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EUROPEAN UNION FOR ARMENIA

“Armenian Lawyer’s Association” NGO

“THE PROSPECTS FOR THE STRENGTHENING OF MECHANISMS OF WOMEN'S RIGHTS  
PROTECTION”

REPORT



Yerevan

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## INTRODUCTION

The aforementioned report is dedicated to the protection of women's rights, especially in areas where women are most vulnerable in our country and where there exists a need (where there is need) to intervene.

The first part of the report on the protection of women's rights deals in the field of systematic problems. The following sections concern the protection of women's economic and labor rights, the protection of women's health (reproductive) rights and the protection of women's rights in the family, including property rights and the participation in politics.

The report is based on the assessment of the implementation of the RA obligations under the following international documents: UN Sustainable Development Goals, Beijing Action Plan, the UN committee on the elimination of all forms of discrimination against women, and the special recommendations of the concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the RA implementation of the Convention on the “Elimination of all Forms of Discrimination against Women”, in line with the provisions of the RA current Legislation, legislative initiatives, and “the strategy and action plan of the 2019-2023 implementation of gender policies in the RA”, in the light of advanced international experience. The report was also based on the round table discussion of “the prospects for the strengthening of mechanisms of women’s rights protection.”

Appendix 1 is devoted to the general observations of the above strategy and action plan, and appendix 2 is devoted to the summarization of the above discussion.

Each section of the report presents recommendations for resolving the issues raised in that section.

The report and the problems raised by it can serve both for the improvement of the Strategy plan and the action plan, and the implementation of the measures arising from them.

## Content

LIST OF USED ABBREVIATIONS AND TERMS .....	6
LIST OF USED TABLES .....	7
Executive summary.....	8
I. Systematic issues.....	11
1. The national mechanisms for women's advancement doesn't correspond to international standards .....	11
2. There is no additional stable educational structure for lawyers dealing in women's rights .....	16
3. Individuals who have experienced gender discrimination do not receive free legal aid .....	17
II. The protection of women's labor and economical rights.....	18
1. There are no operating mechanisms for the protection of the violation of women's labor rights.....	18
2. Sexual harassment at work places is not prohibited .....	18
3. Surveys concerning the violation of women's rights at work places are not conducted .....	23
4. Operating mechanisms targeted at combining (hamateghel) work and family are not established .....	23
5. The gender pay gap continues to stay high .....	28
A. Vertical segregation .....	29
B. Horizontal segregation.....	31
6. The right to work is not registered by RA law .....	34
7. The involvement of women in the activity of trade unions is almost non-existent.....	35
III. The issue of women's rights protection in families .....	35
1. Proper surveys concerning domestic violence are not conducted.....	35
2. Legislation reforms concerning domestic violence need to be reviewed.....	41
3. Forced marriage is not criminalized by RA law.....	46
4. Marital-rape is not criminalized by RA law.....	48
5. Stalking is not criminalized by RA law .....	50
6. There is no institute that deals in registered or church ritual marriages.....	52
7. The obligation of paying an aliment is often not preserved in practice .....	53
8. Women's right to property is not sufficiently protected.....	54

9.	There is no unified stance position as to whom the wedding ring belongs to...	55
10.	Regulations concerning marriage age need to be reviewed .....	56
IV.	Protection of women's health(reproductive) rights .....	57
1.	Forced abortion, including abortion determined by gender is insufficiently regulated by RA legislation .....	58
2.	Compulsory sterilization is not planned by RA legislation.....	68
3.	There is need for the planning of supplementary guarantees for women infected with HIV/AIDS .....	69
V.	Political participation of women .....	74
1.	Participation of women in the legislative sector.....	76
2.	Participation of women in the executive sector .....	83
3.	Participation of women in the judicial sector .....	86
4.	Participation of women on local levels .....	89
	Appendix 1 About the general observations of the implementation of the strategies of the RA gender policies and the events program .....	95
	Appendix 2 " The prospects for the strengthening of mechanisms of women's rights in Armenia" summary in a round table discussion .....	99

## LIST OF USED ABBREVIATIONS AND TERMS

Action Plan	The events program draft of the implementation of the RA gender policies 2019-2023
CoE	European Council
Committee	UN Committee on the elimination of discrimination against women
Concluding Observations	Concluding Observations of the 5 <sup>th</sup> and 6 <sup>th</sup> joint periodic report on the implementation of the UN Convention on all forms of discrimination against women
Convention	Convention on the elimination of discrimination against women (CEDAW)
Council	Council that deals with the issues of equality between men and women
CSO	Civil society organization
Draft Strategy	The strategy draft of the implementation of the RA gender policies 2019-2023
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court on Human Rights
EU	European Union
ILO	International Labor Organization
NA	National Assembly
NGO	Non-Governmental Organization
Ombudsman	RA Official who is charged with representing the interests of the public
PACE	Parliamentary Assembly of the Council of Europe
RA	Republic of Armenia
UN	United Nations
UN CESCR	UN Committee on Economic, Social, and Cultural rights
UNPF	United Nations Population Fund
USA	United States of America
Working Group	A Work Group that is adjacent to the council that deals with the issues of equality between men and women

## LIST OF USED TABLES

Table 1. Workers by occupational groups and gender.....	29
Table 2. Civil servants by offices and gender .....	30
Table 3. Workers by large groups of economic activity .....	31
Table 4. The gender pay gap of the average salary, by large groups of economic activity.....	31
Table 5. RA Polic Departments 2013-2018 data on domestic violence cases .....	37
Table 6.RA Investigative Committee’s 2016-2018 data on domestic violence cases.....	38
Table 7. RA Prosecutor’s Office 2018 data on domestic violence cases.....	38
Table 8. Prevalence of violence against women by types .....	39
Table 9. The Justification or toleration of domestic violence by gender.....	40
Table 10. Infants by gender 1990-2018.....	58
Table 11. The highest male to female birth rates in the world.....	59
Table 12. The gender ratio rate of newborns in RA provinces and city of Yerevan, 2010-2017. .....	60
Table 13. The ratio of sexes by birth order, 2002-2017.....	61
Table 14. Women in the Legislative Branch .....	76
Table 15. Women in the executive branch and the President’s Office .....	83
Table 16 Women in key bodies of the executive branch.....	85
Table 17. Women in Foreign Services .....	85
Table 18. The ratio of male and female judges and head’s of court in CoE member states .....	86
Table 19. Women in the Judicial System.....	87
Table 20. Women in the Judicial System by courts and heads of courts.....	88
Table 21. Women in the RA Constitutional Court .....	88
Table 22. Women in territorial government bodies and local self-government bodies.....	89
Table 23. Women in Yerevan .....	90
Table 24. Women in local self-government bodies before and after the enlargement.....	90

## Executive summary

In the RA women's rights are not fully protected. The gender gap report of 2018 serves as a testament to that, according to which Armenia ranks 98<sup>th</sup> out of 149 countries.

**An integral part of protecting women's rights is an effective mechanism for promoting them/for career advancement.** Meanwhile in RA, the council that deals with the issues of equality between men and women does not correspond with international standards concerning such mechanisms. Especially since it is not a permanent structure, and its functions and powers are severely limited. Besides, it isn't inclusive because civil society organizations are not part of the structure. The next systematic issue which is specific to violations of women's rights is that **there is no additional, stable educational institution, where human rights defenders specializing in the protection of women's rights will be formed.**

There are some issues which have been picked out of the sectoral issues. These are the protection of women's economic and labor rights, the protection of women's health (reproductive) rights, the protection of women's rights in the family, including in the context of property rights and women's political participation, because women in our country are most vulnerable in these areas and there is a need for intervention.

**Concerning women's economical and labor rights,** it should be noted that according to the "economic participation" index Armenia ranks 73<sup>rd</sup>. One of the most important issues is the absence of active mechanisms in the protection of women's violated labor rights, which is due to the termination of activities of the state inspectorate of labor and the small extent of the functions and powers of the newly created state health and labor inspectorate, because they don't include combating against employment discrimination or the collection of statistics on gender based labor rights violations. The next issue concerns the severe inadequate state of legislative regulations that prohibit sexual harassment, which don't provide proper protection of women. As a result, taking into consideration the nations stereotypical thinking, women are afraid to bring the flawed phenomenon to light. In addition to that, no effective mechanisms on combining work and family have been put in place, the likes of which exist in many countries. For example, the offer of paid leave to the husband in case of childbirth, the provision of all guarantees as stated by the pregnancy patients' law in case of work without a contract, the creation of conditions for feeding a baby



at the workplace and etc. The gender pay gap continues to remain high, which contributes to both horizontal and vertical segregation. Unemployment in the country, including prolonged unemployment, continues to remain high, especially among women, and the RA constitution does not stipulate the right to work, which would force the government to do everything in their power to provide its citizens with work. Increasing the number of women engaged in trade unions will also contribute to the protection of women's rights.

**The protection of women's family rights** can be separated into two groups of problems: **domestic violence and the violation of women's property rights**. In particular, the legislation concerning domestic violence needs to be reviewed. In addition to that, forced marriage, marital rape and stalking, that is intentional and persistent threatening behavior against another person, which raises fear for his or her safety, are not criminalized. Adjustments in marriage age also don't correspond to international standards. Also, no unified and proper collection of statistics concerning domestic violence is conducted. The main issue concerning women's property rights is the absence of an institute that deals in factual or church ceremony marriages. And from a legal point of view, only marriages registered in civil residence permits hold any legal value, whereas very often, especially in provinces, women are not aware of this and marry only by a church ceremony. Problems also arise when unconscientious husbands alienate joint property without the consent of the wife, as well as when husbands hide actual earnings with the purpose of not fulfilling the obligation of paying for alimony. The legal norms concerning the ownership of the wife's engagement ring give place to differing interpretations.

**Regarding the point of view of the protection of women's health (reproductive) rights**, two main issues have been separated. The first is to do with the incomplete law reforms on forced abortion. The specified issue is especially expressed when to do with abortion based on gender, that is, when a woman is forced by her husband and/or family member to have an abortion because the fetus is female. Armenia, despite slight improvement in recent years, continues to remain among the world's top countries with the highest percentage of male newborns. Moreover, the rights of women who have been tested positive to HIV/AIDS are also vulnerable, because they are subject to double discrimination. Also, according to the "health" index, Armenia ranks 148<sup>th</sup>.

**In regard to the political participation of women**, let us note that according to the “political participation” index, Armenia ranks 115<sup>th</sup>. At neither level (legislative, executive, or judicial) do Armenians achieve the 30% participation threshold. The issue is especially expressed by local self-government bodies, especially after the enlargement of the communities.

The new gender strategy draft also needs to be reviewed, because the vast majority of the performance indicators are not measurable.

## I. SYSTEMATIC ISSUES

### 1. The national mechanism for women's advancement doesn't correspond with international standards

The RA national mechanism for the advancement of women is the council, whose creation and activities' regulating legislative acts are the RA prime minister's N 1152-A and N 178-A decisions.<sup>1</sup> However, **the Council is not a national mechanism that corresponds with international standards.**

The convention<sup>2</sup> and its concluding remarks, of its oversight body-the committee, are an integral part of the **international responsibilities. The committee's concluding remarks** are the following: "the committee calls on the RA to b) expand the committee's capabilities of providing equal rights and equal opportunities for men and women, in order for it to be able to implement and monitor gender equality thematic problems more effectively, to coordinate the activities of institutions who implement those programs, to ensure that gender issues are addressed in all state agencies, and to implement the national mechanism of improving women's situation C) to enhance the human, financial and material resources of local committee's that deal with gender related questions and of the labor group that deals in ensuring the equal rights and equal opportunities among men and women which functions adjacent to the committee."<sup>3</sup>

In addition, **the committee's No6 general assignment titled "effective national mechanism and publicity"** states that nations are required to create or strengthen national mechanisms, institutions or procedures in top government bodies, which have the

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<sup>1</sup> The RA Prime Ministers N 1152-A decision on "creating a committee that deals in ensuring equal rights and opportunities for men and women and declaring the RA Prime Ministers 29<sup>th</sup> of December 2000 N 862 decision invalid", adopted on 19.11.2014, available at: <https://www.arlis.am/DocumentView.aspx?DocID=98101>, the RA Prime Ministers N 178-A decision on "approving the individual structure and the work schedule of the committee that deals in ensuring free rights and opportunities for men and women", adopted on 09.03.2015, available at: <https://www.arlis.am/DocumentView.aspx?DocID=112013>.

<sup>2</sup> The convention on "the Elimination of all Forms of Discrimination against Women", the UN, Treaty Series, volume 1249, No 20378, adopted on 18<sup>th</sup> of December 1979, in the city of New York, ratified by the RA on 13.10.1993, available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=60505>.

<sup>3</sup> The concluding remarks of the "5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on "the Elimination of all Forms of Discrimination against Women"", the UN committee on the elimination of all forms of discrimination against women, adopted on the 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 13, available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>:

appropriate resources, requirements and are authorized a) to give advice on the impact of all state policies that *concern women*, b) comprehensively monitor the situation of women, c) help the formulation of new policies and help with the implementation of strategies and measures aimed at the elimination of discrimination against women.<sup>4</sup>

*Concerning the protection of women's rights, another important document titled "Beijing's declaration and action plan", states "201. The national mechanism aimed at improving the situation of women is the central unit of gender policy guidance within the government. Its main task is the broad support of the perspective of gender equality in all areas of the government. The conditions for the effective operation of such national mechanisms include 1) Being in the highest possible government level, provided it falls under the jurisdiction of the prime minister 2) The existence of institutional mechanisms or procedures, which contribute accordingly to decentralized planning with the aim of engaging NGO's and community organizations according to the bottom to top principle 3) the availability of a budget and sufficient professional resources 4) the ability of influencing all state policies. The Beijing action plan states the strategy aims of the "the institutional mechanisms for the improvement of the situation of women" "1) the creation or strengthening of national mechanisms and other governmental bodies 2) accounting for gender aspects within legislations, state policies, projects and drafts and 3) the collection and distribution of data and information on gender attributes for planning and evaluation purposes." In order to achieve the first strategy-goal, the implementation of the following actions is necessary. "203. a) take measures in order for women's advancement to be in the center of attention of high-ranking government officials, in many cases the prime minister is such an official b) by building on a strong political will, the creation of national mechanisms aimed at improving the situation of women in top government branches, in countries where there is an absence of them, and the strengthening of such mechanisms that already exist; it must have a clear defined mandate and powers, have sufficient resources, must be able to exert influence on governmental policies and have the authority to create and revise legislation. It must also be able to carry out the monitoring of policy analysis, apologia, communication, coordination and policy implementation, c) to conduct training for the staff in data processing and analysis from a gender point of view, d) to develop procedures which will enable said mechanisms to collect information on all government policy problems which are still in the first stage, and to continuously use them for policy developments and during reviews within the government, e) to regularly report to legislative bodies about the progress made by their efforts on gender guidance, f) to encourage and support the*

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<sup>4</sup> General recommendation No 6 titled "effective national machinery and publicity", committee on the elimination of all forms of discrimination against women, adopted in 1988 during the 8<sup>th</sup> session, available in English at: [https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_GEC\\_5828\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_5828_E.pdf)

*widespread and active involvement of public, private and voluntary sectors as well as various institutional performers in the safeguarding of equality between men and women.*'<sup>5</sup>

By reviewing the international obligations, it becomes evident, that 1) the composition of both the council and the labor groups are pretty homologous and don't include representatives from both the public and the academic sectors. The council is comprised of the RA prime minister, 4 ministers, 9 deputy ministers, the deputy chief of police and the head of the social department, the members of the council will also, by their consent, include the member of parliament, the judge of the court of cassation, and, with the allowance of the RA president, the head of the department of citizenship gifts and titles, whereas the labor group adjacent to the council is comprised of 2 staff members of the government, the staff members of 13 ministries and departments, and also, with their consent, one employee of the national assembly who is a staff member of the Yerevan town hall and the committee of television and radio. Meanwhile the representation of NGO's and research and academic institutions are assured in various councils, such as the anti-corruption council, which are adjacent to the prime minister. Moreover, the aforementioned are not even members of the labor group, and can only take part in the sessions. In addition, it is not prescribed in any legislative on what criteria NGO's are invited to take part in the labor group sessions, and the issue of securing the representation of provinces also remains unanswered.

**2. The council doesn't work effectively and its activities have no real impact on the providing of equal rights and opportunities for men and women.** First of all, article 13 of chapter 3 states that, "the work of the council is organized by the chairman based on necessity, **but a meeting must be held no less than once every four months.** Therefore, the minimum threshold for holding meetings in a year is stated to be 3. Moreover, both the members of the council and the labor group have their daily commitments and priorities at their work places, as a result of which there is a decrease in the number of initiatives undertaken and the probability of having an active work schedule. This is also testified by

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<sup>5</sup> "Beijing action plan", General Assembly No. S-23/2, appendix, and resolution No. S-23/3, appendix, adopted on September the 15<sup>th</sup> 1995 in Beijing. The document is available in English at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>, paragraphs 196-209, the Armenian summary is available at: [http://www.un.am/up/file/Beijing-Decl\\_PLAT\\_ARM.pdf](http://www.un.am/up/file/Beijing-Decl_PLAT_ARM.pdf).

the fact that over the years, both the council and the labor group have only convened a few sessions.

**3. Despite the fact that the council has the labor group adjacent to itself, neither the council nor the labor group have sufficient human, financial resources and experts, because they don't have staff members or experts that deal in gender related questions.**

**4. The council doesn't have widespread public recognition.** Moreover, the aforementioned doesn't even have an official internet website, and the official website of the government doesn't provide information about the council on the sub-section titled council. The council's rules of procedure state that *"it is the task of the council to work closely together with institutions of the labor group's civil society session, and to provide the safeguarding of provisions of "equal rights and opportunities of men and women" as stated by RA law"*.<sup>6</sup> However, many civil society institutes are not aware of the sessions.

**5. The council does not have much authority:** in particular, because in practice it isn't a centralized coordination unit of gender policies and it doesn't implement the carrying out of inquiries and guidance of legislative acts concerning thematic projects on gender policies before accepting them, doesn't implement the evaluation of the impact of already existing gender policies, their implementation and/or comprehensive oversight over their implementation, including ensuring that gender issues are addressed in all state agencies.

**6. The council doesn't coordinate the work of other agencies dealing in gender related questions.** That is, the work of an Ombudsman who is an advisor that helps with women's rights questions, people who are responsible for the following law "the prevention of domestic violence, the protection of people who have suffered domestic violence, and the restoration of solidarity in the family"<sup>7</sup>, the standing committees in the regional administrations of the RA and Yerevan that deal with gender issues, staff members of the heads of administrative districts in Yerevan that deal with gender issues and the work of other interested parties.

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<sup>6</sup> Prime Ministers No. 178-A decision on "approving the individual structure and the work schedule of the committee that deals in ensuring free rights and opportunities for men and women", adopted on 09.03.2015, point 5, available at: <https://www.arlis.am/DocumentView.aspx?DocID=112013>.

<sup>7</sup> The law on "the prevention of domestic violence, the protection of people who have suffered domestic violence, and the restoration of solidarity in the family", RA law No. 320-N, adopted on 13.12.2017, available at: <https://www.arlis.am/DocumentView.aspx?DocID=118672>.

## 7. Accountability mechanisms of the council are not accounted for.

The following measure of the action plan is devoted to the council: “about the changes and additions of the RA prime minister’s on November the 19<sup>th</sup> 2014 No 1152-A made decisions” development of the RA prime minister’s draft decision, and as an expected result “the reinforcement of the national mechanism for women’s advancement.”<sup>8</sup> It should be noted that such wording is vague and doesn’t contain any concrete steps to completing the international obligations, which will increase the council’s effectiveness.

### SUGGESTIONS

- i. To consider reviewing the council’s expediency question as a national mechanism aimed at improving women’s situation by either creating a completely new mechanism or by transforming the council into an effective mechanism. In any case **it is necessary to create a national mechanism aimed at improving the situation of women, which will be a permanent structure, for example a secretariat in government staff dealing with women’s questions.**
- ii. To establish a competitive and public order of the involvement of members of the civil society and academic and research sectors in the national mechanism, especially giving importance to the experience of the aforementioned in the field of women’s rights and to the ensuring that provinces get representation.
- iii. To define the following as powers of the national mechanism: gender policies, thematic projects and guidance and inquires concerned with legislative acts, before their passing and the evaluation of the impact of already existing gender policies, their implementation and/or comprehensive oversight over their implementation, including ensuring that gender issues are addressed in all state agencies.
- iv. **Improvement of the system of gender inquires of all legislative acts before their implementation by introducing an expert’s accreditation system.**
- v. To establish a procedure of the national mechanism’s organization of work so that the former wrong practice of the council and labor group of not holding sessions is excluded.

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<sup>8</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 1, measure No. 4, available at: <https://www.e-draft.am/projects/1712/about>.

- vi. To provide staff members, including experts specializing in women's rights, in order to ensure the effective and professional work of the national mechanism.
- vii. To provide thematic trainings for staff members of the national mechanism, in order to enhance their capabilities.
- viii. For effective and professional work, to define the budgetary means of the national mechanism according to the "RA state budget" law.
- ix. To conduct an awareness campaign, in order for the national mechanism to gain public recognition.
- x. To establish an official website for national mechanisms, where one will find all the following on equal rights and opportunities for men and women: national and international legislative acts, recommendations of international organizations, and national as well as shadow and other reports aimed at their implementation and other sectoral documents, along with their Armenian translation.
- xi. To insure the work coordination by the national mechanism of the Ombudsman who is an advisor that helps with women's rights questions, people who are responsible for the following law "the prevention of domestic violence, the protection of people who have suffered domestic violence, and the restoration of solidarity in the family", the standing committees in the regional administrations of the RA and Yerevan that deal with gender issues, staff members of the heads of administrative districts in Yerevan that deal with gender issues and of other interested parties.
- xii. To ensure the accountability of the national mechanism, and among other things envisaging the providing of reports to legislative bodies about its steps taken to implementing gender guidance.

## 2. THERE IS NO SUPPLEMENTARY STABLE EDUCATIONAL INSTITUTION FOR LAWYERS DEALING IN WOMEN'S RIGHTS

There is no supplementary stable educational institution in the RA for lawyers dealing in women's rights, where things like ECtHR precedents, which concern women's property, family, reproduction, labor and other rights, will be taught.



## SUGGESTION

- xiii. The creation of a supplementary stable educational institution for lawyers dealing in women's rights, for example a women's right's school.

### 3. PEOPLE WHO HAVE SUFFERED GENDER DISCRIMINATION DON'T HAVE THE OPTION FOR FREE LEGAL AID

Gender discrimination is not included in the list of free services provided by public defenders. As a result, people who have suffered gender discrimination can't receive free financial aid. With the first circulation version of the **draft action plan**, a measure titled "The contribution to the system that provides free legal aid for women who have experienced gender based violence"<sup>9</sup> was planned, which however wasn't satisfactory, as it only encompassed cases of violence, whereas gender discrimination can be encountered in different environments, such as work, health sectors and etc. However, it should be noted that even with that text the measure was left out of the draft in circulation.<sup>10</sup>

## SUGGESTION

- xiv. To provide free legal aid services from the RA public defender's office for people who have been subject to gender discrimination, by making the necessary legislative amendments.

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<sup>9</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy», appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 28.11.2018-13.12.2018, priority No. 1, Measure No. 6, available at: <https://www.e-draft.am/projects/1397/about>.

<sup>10</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy», appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019 available at: <https://www.e-draft.am/projects/1712/about>.

## II. THE PROTECTION OF WOMEN'S LABOR AND ECONOMIC RIGHTS

### 1. WOMEN HAVE NO WORKING MECHANISMS FOR THE PROTECTION OF THEIR VIOLATED LABOR RIGHTS

Before changes were made, it was the state labor inspectorate that dealt with violated labor rights. However in 2013, through the merger of the state hygienic and anti-epidemic inspectorate of the ministry of health and the state labor inspectorate of the ministry of labor and social affairs, they were reorganized into the state health inspectorate of the staff members of the ministry of health, which was later called the health inspectorate of the Ministry of Health, which was later reorganized into a labor inspectorate body under the jurisdiction of the RA government, and was regulated by the law on “inspectorate bodies”<sup>11</sup>: The powers of the aforementioned are very restricted and do not include the fight against work discrimination.

#### SUGGESTION

- xv. **To forsee the adoption of a legislative package, that would expand the scope of the powers and functions of the labor inspectorate,** by including the investigation of gender based employment admission, other work based discriminations and sexual harassment, and also taking action to protect the violated rights of workers.

### 2. SEXUAL HARASSMENT AT WORK PLACES IS NOT PROHIBITED

Sexual harassment cases in Armenia are usually not voiced, which doesn't mean that such cases don't exist, which is partly influenced by the absence of protection mechanisms, because people who have experienced such cases are afraid to lose their job, and partly because of public opinion and labelling, as the public tends to attribute the responsibility of the incident primarily to the victim, the woman. However there are surveys<sup>12</sup> and media reports<sup>13</sup> collected on such cases. According to a survey conducted in

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<sup>11</sup> RA law on “Inspectorate bodies”, RA law No. 254-N, adopted on 17.12.2014, available at: [«https://www.arlis.am/DocumentView.aspx?DocID=121903](https://www.arlis.am/DocumentView.aspx?DocID=121903).

<sup>12</sup> “Sexual Harassment at the workplace as a barrier to women's professional advancement; study of the current situation in Armenia”, appendix 1, YSU center of gender research and leadership, Nvard Melkonyan, Yuliana Melkumyan, Yerevan, 2015, pages 52-56, available at: <http://www.y-su.am/files/Nvard%20Melkonyan%20and%20Yuliana%20Melkumyan-arm.pdf>.

<sup>13</sup>Ibid, pages 20-21.

