



*Proposal for the List of Issues in relation to the Initial Report of the
Republic of Armenia*

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Introduction

Helsinki Citizen's Assembly-Vanadzor NGO (HCA Vanadzor) is a non-political, non-religious, non-profit, NGO, which unites individuals who support the supreme principles of Democracy, Tolerance, Pluralism, and Human Rights, as values.

HCA Vanadzor was founded in 1998 as a branch of Helsinki Citizens' Assembly Armenian Committee. It was registered as an independent organization in 2001 and was re-registered in 2005 at the Ministry of Justice. The Headquarters of the organization is in Vanadzor – Lori Regional Center. HCA Vanadzor has a representative office in Yerevan. The geographical scope of the organization's activity covers both the Lori Region and the entire territory of the Republic of Armenia.

The Vision of HCA Vanadzor is a society formed with the supreme values of Human Dignity, Democracy and Peace.

The Mission of HCA Vanadzor is the promotion and support of civil initiatives, the strengthening of human rights protection, and peacebuilding activities on national and regional levels.

In 2007, 2009 and 2013, the Organization carried out human rights monitoring in the neuropsychiatric medical institutions of the RA;¹ it monitored mass media publications on mental health and studied the state budget financing for the mental health sector. Based on the findings of the studies, proposals on improving the legislation and practice were submitted to competent agencies.

Since 2007, Helsinki Citizens' Assembly Vanadzor has focused specifically on the protection of the rights of persons with mental health problems. It is worth to mention, that there are no DPOs of persons with psycho-social disabilities in Armenia, which could make direct intervention.

So the organization gives importance to presentation of separate alternative report and list of issues to the Committee. While developing those documents the organization took into consideration specific issues of beneficiaries and their opinions on concrete issues.

This paper covers proposals on the list of issues on the situation of protection of the rights of persons with psychosocial disabilities in the Republic of Armenia.

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¹ In 2007, the Organization monitored the Lori Marz (Region) Psycho-neurological Dispensary operating under the Lori Marz (Regional) Governor's Office, and in 2009, it monitored the Sevan Psychiatric Hospital operating under the Ministry of Health, as well as Nubarashen Psychiatric Clinic, Avan Psychiatric Clinic, Nork Psychiatric Clinic, Kasakh Clinic of Neuroses, Syunik Marz (Region) Neuropsychological Dispensary operating under the Syunik Marz (Regional) Governor's Office, Armash Health Center after A. Hayriyan operating under the Ararat Marz (Regional) Governor's Office and Gyumri Mental Health Center operating under the Shirak Marz (Regional) Governor's Office. In 2014, it monitored the Vardenis Neuropsychological Boarding Home operating under the Ministry of Labor and Social Affairs.

A. Purpose and General Responsibilities

1. On September 22, 2010, the Republic of Armenia (RA) ratified the United Nations Convention on the Rights of Persons with Disabilities (hereinafter, referred to as Convention). However, the Republic of Armenia has not ratified the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities so far.²
2. On May 2, 2013, the RA Government approved the Concept Paper on Providing Alternative Social Care and Support Services to Persons with Mental Health Problems and on September 13, 2013 – Action Plan for 2013-2017 of the Concept Paper above.
3. On April 17, 2014, the RA Government approved the 2014-2019 Strategy of Preserving and Improving Mental Health in the RA and its Action Plan.
4. The monitoring of the Concept Paper and Action Plan of the Strategy above shows that the actions prescribed therein are not taken in the terms specified; also while taking some actions, the fundamental principles of human rights are not applied, and the absence of sufficient funds for taking the actions and the uncertainty of the funding sources raise concerns.³
5. In August 2015, the RA Draft Law on Amending the RA Law on Psychiatric Care entered into circulation; the Draft Law provided for certain clarity in psychiatric care. At the same time, it is of concern that the Draft Law regulated only the sector of psychiatric care provision, whereas the sector of mental health as such and the objective of preventing mental diseases remained beyond the scope of the Draft.
6. The RA Government took no sufficient and effective measures to remove the stigma to persons with mental health problems among the public servants and the public at large and to break the stereotypes.⁴
7. The mass media, including the official websites of governmental agencies carry on publishing materials promoting the reinforcement of the stigma and stereotypes about persons with mental health problems.
8. The RA Government currently maps out the RA Draft Law on Protection of the Rights of Persons with Disabilities and their Social Inclusion. While the Draft Law aims to create sufficient conditions for the execution of the Convention, it can be stated again that the approaches stipulated by the Draft Law are not based on the human rights principles, but rather mostly on the social support model.

