

Stepan Danielyan, Vladimir Vardanyan, Artur Avtandilyan

RELIGIOUS TOLERANCE IN ARMENIA

This study has been conducted by
the “Collaboration for Democracy” Centre (CFDC)
with the assistance of the OSCE Office in Yerevan.

The views, findings, interpretations and conclusions expressed herein
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ABBREVIATIONS

CoE – Council of Europe

CPHRFF - Convention for the Protection of Human Rights and Fundamental Freedoms

Draft Law – First Reading of the Law on Making Amendments and Addenda to the Law on Freedom of Conscience and on Religious Organizations

ECHR - European Court of Human Rights

HAAC - Holy Armenian Apostolic Church

ICCPR - International Covenant on Civil and Political Rights

Joint Opinion – Joint opinion by the Venice Commission, the CoE Directorate General of Human Rights and Legal Affairs, and the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief on the Draft Law on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations and on the Draft Law on Amending the Criminal Code of the Republic of Armenia

NA RA – **National Assembly** of the Republic of Armenia

OSCE - Organization on Security and Cooperation in Europe

OSCE ODIHR - OSCE Office for Democratic Institutions and Human Rights

OSCE PA – OSCE Parliamentary Assembly

PACE - Parliamentary Assembly of Council of Europe

RA – Republic of Armenia

UN – United Nations

Venice Commission – CoE European Commission for Democracy through Law

RELEVANT LEGAL DOCUMENTS

International Documents

The Universal Declaration of Human Rights (adopted by the UN General Assembly in 1948)

Convention for the Protection of Human Rights and Fundamental Freedoms (1950)

International Covenant on Civil and Political Rights (1966)

UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (adopted by the UN General Assembly in 1981)

Resolution 36/55 at the 1981 UN General Assembly

Convention on the Rights of the Child (1989)

PACE Opinion No. 221(2000)

Recommendation 1518 (2001) on the exercise of the right of conscientious objection to military service in CoE member states (adopted by the Standing Committee on behalf of PACE)

PACE Resolution 1361 (2004)

PACE Resolution 1532 (2007)

RA Legislation

The RA Constitution as adopted on July 5, 1995

The RA Constitution amended November 27, 2005

The Code on RA Administrative Violations (December 6, 1985)

The Criminal Code (April 18, 2003)

The Labor Code (November 9, 2004)

The Family Code (November 9, 2004)

The Law on the Freedom of Conscience and on Religious Organizations (June 17, 1991)

The Law on the Legal Status of Foreign Citizens in RA (May 25, 1994)

The Law on the Rights of the Child (May 29, 1996)

The Law on Military Service (September 16, 1998)

The Law on Education (April 14, 1999)

The Law on RA Television and Radio Broadcasting (October 9, 2000)

The Law on RA Holidays and Remembrance Days (June 24, 2001)

The Law on Non-Governmental Organizations (December 4, 2001)

The Law on the Basis of RA Cultural Legislation (November 20, 2002)

The Law on Alternative Service (December 17, 2003)

The Law on Preschool Education (November 15, 2005)

The Law Regarding the Relationship between the Republic of Armenia and the Holy Armenian Apostolic Church (February 2, 2007)

The Law on General Education (July 10, 2009)

Court Decisions

ECHR ruling in the case of *Kokkinakis v. Greece* (May 25, 1993)

Metropolitan Church of Bessarabia and Others v. Moldova (December 13, 2001)

ECHR ruling in the case of *Bayatyan v. Armenia* (October 27, 2009)

INTRODUCTION

In recent years the issue of securing religious tolerance in Armenia has become increasingly pertinent – as witnessed to by numerous reports from local and international organizations¹, the Armenian mass-media (a sample of which is presented in this study)², and interviews with representatives from religious and public organizations. This study seeks to support religious tolerance in Armenia – it presents alleged cases of religious intolerance and discrimination and analyzes RA legislation relating to religious freedom and freedom of conscience in order to make recommendations to RA authorities. It needs to be stressed that this study is a result of monitoring of non-discrimination and tolerance of majority towards minorities only. Minority-majority and minority-minority dichotomies were not examined in this study, but also warrant study.

After an outline of the study's methodology, the section “Specific Cases of Religious Intolerance and Discrimination” covers reports on religious tolerance from local and international organizations over the last three years, gives an overview of how the mass-media have covered the issue (for the same period), and presents interviews with representatives of religious and public organizations and Secondary School principals. The third section – “Analysis of RA Legislation” – describes legislation that has a bearing on religion or belief and then analyzes how the legal norms embodied in the RA Constitution and current laws correspond with RA's international obligations and other international documents³. The final section makes specific recommendations to RA State Authorities in an attempt to improve legislation and religious tolerance.

The “Collaboration for Democracy” Centre (hereafter referred to as the Centre) has been running the “Religious Tolerance in Armenia” Project for the last three years with the assistance of the Armenian branch of the Open Society Institute Assistance Foundation and the Dutch Government. This study clearly reflects the results of the project.

This study was conducted by the Centre in 2009 with the assistance of OSCE Office in Yerevan within the framework of the “Religious Tolerance Monitoring” Project. The research team included Stepan Danielyan (head of working group), Vladimir Vardanyan (PhD in Law), and Arthur Avtandilyan (political scientist, journalist).

¹ See the relevant quotations below.

² See the second section.

³ These documents are listed in the “Relevant Legal Documents” section.

1. STUDY METHODOLOGY

The section “Specific Cases of Religious Intolerance and Discrimination” covers reports on religious tolerance from local and international organizations over the last three years, gives an overview of how the mass-media have covered the issue (for the same period), and presents interviews with representatives of religious and public organizations and Secondary School principals.

Press materials containing calls to religious intolerance or hostility, or those describing such cases, were also analyzed. The website www.religions.am⁴ served as the main source for obtaining such articles – the web-site posts Armenian press materials on religion (mostly from e-versions of central newspapers with sizeable print volume (for Armenia that is considered to be in excess of 2000 copies) or from web-sites considered influential and often discussing religious topics).

In the second half of 2009, representatives of religious and human rights organizations and the principals of secondary schools were interviewed. They were asked to provide clarification on alleged cases of religious intolerance and discrimination and their responses are directly quoted in this study. In cases where representatives of different religious organizations accused each other of intolerance, a special attempt was made to meet with all parties concerned and represent the divergent views.

The Centre has been studying issues of religious intolerance for several years. The representatives of religious organizations regularly provide the Centre with information on cases of religious intolerance or discrimination. They have proved an important source of information for this study; their contributions helped guide the selection of cases mentioned in Section 2.

The findings of this study form the basis for recommendations to RA State Authorities. It is hoped that such recommendations will lead to the improvement of legislation and religious tolerance in Armenia.

⁴ The website was created by the “Collaboration for Democracy” Centre within the framework of the “Religious Tolerance in Armenia” Project. The materials on religious issues can be found in the “Press Monitoring” section of the website. The project has been implemented by the assistance of the Armenian branch of the Open Society Institute Assistance Foundation and the Dutch Government.

2. SPECIFIC CASES OF RELIGIOUS INTOLERANCE AND DISCRIMINATION

2.1 General Information

Defining the exact number of religious confessions that are operating in Armenia is complicated. In Armenia, religious organizations are usually registered as ‘religious communities’ (not as statements of faith), thus there is a discrepancy between the number of registered organizations and the number of confessional groups. In addition, not all existing religious organizations are registered.

The only official data that exists comes from “The Framework Convention for the Protection of National Minorities” (Point 1 of Article 25)⁵, which lists the number of registered organizations in Armenia.

According to this report:

In January 2000 there were 14 officially registered religious organizations.

1. ***Holy Armenian Apostolic Church***
2. ***Armenian Catholic Church***
3. ***Russian Orthodox Church***
4. ***Yezidis’ religious community***
5. ***Community of Judaism***
6. ***Pagan community***
7. ***“Bahai” community***
8. ***The Mormons***
9. ***The Baptists***
10. ***Evangelicals***
11. ***Pentecostals***
12. ***Charismatics***
13. ***Seventh Day Adventists***
14. ***New Apostolic Church***

“Jehovah’s witnesses” and “Krishna Consciousness” operate without registration.

In 2004, the religious organization “Jehovah’s Witnesses”⁶ was granted registration. According to our data, the organization “Krishna Consciousness” has not functioned in Armenia for some time; it has only a few adherents. Although the Molokans (An age-old group of Russian believers) refuse to apply for registration due to their religious convictions, they freely operate; in fact, the name of this religious

⁵ Available at http://www.gov.am/u_files/file/kron/Armenian%20report%20to%20CCPR.pdf.

⁶ See Part 3.3 of this study for more details.

group “Molokans” is itself non-official in nature. “Charismatics” call their church “Word of Life”, but there are also communities associated with other groups who consider themselves “Charismatics”. Churches named “Pentecostal” consist of several self-governed communities some of which reject the “Pentecostal” label. Moreover, not all such communities are officially registered and they often affiliate and disaffiliate with each other. This is also typical of religious communities such as the “Baptists” and the “Evangelicals”. There are several “pagan” religious organizations who deny any structural or confessional ties with each other. The “Bahai” religious group, though officially registered, no longer operates. Conversely, a religious group (comprised of Iranian citizens and other Muslim citizens from the Middle East who are temporarily living in Armenia) professes Islam and functions in Armenia without being registered as a religious organization. A mosque, called “Goy”, operates in Yerevan.

It should be concluded, therefore, that the names and number of confessions in the official list above are of a provisional nature.

There is also no official data on the exact number of members in these religious organizations. Our poll among religious organizations indicates that the Armenian Catholic Church traditionally comprises of about 180,000 Armenian citizens while another 170,000 are followers of other religious groups. There are also no official figures on the number of adherents to the Armenian Apostolic Church or the number of atheists and agnostics.

2.2 Public Debate

On February 2, 2007, the Armenian Parliament (NA RA) adopted the “Law Regarding the Relationship between the Republic of Armenia and the Holy Armenian Apostolic Church” and in 2009 it also adopted the Draft Law on Amendments to the Law on the Freedom of Conscience and on Religious Organizations at its first reading. In connection with these laws, public debates were organized, which included those who formulated the draft law – in the first case, NA Speaker of that time, Tigran Torosyan, and later one of the five other authors, Armen Ashotyan⁷. In the National Assembly meetings were also arranged with representatives from religious organizations. The organization “Partnership for Open Society” and the Office of OSCE in Yerevan also held debates, which received broad media coverage⁸. As a result of these debates, certain sections of the abovementioned law were altered⁹, while the amended draft law was sent to the Venice Commission and OSCE/ODIHR Advisory Council on

⁷ See ‘Armenia: the dispute over the freedom of conscience is triggered. Critics believe that the core issue lies in the amendments to the law’ at <http://russian.eurasianet.org/departments/insight/articles/eav022409ru.shtml>.

⁸ Ibid.

⁹ Ibid.

Freedom of Religion or Belief for expert opinion¹⁰. The nature of these comments will be presented below in Section 3.4 of this study.

Up until 2008, numerous public debates on religious issues were conducted in Armenia, with government officials participating, and the mass media often covered such debates. That situation changed after the events of March 1, 2008¹¹ and several hotels refused to provide venues for public debates for various reasons¹². For example, in 2008 and 2009, the “Collaboration for Democracy” Centre was denied venues for public debates on the freedom of conscience. The hotel staff confidentially admitted that they had received instructions not to provide venues to certain NGOs for certain public debates.

2.3 Protecting Ethnic Minorities’ Freedom of Conscience and Faith: the Current Picture

According to 2001 census statistics, ethnic minorities comprise 2.2 percent of Armenia’s population. This figure includes 11 ethnic communities, such as Assyrians, Yezidis, Kurds, Russians, Greeks, Molokans, Jews, Poles, Ukrainians, Georgians, and Germans. The most numerous groups are Yezidis (40,620), Russians (14,660), Assyrians (3,409), and Kurds (1,519)¹³.

Armenia has ratified the Framework Convention for the Protection of National Minorities (1998) and the “European Charter for Regional or Minority Languages” (2002).

Article 15 of the RA Constitution provides for the legal rights, freedoms, and duties of all RA citizens, irrespective of nationality, race, language and faith.

According to Article 40 of the International Covenant on Civil and Political Rights, the UN Human Rights Committee as well as the Advisory Committee on the Framework Convention for the Protection of National Minorities have noted no cases of religious discrimination against ethnic minorities in Armenia’s national reports¹⁴. The equivalent opinions of the UN and EC similarly have no record of religious discrimination.

¹⁰ See Joint Opinion “On the Law on Making Amendments and Addenda to the Law on Freedom of Conscience and on Religious Organizations of the RA” by the Venice commission, the Human Rights Commission of Council of Europe, and the OSCE ODIHR (March 22, 2009).

¹¹ In February 2008, the RA Government Opposition refused to accept the official results of the Presidential Election and organized a series of demonstrations, marches and rallies. These ended in clashes between police and protesters, leading the RA President, R. Khocharyan, to declare a ‘State of Emergency’ until March 20, 2008.

¹² See <http://www.partnership.am/en/Statements/38268>.

¹³ See Table 3 De Jure Population (Urban, Rural) by Ethnicity, Sex and Educational Attainment in the ‘Results of the Census of the Republic of Armenia’ (Yerevan 2001) p.360-363.

¹⁴ See the official website of RA Government (<http://www.gov.am/am/staff-structure/info/74/>).

Our organization knows of no reported cases of religious discrimination against ethnic minorities – and there is no indication of such from the media. We have also received no complaints from ethnic minorities on this issue.

2.4 Construction of Chapels and Places of Worship

There allegedly are problems connected with building new places of worship. According to Article 17 of the law “On the Freedom of Conscience and on Religious Organizations”, the HAAC has certain ‘privileges’ such as “*Building new churches, and turning historical monuments belonging to it into churches – both at the request of the believers and at its own initiative*”. The law’s other articles contain no indication of whether other religious organizations other than HAAC have the right to construct new church buildings. Our survey among religious organizations indicates that obtaining planning permission for building new churches is fraught with various hurdles, which are generally ‘indirect’ problems such as architectural or construction-related issues. To avoid such setbacks, religious organizations register their chapels as private property or as property belonging to an LLC (even though in some cases religious symbols or signboards are placed on the building) or sometimes they donate buildings that are already functional to the religious communities. During our meetings with religious community leaders we recorded just one case of a religious organization being asked to take off its signboard.