Russia, 100% of working women have been subject to sexual harassment by their bosses, 32% stated that they have been in a sexual relationship with the aforementioned at least once, and 7% state to have been raped.<sup>14</sup>

Legislative regulations on the prohibition of sexual harassment at work places in the RA do not correspond to the **standards set by international obligations**

Thus, **in its concluding remarks, the committee** expressed concern over the absence of legislation regarding sexual harassment, and the RA has been instructed to adopt a law on the prohibition of sexual harassment, and to include information of sexual encroachment, criminal prosecution, responsibility measures implemented and verdicts against perpetrators<sup>15</sup>.

The committee's 12<sup>th</sup> general assignment is the first document, which enforces the necessity to develop legal measures that protect women every day against violence, including the protection against sexual harassment at workplaces.<sup>16</sup>

The committee's 19<sup>th</sup> general assignment—the term “sexual harassment at work places follows as stated *“unwanted sexual behavior, such as physical contact and propositions, sexual intents, the depiction of pornography, the presentation of sexual request by use of words or actions. Such behavior can be humiliating and cause problems regarding health and safety. It causes discrimination when the woman has ample reason to believe that a rejection would cause unfavorable conditions for her at the workplace including recruitment and promotion, and create a hostile work environment.”*<sup>17</sup>

In 2019 the NUP adopted the convention aimed at **“the elimination of violence and harassment at work places”**, which encompasses the public and private sector, projects its activities on not only workers, but also interns, workers whose work contract has been

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<sup>14</sup> Blomfield, Adrian (29 Jul 2008). “Sexual harassment okay as it ensures humans breed, Russian judge rules.” The Daily Telegraph. Retrieved on 09 09 2015.

<sup>15</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 25 (e), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>16</sup> General Recommendation No. 12, titled “violence against women”, UN committee on the elimination of all forms of violence against women, adopted in 1989 during the 8<sup>th</sup> session, available at: <https://www.ohchr.org/en/hrbodies/cedaw/pages/recommendations.aspx>.

<sup>17</sup> General Recommendation No. 19, titled “violence against women”, UN committee on the elimination of violence against women, adopted in 1992 during the 11<sup>th</sup> session, point 18 of article 11, available at: <https://www.ohchr.org/en/hrbodies/cedaw/pages/recommendations.aspx>.

terminated, and people searching for work, as well as placing the task of monitoring on the government.<sup>18</sup>

The CoE convention on “preventing and combating violence against women and domestic violence” also prohibits sexual harassment, defining it as “*any verbal, non verbal or physical sexual behavior conducted, intended at causing or leading to the harming of one’s dignity, in particular by creating an intimidating, hostile, humiliating, derogatory or abusive atmosphere.*”<sup>19</sup> It is important to note that “sexual harassment usually means a continuous action, whose elements taken individually, don’t have to be punishable. In addition, sexual harassment which usually occurs at work places can also occur elsewhere. That means that finding oneself in work environment is not a compulsory element of sexual harassment, therefore it is necessary to address its manifestations in any environment.”<sup>20</sup>

The EU directive on “The imposition of the principle of equal opportunities and equal treatment of men and women in work related environments” states that “*countries need to encourage employers and people responsible for the accessibility of retraining courses to undertake measures to prevent all forms of gender discrimination, especially to prevent encroachment and sexual encroachment at work places, as well as to prevent discrimination concerning occupational retraining and advancement.*”<sup>21</sup>

Out of 189 countries, 59 don’t have legislation on preventing sexual harassment at work places.<sup>22</sup> The prohibition of sexual harassment at work places differs, depending on country, from criminal, work and civil legislation. There are many examples of the best practices.

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<sup>18</sup> “Convention on the elimination of violence and harassment at workplaces”, No. C190, ILO, adopted on 21.06.2019, 108<sup>th</sup> session, Geneva, available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C190](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190).

<sup>19</sup> The Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series No. 210, adopted on 11.05.2011թ.-ին, Istanbul, article 40, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>20</sup> RA Criminal Code analysis of the criteria set by the CoE Convention on “preventing and combating violence against women and domestic violence”, CoE, October 2017, pages 33-34, available in Armenian at: <https://rm.coe.int/gap-analysis-armenian-law-arm/168075bae2>.

<sup>21</sup> The directive on “The imposition of the principle of equal opportunities and equal treatment of men and women in work related environments”, European Parliament and CoE, adopted on July 5<sup>th</sup> 2006, 2006/54/EC directive, article 26, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32006L0054>, Ibid. EU 202/73/EC directive.

<sup>22</sup> “Women, Business and the Law 2018,” World Bank, March 29, 2018, [HTTPS://WBL.WORLDBANK.ORG/EN/REPORTS#..](https://wbl.worldbank.org/en/reports#..)

**France** now defines sexual harassment in criminal law as *“the imposition on a person, of repeated remarks or behavior of a sexual nature” or “which impair one’s dignity, because of their degrading or humiliating character” or which “create an intimidating, hostile or offensive situation”*<sup>23</sup>

According to **US** legislation, sexual harassment is prohibited, and the persecutor, from the point of view of a work environment, can be the victim’s boss, boss in another sector, colleague or another person who is not an employer, such as a customer.<sup>24</sup>

According to **Greek** legislation, sexual harassment in a work environment is considered gender discrimination, whereas victims of sexual harassment have a right to compensation.<sup>25</sup>

The **“Human Rights Watch”** organization has developed standards at work places for the battle against sexual harassment.<sup>26</sup>

**The RA criminal code** doesn’t contain any provisions on sexual harassment, but article 140 of the criminal code *states “1. The forcing of a person into sexual intercourse or an act of sexual nature, including homosexual activities by blackmail, the threat of the destruction, damaging or taking possession of property or by using the victim’s materialistic or other form of dependency (...) is punishable by imprisonment, with a term of one to three years.”*<sup>27</sup>Said regulation intends punishment only for sexual intercourse or other activities of sexual nature, but the law holds no legal validity for such cases, such as indecent propositions at the work place. In addition, this article can be narrowly interpreted, for example, only direct supervisors can be liable in case of sexual intercourse or other sexual activities, however, employees who aren’t direct supervisors or with whom the victim is in a horizontal relationship, aren’t liable for punishment.

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<sup>23</sup> French Criminal Code, articles 222-233, available at: [www.legifrance.gouv.fr/](http://www.legifrance.gouv.fr/).

<sup>24</sup> Civil Rights Act of 1964, Title VII, Pub. L. 88-352, available at: <https://www.eeoc.gov/laws/statutes/titlevii.cfm> Code of Federal Regulations, volume 4, Title 29 – Labor, Date: 2016-07-01 part 1604 guidelines on discrimination because of sex, section 1604.11 Sexual harassment, available at: <https://www.govinfo.gov/content/pkg/CFR-2016-title29-vol4/xml/CFR-2016-title29-vol4-part1604.xml>, see also: [http://www.eeoc.gov/laws/types/sexual\\_harassment.cfm](http://www.eeoc.gov/laws/types/sexual_harassment.cfm).

<sup>25</sup> Law 3488/2006: Framework on Equal Treatment of Men and Women (O.G.A.'191).

<sup>26</sup> “Ending Violence and Harassment at Work The Case for Global Standards”, «Human Rights Watch», May 2018, available at: [https://www.hrw.org/sites/default/files/news\\_attachments/2018\\_hrw\\_ilo\\_brochure.pdf](https://www.hrw.org/sites/default/files/news_attachments/2018_hrw_ilo_brochure.pdf).

<sup>27</sup> RA Criminal Code, RA law No. 528-N, adopted on 18.04.2003, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

The RA law on “the protection of equal rights and opportunities between men and women” describes gender discrimination , also referring to sexual harassment, with the term “sexual encroachment”. However, those articles have a declarative nature, as no punishment is intended. Although the law intends for the protection of the restoration of the rights and freedoms for state and local self-governing bodies and officials, its implementation mechanisms and and processes haven’t yet been implemented. In addition, the law doesn’t provide for the possibility of compensation for the victims.<sup>28</sup>

The RA labor legislation provides for only one regulation on violence-“*The main principles of the labor legislation is the prohibition of any form of forced labor and any form of violence.*”<sup>29</sup> Although a draft law was circulated to supplement and define the definition of violence, that is “*an act or threat against their physical, and or mental and or sexual immunity*”, however, first of all violence committed against sexual immunity was stated as a principle of declarative nature, by not providing punishment in case of violation, and, in addition to that, said draft was never implemented.<sup>30</sup>

In the Draft Action Plan’s first circulated version, the “preparation and distribution of informative materials on the fight against gender based violence” was intended. As an expected outcome, the “prevention of gender based violence (including violence at work places) and the prevention of the shaping of an intolerative environment” was outlined.<sup>31</sup> Even though the given solution was not enough to combat workplace violence, including sexual harassment, and the fact that in the current version of the Draft Action Plan said problem was not addressed<sup>32</sup>, is regarded by us as one step backwards.

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<sup>28</sup> The RA law on “ensuring equal rights and opportunities for men and women”, RA law No. 57-N, adopted on 20.05.2013, article 3, part 1, point 21 and article 6, part 2, point 4, available at: <https://www.arlis.am/DocumentView.aspx?DocID=83841>.

<sup>29</sup> RA Criminal Code, RA law No. 124-N, adopted on 09.11.2004, article 3, part 1, available at: <https://www.arlis.am/DocumentView.aspx?DocID=126314>.

<sup>30</sup> RA draft law on “making amendments and addenda to the RA Labor Code”, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 24.10.2017-09.11.2017, available at: <https://www.e-draft.am/projects/494/about>.

<sup>31</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 28.11.2018-13.12.2018, Priority No. 6, Measure No. 5, available at: <https://www.e-draft.am/projects/1397/about>.

<sup>32</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, available at: <https://www.e-draft.am/projects/1712/about>.

## SUGGESTIONS

- xvi. To define laws by RA legislation, which will exclude sexual harassment at workplaces,
- xvii. To envision proportionate punishments for sexual harassment,
- xviii. To establish signaling mechanisms for similar incidents to sexual harassment that victims have experienced,
- xix. To define legal laws for proof of sexual harassment, also taking into account peculiarities
- xx. To provide for the compensation of sexual harassment victims.

### 3. NO SURVEYS ARE CONDUCTED ON THE VIOLATION OF WOMEN'S RIGHTS

Neither the RA Health and Labor inspectorate, nor the functions of any other body encompass the conducting and analysis of surveys on gender based violated labor rights.

**The Draft Action Plan** provides the following measure: “collection and summarization of statistical information on the social, economic, state and political gender status of the RA, according to the annual statistical work plan” ,and after the analysis of its “output indicators” , it becomes evident that it mainly concerns the participation of men and women in the state system.<sup>33</sup> However, no measure of the draft action plan addresses the violation of women’s labor rights.

## SUGGESTION

- xxi. To include among the functions of the RA Health and Labor inspectorate, the conducting of surveys on protected and restored worker’s rights, including gender-based as well as reviewing judicial practice in cooperation with competent bodies.

### 4. THERE ARE NO FUNCTIONING MECHANISMS AIMED AT COMBINING FAMILY AND WORK

One of the strategic goals of the “Women and Economy” section of the **Beijing action plan** is the “supporting of the balanced distribution of family and work responsibilities of men and women.”<sup>34</sup>

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<sup>33</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 5, Measure No. 11, available at: <https://www.e-draft.am/projects/1712/about>.

<sup>34</sup> Beijing action plan”, General Assembly No. S-23/2, appendix, and resolution No. S-23/3, appendix, adopted on September the 15<sup>th</sup> 1995 in Beijing. This document is available in English at:

The draft action plan envisages the “*the implementation of state analysis on the expanding of women’s opportunities on combining work and family*” (from output indicators “*the implementation of legislative changes, the existence of legislative acts and the proposal package on the increasing of the participation of women in the workforce, and the expanding of women’s opportunities of combining family and work*”) and “*the implementation of a program that assists in the combining of care and work of people on a care vacation of under 3 year olds*” (the expected result being the “*the creation of favorable conditions for the combining of work and family responsibilities and the expanding of opportunities for combining work and child care*”) plans<sup>35</sup>, which are very generalized, and don’t give the opportunity to understand which specific problems the state plans on solving. In this regard, the following problems have been highlighted:

1. **There are no additional guarantees for men on parental leave.** The RA labor code states “*on the demand of the spouse of a woman on maternity/parental leave, or on leave for caring of an under one-year-old child is provided with unpaid leave.*”<sup>36</sup> However, the **concluding remarks** of the **committee** have given the RA a recommendation to provide additional guarantees for men on parental leave.<sup>37</sup> The study of international practice reveals that parental leave is paid in a number of countries, which enables women to perform the work duties without hindrances. The **German** law provides preferential terms, according to which men are provided with an additional salary for taking over the role of caring for the child. In the **UK**, after the birth of a child, the father is provided with an up to two weeks leave, during which he is paid 148 pounds, or 90% of the average week pay. In **Finland**, after the

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<http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>, the Armenian summary is available at: [http://www.un.am/up/file/Beijing-Decl\\_PLAT\\_ARM.pdf](http://www.un.am/up/file/Beijing-Decl_PLAT_ARM.pdf), page 20.

<sup>35</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 2, Measures No. 6 and No. 9, available at: <https://www.e-draft.am/projects/1712/about>.

<sup>36</sup> RA Labor Code, RA law No. 124-N, adopted on 09.11.2004, article 176, part 1, point 1, available at: <https://www.arlis.am/DocumentView.aspx?DocID=126314>.

<sup>37</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 25 (c), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>. With this recommendation the RA was also suggested to ensure a sufficient number of proper kindergartens, to adopt a program on the transition from the informal economy to the formal economy by setting clear deadlines, to make women’s access to the formal economy accessible, which stems from the 2015 ILO No. 204 Recommendation.



birth of a child, the father is provided with an up to 18 days paid leave. In **Moldova**, after the birth a child, the father is provided with a 14 days leave for helping the mother in child care. In **Ecuador**, after the birth of a child, the father is provided with an up to 10 days paid leave, which can be extended by 5 days, for the birth of more than one child, and 8 days in case of premature and difficult births.

**2. Many employers in the RA formulate civil-legal relations of people with actual work schedules, as a result of which women don't benefit from the social guarantees provided by the paternity law.** The main problem lies in the fact that there are no mechanisms to determine whether a woman works only on contractual days, or on a full-time basis.

In this regard, it must be noted that the **ombudsman office** has also voiced concerns about this defective practice. *“Some NGO’s have registered cases concerning the restrictions on the implementation of benefits provided by paternity law. In particular, there have been cases registered, where instead of an employment contract a service agreement was signed with a woman, as a result of which they have been deprived of the right of protection of their work place, as well as the right to receive the corresponding benefits.”*<sup>38</sup>

In addition, the **Beijing action plan** gave the following directive to governments: *“To adopt policies aimed at securing the labor legislation and social benefits for part time, temporary, seasonal and home-based workers.”*<sup>39</sup>

**The committee’s concluding remark’s** directive is as follows *“To ensure women working in the informal(unregistered) sector get access to social security and maternal and child care protection.”*<sup>40</sup>

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<sup>38</sup> An alternative report of the concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, RA Human Rights Defender Office, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ARM/CO/5-6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ARM/CO/5-6&Lang=En).

<sup>39</sup> Beijing action plan”, General Assembly No. S-23/2, appendix, and resolution No. S-23/3, appendix, adopted on September the 15<sup>th</sup> 1995 in Beijing, paragraph 179. This document is available in English at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>, the Armenian summary is available at: [http://www.un.am/up/file/Beijing-Decl\\_PLAT\\_ARM.pdf](http://www.un.am/up/file/Beijing-Decl_PLAT_ARM.pdf).

<sup>40</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 25, available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

After the analysis of the aforementioned international directives, it becomes evident that they pursue the goal of providing all social guarantees for women in case of childbirth. Moreover, the obligation to provide social guarantees is intended not only for women working under a contract of employment, but also includes all working women, including unregistered workers. Therefore, the provision of the aforementioned social guarantees is the bare minimum that must be fulfilled at this stage.

**3. There are no additional guarantees for pregnant women to maintain their work relationship.** And so, the RA labor code states that *“The termination of the employment contract of pregnant women on behalf of the employer from the day a certificate proving pregnancy is provided until one month after the end of the pregnancy leave is prohibited”* and *“the employment contract is terminated upon the expiry of the contract.”*<sup>41</sup> This prohibition applies only to contracts concluded for an indefinite period, because this concerns the termination of the employment contract on behalf of the employer, and not because the date has expired. However, in international practices, additional labor guarantees are provided, in particular, it is prohibited for the employer to not extend an expired contract which was concluded with a pregnant woman, for the sole reason because the woman is pregnant. According to the following EU recommendation on “the introduction of measures aimed at improving the safety and health of pregnant workers, workers who have recently given birth and breast-feeding workers”<sup>42</sup>: *“countries must adopt the necessary measures to prohibit the firing of workers during the start of their pregnancy until after the end of pregnancy leave.”* The ECJ (European Court of Justice) has stated the following with the case *“Jimenez Melgar v. Ayuntamiento de Los Barrios”*<sup>43</sup> *“if the refusal to extend the contract of an expired contract has to do with the worker’s pregnancy, than it is considered gender discrimination.”* Although the recommendations of the CoE and the rulings of the ECJ don’t hold binding legal force in the RA, they are seen as progressive attempts.

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<sup>41</sup> RA Criminal Code, RA law No. 124-N, adopted on 09.11.2004, article 114, part 2, point 1 and article 109, part 1, point 2, available at: <https://www.arlis.am/DocumentView.aspx?DocID=126314>.

<sup>42</sup> The directive 92/85/EEC on “the introduction of measures aimed at improving the safety and health of pregnant workers, workers who have recently given birth and breast-feeding workers”, EU, EP and CoE, adopted on October 19 1992, article 10, available at: [http://www.translation-centre.am/pdf/Translat/EU\\_Direct/Social/DIR\\_92\\_85\\_am.pdf](http://www.translation-centre.am/pdf/Translat/EU_Direct/Social/DIR_92_85_am.pdf).

<sup>43</sup> *Jimenez Melgar v Ayuntamiento de Los Barrios*, European Court of Justice, 4 October 2001, Case C-438/99, available at: <http://curia.europa.eu/juris/showPdf.jsf?docid=102196&doclang=en>.

4. **In Practice there are no conveniences for working, nursing mothers.** In the RA law on “the encouraging of breastfeeding and the circulation of baby food” the following is stated “breastfeeding women have the right to appropriate conditions for breastfeeding at workplaces, penitentiaries, health care organizations and other public places”<sup>44</sup> In practice, this law was not fulfilled, because the conditions for fulfillment were absent. Although the draft action plan’s measure on “providing nursing rooms for nursing mothers in higher educational and state institutions”<sup>45</sup> is commendable, there are no measurable performance indicators on how many higher educational and state institutions plan on establishing such nursing rooms.

#### SUGGESTION

- xxii. **To implement changes in the RA labor code and provide the paid leave of husbands in case of childbirth,**
- xxiii. **To ensure the sufficient number of preschool institutions,**
- xxiv. **To adopt a plan with a specific deadline on transitioning from the informal economy to the formal economy, in order to make it accessible for women to take part in the formal economy,**
- xxv. **To provide additional labor guarantees, by prohibiting employers from not extending the employment contract of an expired contract, the only reason of which being that the woman in pregnant,**
- xxvi. **To provide additional social contracts for pregnant woman, that is by providing women with a legal work schedule, who however work under a civil employment contract, with maternity leave and the benefits of the temporary inability to work, by fulfilling the corresponding legislative changes and developing a mechanism to identify legal work schedules,**

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<sup>44</sup> The RA law on “the encouraging of breastfeeding and the circulation of baby food”, RA law No. 177-N, adopted on 20.11.2014, article 10, part 1, available at: <https://www.arlis.am/DocumentView.aspx?DocID=120786>.

<sup>45</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 4, Measure No. 8, available at: <https://www.e-draft.am/projects/1712/about>.

xxvii. To provide measurable performance indicators, as to how many higher educational and state institutions plan on establishing such nursing rooms, by action plan N8 of the draft action plan's N4 measure.

## 5. THE GENDER PAY GAP CONTINUES TO REMAIN HIGH

According to the “2018 report on the gender gap” Armenia ranks 73rd out of 149 countries in the context of economic participation<sup>46</sup>. Although the RA has ratified the corresponding ILO conventions,<sup>47</sup> however, **in practice the medium wage gender gap continues to remain quite high at 32.5%**<sup>48</sup>. For comparison **in the EU it's 16.2%**<sup>49</sup>, and **in the whole world it's 20%**<sup>50</sup>. In the context of gender gap, **Armenia ranks as one of the worst in Europe and Asia**<sup>51</sup>.

The Independent Expert Committee that deals in the application of ILO conventions and directives has again presented a recommendation to the RA government on carrying out legislative changes because of the incomplete regulation of the principle of “equal work, equal pay.”<sup>52</sup> Concerns over the aforementioned problem have also been raised by the EU.<sup>53</sup>

The committee also raised concerns in its concluding remarks about the permanent nature of the gender pay gap, the permanent nature of horizontal and vertical segregation in

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<sup>46</sup> The Global Gender Gap Report 2018, World Economic Forum, page 9-10, available at: [http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf), between 2007-2017 it has improved by 8.3%.

<sup>47</sup> ILO No. 100 Convention on “equal pay for equal work”, adopted on 29.06.1951, Geneva, available at: <https://www.arlis.am/DocumentView.aspx?DocID=81163>, ILO Convention on “discrimination in the field of employment and occupation”, adopted on 25.06.1958, Geneva, available at: <https://www.arlis.am/DocumentView.aspx?DocID=81179>.

<sup>48</sup> “RA women and men, 2018” statistical booklet, RA statistical committee, page 88, 2017 data is presented, available at: [https://www.armstat.am/file/article/gender\\_2018.pdf](https://www.armstat.am/file/article/gender_2018.pdf).

<sup>49</sup> “The gender pay gap in the European Union,” Eurostat, 2016, the data of 2016 is presented, available at: [https://ec.europa.eu/info/sites/info/files/aid\\_development\\_cooperation\\_fundamental\\_rights/equalpayday-eu-factsheets-2018\\_en.pdf](https://ec.europa.eu/info/sites/info/files/aid_development_cooperation_fundamental_rights/equalpayday-eu-factsheets-2018_en.pdf).

<sup>50</sup> “Global Wage Report 2018/19. What lies behind gender pay gaps,” International Labor Office – Geneva, International Labor Organization, 2018, page 23 (Gender Pay Gap varies from 16 per cent (in the case of mean hourly wages) to 22 per cent (in the case of median monthly wages), depending on which measure is used), the data of 2018 is presented, available at: [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms\\_650553.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_650553.pdf).

<sup>51</sup> Evaluation report of the implementation of the 2011-2015 gender policy strategy plan and the 2011-2015 action plan against gender-based violence, UNDP, UNFPA, UN Children's Fund, 2015, Yerevan, pages 72-73, available at: [https://www.un.am/up/library/Assesment\\_2011-2015\\_Gender%20Policy\\_arm.pdf](https://www.un.am/up/library/Assesment_2011-2015_Gender%20Policy_arm.pdf).

<sup>52</sup> Commentary on the ILO No. 100 Convention on “equal pay for equal work”, CEACR, adopted in 2016, published in 2017 during the 106<sup>th</sup> session of the ILO, available at: [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3300695:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3300695:NO).

<sup>53</sup> Final report on “the 6 ENP evaluation and progress reports of the RA implementation of the GSP+ obligations”, for the time period between December 2015 and December 2017, finished version May 31<sup>st</sup> 2018, ALTAIR, CEU GmbH and Amerigroup, pages 284-285:

the workforce, and the low representation of women in managerial positions. Moreover, the committee called for the implementation of the principle of equal pay for equal work, as well as the implementation of the classification of gender neutral work, evaluation methods and regular surveys on salaries, which were all included in the previous directives.<sup>54</sup>

**None of the priorities listed under the measures taken to prevent gender discrimination address the issue of gender pay gap.**<sup>55</sup>

The main group of reasons for the gender gap are **the vertical segregation against women under employment-the unequal access to the career ladder, and horizontal segregation-based on the profession and sector.**

### A. VERTICAL SEGREGATION

**Vertical segregation** regarding women under employment implies **the low share of women in management positions.** Table 1 depicts workers by their occupational group, after the analysis of which, it becomes evident that **there are 2.4 times as many men in managerial positions as women,** and that there are 2.2 times as many women without qualification as men.<sup>56</sup> According to the 2<sup>nd</sup> Table, which depicts civil servants by their career position, women mostly occupy junior positions, whereas men occupies senior positions. Moreover, only 15% of women occupy senior positions.<sup>57</sup>

#### **Table 1-Workers by occupational groups and gender**

(The ratio of the gender groups in each of the occupational groups is projected in percentage points)

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<sup>54</sup> The concluding remarks of the 4th periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 02.02.2019, CEDAW/C/ARM/CO/4/Rev.1, paragraph 33, available at: <https://www.refworld.org/docid/52dd05054.html>.

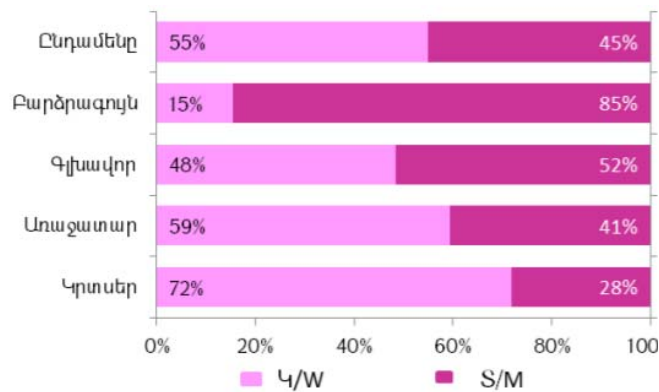
<sup>55</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 5, available at: <https://www.e-draft.am/projects/1712/about>.

<sup>56</sup> RA women and men, 2018” statistical booklet, RA statistical committee, page 103, 2017 data is presented, available at: [https://www.armstat.am/file/article/gender\\_2018.pdf](https://www.armstat.am/file/article/gender_2018.pdf).

