's Office did not report on any charge or charges faced by the other officials, including two prison doctors, who were said to have been present during the beating of Artush Ghazarian. Unofficial sources have reported that they were detained initially, but then subsequently released.

There have also been allegations that deaths in custody as a result of torture or ill-treatment have been described as suicide, or arising from natural causes. Amnesty International sought information, for example, on a death in custody last year which was officially reported as suicide by defenestration. The man in question in this case, **Eduard Vardanian**, is said to have thrown himself from a window of an upper floor of a Ministry of Internal Affairs police station in Abovian, the centre of the Kotaik region, at around 9.40pm on 2 March 1999. According to unofficial sources, however, there were traces of cigarette burns on Eduard Vardanian's hands, fuelling allegations by unofficial sources that he had been tortured in custody (for more details see pages 24 to 25 of the AI Report).

iii) Allegations of torture and ill-treatment have also been widely reported with regard to service personnel in the army, particularly new conscripts. Brutal hazing of conscripts has been reported under the practice known in Russian as "*dedovshchina*" (_____). This involves recruits being forced to perform menial tasks, often outside official duties, and can lead to beatings and suicides. Often such activity is alleged to have taken place with the consent, acquiescence or active participation of army officers, who reportedly condone these practices as a means of maintaining discipline. The Committee against Torture raised concerns over similar practices in the Polish army, when reviewing Poland's third periodic report earlier this year:

"The Committee is also concerned about the persistence in the army of the

practice of the so called ‘fala’, whereby new recruits are subjected to abuse and humiliation.”⁶

Many in Armenia complain that such abuses are routine and systematic, and that action is rarely taken in response to complaints. The exceptions are those occasions with particularly tragic results. In other less prominent cases it has been alleged that violence, often with a fatal outcome, has been covered up by army officials who have reported servicemen’s deaths in such instances as suicide. For example Vartan Harutunian, a member of the Presidential Human Rights Commission, was quoted as saying on 27 August 1998 that he alone had received 14 appeals from parents who claim their sons were killed in unknown circumstances while performing military service.⁷

Continuing concerns in this area led to a meeting on 25 February 1999 between a group of mothers whose sons had died as a result of violence in the army and Armenian President Robert Kocharian. The President strongly condemned brutal hazing in the armed forces and pledged greater efforts to combat such crimes. At the same meeting, the Military Procurator of Armenia gave an assurance that many closed cases would be subject to review, and that 80 officers had been prosecuted the previous year for illegal actions. The following month a presidential advisor reported that these prosecutions included 34 convictions for abuse of power and two for causing suicides.

One of the cases about which relatives were unhappy was that of conscript **Artak Khachikovich Petrossian**, who died while performing military service in 1998. Artak Petrossian was drafted into the army on 13 June 1998 after graduating from Yerevan State University, and was sent to perform his military service at unit No. 43577 based in the village of Chobankar in Armavir region. According to information on the case provided by the Procurator General’s Office of Armenia, on 23 July Artak Petrossian was at his post in the canteen when he was subjected to physical abuse by a junior sergeant named David Galechian, who forced Artak Petrossian to recite the oath of allegiance while he punched him and hit him with a belt.⁸ At the end of their duty in the canteen this junior officer then told the rest of the soldiers to go to bed but forced Artak Petrossian to remain, systematically beating him and trying to sexually assault him. As a result Artak Petrossian left the unit without permission during the night of 23 to 24 July, and reportedly tried to commit suicide by cutting his veins. He was found on 30 July at a dacha in Nurnus, Kotaik region, and taken by relatives to the police.

⁶ UN Doc. CAT/C/24/1/Rev.1, 5/2/2000, para.10.

⁷ Report by RFE/RL’s Armenian service on 27 August 1998.

⁸ Information in this case was given by the Procurator General of Armenia in his letter to Amnesty International of 30 March 2000.

On 11 August 1998 Artak Petrossian was sent to continue his military service at military unit No. 32503 based next to the "Erebuni" airport. He served on the fourth floor of the airport building. On 17 August, in circumstances described by the Procurator General as unclear, Artak Petrossian is said to have fallen from the fourth floor balcony. He was taken to the Central Hospital where he died on 24 August, reportedly without regaining consciousness.