On October 17, 2009, one of the authors of this report, Arthur Avtandilyan, conducted an interview¹⁵ with Reverend Mikayel Ruben Pahlevanyan of Gyumri’s Armenian Evangelical Baptist Church. Pahlevanyan stated:

“In Harich village, the Armenian Baptist Church has a small community of 12-15 members with a chapel, where every Sunday we hold religious worship with preaching and singing. The Baptist Church also carries out aid programs and organizes camps in that area. However in recent weeks the overseer of Harich Church, Celibate Priest (Archimandrite) Koryun, along with a group of 15-16 year old teenagers, invaded the chapel and tried to instigate a clash between our members and other village residents, making inappropriate comments about various religious leaders of the Armenian Evangelical Church, declaring them to be national traitors and sell-outs. The Baptists there later informed us that these youngsters had subjected their classmates to mockery and violence because they had dared to participate in events organized by the Baptist Church. They turned to the police because specific threats had been made, such as “Soon the law will be

¹⁵ The audio recordings of the interviews used here and below are in the possession of the authors of this study.

adopted and you will be thrown out of this place”¹⁶. The Archimandrite also declared: “I have been commissioned and blessed by the Patriarch of All-Armenians and the Head of this Diocese. We have the approval of State and Church to punish and expel people like you. If you appear in our village again, I will not only break your legs but will smash your heads in as well”. The police authorities responded to the complaint and intervened in the case. The Baptist pastor was informed that the priest had been called in and spoken to and that the priest had promised that such incidents would not recur (he had simply been very angry he explained). A month later however, in October, the same priest, with two or three other clerics, entered the chapel in an even stronger outburst, saying “I already warned you that as the head and leader of this parish I have the right and authority to beat you out of this place with clubs”. He then ripped the Pastor’s cross off his chest, snatched his bag, throwing it outside, and smashed the Chapel’s signboard with a rock. When a youth tried to grab the priest’s hand to restrain him, the other priest punched him in the head and lightly wounded him body. This time the Baptist pastor appealed not to the police but to the head of the diocese, who pleaded with the pastor not to turn to the police, promising that he would talk to the archimandrite and guaranteeing that such incidents would not happen again. He tried to excuse the priest’s actions by stressing his young age and hot headed character. In any case, the issue has not really been solved since the archimandrite still holds his position and engages in propaganda against the Baptist Church. This results in a tense atmosphere in the village and the children of Baptist families being subjected to ridicule”.

On the same day, we also interviewed the leader of Shirak Diocese, Bishop Mikayel Ajapahyan, who thus commented on the events in Harich village:

“Historically, Harich village is the Armenian Apostolic Church’s village and the site of one of its churches. Then some Protestants went there, converted two men to Protestantism, bought a house, put up a sign – the “Armenian Evangelical Church” – and created an Evangelical community for just two people. Our villagers often ask me: “Your Holiness, why don’t you oppose them?” If we had surrendered to such requests, terrible things would have already taken place. But we are not going to fight against anyone. If we say to the Reverend, “Dear Reverend, this is a historical Armenian Apostolic village – you Evangelicals have never been here – and there is a church stood in the middle of the village. So, what are you doing here? Why have you come? You are stirring up trouble”, then does that mean we are persecuting him? Who is the real trouble-maker and persecutor if not the one who comes and snatches two or three members away from our religious

¹⁶ Such words have the draft amendments to the Law on Freedom of Consciousness and on Religious Organizations in mind, in which the term “soul-hunting” is defined and in which criminal proceedings are provided for.

community? We ask: “What are you doing? What is your goal? For the sake of what were these five villagers converted into Protestants? Were these five extra members such an urgent necessity for the Protestant Church that you came, spent large sums of money, bought this building, put up a sign and daily cover a distance of 50-60 km to come and preach to these people?” If we ask such questions are we persecuting them? It is not us that are persecuting; we are the persecuted!”

In contrast, there are also cases when churches like the “Armenian Evangelical Church”, “Unity” Church, and “The Union of Churches of Evangelical Christians” have officially opened churches or places for worship.

In September 2009, “The Union of Churches of Evangelical Christians” officially opened a church in Vanadzor. Present at the opening ceremony were Government officials such as the Head of the Government Staff Department of National Minorities and Religious Organizations the Deputy Head of Lori region and the vice Mayor of Vanadzor¹⁷. Local TV companies covered the events over a number of days. Since buildings for religious purposes are generally bought by religious organizations or donated to avoid problems with planning permission, such cases can be considered as a step forward.

According to “Jehovah’s Witnesses” Head of Public Relations, Levon Margaryan, as a rule, their places of worship belong to private entities. While trying to build a place of worship, the organization faced setbacks from people living in the neighborhood complaining about the construction process. According to the organization’s spokesman Mr Margaryan: *“Some people tried to hinder the process of construction but due to the efforts of our foreign lawyers, Vanadzor city authorities and other legal bodies, the issue has now been solved and construction completed”*¹⁸.

According to the Vanadzor branch of the Helsinki Association: *“In October 2009, while a place of worship was under construction on the outskirts of the city, the members of the “Jehovah’s Witnesses” organization encountered numerous protests by local residents, who had been threatening the members from the very beginning of the construction process. There were heated arguments between the two sides which ended in a scuffle breaking out. Local residents demanded that the construction be halted on the grounds that the building was located in close proximity to a public school and therefore posed a direct threat to the children.*

¹⁷ According to information provided by Senior Pastor of the “The Union of Churches of Evangelic Christians” of Armenia, Rafayel Grigoryan.

¹⁸ From a written note provided to the Centre for Collaboration for Democracy by the Jehovah’s Witnesses organization.

Together with the teachers of that school they organized a petition and submitted written complaints to the Head of the Region, Chief Prosecutor of the region, and the district's Member of Parliament, demanding that the construction be stopped. For several days, local TV companies broadcast biased reports, presenting only the opinions of discontented local residents and failing to point out the legal side of the case”¹⁹.

Adherents of the Armenian Catholic Church mainly dwell in the northern regions of the country (the overwhelming majority of them are traditionally members of the Catholic Church) and there are churches functioning in the country. This year Gyumri City Hall gave planning permission for the building of a church on the Church community's own land. Later, however, they faced setbacks – again connected with building regulations. According to the church staff, this issue has now been resolved.

2.5 The Attitude and Actions of Law Enforcement Bodies towards Members of Religious Organizations

In recent years, reports have emerged of law enforcement bodies interfering in the activities of religious organizations. While such cases are not widespread, they do occur from time to time, especially in Lori region. News of such cases comes from the leaders of religious communities and relevant (and subsequently uncontested) reports in the press. It should be noted, however, that we are unaware of any cases of members of religious organizations taking legal action relating to discrimination or violation of rights. Some typical cases are described below.

In September 2009, the pastor of the Armenian Evangelical Baptist Church “*Great grace*”²⁰ Vahan Poghosyan told us:

“Religious persecutions increase when the Draft Law “On Freedom of Conscience and on Religious Organizations” is being debated. When there is a pause in the discussions, the wave of intolerance eases off. I have even heard expressions such as: “There is little time left...when the law comes into force, then you’ll see!”.

According to Mr Poghosyan:

“There are no cases of persecution right now, but some time ago there were cases when the police visited our believers or ‘invited’ them to local police stations. They never presented any legal grounds for such actions but simply stated: “You are against the Church”. Local authorities are quite well predisposed towards us and they never cause any serious trouble”.

¹⁹ Source: a report on “Activities against Religious Discrimination in 2006-2009” provided to the Centre by the Vanadzor office of HCA.

²⁰ The church operates in Artik, Gyumri and Vanadzor. Mr Poghosyan was interviewed by Arthur Avtandilyan (co-author of this report).

At the end of the interview Vahan Poghosyan stated that they never seek any legal solution to their problems and mainly count on “human relations”.

In June 2009, officials from Gyumri’s National Security Service (NSS) Department repeatedly disturbed members of the NGO charity called “Christian Cultural Ministries International”²¹, a charity that has been functioning in Armenia for many years (and president of which is Levon Partakchyan). The charity members were never officially summoned; they were questioned without being informed of their legal status or rights. Twenty-four year old Nushik Grigoryan told us that she was held in the NSS office for three hours without the opportunity of making a telephone call and that an official named Chakhoyan (who introduced himself as deputy head of the department) held a derogatory conversation with her about her religious persuasion. Ms Grigoryan was then compelled to write some “explanations” on a piece of paper. Another member of the same organization, Artur Avagyan, was called to the station by telephone by Inspector Arthur Harutyunyan who demanded that Mr Avagyan bring him an official subpoena. According to leader of the organization, Levon Partakchyan, the NSS officials threatened that if Artur Avagyan failed to appear, they would ‘settle scores’ with him. The NSS officials justified their actions to those ‘invited’ to the police station as their “fight against proselytism”.

The details above come from those who were ‘invited’ to the NSS office. This case was also reported in the US State Department “International Report on Religious Freedoms, Armenia, 2009”²². In an open letter²³ Levon Partakchyan wrote:

“Three NSS staff subjected Nushik to interrogation and ridicule, criticizing and scorning her religious views (her faith, her ministry, her commitment, and that she belonged to spiritual-cultural ministries) as well as the colour of her face, her marital status (single), her personal background (an orphan), and her family situation. As a form of humiliation, the NSS employees proposed that she clean the backyard of the church located in the town square”.

After this case was reported at www.lragir.am, the harassment ceased²⁴.

According to details provided by Senior Pastor and President of the Union of Evangelical Faith Churches, Rafayel Grigoryan, police officials visited public schools in 2007 in the villages of Jrashen and Chigdamal in order to talk to the children of “sect members”. Before that, the municipal head of Tumanyan village had told the Evangelicals that he had been instructed by regional authorities to ban the

²¹ See www.lragir.am, June 5, 2009.

²² See the official website of the US Embassy in Armenia (http://armenia.usembassy.gov/irf2009_arm.html).

²³ See www.lragir.am, June 5, 2009.

²⁴ According to information provided by Levon Partakchyan, leader of the “Christian Cultural Ministries International” NGO charity.

activity of their religious community. He also stated that some of those who had given him these instructions were NSS employees²⁵.

The Pastor of Evangelical Faith Church in Aragatsotn region, Boris Shamoyan²⁶, informed us in July 2009²⁷ that he is regularly summoned to the police station.

On June 19, 2006, the head of the Helsinki Assembly office in Vanadzor received an e-mail with threats which read: *“Mr. Sakunts, you are condemned to capital punishment for your publications on religions in the latest issue of “Civic Initiative” magazine, without shame and regret. DEATH TO HELSINKI ASSEMBLY AND SAKUNTS!”*. The organization notified the Prosecutor of Lori region of the letter writer’s identity and requested that criminal proceedings be started.

On June 22, the Prosecutor’s office informed the organization that they were gathering evidence on the case and promised to inform the organization about the results of the investigation in due time. In the end, the authorities refused to start criminal proceedings on the grounds that *“the threat was baseless – it contained no indication of how it could be realized (such as via guns, weapons, explosives or other devices) – and thus such statements cannot be classified as death threats; the threat must be specific and clear and contain means of the threat’s implementation”*²⁸.

In the US State Department’s “International Religious Freedom Report, Armenia, 2009” a case of religious intolerance being punished is mentioned:

*“On July 13, 2008, a 53-year old Yerevan resident attacked two Jehovah’s witnesses while they were preaching. According to the Jehovah’s Witnesses, on December 19, 2008, the attacker, Haik Elizbaryan, was found guilty on charges of insulting, threatening and beating the victims and was fined approximately \$410 (150,000 drams). The Jehovah’s Witnesses praised the professionalism of the police and the Prosecutor’s Office of Yerevan’s Arabkir and Kanaker-Zeytun districts and noted that this was the first case of a verdict being passed in response to an attack on one of their members”*²⁹.

2.6 Dissemination of Leaflets Containing Religious Hatred

²⁵ See *Monitoring of Democratic Reforms in Armenia-Reports* (at http://www.partnership.am/files/Democracy%20monitoring_eng.pdf).

²⁶ The religious community is located in the village of Sadonts (Amre-Taza).

²⁷ Boris Shamoyan was interviewed by Artur Avtandilyan (co-author of this report).

²⁸ Source: report on “Activities against Religious Discrimination in 2006-2009” provided to the Centre by the Vanadzor office of HCA.

²⁹ See the official website of US Embassy in Armenia: http://armenia.usembassy.gov/irf2009_arm.html.

While walking the streets of Armenia's towns, one can encounter propaganda containing religious hatred. There are posters and papers glued to poles, lampposts, bus stops, the outside walls of apartment blocks, and sometimes even on the doors of apartments. They are distributed in busy places, sometimes in the presence of police. The organizations disseminating such materials act openly and frequently give interviews to the press. A number of times marches have been organized. These organizations are called "One Nation", "April 24", "Armenian Nationalists" and others. Here is a sample of such leaflets:

"[FROM] THE ONE NATION ALLIANCE OF ORGANIZATIONS. Beware of the sects. Jehovah's Witnesses, Satanists, Mormons, Armenian Evangelicals, followers of Krishna, Pentecostals, Word of Life, Moonies, Protestants and others are just sects, which are sponsored by the West. They have no connection with OUR ARMENIAN APOSTOLIC CHURCH. We appeal to you: the emergence of these organizations in our country has a political basis – it has been ordered by the USA. It has one goal: to turn the Armenian nation into an ignorant, enslaved, materialistic mob of zombies that has renounced its spiritual roots and civil duties. It is now our moral obligation to protect our national and spiritual identity, our land, and our national Armenian Apostolic Church. Each and every Armenian must combat the sects' corruptive anti-national impact everywhere – in his yard, in his apartment block. – Co-chairman of "One Nation" Alliance, Gor Tamazyan³⁰".

The authors of this study have heard of no cases of law enforcement bodies taking action against the people and organizations disseminating such materials.

In 2006, the newspaper "168 Zham" wrote:

"The members of the political party "One nation" have chosen a unique way of fighting sects and the sect 'movement' – they consider the dissemination of leaflets as the best method. "Taking advantage of the country's moral, psychological and social crisis, the sects, with their clever and lively preaching and simple methods, are able to deceive the ignorant masses and do their dirty work" says the leader of the organization, Gor Tamazyan. At the beginning of November the organization is planning to conduct their 11th march in defense of the Armenian Apostolic Church. But the procession, called "fight", is considered to be too little to halt the rapidly growing 'movement' organized by foreign religious organizations in Armenia"³¹.