<sup>57</sup> RA women and men, 2018” statistical booklet, RA statistical committee, pages 74 and 103, 2017 data is presented, available at: [https://www.armstat.am/file/article/gender\\_2018.pdf](https://www.armstat.am/file/article/gender_2018.pdf).



Table 2-Civil servants by career positions and gender



Only 23% of women hold managerial positions in the business sector.<sup>58</sup> Although the draft action plan raises the issue of women’s political participation<sup>59</sup>, it doesn’t address the issue of women’s occupation of managerial positions in the private sector. In international practices the problem is solved by the introduction of quotas ensuring the participation of women in the boards of trading companies. In 2003, **Norway** became the first country which introduced a gender quota that requires that at least 40% of the board members of state-owned enterprises be women. Other countries, including France, Spain and the Netherlands, have followed its example. And so according to **French** legislation, large private and state employers must introduce quotas, which prohibit no more than a 70% majority of any one

<sup>58</sup> “Women in senior positions; creating an environment for growth, Grant Thornton, 2013, page 7, 2013 data is presented, the indicator has decreased compared with the 2012 27% rate.

<sup>59</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy», appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 1, Measures No. 2 and 6, available at: <https://www.e-draft.am/projects/1712/about>.

gender in any of the occupational positions, including decision-making positions. In 2016, **Germany** made legislative changes, according to which, 30% of the non-executive boards of the 100 largest companies must be women, and the next 3500 companies need to decide themselves, how to divide the quotas in executive and supervisory boards.<sup>60</sup>

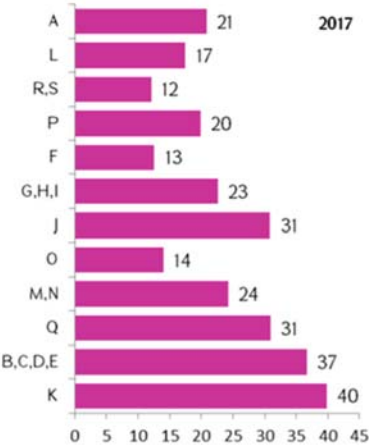
**B. HORIZONTAL SEGREGATION**

**Horizontal segregation** regarding women under employment, **implies the concentration of women in low-paid workplaces and sectors.**

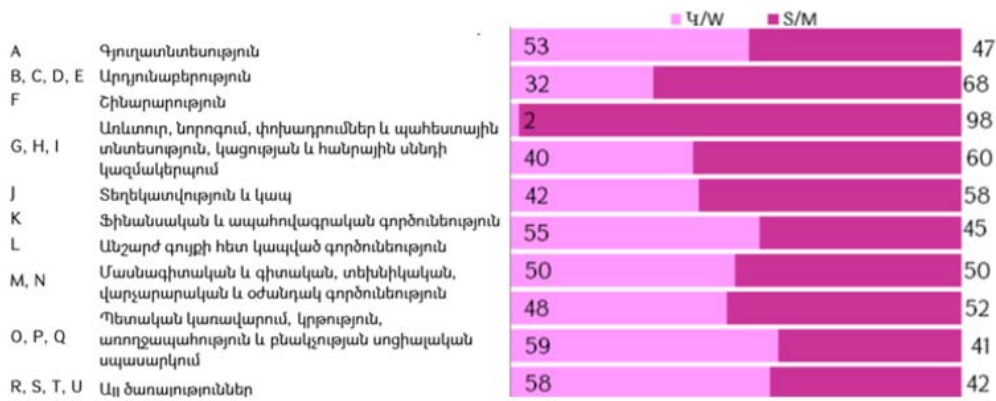
**Table 3-Workers by large economic activity groups**

According to Table 3, which depicts workers by large economic activity groups, **women work mainly in the sectors of public administration, education, health and social services, and less so in the sectors of construction and industry.**

**Table 4-The medium salary gender gap by large economic activity groups**



<sup>60</sup> <http://uk.reuters.com/article/2015/03/06/uk-germany-women-quotas-idUKKBN0M214W20150306>.



According to Table 4, which depicts the medium salary gender gap by large economic activity groups, **the medium salary gap is mainly expressed in the sectors of finance and insurance, industry, healthcare, social services and information and communication, and comparatively lower in the sectors of public administration and construction.**<sup>61</sup>

After the joint analysis of the aforementioned Tables, we can state that, **there is a need for intervention in the sectors of finance and insurance, industry, healthcare, social services, information and communication**, however not all of these sectors have horizontal segregation, which is why a variety of measures need to be applied. Women are especially highly represented in low-paid sectors such as healthcare and social services, and lowly represented in high-paid sectors such as industry. Women and men are roughly equally represented in the sectors of finance and insurance, and information and communication, therefore this has to do with vertical segregation.

The orientation motives for women in the labor market, and the resulting presence of horizontal segregation, can be attributed to the following- stereotypical undervaluing of women's work, as a result of which, women-dominated sectors offer lower wages and lower wage growth rates, the limited choice of career opportunities after higher professional education, the application of discriminatory educational content and pedagogical discriminatory methods in educational institutions from an early childhood, the reproducing

<sup>61</sup> RA women and men, 2018" statistical booklet, RA statistical committee, pages 70 and 89, 2017 data is presented, available at: [https://www.armstat.am/file/article/gender\\_2018.pdf](https://www.armstat.am/file/article/gender_2018.pdf).



of stereotypes among pedagogues, and that pedagogues have different gender-based approaches for the same action.<sup>62</sup>

In addition, in the **committee’s concluding remarks** the RA was urged to remove the following law:<sup>63</sup> “the list of jobs considered difficult and harmful for under 18 year olds, pregnant women, and women caring for under one year olds.”<sup>64</sup>

In international practice other mechanisms are also set to ensure the implementation of the principle of “equal pay for equal work.” For example, in **Iceland** there is a statutory prohibition on unequal pay for equal work, and liability for violation. To this end, public reporting forms have been developed for legal entities in the private sector, which include information on male and female workers, their occupied positions and their salaries. For example, in **Switzerland**, according to regulations on public procurement, only companies that provide equal pay for equal work can participate in public procurement.<sup>65</sup>

### SUGGESTIONS

- xxviii.** To implement legislative changes and **enforce the statutory prohibition on unequal pay for equal work, and state liabilities for its violation,**
- xxix.** To implement legislative changes and **set quotas of 30% on women’s participation in the private sector,** specifically in operating trading companies, and in managerial positions of state and local participation companies,
- xxx.** To implement legislative changes and **set 30% quotas for women’s participation in managerial positions of public services,**

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<sup>62</sup> Evaluation report of the implementation of the 2011-2015 gender policy strategy plan and the 2011-2015 action plan against gender-based violence, UNDP, UNFPA, UN Children’s Fund, 2015, Yerevan, pages 48-50, available at: [https://www.un.am/up/library/Assesment\\_2011-2015\\_Gender%20Policy\\_arm.pdf](https://www.un.am/up/library/Assesment_2011-2015_Gender%20Policy_arm.pdf).

<sup>63</sup> The RA Government’s 29<sup>th</sup> of December 2005 No. 2308-N decision: “the list of jobs considered difficult and harmful for under 18 year olds, pregnant women, and women caring for under one year olds”, appendix, available at: <https://www.arlis.am/DocumentView.aspx?DocID=21817>,

<sup>64</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraphs 24 and 25, available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>65</sup> Evaluation report of the implementation of the 2011-2015 gender policy strategy plan and the 2011-2015 action plan against gender-based violence, UNDP, UNFPA, UN Children’s Fund, 2015, Yerevan, page 76, available at: [https://www.un.am/up/library/Assesment\\_2011-2015\\_Gender%20Policy\\_arm.pdf](https://www.un.am/up/library/Assesment_2011-2015_Gender%20Policy_arm.pdf).

- xxxi. To conduct gender specific description assessments, aimed at developing gender neutral descriptions and implementing gender neutral evaluation methods,
- xxxii. To review the RA law on “the list of difficult and harmful jobs for under 18 year olds, pregnant women, and women caring for under one year olds,”
- xxxiii. To implement salary increases and the involvement of women in social packages in sectors, where mostly women work, specifically the health and social services sector,
- xxxiv. To develop forms of reporting for legal entities in the private sector, which include information on male and female workers, their occupied positions and their salary, and to regularly conduct surveys on the aforementioned,
- xxxv. To implement a prohibition of state procurement for companies, which don't use the principle of equal pay for equal work, to announce in advance the intention of transition to such a regulation and to provide economic operators with support, in order to ensure a smooth transition.

## 6. THE RIGHT TO WORK IS NOT STIPULATED BY RA LAW

According to the data of the world bank and RA surveys committee-during the 26 years(1991-2016) of its state of being independent the medium unemployment rate was 21.7%. The highest point of the unemployment was in 2001 at 35.9%, and the lowest point was in 2013 at 16.2%. Armenia has had the highest rate of unemployment of the CIS member states for 5 years.<sup>66</sup> In 2017 the period of job hunting for 3 out of 5 (56%) unemployed citizens took more than 1 year(longterm unemployment) and can lead to restrictions in finding a job, and many negative economic, social and psychological consequences. Long-term unemployment is especially high among women, accounting for 57% of female unemployment.<sup>67</sup> The RA constitution stipulates the right to free choice of employment.<sup>68</sup>, however it doesn't stipulate the right to work. The right to work is considered as one of the fundamental rights, and has

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<sup>66</sup> International Labour Organization, ILOSTAT database, available at: <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=AM>, RA Statistical Committee, EEU Statistics Department.

<sup>67</sup> RA women and men, 2018” statistical booklet, RA statistical committee, page 90, 2017 data is presented, available at: [https://www.armstat.am/file/article/gender\\_2018.pdf](https://www.armstat.am/file/article/gender_2018.pdf).

<sup>68</sup> RA Constitution, adopted on July 5<sup>th</sup> 1995, amended in 2015, article 32, <https://www.arlis.am/DocumentView.aspx?DocID=75780>.

been passed as law in a bunch of international documents.<sup>69</sup> The passing of the law into RA legislation, would bring the positive responsibility, of providing its citizens, to the extent of its abilities, with work.

#### SUGGESTION

**xxxvi. To establish the right to work at the legislative level**

##### **7. WOMEN ARE ALMOST COMPLETELY UNINVOLVED IN THE ACTIVITIES OF TRADE UNIONS**

There are no statistics on the gender representation of trade unions, however it is no secret that they are predominantly represented by men. If women were more involved in the activities, then women's rights would be more strongly protected, because women would be more sensitive in such questions, such as the manifestations of gender discrimination.

#### SUGGESTION

**xxxvii. To state quotas on women's involvement in trade unions, including in the RA trade union confederation and in the branch republican trade unions.**

**xxxviii.**

### **III. WOMEN'S RIGHTS PROTECTION ISSUES IN THE FAMILY**

#### **1. PROPER SURVEYS ON CASES OF DOMESTIC VIOLENCE ARE NOT CONDUCTED**

Overcoming violence against women is one of the goals of the UN's **sustainable development goals** for gender equality.<sup>70</sup> **The Beijing action plan** also provides for comprehensive measures on the prevention and elimination of violence against women, as

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<sup>69</sup> See, for example the "revised European Social Charter", CoE, adopted on 03.05.1996, Strasbourg, article 1, available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=24230>, "Universal Declaration of Human Rights", UN, adopted on 10.12.1948, article 23, available in Armenian at: <https://www.arlis.am/DocumentView.aspx?docID=1896>, "International Covenant on Economic, Social and Cultural Rights", UN, adopted on 16.12.1966, New York, article 6, available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=18501>, "International Convention on the Elimination of all Forms of Racial Discrimination", UN, adopted on 21.12.1965, article 5, available in Armenian at: <https://www.arlis.am/DocumentView.aspx?DocID=75843>.

<sup>70</sup> "Let's transform the world; Sustainable Development Agenda 2030, UN, adopted in September 2015, available in Armenian at: <http://un.am/hy/p/sdgs-in-general>.

well as an examination of the causes, consequences and the effectiveness of counter-measures of violence against women.<sup>71</sup>

Every third women in subjected to *some sort of violence* by her former or current partner.<sup>72</sup> Moreover, according to the World Health Organization, 35% of the murders of women are committed by former or current partners. However, the same source notes that these statistics are incomplete.<sup>73</sup>

**According to the UNDP 2017 Human Development index, the number of women aged 15 and older in Armenia who have been subjected to physical abuse at least once by their sexual partner, constituted 8.2% between 2005 and 2018.**<sup>74</sup> At the same time it should be noted that a high level of latency is a characteristic of domestic violence, which means that the real picture of domestic violence is even more worrying. **Inspections conducted by the RA NGOs have shown** that the percentage of women who are subject to domestic violence is much higher by women 15 years and older who have been subject to physical abuse by a sexual partner-**22.4%**. For comparison let us note, that **this figure is 19% in the world and 6.1% in Europe and North America.**<sup>75</sup> Moreover, various other surveys show even worse figures-that 60% of women are subject to some form of violence throughout their life.<sup>76</sup>

The **committee** also addressed this issue in its **concluding remarks**, by expressing concern about the fact that female victims of gender based violence don't report the cases and the lack of data thereof, as well as the failing of reporting of murder cases of women and about the forgiving nature of the persecution of perpetrators. The committee has instructed

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<sup>71</sup> Beijing action plan", General Assembly No. S-23/2, appendix, and resolution No. S-23/3, appendix, adopted on September the 15<sup>th</sup> 1995 in Beijing. This document is available in English at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>, an Armenian summary is available at: [http://www.un.am/up/file/Beijing-Decl\\_PLAT\\_ARM.pdf](http://www.un.am/up/file/Beijing-Decl_PLAT_ARM.pdf), pages 19-20.

<sup>72</sup> "Violence against women; key facts", WHO, 2017, available at: <http://www.who.int/news-room/factsheets/detail/violence-against-women>.

<sup>73</sup> "Understanding and addressing violence against women", WHO, 2012, available at: [http://apps.who.int/iris/bitstream/handle/10665/77421/WHO\\_RHR\\_12.38\\_eng.pdf;jsessionid=7E6EFECBD717D4371CE9D0E3EA3B05A6?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/77421/WHO_RHR_12.38_eng.pdf;jsessionid=7E6EFECBD717D4371CE9D0E3EA3B05A6?sequence=1).

<sup>74</sup> Partner who has ever assaulted his/her female partner (women aged 15 and older, percentage of population%): 8.2% according to the UNDP Human Development Index, 2018 [http://hdr.undp.org/sites/default/files/2018\\_human\\_development\\_statistical\\_update.pdf](http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf), <http://hdr.undp.org/en/countries/profiles/ARM>.

<sup>75</sup> Sustainable Development Goals - SDG5 - "Gender Equality and Empowering Women and Girls", Factsheet, pages 46-48, available at: <https://un.am/up/file/SDG5-GenderEquality.pdf>.

<sup>76</sup> "Proactive society" and OSCE, 2011.

the RA to systematically collect data on gender-based violence by gender, age, ethnicity, and the relationship between the perpetrator and the victim, and to include this data in the next periodic report.<sup>77</sup>

As can be seen by the analysis of the Tables 5-7, which depict data on domestic violence cases as presented by the RA law enforcement bodies, not only does the RA not conduct surveys on domestic violence cases, but the data is also presented each year by different criteria. As a result, there is no official data on cases of violence, the reasons for their occurrence, and especially on the vulnerable problem. In addition, no separate data is collected on how many of the cases that got sent to court ended in indictment and how many in acquittal, because the department of justice is not required by law to collect such data.

**Table 1: RA Police Department data 2013-2018 on cases of domestic violence<sup>78</sup>**

Date	Number of registered cases	Precaution notices	Urgent intervention decisions	Number of rejected cases	Number of filed cases	Number of cases sent to court with the conclusion of indictment
2018	707	435	132		159	29
2017	793			592	168	

<sup>77</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 16 points (b) and (d), paragraph 17 point (f), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>78</sup> 2018 data on the “2018 annual report of the activities of Human Rights Defenders and the status of the protection of human rights and freedoms”, HRD, Yerevan, 2019, pages 546-547, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/0e3f463c0e6c42f12cb497d483739dec.pdf>, 2017 data on the “2017 annual report of the activities of Human Rights Defenders and the status of the protection of human rights and freedoms”, HRD, Yerevan, 2018, pages 305-306, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/b5220dd0b83b420a5ab8bb037a1e02ca.pdf>, 2016 data on the “2016 annual report of the activities of Human Rights Defenders and the status of the protection of human rights and freedoms”, HRD, Yerevan, 2017, page 242, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/28731eccde752a30c70feae24a4a7de7.pdf>, 2015 data on the “2015 annual report of the activities of Human Rights Defenders and the status of the protection of human rights and freedoms”, HRD, Yerevan, 2016, page 72, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/a42b07b145e69f9193cda108ef262d7c.pdf>, 2014 data on the “2014 annual report of the activities of Human Rights Defenders and the status of the protection of human rights and freedoms”, HRD, Yerevan, 2015, page 77, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/206d2af54f5149a560ed7a616830d107.pdf>, 2013 data on the “2013 annual report of the activities of Human Rights Defenders and the status of the protection of human rights and freedoms”, HRD, Yerevan, 2014, page 60, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/afe1e423a8f465a4fba32ccc27ef913a.pdf>.

2016	756		
2015	784	634	
2014	678	496	55
2013	580		

**Table 2: The RA investigative committee data 2016-2018 on cases of domestic violence<sup>79</sup>**

Date	The yearly number of cases examined during the proceedings of the RA investigation committee	Number of cases dismissed not on the basis of acquittal	Number of cases sent to court with the conclusion of indictment
2018	519	206	82
2017	458, 258 of which were filed that year	212	86
2016	359, 311 of which were filed that year	166	89

**Table 3: The RA Prosecutor’s Office data 2018 on domestic violence<sup>80</sup>**

Date	Number of registered cases	Number of cases of filed	Number of cases dismissed not on the basis of acquittal	Number of cases sent to court with the conclusion of indictment
2018	406	406	167	67

According to the RA law on “The prevention of domestic violence, the protection of victims of domestic violation and the restoration of solidarity in the family” *“the ministry of labor and social affairs of the RA, as an authorized body, carries out centralized reporting on*

<sup>79</sup> 2018 data; official website of the RA investigative Committee, available at: [http://investigative.am/news/view/yntaniquum-brnutyun\\_2018.html?fbclid=IwAR0PbtZ9WXOQ7bflhK41XrCUMybWspluoHclhscT7UMuDn\\_YT3br6WT7M\\_X0](http://investigative.am/news/view/yntaniquum-brnutyun_2018.html?fbclid=IwAR0PbtZ9WXOQ7bflhK41XrCUMybWspluoHclhscT7UMuDn_YT3br6WT7M_X0), 2017 data; official website of the RA investigative Committee, available at: [http://www.investigative.am/news/view/texekatvutyun-yntanekan-brnutyun\\_2017.html](http://www.investigative.am/news/view/texekatvutyun-yntanekan-brnutyun_2017.html), 2016 data; official website of the RA investigative Committee, available at: <http://www.investigative.am/news/view/yntanekan-brnutyunner.html>.

<sup>80</sup> Source: “2018 annual report on the activities of the Human Right’s Defender and on the status of the protection of human rights and freedoms”, HRD, Yerevan, 2019, page 547, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/0e3f463c0e6c42f12cb497d483739dec.pdf>.

domestic violence in accordance with the procedure established by the government, as well as the annual publication of these statistics on their official website<sup>81</sup> It should be stressed, however, that in 2018 the relevant decision wasn't adopted by the government, as a result of which there is still no unified statistical data on domestic violence.

As mentioned above, the analyses of the public sector present a different picture on the number of domestic violence cases. Table 8 depicts the country-wide 2016 survey results of violence against women-the three main types of violence, from which it becomes evident that on average every 2<sup>nd</sup> woman is subjected to psychological abuse, every 4<sup>th</sup> woman to physical abuse, and every 5<sup>th</sup> woman to economic violence by their male partner. Interestingly, during interviews, men were less constrained in reporting of their subjecting women to violence, than women were of being subjected to violence by men. Moreover, during anonymous surveys, women were more at ease at reporting the violence cases than during interviews, which testifies to stereotypical thinking in this regard.<sup>82</sup>

The issue of stereotypical thinking is more vividly illustrated in Table 9, where a very high percentage of both men and women justify violence against women, and find it necessary to tolerate domestic violence for the sake of family unity.<sup>83</sup>

**Table 8: Prevalence of violence against women by types**

Type of violence	Percentage of interviewed women who have been subjected to psychological abuse by their male partner.	Percentage of interviewed men who have subjected their female partner to psychological abuse	Percentage of anonymously interviewed women who have been subjected to psychological abuse by their male partner
<i>Psychological abuse</i>	45.9%	53.3%	45.9%
<i>Economical abuse</i>	21.3%	20.8%	19.5%
<i>Physical abuse</i>	12.5%	17.4%	22.4%

<sup>81</sup> The RA law on “The prevention of domestic violence, the protection of victims of domestic violation and the restoration of solidarity in the family”, RA law No. 320-N, adopted on 13.12.2017, article 14, part 1, point 2, available at: <https://www.arlis.am/DocumentView.aspx?DocID=118672>.

<sup>82</sup> See Vladimir Osipov and Gina Sargisovna, men and the main issues of gender equality in Armenia, UNFPA, 2016, pages 27, 97-98 and 137 [https://armenia.unfpa.org/sites/default/files/pub-pdf/MEN-AND-GENDER-EQUALITY\\_ARM\\_July\\_2017\\_finalized\\_0.pdf](https://armenia.unfpa.org/sites/default/files/pub-pdf/MEN-AND-GENDER-EQUALITY_ARM_July_2017_finalized_0.pdf).

<sup>83</sup> Ibid page 137.

**Table 9: The justification or toleration of domestic violence by gender**

Statements	Percentage of interviewed men who agree with the statement	Percentage of interviewed women who agree with the statement
Women must tolerate domestic violence for the sake of family unity	44.6%	27.8%
Spousal violence can be justified	78.6%	62.9%

In addition, according to data released by CSOs, as a result of domestic violence between 2010 and 2017, 42 cases of **women’s deaths** were registered.<sup>84</sup>

#### SUGGESTIONS

- xxxix. To adopt a Government decree on the centralized reporting of domestic violence cases, which include the following data:**
- Number of reports of domestic violence cases during the year, including the number of cases of violence against women by men,
  - Number of decisions that declined the filing of a case,
  - Number of filed cases,
  - Number of cases dismissed during pre-trial proceedings, including the number of dismissed cases not on the basis of acquittal,
  - Number of cases brought before court with the decision of indictment,
  - Number of cases dismissed during proceedings,
  - Number of cases that ended with the decision of acquittal,
  - Number of cases that ended with the decision of indictment.

<sup>84</sup> 12 cases: “silenced voices, uxoricides in Armenia 2016-2017, 2018 report, available at: <http://coalitionagainstviolence.org/wp-content/uploads/2019/04/femicide2018.pdf?x24321>, “coalition against violence against women”, 30 cases of “murders of women: silent epidemic”, report, coalition against violence against women, 2016, available at: [http://coalitionagainstviolence.org/wp-content/uploads/2016/05/Femicide\\_Report\\_ARM.pdf?be05b6](http://coalitionagainstviolence.org/wp-content/uploads/2016/05/Femicide_Report_ARM.pdf?be05b6).



## 2. REGULATIONS ON DOMESTIC VIOLENCE NEED TO BE REVIEWED

- The draft action plan provides for the elaboration of the RA law on “*the development of a national mechanism for the combating against domestic violence*” and the law on “*The prevention of domestic violence, the protection of victims of domestic violence and the restoration of solidarity in the family*” and the “*participation of events aimed at the ratification of the EU convention on “preventing and combating violence against women and domestic violence.*”<sup>85</sup> The committee has also given it’s directive for the ratification of the aforementioned convention.<sup>86</sup> The 2019-2023 action plan of the Government of the RA also envisages the action titled “the improvement of the RA legislation and compliance with the convention on “preventing and combating violence against women and domestic violence””, and the deadline is the 10-20<sup>th</sup> of September.<sup>87</sup> However, on the other hand, there is **no consensus of the public regarding this issue.**<sup>88</sup> The main problem is that there is an issue of awareness in the public regarding the convention, because the latter’s explanatory report<sup>89</sup>, which provides the concepts of the definition, is not available in Armenian.
- The decision to apply a **warning** is subject to an appeal for one month after its notification.<sup>90</sup> Since police decisions are administrative acts, the appeals are resolved through the RA law on “principles of administration and administrative proceedings”,

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<sup>85</sup>RA decision draft on “confirming the strategy and action plan of the 2019-2023 implementation of gender policies in Armenia” appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 5, Measures No. 15, 14 and 13, available at: <https://www.e-draft.am/projects/1712/about>.

<sup>86</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 17 (b), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>87</sup> RA No. 650-L decision on “confirming the strategy and action plan of the 2019-2023 implementation of gender policies in Armenia”, adopted on 16.05.2019, appendix 1, point 11, available at: <https://www.arlis.am/DocumentView.aspx?DocID=131287>.

<sup>88</sup> See, for example, “which celebrities have joined the “No to the Istanbul Convention” through signature”, <https://www.iravunk.com/news/90121>.

<sup>89</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Council of Europe, Treaty Series - No. 210 Istanbul, 11.V.2011. available at: <https://rm.coe.int/16800d383a?fbclid=IwAR2oc-R4CnkBnAyzNv0cTLcQjnTBcn3viGJjanAL96EW149tpMxhsR-PddA>

<sup>90</sup> RA law on “the prevention of domestic violence, the protection of people who have suffered domestic violence, and the restoration of solidarity in the family”, RA law No. 320-N, adopted on 13.12.2017, article 6, part 3, available at: <https://www.arlis.am/DocumentView.aspx?DocID=118672>.

which provides for an inhibitory effect<sup>91</sup>, as a result of which it doesn't serve its purpose during the inhibitory suspension.<sup>92</sup> Although said article provides for the exception of cases when immediate execution is necessary out of public interests, and the legislator understands the immediate risk to the life, health or properties of individuals, these principles are not applied in practice.