Unofficial sources have disputed points of the official account of Artak Petrossian's death, however. They report that on 17 August Artak Petrossian was found injured at the entrance to the airport, said to have been suffering from the effects of a beating, including a broken arm and a fractured skull. Some members of Artak Petrossian's military unit are also said to have alleged that he had been taken to the local army command post two hours before he was found injured at the airport. It was further alleged that Artak Petrossian was conscious when taken to the hospital, but no officials interviewed him before his death, nor did they actually interview medical staff in connection with the death until two months after Artak Petrossian had died.

Junior sergeant David Galechian was charged with incitement to suicide (Article 104 of the Armenian Criminal Code), attempted sodomy (Article 15-116 part 2) and abuse of authority (under Article 268 of the military section of the criminal code). Two other soldiers named Grigor Tigranian and Vardan Ovannisian were also charged with abuse of authority (Article 268) and a third, Norayr Meliksetian, was charged with complicity in the offence of abuse of authority (Article 17-268). They were all convicted by a court of first instance in Armavir region on 27 September 1999. David Galechian was sentenced to eight years' imprisonment, and the three other men to three years' imprisonment each. However, Grigor Tigranian, Vardan Ovannisian and Norayr Meliksetian fell under an amnesty declared by the National Assembly on 15 September 1998 to mark the seventh anniversary of Armenia's declaration of independence, and were released from serving their sentence.

Another group which has reported torture and ill-treatment in the army has been the Jehovah's Witnesses in Armenia, whose religious beliefs preclude carrying arms for a secular power or swearing the oath of military allegiance. Several adherents objecting to compulsory military service on conscientious grounds have reported being verbally abused and physically assaulted by military personnel. Some such incidents are reported to have occurred at military conscription offices, for example after a young man has declared his religious allegiance and inability to perform compulsory military service (Jehovah's Witnesses in Armenia have stated that they are willing to perform an alternative, civilian service). Other reports have emerged from army units to which Jehovah's Witnesses have been forcibly conscripted, for example when a young man has refused to don a military uniform.⁹ Amnesty International has no information at present on any investigation that may have been initiated into the reports of beating.

⁹ For further information on the allegations that some conscientious objectors have been

One of the most recent reports is that relating to Jehovah's Witness **Vitaly Usupov**, who refused his call-up papers on religious grounds but was forcibly conscripted into a military unit (in several cases detailed to Amnesty International, young Jehovah's Witnesses have said that they would rather be imprisoned under the criminal procedure for refusing their call-up papers than face forcible conscription, and the ensuing intolerable - and insoluble - conflict with their deeply-held religious beliefs). At the unit Vitaly Usupov continued to refuse to perform military service, and was reportedly beaten by military personnel there in consequence. He was sentenced on 17 March this year to four-and-a-half years' imprisonment, reportedly for "evading military service" under Article 257a of the Armenian Criminal Code.

Several Azerbaijani prisoners of war are also said recently to have alleged ill-treatment at the hands of officials from the Ministry of Defence. A group of 10 prisoners was visited on 26 March this year by representatives of non-governmental organizations from Armenia, Azerbaijan and Georgia. Several of the prisoners are said to have told the NGO representatives that they were badly ill-treated for periods of between several days to a month while held at a military police station near Yerevan, before being handed over from the Ministry of Defence to the Ministry of National Security.¹⁰ Since being transferred, however, they reportedly had no such complaints and were visited regularly by the International Committee of the Red Cross.

b) The death penalty

Amnesty International opposes the death penalty in all cases without reservation, on the grounds that it violates the right to life and constitutes the ultimate cruel, inhuman and degrading punishment. Armenia retains the death penalty, and at the time of writing some 30 men are said to be on death row (see pages 18 to 19 of the AI report). Among the most recent sentences known to Amnesty International were those passed on Armen Ter-Saakian and Alik Grigorian on 28 July this year, by the Court of the First Instance of Yerevan's Avan and Nor-Nork communities. A draft new criminal code would abolish the death penalty. Abolition was also a commitment stipulated by the Parliamentary Assembly of the Council of Europe (PACE), when it considered Armenia's application to become a full member of the Council on 28 June this year. PACE noted that Armenia had undertaken to "adopt, within one year of accession, the second (specific) part of the Criminal Code, thus abolishing *de jure* the death penalty..." (PACE, Opinion No. 221 (2000), 13. iii. Domestic Law, point a) and "to sign, at the time of its accession, the

severely beaten and verbally abused, see the Amnesty International report *Armenia: "Respect my human dignity" - Imprisonment of conscientious objectors*, AI Index: EUR 54/06/99, September 1999.