On April 18, 2009 the daily newspaper "Hayots Askharh" published on its front page one of the leaflets stuck on a lamppost in Yerevan:

"Dear countrymen, be wise and vigilant. Don't add yourself to the cattle of sect believers. Keep away from Jehovah's witnesses, Mormons, Evangelicals, Word of Life, Satanists, Pentecostals and

³⁰ The official website of US Embassy of Armenia (http://armenia.usembassy.gov/irf2009_arm.html).

³¹ See "168 Zham", October 22, 2006 at <http://168.am/am/articles/7765>.

other criminal anti-Armenian groups. WE ARE REDAY TO TALK WITH EVERY ARMENIAN SHEEP THAT HAS GONE ASTRAY. - April 24 Group”.

The newspaper added the comment: *“something is said to be heard”*³².

The next issue of the same newspaper published an extended comment on the leaflet:

*“The group appeals for people not to join the ‘cattle of sect adherents’ and to ‘keep away from Jehovah’s witnesses, Mormons, Evangelicals, Word of Life, Satanists, Pentecostals and other criminal anti-Armenian groups’ and says that it is ready to talk to every stray Armenian, even providing an e-mail address gardmanq@mail.ru for this. Although we think that it is not politically correct to use the phrase ‘cattle’ since members of these different sects (with the exception of Satanists) are really just stray Armenians, the concerns of the organization and their desire to warn citizens about the dangers of sects are quite welcome and reasonable”*³³.

In response to this, the heads of seven religious organizations issued a complaint to the editor-in-chief of the newspaper, as well as to the RA Prime Minister, the Speaker of Parliament, the Head of RA Presidential Staff, the Minister of Justice, the Chief Prosecutor, the Chief of Police, as well as other top ranking government officials³⁴.

The editor of the newspaper made no reaction to the complaint. However, the Deputy Head of Department for Cases Examined at National Security Entities of the RA Prosecutor’s Office, H. Sargsyan, issued a statement saying that on February 12, 2009, the complaint had been sent to V. Sargsyan, Head of Investigation Department, National Security Service Adjunct to the Government of Armenia³⁵. Nevertheless, until today, the religious organizations have received no official response from the authorities and the ‘April 24 Group’ and other similar organizations continue their dissemination of leaflets. In December 2009, the press-secretary of the NSS, Artsvin Baghramyan, told journalist Marine Kharatyan of the daily newspaper “*Zhamanak Yerevan*” that the case had been investigated by the NSS but was dropped on the grounds of *“absence of criminal activity”*³⁶.

On March 18, 2006, the group ‘Armenian Nationalists’ spread leaflets containing the words “DEATH TO SECTS AND THEIR MEMBERS!” in various districts of Vanadzor city. The city’s branch of the

³²“ 168 Zham” October 22, 2006 (<http://168.am/am/articles/7765>).

³³ See “Hayots Ashkhar”, April 22, 2009.

³⁴ The copies were handed to the authors of this study.

³⁵ The copy of the document is with the authors.

³⁶ See www.zhamanak.com, “Plain Fascism”, 17:33 Yerevan //13:33 GMT/Friday 11 December 2009.

Helsinki Assembly notified the Chief of Police (with a copy to the Prosecutor) and inquired about how those disseminating such leaflets may be detected and brought to justice.

In due course, the identity of the disseminators was revealed. On April 22, 2006, the Prosecutor's Office notified the Vanadzor branch of the Helsinki Assembly that the evidence gathered for the case did not warrant a lawsuit against the disseminators. It stated:

“Despite the fact that M. Kostandyan's and H. Hakobyan's actions contain corpus delicti according to section one of Article 143, they regret their actions and ask that they be treated with leniency as they have no previous criminal record and H. Hakobyan is a minor. Thus, in accordance with Article 37, part 1, point I of the RA Criminal Code, the decision was made to drop charges against M. Kostandyan and H. Hakobyan for leaflet dissemination on the grounds of their remorse”³⁷.

2.7 Penitentiary Institutions

In 2007, a report on the activities of a group that publicly monitors penitentiary institutions and other bodies of the RA Ministry of Justice noted:

“There have been no cases of the freedom of ideas, faith, or conscience being restricted, including political or other views; consequently, there have been no complaints. The right to freedom of religion receives special attention in penitentiary institutions where members of “Jehovah's witnesses” organization are being held. Their cells or places of detention are furnished with everything they need for the practice of their faith – the prison administration does not restrict their activities in any way”³⁸”

The HAAC has clergymen who perform their duties in prisons and freely visit inmates. According to information from HAAC³⁹, five clerics and two nuns (from the Church of St. Hripsime) are responsible for prison ministries. The nuns work mainly in the prison for women and minors in the town of Abovyan.

If prisoners who are members of other religious organizations wish, they can receive periodic visits from spiritual ministers of those organizations. The person in charge of public relations for “Jehovah's Witnesses”, Levon Margaryan, writes:

³⁷ Source: a note entitled “2008-2009 aimed at fighting religious intolerance” provided by the Helsinki Civic Assembly (Vanadzor branch) to the Centre.

³⁸ Source: ‘The Penitentiary System of the RA Ministry of Justice, 2008 Report’.

³⁹ See www.etchmiadzin.am, the official website of HAAC.

“We have permission to visit “Jehovah’s Witnesses” organization members held in penitentiary institutions once every two months in order to provide religious support. However, we consider that more frequent visits would be more beneficial for both the convicts and the prison staff. We are currently in negotiations with the RA Ministry of Justice on this issue”.

During conversations with leaders of other religious organizations, we learned that they too had never encountered any obstacles in visiting the inmates, although they were unaware of the two-month time restraint mentioned above.

Foreign inmates are mostly held in “Vardashen” prison. Certain problems arose with Muslim inmates (mainly Iranian citizens), especially concerning faith-related dietary requirements – this issue has not yet been solved⁴⁰.

“In some detention centres, there are certain hygiene problems related to Muslim inmates. For example, in “Vardashen” prison there are several Iranian prisoners (especially in closed and semi-closed conditions) who after relieving themselves wash themselves down, and this is viewed extremely negatively by Christian inmates in the same cell and frequently leads to conflicts”⁴¹.

Moreover, there are convicts who refuse certain foods due to their religious convictions. For example, in “Vardashen” prison there are Iranian convicts who refuse to eat pork due to their religious convictions and thus refuse to eat any dish made of pork.

However, Article 25.1 of the European Prison Rules prescribes that the nutritional requirements of detainees should be dealt with according to their religious beliefs and cultural preferences. Article 6 of the Basic Code of Treatment of Detainees also prescribes that prisoners’ religious principles and moral ethics should be respected.

The RA legislation – the “Law on Holding Arrested and Detained Persons”, the Penitentiary Code and the Code of Rules – stipulate that detainees and convicts should have the right to profess their religion, conduct religious worship, use objects of spiritual devotion, and have access to religious literature.

⁴⁰ Source: The Penitentiary System of the RA Ministry of Justice 2008 Report available at http://hra.am/content/library/pmg_report_2008_eng.pdf.

⁴¹ See the Armenian Ombudsman (RA Human Rights Defender) report on individuals’ rights and legal interests in the Penitentiary Institutions of the RA Ministry of Justice, November 12, 2009, at <http://ombuds.am/main/en/10/31/>.

However, the issue of dietary requirements is not mentioned in these legal documents and this results in the complications mentioned above⁴².

2.8 The Armed Forces

In “The RA Ministry of Defense’s Public Awareness Papers”, the “Problems” section reads:

“6. Increase the level of civil control over the armed forces.

7. Increase the level of human rights protection among troops in the RA armed forces, with input from the institution of the RA Human Rights Defender⁴³”.

Unlike RA prisons and police custody centres, the armed forces lack monitoring groups engaged in the protection of human rights. The Ministry has been liaising with a public council, created at the order of the Defense Minister, which is comprised of NGOs dealing with human rights issues in the armed forces.

“In 1997, a Memorandum of Understanding was signed between the Holy See of St Etchmiadzin and the RA Ministry of Defense to agree and clarify the sphere of clergymen’s activities in the army - including structures, issues, and objectives. This spiritual care was implemented first for frontier troops and then for other subdivisions. Some units are located in places where chapels have been built. The libraries of military units are stocked with religious literature; copies of the Bible, “Etchmiadzin” spiritual magazine, “Christian Armenia” newspaper and other booklets have been distributed among military staff... Clerics chat with soldiers, give lectures, show educational films, and organize pilgrimages, masses and other religious ceremonies. Armenian soldiers experience spiritual revival and (re)turn to the doctrine of the Apostolic Church. The spiritual ministry conducted in the armed forces is prescribed by the RA Ministry of Defense. Over 35 clergymen are presently engaged in spiritual ministry, among which there are both married and celibate priests and deacons”⁴⁴.

Reportedly, other religious organizations in Armenia are not given such opportunities. However, during our interviews, the leaders of these organizations said there was no cause for alarm in terms of their members’ rights being violated while serving in the army. Issues relating to the “Jehovah’s Witnesses” conscientious objectors are presented in Part 3.3 of this report.

It is also noteworthy that in accordance with Article 12, Paragraph 1, Sub-paragraph “c” of the Law on RA Military Service, the RA Government has the authority to adopt decisions regarding the exemption

⁴² See the note above.

⁴³ From the official website of the RA Ministry of Defense at <http://www.mil.am/arm/?page=2>.

⁴⁴ See the reference above.

of Armenian citizens from compulsory military service. Acting on this legal mandate, the RA Government periodically issues decisions regarding the exemption of particular clerics of the HAAC from compulsory military service⁴⁵.

2.9 Public Schools

According to Article 4 of Section 3 of the RA Law on Education:

“The RA educational system is aimed at strengthening the spiritual and intellectual potential of the Armenian nation as well as maintaining and promoting universal human values. The Armenian Church contributes greatly to this work”.

According to this same law – Point 6 of Article 5 of “Principles of State Policy in the Sphere of Education” – education in all educational establishments must be of a secular nature.

Since 2003, a new subject called “Armenian Church History” has been taught in schools. On February 22, 2007, the NA adopted the “Law Regarding the Relationship between the Republic of Armenia and the Holy Armenian Apostolic Church”, which permits the Church to initiate activities in public schools. An excerpt follows:

“Article 8

The Role of the Holy Armenian Apostolic Church in the Sphere of Education.

The Holy Armenian Apostolic Church has the right to:

- 1. Establish or sponsor kindergartens, primary and secondary schools as well as vocational colleges or institutions of higher educational within the framework of RA legislation.*
- 2. Take part in curriculum and textbook development for the subject “Armenian Church History”, define standards and qualifications for the teachers of the subject, and introduce schools to potential candidates who could teach the subject.*
- 3. Conduct optional educational courses in the state educational system, utilizing their buildings and resources and coordinating any organizational issues with the relevant educational establishment.*
- 4. Contribute to the spiritual education of society in educational establishments as prescribed by law”.*

Thus, this law gives the Church the opportunity to develop the subject’s text books and curriculum, and Church representatives regularly hold meetings with teachers and present potential teachers for the

⁴⁵ See, in particular, the RA Government Decisions N 492-A, 27.09.2007, N 1128-A, 15.05.2008, N 443-A, 23.10.2008, N 1201-A, 30.04.2009, N 473-A, 29.10.2009, N 1233-A 26.04.2007 “On the Exemption and the Occupational Deferment of Clerics of Holy See of St. Etchmiadzin, Monks and Students of St. Jerusalem “Saint Hakobyants” monastery and students of Calcutta Benevolent Seminary from Compulsory Military Service”.

subject. Since the introduction of the subject into schools, incidents of religious intolerance stemming from the conduct of these lessons have allegedly occurred. Sometimes HAAC priests will participate directly in these classes, and sometimes classes will take place in churches, which violates the principles of the “Law on Education”, which states that education in the RA must be of a secular nature. In reality, the subject “Armenian Church History” has turned into a study of the religion itself.

On July 10, 2009, the authors of this survey interviewed the priest of St. Grigor Narekatsi Church, Vahan Azaryan. He commented that “*the Bible is taught in schools*” and that priests take part in classes – a clear contradiction of Article 5, Point 6, of the Law on Education.

“There are many in authority who want more, but that needs to be done informally – i.e. school principals should know that at least once a month they should invite clergymen to school, and class tutors should know that should keep in touch with clerics. This is just a request; it cannot be stipulated by law.

Then he added: “*We can see that this subject helps to teach the Bible – a book, a lawbook, that years after Christ, when the Church was formed, became universal authority for Christians*”.

On the same day, the principal of Vanadzor’s 9th public school, Edita Vardanyan, was interviewed. She mentioned that:

“I don’t know why, but when we try to keep the historical role, significance, and authority of the Armenian Church at the centre of our attention, it is seen as victimization or a violation of human rights or an offense to human dignity or it receives other such labels. But we are just trying to keep our children away from erroneous, empty, dangerous religious tendencies. We have one church, our Holy Armenian Apostolic Church, and we have our God; we are a Christian people”.

The principal also noted that the priests frequently come to meet the children at the initiative of the teachers. In reply to the question about children belonging to other religious organizations Mrs. Vardanyan stated:

“The identity of such children is not known – they have been well taught at home to hide their religious convictions. On the contrary, if someone speaks out, we are surprised; we were unaware that deep inside the child was an adherent of another religious persuasion. The child can quietly study and do very well; so, it isn’t our duty to deal with their spiritual issues.”

Then the principal added:

“Let us suppose that a child dares to confess his beliefs. What measures can we take in this case? Perhaps, just a private chat with the child. For, in the classroom such kids suffer from an inferiority complex because they know they are not in the majority. They realize that they are too

weak to take any decisive steps, so they prefer not to be subjected to a derisive attitude or get offensive nicknames. Of course, this sometimes happens and that is natural because those who are not for us are against us and we know how to fight those who are against us”.

The daily newspaper “Zhamanak-Yerevan”⁴⁶ reports:

“The teachers of Lori region’s Mrgahovit School have started a crusade of religious intolerance. The school principal has threatened legal action against the child of one of the members of “The Church of Gospel Faith Christians” for being part of a sect. The teachers keep asking students to reveal sect members. The teacher of Armenian Church History urged classmates not to mix with the sect members and now those children are cut off from their friends. Such cases are typical not only in Lori region but occur all over Armenia.”