- In contrast to the EU convention on the “prevention and combating of violence against women and domestic violence”, which provides for the **unilateral immediate prohibition decision** to enter into force immediately<sup>93</sup>, **the timeframe** for this decision **to enter into force** in Armenia **is indefinite**, because they enter into force after notifying the perpetrator by phone, after sending the registration place to him/her by e-mail or delivery mail and after receiving the confirmation signature from the aforementioned of the delivery<sup>94</sup>. Moreover, the registration address might be a house, where the perpetrator is prohibited to be. As a result, the demanded presence of the perpetrator (to be notified) may endanger the safety of the victim.
- **“The criteria for assessing the immediate threat of repetition or continuation of domestic violence”<sup>95</sup>**, as approved by the order of the police chief, which are the basis for the making of the immediate decision of intervention, **haven't been put to public discussion, and haven't been subject to a state-legal examination.** The reason is, that the RA police chief's current order aimed at regulating the authorizations of the RA police department in the field of the prevention of domestic violence, and the protection of victims of violence is stated as internal legislative acts, and therefore not all the mandatory

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<sup>91</sup> RA law on “the principles of administration and administrative proceedings”, RA law No. 41-N, adopted on 18.02.2004, article 74, part 1, available at: <https://www.arlis.am/DocumentView.aspx?DocID=75264>.

<sup>92</sup> “2018 annual report on the activities of Human Rights Defenders and the status of the protection of human rights and freedoms”, HRD, Yerevan, 2019, page 548, available at: <http://www.ombuds.am/resources/ombudsman/uploads/files/publications/0e3f463c0e6c42f12cb497d483739dec.pdf>.

<sup>93</sup> Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series N0. 210, adopted on 11.05.2011, Istanbul, article 53, part 2, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>94</sup> RA law on “the prevention of domestic violence, the protection of people who have suffered domestic violence, and the restoration of solidarity in the family”, RA law No. 320-N, adopted on 13.12.2017, article 7, part 7, available at: <https://www.arlis.am/DocumentView.aspx?DocID=118672>.

<sup>95</sup> The RA Police Chief's No. 1090-A order's No. 1 appendix: “The criteria for assessing the immediate threat of repetition or continuation of domestic violence”, adopted on July the 17<sup>th</sup> 2019, available at: <http://www.police.am/images/18-L-17.07.2019.pdf>.

requirements as stated by the RA law on “normative legislative acts” apply to the aforementioned.<sup>96</sup>

- It should be noted that **the period of validity** of the immediate decision of intervention **may not exceed 20 days**<sup>97</sup>, however neither the above mentioned law nor the above mentioned order **state criteria in which cases for how many days it should be valid. As a result, police officers usually make arbitrary decisions by stopping communication for 3 or 5 days.**
- **The maximum period a court is allowed to enforce a protective order is 10 days**<sup>98</sup>, however in practice these terms are **violated**<sup>99</sup>.
- The law **doesn't rank CSOs** that support victims of domestic violence among **bodies and special structures** which implement the functions of preventing domestic violence and protecting victims of domestic violence<sup>100</sup>, as a result of which these CSOs **can't represent the rights and legal interests of victims in court.**
- According to the law, **children can only be considered victims of domestic violence, when they have personally suffered domestic violence**<sup>101</sup>. However, witnessing domestic violence against family members can also have negative consequences for children<sup>102</sup>.
- **In practice, police, law enforcement and judicial officials often show tolerance and don't show a gender-sensitive approach in terms of gender-based violence and providing victims with support. The committee has also addressed this issue in its concluding remarks, by expressing concern at the permanent behavior of police officers of the acceptance and justification of gender-based violence against women, as well as at perceptions that this**

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<sup>96</sup> RA law on “normative legislative acts”, RA law No. 180-N, adopted on 21.03.2018, article 3, part 2, <https://www.arlis.am/DocumentView.aspx?docID=123348>.

<sup>97</sup> RA law on “the prevention of domestic violence, the protection of people who have suffered domestic violence, and the restoration of solidarity in the family”, RA law No. 320-N, adopted on 13.12.2017, article 7, part 2, available at: <https://www.arlis.am/DocumentView.aspx?DocID=118672>.

<sup>98</sup> RA Civil Procedure Code, RA law No. 110-N, 09.02.2018, article 243.2, part 3, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132714>

<sup>99</sup> Nona Galstyan “prospects of the reinforcement mechanisms of women’s rights protection in Armenia”, round table discussion, July 12<sup>th</sup> 2019, Yerevan.

<sup>100</sup> RA law on “the prevention of domestic violence, the protection of people who have suffered domestic violence, and the restoration of solidarity in the family”, RA law No. 320-N, adopted on 13.12.2017, article 13, available at: <https://www.arlis.am/DocumentView.aspx?DocID=118672>.

<sup>101</sup> Ibid, article 4, part 1, point 5.

<sup>102</sup> Nvard Poliposyan, “prospects of the reinforcement mechanisms of women’s rights protection in Armenia”, round table discussion, July 12<sup>th</sup> 2019, Yerevan.

type of violence, especially in the domestic sector is a private matter<sup>103</sup>. In this regard, it must be noted that **there are no strict punishment measures** for the failure of the designated officials to properly perform the duties as stated by the mentioned law. In particular, it is only stated that *“the disclosure of the whereabouts of a victim of domestic violence (...), who is now housed in a shelter, by a person who was informed of the whereabouts through/during the performance of his/her work responsibilities, is fined 200000 to 400000 AMD”*<sup>104</sup>.

- **The absence of support centers and shelters for victims of domestic violence in all the provinces of the RA is problematic. The committee** has instructed the RA in its **concluding remarks** to ensure a sufficient number of appropriate shelters and access to counseling, rehabilitation and support centers for victims, for their reintegration into society<sup>105</sup>. The action plan of the RA government for 2019-2023 provides the following measure: “the creation of support centers for victims of domestic violence, the registering of domestic violence cases and the funding of mechanisms for guidance systems and providing support for victims of domestic violence, as well as the strengthening of partnerships between different bodies and structures that deal with the problem”, and the deadline is stated to be the 20<sup>th</sup> to 30<sup>th</sup> of November 2020<sup>106</sup>. **The action draft plan** provides the following measure: *“the prevention of violence against women and the creation of state support mechanisms”*<sup>107</sup> However, the performance indicators don’t state specific measurable criteria, such as how many shelters are going to be created. It should be noted

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<sup>103</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 16, point (c), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>104</sup> RA Code on “administrative offences”, adopted on 06.12.1985, article 47.14, available at: <https://www.arlis.am/documentview.aspx?docid=73129>.

<sup>105</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 17, point (c), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>106</sup> RA No. 650-L decision on “confirming the strategy and action plan of the 2019-2023 implementation of gender policies in Armenia”, adopted on 16.05.2019, appendix 1, point 10, available at: <https://www.arlis.am/DocumentView.aspx?DocID=131287>.

<sup>107</sup> RA decision draft on “confirming the strategy and action plan of the 2019-2023 implementation of gender policies in Armenia” appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 5, Measure No. 12, available at: <https://www.e-draft.am/projects/1712/about>.

that CoEs Commissioner for Human Rights report sets out a number of international standards on shelters and the accessibility of counseling, rehabilitative and support services for victims.<sup>108</sup>

- According to the RA criminal legislation- **a circumstance, in which the unlawful or immoral nature of the victim’s behaviour served as the cause of the crime, mitigates the responsibility and punishment of the perpetrator**<sup>109</sup>. The existence of such a mitigating factor for domestic violence cases does not correspond with international standards. In particular the EU convention on “preventing and combating violence against women and domestic violence”<sup>110</sup> states that *“crimes committed for “the sake of honour” are considered unacceptable justifications”*. This particularly refers to allegations that the victim has violated cultural, religious, social or traditional norms or customs, which are considered justifications for the use of violence.

#### SUGGESTIONS

- xl. To translate the explanatory report of the EU convention on “the preventing and combating of violence against women and domestic violence” into Armenian.
- xli. To take into account the identified issues when developing the “national program for the combating of domestic violence” as well as when making amendments to the above mentioned law.
- xlii. To state that the appeal against issuing a warning for domestic violence cases doesn’t suspend its issuing.
- xliii. To foresee that the immediate prohibition decision enters into force immediately after its adoption.
- xliv. To review the RA police chief’s 2019 July the 17<sup>th</sup> No. 1090-A order which states “the criteria for assessing the immediate threat of repetition or continuation of domestic violence”, and to set criteria for which cases for how many days it should be used.

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<sup>108</sup> Report «following the 2018 September 16-20 CoEs Human Rights Commissioner Dunja Mijatović’s visit to Armenia”, CoE, Strasbourg, January 29<sup>th</sup> 2019, CommDH(2019) 1, pages 16-17, available in Armenian at: <https://rm.coe.int/-2018-16-20-/1680920149>.

<sup>109</sup> RA Criminal Code, RA law No. 528-N, adopted on 18.04.2003, article 62, part 1, point 7, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

<sup>110</sup> Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series No. 210, adopted on 11.05.2011, Istanbul, article 42, available in Armenian at: <https://rm.coe.int/168046246d>.

- xlvi. Taking into account public importance, to foresee the mandatory public consultation of the RA police chief's current order aimed at regulating the powers of the RA police department in the field of the prevention of domestic violence, and the protection of victims of violence.
- xlvi. To undertake measures to maintain the court's maximum of 10 days it takes to make a protective decision.
- xlvii. To enable CSOs which deal in domestic violence issues and supporting victims of domestic violence to represent the rights and legal interests of their beneficiaries in court.
- xlvi. To grant children who have witnessed domestic violence against a family member with the status of an indirect victim.
- xlvi. To review measure No. 5 of priority No. 12 of the action draft plan, and state measurable performance indicators, including the number of support centers and shelters.
  - i. In the field of providing access to counseling, rehabilitative and support services from victims and shelters, to follow the guidelines as set by the report of the CoEs Commissioner of Human Rights after "the 2018 September 16-20 visit to Armenia".
  - ii. To establish strict liability measures for officials who have the responsibility of implementing protective measures as stated by the mentioned law, but implement them improperly.
  - iii. To implement changes to paragraph 7 of the 1<sup>st</sup> part of article 62 of the RA criminal code, and to remove the unlawfulness or immorality of the victim's behaviour from the list of mitigating circumstances.

### 3. FORCED MARRIAGE IS NOT CRIMINALIZED BY RA LEGISLATION

The prohibition of forced marriage is provided by the convention on "preventing and combating violence against women and domestic violence", which criminalizes the following 2 types of behaviour: "forcing a child or adult to marry" and "intentionally motivating an

adult or a child to enter the territory of a third country, for the purpose of forcing marriage (even when the marriage failed)”<sup>111</sup>.

The central element of the crime is **the lack of consent of marriage from the victim as a result of the use of physical and psychological force**. Consent is absent, when family members of other persons use coercion methods, such as various types of pressure, emotional pressure, physical coercion, violence, kidnapping, isolation or the confiscation of official documents. The explanatory report makes it clear that the word “coercion” must be interpreted broadly, by also taking into account relevant circumstances<sup>112</sup>.

In addition to criminalizing the act, appropriate measures should also be undertaken in other marriage regulating legislative acts, particularly in marriage registration, divorce, child custody, property, immigration and other relationships. The convention guarantees the termination of such a marriage, without unnecessary financial or administrative burdens<sup>113</sup>.

Internationally, there are different approaches to criminalizing forced marriages. **Some countries, such as Norway, provide the criminalization of forced marriage under a different offence**, viewing it as a particularly serious crime against the freedom of a person . *“any person, who with the use of force, deprivation of freedom, pressure, or any other unlawful conduct or by threats of such conduct, forces someone to enter into a marriage, shall be guilty of causing a forced marriage”*<sup>114</sup> **Other countries, including Germany criminalize it as a different “coercion” crime**, where criminal law penalizes persons who unlawfully, with the use of force or the threat of harm, force another person to commit or not commit an act or cause psychological suffering.<sup>115</sup>

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<sup>111</sup> Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series No. 210, adopted on 11.05.2011, Istanbul, article 37, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>112</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Council of Europe, Treaty Series - No. 210 Istanbul, 11.05.2011, paragraphs 195-197, available at: <https://rm.coe.int/16800d383a?fbclid=IwAR2oc-R4CnkBnAyzNv0cTLcQjnTBcn3viGjjanAL96EW149tpMxhsR-PddA>.

<sup>113</sup> Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series No. 210, adopted on 11.05.2011, Istanbul, article 32, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>114</sup> Penal Code of Norway, section 222(2), available at <http://app.uio.no/ub/ujur/oversatte-lover/data/lov-19020522-010-eng.pdf>.

<sup>115</sup> German Criminal Code, section 237, available at [www.gesetze-im-internet.de/englisch\\_stgb/englisch\\_stgb.html](http://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html).

The right of marriage between a man and a woman who are of full age, is stated as a constitutional right<sup>116</sup>. Although some serious consequences of forced marriage such as sexual exploitation and getting involved in forced services, putting in a state of slavery or a state similar to slavery and kidnapping can be prosecuted under the framework of the RA Criminal Code's following offence: "Illegal deprivation of liberty",<sup>117</sup> the **RA Criminal Code doesn't provide for the prohibition of forced marriage either as a separate offence or under the framework of another offence.**

#### SUGGESTION

- liii. To criminalize forced marriage either as a separate offence or under another offence.
- liv. To establish a simplified procedure for a victim of forced marriage to terminate such a marriage without unnecessary financial or administrative burdens.

#### 4. SPOUSAL RAPE IS NOT CRIMINALIZED BY RA LEGISLATION

Historically, the laws of many countries have directly or indirectly pardoned spousal rape. While according to the EU convention on "preventing and combating violence against women and domestic violence"<sup>118</sup>, **any crime of sexual nature is criminalized regardless of the relationship between the perpetrator and the victim.** *In the M.S. against Bulgaria case*, the court ruled that according to the ECtHR, the positive obligation of countries must be stated as *"the effective prosecution and criminalization of any activity of sexual nature conducted without the consent of the victim, including cases where the victim didn't showcase physical resistance."*<sup>119</sup>

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<sup>116</sup> RA Constitution, adopted on July the 5<sup>th</sup> 1995, amended in 2015, article 34, <https://www.arlis.am/DocumentView.aspx?DocID=75780>.

<sup>117</sup> RA Criminal Code, RA law No. 528-N, adopted on 18.04.2003, articles 131 and 133, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

<sup>118</sup> Convention on "preventing and combating violence against women and domestic violence", CoE, Treaty Series No. 210, adopted on 11.05.2011, Istanbul, article 43, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>119</sup> *M.C. v. BULGARIA*, ECtH, verdict of December 4<sup>th</sup> 2003, complaint No. 39272/98, paragraph No. 166, available at: [https://www.coe.int/t/dg2/equality/domesticviolencecampaign/resources/M.C.v.BULGARIA\\_en.asp](https://www.coe.int/t/dg2/equality/domesticviolencecampaign/resources/M.C.v.BULGARIA_en.asp)



In this regard, **the committee, in its concluding remarks**, presented the recommendation to criminalize spousal rape according to the committee's 19<sup>th</sup> general recommendation and previous recommendations.<sup>120</sup>

**The criminal code of the RA does not provide for spousal rape or any other form of sexual violence in the context of intimate or family relations.** At the same time, the relationship between the victim and the perpetrator isn't considered a justification or a mitigating circumstance, **therefore domestic sexual violence is prosecuted in accordance with the general laws on sexual violence**<sup>121</sup>.

As a result, although theoretically there are no obstacles for the prosecution of such cases, in practice such cases are few, which is due to the latency of such crimes and stereotypes. In particular, the **CoEs previous Human Rights Commissioner report** on Armenia noted . *“women who complain about or try to get out of a violent situation are often perceived as endangering family unity and stability”*<sup>122</sup>. According to the final **report of CoEs Human Rights Commissioner**, the situation continues to remain the same. *“For many Armenians violence occurring domestically is a family matter and it is often considered shameful and disgraceful to bring it out of the family”*<sup>123</sup>.

#### SUGGESTION

- iv. **To provide for criminal liability for sexual violence committed in a domestic environment, especially for spousal rape.**

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<sup>120</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 17, point (a), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>, previous directive: The concluding remarks of the 4<sup>th</sup> periodic report of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/4/Rev.1, paragraph 23, available at: <https://www.refworld.org/docid/52dd05054.html>.

<sup>121</sup> RA Criminal Code, RA law No. 528-N, adopted on 18.04.2003, chapter 18 titled “crimes against immunity and sexual freedoms”, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

<sup>122</sup> Report “following the 2014 October 5-9 CoEs Human Rights Commissioner Nils Muižnieks visit to Armenia,” 2015, paragraph 124, available at: <https://rm.coe.int/16806db6db>.

Report «following the 2018 September 16-20 CoEs Human Rights Commissioner Dunja Mijatović’s visit to Armenia”, CoE, Strasbourg, January 29<sup>th</sup> 2019, CommDH(2019) 1, pages 14-15, available in Armenian at: <https://rm.coe.int/-2018-16-20-/1680920149>.

## 5. STALKING IS NOT CRIMINALIZED BY RA LEGISLATION

The convention on “preventing and combating violence against women and domestic violence” is the first convention internationally that describes the **definition** of stalking, that is *“repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety”*<sup>124</sup>. The explanatory report includes the following in its definition of stalking . *“repeated harassment in which a person repeatedly imposes on another unwanted communications and/or contacts, or letting someone know that you are following them. This includes physical stalking, visiting the victim’s workplace or sport or educational establishment, also cyber stalking (...), damaging the victim’s property, leaving minor traces on the victim’s property, harassment of the victim’s pet, or creating fake cyber accounts with the victim’s information, or spreading false information”*<sup>125</sup>. The convention provides for the criminalization of this offence by national legislation, and in case of one of its manifestations, physiological violence, countries are free to provide non-criminal sanctions.

The following are **required elements** for the offence of stalking—the **intentional nature** of the perpetrators acts and **the emergence of fear in the victim as a result**. Although there are many manifestations of terrorizing behaviour, in this case the mentioned component refers to the intentional act of causing the victim fear and such a result. The offender must at least have a premeditated goal to reach a result or must at least know or have known that the victim might suffer some adverse effects. Moreover, stalking involves a series of actions including recurrent and significant incidents, that means a single act can’t be deemed as stalking.

The ECtHR states in its precedent decisions that *“the inadequate response to stalking like behaviour from countries is a violation”*. For example in the case **Hajduova v. Slovakia**, the applicant was victim to a prolonged period of threats, and the state failed to carry out the

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<sup>124</sup> Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series No. 210, adopted on 11.05.2011, Istanbul, article 34, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>125</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Council of Europe, Treaty Series - No. 210 Istanbul, 11.05.2011, paragraphs. 182 and 183, available at: <https://rm.coe.int/16800d383a?fbclid=IwAR2oc-R4CnkBnAyzNv0cTLcQjnTBcn3viGjjanAL96EW149tpMxhsR-PddA>.

necessary investigations to ensure the dignity of the individual. The ECtHR finds these actions to be in violation of article 8 of the ECtHR<sup>126</sup>.

**At least 35 member states of the CoE have criminalized stalking.** Legal systems differ in the context of behaviour thought to cause harm. Some countries use more broad terms such as harassment. The rest of the countries list in detail all the possible behaviours of stalking, without making the list exhaustive<sup>127</sup>. The best formulations of international practice are provided by the criminal codes of Germany, Belgium and Denmark.

Thus, **a detailed definition of stalking** can be found in **the German criminal code**<sup>128</sup>, where the types of behaviour considered stalking are described in sufficient detail: “1) *demanding physical intimacy, 2) using telecommunications or other forms of communication or a third party to communicate with someone, 3) the inadequate use of personal identifications in order to order goods or services on behalf of the individual, or urging third parties in order to get in contact with the individual, 4) threats to life, physical immunity, physical health or to the deprivation of the freedoms of the individual or his/her close friends, 5) displaying similar behaviour and seriously affecting the individual’s freedom.*” It should be noted that the last point shifts the emphasis from behaviour to the outcome, thereby significantly expanding the scope of the provision.

In other criminal codes, **the definition of the concept of stalking relates to the intention of the perpetrator.** For example, **Belgium** is the first member state of the EU that provided for liability for the offence of stalking, and gave a broad definition of it, basing it upon the intention of the perpetrator. According to the current wording of the Belgian criminal code<sup>129</sup>, a person “*who has harassed another person when he or she knew or should have known that his or her behaviour deeply disturbs that person’s rest*” is considered guilty of stalking

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<sup>126</sup> *Hajduová v. Slovakia*, ECtHR, verdict of November 30<sup>th</sup> 2010, complaint No. 2660/03, paragraph 45, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805a32b0>.

<sup>127</sup> “Raising awareness of violence against women: article 13 of the Istanbul Convention”, Analytical Study on the implementation of Recommendation Rec (2002) 5, Council of Europe, Hagemann-White 2014, <https://rm.coe.int/168046e1f1>.

<sup>128</sup> German Criminal Code, article 238, available at: [www.gesetzeim-internet.de/englisch\\_stgb/](http://www.gesetzeim-internet.de/englisch_stgb/).

<sup>129</sup> Belgian Criminal Code, article 442.bis, available at: [www.legislationline.org/documents/section/criminal-codes](http://www.legislationline.org/documents/section/criminal-codes).

Eventually **Denmark** provided an interesting regulation on stalking, according to which, **the police may warn or apply a measure of protection before a person is found guilty.** The criminal code of Denmark<sup>130</sup> notes that *“any person, who disturbs another person’s rest by invading his or her life, harassing him or her with letters or causing any other inconvenience, by ignoring the warnings of the police is liable to pay a fine, or may be imprisoned for a term not exceeding 2 years. The warning issued under this provision is valid for 5 years.”*

**Specific regulations on stalking are not provided by the RA criminal code.** Although a number of crimes contain some characteristics of the offence of stalking,<sup>131</sup> a number of criminal offences relating to stalking are not currently included in the RA criminal code, for example the constant following of the victim or engaging in unwanted communication with the victim. In reality, an important element missing from the code is the ability to target the whole behaviour, not the individual actions.

#### SUGGESTION

- lvi. To criminalize stalking, desirably as a separate offence,** in case of the absence of such an opportunity, as an alternative, to implement changes to the current offences of the crimes, by including all possible manifestations of harassment.

#### 6. THERE IS NO FACTUAL OR WEDDING CEREMONY INSTITUTE IN THE RA

According to the RA Family Law *“marriage is signed in state bodies that register civil status acts, after which, rights and obligations arise between the spouses”*<sup>132</sup>. It follows from this regulation that in the RA, only marriages which are registered in state bodies that register civil status acts are recognized legally, therefore church wedding ceremonies, which is a tradition among Armenians, can’t act as a legal basis for acquiring rights and obligations. We can note that women face these problems also because of the absence of a factual marriage institute in the legislative field. Unfortunately, today in Armenia, and especially in

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<sup>130</sup> Danish Criminal Code, article 265, available at: [www.legislationline.org/documents/section/criminal-codes](http://www.legislationline.org/documents/section/criminal-codes).

<sup>131</sup> RA Criminal Code, RA law No. 528-N, adopted on 18.04.2003, article 119: *“inflicting serious physical harm or mental anguish”*, article 137: *“Threat of death, serious harm to health or of damaging property”*, article 182 *“extortion”*, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

<sup>132</sup> RA Family Code, RA law No. 123-N, adopted on 09.11.2004, article 9, available at: <https://www.arlis.am/DocumentView.aspx?docID=66138>.

remote villages, women are not always aware of the regulations and legal requirements, therefore, when marrying only by means of a church wedding ceremony, they are not entitled to claim property acquired during the marriage in case of divorce.

**The Committee** has also expressed its concern over this **in its concluding remarks**. *“women with the status of unregistered cohabitation (...) are left without any sort of legal protection concerning economical issues after the discontinuance of such a union”* The committee’s recommendation is the following: *“(c) to ensure the legal protection of women’s economical rights in such unions, as well as those of children born in such unions, as stated by the Committee’s N 29 general directive<sup>133</sup>- the economic consequences of marriage, family relations and their dissolution<sup>134</sup>.*

### SUGGESTION

lvii. **To examine the possibility of establishing a factual marriage institute under RA legislation.**

### 7. THE OBLIGATION OF PAYING FOR CHILD SUPPORT IS OFTEN NOT PRESERVED IN PRACTICE

The RA Family Law requires for parents to care for their children<sup>135</sup>, and the RA Criminal Code provides for criminal liability for the malicious refraining of parents from caring for their children<sup>136</sup>. However, **cases in court, where the parent refuses to pay for child support for the livelihood of the child and, to that end, conceals his/her outgoing income or income received from other unregistered work, is widespread**, and the compulsory enforcement service of judicial acts of the RA Ministry of Justice does not have the necessary levers to search for and uncover the actual income and property of parents who are required to pay for child support.

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<sup>133</sup> General recommendation No. 29 titled “economic consequences of marriage, family relations and their dissolution”, UN committee on the elimination of all forms of violence against women, adopted in 2013m available at: [https://www2.ohchr.org/english/bodies/cedaw/docs/comments/CEDAW-C-52-WP-1\\_en.pdf](https://www2.ohchr.org/english/bodies/cedaw/docs/comments/CEDAW-C-52-WP-1_en.pdf).

<sup>134</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 46, point 47(c), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>135</sup> RA Family Code, RA law No. 123-N, adopted on 09.11.2004, article 68, available at: <https://www.arlis.am/DocumentView.aspx?docID=66138>.

<sup>136</sup> RA Criminal Code, RA law No. 528-N, adopted on 18.04.2003, article 173, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

## SUGGESTION

- lviii. To implement changes to article 173 of the RA Criminal Code, and to extend the scope of the article to also apply to the deliberate concealment of income or property on behalf of parents who are required to pay for child support.
- lix. To provide for the possibility by law of the non-application of the statute of limitations for cases when it is confirmed that has been a concealment of income or property in this legal relationship, and, if necessary, to exact child support from the moment one has the right to receive it.
- lx. To provide the necessary levers to the compulsory enforcement service of judicial acts of the RA Ministry of Justice, for the search and uncovering of incomes and property of parents who are required to pay for child support.