¹⁰ MPA news agency, Azerbaijan, 6 April 2000.

European Convention of Human Rights (ECHR), including Protocol 6 that abolishes the death penalty” (PACE, Opinion No. 221 (2000), 13. i. Conventions, point a).

Amnesty International has recommended that the Armenian government:

- ◆ commute all existing death sentences, as well as any that may be imposed before formal abolition of the death penalty;
- ◆ give priority in parliament to any further readings necessary of the draft criminal code, in order that complete abolition of the death penalty may be enshrined in law without further delay;
- ◆ ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights. Ratifying this instrument, the first treaty of worldwide scope aimed at abolition of the death penalty, would confirm Armenia’s commitment to abolition.

c) Prison conditions

The Committee against Torture has expressed concern in the past over prison conditions .¹¹ Prison conditions in Armenia, on remand and post-trial, are said to be poor. Tuberculosis is reportedly an especial problem, with a newspaper reporting in July this year that 500 of the 6,500 people in custody at that time were suffering from the disease. The following month another news agency quoted the board of the Armenian Procurator-General’s office as reporting that the death rate in prisoners had reached a record high of 54 cases in the first half of 2000. The same report noted that 350 prison inmates were said to be suffering from tuberculosis without receiving any medical assistance.

Amnesty International has recommended that the Armenian government:

- ◆ establish an effective system of independent inspection of all places in which people are deprived of their liberty;
- ◆ ensure that prisons and corrective labour institutions provide all those imprisoned with adequate facilities for sanitation and exercise, and that the state provides detainees and prisoners, free of charge, with an adequate, nutritious diet and access to professional medical care and treatment as required.

¹¹ For example the concluding observations on Hungary’s third periodic report: “The Committee is concerned about reports on conditions in prisons, detention centres and holding centres for refugees such as, inter alia, overcrowding, lack of exercise, education and hygiene.” UN Doc. A/54/44, 19 November 1998, para. 83.

Article 2 - Effective legislative, administrative or other measures to prevent acts of torture

There are a number of safeguards lacking in law which contribute towards a failure to prevent acts of torture. Many of these are around detainees' lack of access to the outside world while held in pre-trial detention.

The Armenian criminal justice system, which still uses many codes and procedures inherited from the Soviet system, follows the latter's emphasis of isolating a suspect prior to trial, and pre-trial detention is widely used in Armenia, even for minor offences.

International standards relating to the treatment of people deprived of their liberty stress that those in pre-trial detention should be granted access to people such as their defence lawyer, doctor or dentist, and their family. However, one of the factors facilitating torture and ill-treatment in Armenia is the obstruction faced by some detainees - during the period of maximum vulnerability immediately after detention - in obtaining access to those outside the penal system: family members, independent medical practitioners, and even defence lawyers. A number of such violations have been reported, for example, in the case of those arrested following the armed attack in the Armenian parliament on 27 October last year. These allegations, together with others from a number of defendants that they had been subjected to torture and ill-treatment in custody, are especially worrying given that some of the accused face a possible death sentence if convicted.

a) The family

According to international standards people held in pre-trial detention are to be given all reasonable facilities to communicate with family and friends and to receive visits from them. In Armenia the investigator in the case has discretion whether or not to grant access to family members. In practice, however, in many cases such access has reportedly been denied for long periods while the investigation is under way. To Amnesty International's knowledge, for example, only one of those detained following the armed attack in the Armenian parliament on 27 October 1999 has been granted access to family members (see pages 6 to 7 of the AI Report).

b) Independent medical practitioners

Under international standards people held in custody by law enforcement officials have the right to be examined by a doctor and, when necessary, to receive medical treatment. This right is viewed as a safeguard against torture and ill-treatment, among other things. Ensuring that a detainee is entitled to undergo a prompt, impartial, independent and professional medical examination is also one of the ways of proving that a person has been physically ill-treated in custody (and disproving false or malicious allegations).

