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## U.S. Department of State

### Armenia Country Report on Human Rights Practices for 1998

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#### ARMENIA

Armenia has a Constitution that provides for the separation of powers; however, the directly elected President has extensive powers of appointment and decree that are not balanced by a legitimate legislature or an independent judiciary. The President appoints the Prime Minister, who is in charge of the Cabinet. Robert Kocharian was elected President in a multicandidate election in March after former President Levon

Ter-Petrosian was forced to resign in February by his former political allies in the Defense and Internal Affairs and National Security Ministries.

Ter-Petrosian's reelection in 1996 was flawed by numerous irregularities and serious breaches of the election law. In an interview in December, the former Interior Minister admitted that Ter-Petrosian avoided a runoff against a strong opponent in the 1996 presidential elections by falsifying the results of the first round. The March elections were an improvement with respect to the ability of a number of candidates to campaign more freely, with access to the media; however, the voting and counting process revealed numerous irregularities, including bloc voting by the military and a turnout inflated at least 10 percent by ballot box stuffing and other fraud. Although the Parliament is no longer as docile as in previous years, the current parliamentary majority usually votes in support of the executive branch, and does not represent effectively either the views of the population or existing political party composition. Armenian National Movement (ANM) members won 88 percent of the seats in a transitional National Assembly elected in 1995 in elections that local and international observers characterized as "generally free but not fair;" however, most of the ANM members had deserted the party by February. The current

Parliament showed increasing independence late in the year, as it tried to distance itself from unpopular government reform measures before the scheduled May 1999 parliamentary elections. The legislature approves new laws, must confirm the Prime Minister's program, and can remove the Prime Minister by a vote of no confidence. Both the Government and the legislature can propose legislation. The Constitution provides for an independent judiciary; however, in practice, judges are subject to pressure from the executive branch and frequently corrupt.

The Ministry of Internal Affairs and National Security is responsible for domestic security, intelligence activities, border control, and the national police force. Members of the security forces committed human rights abuses.

The transition from a centralized, controlled economy to a market economy continues to move forward, despite the collapse of the industrial sector. Industrial output remains low. About

50 percent of the population is unemployed or underemployed, and there is a high degree of income inequality. Most small and medium enterprises have been privatized, as has most agricultural land. About

75 percent of landowners now have secure title to their land. Gross domestic product (GDP) increased about

6 percent during the year, to about \$600 per capita. Inflation fell to under 5 percent for the year. Foreign assistance and remittances from Armenians abroad play a major role in sustaining the economy.

The Constitution provides for broad human rights protections, but human rights problems persist in several important areas. Substantial intervention by local power structures in the March presidential election continued to restrict citizens' ability to change their government peacefully. Members of the security forces routinely beat detainees during arrest and interrogation, made arbitrary arrests and detentions without warrants, and did not respect constitutional protections regarding privacy and due process. Prison conditions remained poor. The judiciary is subject to political pressure and does not enforce constitutional protections effectively. There are some limits on press freedom; journalists practice self-censorship. State television, which refrains from criticizing government policy, remains the major source of news for most of the population, but independent television and newspapers, along with private radio stations, offered substantial competition. The nongovernmental media often criticize the country's leadership and policies. Burdensome registration requirements hinder freedom of association. The law places some restrictions on religious freedom, including a prohibition on proselytizing by religions other than the Armenian Apostolic Church. Registration requirements for religious groups kept Jehovah's Witnesses from being able to operate legally, and seven Jehovah's Witnesses are in jail for refusing military service. The Government places some restrictions on freedom of movement. Discrimination against women, minorities, and the disabled remains a problem.

After his election, President Kocharian appointed an opposition presidential candidate to head two presidential commissions charged with improving human rights and reforming the Constitution to create a more even balance of power among executive, legislative, and judicial branches. One of Kocharian's first actions was to legalize the Armenian Revolutionary Federation (ARF/Dashnaktsutyun) and to pressure successfully the judiciary to secure the release of many persons convicted in politically linked trials. At the new President's urging, the Supreme Court quickly reviewed and set aside the convictions of Dashnak and other figures convicted for political reasons in the "Dro" and "31" trials in 1996 and 1997.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Political and Other Extrajudicial Killing

There were no reports of political killings.

Shortly after midnight on December 10, Deputy Minister of Defense Vahram Khorkhoruni was shot and killed at the entrance to the apartment building in Yerevan where he lived. The Ministry of Defense posted a \$100,000 reward for information on the killing, but at year's end there was no information available on the status of the investigation.

There were a number of deaths of military servicemen reportedly due to mistreatment (see Section 1.c.).