### 8. WOMEN'S PROPERTY RIGHTS ARE NOT SUFFICIENTLY PROTECTED

The RA Civil Law states that. *“any property obtained by spouses during marriage is their joint property (...)”* and *“when a partner member or member of joint property has insufficient property, his/her creditor has the right to request the separation of the debtor’s share from the joint property, in order to confiscate that property”*<sup>137</sup>.

However, in practice there are cases when one of the spouse’s property rights are violated by the other spouse when the second spouse alienates property acquired during the marriage. In such cases, the spouse who alienates the property signs a document with the RA State Committee of Real Estate Cadastre and the Notary Office, in which he/she states the lack of a third party’s rights to the alienated property, while his/her spouse is entitled to the property. As a result, the spouse is deprived of his/her property rights and is forced to reclaim the property through court, whereas the other spouse can deliberately not own property or receive income, be declared bankrupt, and as a result the other spouse can’t recover her property.

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<sup>137</sup> RA Civil Code, RA law No. 238, adopted on 05.05.1998, articles 200 and 201, part 1, available at: <https://www.arlis.am/DocumentView.aspx?docid=74658>.

Notary Offices and the State Committee of Real Estate Cadastre adjacent to the RA Government, only have access to a small proportion of marriages registered in bodies of registration of acts of civil status.

### SUGGESTIONS

- lxi. **To demand the submitting of marriage certificates when signing alienating contracts in Notary Offices or the State Committee of Real Estate Cadastre adjacent to the RA Government, and when not married, to submit a testifying certificate from a recognized RA body.**
- lxii. **To make the information on all marriages registered in the RA civil registration offices electronic, and to ensure that Notary Offices and the State Committee of Real Estate Cadastre adjacent to the RA Government have access to that information.**
- lxiii. **To take steps to ensure the exchanging of information between RA civil registration offices and those of other countries, especially those of countries where there is an Armenian Diaspora, and especially when at least one of the spouses holds Armenian citizenship.**

### 9. THERE IS NO UNIFIED STANCE POSITION AS TO WHOM THE WEDDING RING BELONGS TO

According to the RA Family Law “The property of each of the spouses, as well as any inheritance or gift property received during the marriage is his/her property”, and “personal use property (clothes, shoes, etc.) with the exception of valuable items and luxury items, are considered the property of the spouse who wears them, even if said property was acquired at the expense of the common means of the spouses.”<sup>138</sup> According to the RA law on “precious metals” gold, silver, platinum and palladium are precious metals<sup>139</sup>.

**Advocates interpret these regulations differently. some claim that the wedding ring belongs solely to the wife because it is a gift, whereas others are of the opinion that the wedding ring is joint property because it is an expensive item and a luxury item<sup>140</sup>.**

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<sup>138</sup> RA Civil Code, RA law No. 238, adopted on 05.05.1998, article 201, part 2 and 3, available at: <https://www.arlis.am/DocumentView.aspx?docid=74658>.

<sup>139</sup> RA law on “precious metals”, RA law No. 83-N, adopted on 23.05.2006, article 2, available at: <https://www.arlis.am/DocumentView.aspx?docID=64637>.

<sup>140</sup> “Whose property is the wife’s wedding ring?” <https://iravaban.net/19959.html>.

## SUGGESTION

- lxiv. To legally regulate the laws of ownership of the engagement and wedding ring

### 10. REGULATIONS CONCERNING THE LEGAL MARRIAGE AGE NEED TO BE REVIEWED

The RA Family law states that. *“1.Marriage requires the, mutual, voluntary consent of the marrying man and women, as well as their reaching of 18 years of age, except for the cases provided by the 2<sup>nd</sup> paragraph. 2. An individual may marry at 17 years of age with the consent of her/his parents, adopters or legal guardian. An individual may marry at 16 years of age with the consent of her/his parents, adopters or legal guardian, provided her/his to be spouse is at least 18 years of age<sup>141</sup>.”*

The **Committee** has expressed its concern over this in its **Concluding remarks**, and presented the following recommendation to the RA. “to set 18 as the minimum age of marriage” without exceptions, in accordance with article 16 of the Convention and the Committee’s No. 21 General recommendation<sup>142</sup> and *“to include statistical data by gender and nationality on the exceptions that were registered for the marriages of under 18 year olds”<sup>143</sup>.*

## SUGGESTIONS

- lxv. To implement changes to article 10 of the RA family Law **and to set the minimum age of marriage to 18 without exceptions.**
- lxvi. To collect statistical data on registered marriages of under 18 year olds.

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<sup>141</sup> RA Family Code, RA law No. 123, adopted on 09.11.2004, article 10, available at: <https://www.arlis.am/DocumentView.aspx?docID=66138>.

<sup>142</sup> General recommendation No. 21 “Right of everyone to take part in cultural life”, UN committee on the elimination of all forms of violence against women, adopted in 2009, available at: <https://www.refworld.org/docid/4ed35bae2.html>.

<sup>143</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 47, points (a) and (b), available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.



#### IV. PROTECTION OF WOMEN'S HEALTH (REPRODUCTIVE) RIGHTS

“According to “the gender gap report of 2018”, Armenia ranks 148<sup>th</sup> out of 149 countries in terms of “Health.”<sup>144</sup>

The strategic goals of the Beijing Action Plan’s “women and health” subdivision are the following:

- *“Expanding women’s accessibility and affordability to high quality services of the health sector, information sector and related sectors for their whole life,”*
- *Strengthening prevention programs aimed at strengthening women’s health*
- *Implementation of initiatives related to sexually transmitted diseases, HIV/AIDS and sexual and reproductive health issues by taking into account gender factors.*
- *The funding and spreading of information of research into women’s health.*
- *Increasing the amount of resources allocated to women’s health and overseeing activities in that field.*<sup>145</sup>

According to the committee’s Concluding Remarks-“according to the Committee’s N 24 General recommendation<sup>146</sup>, the Committee recommends:

- a) The continuing of making efforts to provide women and girls with affordable and accessible birth control pills, especially for those who are considered poor or live in rural or remote areas,*
- b) To improve the access and affordability of basic health, sexual, and reproductive health services for women, especially for those with disabilities, of an ethnic minority, and for those living in rural areas, by increasing budget allocations to the health sector and to the establishment of a compulsory health insurance system,*
- c) To provide modern birth control pills and family planning services to all groups of women, as well as the affordability and accessibility to safe abortion services,*

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<sup>144</sup> The Global Gender Gap Report 2018, World Economic Forum, page 9-10, available at: [http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf).

<sup>145</sup> “Beijing action plan”, General Assembly No. S-23/2, appendix, and resolution No. S-23/3, appendix, adopted on September the 15<sup>th</sup> 1995 in Beijing. The document is available in English at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>, an Armenian summary is available at: [http://www.un.am/up/file/Beijing-Decl\\_PLAT\\_ARM.pdf](http://www.un.am/up/file/Beijing-Decl_PLAT_ARM.pdf), page 19.

<sup>146</sup> General recommendation No. 24 titled “Women and health”, UN committee on the elimination of all forms of violence against women”, adopted in 1999, available at: <https://www.refworld.org/docid/453882a73.html>.

- d) *To develop and conduct awareness campaigns and the development of the capabilities of health professionals to eliminate discrimination against women with disabilities and HIV/AIDS in the providing of health services,*
- e) *To develop and conduct awareness campaigns on the sexual behaviour responsible for HIV, including in borderlands and migrant communities.*<sup>147</sup>

In the scope of the same work we will address the following manifestations of women’s reproductive health: topics of gender-based abortions and women with HIV/AIDS.

### 1. FORCED ABORTION, INCLUDING GENDER-BASED FORCED ABORTION IS INSUFFICIENTLY REGULATED BY RA LEGISLATION

**Gender-based forced abortion is the most common form of forced abortion in Armenia.**

**The CoE fact-finding mission.** “*gender-based abortions in the RA are mainly carried out as a result of coercion from partners or family members*”<sup>148</sup> *testifies to this.*

And thus, after the analysis of Table 10, we can see that since 1995, Armenia has recorded a significantly higher gender ratio, 110-114 boys for every 100 girls born, than accepted as normal by biological rules. The situation has somewhat improved, and according to 2018 data, there are 110 boys born to every 100 girls.

**Table 10: Births by gender 1990-2018**<sup>149</sup>

Year	Gender ratio at the point of birth
1990	1.06 (100 newborn girls to 106 newborn boys)
1995	1.10 (100 newborn girls to 110 newborn boys)
2000	1.20 (100 newborn girls to 120 newborn boys)
2005	1.16 (100 newborn girls to 116 newborn boys)

<sup>147</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 27, available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>148</sup>The CoE fact-finding mission visit to Armenia happened during 17-21 October 2016, see the RA Criminal Code’s analysis of the CoE Convention on “Preventing and Combating Violence against Women and Domestic Violence” from the point of view of the criteria defined by the CoE convention, CoE, October 2017, page 32, available at: <https://rm.coe.int/gap-analysis-armenian-law-arm/168075bae2>.

<sup>149</sup> The gender ratio is calculated by dividing the number of newborn boys with the number of newborn girls. 1990-2017 data is taken from the RA Statistical Committee, and the 2018 data is taken from the CIA conducted World Fact book, available at: <https://www.cia.gov/library/publications/the-world-factbook/geos/am.html>.

2010	1.15 (100 newborn girls to 115 newborn boys)
2011	1.14 (100 newborn girls to 114 newborn boys)
2012	1.15 (100 newborn girls to 115 newborn boys)
2013	1.13 (100 newborn girls to 113 newborn boys)
2014	1.13 (100 newborn girls to 113 newborn boys)
2015	1.13 (100 newborn girls to 113 newborn boys)
2016	1.12 (100 newborn girls to 112 newborn boys)
2017	1.10 (100 newborn girls to 110 newborn boys)
2018	1.11 (100 newborn girls to 111 newborn boys)

For comparison, the sex ratio at the point of birth is close to 105 boys born to every 100 girls, with the birth ratio ranging from 104-106 boys born to every 100 girls<sup>150</sup>. Prenatal sex selection leads to a departure from the natural average sex ratio, reaching to 110 and 120 boys born to every 100 girls, which testifies to the manifestations of gender-based discrimination and the preference of having a son in south, east and central Asia.<sup>151</sup>

According to 2018 data, Armenia has one of the highest male to female birth rates in the world, and along with India ranks only behind China, the Northern Mariana Islands and Lichtenstein, as shown in Table 11.<sup>152</sup>

**Table 11: List of countries with the highest male to female birth rate in the world**

Rank	Country	Sex ratio at birth
1	Lichtenstein	1.26 (100 newborn girls to every 126 newborn boys)

<sup>150</sup> Research of “the analysis of demographic data on the gender imbalance of newborns in Armenia”, Christoph Z. Gilmoto, Yerevan, 2013, page 16, available at: [https://www.un.am/up/library/Sex%20Imbalance%20report\\_arm.pdf](https://www.un.am/up/library/Sex%20Imbalance%20report_arm.pdf).

<sup>151</sup> Over time this trend has shifted geographically, starting in the 1980s in a number of Asian countries: (China, India, South Korea), which was followed in the 1990s by a number of Caucasian countries: (Azerbaijan, Armenia, and Georgia), in recent years this trend has been noticed in Montenegro, Albania and Vietnam. See “Sex Imbalances at Birth. Current trends, consequences and policy implications”, UNFPA, Office of the Asia-Pacific region, Bangkok, 2012, page 2, available at: <https://www.unfpa.org/sites/default/files/pub-pdf/Sex%20Imbalances%20at%20Birth.%20PDF%20UNFPA%20APRO%20publication%202012.pdf>.

<sup>152</sup> Source: CIA conducted World Fact Book, available at: <https://www.cia.gov/library/publications/the-world-factbook/fields/351.html#AM>.

2	The Northern Mariana Islands	1.17 (100 newborn girls to every 117 newborn boys)
3	China	1.13 (100 newborn girls to every 113 newborn boys)
3	Armenia	1.11 (100 newborn girls to every 111 newborn boys)
4	India	1.11 (100 newborn girls to every 111 newborn boys)
4	Albania	1.09 (100 newborn girls to every 109 newborn boys)
5	San Marino	1.09 (100 newborn girls to every 109 newborn boys)
6	Azerbaijan	1.08 (100 newborn girls to every 108 newborn boys)
6	Kosovo	1.08 (100 newborn girls to every 108 newborn boys)
6	San Marino? already mentioned	1.08 (100 newborn girls to every 108 newborn boys)

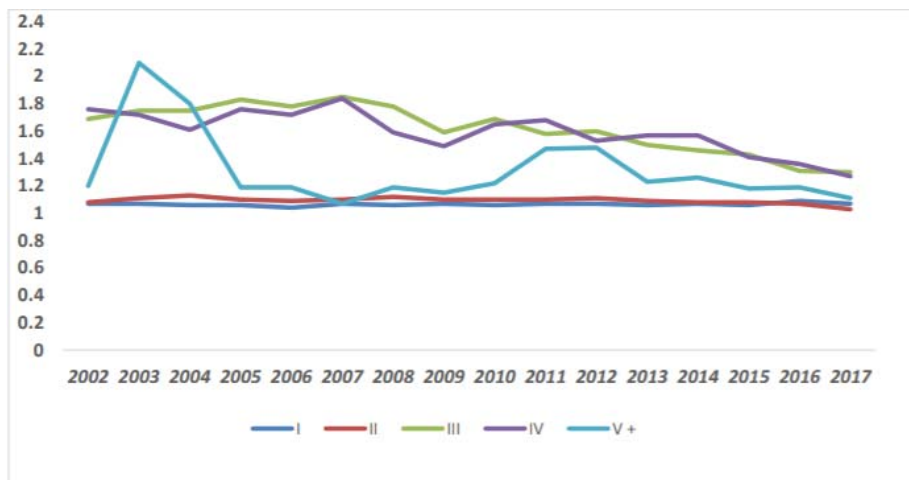
The analysis of the following Table 12 depicts the gender ratio at birth at the provincial level of the RA, it becomes clear that at this point in time the average is exceeded by Tavush (121 boys to every 100 girls), Aragatsotn (116 boys to every 100 girls), Lori (114 boys to every 100 girls), Yerevan (111 boys to every 100 girls), Gegharkunik and Ararat (109 boys to every 100 girls) and Armavir (107 boys to every 100 girls). It should be noted that Gegharkunik has significantly improved its position.

**Table 12: the 2010-2017 gender ratio of the RA provinces and city of Yerevan at birth**

	2010	2011	2012	2013	2014	2015	2016	2017
<b>Ընդամենը</b>								
<b>Total</b>	1.15	1.14	1.15	1.13	1.13	1.13	1.12	1.10
Ք. Երևան								
C. Yerevan	1.12	1.14	1.13	1.11	1.12	1.11	1.06	1.11
Արագածոտն								
Aragatsotn	1.26	1.21	1.18	1.13	1.20	1.13	1.20	1.16
Արարատ								
Ararat	1.09	1.21	1.17	1.13	1.15	1.16	1.18	1.09
Արմավիր								
Armavir	1.21	1.13	1.19	1.13	1.17	1.13	1.21	1.07
Գեղարքունիք								
Gegharkunik	1.31	1.26	1.23	1.18	1.14	1.23	1.22	1.09
Լոռի								
Lory	1.11	1.09	1.19	1.12	1.04	1.10	1.08	1.14
Կոտայք								
Kotayk	1.10	1.15	1.16	1.11	1.14	1.15	1.09	1.05
Շիրակ								
Shirak	1.16	1.12	1.09	1.17	1.20	1.10	1.21	1.03
Սյունիք								
Syunik	1.19	0.98	1.16	1.15	1.13	1.08	1.08	1.05
Վայոցձոր								
Vayots Dzor	1.06	1.17	1.21	1.17	1.14	0.93	1.13	1.05
Տավուշ								
Tavush	1.19	1.05	1.09	1.17	1.14	1.19	1.10	1.21

In the following Table 13, the gender ratio increases with the increase of the number of children a woman has; from somewhat normal levels of 1.07 for the first and second births, the ratio reaches 1.30 for the third birth.

**Table 13: The 2002-2017 gender ratio by birth order**



It should be noted that there is no official statistical data on selective abortions. However, according to estimates based on the current gender ratio situation, there are about 800-1400 gender-based abortions yearly in Armenia.<sup>153</sup> This issue has been addressed by a number of international organizations.

<sup>153</sup> “Armenia loses about 1400 girls annually”. See: Research of “the analysis of demographic data on the gender imbalance of newborns in Armenia”, Chritoph Z. Gilmoto, UNFPA, Yerevan, 2013, page 7, available at: [https://www.un.am/up/library/Sex%20Imbalance%20report\\_arm.pdf](https://www.un.am/up/library/Sex%20Imbalance%20report_arm.pdf), where a reference is made to the following report “the prevalence and causes of gender-based abortion in Armenia”, UNFPA, Yerevan, 2011,

According to the UNFPA “women are subject to gender-based psychological and physical violence in the family, in relation to only having male children, and are forced to have gender-based abortions, which have a negative impact on their mental and physical health.”<sup>154</sup> “By 2060 Armenia will have lost 93000 girls or future mothers.”<sup>155</sup> *Although a number of factors have mitigated this practice, these gains are still very fragile and can’t be sustained in the light of current political, economic, social and cultural challenges*<sup>156</sup>. It is clear that the violation of the natural birth gender ratio presents a serious demographic threat to Armenia.

The UN CESCR also expressed its concern. “As a result of gender-based abortions, Armenia has one of the highest rates of male to female birth”<sup>157</sup>

The Committee noted the following in its **Concluding Remarks**. “the Committee is concerned over the widespread practice of gender-based abortion.” The following are the recommendations of the Committee to its member states. “to enforce the newly adopted law on gender-based abortions and to ensure that gender-based abortion practices, on the initiative of the Ministry of Health, are immediately stopped with such measures such as the

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available at: [https://armenia.unfpa.org/sites/default/files/pub-pdf/Sex-selective abortions report Arm.pdf](https://armenia.unfpa.org/sites/default/files/pub-pdf/Sex-selective%20abortions%20report%20Arm.pdf), ibid “800-1000 gender-based abortions are carried out in Armenia. The presented number is the result of calculations of the presented infant gender ratio.” See 26<sup>th</sup> of October interview with Garik Hayrapetyan, the current executive representative of the UNFPA to Armenia on “the main issues of selective abortion in Armenia”, the implementation of CEDAW, including the following alternative report which was presented to the CEDAW: “legal monitoring of the latest (combined 5<sup>th</sup> and 6<sup>th</sup> reports), Armenian Young Lawyers’ Association (currently Armenian Lawyers’ Association), available at: [https://armla.am/wp-content/uploads/2016/05/Monitoring-report CEDAW arm.pdf](https://armla.am/wp-content/uploads/2016/05/Monitoring-report%20CEDAW%20arm.pdf).

<sup>154</sup> Public research report on “sexual and reproductive rights in Armenia”, UNFPA, Hamlet Gasoyan and others, prepared under the framework of “the strengthening of sexual and reproductive health services”, with cooperation with the RA Ombudsman’s staff, Yerevan, 2016, paragraph 82, available at: [https://www.un.am/up/library/Report Sexual Reproductive Rights ARM.pdf](https://www.un.am/up/library/Report%20Sexual%20Reproductive%20Rights%20ARM.pdf).

<sup>155</sup> Research of “the analysis of demographic data on the gender imbalance of newborns in Armenia”, Christoph Z. Gilmoto, Yerevan, 2013, page 86, available at: [https://www.un.am/up/library/Sex%20Imbalance%20report arm.pdf](https://www.un.am/up/library/Sex%20Imbalance%20report%20arm.pdf).

<sup>156</sup> Summary “of policy proposals to having an effective strategy in reducing the number of gender-based abortions” International Center for Human Development, prepared with the financial support of the EU and in the framework of the UNFPA implemented program titled “global program to prevent son preference and the undervaluing of girls”, available at: [https://armenia.unfpa.org/sites/default/files/pub-pdf/Policy%20Brief%20Monitoring%20English final.pdf](https://armenia.unfpa.org/sites/default/files/pub-pdf/Policy%20Brief%20Monitoring%20English%20final.pdf).

<sup>157</sup> “Concluding observations on the combined second and third periodic reports of Armenia”, UN Committee on Economic, Social and Cultural Rights, CESCR, E/C.12/ARM/CO/2-3, 16 July 2014, para 22, available at: <https://resourcingsrights.org/en/document/srobworx1j0h7463r0ey7gb9?page=6>

*introduction of more comprehensive gender equality policies and the supporting of families with daughters (...)*<sup>158</sup>

**The CoEs Commissioner of Human Rights** noted in its previous report, that this practice has to do with the following factors. *“the deep-rooted tendency to have a male child, which aims to reduce the number of family members and the accessibility to modern reproductive technologies. Gender-based abortions showcase the adverse situation of women in Armenian society and gender inequality.”*<sup>159</sup>

**The PACE** condemns gender-based abortions. *“gender selection before birth is a phenomenon, whose roots come from a culture of gender inequality and which further deepens the atmosphere of violence against women”*. In addition, the resolution *“calls on the Armenian authorities to study the causes of gender selection, gather reliable data, make efforts to raise the status of women in society and so forth”*<sup>160</sup>.

**The RA law on “Human Reproductive Health and Reproductive rights”** is the only legislation that defines the period for abortion: “abortion can be performed at the request of the mother up to the 12<sup>th</sup> week of the pregnancy, and with the permission of a physician, for medical or social purposes, up to the 22<sup>nd</sup> week of pregnancy.”<sup>161</sup> The RA Government has decided on a proper procedure<sup>162</sup>, but there is no evidence on whether physicians are following the procedure.

The RA Criminal Code provides for various types of liability for the performance of abortion by people with a medical degree and without one.<sup>163</sup>

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<sup>158</sup> The concluding remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic reports of the implementation of the UN Convention on “the Elimination of all Forms of Violence against Women” by the RA, UN committee on the elimination of all forms of violence against women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraphs 28-29, available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

<sup>159</sup> Report “following the 2014 October 5-9 CoEs Human Rights Commissioner Nils Muižnieks visit to Armenia,” 2015, paragraph 156, available at: <https://rm.coe.int/16806db6db>.

<sup>160</sup> “Prenatal sex selection” Resolution N 1829, PACE, adopted on 3 October 2011, 29<sup>th</sup> Sitting, Strasbourg, available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=18020&lang=en>.

<sup>161</sup> RA law on “people’s reproduction health and reproduction rights”, RA law No. 474-N, adopted on 11.12.2002, article 10, available at: <https://www.arlis.am/DocumentView.aspx?docid=75284>.

<sup>162</sup> The RA Government’s No. 180-N decision on “approving the procedures and conditions of abortion and declaring the August the 5<sup>th</sup> 2004 RA Government’s No. 1116-N decision invalid”, adopted on 23.02.2017, available at: <https://www.arlis.am/DocumentView.aspx?docID=111980>.

<sup>163</sup> RA Criminal Code, RA law No. 528-N, adopted on 18.04.2003, article 122, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

In 2016 changes were made to the RA law on “people’s reproduction health and reproduction rights” in order to combat against this defective practice which includes a ban on gender-based abortions as well as a preventative measure in the form of three-day period for the pregnant women to make a final decision<sup>164</sup>, and the RA “Code of Administrative Offences” provides articles which *provide for liability when the doctor doesn’t implement the necessary measures before and after the abortion procedure as stated by RA law (refers to not providing free consultation on abortion and its prevention and not providing time for a final decision) and not receiving the necessary documents from the government for cases when abortion is allowed.*<sup>165</sup> According to the RA prime minister’s decision<sup>166</sup>, state control over abortion is exercised by the RA Health and Labor inspectorate.

**The Action Draft Plan** provides the following measure “the implementation of the 2018-2022 project on the prevention of discriminatory fetal sex selection”<sup>167</sup>, the expected result being “the reduction of infant gender imbalances in the RA, the reduction gender-based abortions and the valuing of girl children”<sup>168</sup>. **It is very broad, and it is not clear as to what concrete actions will be carried out in its framework, as well as what concrete results should be expected, and what its quantitative and qualitative indicators are.**

The convention on “preventing and combating violence against women and domestic violence” demands the criminalization of forced abortion, that is any form of abortion without the women’s prior consent, for the purpose of protecting women’s reproductive rights, as well as the providing of liability for the supporting or inducing of forced

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<sup>164</sup> RA law No. 134-N on “implementing changes to the RA law on reproduction health and reproduction rights”, adopted on 29.06.2016, available at: <https://www.arlis.am/DocumentView.aspx?docid=107500>.

<sup>165</sup> RA Criminal Code on “administrative offences”, adopted on 06.12.1985, articles 47.12 and 47.13, available at: <https://www.arlis.am/documentview.aspx?docid=73129>.

<sup>166</sup> The RA Prime Minister’s No. 755-L decision on “approving the Regulations of the RA Health and Labor Inspectorate”, adopted on June 11<sup>th</sup> 2018, available at: <https://www.arlis.am/DocumentView.aspx?DocID=124384>.

<sup>167</sup> Let’s note that the “2015-2017 prevention measure for gender-based abortions” has been approved by the joint decision of the May 8<sup>th</sup> 2015 RA Ministry of Health No. 1129-A decision and the May 13<sup>th</sup> RA Ministry of Labor and Social Affairs No. 75-A/1 decision.

<sup>168</sup> The draft decision on «approving the 2019-2023 strategy and action plan of the 2019-2023 implementation of gender policy”, appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 5, Measure No. 1 available at: <https://www.e-draft.am/projects/1712/about>.



abortion.<sup>169</sup> Forced abortion is defined as “*various actions that result in the removal of the embryo*”<sup>170</sup>. As we can see, the prior and informed way of the women giving her consent is a mandatory condition.