In Armenia, however, detainees have no right to be attended by their own doctors in pre-trial detention, and detainees and their lawyers do not have the right to

arrange forensic medical examinations (or other expert analyses). Although they can request such examinations if these are thought significant to the case, the decision whether to carry them out rests with the investigator, who has the discretion to decide on what is significant.

The lawyer for one of the defendants in the 27 October case, for example, reports that his application for a second medical examination of his client, Movsheg Movsisian, was turned down by investigators in January this year. The lawyer was reportedly concerned that the medical commission did not contain the necessary experts (see pages 9 to 11 of the AI Report).

c) Difficulties in access to defence lawyers

Under international standards, everyone in detention or facing a possible criminal charge has the right to the assistance of a lawyer of their own choice to protect their rights and to assist in their defence. Access to counsel should be immediate. The Committee against Torture has sought to uphold and strengthen this right as a means of combatting torture, for example including the following in its recommendations on reviewing Hungary's third periodic report in 1998:

“84. The Committee recommends that all necessary measures, including, in particular, prompt access to defence counsel soon after arrest, and improved training, be taken to prevent and eradicate torture and all acts of cruel, inhuman or degrading treatment or punishment.”¹²

Although the right to prompt access to a defence lawyer is guaranteed under the Constitution of Armenia (see pages 7 to 9 of the AI Report), there have been reports in recent years of lawyers being prevented by state agents from seeing their clients, particularly in the initial period after detention. These reports have related mainly to denial of access in the crucial hours or days following detention, or obstacles placed in the way of full access by cancellation or postponement of visits. In the case of those detained after the 27 October shootings, for example, lawyer Anzhela Karapetian complained on 2 February 2000 that she had twice been prevented from seeing her client, former journalist Nairi Badalian, who was arrested in November last year. She said access to her client was complicated by the need to obtain permission from various officials, leading to cancellation or postponement of her appointments. She also claimed that appointments were postponed because only one room had been allocated at the prison for that purpose, and so it was often not free (at that point there were 17 defendants, and the room was also said to be used by investigators for interrogations). In March this year another defendant in the same case, Arutiun Arutiunian (the Deputy Executive Director of Armenian Television, who was arrested on 5 January), also alleged

¹² UN Doc. A/54/44, 19 November 1998, para. 84 (recommendations).

that he had been prevented from having meetings in private with his defence lawyer. Arutiun Arutiunian is among a number of defendants in this case to have alleged that officials have beaten and ill-treated him in an attempt to extract testimony (see pages 10 to 11 of the AI Report).

Full and immediate access to a defence lawyer was also a commitment stipulated by the Parliamentary Assembly of the Council of Europe (PACE) when it considered Armenia's application to become a full member of the Council on 28 June this year. PACE noted that Armenia had undertaken to "fully implement the reform of the judicial system, in order to guarantee, *inter alia*, full and immediate access to a defence lawyer in criminal cases (compulsory for minors); if necessary, the costs should be borne by the state;" (PACE, Opinion No. 221 (2000), 13.iv. Human Rights, point a).

Amnesty International has recommended that the Armenian government:

- ◆ ensure that a family member is informed promptly about the detention or arrest of a relative, and their whereabouts;
- ◆ ensure that all people deprived of their liberty or arrested by law enforcement officials are allowed prompt and regular access to relatives and an independent medical practitioner;
- ◆ ensure that all people deprived of their liberty or arrested by law enforcement officials are informed promptly of the charge or charges against them, and that they are allowed prompt and regular access to a lawyer of their own choice.

Article 4 - ensuring that all acts of torture are offences under criminal law

Although torture is prohibited under the Armenian Constitution, a major obstacle in bringing alleged perpetrators to justice is the lack of a specific offence of torture, as defined under Article 1 of the Convention against Torture, in the Criminal Code of Armenia. The Committee against Torture has expressed concern in the past over a similar lack in other countries whose reports it has reviewed.¹³

While some acts that amount to torture or ill-treatment are variously punishable in Armenia under articles in the criminal code, none of these contains the definition of torture as given in Article 1 of the Convention against Torture, or a specific mention of torture as an act carried out "by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity". Those