There were a number of deaths in custody due to poor prison conditions and inadequate medical treatment (see Section 1.c.).

Charges against five police officers for a 1993 death, a case repeatedly remanded for investigation by the Supreme Court, were never pressed despite assurances by a previous Prosecutor General.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit torture. However, the practice of security personnel beating pretrial detainees during arrest and interrogation remains a routine part of criminal investigations. Most cases of police brutality go unreported. Prosecutors rely on confessions to secure convictions. Although defense lawyers may present evidence of torture in an effort to overturn improperly obtained confessions, and according to law all such charges must be investigated, judges and prosecutors routinely ignore such complaints even when the abuser can be identified. No one has been charged or disciplined for the beatings of opposition figures following the September 1996 postelection disturbances.

The Government has not conducted investigations of abuse by security services except in rare cases in which death has resulted. The legal system responded with mixed results to the August 1997 death in police custody of a youth in Gyumri. Of four police officers arrested for abuse of authority in connection with that death, in August one was sentenced to 6 years' imprisonment and two to suspended sentences. The appeals court sent one of the suspended sentences back for reinvestigation, recommending a more severe penalty. A fourth defendant, released from pretrial detention after high-level intervention, failed to appear for his trial, but reportedly could be found if authorities so chose.

Under pressure from human rights groups, the military took some steps to improve the investigation of peacetime deaths of servicemen due to mistreatment. A human rights group alleged that in 1997 as many as one soldier a day died of noncombat causes, but noted that such deaths declined in 1998. According to the military prosecutor, stricter control on military units led to a 33 percent reduction in military deaths in 1997, and a further 25 percent reduction in such deaths in the first 6 months of 1998, but he provided no figures. Military officers are held accountable for widespread abuse of troops under their

authority only in rare cases, generally when death or serious injury has provoked a significant reaction from relatives and human rights organizations. A military murder-suicide in February led to lengthy prison sentences in October for soldiers and officers implicated in serious mistreatment of conscripts.

Prison conditions are poor. Facilities are often overcrowded, and food is inadequate to preserve health unless supplemented by assistance from families. Medical and sanitary facilities in prisons are inadequate. Tuberculosis and other communicable diseases are common and there were a number of deaths during the year. Although agreement in principle has been reached to transfer responsibility for prisons to the Ministry of Justice from the Ministry of Internal and National Security Affairs with a goal of improved oversight, no formal action to that effect was taken by year's end.

On March 8, persons alleged to be associated with the Yerkrpah faction violently broke up an election rally in Ararat by the National Democratic Union (NDU). Eight NDU members were hospitalized as a result of the attack, including Filaret Berikyan, the NDU representative to the Central Election Committee. The police chief of Ararat was fired for failure to maintain order. Four of the alleged attackers were arrested, convicted, and sentenced in June by the Ararat court to 2 years in prison for interfering in the electoral process. The sentence was suspended and the four were placed on probation.

The International Committee of the Red Cross (ICRC) enjoyed unimpeded access to detention facilities run by the Ministry of Interior and National Security. ICRC representatives are able to visit any prisoner in whom they have an interest whether in prisons or local police stations. The ICRC continues to visit the remaining Dro prisoners (see Section 1.e.).

#### d. Arbitrary Arrest, Detention, or Exile

Authorities continued to arrest and detain criminal suspects without legal warrants, often on the pretext of being a material witness. Those arrested frequently are brought to prison without notification of family members. It often is several days before family members obtain information of an arrest and the person's location. Access by lawyers and family members to prisoners is often restricted until the preliminary investigation phase is complete, a process that can last weeks.

The transitional provisions of the Constitution provide that the Soviet-era procedures for searches and arrests are to be maintained until the new Criminal Code and Criminal Procedure Code come into effect in January 1999. A suspect may be jailed for no more than 12 months pending trial, after which the suspect must be released or tried. However, this latter provision is not always enforced. There is no provision for bail, although detainees may sign a document and remain at liberty under their own recognizance pending trial.

The ICRC reported that civilian and military personnel on all sides of the Nagorno Karabakh conflict occasionally engage in cross-border hostage taking, usually to win release of a friend or relative held on the other side, but sometimes for financial gain. The ICRC successfully assured a number of prisoner exchanges but has no access to undeclared hostages.

There were no reports of forced exile.