The **Spanish** Criminal Code provides for the liability of forced abortion in the following way “whoever perpetrates an abortion on a woman without her consent shall be punished with a sentence of imprisonment from four to eight years and special barring from practicing any health profession or from providing services of any kind at public or private gynecological clinics, institutions or surgeries, for a term of three to ten years”<sup>171</sup>

In international practice, there are two main forms of combating **gender-based abortions**:

1. **The passing of laws preventing gender-based abortions.** For example in 2002 the Chinese Government introduced a new law on “family planning”, that forbids the use of ultrasound technologies to determine the sex of the child or fetus. According to that law “*the doctor performing gender-based abortions shall be fined, and the parents are deprived of the right to have a child in the future*”<sup>172</sup>. In 2006, as a result of violations of the law, a number of medical facilities were closed.<sup>173</sup> However, the amended legislative mechanism was weak and, in effect, allowed for options to circumvent it.<sup>174</sup> In **India**, medical research into determining the sex of the fetus have been prohibited since 1994, and liability measures include the confiscation of equipment, fines, imprisonment for various periods, and the termination of medical licenses. In India, this prohibition is also not preserved in practice. to

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<sup>169</sup> Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series No. 210, adopted on 11.05.2011, Istanbul, articles 39 and 41, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>170</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Council of Europe, Treaty Series - No. 210 Istanbul, 11.05.2011, paragraph 204, available at: <https://rm.coe.int/16800d383a?fbclid=IwAR2oc-R4CnkBnAyzNv0cTLcQjnTBcn3viGjjanAL96EW149tpMxhsR-PddA>.

<sup>171</sup> Spanish Criminal Code, article 144, available at: [www.mjusticia.gob.es](http://www.mjusticia.gob.es).

<sup>172</sup> Hemminki E., Zhuochun W., Guiying C. and Kirsi V. (2005), “Illegal Births and Legal Abortions - The Case of China.” *Reproductive Health* 2(5). doi: 10.1186/1742-4755-2-5. Ebenstein A. Y. and Sharygin E. J., The Consequences of the “Missing Girls” of China, *THE WORLD BANK ECONOMIC REVIEW*, VOL. 23, NO. 3, pp. 399–425 doi:10.1093/wber/lhp012, Advance Access Publication - November 5, 2009.

<sup>173</sup> Joseph K., “China: crackdown on abortion of girls,” *New York Times*, June 1, 2006. Retrieved from [www.nytimes.com/2006/06/01/world/asia/01briefs-brief-003.ready.html?\\_r=5](http://www.nytimes.com/2006/06/01/world/asia/01briefs-brief-003.ready.html?_r=5)

<sup>174</sup> Ebenstein A. Y. and Sharygin E. J., The Consequences of the “Missing Girls” of China, *The World Bank Economic Review*, VOL. 23, NO. 3, pp. 399–425, Advance Access Publication - November 5, 2009.

avoid legal consequences, doctors inform parents of the sex of the fetus through phrases such as “you are going to have a good football player” for a boy, and “sorry, it’s a cloudy day for you” for a girl, therefore, to disclose these violations, the authorities apply to whistleblowers and provide compensation.<sup>175</sup> Between 2009-2013 over 60 bills have been introduced at the federal and state level in the USA, of which state legislators have adopted only 8, according to which abortion practitioners are liable to varying degrees of responsibility, from imprisonment and fines to restrictions on professional practice and compensation (if sued by the pregnant woman and her family). A number of bills still on paper even hold responsibility for those who assisted a woman seeking for a gender-based abortion. A few bills on preventing gender-based abortion on the federal level have been filed for the House of Representatives 4 times<sup>176</sup>.

**2. Raising care for girls, which includes raising awareness for the appreciation of girls, the establishing of additional social guarantees for girls and reducing access to sex-selection technologies.** The “care for girls” campaign has been implemented in 24 countries where the gender ratio of children, including infants is too high. It includes a number of programs aimed at addressing the problem of a shortage of girls, even up to ensuring free education”<sup>177</sup>.

**After a comparative analysis of RA legislation and international best practice, it becomes evident that the RA Criminal Code doesn’t answer the question of whether the laws on forced abortion are regulated by the legal rules on illegal abortions or on assault causing bodily injuries.** However, neither of the articles correspond with the demands of the convention on “preventing and combating violence against women and domestic violence”, because the RA Criminal Code provides for different punishments for the performing of illegal abortions, based on whether or not the performer has a medical degree, whereas **the subjects of the offence of illegal abortion are usually the people who induce the woman to it, not the person performing the abortion**, which is described in more detail in the section of illegal abortion, **the provisions of the article do not distinguish between abortions performed**

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<sup>175</sup> “The analysis of policies and practices aimed at preventing discriminatory gender-based fetus selection” International Center for Human Development, 2016, paragraph 7, 23, 24 <https://ichd.org/?laid=2&com=module&module=static&id=1104>.

<sup>176</sup> Same place, paragraph 57.

<sup>177</sup> “Policy recommendations on effective intervention strategies for reducing gender-based abortion in Armenia” World Vision Armenia, Gohar Shahnazaryan, Siran Hovhannisyan, Yerevan, Asoghik 2017, available at [http://www.yasu.am/files/Policy%20Recommendations%20%20Report\\_ARM.pdf](http://www.yasu.am/files/Policy%20Recommendations%20%20Report_ARM.pdf).

with the consent of the victim and those performed without, sanctions for illegal abortions don't correspond with sanctions for forced abortions, as it must be in accordance with the sanction for causing serious bodily harm.

Concerning **gender-based abortion**, it should be noted that **RA legislation doesn't provide for liability measures for doctors who inform the parents of the sex of the child and doesn't provide for incentives for female children**, such as the RA Government decree<sup>178</sup> on “determining the amount of the lump sum child support, establishing lump sum child support and its paying method” for having a female child. In addition, an office study revealed that **there is no indicator based methodology by which the RA Health and Labor inspectorate can monitor abortions**, especially gender-based abortions.

### SUGGESTIONS

- lxvii. **To enforce forced abortions as a separate crime in the RA Criminal Code, and to impose stricter penalties than those for illegal abortion, to specify the scope of the subjects by including family members who induced the woman to have an abortion, including gender-based abortion.**
- lxviii. **To provide for strict liability measures for doctors who inform the parents of the sex of the child, and who also perform gender-based abortion.**
- lxix. **To provide for strict liability measures for parents who have gender-based abortions.**
- lxx. **To provide incentives for female children:** to implement changes on the following RA Government decree “determining the amount of the lump sum child support, establishing lump sum child support and its paying method” and determining 1) the amount of the lump sum child support, according to the order the newborn baby is born: to pay a) 100000 AMD for the birth of the first daughter, b) 300000 AMD for the birth of the second daughter, c) 1500000 AMD for the birth of the third daughter, d) 2000000 AMD for the birth of the fourth daughter e) 3000000 AMD for the birth of a fifth daughter and for the birth of every additional daughter after that, 2) to determine the amount of the lump sum child support as the equivalent to the birth of a fifth daughter for cases where more than one daughter is born at the same time.

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<sup>178</sup> RA Government decision No. 275-N: “determining the amount of the lump sum child support, establishing lump sum child support and its paying method”, adopted on March 6<sup>th</sup> 2014, available at: <https://www.arlis.am/DocumentView.aspx?docID=89331>.

- lxxi. In order to identify gender-based abortions in practice**
  - **To provide an alert mechanism, including using incentive measures**
  - **To develop an indicator based methodology for the RA Health and Labor inspectorate to monitor abortions, specifically gender-based abortions, in collaboration with CSOs with experience in that field.**<sup>179</sup>
- lxxii. To state what specific actions are going to be implemented under the framework of measure No. 1 of the Draft Action Plan’s Priority No. 5, as well as what specific results are to be expected and what its quantitative and qualitative indicators are.**
- lxxiii. To review the draft list of events of the 2018-2022 prevention of discriminatory fetus sex-selection project**
  - **To add specific actions, results and quantitative and qualitative indicators**
  - **To exclude the recurrence of events with the Draft Action Plan, for example, the following measure: “expanding the opportunities of people caring for under 3 year olds to return to work, including the development of a program to combine care with work for people on child care leave.”**

## **2. COMPULSORY STERILIZATION IS NOT PROVIDED BY RA LEGISLATION**

The CoE convention on “preventing and combating violence against women and domestic violence” demands the criminalization of the following for the purpose of protecting women’s reproductive rights “*the conducting of any actions, without the prior consent of the woman, which will result in her sterilization*”<sup>180</sup>. Sterilization is defined as “*any process that results in the woman being deprived of her natural ability to reproduce*”<sup>181</sup>. As we can see, the prior consent given by the woman in an informed manner is a mandatory condition.

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<sup>179</sup> “One can turn to narrow professional CSOs and delegate the authority to monitor gender-based abortions, according to the instructions, as a result of which the ethic committees of CSOs may either apply incentives to physicians or the opposite”, reporter: Gevorg Grigoryan, round table discussion on: “the prospects of strengthening women’s protection mechanisms in Armenia”, June the 12<sup>th</sup>, Yerevan.

<sup>180</sup> Convention on “preventing and combating violence against women and domestic violence”, CoE, Treaty Series No. 210, adopted on 11.05.2011, Istanbul, article 39, available in Armenian at: <https://rm.coe.int/168046246d>.

<sup>181</sup> “Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence”, Council of Europe, Treaty Series - No. 210 Istanbul, 11.05.2011, paragraph 205, available at: <https://rm.coe.int/16800d383a?fbclid=IwAR2oc-R4CnkBnAyzNv0cTLcQjnTBcn3viGjjanAL96EW149tpMxhsR-PddA>.

For example, **the Criminal Code of Spain** considers sterilization as causing serious bodily harm under its article of “causing serious bodily harm”. The Criminal Code of Spain states the following *“whoever causes to another person, by any means of procedure, to forfeit or lose the use of a major organ or limb, or a sense, or sexual impotence, sterility, serious deformity or to suffer a serious physical or mental illness, shall be punished with a sentence of imprisonment from six to twelve years.”*<sup>182</sup>

There are no provisions **in the RA Criminal Code** which criminalize compulsory sterilization. Therefore, this act will be tried in the context of the general regulations of bodily harm.<sup>183</sup>

### SUGGESTION

- lxxiv. To include compulsory sterilization under the offence of “deliberate causing of serious harm.”**

### **3. IT IS NECESSARY TO PROVIDE ADDITIONAL GUARANTEES FOR WOMEN INFECTED WITH HIV/AIDS**

The right to receive medical care and services for people infected with HIV is provided by the Constitution<sup>184</sup>, by the RA laws on “medical care and services for the population”<sup>185</sup> and “the prevention of diseases caused by Human Immunodeficiency Virus”<sup>186</sup>. The RA Government has set a “state prevention project for HIV/AIDS in Armenia (2017-2021).”<sup>187</sup>

The statistics are as follows, from 1988 until June 30<sup>th</sup> 2019 3555 cases of HIV have been recorded, out of which 429 were recorded in 2018. The overall structure of HIV cases are dominated by males-2463 males (69%), 1092 (31%) cases have been reported of women infected with HIV. Out of the HIV patients, 1781 (452 women, 34 children) were diagnosed

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<sup>182</sup> Spanish Criminal Code, article 149, available at: [www.mjusticia.gob.es](http://www.mjusticia.gob.es).

<sup>183</sup> RA Criminal Code, law No. 528-N, adopted on 18.04.2003, chapter 16: “Crimes against life and health”, available at: <https://www.arlis.am/DocumentView.aspx?DocID=132721>.

<sup>184</sup> The Constitution of the RA, adopted on July 5<sup>th</sup> 1995, amended in 1995, article 85, available at: <https://www.arlis.am/DocumentView.aspx?DocID=75780>.

<sup>185</sup> The RA law on “medical care and services for the population”, RA law No. 42, adopted on 04.03.1996, article 4, available at: <https://www.arlis.am/DocumentView.aspx?docID=104958>.

<sup>186</sup> The RA law on “the prevention of diseases caused by the human immunodeficiency virus”, RA law No. 103, adopted on 03.02.1997, article 14, available at: <https://www.arlis.am/DocumentView.aspx?DocID=78616>.

<sup>187</sup> “The state prevention project of HIV/AIDS in Armenia (2017-2021)” approved by the RA Government during the June 15<sup>th</sup> 2017 sitting’s decision N 25, available at: <http://www.arm aids.am/images/NatPr.pdf>.

with AIDS. Calculations per 100000 people show that Shirak has the highest rate of HIV-165.7 followed by Lori, Gegharkunik and Ararat with 153.3; 121.2; and 113.9 respectively.<sup>188</sup>

However, it must be said that women are more vulnerable to HIV, due to the unequal rights of men and women and their respective roles in society and the family.

1. The vulnerability of women is first and foremost expressed by **their being more likely to be infected by HIV**. the wife is deprived of making decisions in her sexual life-to have sex with her husband and to be protected during sexual intercourse. As a result, according to epidemiological data, out of the more than 1000 infected women, 98% state to have been infected by their husband.<sup>189</sup> Moreover, from 2013-2017, more than 70% of the registered HIV cases were comprised of work migrants and their partners,<sup>190</sup> as migration flows from Armenia are mainly to countries with a higher prevalence of HIV infections, most notably Russia. Moreover, according to the Eurasian Women's Network on AIDS, there are cases in Armenia when the HIV-positive husband receives antiretroviral treatment, but doesn't inform his partner or wife of having HIV and transmits the infection.<sup>191</sup>

In this regard it should be noted that the Strategy Draft doesn't contain any provisions on HIV positive women, however, out of the two measures provided by the Draft Action Plan, the following measure *“The raising of awareness of HIV/AIDS in migrant communities (including borderland regions), the developing of safe sexual behaviour, and the development and implementation of HIV research projects”*, along with its result indicator of *“approximately 15 thousand beneficiaries in its project”* somewhat addresses the above mentioned problem.<sup>192</sup>

2. Women's vulnerability is also reflected by **the restriction of women's accessibility and affordability to reproductive health services, which is also linked to the issue of domestic**

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<sup>188</sup> Official website for the republican center for AIDS protection of the RA Ministry of Health, available at: [http://www.arm aids.am/statistics/stat\\_2019/stat\\_july\\_2019.html](http://www.arm aids.am/statistics/stat_2019/stat_july_2019.html).

<sup>189</sup> Hovhannes Madoyan, roundtable discussion on “the enforcement prospects of the mechanisms of women's rights protection in Armenia”, 12<sup>th</sup> of July 2019, Yerevan.

<sup>190</sup> HIV/AIDS and migration (infographics), 2018 [http://www.arm aids.am/images/OIM\\_infographics\\_AM\\_IDFARMAIDS.pdf](http://www.arm aids.am/images/OIM_infographics_AM_IDFARMAIDS.pdf).

<sup>191</sup> Lilit Avetisyan, coalition against discrimination against women, available at: [http://amaranths69.rssing.com/chan-67219586/all\\_p1.html](http://amaranths69.rssing.com/chan-67219586/all_p1.html).

<sup>192</sup> Draft decision of the RA on “approving the Strategy and Action Plan for the implementation of the RA gender policy of 2019-2023”, Appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority N4, Measure N5, available at: <https://www.e-draft.am/projects/1712/about>.

**violence.** And thus, the following may be manifestations of psychological abuse: the preventing of the wife and/or children from undergoing HIV testing, the preventing of the wife and/or children from undergoing antiretroviral treatment if tested positive for HIV or the husband's and/or other family member's insults and accusations for being HIV positive.<sup>193</sup> The restriction of a woman's financial means by the husband and/or other family members may be a manifestation of economic abuse. Combating against domestic violence is addressed in the corresponding paragraph.

In addition, the absence of necessary facilities for women having children in medical establishments is also a restriction of accessibility.

3. The vulnerability of women to HIV is also reflected by the fact that women face double **discrimination in medical facilities**: The Human Rights Defender has voiced the following defective *practice* “*discrimination against women in the Healthcare sector is a major problem and still exists in Armenia. Although everyone has equal rights to receive medical aid and services, there are still cases when women are subject to discrimination in medical establishments on behalf of doctors, for example, a case has been reported when doctors have advised a HIV positive pregnant woman against having a child. This results in women being reluctant to complain about their problems. These approaches are based on the negative stereotypical perceptions of HIV/AIDS still present in society. As a result, the right to receive confidential health services is violated.*”<sup>194</sup> Another survey also found that people with HIV/AIDS are most vulnerable to discrimination in the healthcare sector. Out of the 74 HIV positive participants, 76.2% responded that they have been subject to discrimination in medical establishments, and have not been able to receive proper medical services.<sup>195</sup> The

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<sup>193</sup> Lilit Avetisyan, coalition against discrimination against women, available at: <http://coalitionagainstviolence.org/hy/5400/>.

<sup>194</sup> Alternative report of the “5<sup>th</sup> and 6<sup>th</sup> Joint Periodic Report on the implementation of the UN Convention on “the Elimination of all Forms of Discrimination against Women””, office of the Human Rights Defender of the RA, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ARM/CO/5-6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/ARM/CO/5-6&Lang=En).

<sup>195</sup> A study of discrimination against people with HIV/AIDS, members of the LGBT community and intravenous drug users, 2018, see <https://jam-news.net/միասիւն-նվ-և-ձիւահ-նվ-սպորտ-մարտիկ-խտրակաւն/?lang=hy>.

problem is especially acute when victims of sexual violence are provided with medical care, during which they are subject to criticism and victimization.<sup>196</sup>

Provided for by the Draft Action plan, the following measure: *“the conducting of “HIV infection” trainings on HIV/AIDS issues for healthcare workers, aimed at the enhancement of their capabilities and the reduction of stigma and discrimination against women with HIV”* with its result indicator of “about 1000 healthcare workers attending their “HIV infection” course”<sup>197</sup>, has also somewhat addressed the mentioned issue. However, the mentioned is not enough, and there is a need for the implementation of more effective steps.

**And so, international experience research shows that women’s accessibility to health and reproductive health** services can be improved, if a mechanism for appropriate intervention by medical practitioners is established for cases where they disclose any form of domestic violence during the course of their professional activities. Such a mechanism exists in the **USA**. In addition, **protection against discrimination** for HIV infected people in the **USA, UK, Germany and France** is pretty high, as these countries not only have effective judicial protection measures, but also effective arbitrary protection measures, as well as **strict liability measures** when healthcare workers violate the health rights of a patient, and/or **moral compensation rights for the patient**.<sup>198</sup>

**So the problem also has to do with the fact that anti-discrimination legislation in the RA is incomplete.** The RA draft law on “ensuring equality” and other related draft laws, which define the concept and types of discrimination and regulate the legal mechanisms aimed at eliminating discrimination and protecting against discrimination, continues to remain only a draft for a long period of time.<sup>199</sup> In addition, the equality council from the aforementioned draft doesn’t have sufficient status and powers to be considered an effective arbitrary mechanism. Moreover, the defective regulation of the Institute of Moral Damage in the second version of this draft also remains relevant, as the right to compensation of moral

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<sup>196</sup> Hovhannes Madoyan, roundtable discussion on “the enforcement prospects of the mechanisms of women’s right’s protection in Armenia”, 12<sup>th</sup> of July 2019, Yerevan.

<sup>197</sup> Draft decision of the RA on “approving the Strategy and Action Plan for the implementation of the RA gender policy of 2019-2023”, Appendix 2, developing body- RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, Priority No. 4, Measure No. 6, available at: <https://www.e-draft.am/projects/1712/about>.

<sup>198</sup> Hovhannes Madoyan, <https://jam-news.net/միավ-ով-և-ձիսհ-ով-սպրող-մարդիկ-խտրական/?lang=hy>.

<sup>199</sup> The RA draft law on “ensuring equality” and other related draft laws, developing body-RA Ministry of Justice, public discussion period: 15.07.2019-31.07.2019, available at: <https://www.e-draft.am/projects/1801>.



damages is reserved only for the rights violated as a result of the decision, action or inaction of public and local government officials.<sup>200</sup>

In addition, **the current legislation hasn't established strict liability measures for healthcare workers who violate the health rights of patients**, and the RA draft law on “making amendments and addenda” to the following law on “preventing diseases caused by the Human Immunodeficiency Virus”, which was put up for public discussion, which offered solutions to this issue, in particular by clarifying the absence of a prohibition of medical establishments from discriminating against people infected with HIV and the scope of responsibilities, the scope of requirements for medical staff to keep the medical information of people infected with HIV/AIDS confidential and the transfer of confidential information<sup>201</sup>, have not been adopted as of yet.

### SUGGESTIONS

- lxxv. To adopt the RA draft law on “making amendments and addenda” to the following law on “preventing diseases caused by the Human Immunodeficiency Virus”, which will establish strict liability measures for violations of patient’s health rights.**
- lxxvi. To adopt the draft law on “ensuring equality” and other related draft laws, and make the following amendments:**
  - **To review the status of the Equality Council and the scope of its functions and powers, making it a legally effective mechanism aimed at combating discrimination,**
  - **To reserve the right to compensation for moral damages for the decisions, actions or inactions of individuals and legal entities.**
- lxxvii. To establish a mechanism for appropriate intervention for cases where medical practitioners disclose any form of domestic violence during the course of their professional activities.**
- lxxviii. To address the issue of HIV positive women in the part of the strategy draft’s priority that refers to health.**
- lxxix. To customize medical establishments for visits of women with children.**

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<sup>200</sup> The RA Civil legislation, RA law No. 239, adopted on 05.05.1998, article 162.1, part 2, available at: <https://www.arlis.am/DocumentView.aspx?docid=74658>.

<sup>201</sup> The RA draft law on “making amendments and addenda” to the following law on “preventing diseases caused by the Human Immunodeficiency Virus”, developing body: RA Ministry of Health, public discussion period: 04.03.2019-19.03.2019, available at: <https://www.e-draft.am/projects/1545/about>.

## V. WOMEN'S POLITICAL PARTICIPATION

According to the “Gender Gap report of 2018”, Armenia ranks 115<sup>th</sup> out of 149 countries in terms of political participation.<sup>202</sup>

**The Beijing Action Plan** defines the following as a strategic goal “**the implementation of measures to ensure women’s access to institutional structures and decision making processes, and their full participation in them, and the expanding of women’s opportunities to take part in decision making processes and in the government’s work management system.**”<sup>203</sup>

Here, we are referring to provisions of quotas for the promotion of women’s participation, which have been introduced in the RA, have changed over the years, but have never been enough to ensure women’s participation. :

**In its Concluding Remarks, the Committee** has recommended the RA.

*“(a) to take measures, including the temporary special measures in accordance with article 4 (1) of the Convention, and the No. 25<sup>204</sup> and No. 23 General Recommendations<sup>205</sup> of the committee, aimed at accelerating women’s full and equal participation in elected and appointed bodies, including in the National Assembly, in ministerial positions, in territorial governing and local self governing bodies in provinces, in the judicial system, in foreign services.*

*(b) to introduce a system of Gender Equality for the rapid appointment of women to managerial positions in the public and private sector, and the rapid recruitment of women among their ranks,*

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<sup>202</sup> The Global Gender Gap Report 2018, World Economic Forum, page 9-10, available at: [http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf).

<sup>203</sup> “Beijing Action Plan” General Assembly resolution No S-23/2, appendix, and resolution N S-23/3, appendix, adopted on September 15<sup>th</sup> 1995, the document is available in English at: <http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>, the summary in Armenian is available at: [http://www.un.am/up/file/Beijing-Decl\\_PLAT\\_ARM.pdf](http://www.un.am/up/file/Beijing-Decl_PLAT_ARM.pdf), page 20-21.

<sup>204</sup> General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, adopted in 2004, available at: <https://www.refworld.org/docid/453882a7e0.html>.

<sup>205</sup> CEDAW General Recommendation No. 23: Political and Public Life, adopted in 1997, available at: <https://www.refworld.org/docid/453882a622.html>.

*(c) to conduct national campaigns to raise awareness of the importance of women's public and political participation, especially in rural areas, in accordance with the Committee's previous mandate<sup>206</sup>,*

*(d) to increase the number of retraining and capacity building programs for women who want to enter politics or hold a public office, and to continue encouraging the media to ensure the equal visibility of both female and male candidates, especially during elections.*

*(e) to ensure the safety of women in politics, in accordance with the Committee's previous mandate.<sup>207</sup>*

Two measures concerning this problem are provided in **the Draft Action Plan:** “overcoming the insufficient representation of women in legislative, executive and other power's decision making positions” and “proportional representation of men and women in representative bodies, in accordance with international standards.” An expected result of the first measure is “1. The introducing of quotas in the public administration system to ensure Gender Equality and the increased participation of women in decision making positions of legislative, executive and other powers. 2. Activation of Gender Committees adjacent to the Regional Governor's Office, and the improvement of quality of work”, an expected result of the second event is “the ensuring of the establishment of civil society and the full participation of women in the country's political life.” An expected performance indicator of the first event is “1. A higher representation of women after each successive election compared with the previous one (%), including in local self-government bodies. 2. A yearly increase of the number of women in senior government positions (%). 3. The ensuring of no more than 60% representation of the same sex in state delegations, expert groups, decision-makers, Government, staff of the Regional Governor's Office and staff of community offices”, an expected performance indicator of the second event is “30% representation of women in representing bodies, the yearly growth of women's share, the yearly reports of interested

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<sup>206</sup> The Concluding Remarks of the 4<sup>th</sup> periodic report of the implementation of the UN Convention on “the Elimination of all Forms of Discrimination against Women” in the RA, UN Committee on the Elimination of all Forms of Discrimination against Women, adopted on 02.02.2019, CEDAW/C/ARM/CO/4/Rev.1, paragraph 24, available at: <https://www.refworld.org/docid/52dd05054.html>.

<sup>207</sup> The Concluding Remarks of the 5<sup>th</sup> and 6<sup>th</sup> joint periodic report of the implementation of the UN Convention on “the Elimination of all Forms of Discrimination against Women” in the RA, UN Committee on the Elimination of all Forms of Discrimination against Women, adopted on 25<sup>th</sup> of November 2016, CEDAW/C/ARM/CO/5-6, paragraph 21, available at: <https://undocs.org/CEDAW/C/ARM/CO/5-6>.

bodies.”<sup>208</sup> After the analysis of the above mentioned laws, it becomes clear that the separate providing of measure No. 6 is incomprehensible, because the participation of women in representative bodies has already been addressed by measure No. 2.