² An action prescribed by the RA Government Decree on Approving the 2014-2019 Strategy of Preserving and Improving Mental Health in the RA and the Action Plan of the Strategy: “Take preparatory actions aimed at ratification of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities.”

³ <http://hcav.am/wp-content/uploads/2015/11/տեղեկանք-24-11.pdf>

<http://hcav.am/wp-content/uploads/2015/05/Տեղեկանք.pdf>

⁴ <http://hcav.am/wp-content/uploads/2016/02/ՉԼՄ-հոգեկան-տեղեկանք.pdf>

9. At the same time though reforms and legal amendments in the field are being drafted with participation of civil society representatives, but, as a rule, persons with psychosocial disabilities do not participate in those consultations. This is also because there are no DPOs of persons with psycho-social disabilities in Armenia.

Proposed Questions

Please, inform the Committee on the following:

10. What actions have been taken towards ratification of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities and when is it expected to ratify the Protocol?
11. By whom and how the implementation of the state programs aimed at reforms in the mental health field in Armenia is supervised, how much funds were allocated for the implementation of the State program on Providing Alternative Social Care and Support Services to Persons with Mental Health Problems 2013-2017 (approved by the governmental decree from 13.09.2013) and the Strategy from 2014-2019 of Preserving and Improving Mental Health in the RA and its Action Plan (approved by the governmental decree from 17.04.2014) each program? From which sources were they allocated? How much funds have been spent (including human resources and technical service)?
12. When is it intended to adopt comprehensive legislation regulating the mental health sector?
13. What legal and structural mechanisms are intended to apply to ensure effective protection of the rights of persons with disabilities (including persons with psycho-social disabilities)?
14. What actions have been taken by the Government in order to ensure the participation of persons with psycho-social disabilities in decision making process? Did the Government undertake any actions to support the creation of DPOs of persons with psycho-social disabilities, which could present interests of persons with disabilities in policy making process?

B. Specific Rights (Articles 5–30)

Article 5. Equality and Non-Discrimination

15. The Constitution and a number of other legal acts of the Republic of Armenia prescribe everyone's equality before the law and non-discrimination. While some provisions on nondiscrimination and equality are prescribed in domestic legal acts, such provisions are mostly of declarative nature. At the same time, the Republic of Armenia lacks unified and comprehensive legislation and necessary efficient mechanisms defining and safeguarding the

person's right to non-discrimination. The Armenian legislation does not include definition of discrimination, as well as the denial of reasonable accommodation is not stipulated by the legislation. As a consequence of the absence of mechanisms and adequate legislative provisions the right to non-discrimination of persons with psychosocial disabilities is not protected as well.

16. Discrimination is also brought about by the causes below:

- stigma and stereotypes among the public in terms of persons with psycho-social and mental disabilities;
- inadequate professional training of the psychiatric medical institutions staff and particularly their inadequate awareness of human rights; and
- inadequate treatment and care of persons with psycho-social disabilities at closed psychiatric medical institutions.

Proposed questions:

Please, inform the Committee on the following:

17. What progress has been made in drafting and adopting the RA Law against Discrimination?

Will the Law:

17.1. establish an independent national mechanism with sufficient powers to ensure the protection of the person's right to non-discrimination?

17.2. prescribe non-provision of reasonable accommodation to ensure the right to non-discrimination?

17.3. provide for effective mechanisms to protect the right of women and children with mental health problems and other vulnerable social groups to be free from multiple discrimination?

17.4. provide for pecuniary and non-pecuniary damage compensation mechanisms for persons who suffered discrimination?

18. What awareness-raising actions have been taken by the RA Government to break the stereotypes about persons with psycho-social disabilities among the public servants and the public at large and what tangible results and effects have they produced?

Article 10. Right to Life

19. See Article 25

Article 12. Equal Recognition before the Law

Article 27. Labor and Employment

Article 29. Participation in political and public life

20. Under RA legislation, persons with mental health problems may be recognized legally incapable by thus being deprived of the possibility to exercise their rights fully and properly, make decisions and act independently both in issues of vital importance for their lives and in daily life issues. Particularly, persons declared incapable are deprived of the possibility to exercise independently their civil, political and economic rights.
21. The comments under the RA Constitutional Court Ruling № SDO-1197 dated April 7, 2015, recognized the right of the person declared incapable to apply to court for restoration of his/her legal capacity. Yet, it is not clear to what extent the right to apply to court in person is ensured in practice and whether persons declared legally incapable applied to restore their capacity, since in response to the Organization's inquiry of July 4, 2016, the competent agency stated that there was no such statistics.
22. The Action Plan of the National Strategy for the Protection of Human Rights approved in 2014 prescribes the action below: specify the grounds for declaring a person with mental health problems and/or mental problems incapable and develop differentiated criteria for assessing legal incapacity. Whereas, no actions were taken in this regard and no alternative mechanisms for facilitating decision-making on declaring a person incapable were developed.