¹³ For example when reviewing Armenia's initial report (A/51/44, 9/7/96, para. 91 and the Committee's recommendation in para. 96), Austria's second periodic report (CAT/C/23/2, 12/11/99, para. 4(a) and the Committee's recommendation, para. 5(a)), Finland's third periodic report (CAT/C/23/3, 12 November 1999, para. 4(a) and the Committee's recommendation, para. 6(a)), Poland's initial report (A/49/44, 12 July 1994, para. 71(a)) and Sri Lanka's initial report (A/53/44, 19 May 1998, recommendations, para. 254(a)).

articles in the current criminal code which do specifically mention crimes involving force by officials, such as “exceeding authority...through use of force” (Article 183, part two, of the criminal code), do not mention the term “torture”, let alone define the unlawful force used as “severe pain or suffering, whether physical or mental”, as required by the definition under Article 1 of the Convention against Torture.

Although there is currently no criminalization of torture - as defined by the Convention - as a distinct crime, Armenia’s latest state report to the Committee against Torture reports that the new criminal code still presently in draft form stipulates that the use of torture is an offence, and establishes a new offence of actions “involving the causing of suffering by means of periodic blows, or other actions involving force” (see pages 20 to 22 of the AI Report). From the information available in the state report, however, it does not appear that this new offence would specifically mention torture as an act carried out “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”. Similarly, although the draft criminal code forbids “the use of force by a judge, a procurator, an investigator or a body conducting an initial enquiry in order to obtain testimony from a suspect, an accused person, a defendant, a victim or a witness”, including by “actions involving humiliation or torture”, it is not clear whether torture is specified in full in the terms required by the Convention.

Amnesty International has recommended that the Armenian government:

- ◆ criminalize torture as defined in the Convention against Torture as a distinct crime under national law with appropriate punishments.

Article 10 - Education and information regarding the prohibition against torture

Referring to this article of the Convention against Torture, Armenia’s second periodic report states that “In Armenia human rights issues feature in the curricula for study, training and retraining of the staff of law enforcement agencies. Retraining courses are held periodically for staff of the Ministry of Internal Affairs and National Security” (UN ref: CAT/C/43/Add.3, para. 71). However, staff of these two ministries are not the only ones involved in issues of detention. The Ministry of Defence, for example, has military detention facilities, and brutality within the army is widely reported. There are also proposals under consideration to transfer the prison system from the jurisdiction of the Ministry of Internal Affairs to that of the Ministry of Justice. Amnesty International is concerned that all relevant personnel involved in law enforcement, or in the custody, interrogation or treatment of individuals subjected to any form of arrest, detention or imprisonment - military and civilian - should receive a comprehensive program of education and training on the prohibition against torture.

Amnesty International has recommended that the Armenian government:

- ◆ ensure that information regarding the absolute prohibition against the use of torture and ill-treatment is fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

Article 11 - Systematic review of procedures for interrogation and custody

a) Transfer of responsibility for the prison system

In Amnesty International's experience, the majority of complaints of torture and ill-treatment are made by detainees held short-term or pre-trial in the custody of the Ministry of Internal Affairs and the Ministry of National Security. As in other countries of the former Soviet Union, reformers have suggested transferring responsibility for the prison system to the Ministry of Justice, as a means of moving away from any adverse culture facilitating torture and other violations. Such a transfer is a commitment linked to Armenia's accession to the Council of Europe, with the country obliged "to adopt, within six months of its accession, the law on the transfer of responsibility for the prison system, including pre-trial detention centres and work colonies, from the Ministry of the Interior and the Ministry for National Security to the Ministry of Justice thus ensuring the thorough reform and demilitarisation of the system, and to ensure the effective implementation of this law within six months after it has been adopted, except as regards the effective transfer of the pre-trial detention and work colonies, which must be implemented within one year after the law has been adopted." (PACE, Opinion No. 221 (2000), 13.iii. Domestic Law, point f.)

b) Lack of independent supervision

At present supervision over places of detention in Armenia is exercised by the procuracy, the same body responsible for prosecuting detainees. There are proposals to change this, although these are still believed to be only in draft form (see pages 26 to 27 of the AI report). In addition, there have been no recent moves on another possible route for supervision, that of an ombudsperson for Armenia (another PACE commitment linked to Armenia's accession to the Council of Europe is to adopt the law on the ombudsman within six months of accession). A certain degree of supervision is attempted by the presidential Human Rights Commission, although the Chairman was quoted at the beginning of October this year as saying that members encounter difficulties when trying to visit people held in prisons and solitary confinement facilities, and are not given unimpeded access to remand and detention facilities or military institutions.