## 1. WOMEN’S PARTICIPATION IN THE LEGISLATIVE SYSTEM

According to the Inter-Parliamentary Union’s “women in national parliaments” index, the RA is, according to the results of the 7<sup>th</sup> convocation of the National Assembly, ranked 75<sup>th</sup> out of 190 countries.<sup>209</sup> Table 14 shows women’s participation in the parliament during the 1<sup>st</sup> and 3<sup>rd</sup> Republics of Armenia, which makes it clear that presently **women occupy 23.48% of the National Assembly seats**. It should be added that the president of the National Assembly is a man, out of the 3 vice-presidents 1 is a woman, and out of the 11 standing committee’s leaders 2 are women.

**Table 14: Women in the legislative branch**

The parliaments of the 1 <sup>st</sup> and 3 <sup>rd</sup> Armenian Republics	Total number of deputies	Total number of female deputies	Quota provided by the law
Parliament of the First Armenian Republic of 1918	82	3	3.66%
The Supreme Council of the first convocation of the RA of 1990	260	9	3.46%
The National Assembly of the 1 <sup>st</sup> convocation of the RA of 1995	190	12	6.32%
The National Assembly of the 2 <sup>nd</sup> convocation of the RA of 1999	131	4	3.05% 5%
The National Assembly of the 3 <sup>rd</sup> convocation of the RA of 2003	131	7	5.34%

<sup>208</sup> Draft decision of the RA on “approving the Strategy and Action Plan for the implementation of the RA gender policy of 2019-2023”, Appendix 2, developing body: RA Ministry of Labor and Social Affairs, public discussion period: 22.05.2019-06.06.2019, priority No. 4, Measures No. 2 and No. 6, available at: <https://www.e-draft.am/projects/1712/about>.

<sup>209</sup> “Women in national parliaments”, Inter-Parliamentary Union, available at: <http://archive.ipu.org/wmn-e/classif.htm>.

The National Assembly of the 4 <sup>th</sup> convocation of the RA of 2007	131	12	9.16%	15%
The National Assembly of the 5 <sup>th</sup> convocation of the RA of 2011	131	13	9.92%	20%
The National Assembly of the 6 <sup>th</sup> convocation of the RA of 2017	105	19	18.1%	25%
The National Assembly of the 7 <sup>th</sup> convocation of the RA of 2018	132	31	23.48%	25% (20%) <sup>210</sup>

As can be seen from the analysis of table 14, the introduction of quotas in the RA has provided a positive shift in the level of women’s participation, that is, it has not been an end in itself, but on the other hand, women’s representation in the National Assembly has not been secured in line with the targets set for each election cycle. The first reason for that is that **a wrong kind of quota has always been applied in the RA, as only a quota in the list of deputies in the RA was intended, not a quota which ensured actual mandates in the parliament, as a result of which, in case of resignation or the taking of another office, female candidates were replaced by male candidates.** The other reason is that women’s participation, especially during the beginning of the restructuring period, has always only been attempted to be increased through the introduction of quotas without the introduction of other measures. A vivid example of such artificial quotas is the period of reconstruction, when women accounted for 32.8% of the USSR Supreme Council (elections of 1985), 36% of the Supreme Soviet of the Soviet Union (elections of 1985), 50% of regional, rural councils (elections of 1985), however, the first alternative and independent elections sharply reduced the representation of women in the USSR and the Supreme Council of Armenia, accounting for 15.6% of deputies (elections of 1988). The above-mentioned proves that the introduction of artificial quotas didn’t reflect women’s actual political participation and role in the decision making process, and that there is a need to combine quotas with other measures. In addition, **the legal regulations for the placement of female candidates on the list were**

<sup>210</sup> In case of renouncing the mandate or the early termination of the deputy’s mandate.

**incomplete**, because the calculation for the use of quotas started from the 2<sup>nd</sup> place not the first, thereby enabling the chance for the 1<sup>st</sup> union to have no female candidates.<sup>211</sup>

**Research of international experience shows that the following types of quotas exist:**

**1. Legislated Candidate Quota.** This requires that a minimum number of candidates of a party are women, however, it doesn't provide for a requirement for a minimum number of mandates for women in the parliament. Such a requirement quota exists in 34 countries around the world.<sup>212</sup> **Bolivia** provides for the equal participation of men and women-50%, and if the list has an odd number of candidates, then the preference should be given to the female candidate.<sup>213</sup>

**2. Reserved Seats Quota.** This requires a minimum participation of women not in party lists, but provides for a minimum number of seats for women in the parliament. Such a quota exists in 24 countries around the world.<sup>214</sup>

In 2003 the **Rwandan Government** approved a new constitution that includes a system of quotas for women in all levels of government. The legislation requires that 30% of all representatives, including in legislative bodies, be women. The quota in Rwanda provides for a minimum number of mandates for women. The quota system in Rwanda is different in the sense that **only women are eligible to vote for mandates provided only for women**. As a result, the proportion of women in the lower house of parliament rose from 23% to 49% in the 2003 election. During the following elections of 2008, the Women's Party Assembly made a grand strategic move: women who had become MPs in the previous election through the mandates provided only for women and already had recognition, participated in the election through the normal procedure, thereby giving new women the opportunity to participate through

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<sup>211</sup> The aforementioned allegations have repeatedly been voiced by the Armenian Lawyer's Association, some of which have been incorporated into the new Electoral Code.

<sup>212</sup> International institute for democracy and electoral assistance (IDEA), available at: <https://www.idea.int/data-tools/data/gender-quotas/legislative-overview>.

<sup>213</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Bolivia ranks 3<sup>rd</sup> out of 190 countries, with a women's participation rate of 53.1%, available at: <http://archive.ipu.org/wmn-e/classif.htm>; Bolivia's Electoral Code on Quotas, adopted in 2010, articles 1 and 58 (2), available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/129/35>.

<sup>214</sup> International Institute for Democratic and Electoral Assistance, available at: <https://www.idea.int/data-tools/data/gender-quotas/reserved-overview>

the mandates provided only for women, as a result of which women's participation rose to 56%.<sup>215</sup>

**3. Voluntary Political Party Quota.** A distinctive feature of this quota is that political parties voluntarily include quotas in their list for women, even when there is no legislative requirement to do so. Such a quota exists in 55 countries around the world.<sup>216</sup> In **Sweden** a very high women's participation rate was recorded even when only this quota was applied and no other legislative quota on women's participation was applied.<sup>217</sup>

**4. Combination of the above quotas.** Women's participation in the legislative branch in a number of countries is ensured through the combination of the above 2 quotas, such countries are **Mexico, Argentina and Tanzania.**<sup>218</sup>

**Research of international experience shows that there are various sanctions in place for the non-compliance of quota legislation, ranging from denial of registration to the imposition of financial penalties by the Central Electoral Commission, for example in Albania the fine is 7120 Euros.**<sup>219</sup>

**Providing a direct link between state funding for parties and gender equality** is also a way to resolving the issue. Such regulations exist in 25 countries around the world, including **France**, where if the difference between men and women in the pre-election candidates list is greater than 2%, state financial support is reduced by an amount equivalent to 150% of

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<sup>215</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Rwanda ranks 1<sup>st</sup> out of 190 countries, with a women's participation rate of 61.3%, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On quotas- "Rwanda Strides Towards Gender Equality in Government", ELIZABETH BENNETT, <http://harvardkennedyschoolreview.com/rwanda-strides-towards-gender-equality-in-government>, see also <https://www.idea.int/data-tools/data/gender-quotas/country-view/255/35>.

<sup>216</sup> International Institute for Democratic and Electoral Assistance, <https://www.idea.int/data-tools/data/gender-quotas/voluntary-overview>.

<sup>217</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Sweden ranks 5<sup>th</sup> out of 190 countries, with a women's participation rate of 47.3%, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On quotas- International Institute for Democratic and Electoral Assistance, available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/261/35>.

<sup>218</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Mexico, Argentina and Tanzania rank 4<sup>th</sup>, 19<sup>th</sup> and 28<sup>th</sup> respectively out of 190 countries, with a women's participation rate of 48.2%, 38.8% and 36.9% respectively, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On quotas- International Institute for Democratic and Electoral Assistance, available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/220/35>, <https://www.idea.int/data-tools/data/gender-quotas/country-view/51/35>, <https://www.idea.int/data-tools/data/gender-quotas/country-view/291/35>.

<sup>219</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Albania ranks 41<sup>st</sup> out of 190 countries, with a women's participation rate of 29%, available at: <http://archive.ipu.org/wmn-e/classif.htm>. On sanctions, the Electoral Code of Albania, adopted in 2015, article 175, available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/47/35>.

that difference<sup>220</sup>, **Portugal**, where if the representation of either one of the genders is lower than 20%, state financial support is reduced by 50%<sup>221</sup>, **Ethiopia**<sup>222</sup> and etc. In the Eastern Partnership region of Georgia there is no quota, however, with a 30% participation rate of women, the state provides 30% additional financial support from the state budget<sup>223</sup>, and in the region of **Moldova**, in addition to a Legislated Candidate Quota, the state provides 10% additional financial support from the state budget if a female participation rate of 40% is achieved<sup>224</sup>, however, the participation rate of women in these countries is lower than in Armenia.

**The providing of other financial incentives aimed at promoting gender equality in parties** is also known in international practice. Such regulations exist in 18 countries around the world. It should be noted that these are diverse and include the following: **funding for gender equality activities**, including **the implementation of programs** aimed at the political participation of women, youths, people with disabilities, ethnic minorities and other marginalized communities: **Chile, Ireland, Kenya, Korea, Mexico, Slovenia**<sup>225</sup>, **the**

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<sup>220</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, France ranks 17<sup>th</sup> out of 190 countries, with a women's participation rate of 39.7%, available at: <http://archive.ipu.org/wmn-e/classif.htm>. On funding, International Institute for Democratic and Electoral Assistance, available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/86/35>.

<sup>221</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Portugal ranks 31<sup>st</sup> out of 190 countries, with a women's participation rate of 35.7%, available at <http://archive.ipu.org/wmn-e/classif.htm>. On funding, "Lei da Paridade" of Portugal, adopted in 2006, article 7.1, available at: <https://www.idea.int/data-tools/country-view/247/55>.

<sup>222</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Ethiopia ranks 19<sup>th</sup> out of 190 countries, with a women's participation rate of 38.8%, available at <http://archive.ipu.org/wmn-e/classif.htm>. On funding, Revised Political Parties Registration No. 573/2008, adopted in September 24, 2008, article 45 (2), available at: <https://www.idea.int/node/299570>.

<sup>223</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Georgia ranks 138<sup>th</sup> out of 190 countries, with a women's participation rate of 14.8%, available at: <http://archive.ipu.org/wmn-e/classif.htm>. On funding <https://www.idea.int/data-tools/data/gender-quotas/country-view/109/35>.

<sup>224</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Ethiopia ranks 81<sup>st</sup> out of 190 countries, with a women's participation rate of 22.8%, available at <http://archive.ipu.org/wmn-e/classif.htm>. On funding, International Institute for Democratic and Electoral Assistance, available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/202/35>.

<sup>225</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Mexico, Slovenia, Ireland, Kenya and Korea rank 4<sup>th</sup>, 73<sup>rd</sup>, 86<sup>th</sup>, 90<sup>th</sup> and 120<sup>th</sup> respectively out of 190 countries, with a women's participation rate of 48.2%, 24.4%, 22.2%, 21.8% and 17.1% respectively, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On other financial advantages, "General Political Parties Law" of Mexico, adopted in 2014, article 51, available at: <https://www.idea.int/node/298066>, "Political Parties Act" of Slovenia, adopted in 1994, amended 2014, Article 21, available at: <https://www.idea.int/node/296949>, "Third Evaluation Report on Ireland", GRECO, March 2009, Strasbourg, "Transparency on party funding" (theme II), available at: <https://www.idea.int/node/285009>, "Political Parties Act" of Kenya, adopted in 2011, Section 26, available at:



**implementation of centers of thought, political and electoral training courses** for the effective inclusion of women, youths and ethnic minorities in political processes: **Columbia, Honduras**<sup>226</sup>, the reduction of taxes of activities aimed at promoting women's political participation: **Italy**, the amount redacted is equivalent to 10% of the support provided<sup>227</sup>, a **partial exemption for parties from paying a registration fee**, for example: Haiti, where any party that registers a women's participation rate of 30% or higher, will benefit from a 40% discount in registration fees<sup>228</sup>, a **partial reimbursement of pre-election expenses of female candidates**, for example: Chile<sup>229</sup>, **providing additional state support**, for example: the Solomon islands, where a provisional grant equivalent to 10000 USD is granted from the state budget to any female candidate elected to parliament<sup>230</sup> and **funding to support women's wings**, for example: Finland, where all political parties have to allocate 12% of their annual party subsidy to support women's wings<sup>231</sup>.

**Currently the gender quota threshold has been raised to 25% by 2021 and 30% after that in the RA Electoral Code**<sup>232</sup>, which corresponds to the critical mass required to influence

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<https://www.idea.int/node/298578>, "Political Funds Act" of Republic of Korea, adopted in 2016, available at: <https://www.idea.int/node/294691>.

<sup>226</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Colombia and Honduras rank 94<sup>th</sup> and 111<sup>th</sup> respectively out of 190 countries, with a women's participation rate of 21.1% and 18.7% respectively, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On other financial advantages, "Ley 1475" of Columbia, adopted in 2011, artículo 18, available at: <https://www.idea.int/node/299734> u "Electoral and Political Organizations Law", adopted in 2004, article 105-A, available at: <https://www.idea.int/node/297937>.

<sup>227</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Italy ranks 31<sup>st</sup> out of 190 countries, with a women's participation rate of 35.7%, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On other financial advantages, Law n°13, adopted in 21 February 2014, article 10,3, available at: <https://www.idea.int/node/284892>.

<sup>228</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Haiti ranks 186<sup>th</sup> of 190 countries, with a women's participation rate of 2.5%, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On other financial advantages, Decret Electoral, adopted in 2015, article 92.1, available at: <https://www.idea.int/node/290534>.

<sup>229</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Chile ranks 83<sup>rd</sup> out of 190 countries, with a women's participation rate of 22.6%, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On other financial advantages, Ley N° 19.884, available at: <https://www.idea.int/node/298197>.

<sup>230</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, the Solomon Islands rank 187<sup>th</sup> out of 190 countries, with a women's participation rate of 2%, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On other financial advantages, Solomon Islands Political Parties Integrity Act, adopted in 2014, article 58 (1) (a) and (b), available at: <https://www.idea.int/node/286170>.

<sup>231</sup> According to the Inter-Parliamentary Union's "Women in national parliaments" index, Finland ranks 12<sup>th</sup> out of 190 countries, with a women's participation rate of 45%, available at: <http://archive.ipu.org/wmn-e/classif.htm>: On other financial advantages, the annual decision of the Government of Finland is available at: <https://www.idea.int/node/286780>.

<sup>232</sup> RA Electoral Code (constitutional law), law No. 54-N, adopted on 25.05.2016, article 144, part 14 and article 83, parts 4 and 10, available at: <https://www.arlis.am/DocumentView.aspx?docID=105967>.

decision-making. In addition, the calculation of quotas started from the first place. A reserved seats quota has also been envisaged: when a deputy has resigned or his/her mandate has been prematurely terminated, the mandate is given to the next candidate of the same sex. However, the latter is set to ensure a 20% threshold (instead of 25%) till 2021 and a 25% threshold (instead of 30%) after 2021.<sup>233</sup> The failure to meet the quota is sanctioned by not being registered to the electoral list.<sup>234</sup>

The combination of international experience and the current RA regulations show that the following problems still exist: the amended regulations make some reference to the reserved seats quota, however it is not clear why 25% and not 30%, there is no practice of the provision of voluntary quotas in parties, the current regulations don't provide for financial penalties for the non-compliance of quotas, there is no link between the state funding of parties and gender equality,<sup>235</sup> there are no financial advantages for parties supporting gender equality and there are no quotas aimed at ensuring women's participation in governing bodies in the legislative branch.

#### SUGGESTIONS

- lxxx.** To consider the appropriateness of setting a 30% threshold of women's participation in the legislative branch.
- lxxxi.** To make amendments to article 100 of the RA Electoral Code, in particular to replace the "25 percent" words with the "30 percent" words, as a result of which, the mandate of a deputy who has resigned, or whose mandate has been prematurely terminated, will be given to the next candidate of the same sex.
- lxxxii.** To provide legal privileges, as a result of which parties will be interested in establishing political party quotas, including providing a direct link between state funding for parties and gender equality and/or other financial advantages, including the providing of funds for activities aimed at gender equality (the implementation of programs and/or the conducting of training courses and/or reduction of taxes) and/or reduction

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<sup>233</sup> See *ibid.*, article 144, section 14 and article 100, section 3.

<sup>234</sup> See *ibid.*, article 86, section 2, item 3.

<sup>235</sup> RA Electoral Code (constitutional law), law No. 54-N, adopted on 25.05.2016, article 26, available at: <https://www.arlis.am/DocumentView.aspx?docID=105967>. Said article, listing the grounds for state funding of parties, doesn't provide such a clause.

of state registration fees of the party and/or partial reimbursement of pre-election expenses of female candidates.

- lxxxiii. To consider the appropriateness of imposing financial penalties for the non-compliance of quotas.
- lxxxiv. To expand the functions of the Central Electoral Committee and to establish its obligation of collecting and publishing statistics on women’s participation in the National Assembly elections.
- lxxxv. To establish incentive programs, in particular a “best female deputy” nomination, and to establish clear competition criteria to that end, such as providing the best solutions to gender issues.
- lxxxvi. To establish the conducting of retraining courses which target women’s rights and gender budgeting for deputies some time after their taking of office.
- lxxxvii. To legislatively provide a quota aimed at ensuring women’s participation in leadership positions of the legislative branch, such as: NA Vice-Presidents, Heads of the NA Standing Committee, Advisors to the president and vice-presidents of the NA, heads of the NA Staff Department and etc.

## 2. WOMEN’S PARTICIPATION IN THE EXECUTIVE BRANCH

In general the RA Legislation doesn’t provide quotas for women’s participation in leadership positions of the executive branch and/or presidential office, as well as in Foreign Service, namely as ambassadors and permanent representatives in foreign countries and international organizations. As a result, leadership positions of the executive branch and the Presidential Office are comprised almost entirely of men, as reflected in table 15.<sup>236</sup>

**Table 15: Women in the executive branch and presidential staff**

Office	Female	Male	Female (%)	Male (%)
President	-	1	-	100%
Prime Minister	-	1	-	100%

<sup>236</sup> The data is taken from the official websites of the RA Government, the Prime Minister, the President and the official websites of other bodies listed below.

Deputy Prime Minister	-	2	-	100%
Minister	1	11	8.3%	91.6%
Prosecutor General	-	1	-	100%
Deputy Prosecutor General	-	4	-	100%
Head of the Investigative Committee	-	2	-	100%
Deputy head of the Investigative Committee	-	5	-	100%
Human Rights Defender	-	1	-	100%
Head of the independent Collegial Body established by the constitution <sup>237</sup>	-	4	-	100%
Other members of the independent Collegial Body established by the constitution	3	22	12%	88%
Head of an autonomous Collegial Body <sup>238</sup>	-	2	-	100%
Other member of an autonomous Collegial Body	1	7	12.5%	87.5%
Chief of Staff of the President's Office	-	1	-	100%
Chief of Staff of the Prime Minister's Office	-	1	-	100%
Head of the Deputy Prime Minister's Office	-	2	-	100%
Head of a body under the Government	-	11	-	100%
Head of a body under the Prime Minister	-	3	-	100%
Head of a body under the Ministry	1	12	7.69%	92.31%
Deputy Minister	10	32	23.8%	76.1%
Advisor to the president	-	2	-	100%
Advisor to the Prime Minister	2	8	20%	80%
Advisor to the Deputy Prime Minister	3	4	42.8%	57.1%

<sup>237</sup> Includes data from the Central Electoral Commission, the Television and Radio Commission, the Audit Chamber and the Central Bank.

<sup>238</sup> Includes data from the State Commission for the Protection of Economic Competition and the Public Services Regulatory Commission.

If we look at the key members of the Executive Bodies of the RA in accordance with the methodology of the UN Economic Committee, we will see that all of them are led by men, as reflected in Table 16.

**Table 16: Women in key Executive Bodies**

Position	Woman	Man	Woman (%)	Man (%)
Prime Minister	-	1	-	100%
Ministers	-	4	-	100%
Finance	-	1	-	100%
Justice	-	1	-	100%
Foreign Affairs	-	1	-	100%
Defense	-	1	-	100%
Chief of Police	-	1	-	100%

In addition, women's representation in Foreign Service, that is as Ambassadors in or permanent representatives to foreign countries and international organizations is depicted in Table 17, which shows that even a women's participation rate of 15% is not ensured.<sup>239</sup>

**Table 17: Women in Foreign Service**

Position	Woman	Man	Woman (%)	Man (%)
Ambassadors/permanent representatives	6	36	14.28%	85.71%
Representatives in international organizations	-	10	100%	100%

## SUGGESTIONS

<sup>239</sup> Data from the official website of the RA Ministry of Foreign Affairs, as of April 1<sup>st</sup> 2019 available at: [https://www.mfa.am/filemanager/Statics/cat\\_arm.pdf](https://www.mfa.am/filemanager/Statics/cat_arm.pdf).

- lxxxviii.** To establish quotas to ensure at least a 25% participation rate of women in leadership positions of the executive branch, including for RA Deputy Prime Ministers, Ministers, Deputy Ministers, heads of independent Collegial Bodies established by the constitution, heads of bodies under the Government, Prime Minister and ministries, advisors to and leaders of structural subdivisions of the President, Prime Minister and Deputy Prime Ministers.
- lxxxix.** To establish quotas to ensure a rate of at least 25% women’s participation as ambassadors and permanent representatives in foreign countries and international organizations.

### **3. WOMEN’S PARTICIPATION IN THE JUDICIAL SYSTEM**

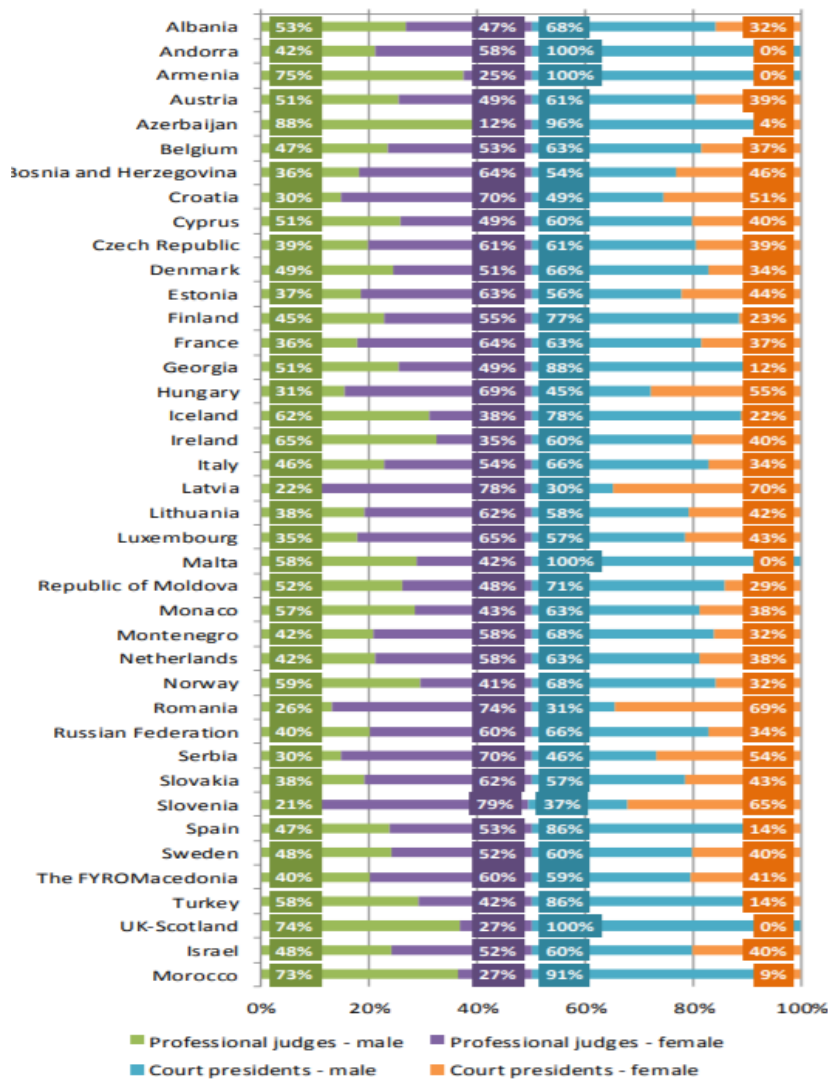
According to the 2016 statistics of the Council of Europe European Commission for the Efficiency of Justice, Armenia ranks 39<sup>th</sup> out of 40 countries in terms of the male to female ratio of judges, ensuring a women’s judge rate of only 25%. In addition, Armenia shares the last place according to the number of female court presidents-0%.

It should be noted that the average percentage of female judges is 50% and the average percentage of female court presidents is 34%, which is shown in table 18.<sup>240</sup>

**Table 18: the ratio of male and female judges and presidents of courts of the member states of the Council of Europe**

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<sup>240</sup>European Commission for the Efficiency of Justice (CEPEJ), “European judicial systems: Efficiency and quality of justice”, CEPEJ STUDIES No. 26, 2016 statistics, available at: <https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c>.



It should be noted that the situation hasn't changed much since 2016, and the overall situation can be seen in the below tables. In particular, table 19 presents the ratio of male and female judges in general, table 20 presents female judges and heads of courts at every level, and Table 21 presents the ratio of males and females according to judges of the RA Constitutional Court.