#### e. Denial of Fair Public Trial

Although the Constitution nominally provides for an independent judiciary, its provisions do not appear designed to insulate the courts from political pressure. Other legal and constitutional provisions make judges and prosecutors dependent on the executive branch for their employment. In practice courts are

subject to political pressure and corruption. The inherited Soviet system views the court largely as a rubber stamp for the prosecutor and not a defender of citizens' rights. Prosecutors still greatly overshadow defense lawyers and judges during trials. Under the Constitution, the Justice Council, headed by the President, the Prosecutor General, and the Justice Minister, appoints and disciplines judges for the tribunal courts of first instance, review courts, and the Court of Appeals. The President appoints the other 14 members of the Justice Council and 4 of the 9 Constitutional Court judges. This authority gives the President dominant influence in appointing and dismissing judges at all levels. This executive branch predominance was apparent in March when then Acting President and presidential candidate Kocharian used his authority to dismiss a regional prosecutor involved in investigating election law violations. Judges are subject to review by the President through the Council of Justice after 3 years. Thereupon, their tenure is permanent until they reach the age of 65.

According to the transitional provisions of the Constitution, the existing courts retain their powers until the new judicial system begins to function on January 12, 1999. District courts try most cases, with a right of appeal to regional courts and then to the Supreme Court. In 1999 the Supreme Court and regional courts are to be replaced by review courts and a court of appeals as required by the Constitution. The Constitutional Court rules on the conformity of legislation with the Constitution, approves international agreements, and decides election-related legal questions. It can accept only those cases proposed by the President, one-third of all National Assembly deputies, or election-related cases brought by candidates for parliament or the presidency. Unless the Constitution is amended, the Constitutional Court is not an effective guarantor of constitutional human rights safeguards.

The judicial system continued its transition. As part of the package of judicial reform legislation mandated by the Constitution, both judges and prosecutors began a process of retraining and recertification in order to retain their positions. In December sitting and prospective judges took a multiple choice test based on previously published questions and answers regarding the new legal codes to determine their fitness to be judges under the new system. At year's end, the Justice Minister was interviewing those who scored in the top half of the examination prior to formal selection by the Judicial Council. The executive branch continued to have a dominant role in judicial selection.

The revised civil and criminal codes that are scheduled to be introduced in January 1999 are designed to clarify contradictory provisions of the law and create a more unitary, modern, and workable legal system. However, prosecutors are expected to continue to have more influence than judges. President Kocharian established in June a constitutional reform commission, one of whose goals is to strengthen the independence of the judiciary and to give the courts more authority in safeguarding human rights. It was unclear at year's end whether these constitutional revisions would pass the National Assembly, after which they would require ratification by a referendum in 1999. In addition to the proposed reforms, increased judicial independence and a balance among the executive, legislative, and judicial branches are critical to the success of judicial reform.

The military tribunal operates essentially as it did in the Soviet era. Military prosecutors perform the same functions as their civilian counterparts, operating in accordance with the Soviet-era legal code. In mid-year the military prosecutor abolished military ranks for the prosecutors in his service.

Trials are public except when government secrets are at issue. Defendants are required to attend their trials unless they have been accused of a minor crime not punishable by imprisonment. Defendants have access to a lawyer of their own choosing. The court appoints an attorney for any defendant who needs one. Defendants may confront witnesses and present evidence. The Constitution provides that those accused of crimes shall be informed of charges against them. However, the constitutionally-mandated presumption of innocence is ineffective, and acquittals are rare once a case comes to trial. Defendants and prosecutors have the right of appeal.

Opposition parties and some human rights groups charged that some of the defendants in 1997 trials were political prisoners.

After the resignation of President Ter-Petrossian in February, then Acting President Kocharian intervened to pressure the judiciary to secure the release from prison of many of the persons convicted in the politically linked trials of the "Dro" and "31" groups. On

March 31, the judicial panel of the Supreme Court struck down the verdicts against 27 of the "31" defendants. The court cited the "changed political situation" in closing the cases against these 27 persons. The court upheld the verdict against four defendants found guilty of the murder of two policemen. All but one, who was sentenced to death for murder, later were released. Subsequently 6 of the 11 "Dro" case defendants also were released. In both cases, defendants involved in serious crimes such as terrorism and murder had been tried along with senior ARF members whose real or alleged crimes were fundamentally political in nature. ARF leader Vahan Hovhannisian was released from prison in February and appointed a presidential advisor in April. Those convicted of premeditated murder and other serious crimes remained in jail, including three persons condemned to death. Armenian law lacks an adequate test (for example, "clear and present danger") for defining the difference between protected free speech and illegal calls to overthrow the Government by violent means. Without the safeguard of a strong, independent judiciary, the former administration was free to misuse the law for political reasons to cripple the ARF, while the interim administration of President Kocharian likewise intervened, thereby gaining the political support of the ARF for the election campaign.