On May 13, 2009, the newspaper “Zhamanak Yerevan” published Marine Kharatyan’s article entitled “Head of Gugark Diocese versus...children”⁴⁷. The article read:

“Head of Gugark Diocese, Bishop Sepuh Chuljyan, met the principals of kindergartens and schools in a newly constructed hall of Vanadzor’s Church. The head of Lori region, Aram Kocharyan, also took part in the gathering, in the company of the Mayor of Vanadzor and the head of the department of Education, Culture and Sport. The principals were instructed to lead an active fight against “sects”, including a fight against ‘sect children’. During their opening speeches, both the Bishop and the Head of the region made similar comments. The same kind of mandate has also been given to public school principals in Spitak. Just yesterday the teachers of Vanadzor No.9 School started an investigation, asking the children which Church they attended and whether they lit candles there or not. The teachers wrote down the relevant children’s names and surnames and threatened them, saying that if they attended any ‘sect’ – that is any church services other than those of the Armenian Apostolic Church – they would be strictly punished. Many of the “exposed” children went home in tears and distress. According to our information, the teachers are acting upon instructions because they are afraid of losing their jobs. Months earlier, police authorities were already undertaking such actions in the schools of the villages of Jrashen and Chigdamal near the town of Spitak.

“This is not the first time that Bishop Sepuh Chuljyan has gone beyond his duties and interfered in state affairs” said the head of the Helsinki Assembly’s Vanadzor office, Artur Sakunts, in his assessment of the situation yesterday, adding *“with such actions he fuels*

⁴⁶ See <http://zhamanak.com/news/8698,18:13 Yerevan/14:13 GMT/Thursday, October 15, 2009>.

⁴⁷ See <http://religions.am/index.php?option=content&view=article&id=523%3A2009-05-14-06-11-17&catid=21%3Azhamanak&directory=19&lang=hy//>.

intolerance and hatred towards other religious groups; he is directly responsible for Lori region's manifestations of religious hatred and hostility. Besides that, the municipal authorities – the Head of the region, the mayor, and the municipal leaders – with similar intolerant actions in the name of religion are spreading discord and contributing to the disintegration of society”.

The following issue of the same newspaper contained an article entitled *“Has the Church Taken Practical Steps against Children? Regional Authorities say No, Parents say Yes”*⁴⁸ where the journalist continued to write about her investigation:

“Yesterday we managed to talk to a parent in Vanadzor, whose child had been ‘dealt with’ at school. While the parent was unwilling to give his name, he did share his story with us: ‘At first they went into the lower grades and wrote down names. My child said that the teacher called them in two by two and asked questions like what churches they attended, whether they lit candles there, and what they were given there. In higher grades, the children were made to stand in front of the class and were derided as sect-followers. They were told if nobody lit candles in the places they attended, then these were ‘soul-fishing’ [the Armenian word for proselytism] centres. They told them that they wouldn’t be going there again. My younger child came home upset, in tears, and frightened, and my older child was also shaken. Then the parent added: ‘Of course, this is a terrible state for the children to be in. Even I myself am in a bad way already. How can you treat children like this?’”

Another parent while talking to us was surprised by the fact that the municipal authorities were denying the allegations. ‘How could it not have been said? The whole city watched the program on Lori TV. First they said that the subject of Armenian Church History should be strengthened and then they called for a fight against sects. In his speech the Bishop said that kindergartens should be named after saints and that in public schools there should be a battle against sect members. The Head of the region also urged everybody to fight against members of sects. But ‘sect’ is not a legal term and government and other officials have no right to apply it to religious organizations. Nevertheless he called for a fight against sects in schools. The whole gathering was called for that purpose. Who could think otherwise? How can they deny it? It was right after that gathering that they initiated practical steps in School No.9”.

On May 12, Lori TV Company aired a program about the gathering:

“At the initiative of the Christian Education Centre of the Holy See at Etchmiadzin and the Head of Gugark Diocese, a meeting with the principals of Spitak region was conducted to discuss how

⁴⁸ See “Zhamanak Yerevan” October 15, 2009.

Christian education in schools might be strengthened. A similar meeting was held in the hall of St. Grigor Narekatsi Church with the participation of all the principals of the region's public schools, again aimed at boosting Christian education in schools and making it more consistent. According to the Head of Gugark Diocese, Bishop Sepuh Chuljyan, the effectiveness of Christian education in schools depends on the elimination of contradictions between school and society as well as school and street. He mentioned that the new subject "Armenian Church History" on the school curriculum will help children to learn about church holidays and fight against sects⁴⁹.

At the end of the program the Head of Gugark Diocese concludes:

"We should focus on the values that are part and parcel of our identity and present these to our children in concrete ways so that our children grow up with a sense of what it means to be Armenian. Our priests go into schools to talk to the children and we are trying to create more opportunities for close relations between clergymen, schools and teachers".

The program also included opinions from school principals and the Head of Lori region, Aram Kocharyan, added: *"Sects and soul-hunting are widespread today and we should never tolerate such things in schools"*⁵⁰.

The same TV Company broadcast a program dedicated to the Festival of Easter. In this program Bishop Sepuh Chuljyan declared:

"How beautiful and comforting it is to see that our children are already receiving a Christian upbringing in kindergartens. The name of the Lord is on their lips and they sing spiritual songs, making adults feel more alert and vigilant. This [Easter] event was a serious step in the upbringing of our children, and I'm very happy that it was of national significance".

After this scene, the narrator commented:

"Bishop Sepuh Chuljyan urged all representatives of kindergartens to name their buildings after Armenian saints. A list of such names has already been in the possession of Vanadzor City hall for a year, but principals seem reluctant to take the initiative despite the fact that the Head of the Diocese believes that this is an important way of imparting Christian values to children."

During the program, the Bishop mentioned that religion was being taught in public schools; however, according to the school curriculum, this should properly be called "Armenian Church History".

Allegedly, Lori region's authorities – at regional, city, and municipal levels – hold meetings and consultations with HAAC clerics, while representatives of other religious organizations are not usually invited.

⁴⁹ The videotape of this TV program is with the authors of this study.

⁵⁰ Ibid.

In September 2009, the “Collaboration for Democracy” Centre sent a letter to the Minister of Education, Mr. A. Ashotyan, informing him of cases of religious intolerance in the schools of Lori region. This letter included a copy of the interview with the principal of School No.9, transcriptions of the abovementioned TV programs, the appeals of the Head of Gugark Diocese to name kindergartens with the names of Armenian saints, and mention of the fact that the subject “Armenian Church History” was being taught by priests and being called “Religious Studies”. In reply, the Chief of Staff of the Ministry of Education referred only to the naming of kindergartens, noting that he considered the issue to be within the jurisdiction of local administrative bodies⁵¹.

On October 17, 2009, the authors of this study interviewed Reverend Ruben Pahlevanyan of the Armenian Evangelical Baptist Church. Speaking about the current situation in public schools, he mentioned that warnings from principals, especially in village schools (e.g. Amasia, Tsoghamarg), will lead to students from other religious organizations being expelled from school if they do not become adherents of the Armenian Apostolic Church. According to Rev. Pahlevanyan:

“The subject called “Armenian Church History” does not cover what it should – it is just a tool for keeping other religious organizations in check and for upholding the monopoly of the Armenian Apostolic Church”.

The Head of Shirak Diocese, Bishop Mikayel Ajapahyan interprets the situation differently⁵²:

“Have you ever considered whether there is such a cause for alarm? In reality, there are a few parents who are demanding that their children should not have to study the subject “Armenian Church History” at school. And so a principal will state that a child has no right to miss the class because that subject is on the state curriculum. He might say ‘all the Yezidi children, Assyrian children, and Russian children study the subject, so why should your child be an exception?’ So, if a child skips classes intentionally, he or she should not study at school. It is not the principal that is demanding that children belong to the Armenian Apostolic Church in order to study at school, but the parents who are demanding that their children should be exempt from “Armenian Church History” classes. The principal is simply responding by saying that a child must attend all school classes or none. Over this, of course, parents kick up a fuss and lodge complaints and cry out ‘help, we are being beaten up’ even though nobody is beating or persecuting them. You mentioned Tsoghamarg village. Ten years ago, the Jehovah’s Witnesses entered this village and

⁵¹ Source: “Reply No.21-08-07/1238,23/09/2009 to the “Collaboration for Democracy Centre” by the Chief of Staff of the Ministry of Education and Science.

⁵² The interview was taken on October 17, 2009.

started preaching. But the villagers drove them out, even by use of force. And by the way, it was the children who did this – they started smashing up a car with stones. And after that the Jehovah’s witnesses declared that they had been victims of violence. But who asked them to go to that village? Who gave them the right to enter someone else’s home and preach? So, is self-defense a breach of law? If the Armenian Church is just trying to defend itself, does that mean it is persecuting people? Our church serves the interests of the majority, but unfortunately we are the ones under attack, we are the ones being persecuted’.

The Helsinki Association in Armenia along with the Urban Fund of Sustainable Development, with the support of the EU European Commission EU and the Open Society Institute carried out the “*Education of Human Rights: Step by Step*” program in 2007-2008⁵³. The joint efforts of these organizations resulted in a report entitled “*On the Monitoring of Religious Tolerance and Discrimination in RA’s Syunik Region*”, which stated:

“Surveys were conducted in schools in the towns of Goris, Sisian, Kapan and in the villages of Shinuhayr and Akhlatyan which revealed that the majority of students and teachers (76%) have a negative attitude towards members of minority religious communities. Some of the survey participants noted that their schools have teachers and students who are members of a religious community. But most of the respondents from such schools said that cases of such believers preaching about their beliefs were rare. One teacher described how they reacted to a student’s preaching: “I seized him by the arm and flung him outside”.

According to the respondents, although members of religious communities do not tend to preach, their social environment nevertheless manifests a discriminatory attitude towards them”. The survey conducted in Shinuhayr notes: “One of the students in Shinuhayr mentioned that the entire family of their classmate were members of the organization “Gospel Faith Christians” and that this classmate studies all school subjects apart from Armenian Church History. During the class there had been some tension between the student and a teacher, who then threatened to have the student expelled from school”.

“A few months ago a teacher was dismissed because of her religious beliefs. Even though the official explanation was formulated in another way, the real reason was clear to us all”.

“One teacher spent a whole class disparaging a student who was a member of a religious community; the student sat listening, frozen stiff”.⁵⁴

⁵³ The official website of the Helsinki Committee of Armenia, <http://www.armhels.org/ArticleIndex.php?id=209>.

⁵⁴ Ibid.

In 2009, the Ministry of Education and the Catholicos of HAAC initiated a competition dedicated to the mystery and singing of the Holy Liturgy (Mass). A cleric of the Armenian Catholic Church told us that a school performance was organized in the village of Panik (inhabited by Catholics). Present at the event was the overseer of Harich Church, Preist Koryun. When the performance ended, he spoke to the students, calling them traitors and apostates because of their Catholic faith. The Head of Shirak Diocese, Bishop Mikayel Ajapahyan, also commented on the event:

“I know that the Catholic principal of Panik village school gathered all the children and made them declare: “We are Catholics and we shall never renounce our faith”. That incident was connected with a visit from a priest from the Apostolic Church as part of the “Holy Liturgy on the Lips of Infants” program. The priest had gone there to monitor how the program was going. They sing the same liturgy so you’d think they’d be interested in learning it. But instead of happily accepting the program, they protested with words like: “What are you doing here? Why have you come to our village?”

The Bishop also commented on the relationship between the HAAC and the Armenian Catholic church:

“Armenian Catholicism is separated from the Armenian Apostolic Church and artificially adjoined to the Catholic Church. It is not the Catholic Church, it does not represent the Catholic Church, and actually it will never be able to represent it. Since the Armenian Catholic Church has been created by means of separation, it is its purpose to increase the number of its believers. And how can it expand if not by recruiting our parishioners? Unfortunately, we must say that the Armenian Catholic Church acts just like all the other denominations – it is engaged in soul-hunting, stealing believers from the Armenian Apostolic Church”.

Members of certain religious organizations do not want their children to attend “Armenian Church History” classes. They justify this by the fact that during this class, the students are compelled to take part in religious services, which conflict with their religious convictions. According to the public relations manager of “Jesus Christ’s Church of the Latter Day Saints”, Milena Gevorgyan (now ex-manager), in April 2008, the principal of Gyumri No.28 School learned that two students of one family belong to another church. He called the parents in and insisted that their children attend “Armenian Church History” classes. During the meeting he declared: “A ‘believer’ [i.e. an adherent of something other than the HAAC] has no right to attend this school”. A meeting with the mayor of Gyumri was also fruitless – he simply reiterated the principal’s demand and, as a result, the children had to change schools. According to Mrs. Gevorgyan, there have been analogous cases in other schools.⁵⁵

⁵⁵ Source: Monitoring of Democratic Reforms in Armenia-Report (http://www.partnership.am/files/Democracy%20monitoring_end.pdf).

According to information provided by the “Jehovah’s Witnesses” organization, nearly all children face problems when they refuse to participate in “Armenian Church History” classes. For example, in 2007 in School No.139 of Nor Nork district in the city of Yerevan, the instructor of “Armenian Church History” maligned the reputation of Jehovah’s Witnesses and urged other students not to associate with them. He even offended one student in the presence of the whole class and graded him poor just for his unwillingness to cross himself. In School No.62 of the same district, a teacher shamed a 5th grade student in front of the whole class for belonging to the “Jehovah’s Witnesses” organization. There were cases when parents had to move their children to different schools⁵⁶.

In the “International Religious Freedom Report 2009: Armenia” there are reported cases of religious intolerance such as:

“Jehovah's Witnesses” reported that the administration of Yerevan School No.94 failed to address ongoing harassment of their members' children. According to reports, on November 24, 2008, the police called in to the police station the offending teenagers, who admitted that they had mocked their schoolmates due to their religious differences. The victims' families reported that the school principal had condemned their actions in seeking police assistance, which led them to take their children to a different school”⁵⁷.

During our conversations with members of the HAAC and some principals, it was mentioned that there are some cases when teachers who are members of other religious organizations (especially “Jehovah’s Witnesses”) actively engage in preaching, which is prohibited by law. There are often complaints heard in society about the aggressive preaching of “Jehovah’s Witnesses”. Sometimes this activity leads to heated arguments. However, the leaders of “Jehovah’s Witnesses” organization state that active outreach is one of their religious duties.