Amnesty International has recommended that the Armenian government:

- ◆ establish an effective system of independent inspection of all places in which people are deprived of their liberty.

Articles 12, 13 and 16 - prompt and impartial investigation into allegations of torture and ill-treatment

It has frequently been alleged that the authorities in Armenia have in some instances been reluctant to open criminal cases where there have been reports of torture and ill-treatment, or, having opened a case, have been likewise reluctant to follow through with comprehensive, impartial investigations and ultimate prosecutions of the perpetrators.

As with the reports of torture and ill-treatment in the army (see pages 15 to 18 of the AI report), it has been claimed that such allegations with regard to detainees are treated in a perfunctory manner unless there is a particularly tragic outcome, or the case has a high profile for some other reason (see for example the case of Artush Ghazarian, who died as a result of a severe beating in custody in September 1999 - in the section under Article 1 of the Convention, on pages 3 to 4 of this report). To Amnesty International's knowledge, for example, there have been no comprehensive details made public on any investigations conducted into the numerous torture allegations by detainees arrested in connection with the 27 October shootings. Some of these are detailed in the AI report, and other allegations have emerged since then (see for example the case of journalist Nairi Badalian, described above in the section dealing with Articles 1 and 16 of the Convention, on pages 2 to 3 of this report).

Problems in this area were among the areas of concern addressed by the Parliamentary Assembly of the Council of Europe (PACE) when reviewing Armenia's request to join the Council. One of the commitments PACE required of Armenia was: "to institute, without delay, a follow-up procedure which conforms to Council of Europe standards to complaints received on alleged ill-treatment in police custody, pre-trial detention centres, prisons and the army, and to ensure that those found guilty of such acts are punished in accordance with the law." (PACE, Opinion No. 221 (2000), 14.iv, 28 June 2000)

Amnesty International has recommended that the Armenian government:

- ◆ ensure that every person deprived of their liberty is informed by the authorities of their rights, including the right to complain to the authorities against ill-treatment;
- ◆ ensure the initiation of prompt, impartial and comprehensive investigations of all complaints of torture or ill-treatment of detainees, as well as when there are reasonable grounds to believe that torture or ill-treatment has occurred even if no complaint has been made;

- ◆ ensure that all detainees are medically examined upon deprivation of their liberty, and thereafter as required, or whenever a detainee alleges torture or ill-treatment;
- ◆ ensure that all detainees may, upon their request, be examined by doctors of their own choice;
- ◆ ensure that investigations into allegations that a person has been tortured include the prompt, impartial and professional examination of that person by qualified doctors;
- ◆ bring those law enforcement officials responsible for torture or ill-treatment to justice in the courts, in the course of proceedings which meet international standards.

Article 14 - right to redress and compensation

Amnesty International is not aware of any laws or procedures currently in force which would enable victims of torture, or their dependents should the victim have died, to obtain recourse to reparation, including an enforceable right to full and adequate compensation and rehabilitation. Armenia's second periodic report, for example, mentions that under Articles 66 and 67 of the new Code of Criminal Procedure "a person unlawfully convicted and acquitted is entitled to compensation for unlawful pre-trial detention, remand in custody, prosecution and conviction", but makes no mention of similar compensation for acts of torture by state agents.

Amnesty International has recommended that the Armenian government:

- ◆ ensure that every victim of torture or ill-treatment has unhindered access to the means of obtaining redress and an enforceable right to reparation including fair and adequate compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition, and that every detained person is informed of this right.

Articles 21 and 22 - Declarations recognizing the competence of the Committee to receive and consider communications from another State Party, and from or on behalf of individuals

Armenia has not made declarations under either of these articles. Amnesty International is greatly concerned at the absence of this recourse to the Committee against Torture, given the many allegations that Armenian state agents have acted with impunity.

Amnesty International has recommended that the Armenian government:

- ◆ make a declaration under Articles 21 and 22 of the Convention against Torture, which would enable the Committee against Torture to consider communications from other States Parties regarding non-fulfilment by Armenia of its treaty obligations, and from or on behalf of individuals in Armenia claiming to be victims of torture.