#### f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits unauthorized searches and preserves citizens' rights to privacy and confidentiality of correspondence, conversations, and other messages. Procedurally, the security ministries must petition the prosecutor's office for permission to wiretap a telephone or intercept correspondence. The prosecutor's office purportedly must find a compelling need for the wiretap before granting the agency permission to proceed. No evidence of illegal wiretapping came to public attention during the year.

The law requires security forces to obtain a search warrant from a prosecutor before conducting a search; in practice, searches continue to be made without a warrant. The Constitution provides that the judiciary must exclude evidence obtained without a warrant. Legislation passed in 1997 to improve security of bank deposits has been enforced.

Promised new quarters by the mayor after the site originally offered (two rooms in a children's library) had been forcibly reclaimed in July 1997 by local Yerkrpah officials at the behest of the children's librarian, a human rights library in Vanadzor was still seeking resources at year's end to make the replacement quarters usable. No charges were ever filed against the persons who forced the lock on the human rights library.

There continued to be violations of the right to privacy during army conscription drives. Armed forces recruiters sometimes take hostages to compel the surrender of draft-evading or deserting relatives. There are credible reports of improper conscription of refugees from Azerbaijan. There were no reported cases of punitive conscription of males who offended local officials, and sweep operations for draft-age men were less evident than in previous years.

## **Section 2 Respect for Civil Liberties, Including:**

## a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press. The Government generally respects freedom of speech. There are some limits on freedom of the press. There is no official censorship, publications present a variety of views, and the opposition press regularly criticizes government policies and leaders, including the President, on sensitive issues such as the Nagorno Karabakh peace process.

However, to avoid retribution experienced in years past on the part of powerful officials and other individuals, journalists practice self-censorship, particularly in reporting on major corruption or national security issues. There were no reported incidents of retribution during the year, but journalists remain cautious in their reporting and the range of subjects considered sensitive for national security is relatively large.

Newspapers, with the exception of Hayastani Hanrapetutyun and Respublica Armenia (both joint ventures between Parliament and their staffs), are privately owned. The state printing house and distribution agency both now function as commercial enterprises, with no visible government intervention.

In September Parliament dismissed Editor in Chief Lisa Chagaryan, of the parliament-funded newspaper Hayastani Hanrapetutyun for "perpetual distortion and incorrect coverage of the activities of Parliament, lowering its prestige." After brief protests by the staff, which asserted its right to participate in management decisions, publication resumed under a new editor.

Newspapers operate with extremely limited resources, and none are completely independent of patronage from economic or political interest groups or individuals. Total newspaper circulation is small, about one copy per 100 persons. During the year, the state-owned newspaper printing and distribution companies were privatized, except for a small government stake. There were no complaints of government pressure on news media.

During the year, the state institutions that had tended previously to exert control over the media lost most of their functions. The Department of Information, created in 1997 to replace the disbanded Ministry of Information, continued to exist, but with no clear purpose beyond allocating small government subsidies to newspapers and occasionally interceding with the state-owned newspaper distribution agency to forward a share of its receipts to the newspapers. A board created in late 1997 with representatives from the President's Office, Government, and Parliament, to supervise the transformation into commercial enterprises of the state-owned press agency, printing and newspaper distribution was not active during the year. However, the President's Office continued to influence state television news coverage.

The ARF newspaper Yerkir, which the Government shut down in 1994, reopened. The Dashnaks also print Hayots Ashkhar and other smaller periodicals. They are not restricted from opening other media.

The two most widely available television channels belong to state television and take policy guidance from the Government; presenting mostly factual reporting, they avoid editorial commentary or criticism of official actions. During the March elections, they showed substantial bias in favor of Acting President Kocharian. The state television news service was reorganized extensively and renamed in October after complaints about poor quality programming. In Yerevan and major regional media markets, private television stations now offer independent news coverage of good technical quality. Most radio stations are private. Opposition parties and politicians received adequate news coverage and access on these channels. Legislation has not been passed yet to regulate the current arbitrary and nontransparent

process of license issuance. Draft broadcast and media laws, the subject of intensive discussion among journalists, were revised extensively but had not been discussed by the full Parliament at year's end. One new measure announced in the fall, a doubling in licensing fees for television broadcasters, was expected to have a serious effect on struggling private stations; these stations appealed for the measure's cancellation. The few international newspapers and magazines imported are not censored. There are no restrictions on reception of satellite television and other foreign media and this material is not censored.