In 2007, Vigen Khachatryan, a “7th day Adventists” pastor and head of their administrative center at that time, told us that 7 members of their organization had been dismissed from their teaching posts in the village of Akhlatyan (Syunik region). He said: *“they create such conditions that the teachers themselves want to quit their jobs”⁵⁸* and went on to add “at school the teachers are generally given one-day off, but if a member of the religious organization wants to take his day off on Saturday, the principal intentionally rejects his request. And this has been going on in the village of Akhlatyan for 10 years.” According to Mr. Khachatryan, the principals of other schools are generally more helpful. However, this

⁵⁶ Ibid.

⁵⁷ See the official website of the US Embassy in RA, available at http://armenia.usembassy.gov/irf2009_arm.html.

⁵⁸ See “Monitoring of Democratic Reforms in Armenia-Report” at http://www.ypc.am/Old/Downlowds/Report_eng.pdf.

problem is no longer an issue since Saturday has now been declared a day off in all Armenian schools (since 2009).

2.10 Inspiring Religious Hatred through the Media

Messages of religious hatred and discrimination are prohibited by Article 24 of the “Law on Television and Radio” which stipulates “*It is prohibited to use TV broadcasts in order to inspire national or religious hatred or discord*”. In reality, many articles containing elements of religious hatred have been published in the press, however, no one from the relevant authors was allegedly held legally responsible for his/her actions.

Although this study does not include a survey of TV broadcasts, hostile and degrading comments can be met about religious organizations also on TV channels.

The promulgation of religious intolerance in Armenia is based on two terms – “sect” (“*aghand*” in Armenian) and “proselytism” (“*hogevorsutyun*” in Armenian, which means ‘soul-hunting’). In Armenia, these words carry particular shades of meaning and a discussion of this helps to shed light on occurrences of religious intolerance.

The word “*hogevorsutyun*” (“soul-hunting”) is used in the RA “Law on the Freedom of Conscience and on Religious Organizations”. Its legal meaning is close to “improper proselytism”, but the term is used in a different way by some mass media and HAAC followers. According to statements by the latter the term “*hogevorsutyun*” is interpreted in the following way: “Every Armenian belongs to the HAAC. Thus, Armenians who have chosen other religious affiliations have been subjected to “soul-hunting”. In other words, every Armenian from birth belongs to the Armenian Apostolic Church and other religious organizations are engaged in “stealing” their souls”.⁵⁹

The Armenian word “*aghand*” was used in the Medieval Ages to identify non-Christian belief, but later it acquired the meaning of “sect”, which in today’s Armenia has a negative connotation. It is used to define Armenians who are adherents of other religious communities. The biggest ethnic minority group in Armenia is the Yezidis’, whose religion contains elements of Christian, Muslim, Zoroastrian and Buddhist religions. But in the Armenian mass media, the Yezidi religion is never labeled a sect (“*aghand*”); in contrast, one of the clerics of the Armenian Catholic Church complained that the

⁵⁹ Excerpts from press publications and HAAC clerics’ speeches that confirm this assessment are presented below.

residents of their neighborhood label them as “sect adherents”. It seems that this use of the word has now become well entrenched in society’s consciousness.

It is in this context that the privileges⁶⁰ given by Article 5 of the “Law on the Freedom of Conscience and on Religious Organizations” to ethnic minorities with “national religions” should be understood; it states: *“the conditions (except for Paragraph 5a) are not applicable to religious organizations of ethnic minorities with their national religious beliefs”*.

The examples that follow show how the terms “proselytism” and “sect” are frequently used in the ways just described.

In February this year, the mass media disseminated an official statement from the HAAC:

“On February 16-17, on the occasion of the festival of Priest St. Ghevond, a traditional assembly of priests took place at the Holy See in St. Etchmiadzin. The All-Armenian Catholicos, Garegin II, presided over the meeting, which included Heads of Dioceses, Holy See priests and over 300 other priests” ... “During this two-day assembly, the challenges of the contemporary world were discussed, including the growth of secularism and egocentrism, the sin and confusion that is distorting God’s creation, and the erosion of borders between national and religious identity – that is, the things that undermine the pure nature of our national identity that is based on our holy Christian faith, refined and shaped over centuries”.⁶¹

The quote could be construed as an implicit criticism of the secular nature of the state and a narrow vision of Armenian national and religious identity.

It is also worth noting that statements have been made by top-ranking officials on the relationship between the State and the Church. An article in the daily newspaper “Azg” comments on some words from the RA Prime-minister, Tigran Sargsyan:

*“The prime minister’s judgment – that ‘separation of Church and State’ is now obsolete – was striking. “If we are the church, how and when I can separate the Christian in me [from state affairs]?” he asked”*⁶².

Statements like these from top-ranking officials could be misinterpreted by some to challenge the principle of freedom of conscience. This is especially the case for newspapers and television channels that are under the control of the authorities.

⁶⁰ See Section 3.2.1.

⁶¹ See <http://www.lragir.am>, February 19, 2009.

⁶² See “Azg” daily No.167, 13-09-2008 (<http://azg.am/AM/2008091316>).

On the evening of November 27, 2009, “H2” TV channel, broadcast nationwide, ran a documentary as part of its “Special Report” series (the following week, the program was repeated twice). The program included the following words from the spiritual pastor of St Hakob Church (in the village of Argavan, Ararat region), priest Ter Mkhitar Asoyan:

“I just want to address all those who adhere to sects. Suppose your mother is blind in one eye and lame in one leg. She has a crippled arm and leprosy. But she is the one who gave birth to you, had sleepless nights, fought for you, and put bread on the table, so that you could grow up and defend her honour. Now, let’s consider the Armenian Apostolic Church as that mother, for she is sick and in that bad state. And all of a sudden a heavily made-up lady with blonde hair appears on the scene from a brothel somewhere in Europe or America. She says, ‘your mother is sick, she can’t take care of you. I’ll be your mother’. However charming and lovely that woman may be, she is nevertheless from a European or American whorehouse. What I am saying is that any sect operating in Armenia is like that whore from Europe or America who wants to take on the mother’s role – to be the nation’s, the people’s, the children’s mother, even in the sphere of Christian upbringing. But a whore cannot preach Christianity or follow religious teaching”.

Then the cleric added:

“In our own house people complain to us. They say we have no sense of dignity if we don’t say to them ‘get lost’. And we should kick them out; that is the right thing to do. If your garden is not well fenced, any donkey, any goat, any camel can get in. You have to erect a strong fence around your garden so that the harvest will be yours to keep. You’re the one who’s sweated and worked hard to support your family. And our Armenian state, our land of Armenia is our family. The state officials and our spiritual leaders rule our country. And if we join our efforts to get rid of all the sects in our country, then we will get rid of all these controversies”.

During an interview, the lecturer on History of Religions at the HAAC St. Gevorgyan seminary, Ter Ghevond Mailyan, said:

“I don’t think it’s reasonable that I should have to discuss the issue of my own rights in my own house with those who have trampled upon them”... “My kids are stolen, the members of my congregation are pinched, my peace is disturbed, and my national traditions are criticized”... “If someone is engaged in proselytism or preaching that is contrary to our culture and mentality, then in the end that is an infringement of our rights. Why has the number of Mormons increased? Because they have stolen sheep from our flock”⁶³.

⁶³ See <http://www.armenianow.com>, posted April 21, 2006.

The Head of Ararat Diocese, Ter Navasard Kchoyan, stated in an interview:

“The Apostolic Church as a religious establishment has a national nature, so national and spiritual values have converged and formed our unique set of national values. Fate has brought the ancient heritage of the Armenian people and the Holy Armenian Apostolic Church together as one”⁶⁴.

The term “proselytism” is interpreted by the Head of Shirak Diocese, Bishop Mikayel Ajapahyan, in this way⁶⁵:

“We see our identity, our ethnic self-consciousness in the Armenian Apostolic Church; as Armenians we see our self-consciousness in the Armenian Apostolic Church. So, if we fragment into 50 different parts we will become 50 different nations. That is blatantly clear. And in this case others will reap the benefits, not us. That is why they wish to tear our monolithic country apart. That is why they want to tear our monolithic spiritual territory into pieces ... The Armenian people is the field of the Armenian Apostolic Church’s activity. Our Church belongs to our people and our people belong to our Church. Any infringement of our centuries-old rights and duties goes beyond any kind of moral law. It is a breach of morality to consider our nation as a field for missionary activity and proselytism. Our nation has a leader, a mother, a parent... We don’t want even one fragment to break off and join something else. The Armenian Apostolic Church is the foundation of our unity. Churches that do not have such a sense of ethnic belonging can never understand our stance or mentality”.

The article “We should limit the activity of sects”⁶⁶ reads:

“The priest of Vanadzor’s St. Grigor Narekatsi Church, Vahan Azaryan, considers that the Armenian Apostolic Church and the Armenian state should join their efforts in the fight against sects. “We have to keep in mind that for many people it is mere business, just work. We have many problems to solve in the spheres of education and upbringing. Our citizens need to be aware of the fact that they themselves constitute the Church, and should protect themselves from the activities of the sects”, he said. According to psychologist Vladimir Mikayelyan, the concept of freedom of conscience, faith and belief should not be a reason for allowing sects to work freely. He says, “freedom is a concept which leads to progress and development, while sects deprive people of free thinking and development possibilities.

⁶⁴ The official website of the Republican party (<http://hkh.am/news.php?action=fullnews&id=2757>).

⁶⁵ According to the interview conducted by our organization.

⁶⁶ See daily newspaper “Aravot”, May 4, 2009.

In October 2009, the newspaper “Azatamtutyun” published an article on the activities of the former Head of the RA Government Staff Department on National Minorities and Religious Organizations. It evaluated her work in this way:

“Kharatyan succeeded in legally protecting Jehovah’s Witnesses, Pentecostals, Krishna followers and other such trash. The activities of sects were defined in such a way (their basic functions, rights and duties) that the status of these sects became equal with that of the Armenian Apostolic Church. The distinguished ethnographer was not the least interested in the fact that sects were vigorously disintegrating our nation, spiritually fragmenting it, darkening people’s minds. The lady was more interested in religious freedom than in saving ordinary people from the influence of the sects”⁶⁷.

It should also be mentioned that since 2008 there have been many publications in the press (especially in papers associated with the opposition) that have criticized HAAC activities. These publications commented on the involvement of the HAAC in politics and its participation in the ruling party’s election campaign. Printed and electronic versions of news outlets assumed to be sympathetic to the opposition, such as “Haykakan Zhamanak”, “Chorrord Ishkhanutyun”, “Hraparak” often criticize the HAAC. Sometimes, however, this criticism may have a perceived offensive tone, which can hurt the religious feelings of HAAC adherents.

Another way that religious intolerance can be stirred comes from the dissemination of seemingly groundless information, which can impact public opinion. Such articles frequently appear in newspapers. For example, the daily newspaper “Aravot”, with reference to “A1+” website, printed an article entitled “*The barbarians have ruined Vorotnavank*”⁶⁸. It stated that persons of unknown identity had desecrated a church of the HAAC. The guard of the church tells the following story: “*They took the paintings and canvases off the wall and burnt them. In short, they smashed up every kind of icon – all the paintings and statues*”. The information ends with following words: “*The spiritual pastor at Sisian region’s St. Grigor Lusavorich church, Ter Grigor Hovsepyan, believes that the barbarians could be sect members, although there is not yet proof of that*”. Such unverified accusations are disseminated through the press and may shape public opinion, although news outlets are of course not obliged or even expected to verify every statement they record.

⁶⁷ See http://www.azatamtutyun.com/arm/shop/UID_13633html.

⁶⁸ See daily newspaper “Aravot” November 14, 2009.

The media frequently reports cases of suicide among youngsters who are sect members. Such reports have not been confirmed, however, and no such allegations were made by law enforcement agencies.

“The director of ‘Help and Rehabilitation for Victims of Destructive Worship’ Centre, Alexander Amaryan, believes that in order to counter the harmful impact of sects, universities should train up theologian-lawyers and theologian-psychologists, who could provide professional opinion on the real motives of such suicides (i.e. whether the motives were religious or not).

He says, “suicide cases have multiplied tenfold – we used to have 50 cases per annum and now there are more than 500. Why don’t we speak openly about the dangers and evils inflicted by destructive sect activities? We do not even mention 10 percent of it. Why are some who are hiding behind NGO leaders and human rights defenders channeling all their efforts into persuading everybody that religious freedom does not exist in Armenia? I can’t help but say that they are the so-called ‘fifth column’”⁶⁹.

The daily newspaper “Azg” printed an article entitled “*Was a sect member the cause of her own child’s death?*”⁷⁰. It read:

“On January 30, Lilit Grigoryan, an 8th grade student from the village of Dgrashen (Lori region), committed suicide by hanging herself in a barn. She was the daughter of Lusya Grigoryan, a teacher at the same school, and an active member of the Pentecostal sect. She had attended sect meetings with her daughter. The Prosecutor’s Office has now opened a criminal case and started their investigation. Incidentally, there are teachers who are adherents of other sects at the same school”.

Then the author comes to the conclusion (without knowing the final results of the investigation or the real reason for the suicide):

“It is well known that there are numerous cases of suicide among minors due to religion but the relevant agencies and the Ministry of Education have failed to investigate this and the law enforcement agencies have failed to take appropriate measures to suspend the activity of sect members at schools”.

However “numerous cases of suicide” are never specified in such articles. TV channels regularly broadcast programs that mention suicides committed by sect adherents, but no concrete cases are ever presented.

In Yerevan, there is a local TV company called “Avetis”, headed by Evangelical Church Pastor Levon Partakchyan. Members of the Protestant Church often participate in that channel’s programs; however,

⁶⁹ See articles in newspaper “Hayots Ashkhar”: ‘Divide and Conquer tactics’ and ‘Who rules this country - the sects or us?’.

⁷⁰ See the daily newspaper “Azg”, February 3, 2007.

religious preaching is not aired. Allegedly, other TV companies do not invite members of religious organizations other than the HAAC to take part in their programs. “Shoghakat” TV company, which has religious direction and other TV companies broadcast programs prepared by the HAAC.