Proposed Questions

Please, inform the Committee on the following:

23. What legislative amendments and in what terms are intended to replace the institute for declaring an adult legally incapable and the institute of guardianship by a decision-making system in RA?
24. How much funds are intended to be allocated from the state budget for such actions?
25. Are there any safeguards that exist to protect people under guardianship against abuse of their rights?
26. What actions have been undertaken in order to make persons with psychosocial disabilities aware about the right of persons with disabilities to apply to court for restoration of his/her legal capacity, which was recognized by the Constitutional court on April 7, 2015.

Article 13. Access to Justice

27. The RA legislation lacks sufficient safeguards to ensure the right to a fair trial of persons with psycho-social disabilities. In particular, unlike the psychiatric institutions, persons with psycho-social disabilities are not exempted from the state duty to apply to courts of law, which is an obstacle on the way of appealing the judgments on their compulsory treatment.⁵ Persons are not informed properly on the opportunities and mechanisms for appealing decisions regarding them.

Proposed Questions

Please, inform the Committee on the following:

28. What actions do you intend to take to train legal professionals (attorneys and especially lawyers at Public Defender's Office, judges, prosecutors, law enforcement agencies) on the rights of persons with mental health problems?
29. Is it intended to make any changes in the RA Law on State Duty to provide the citizens involved in cases on compulsory in-patient psychiatric treatment and declaring a person legally incapable with a privilege of exemption from the state duty?

Article 14. Liberty and Security of Person

30. More than 1000 persons with disabilities live in institutions (social care institutions and hospitals) on a long term basis (up to live long), getting not a treatment but social care in those institutions. There is no sufficient number of community-based services; therefore, the issue of unnecessary and arbitrary deprivation of liberty of persons with psycho-social disabilities is quite actual. Also, other factors leading to arbitrary deprivation of liberty in psychiatric institutions are:

- failure to provide effective legal assistance;⁶
- person's coerced consent⁷ to treatment in a psychiatric institution;
- decisions on treatment are made by a person's guardian on his/her behalf;

⁵ Out of 153 cases on subjecting a person to coerced treatment at a psychiatric institution in 2010-2012 and in 2014, only 1 case was appealed in 2014 (the statistics above lacks information on how many of the 41 cases granted in 2013 were appealed).

⁶ Amendments to the Republic of Armenia Law on Psychiatric Assistance became effective on 1 January 2014. According to these amendments, legal assistance shall be provided by an advocate appointed by the Office of the Public Defender of the Chamber of Advocates of the Republic of Armenia on the basis of an application by the person with mental disorder receiving treatment in a psychiatric institution or an application by such person's lawful representative.

⁷ The reason for this practice is that the person's consent to treatment is obtained under pressure and threats by relatives and the staff of the medical institution.

- provision of insufficient information to persons with mental health problems about their rights.⁸

Proposed Questions

Please, inform the Committee on the following:

31. Is it intended to prescribe by law involvement of an attorney for a person with psycho-social disabilities at the shortest time possible after deprivation of his/her liberty, regardless of his/her wish;
32. Is it intended to apply as an interim measure, before the replacement of the guardianship institute, the procedure of subjecting a person to coerced treatment only based on a relevant court ruling?
33. Did persons with mental health problems, their family members and/or close acquaintances and relevant service providers receive trainings on the international and domestic legal acts on the mental health sector and the issues of the sector?

Article 15. Freedom from torture or cruel, inhuman or degrading treatment or punishment

34. At psychiatric institutions, the inhuman and ill treatment to persons with mental health problems is manifested through the use of physical restraints; this is due to the imperfection and arbitrary application of the legislative regulations. Physical restraints are used not only by a physician's decision for treatment of the person concerned, but also as a punishment and a method to intimidate others. The manner and place of use of physical restraints and the range of users of such restraints and supervision over their use is not clearly regulated by law.⁹

Proposed Questions

Please, inform the Committee on the following:

35. What legislative changes are intended to be made to improve the procedure for use of physical restraints?

⁸ See Report on the Human Rights Situation in Neuropsychiatric Medical Institutions of the Republic of Armenia, http://hcav.am/wp-content/uploads/2014/09/main_zekuyc_FINAL.pdf

⁹ See Report on the Human Rights Situation in Neuropsychiatric Medical Institutions of the Republic of Armenia, http://hcav.am/wp-content/uploads/2014/09/main_zekuyc_FINAL.pdf

36. How does the RA Ministry of Health supervise the practices of using physical restraints against persons? What methodology is applied? How frequently are such supervision actions taken? What findings and challenges have been identified through supervision?
37. Towards how many people are physical restraints used annually? What types of physical restraints are used? What is the average duration of their use?

