



# HUMAN RIGHTS DEFENDER OF THE REPUBLIC OF ARMENIA



## AD HOC REPORT

### ON ENSURING THE RIGHTS OF WOMEN, MINORS, AND FOREIGNERS DEPRIVED OF THEIR LIBERTY IN THE PENITENTIARY SYSTEM (SUMMARY)

YEREVAN 2022

## INTRODUCTION

The Constitution of the Republic of Armenia, as well as the international well-known documents ratified by Armenia, declare the absolute prohibition of torture, inhuman or degrading treatment, from which derives the continuous implementation of the complex measures in accordance with internationally accepted requirements and standards.

From the point of view of the absolute prohibition of torture, the prevention of torture has key importance, which in turn implies a complex of periodic and systematic measures at the legislative and practical levels.

The RA Constitutional Law of December 16, 2016 "On the Human Rights Defender" assigned to HRD the status of National Preventive Mechanism (NPM) defined by the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on December 18, 2002. Article 28 of the Constitutional Law defines the powers and the possibility of the HRD to conduct periodic visits, as well as visits as needed to penitentiary institutions as NPM.

The activities of the HRD as NPM are aimed at protecting every person in the country from torture, degrading, or inhumane treatment and punishment, which are collectively called ill-treatment.

Decent conditions and guarantees of detention and treatment should be created for every person deprived of liberty. In any case, the predictable behavior and individual attitude of the state towards each person deprived of liberty should be of fundamental importance.

Ensuring the rights of women and minors deprived of their liberty in the penitentiary system has key importance.

The issue is particularly sensitive in the sense that it concerns persons who need special treatment. Women and minors in detention may become vulnerable due to, for example, victimization in detention places, risk of sexual violence, lack of gender and age-specific health and care facilities, as well as lack of stable contact with family members, etc. In this regard, it

should be taken into consideration that women and minors face difficulties while being kept in detention places, which makes it necessary to focus on their special needs (for example, access to necessary medical services, psychological support, sufficient conditions of detention, education, employment, etc.).

The state should take all possible measures to ensure the physical and mental health and immunity of women and minors deprived of their liberty.

Thus, the sector needs a systematic study, identifying the existing issues and specifying concrete directions for their solution, which is the purpose of this ad hoc public Report.

## **METHODOLOGY**

This Report is based on the results of the issues and recommendations for addressing those issues recorded during unannounced visits to "Abovyan" penitentiary institution of the RA Ministry of Justice on March 16 and June 13, 2022 and other previous visits conducted by the representatives of the Department of Prevention of Torture and Ill-treatment of HRDO as NPM and, as well as by doctor, sociologist, psychologist and lawyer independent experts of NPM.

The Report is based on all the individual complaints addressed to the HRD regarding ensuring the rights of women and minors deprived of their liberty, the results of their discussion, as well as the studies of publications by mass media, international institutions, and non-governmental organizations.

The conditions of detention of women and minors deprived of their liberty and the state of ensuring their rights and freedoms have been studied by NPM. Special attention was also paid to the issues related to ensuring the rights of foreign women deprived of their liberty.

During the monitoring visits, the conditions of keeping pregnant women and children up to three years old kept with their mothers, and the state of ensuring their rights and freedoms were also studied.

During the visits, private interviews were held with the administration of the penitentiary institutions, the medical staff of the Subdivision and persons deprived of their liberty.

The documents related to ensuring the rights of women and minors deprived of their liberty were studied (medical aid and service, provision of education, food and other related documents and ledgers). The received information was compiled and analyzed, as well as the gaps and shortcomings of legislative regulation were highlighted.

During the visits, technical means were used, in particular, cameras, distance, temperature and humidity measuring devices.

The ad hoc Report also summarizes the results of the monitoring of the implementation of the Defender's proposals aimed at solving the issues presented in the Report of HRD as NPM "On ensuring the rights of women and minors deprived of their liberty in the penitentiary system" published on July 25, 2018.

The issues raised during the monitoring visits by the NPM were discussed with the competent representatives of the "Abovyan" penitentiary institution, including the Heads of the Institution and Subdivision, and the issues raised by the administration and medical staff and their needs were also recorded.

During the monitoring visits, the administration of "Abovyan" penitentiary institution and the medical staff of the Subdivision willingly cooperated with the representatives of the HRD in the fulfillment of their powers and provided necessary assistance.

On October 26, 2022, NPM representatives discussed the issues recorded in "Abovyan" penitentiary institution, as well as observed the activities aimed at solving them together with the Deputy Minister of Justice of the RA, Administration of the Penitentiary Service, Directorate of the SNPO and with the representatives of the group of public observers implementing public oversights in the bodies and penitentiary institutions of the RA Ministry of Justice.

Professional discussions were held in the Office of the Human Rights Defender of Armenia, based on which the ad hoc public Report not only highlights the issues related to ensuring the rights of women and minors (including foreigners) deprived of their liberty, but also presents, based on professional analysis, the legal and practical mechanisms of solving the recorded issues and recommendations to make amendments and additions to the legal acts of the field.