For example, according to the Pastor of Gyumri’s Evangelical Baptist Church, Ruben Pahlevanyan, Shirak Diocese’s “Tsayg” TV channel has a scheduled program – questions and answers with His Holiness – but it fails to contribute to the development of society’s spiritual life because it is busy campaigning against other religious organizations, saying that they are sowing seeds of discord and animosity. He also claims that this type of propaganda is practiced by other TV programs and some newspapers. For example, Gyumri TV channels air various religious programs and debates, but he is never invited due to pressure exerted by the Catholicos and the Head of Shirak Diocese. The latter declared that he is unwilling to give an interview to any TV channel that has ever aired programs with other religious organizations in them. Mr. Pahlevanyan regards this as an attempt to isolate their organization from society – an approach directed not against him personally but against the activity of their church.

The Head of Shirak Diocese, Bishop Mikayel Ajapahyan, commented on the approach of Gyumri TV companies:

“On one occasion the Protestants flooded the internet with complaints about His Holiness Mikayel prohibiting representatives of other confessions from appearing on TV. But what was wrong with that? He was right to do so. And his prestige helped him to ban such programs. He did not resort to the use of force. He didn’t threaten anyone. He didn’t point a gun at anyone. He has a high reputation and so his words are authoritative. All those TV channels respect him and his words. Is that bad? Instead of being happy that a religious leader has prestige and authority, they are upset about it. Why are they upset? It just comes to prove that their complaints are false alarms”.

3. ANALYSIS OF RA LEGISLATION

3.1 The Constitution of the Republic of Armenia

The current RA Constitution was adopted on July 5, 1995. Amendments were made ten years later (November 27, 2005), which resulted in changes to various provisions regarding freedom of conscience and religious organizations. For example, in 2005, Article 8.1 was added to the RA Constitution, which states:

“The Church shall be separate from the State in the Republic of Armenia.

The Republic of Armenia recognizes the exclusive historical mission of the Armenian Apostolic Holy Church as a national church, in the spiritual life, development of the national culture and preservation of the national identity of the Armenian people.

Freedom of activities for all religious organizations shall be guaranteed in the Republic of Armenia in accordance with the law.

The relationship between the Republic of Armenia and the Holy Armenian Apostolic Church may be regulated by law.”

In line with this last clause, on February 2, 2007, the RA National Assembly adopted a Law “On the Relationship between the Republic of Armenia and the Holy Apostolic Armenian Church’s Holy See of St. Etchmiadzin”.

The RA Constitution adopted in 1995 contained Article 23 on freedom of thought, conscience, and religion, which stated:

“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.”

Given the international obligations undertaken by the RA, and primarily its obligations as a member of the Council of Europe, the abovementioned Article was changed when the RA Constitution was amended in 2005. The amended Constitution covers the relevant issue in Article 26:

“Everyone shall have the right to freedom of thought, conscience and religion. This right includes the freedom to change religion or belief and the freedom to express that religion or belief, either alone or in community with others, through preaching, church ceremonies and other forms of worship.

The exercise of this right may only be restricted by law in the interests of public security, health, and morality or for the protection of the rights and freedoms of others.”

Due to the 2005 constitutional amendments, the right to the freedom of conscience and religion, as well as certain other related rights, substantially improved – particularly constitutional rights concerning the equality of everyone before law, the freedom of expression and opinion, and the protection of national and ethnic identity. Thus, the right of everyone to be equal before the law changed was formulated as:

“Article 14.1. Everyone shall be equal before the law.

Any discrimination based on grounds such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or other personal or social circumstances shall be prohibited.”

The rights to freedom of expression and opinion as well as to freedom of association with others have also been substantially improved within the current RA Constitution. For example:

“Article 27. Everyone shall have the right to freely express his/her opinion. No one shall be forced to relinquish or change his/her opinion.

Everyone shall have the right to freedom of expression, including the freedom to search for, receive and impart information and ideas by any means of information regardless of national borders.

Freedom of mass media and other means of mass information shall be guaranteed.

The state shall guarantee the existence and functioning of an independent and public radio and television service offering a variety of informational, cultural and entertainment programs.”

“Article 28. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions.”

From the point of view of the right to freedom of conscience and religion, the constitutional right to preserve national and ethnic identity is extremely important.

“Article 41. Everyone shall have the right to preserve his or her national and ethnic identity.

Persons belonging to national minorities shall have the right to preserve and develop their traditions, religion, language and culture.”

Consequently, the current RA Constitution makes a concerted effort to clarify the right to freedom of religion and belief, and other related rights, so that the relevant details correspond with Armenia’s international obligations.

3.2 Current RA Laws

3.2.1 "The Law of the Republic of Armenia on the Freedom of Conscience and on Religious Organizations"

This law, adopted June 17, 1991, is the main legislative act in the sphere of conscience, religion and belief. In 1991, the Armenian Parliament added a new Article on the “privileges” (Article 17) of the Holy Apostolic Armenian Church (HAAC) to the Law which had been formulated during Soviet Union times. This created conceptual inconsistencies between the aforementioned Law and other Articles. So, on September 19, 1997, and April 25, 2001, the RA National Assembly (NA) adopted amendments and addenda to the Law, resulting in: *(i) the number of adult members required to qualify for registration [as a religious organization] being raised from 50 to 200 (from the amendments and addenda of 1997); (ii) the State Registry adjacent to the RA Ministry of Justice being recognized as the registration authority for religious organizations, and a religious community or religious organization having to submit an expert opinion from the State Authority on Religious Affairs in order to qualify for registration.*

Article 1 of the Law reads:

“Article 1. Freedom of conscience and freedom of religion shall be guaranteed in the Republic of Armenia. Every citizen shall be free to decide on his/her attitude towards religion and shall have the right to profess any or no religion and conduct religious rites, individually or with other citizens.”

Analysis of the provisions stipulated in Articles 1 to 4 of the current Law shows that the rights set out there refer only to Armenian citizens, while Article 26 of the RA Constitution stipulates that “everyone shall have the right to freedom of thought, conscience and religion.” Thus, these articles should be made to comply with the requirements of the RA Constitution, as well as with Article 9 of the European Convention on Human Rights (ECHR) and Article 18 of the International Covenant on Civil and Political Rights (ICCPR).

Article 5 of the Law specifies how the term ‘religious organization’ is to be understood:

“Article 5. A group of citizens shall be recognized as a religious organization if it satisfies the following conditions:

- a) It does not contradict provisions of Article 3 of the present Law*
- b) It is based on any Holy Scriptures that are historically canonized*
- c) Its confession of faith belongs to one of the contemporary world’s religious-ecclesiastical communities*

- d) *It avoids materialistic goals and is concerned with the purely spiritual realm*
- e) *It has at least 200 confessing members. Children under the age of 18 are not permitted to become members of the religious organization, regardless of their participation in religious rites or other circumstances.*

The above conditions (except for point 5a) are not applicable to religious organizations of ethnic minorities with their national religious beliefs”.

This Article is vague and legally ambiguous – expressions like “*Holy Scriptures*”, “*the contemporary world’s religious-ecclesiastical communities*”, “*purely spiritual realm*”, and “*national religious beliefs*” are disputable and to some extent contradict European legal standards, which in turn leads to conflicting interpretations. For instance, the Law provides no definition of “*Holy Scripture*” and makes no attempt to clarify what is meant by “*the contemporary world’s religious-ecclesiastical communities*”, while at the same time it contradicts RA’s obligation undertaken before the Council of Europe “*to ensure that all churches or religious communities, in particular those referred to as “non-traditional”, may practice their religions without discrimination*”⁷¹ since “non-traditional” religious communities may not have Holy Scripture that is historically canonized .

Moreover, the Law fails to define what is meant by “*national religion*”. Such expressions can lead to the unjustifiable interference of the State in religious organizations’ doctrinal matters. The Article’s formulation that certain conditions “*are not applicable to religious organizations of ethnic minorities with their national religious beliefs*” is problematic – it raises questions as to why ethnic minorities with their “*national religious beliefs*” should receive privileges that those without “*national religious beliefs*” are not entitled to.

Furthermore, the formulation of the Article itself has legal problems: it states that “*A group of citizens shall be recognized as a religious organization if it satisfies the following conditions... (a) it does not contradict provisions of Article 3 of the present Law*”. However, any kind of citizens' association or religious organization cannot, by nature, conflict with any provision of any Law – only the organization’s structure, documents, or activities can do that.

Many other Laws in force in the Republic of Armenia include provisions directly or indirectly related to the freedom of conscience and religion, particularly the Laws “On the Rights of the Child”, “On the Legal Status of Foreign Citizens in the Republic of Armenia”, “On Preschool Education of the Republic

⁷¹ See Armenia’s application for membership of the Council of Europe, Opinion No.221 (2000).

of Armenia”, “On the Basis of RA Cultural Legislation”, “On RA Television and Radio Broadcasting”, as well as legal acts relating to Administrative Violations, Labour, Family and the Criminal Codes.

Article 5(e) of the RA “Law on the Freedom of Conscience and on Religious Organizations” states that *“Children under the age of 18 are not permitted to become members of a religious organization, regardless of their participation in religious rites or other circumstances”*. However, this conflicts with other RA Laws, namely the “Law on the Rights of the Child”, in which Article 10 (“Right to the Freedom of Thought, Conscience and Religion of a Child”) prohibits the participation of children under the age of 16⁷² in religious organizations without the prior consent of a parent or other legal representative⁷³.

At the same time, Article 6 of the “Law on NGOs” states that:

“If he/she desires, a child up to the age of 14 may become a member of an organization on the basis of a written statement from his/her guardian. If a child between the ages of 14 and 18 is (according to the relevant legal procedures) recognized as someone lacking the ability to act, he/she may become a member of an organization on the basis of his/her application along with his/her guardian’s written consent . The organization’s charter may envisage special rights and responsibilities for its non-adult members.”

In addition, we believe that the clause *“Children under the age of 18 are not permitted to become members of a religious organization, regardless of their participation in religious rites or other circumstances”* conflicts with Article 15 of the UN Convention on the Rights of the Child (1989), which has been adopted by Armenia and stipulates:

1. *“Participating States recognize the rights of the child to freedom of association and to the freedom of peaceful assembly.*
2. *No restrictions may be placed on the exercise of these rights other than those defined by law, which are necessary in a democratic society for the sake of national security or public safety, public order (ordre public), the protection of public health or morals, or the protection of the rights and freedoms of others.”*

The necessity of *“becoming a member”* of a religious organization arises from the legal stipulation that a religious group must have at least 200 members in order for the respective State Authorities to register the group as a religious organization. However, apart from age requirements, there are no legal

⁷² Our emphasis.

⁷³ See Section 3.2.2.

provisions to define what “becoming a member” should entail – it mentions no material, financial or other form of responsibility and obligation (unlike legislation for NGO membership). Conditions of membership should certainly be age specific, but this should comply with the age requirements of other similar legal acts. The Law on the Freedom of Conscience and on Religious Organizations defines that *“Children under the age of 18 are not permitted to become members of a religious organization, regardless of their participation in religious rites or other circumstances”*, whereas the Law on Non-Governmental Organizations states that *“If he/she desires, a child up to the age of 14 may become a member of an organization on the basis of a written statement from his/her guardian”*. This discrepancy may suggest that the former provision is an attempt to hinder religious groups from gaining the 200 members needed for registration. This discrepancy should be resolved by making the provision of the Law on the Freedom of Conscience and on Religious Organizations correspond with the provisions regulating such activities in the abovementioned Laws.

From a legal perspective, the list of the rights of registered religious organizations prescribed by **Article 7** of the current Law is incomprehensible. Due to the imprecise wording, it is unclear whether the list of rights and responsibilities of religious organizations is exhaustive – i.e. whether the implementation of other activities by religious organizations is beyond their jurisdiction. For example, Article 7 states in detail that:

“The Spiritual-religious activities of religious organizations shall be performed within the clearly defined set of the following rights:

- a) Unite with their fellow believers;*
- b) Provide for their believers’ spiritual-religious needs and demands;*
- c) Perform religious services, rites and ceremonies in chapels and chapel grounds, pilgrimage sites, and the establishments of religious organizations, as well as in cemeteries, citizens’ homes and apartments, hospitals, homes for the elderly and disabled, prisons, and military units, at the request of citizens who are members of the given religious organization and reside in aforementioned places.*

Other religious services, rites and ceremonies that are held in public places shall be conducted according to the procedure prescribed for the organization of public meetings, rallies, demonstrations, and marches.

- d) Form study groups to give religious education to their members and members’ children (with the consent of parents), using for that purpose buildings owned by or donated to them;*
- e) Conduct theological, religious, historical, and cultural studies;*

- f) *Train personnel for religious ministry or academic and teaching staff for the educational establishments of their religious centres;*
- g) *Obtain and use objects and materials of religious significance;*
- h) *Establish links with religious organizations from other countries, regardless of their national or religious affiliations; invite their representatives [to Armenia] or send members abroad – for pilgrimage, participation in conferences and other religious events, training, or vacation;*
- i) *Conduct aid work.*

The publishing activities of religious organizations shall be regulated through current RA legislation.

The abovementioned rights shall take effect from the moment the religious organization is registered in the Republic of Armenia.”

Thus, despite this long list of rights, it remains unclear whether the list is definitive or merely descriptive.

Article 8 prohibits “proselytism”:

“Proselytism is prohibited in the territory of the Republic of Armenia. Any activities undertaken within the set of powers outlined in Article 7 of the current Law shall not be considered as proselytism”.

The term “proselytism” was introduced into the current Law in 1991, during Soviet rule. The Armenian word for proselytism (“*hogevorsutyun*”) is sometimes translated as ‘changing of religion’, but the term is closer in meaning to “*improper* changing of religion”. The right to proselytism is an integral part of the fundamental freedom to conscience and religion. The issue of “*improper proselytism*”, however, is a different matter. Thus, we consider that the term currently in use (“proselytism”) should be changed to the expression “*improper proselytism*”. Part of the problem in the current Law arises from the fact that it prohibits “proselytism” but fails to define what the term means. But the word is often used on TV and radio as an indictment⁷⁴ against the expansion of religious organizations’ activities in Armenia.

Article 17 of the current Law, with its list of exclusive privileges given to the HAAC, is also problematic in regard to the full exercise of freedom of conscience, religion and belief. This Article reads:

“The State shall not hinder the implementation of the following mission, which is the exclusive privilege of the national church:

⁷⁴ See Section 2.10 above.