Article 16. Freedom from Exploitation, Violence and Abuse

38. In institutions providing government-supported care and treatment services, persons with mental health problems suffer labor exploitation and psychological and physical violence.¹⁰ Persons with psychosocial disabilities suffer ill-treatment on the part of their family members and acquaintances as well. Persons with mental health problems suffer psychological and physical violence in form of beatings, threats, harassment, anger, etc¹¹. Moreover, persons with psychosocial disabilities suffer psychological and physical violence not only on the part of the staff of psychiatric institutions, but also on the part of the other residents.
39. The lack of a specialized public monitoring group at the institutions providing care and treatment services also leads to the inefficiency of the protection of the right of the persons with mental disability to be free from torture and abuse.

Proposed Questions

Please, inform the Committee on the following:

40. By whom and how the supervision over securing the right to be free from violence and ill-treatment of persons at psychiatric institutions is provided? What measures are taken to resolve the issues identified through supervision?
41. How many incidents of violation of the person's right to be free from violence and ill-treatment were detected or identified by the RA Ministry of Health within the past 5 years and what measures were taken to exclude such incidents?
42. What mechanisms are applied to ensure the right of persons with psycho-social disabilities to be free from ill-treatment and violence on the part of their families and the public at large?
- What psycho-social service systems are applied by the institutions providing care and treatment services for persons with mental health problems and outside such institutions?

¹⁰ See Report on the Human Rights Situation in Neuropsychiatric Medical Institutions of the Republic of Armenia, http://hcav.am/wp-content/uploads/2014/09/main_zekuyc_FINAL.pdf and 2011 Report on the Human Rights Defender of the Republic of Armenia as an Independent National Preventive Mechanism, file:///C:/Users/computer6/Desktop/pdf_3101540_arm_xoshtang.pdf

¹¹ <https://www.theguardian.com/world/2015/oct/12/armenia-mental-health-legislation-needs-complete-overhaul>

Article 19. Living Independently and Being Included in the Community

Article 22. Respect for Privacy

Article 26. Treatment and Rehabilitation

Article 30. Participation in cultural life, recreation, leisure and sport

43. About 46,000 persons with mental health problems are registered in the Republic of Armenia. Around 50% of the residents of care and treatment institutions stay there on long-term basis.
44. The persons with mental health problems who stay in their community are also isolated from the community since they do not receive the necessary support.
45. These issues are caused also by the fact that there are almost no community-based services aimed at community involvement.
46. In the institutions, the respect for privacy of persons with mental health problems is not ensured.¹²

Proposed Questions

Please, inform the Committee on the following:

47. What actions were taken to introduce community-based services? How much funds were allocated and spent on such actions?
48. Has any assessment been made on how many and what type of community-based services are needed and in which communities are they needed? Or when is it intended to make such an assessment and accordingly introduce relevant community services?
49. Is it intended to ensure the continuity of the services provided under the pilot program prescribed under Para 6 of the 2013-2017 Action Plan of the Concept Paper on Providing Alternative Social Care and Support Services to Persons with Mental Health Problems? (See also para. 2-4 of LoI) Is it intended to allocated funds to this end from the state and/or community budget?
50. How many community-based services will be established in the coming 5 years and for how many people?

Article 23. Respect for home and the family

¹² See Report on the Human Rights Situation in Neuropsychiatric Medical Institutions of the Republic of Armenia, http://hcav.am/wp-content/uploads/2014/09/main_zekuyc_FINAL.pdf

51. Persons declared legally incapable are deprived of the right to get married, take care of a child or adopt a child.
52. There are specialized children's homes for children with disabilities, including children with psycho-social disabilities (specialized children's home of Kharberd, children's home in Gyumri and children's home after Mary Izmirlian are state institutions, and the Armenian Branch of the Missionaries Charitable Organization is a private institution).¹³ The practices of abandoning children with disabilities and placing them in care institutions are or caused by the lack of alternative services in the community, insufficient awareness and education campaigns for the parents of such children and lack of social and psychological support and inadequate living standard.