#### SUMMARY LIST OF RECOMMENDATIONS

- 1. Provide a customized environment for persons deprived of their liberty with movement problems in the buildings of the "Abovyan" penitentiary institution;*
- 2. Take steps to provide decent quality bedding to persons deprived of their liberty;*
- 3. Carry out repair works of the punishment cells in the solitary confinement of the "Abovyan" penitentiary institution;*
- 4. Organize the current repair works in the solitary confinement of the "Abovyan" penitentiary institution so as to ensure unhindered entry and exit to the cells;*
- 5. In the shelter of the women's section of the "Abovyan" penitentiary institution, carry out such modification works that will ensure the possibility of keeping no more than the number of persons deprived of their liberty as defined by the legislation;*
- 6. Take steps to provide an environment adequate to their needs and special conditions of detention for detained persons and convicts who are pregnant or have children up to three years old in "Abovyan" penitentiary institution;*
- 7. Provide and furnish a separate playground and a green promenade for children up to three years old kept in the "Abovyan" penitentiary institution;*
- 8. Separate and properly furnish a cell (shelter) for pregnant and women deprived of their liberty with children up to three years old kept in the "Abovyan" penitentiary institution;*
- 9. Adapt the toilets and bathrooms of the cells and shelters for women who are pregnant or have children up to three years old in "Abovyan" penitentiary institution to the special*

- needs of pregnant women and children up to three years old: provide hot water, a bathroom equipped with a toilet, a shower room and with other essential items.*
- 10. Provide necessary games and accessories, as well as programs, for the development of children up to three years old in "Abovyan" penitentiary institution;*
  - 11. take steps to involve a doctor specializing in "family doctor" in the Subdivision or include the doctors of Subdivision in family medicine trainings;*
  - 12. In case of complaints of persons deprived of their liberty, medical examination should be organized by a doctor, and medication appointments should be carried out only according to the instructions of doctor;*
  - 13. Take steps to provide the medical service division of the women's section of the "Abovyan" penitentiary institution with running water and a toilet.*
  - 14. Carry out repair works of rooms intended for medical service in the solitary confinement and women's section of the "Abovyan" penitentiary institution.*
  - 15. Exclude the presence of expired medications in the Subdivision and establish clear mechanisms for their destruction, observing the procedures set by law;*
  - 16. In the Subdivision, ensure compliance with the hygienic and anti-epidemic requirements set by the law for the collection and transportation of medical waste, develop clear mechanisms for the collection, storage and transportation of medical waste and carry out trainings for medical personnel in connection with the above;*
  - 17. Replenish the medication fund in the Subdivision with the first aid medicines necessary for children up to three years old kept in the "Abovyan" penitentiary institution with their parents;*
  - 18. Equip the cabinets of the Subdivision with the accessories and tools provided by Annex 3 of the RA Government Decision No. 1936-N of December 5, 2002;*
  - 19. Properly implement dispensary registration and control of persons deprived of their liberty in the Subdivision;*
  - 20. Within the framework of the state-guaranteed free medical care and service for persons deprived of their liberty taken from dispensary registration in the subdivision,*

- carry out the laboratory-instrumental researches and specific professional consultations defined by the decision of the RA Government No. 825 of May 26, 2006;*
- 21. Develop procedures and forms for giving written informed consent to medical interventions of persons deprived of their liberty, excluding the legislative requirements for medical interventions without written consent of the person;*
  - 22. In case of providing psychiatric care and services to a person deprived of liberty, obtain the person's written informed consent, and after presenting a request to refuse it or stop the treatment, discuss the issue of the need to start involuntary treatment in accordance with the legislation;*
  - 23. Fully implement the annual preventive measures already developed for the prevention of diseases among persons deprived of their liberty;*
  - 24. Provide the Subdivision with the necessary and sufficient amount of medicines and medical supplies;*
  - 25. Take steps to improve the process of providing medications to persons deprived of their liberty as needed by expanding the list of medicines needed by the penitentiary service, increasing their quantity, and introducing alternative mechanisms for obtaining medicines;*
  - 26. Accept medicines purchased by persons deprived of their liberty at their own or at their close relatives' expense in the "Abovyan" penitentiary institution with appropriate medical indication and on the principle of doing no harm;*
  - 27. Take steps to ensure sufficient conditions (furniture, natural lighting) contributing to the proper implementation of the preliminary medical examination of the persons deprived of their liberty;*
  - 28. Organize the preliminary medical examination of the persons deprived of their liberty by a doctor on working days and hours;*
  - 29. In case of finding alleged cases of torture, implement proper medical examination of persons deprived of liberty and ensure its proper recording and submission to the law enforcement bodies in a manner prescribed by the legislation;*