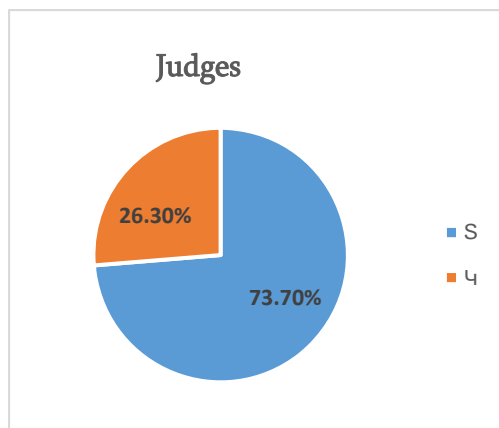
As a result, we see that women's participation in the Judicial System accounts for only 26%, but even today there is still no female leader.<sup>241</sup>

Table 19: Women in the Judicial System

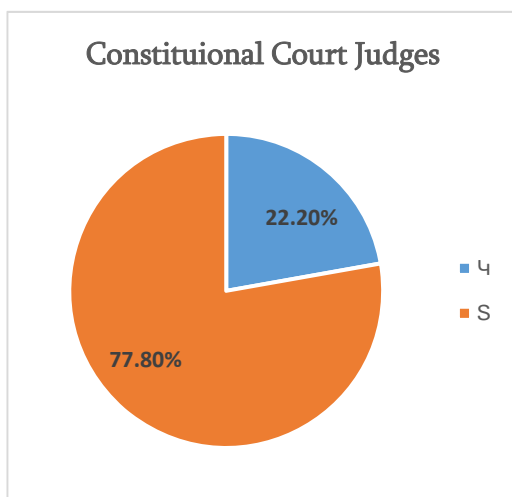
<sup>241</sup> Source: official websites of the RA Ministry of Justice and the RA Constitutional Court.

Office	Female	Male	Female (%)	Male (%)
Judges of the First Instance Court of General Jurisdiction and Specialized Courts	43	121	26.22%	73.78%
Leaders of the First Instance Court of General Jurisdiction and Specialized Courts	-	13	0%	100%
Judges of the Court of Appeal	12	32	27.27%	72.72%
Leader of the Chamber of the Court of Appeal	-	3	0%	100%
Judges of the Court of Cassation	4	13	23.52%	76.47%
Head of the Court of Cassation	-	1	0%	100%
Total number of judges	59	166	26.22%	73.77%
Total number of leaders of courts/chambers	-	17	0%	100%

**Table 20: Female judges and heads of courts at every level.**



**Table 21: Women in the RA Constitutional Court**





The RA Judicial Court provides certain quotas to ensure women’s participation in the Judicial System: “5. If the number of judges of any of the two sexes is less than 25% of the total number of judges, than that sex is guaranteed a maximum of 50% of the seats, but no less than at least half of the number of votes cast by members of the Supreme Judicial Council for that sex.”<sup>242</sup> However, there are no legislative quotas for heads of courts, members of the RA Constitutional Court, as well as for members of the Supreme Judicial Council.

#### SUGGESTIONS

- xc. To legislatively increase the 25% mandatory quota for judges to 40%.
- xc. To establish a 25% quota for leadership positions in the Judicial System.
- xcii. To establish a 25% quota for members of the RA Constitutional Court.
- xciii. To establish a 25% quota for members of the RA Supreme Judicial Council.

#### 4. WOMEN’S PARTICIPATION AT THE LOCAL LEVEL

Women’s participation at the local level presents a very sad picture, because we don’t have a female regional (marz) governor, and out of the 502 RA communities, only 9 are led by women,<sup>243</sup> moreover, in 4 out of the 10 RA provinces: in Aragatsotn, Tavush, Vayots Dzor and Syunik there are no female community leaders. The problem was further exacerbated by the enlargement of communities, during which the percentage of female community council members more than halved to 5.5%. In addition, there are no women as the Yerevan mayor, Yerevan’s deputy mayors, advisors to the mayor, and heads of the administrative districts. More details are shown in tables 22, 23 and 24.<sup>244</sup>

**Table 22: Women in administrative-territorial units and local self-government bodies**

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<sup>242</sup> RA Judicial Code RA Constitutional law, law No. 95-N, adopted on 07.02.2018, article 109, available at: <https://www.arlis.am/DocumentView.aspx?DocID=119531>.

<sup>243</sup> Those are the following communities: Verin Dvin (Petrova Lyudmila) of Ararat province, Vagharshapat (Diana Gasparyan) of Armavir province, Arevashat (Susanna Gevorgyan), Arevamet (Anahit Davtyan), Geghakar (Karine Martirosyan) of Gegharkunik province, Bazum (Srbuhi Harutyunyan) and Karadzor (Hranush Rostomyan) of Lori province, Nor Yerznka (Alina Harutyunyan) of Kotayk province, Enlarged Amasia (Jemma Harutyunyan) of Shirak province.

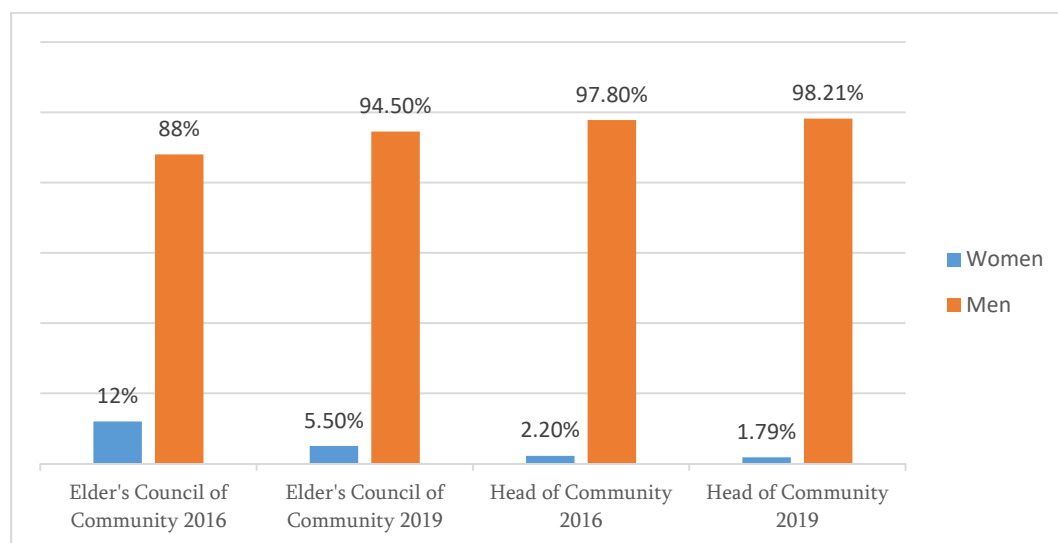
<sup>244</sup> All the data shown in the table are taken from official websites as of 07.10.2019. Data of the heads of administrative districts in communities and the members of the community council are taken from the following website: <http://womennet.am/tim-women/>, where the presented data are of 26.02.2019. The data of the community leader also includes the 09.06.2019 election results of local self-government bodies.

Office	Female	Male	Female (%)	Male (%)
Regional (marz) governor	-	10	0%	100%
Deputy regional (marz) governor	2	11	15.38%	84.61%
General Secretary of the regional (marz) governor's office	-	8	0%	100%
Head of a community:	9	493	1.79%	98.2%
Head of a urban community	1	48	2.04%	97.95%
Head of a rural community	8	445	1.76%	98.2%
Head of a enlarged community	1	51	1.92%	98.07%
Head of a community administrative district	24	389	5.8 %	94.2%
Members of the Community council	373	3638	5,5%	94.5%

**Table 23: Women in Yerevan**

Position	Woman	Man	Woman (%)	Man (%)
Mayor of Yerevan	0	1	0%	100%
Deputy mayor of Yerevan	0	4	0%	100%
Advisor to the mayor of Yerevan	0	2	0%	100%
Heads of the administrative districts of Yerevan	0	12	0%	100%
Yerevan council of elders	19	46	29.23%	70.76%

**Table 24: Women in local self-government bodies before and after the enlargement**



According to the analysis of **the UN**, in 2019, according to the data available in 103 different countries and territories, the percentage of the representation of women in local self-government bodies varied from 1% to 50%, **the average was 26%**.<sup>245</sup> **In the EU the average was 33.3%**, and the following countries had a women's participation rate of approximately 50%: Spain, France, Sweden and Finland.<sup>246</sup>

The equal participation and representation of women in the local decision making process are of paramount importance in prioritizing women's practical needs and issues on local government agendas and in **localizing the sustainable development goals**.<sup>247</sup>

Internationally, **quotas** are used as a mechanism to promote women's participation both in parliaments and local self-government bodies. Let's look at some examples of the effectiveness of such quotas. **French** legislation stipulates that women's participation in local self-government bodies must be 50%.<sup>248</sup> In **Uganda**, the quota provided by the law on "local self-government" stipulates a women's participation rate of at least 1/3 in local self-government bodies, as a result of which women's participation has reached 45.7%. However,

<sup>245</sup> United Nations (forthcoming). The Sustainable Development Goals Report 2019. New York <https://unstats.un.org/sdgs/report/2019/The-Sustainable-Development-Goals-Report-2019.pdf>.

<sup>246</sup> "Women in politics in the EU State of play", European Parliamentary Research Service (EPRS), Rosamund Shreeves and Martina Prpic, with Eulalia Claros Members' Research Service, PE 635.548, March 2019, available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635548/EPRS\\_BRI\(2019\)635548\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635548/EPRS_BRI(2019)635548_EN.pdf).

<sup>247</sup> Consolidated reply of the e-Discussion on Women's Political Participation in Local Government iKNOW Politics April 2018 [http://iknowpolitics.org/sites/default/files/consolidated\\_reply\\_e-discussion\\_on\\_local\\_government\\_en\\_0.pdf](http://iknowpolitics.org/sites/default/files/consolidated_reply_e-discussion_on_local_government_en_0.pdf).

<sup>248</sup> Institute for Democracy and Electoral Assistance, available at: <https://www.idea.int/data-tools/data/gender-quotas/country-view/86/35>.

as there are no quotas on women's participation as heads of local self-government bodies, they make up only 1%.<sup>249</sup> In **Finland**, the law on "national quotas" stipulates that the percentage of any of the sexes in all levels of local self-government bodies can't be less than **40%**.<sup>250</sup> As a result, from 1993 (before the adoption of the law on quotas) to 1997 (after the adoption of the law on quotas) women's participation in communities grew from 25% to 45%.<sup>251</sup> In **India**, in an effort to increase women's political participation, a 1993 constitutional amendment mandated that a randomly selected third of leadership positions at every level of local government be reserved for women.<sup>252</sup> In **Rwanda**, in the 2001 and 2006 local elections, triple ballots were introduced: general, women and youths, and voters were forced to choose one candidate from each ballot.<sup>253</sup> In **Poland**, the law provides a gender quota to ensure a women's participation rate of at least **35%**, there is also a domestic party quota in one of the parties.<sup>254</sup>

It should be noted that in international experience, quotas aren't the only mechanism; there is also **the development of the capabilities of female candidates and raising the awareness of the community towards the elimination of negative cultural stereotypes**. For example in **Belgium** and **Guinea** incubators are created for female candidates, in **Uganda** 1-2 years before the elections begin **training programs** are conducted for female candidates, including public speaking, campaign management and media coverage. It should be added that In international experience, there are also cases when **civil initiatives**, except from parties, are **nominated in local elections**, which also indirectly promotes women's participation in local self-government bodies.

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<sup>249</sup> "Consolidated reply of the e-Discussion on Women's Political Participation in Local Government", International Knowledge Network of Women in Politics", April 2018 available at: [http://iknowpolitics.org/sites/default/files/consolidated\\_reply\\_e-discussion\\_on\\_local\\_government\\_en\\_0.pdf](http://iknowpolitics.org/sites/default/files/consolidated_reply_e-discussion_on_local_government_en_0.pdf).

<sup>250</sup> "Quota trouble: Talking about gender quotas in Finnish local politics", International Feminist Journal of Politics, Holli, Anne Maria; Luhtakallio, Eeva; Raevaara, Eeva, 2006, 8.2.

<sup>251</sup> "Representations of Women in Finnish Local Government: Effects of the 1995 Gender Quota Legislation", Pikkala, S, paper presented at the European Consortium on Political Research Joint Sessions of Workshops, Copenhagen, 14– 19 April, 2000.

<sup>252</sup> "Raising Female Leaders, J-PAL Policy Briefcase, April 2012, available at: <http://www.povertyactionlab.org/publication/raising-female-leaders>.

<sup>253</sup> Abdennebi-Abderrahim, Souad 'Africa Report' – see 'Increasing Women's Political Participation in Liberia: Challenges and Potential Lessons from India, Rwanda, and South Africa' by Samuel Cole

<sup>254</sup> "Eastern Europe report", Fuszara, Malgorzata, 2008.

Studies have shown that **women’s participation in the local self-government isn’t just for show, but and can bring about significant change.** For example, in **India**, there are 62% more projects on drinkable water initiated in female-led communities than there are in male-led communities. In **Norway**, a direct link between female integration in community councils and the coverage of child care issues was found.<sup>255</sup>

**Currently, the gender quota in community councils has been raised to 25% by 2021 and 30% after that by the RA Electoral Code.<sup>256</sup> However, there is only a 20% gender quota (instead of 25%) by 2021 and 25% (instead of 30%) after that in local self-government bodies.** Moreover, these quotas are only provided in Yerevan. Gyumri and Vanadzor, also there are no quotas for community leaders. <sup>257</sup>

### SUGGESTIONS

- xciv. To provide a 25% participation quota for regional (marz) governors, deputy regional (marz) governors, General secretaries of the regional (marz) governor’s office, community leaders, including urban, community’s administrative leaders, deputies of community leaders and other managerial positions at the local self-government level.**
- xcv. To make amendments to the RA Electoral Code and provide the quotas provided for Yerevan, Gyumri and Vanadzor to every other council community, starting from urban and enlarged communities.**
- xcvi. To make amendments to the RA Electoral Code and raise the participation threshold to 40%.**
- xcvii. To make amendments to the RA Electoral Code and consider the possibility of nominating civil initiatives in local elections.**
- xcviii. To expand the functions of the Central Electoral Committee and to include the obligation of collecting and publishing statistics on women’s participation in local elections under its functions.**

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<sup>255</sup> R. Chattopadhyay and E. Duflo (2004). “Women as Policy Makers: Evidence from a Randomized Policy Experiment in India,” *Econometrica* 72(5), pp. 1409–1443; K. A. Bratton and L. P. Ray, 2002, “Descriptive Representation: Policy Outcomes and Municipal Day-Care Coverage in Norway,” *American Journal of Political Science*, 46(2), pp. 428–437.

<sup>256</sup> RA Electoral Code (constitutional law), RA law No. 54-N, adopted on 25.05.2016, article 130, part 2 and article 141, part 8, available at: <https://www.arlis.am/DocumentView.aspx?docID=105967>.

<sup>257</sup> *Ibid.* Article 144, part 14 and 16.

- xcix.** From the point of view of the activation and improvement of **gender committee's adjacent to the regional (marz) governor's offices, to establish incubators and conduct training courses for female candidates** on behalf of the latter.
- c.** To increase the level of awareness raising campaigns in order to make the activities of local self-government bodies more accessible to the members of the community, including **women**.
- To **provide the requirement for online broadcasting** of the community council sessions on official websites for **communities with a population greater than 3000**, not 10000,
  - To **publish announcements of the community council sessions and their agenda in all settlements of the community**, in places visible to the residents.
- ci.** To provide **legislative privileges, as a result of which parties will be more keen in establishing voluntary quotas, including providing a direct link between the state funding of parties and gender equality and/or other financial advantages**, including the providing of funds for activities aimed at gender equality (the implementation of programs and/or conducting of retraining courses and/or tax reduction) **and/or providing a partial reduction of the party registration fee and/or partial reimbursement of pre-election expenses made by female candidates**.
- cii.** To consider the appropriateness of **financial penalties for the non-compliance of quotas**.
- ciii.** To establish incentive tools, in particular to establish **an award for the "best female community leader" and "best female community council member"**, and to set specific competition criteria to that end, such as the best solution to the main gender issues, also to consider other encouragement mechanisms for female heads of community and female community council members, for example in the form of money, health subsidiaries and etc.
- civ.** To establish a **conducting of retraining courses aimed at women's rights and gender budgeting for community council members and heads of communities** some time after taking office.
- cv.** To establish **mandatory gender assessment for the community's 5-year development programs**.

APPENDIX 1  
SPECIAL OBSERVATIONS OF THE RA STRATEGY AND ACTION DRAFT PLAN ON THE  
2019-2023 IMPLEMENTATION OF GENDER POLICIES

The Draft Strategy and Draft Action Plan don't comply with the “methodical directive of the implementation of the development, submission and monitoring of strategic documents that have influence on state revenues and expenses, as defined by the RA Government decision.”<sup>258</sup> (hereinafter referred to as the **methodical directive**)

1) **ON PERFORMANCE INDICATORS .**

*The methodical directive states that **realistic, qualitative and quantitative performance indicators need to be defined** for strategic purposes, which will be the basis for measuring program goals, progress and efficiency in the future. When **defining** performance indicators in strategic documents, both the **target** and **base indicators** need to be defined. Base indicators describe the actual level of the corresponding indicator, measured against which the performance indicators have been defined and measured against which the progress of the corresponding result will be assessed in the future. In order for the performance indicator to be an effective and useful measurement, it must meet the following criteria: When defining indicators, it is necessary to avoid using general and vague expressions (for example: “with high quality”, “throughout the year”, “in proper fashion” and etc), the indicator can either be qualitative or quantitative, in which the qualitative indicator must be measurable and the qualitative indicator must be gradable, the indicator should be logically related to the relevant goals or results and describe them, emphasizing the results that.*<sup>259</sup>

In addition, the strategy and its implementing action plan must be based on a **table** provided by the methodical directive **describing the performance indicators**. In particular, it is necessary to provide the description of the indicators of each result:

- i. **Purpose/significance-** what does the indicator show and why it is important.*
- ii. **Information collection/source-** describes where the information comes from and how it is collected.*

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<sup>258</sup> “Methodical directive of the implementation of the development, submission and monitoring of strategic documents that have influence on state revenues and expenses”, adopted by the RA Government’s protocol decision No. 42, 5<sup>th</sup> of October 2017, available at: [https://www.e-gov.am/u\\_files/file/decrees/arc\\_voroshum/2017/10/ardzanagrayinNrq020.pdf](https://www.e-gov.am/u_files/file/decrees/arc_voroshum/2017/10/ardzanagrayinNrq020.pdf).

<sup>259</sup> Ibid. items 41, 43, 50, sub-items 3,5,7.

- iii. **Calculation method**- clearly describes how the indicator is calculated.
- iv. **Limitations of information**- shows all the limitations of information related with indicators, including all the factors that are beyond the control of the sectoral departments.
- v. **Indicator type**- what the indicator measures (final, intermediate or direct result, or other performance measurements: cost effectiveness, target effectiveness.)
- vi. **Method of presentation**- describes how the performance is presented: cumulative or non-cumulative.
- vii. **Reporting cycle**- the periodicity of the indicator is presented monthly, quarterly or annually.
- viii. **Permissible deviation**- shows what level of percentage deviation from the target percentage point is permissible.<sup>260</sup>

The above requirements should apply to both the **performance indicators describing the strategic objectives**, and the **stated key performance indicators of the implemented action plan** for reaching those objectives.<sup>261</sup>

It should be noted that there was no proper risk assessment, as both the draft strategy plan and the draft action plan don't provide for the description of all the indicators in the aforementioned table. Section 8 of the draft strategy plan partially addresses the risk assessment, **and the performance indicators of almost 82% of the 68<sup>262</sup> measures provided by the draft action plan are incomplete. Thus, 37 of them don't contain quantitative or otherwise measurable performance indicators on, for example, specifically how many measures will be implemented, how many beneficiaries will benefit from them and etc.** An expected performance indicator of many of the mentioned measures is the annual improvement, by a certain percentage, of the performance indicators compared with their previous year, however, this also can't be viewed as a measurable performance indicator as there is no specific indicator for the first year of the strategy which will serve as a basis for measuring the improvement of the following years :(Priority No. 1, Measures No. 1, 3, 5, Priority No. 2, Measures No. 2b, 3, 7, 8 , 9, 11, 12, 13, 15a, 15b, 15c, 16, 20, Priority No. 3, Measures No. 2,

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<sup>260</sup> Ibid, item 52.

<sup>261</sup> Ibid, item 53.

<sup>262</sup> Out of the 64 items of the Draft Action Plan, some of them provide more than one measure.



3, 4, 5, 9, 10, 11, 12, Priority No. 4, Measures No. 4, 7, 8, 9, 10, Priority No. 5, Measures No. 2, 3, 4, 5, 6, 7, 8, 9), **13 Measures only partially provide performance indicators** (Priority No. 1, Measure No. 2, Priority No. 2, Measures No. 1a, 1b, 4, 6, 14, 17, 18, 19, 21, Priority No. 3, Measure No. 8, Priority No. 4, Measures NO. 2,5 ) **6 Measures provide the presentation of some analysis /research/ statistics/ guidelines/ legislative suggestions, however, it is unclear as to what their final result will be** (Priority No.2, Measures No. 10, 21, Priority No. 3, Measures No. 6, 7, Priority No. 4, Measure No. 3, Priority No. 5, Measure No. 11).

#### 2) ON DEADLINES:

The deadlines set by the Acton Draft Plan are very general, and mainly coincide with those of the strategy, as a result of which it will not be possible to conduct ongoing monitoring. Moreover, such an approach is wrong from the point of view of work planning.

#### 3) ON PEOPLE RESPONSIBLE:

The provisions of the Draft Action Plan on “responsible implementers and co-implementers” are problematic. Thus, it is unclear why the RA council that deals in the main issues of equality between men and women, as a responsible implementer, is not mentioned in any of the measures. In addition, the terms “interested bodies” or “interested republican executive bodies” are approved as a responsible “co-implementer” by 11 Measures (Priority No.1, Measures No. 2, 6, Priority No. 2, Measures No. 1b,2b, Priority No. 5 Measures No. 5, 6, 9, 10, 13, 14, 15), which contradicts the principles of legal certainty.

#### 4) ON MEASURES:

Out of the 68 measures provided by the Draft Action Plan, 17 provide training/teaching (Priority No. 1, Measure No. 3, priority No.2, Measures No. 1b, 2b, 3, 12, 15b, Priority No. 3, Measures No. 2, 3, 5, 8, 9, 10, Priority No. 4, Measures No. 4, 6, 10, Priority No. 5, Measures No. 4, 5), **9 Measures provide awareness campaigns or campaigns** (Priority No. 1, Measures No. 1, 5, Priority No. 2, Measures No. 4, 7, 14, 15b, Priority No. 3, Measure No. 11, Priority No. 4, Measure No. 5, Priority No.5, Measure No. 3), **11 Measures provide analysis/research, compilation of methodical guideline statistics** (Priority No. 2, Measures No. 1a, 2a, 5, 6, 10, 21, Priority No. 3m Measures No. 6, 7, Priority No. 4, Measures No. 3, 5, Priority No. 5, Measures No. 5, 11). Not at all underestimating the importance of teaching and other measure mentioned above, an important document like the 5 year strategy plan on equal

rights between men and women can't, in our opinion, allocate more than half of its measures (55%) to such measures. The latter can simply be accompanying measures, but in order to achieve change, it is necessary to take more effective steps.

### SUGGESTIONS

**cvi. To match the Draft Strategy Plan and the Draft Action Plan with the Methodical Directive, in particular:**

- To review the performance indicators and make them qualitative or, otherwise measurable, and in case of some analysis /research/ statistics/ guidelines/ legislative suggestions, to specify their final result.
- To review the deadlines of the Action Plan and specifically indicate during which period which action provided by the corresponding measure will be implemented,
- To review the scope of responsible people.
- To use the same research to provide measures with effective steps.

## APPENDIX 2

### Summary of the round table discussion on following topic: “THE PROSPECTS FOR THE STRENGTHENING OF MECHANISMS OF WOMEN’S RIGHTS PROTECTION”

On July 12<sup>th</sup> 2019 in Yerevan, a round table discussion was held on the topic of “the prospects for the strengthening of mechanisms of women’s rights protection in Armenia.” It was prepared by the “Armenian Lawyers’ Association” under the framework of the following project: “Commitment to Constructive Dialogue”, which is funded by the EU.

The purpose of the conference was to organize a public discussion on the following draft: “the implementation of the 2019-2023 Gender Policy in Armenia strategy and action plan”, addressing issues in the following areas:

- Women’s economic and labor rights,
- Protection of women’s rights in the family, including in the context of domestic violence and property rights violations,
- Protection of women’s health (reproductive) rights,
- Women’s political participation.

Participants of the round table discussion include: representatives of RA state bodies, the National Assembly, CSOs, Mass Media, lawyers and experts. Karen Zadoyan, head of the “Commitment to Constructive Dialogue” and President of the “Armenian Lawyers’ Association”, made an opening speech at the round table discussion.

Olga Azatyan, advisor to the RA Minister of Labor and Social Affairs, and Anush Begloyan, deputy of the “My Step” Faction of the RA NA, gave the welcoming remarks.

The following participated with reports: Christine Hovhannisyan, head of gender issues at “OxYGen” youth and women’s rights protection foundation, lawyers: Mariam Zadoyan, Nona Galstyan, Nvard Piliposyan, public health expert: Gevorg Grigoryan, Doctor-Lawyer: Hovhannes Madoyan, “Commitment to Constructive Dialogue” expert: Narek Yenokyan and coordinator of justice and related sectors of the “Commitment to Constructive Dialogue”: Artyom Mesropyan.

The “Armenian Lawyers’ Association” would like to thank the above-mentioned individuals for their contribution to the compilation of this report.