Proposed Questions

Please, inform the Committee on the following:

53. What actions were taken to introduce community-based services for children and adolescents with psycho-social disabilities; how much funds are intended to be allocated for such actions?
54. What actions are intended to provide the parents of such children with adequate awareness and educational campaigns and social and psychological support?
55. Is it intended to introduce any mechanisms to ensure an adequate standard of living for families (parents) of children with disability?

Article 25. Health

Article 10. Right to life

56. The burden of psychiatric care provision primarily rests on 10 psychiatric institutions, 4 of which are located in the capital. Psychiatric services are also provided by several other non-psychiatric institutions located in the capital and the psychiatric cabinets of 21 polyclinics. There are no state run socio- psychological and rehabilitation services. Moreover, effective psychiatric, socio-psychological and rehabilitation services are not available in most of the non-capital communities.
57. The institutions offering psychiatric services are not permanently provided with remedies in necessary quantity and of necessary quality and consequently, persons with mental health problems are not regularly provided with free remedies as prescribed by law. Moreover, the

¹³ By data as of June 2, 2015, the specialized children's homes provide 506 children with central nervous system problems and children with congenital and acquired physical and mental disabilities with 24/7 care and education, and the total number of children under care of RA children's homes is 731.

mental health sector uses primarily remedies made in Armenia the quality of which raises concern among the relevant professionals. In this regard, it is noteworthy that the main method of treatment of people with mental health problems is drug treatment.

58. The psychiatric medical institutions fail to pay proper attention to treatment and prevention of somatic diseases of the persons with mental health problems, which causes a large number of death cases /in 2010-2015, the total number of death cases in psychiatric institutions was 214, including 210 death cases from somatic diseases and 4 suicides/. Criminal proceedings were initiated on 42 cases, all of which were discontinued due to the lack of corpus delicti.¹⁴
59. The medium and junior medical staff at psychiatric institutions lacks relevant capacities in dealing with persons with mental health problems.
60. The insufficient number of psychiatrists, especially children's psychiatrists, in RA is a matter of concern. In particular, children and adolescents in marzes (regions) are not provided with psychiatric services by children's psychiatrists.
61. The overall situation in healthcare services in Armenia is reflected on health rights of persons with disabilities. Taking into account the fact, that persons with psychosocial disabilities mainly live below the poverty line they do not have access to quality healthcare services¹⁵. While persons with socio-psychiatric disabilities at psychiatric facilities receive non-psychiatric services both through certain specialized medical cabinets at such facilities, and outside such psychiatric facilities as necessary, the provision of such services raises concern related to procedural issues, shortage of relevant remedies and medical equipment at the facilities and the inadequate quality of medical services provided in the RA in general.

Proposed Questions

Please, inform the Committee on the following:

62. What measures are taken to ensure the accessibility, availability and quality of psychiatric, psychological and rehabilitation services?
63. What measures are taken to ensure enhanced effectiveness of treatment of somatic diseases of persons with mental health problems?
64. What measures are taken to train relevant specialists?
65. Were the causes of the death cases at psychiatric institutions examined and what steps were taken to reduce them?

¹⁴ One of the medical institutions possesses no information on initiation of criminal proceedings since it informed the Organization that it knew nothing about the initiation of such proceedings.

¹⁵ <http://transparency.am/en/news/view/1565>

Article 27. Labor and employment

Proposed Questions

Please, inform the Committee on the following:

66. What measures are taken to ensure the labor rights of persons with psycho-social disabilities?
67. How many persons with psycho-social disabilities work at the state government agencies and community government agencies, the Central Bank, state non-commercial and community non-commercial organizations? How many persons with socio-psychological and mental disabilities work at NGOs in private sector?

C. Statistics and National Enforcement

Article 31. Statistics and data collection

Proposed Questions

Please, inform the Committee on the following:

68. Does the RA Government collect and publish statistics in compliance with Article 31 of the Convention on the Protection of the Rights of Persons with Disabilities by the type of disability, age, sex and gender, place of residence, social security and other issues related to persons with psycho-social disabilities.

Article 33. National implementation and monitoring

Proposed Questions

Please, inform the Committee on the following:

69. Is it intended to ensure that each governmental agency submits to the RA Government and RA National Assembly annual reports on securing and protection of the rights of persons with disabilities, including with psycho-social disabilities?
70. How is it intended to ensure the efficient participation of persons with psycho-social disabilities in the procedures for implementation of the Convention and monitoring mechanisms applied by the RA?