30. *Take measures to introduce supervisory mechanisms over the safety of food provided by a private company to persons deprived of liberty and the preservation of a daily minimum portion of food, defined by Appendix 1 of Decision No. 1182-N of the Government of the Republic of Armenia of October 10, 2015, and their legislative regulations;*
31. *Provide children under the age of three living with women deprived of liberty with the appropriate portions and variety of food prescribed by the legislation;*
32. *Carry out appropriate renovation works in the bathrooms to properly organize the bathing of persons deprived of liberty;*
33. *Ensure the proper furnishing of bathrooms and the provision of showers;*
34. *Ensure the proper organization of laundry;*
35. *Initiate an amendment to the decision No. 1543 -N of the Government of the Republic of Armenia of August 3, 2006, providing persons deprived of liberty with the possibility of bathing at least 2 times a week, based on the necessity and peculiarities of maintaining the general hygiene of women deprived of liberty;*
36. *Take measures to increase the number of yards at the pre-trial detention center of the “Abovyan” Penitentiary Institution;*
37. *Create a full opportunity for outdoor walks in the yards of the “Abovyan” Penitentiary Institution, by furnishing them with proper covers to shelter from adverse weather conditions;*
38. *Provide places for walks in the “Abovyan” Penitentiary Institution with the equipment necessary for practicing gymnastics, games, and sports;*
39. *Carry out necessary renovation works in the gym in the solitary confinement of the “Abovyan” Penitentiary Institution, equipping it with new exercise equipment;*
40. *Carry out renovation works in the assembly room of the “Abovyan” Penitentiary Institution for the proper organization and implementation of cultural events;*



41. *Improve the storage conditions of the books stored in the library of the “Abovyan” Penitentiary Institution;*
42. *Increase the employment rate by involving persons deprived of liberty in purposeful occupations of various natures (work, education, sports, etc.);*
43. *Take measures to adjust the staircase leading to the yards in the neighborhood of the “Abovyan” Penitentiary Institution for people with mobility difficulties, as well as to adapt it to the needs of children;*
44. *Ensure the possibility of private talks for the persons who have come to the “Abovyan” Penitentiary Institution for a visit in case of organizing simultaneous short-term visits;*
45. *Ensure proper conditions in the rooms for long-term visits, including their toilets;*
46. *Ensure the possibility to go out for a walk for persons who have come to the “Abovyan” Penitentiary Institution for a long-term visit, including minors;*
47. *Carry out cosmetic repairs in a separate room for visiting small children in the “Abovyan” Penitentiary Institution, providing it with toys and accessories for children of different age groups;*
48. *Take steps to reduce payphone rates in penitentiary institutions;*
49. *In order to protect the rights of foreign persons deprived of their liberty, ensure the possibility of proper communication between them and the administration of the penitentiary institution by engaging a translator/interpreter, developing phrasebooks, purchasing special devices for translation/interpreting or organizing appropriate foreign language courses for the employees of the penitentiary institution;*
50. *Organize communication with persons deprived of liberty who do not speak the Armenian language when providing medical care and services;*
51. *Properly inform foreign persons deprived of liberty about their rights and obligations in an understandable language, translating them into the relevant languages;*

52. *At the stage of developing an appropriate decision on the approval of the internal regulations of places of detention and penitentiary institutions, provide a reasonable frequency and duration of making and receiving video calls for foreign persons deprived of liberty;*
53. *Carry out replenishment of psychological diagnostic packages in penitentiary institutions with the aim of a more comprehensive study of personality;*
54. *Ensure proper, substantive completion of documents reflecting the psychological work carried out by specialists with persons deprived of liberty;*
55. *Create a culture of interprofessional collaboration in penitentiary institutions and develop a paper-form system for that collaboration;*
56. *Develop mechanisms to conduct psychological work with women deprived of liberty and children under the age of three living with them;*
57. *Develop procedures regulating the work activities of psychologists, review the workload of psychologists, also referring to their social guarantees, including salary;*
58. *Carry out activities aimed at reducing the inclinations of persons with negative inclinations and properly record them in the relevant register;*
59. *Define the concept of "negative inclination", as well as bring to the discussion the justification of classifying certain types of inclinations (aggressiveness and proneness to conflict) as negative inclinations, taking into account the individual risk factor of a person;*
60. *Continuously develop and increase the number of periodic, systematic and targeted courses and events (educational, cultural, sports, etc.) for persons deprived of liberty;*
61. *Ensure sufficient contact with persons deprived of liberty held in solitary confinement;*
62. *Provide separate cells for minors deprived of liberty, ensuring proper detention conditions;*

*63. Take measures to carry out repair and cleaning works at the school;*

*64. Ensure that there are sufficient female corrections officers in direct contact with women deprived of liberty in penitentiary institutions;*

*65. Fundamentally improve the system of social guarantees for the employees of the penitentiary system, including the salary;*

*66. Ensure proper working conditions for the employees of the “Abovyan” Penitentiary Institution, including offices and toilets with sanitary and satisfactory conditions, as well as the necessary conditions for eating.*