- *Freely preach and spread its faith in the territory of the Republic of Armenia.*
Official interpretations of Armenian Apostolic Church doctrines may be broadcast in the media or announced at public events only after they have been approved by the Armenian Apostolic Church.
- *Recreate its historical traditions, structure, organizations, dioceses and parishes.*
- *Build new churches and turn historical monuments belonging to it into churches – both at the request of believers and at its own initiative.*
- *Promote the spiritual education of the Armenian people, which may also be done via institutions of state education in a manner defined by law.*
- *Practically help to improve the moral standards of the Armenian people.*
- *Expand charitable and care initiatives.*
- *Have permanent ecclesiastical representatives in hospitals, homes for the elderly and disabled, military units, prisons and detention centres.”*

The overall intention of this Article should be considered from a historical perspective: it was adopted during the collapse of the [Soviet] socialist order – a regime renowned for its bad experience of protecting freedom of conscience. Thus the HAAC, and other religious organizations, were trying to guarantee the regular performance of Church functions via State legislation. However, the wording is relatively weak and disputable, both in terms of content and from a legal standpoint. For example, there are several “exclusive privileges” stipulated in this Article which are also applied to other religious organizations in other Articles, and thus these privileges cannot be considered “exclusive”. It is our assessment, therefore, that Article 17 should be changed to comply with the requirements of the RA Constitution and the international obligations undertaken by the RA.

Analysis of the RA Laws concerning freedom of conscience also reveals that there has been a tendency to increase the threshold of the number of followers needed for a religious organization to become registered. After the amendments of 1997 in the RA Law on the Freedom of Conscience and on Religious Organizations, the minimum number of members increased from 50 to 200, while the “Law on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations, adopted at its first reading in the National Assembly in 2009, increased the threshold to 500⁷⁵.

⁷⁵ See Section 3.4 below.

3.2.2 Provisions of RA Laws that are Directly or Indirectly Related to the Freedom of Conscience and Religion

On February 2, 2007, the NA RA adopted the RA “Law on the Relationship between the Republic of Armenia and the Holy Armenian Apostolic Church”, which attributed to the Holy Armenian Apostolic Church some functions in the spheres of education and civil registration. Article 8 (“The Role of the HAAC in the Sphere of Education”) states that the HAAC has the right to:

“Take part in curriculum and textbook development for the school subject “Armenian Church History”, define standards and qualifications for the teachers of the subject, and introduce schools to potential candidates who could teach the subject”.

Article 9 of the same law clearly states:

“In accordance with the signed agreement between the Republic of Armenia and the Holy Armenian Apostolic Church, the Republic of Armenia recognizes marriage ceremonies and divorce declarations that take place according to the established rituals of the Holy Armenian Apostolic Church”.

Article 10 of the “Law on the Rights of the Child”, in accordance with the obligations undertaken by RA in this field, states that:

“Each child has the right to freedom of thought, conscience and belief. The viewpoints, beliefs and opinions of the child are to be given appropriate attention in accordance with his/her age and maturity.

Each child shall have the right to freedom of expression, including freedom to search for, receive and disseminate information and ideas by any means of information. The child’s right to receive information may only be restricted by law.

The right to freedom of religion and expression of principles can only be restricted by law in cases when state security, public safety, public order, the child’s health, moral integrity, or the fundamental rights and freedoms of other individuals are jeopardized.

Children under the age of 16 are not permitted to participate in any religious organization without the consent of a parent or legal guardian”.

These legal provisions limiting the freedom of religion, belief and conscience are in harmony with international and European standards.

The “Law on the Basis of RA Cultural Legislation” contains a clause that relates to participation in cultural life and prohibits discrimination, including any bias based on grounds such as religion or expression of religious principles in the sphere of cultural activities. According to Article 9 of that Law:

“Everyone shall have the undisputed right to take part in cultural life and perform cultural activities within the territory of the Republic of Armenia regardless of his/her ethnic or social origin, sex, race, colour, language, religion or expression of principles, property, or other personal and social circumstances”.

Article 1 of the RA Family Code also contains a clause that prohibits any kind of discrimination. It reads:

“Any restriction of a citizen’s right to marry and form family relations on the basis of social status, race, nationality, language or religion is prohibited”.

From the viewpoint of freedom of conscience and religion, the legal provisions on adoption, guardianship, and the fostering of children lacking parental care, as stipulated by Article 111 of the RA Family Code, are quite interesting:

“When placing a child [in a family], the child’s ethnic origin, religious and cultural identity, native language, as well as opportunities for ongoing upbringing and education, should be taken into consideration”.

Article 2 of the RA “Law on Television and Radio Broadcasting” prohibits the preaching of religious hatred and intolerance. It states: *“It is prohibited to use television programs for... b) spreading national, ethnic or religious hatred or conflict”.*

The RA Labor Code, in regulating relationships between employer and employee, indirectly touches upon issues of freedom of conscience and religion – with its protection of personal information, for instance. Clause 4 of Article 123 states that: *“the employer has no right to obtain or hold information about the employee’s political or religious convictions, or any other views or his/her personal life.”*

State legislation concerning the freedom of religion or belief will carry no weight, of course, if it is not backed up by corresponding legal penalties for its violation. Thus, the RA Criminal Code contains several legal norms that are aimed at securing the freedom of conscience and religion. For example, the Criminal Code holds the following to be criminal acts: “Hindering the right to exercise freedom of conscience or religion” (Article 160), “Forming or running groups that violate citizens’ rights or are against the individual” (Article 162), and “Inciting national, racial or religious hatred” (Article 226).

In addition, Article 63 of the RA Criminal Code stipulates that “*crime committed due to national, racial or religious motives, religious fanaticism, or as revenge for other people’s lawful actions*” is grounds for criminal liabilities and penalties being made more severe. This is especially the case for certain Articles of the RA Criminal Code: Article 104 – “Murder”, Article 112 – “Deliberate grievous bodily harm”, Article 113 – “Deliberate medium-grade bodily harm”, Article 119 – “Torture”, Article 185 – “Deliberate destruction of or damage to property”, Article 265 – “Degrading treatment of corpses or burial places”, Article 393 – “Genocide”, and Article 397¹ – “The denial, softening, approval or justification of genocide or crimes committed against peace and humankind”).

3.3 Analysis of the RA “Law on Alternative Service”

According to Clause 13 of Opinion No.221 (2000) of the Council of Europe’s Parliamentary Assembly (PACE), The Republic of Armenia, as a member of the Council of Europe, assumed the liability: “*to ensure that all churches or religious communities, in particular those referred to as “non-traditional”, may practice their religions without discrimination*”. In accordance with this, the RA Law “On Alternative Service” was adopted on December 17, 2003 (and entered into force on July 1, 2004), leading to relevant amendments in the regulations for the registration of religious organizations, which in turn resulted in the RA Ministry of Justice registering the “Jehovah’s’ Witnesses” organization in the autumn of 2004 (this was the organization’s second attempt at registration).

As mentioned above, the responsibilities taken by RA as a member of the CoE oblige it to provide alternative service for those citizens objecting to military service in the RA Armed Forces for religious or other reasons. Indeed, Opinion No.221 (2000) of PACE on Armenia’s application for membership in the CoE states that “the Republic of Armenia undertakes to honor the commitment to adopt, within three years of accession, a law on alternative service that complies with European standards⁷⁶”. To observe these commitments, the RA National Assembly adopted the Law “On Alternative Service” on December 17, 2003, to which amendments and supplements were made on November 22, 2004, and June 1, 2006.

The adoption of this Law was based on Recommendation No.1518 (2001) – “On the Exercise of the Right to Conscientious Objection to Military Service in Council of Europe Member States” – adopted by the PACE in 2001. It states:

⁷⁶ Opinion No.221 (2000) of the Parliamentary Assembly of the Council of Europe (PACE): Armenia's application for membership in the Council of Europe, paragraph 13(iv).

“The right to conscientious objection is a fundamental aspect of the right to freedom of thought, conscience and religion enshrined in the Universal Declaration of Human Rights and the European Convention on Human Rights⁷⁷.”

Part 1 of Article 2 of the Law on Alternative Service states that:

“Alternative service is a substitute for mandatory military service and does not involve carrying, keeping, maintaining or using weapons and may be performed in military and civilian institutions”.

Part 2 of the same Article defines the types of alternative service:

- a) *Alternative Military Service - military service performed within the RA Armed Forces that does not involve the carrying, keeping, maintaining or use of weapons;*
- b) *Alternative Civilian Service - civilian service performed outside the RA Armed Forces.*

Part 3 clearly states that:

“The goal of alternative service is to provide civic duties for the homeland and society and has no sense of punishment, disparagement or humiliation”.

Part 1 of Article 3 of the same Law sets out the basis for Alternative Service:

“Alternative service may be performed by the citizens of the Republic of Armenia whose religious beliefs or convictions are in contradiction with the performance of military service in armed forces, as well as carrying, keeping, maintaining and using weapons”.

However, Clause 2 of this Article states that *“A citizen of the Republic of Armenia already involved in mandatory military service may not renounce the service and choose alternative service”*, thus limiting the right of RA citizens to transfer to alternative service⁷⁸.

Article 5 of the Law circumscribes the length of alternative service – it is set at 36 months for alternative military service and 42 months for alternative civilian service.

While the Law on Alternative Service provides the possibility of alternative civilian service, it fails to solve the problems associated with alternative service that followers of religious organizations such as the “Jehovah’s Witnesses” face. The current Law defines in detail the rules for alternative civilian service, stating that it shall only be performed in civilian establishments – according to Part 2 of Article 14 of the Law, a list of such establishments shall be determined by the RA Government. However, the

⁷⁷ See PACE Recommendation No.1518 (2001), paragraph 2.

⁷⁸ This Article probably aims to reduce the number of cases of conscientious objection.

current legislation does not exclude the involvement of military institutions in alternative civilian service.

Thus, Part 1 of Article 14 defines that “*The organization and implementation of the call-up to alternative service shall be supervised by the authorized State Governing Body of the RA Government (i.e. the RA Ministry of Defense)*”, while Part 3 of Article 17 states that: “*Someone engaged in Alternative Civilian Service may be transferred to another organization or place of service with the consent of or at the initiative of the State Defense Authority.*” Similar provisions are stipulated in other Articles of the Law. However, even minimal military supervision of alternative civilian service is itself in contradiction with the beliefs of “Jehovah’s Witnesses” religious organization.

Some international inter-governmental and non-governmental organizations have concerns about the length of alternative civilian service as prescribed by the Law, which twice exceeds the length of RA military service. Thus, PACE Resolution No.1361 (2004) considers the period for RA alternative service unacceptable while Resolution No.1532 (2007) deems the RA Law on Alternative Service inconsistent with key European standards, which are:

- Alternative service shall not be of a punitive or humiliating nature;
- Alternative service shall be of reasonable length and shall not be disproportionate to the length of military service, although the length of the former may exceed the length of the latter;
- Alternative service shall be under civilian control;
- Those engaged in alternative service shall, as far as possible, have the opportunity to exercise rights that derive from the freedom of conscience and religion. Any restrictions on those rights shall not exceed lawful and required limitations under international law.

At present, it appears that the majority of CoE Member States have recognized the right to conscientious objection, in both form and content, in accordance with the provisions of the European Convention on Human Rights and the practice of the European Court of Human Rights⁷⁹. In this context, the case “*Bayatyan v. Armenia*” is very interesting because it has a significant bearing on how freedom of conscience can be protected and how the RA Law on Alternative Service might be amended.

The European Court of Human Rights examined the case of “*Bayatyan v. Armenia*” and declared it to be

⁷⁹ See “Joint Opinion on the Law on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations and on the Draft Law on Amending the Criminal Code of the Republic of Armenia by the Venice Commission, the Directorate General of Human Rights and Legal Affairs of the Council of Europe, and the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief”, Paragraph 60, adopted March 22, 2009.

‘partially acceptable’ in its verdict of October 27, 2009. The Court held, by six votes to one, that there had been no violation of Article 9 of the European Convention on Human Rights by the Republic of Armenia.

“The Court took into consideration that a law on alternative service, which recognizes the right to conscientious objection, had been adopted in Armenia. The Court considered that any discussion of the content and implementation of that law went beyond the scope of the current appeal”⁸⁰.

In other words, by stating that Article 9 of the Convention had not been violated, the Court – without formally evaluating how well the RA Law “On Alternative Service” corresponds with the European Convention on Human Rights – implied that RA alternative service does not contravene the right to the freedom of thought, conscience and religion.

However, it seems that the authors of the Joint Opinion “on the Law on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations” (hereafter referred to as the “Joint Opinion”), predicting the abovementioned ECHR verdict, and stressing the obligations prescribed by the RA Constitution to protect the State, consider that:

“According to the explanation provided by the Armenian authorities, the duty to take part in the defense of the State would comprise both the military and the alternative service, which would exclude the aforementioned problems”⁸¹.

Given the issues outlined above, it is clear that all the problems related to RA alternative service are not yet solved. Ultimately, the legislation fails to satisfy the main “addressee” – i.e. the followers of the religious organization “Jehovah’s Witnesses”, who would rather be imprisoned for some period than complete the current kind of national service.

Indeed, taking into account the unresolved issues, the Joint Opinion concludes that:

“The repeated imposition of sanctions on a religious organization for promoting a central precept of their beliefs may well be considered an unjustifiable interference with the European Convention on Human Rights”⁸².

In conclusion, we would like to mention that despite the current criticisms, despite discussions about the need for legislative reform in the sphere of alternative civilian service, and despite the oral promises of high-ranking RA Government officials, a relevant draft Law has not yet been formulated.

⁸⁰ See ‘*Bayatyan v. Armenia*’, Judgment of European Court on Human Rights 27.10.09, Third Section.

⁸¹ Joint Opinion, Paragraph 62, adopted March 22, 2009.

⁸² Ibid, Clause 61.

3.4. Legal Analysis of the RA Law on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations and on the Draft Law on Amending the Criminal Code, as adopted at its first reading in the RA National Assembly

As mentioned in Section 3.1 above, the Constitutional reforms of 2005 were aimed at improving RA Laws. Since the amended Laws related to freedom of conscience and religious organizations, the need to make subsequent amendments to other legislative acts emerged. As a result, in 2009, after its first reading, the RA National Assembly (NA) adopted a Draft Law entitled “on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations and on Amending the Criminal Code (hereafter referred to as the “Draft Law”).

The authors of the Draft Law were Members of Parliament from the ruling coalition parties of the NA RA – Armen Ashotyan, Naira Zohrabyan, Heghine Bisharyan, Lilit Galstyan – and an independent Member of Parliament, Viktor Dallakyan. In January 2008, the Draft Law was presented to Parliament and on March 19, 2009, it was adopted at its first reading. The result of the voting was: for – 88, against – 0, abstentions – 3.

During public debates initiated by organizations representing civil society, the Draft Law was presented by co-author and Member of Parliament, Armen Ashotyan. The Draft Law was not discussed at its first NA reading since it had been sent to the Venice Commission and the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief for expert opinion; it was decided that the Draft Law would be discussed after that expert opinion had been issued.

In a letter dated March 2, 2009, Mr. Hovik Abrahamyan, RA NA Speaker, asked the Council of Europe to provide an expert assessment of the draft amendments to the Law on Freedom of Conscience and on Religious Organizations (CDL(2009)064). In a letter dated March 22, 2009, Mr. Armen Ashotyan, NA Member of Parliament, referring to Mr. Abrahamyan’s request, asked the Venice Commission to provide a joint assessment with the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief.

At its 79th Plenary Session (Venice, June 12-13, 2009) the Venice Commission adopted the Joint Opinion on the Law on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations and on the Draft Law on Amending the Criminal Code of the Republic of Armenia by the Venice Commission, the Directorate General of Human Rights and Legal Affairs of

the Council of Europe, the OSCE/ODIHR Advisory Council on Freedom of Religion or Belief⁸³. The Joint Opinion commented not only on the Draft Law but also on unchanged Articles in the relevant Laws. Regardless of whether the Draft Law will be rescinded or fundamentally altered, discussion of the Joint Opinion's stance will prove extremely useful for the improvement of RA legislation in the sphere of freedom of conscience. It should also be mentioned that the Joint Opinion is the first serious and credible document concerning freedom of religion in Armenia and is therefore frequently referred to in this study.

In general, it can be asserted that the Draft Law is far from perfect and that its form and content fail to comply with international standards. Flaws in the Draft Law may be divided into two categories:

1. The Draft Law fails to address the flaws, ambiguities, and overly vague definitions of the current Law (see below for a fuller analysis of the document itself). Moreover, certain Articles are in conflict with the amended RA Constitution and RA's international commitments (taken before the Council of Europe)⁸⁴.
2. According to the authors of the Joint Opinion and representatives of RA civil society (these representatives were actively involved in legal debates, which were widely reported by the Armenian media), the Draft Law contains new provisions that restrict the activities of religious organizations and wording that may be contentiously interpreted. It is noteworthy that the Joint Opinion points out flaws that had already been mentioned during debates with civil society representatives but later ignored by the legislative body⁸⁵.

In summary, Article 1 of the Draft Law is in agreement with the amended RA Constitution of 2005, Article 26 of which states: *"Everyone shall have the right to freedom of thought, conscience and religion"*. However, Articles 2, 3, and 4 fail to comply with this constitutional requirement. These Articles must be made to comply with the requirements of the RA Constitution as well as with Article 9 of the European Convention on Human Rights and Article 18 of the International Covenant on Civil and Political Rights.

While the legislature attempts via this Draft Law to make provisions of the current Law comply with RA's international commitments and the requirements of RA's amended Constitution, in reality the Draft Law's formulations are of a mainly revisionist nature and only undermine the protection of the freedom of conscience in Armenia.

⁸³ The complete English version of the Joint Opinion is available at: [http://www.venice.coe.int/docs/2009/CDL-AD\(2009\)036-e.pdf](http://www.venice.coe.int/docs/2009/CDL-AD(2009)036-e.pdf).

⁸⁴ For more detail see Section 3.3 above.

⁸⁵ See the article "Armenia can become a scene for dogmatic controversies" in "Azatamtutyun", February 24, 2009.

For instance, the Draft Law gives a definition of “Christianity” – Article 7 states “...in the event of a Christian statement of faith, namely a confession that professes Jesus Christ as God and Savior and accepts the Holy Trinity”. Thus, during unofficial debates such a formulation led to this Draft Law being called “the Law against Jehovah’s Witnesses”⁸⁶. It is conceivable that such a formulation may serve as grounds for rejecting the registration of “non-Christian” religious organizations. Moreover, it conflicts with the Constitutional requirement on the separation of State and Church and may be deemed as an inappropriate intrusion into the freedom of belief and doctrine and religious autonomy. It is stated in the verdict of the European Court of Human Rights on the case of “Metropolitan Church of Bessarabia and others v. Moldova” that: “in its exercise of authority towards various religions, religious denominations and beliefs, the Government had failed to discharge their duty of neutrality and impartiality”⁸⁷. The legislation “excludes the legitimacy of religious beliefs and forms of worship as defined by the State”⁸⁸.

Aiming to eliminate the legal ambiguity of the term “proselytism”, prescribed by Article 8 of the current Law, the Draft Law seeks to clarify its content by stating:

“Proselytism is prohibited in the territory of the Republic of Armenia. Proselytism is considered to be the influence of preaching on citizens of other faiths or religious views, or on citizens with no such views, during which:

- a) Material encouragement is offered or provided*
- b) Physical or psychological pressure or compulsion is exerted*
- c) Hatred towards other religious organizations, to their faith and activity, is formed*
- d) Offensive expressions are applied to other persons or religions*
- e) The person is pursued two or more times in his/her flat, workplace, recreational or other places, as well as by telephone, without his/her wish or request”.*

First, it should be noted that the term “proselytism” was introduced into the current Law in 1991, during the Soviet period. The Joint Opinion does not elaborate on this term. The experts did not consider the legally disputable term “proselytism” prescribed by the current Law, and widely used in the Armenian

⁸⁶ See the quotation from an article by Priest Hovakim Manukyan, Head of the Office on Interchurch Relationships of HAAC, entitled “Armenian-Russian relations as they really are: The other side of the story”, August 2009, located at www.Iragir.am: “One of the last TV programs conducted by Deacon Andrey Kurayev (he conducts a program called “From my belfry”) discussed the process of amendments in the Law on Freedom of Conscience held in the National Assembly of the Republic of Armenia and he praised the Armenians who initiated a Draft Law against sects, particularly the Jehovah’s Witnesses”.

⁸⁷ *Metropolitan Church of Bessarabia and Others v. Moldova* (no. 45701/99). For more details see the OSCE/ODIHR “Recommendations for the analysis of the Laws on Religion and Belief” approved by the OSCE Parliamentary Assembly annual session (13th: Edinburgh, 5-9 July 2004).

⁸⁸ *Ibid.*

media, perhaps because the English translation of the Draft Law sent to the Venice Commission used the word “proselytize” (“to change religion”) instead of “proselytism”, which has a somewhat different connotation in English. Indeed, the right to proselytism is an integral part of the fundamental freedom to conscience and religion. The term “*improper proselytism*”, however, is quite a different matter since it communicates that a person is being forced to change his/her religion. We consider that the current term “proselytism” should be changed to “*improper proselytism*”.

Along with this, it should be stressed that the Draft Law’s current definition of “proselytism” is too broad and could be rightly applied to every religious organization. Indeed, in its discussion of “*proselytism*” as prescribed by the Draft Law, the Joint Opinion notes that while some of the five factors relate to what may fairly be deemed “*improper proselytism*”, not all do. Thus, the Joint Opinion recommends that “*the definition of “improper proselytism” should be drawn with greater care*”⁸⁹. It draws attention to the practice of the European Court of Human Rights and, especially, to the verdict in the case of “*Kokkinakis v. Greece*”⁹⁰. While in that case the ECHR declined to provide a comprehensive definition of ‘improper proselytism’, it did refer to a 1956 World Council of Churches report in order to substantiate a difference between ‘proper’ and ‘improper’ proselytism. Thus, the Joint Opinion calls for a clearer definition of “improper proselytism”. It also draws attention to the fact that the Draft Law fails to distinguish whether deliberate motives are involved, since the outcome described [in (c)] may arise unintentionally.

In addition, the Joint Opinion considers the proposed amendments to the RA Criminal Code that are related to the Law on Making Amendments and Addenda to the Law on the Freedom of Conscience and on Religious Organizations. It states:

*“The penalties for improper proselytism appear to be unduly harsh. At the same time as this liberalising measure permitting proselytism is introduced, it appears that the penalties for proselytism are to be increased significantly: the Draft Criminal Code, Art 162, now proposes that proselytism is to be punishable by a fine of 500 times the minimum salary or by one year’s imprisonment”*⁹¹.

In our opinion, the relevant Article, foreseeing amendments to the RA Criminal Code and defining penalties for “*proselytism*”, should be thoroughly reviewed. We suggest that provisions be “comprehensive”, “reasonable”, and “specific” and that penalties be “not unduly harsh”.

⁸⁹ Joint opinion, Paragraph 47.

⁹⁰ *Kokkinakis v. Greece*, verdict of May 25, 1993, Series A no. 260-A.

⁹¹ Joint opinion, Paragraph 50.

The problem is that the term “*proselytism*” and its associated penalties could be applied not only to the religious sphere, but also to science, art, and publishing as well as to other activities, leading to censorship and becoming a tool with which to exert pressure on dissidents. In particular, clauses (c) (“*Hatred towards other religious organizations, to their faith and activity, is formed*”) and (d) (“*Offensive expressions are applied to other persons or religions*”) of Article 8 may theoretically be applied to studies of a historical or religious nature, as well as to publications, interviews, speeches in mass media, and other forms of expression. If this Law were consistently applied, world famous works and Armenian classics may also theoretically be prohibited.

Article 11 of the Draft Law suggests adding the following stipulation to the current Law:

“It is prohibited, without the consent of a religious organization registered and operating in accordance with legal procedure, to use religious symbolism, religious buildings (irrespective of property status), religious images, religious names, saint names and icons in trade and service marks, company names or signs, and advertisements, with the exception of public service announcements. Those relations may be regulated on a contractual basis”.

This amendment can lead to a situation in which, for example, a Christian organization may “own” Christian symbols and receive “permission” for their exclusive use.

Article 13 amends Article 17 of the current Law and recommends that the words “...*except for cases defined by law*” be added to the existing formulation: “...*prohibits the participation of the Church in State governance and shall not impose any governmental functions on the Church or religious organizations*”. We consider that this amendment conflicts with the requirement of the RA Constitution that the Church and State be separated. Section 2.8 of this study provides numerous examples of the Church’s legally disputable activities in schools and includes quotations from teachers and HAAC clerics. These indicate that if the Draft Law is adopted as final, it will be possible to amend the “Law on the Relationship between the Republic of Armenia and the Holy Armenian Apostolic Church” so that some governance functions are granted to the Church, especially direct involvement of the Church in public schooling. Clause 8 of Article 4 of the RA Law on Education defines that “*religious activities and preaching are prohibited except for cases defined by law*”.

Article 15 of the Draft Law states:

“The second part of Article 19 of the Law shall be restated to read as follows:

“The activity of religious organizations that exercises control or tries to exercise control over the personal life, awareness, health, and property of members shall be prohibited in the territory of the Republic of Armenia.””

This provision was criticized in the Joint Opinion:

“It is not clear what is intended by the proposed addition to Article 19. This provision is problematic, to the extent that it could be interpreted as banning all religious manifestations performed “in community with others.” Further, it could easily be read as prohibiting religious monasteries or religious orders in which such control is a most common feature. Internal organization within any church or other religious community would become impossible if the hierarchy should not be able anymore to exercise control of the personal life of the clergy or staff. A common binding teaching would become impossible⁹²”.

The Joint Opinion notes how every religion tries to exert some control over the consciousness, thinking, personal life, awareness, and behavior of its members – that religions, by their very nature, seek to influence people’s consciences by giving advice on how best to live a healthy and sound life and that they often ask for property as gifts donations⁹³.

We believe that this article represents the legislature’s unsuccessful attempt to create effective legislative grounds for prohibiting “authoritarian, socially detrimental sects”.

Article 18 of the Draft Law states:

“After this Law comes into force, religious organizations that are currently registered but whose activities do not comply with the provisions of this Law shall re-register within three months and bring their activities into compliance with the provisions of this law.

The activity of religious organizations that do not re-register in the cases and period specified in the 1st paragraph of this Article, shall stop, unless the law provides otherwise.”

This Article was also seriously criticized by the Joint Opinion. Firstly, it is not clear whether religious organizations that are registered and are in compliance with the provisions of the law will need to re-register anyway or whether they will remain registered without doing anything. While it is likely that they will not need to re-register, the Joint Opinion notes that no procedure is provided in the law as to how to establish whether a previously registered religious organization does in fact comply with the

⁹² See Joint Opinion, Paragraph 53.

⁹³ *Ibid.*, Paragraph 54.

requirements of the law as amended. This would mean that all religious organizations will be under the continuous threat of being de-registered.

Secondly, the re-registration period of three months is an impossibly short time - both for the churches that need to redraft charter documents, and for the personnel in state offices who would have to process the documents thus generated. A longer time period should, therefore, be allowed for the process.

Third, the draft provision presupposes that “the activity” of the religious organization “shall stop” until registration is granted (though it is unclear what ramifications this has for the activities of all religious communities that lack official ‘religious organization’ status). It is also unclear what will happen to property that the organization has acquired if the legal entity of a particular organization is dissolved.

The Joint Opinion states:

“What might legitimately be caused to "stop", if anything, is only the status as a religious organization, with the activity of the religious community then continuing in some other form of association”

4. RECOMMENDATIONS TO RA AUTHORITIES

Based on the information in this study, it is recommended that RA authorities take the following action:

- Amend and supplement the RA Law on the Freedom of Conscience and on Religious Organizations in accordance with international standards. For example, the term “proselytism” set forth in the Law should be replaced with the notion of “improper proselytism”.
- Undertake effective legal, institutional and other necessary measures to pre-empt, prevent, and punish any manifestation of religious intolerance.
- Amend and supplement the RA Law on Alternative Service, in accordance with international standards, in order to guarantee the option of alternative civilian service, give it reasonable terms, place it under actual civilian control, and provide for those serving it the opportunity, as far as possible, to exercise rights deriving from the freedom of conscience and religion.