The Government partially respects academic freedom. There are more than 50 private institutions of higher education. The Ministry of Education must approve the curriculum of all schools that grant degrees recognized by the State, seriously limiting the freedom of individual schools and teachers in their choice of textbooks and course material.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respects this right in practice.

The Constitution provides for freedom of association, and the Government generally respects this right in practice with some important exceptions. There are cumbersome registration requirements for all parties, associations, and organizations. The process of registering an organization is time consuming, and some human rights or political organizations have been compelled by the Government to revise their bylaws several times in order to have their registration accepted. A dozen new political parties registered with one sent back to revise its bylaws. The ARF party was allowed to reregister in 1998, and is once again a legal political party, following a 3-year ban.

Human Rights Watch (HRW) reported that the Minister of Justice refused to register some nongovernmental organizations (NGO's), including human rights groups that attempted to register. According to HRW, the Ministry refused to provide a written acknowledgement that a registration request had been made or to provide an explanation for the denial.

#### c. Freedom of Religion

The Constitution provides for freedom of religion; however, the law specifies some restrictions on the religious freedom of adherents of faiths other than the Armenian Apostolic Church.

The 1991 Law on Freedom of Conscience establishes the separation of church and state, but grants the Armenian Apostolic Church special status. The law forbids "proselytizing" (undefined in the law) except by the Apostolic Church, and requires all religious denominations and organizations to register with the State Council on Religious Affairs. Petitioning organizations must "be free from materialism and of a purely spiritual nature," and must subscribe to a doctrine based on "historically recognized holy scriptures."

A presidential decree issued in 1993 supplemented the 1991 law and strengthened the position of the Armenian Apostolic Church. The decree enjoins the Council on Religious Affairs to investigate the activities of the representatives of registered religious organizations and to ban missionaries who engage in activities contrary to their status. No action was taken against missionaries during the year.

In 1997 Parliament passed legislation tightening registration requirements by raising the minimum number required for registration from 50 to 200 adult members. It banned funding for foreign-based churches from centers outside the country. The legislation also mandated that religious organizations

except the Apostolic Church need prior permission from the State Council on Religious Affairs to engage in religious activities in public places, to travel abroad, or to invite foreign guests to the country. Despite these mandated restrictions, in practice there is no restriction on travel by religious personnel of any denomination.

As of year's end, established religious groups had reported no adverse consequences from the new law. The ban on foreign funding has not been enforced and is considered unenforceable by the Council on Religious Affairs. No registered religious group was denied registration under the amended law. All existing denominations reregistered except the Hare Krishnas, who reportedly dropped below even the previous 50-member threshold and hence did not seek to reregister. A few new organizations registered, in some instances groups created after splits in previous organizations. One new religious group registered, Pentacostals, bringing the number of registered religious organizations to 44. However, the Council continued to deny registration to Jehovah's Witnesses, no longer on the grounds that the group does not permit military service, but because illegal proselytism is allegedly integral to its activity. The President's Human Rights Commission declined to intervene, recommending that Jehovah's Witnesses challenge their nonregistration through the courts, as provided by law. At year's end, six members of Jehovah's Witnesses were in detention and a seventh was free on probation. They were charged with draft evasion or, if forcibly drafted, with desertion. Another 20 were reportedly in hiding from the draft. Alternative nonmilitary service is sometimes available for persons willing to act as teachers in remote villages, an option not offered to members of Jehovah's Witnesses. No religious literature was seized, unlike in 1997.

According to the law, a religious organization refused registration cannot publish a newspaper or magazine, rent a meeting place, have its own program on television or radio, or officially sponsor the visas of visitors. Jehovah's Witnesses have problems renting meeting places; lack of official visa sponsorship means that Jehovah's Witnesses' visitors must pay for a tourist visa.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation, but the Government places restrictions on some of these rights. The Government may deny passports to persons possessing state secrets, to those subject to military service, and to those whose relatives have made financial claims against them. Men of military age must overcome substantial bureaucratic obstacles to international travel. The Government does not restrict internal movement, and citizens have the right to change freely their residence or workplace; however, they must negotiate with a corrupt and inefficient bureaucracy to register these changes. Nonetheless, this practice is now more a nuisance than an impediment. In addition registration of a residence is a difficult process, particularly for those who live in a rented dwelling.

After the Nagorno Karabakh conflict erupted between Armenia and Azerbaijan in 1988, ethnic minorities on both sides were subject to discrimination and intimidation, often accompanied by violence intended to drive them from the country. Almost all of the ethnic Azeris living in Armenia at the time, some 185,000 persons, fled to Azerbaijan. Of the 400,000 ethnic Armenians then living in Azerbaijan, 330,000 fled to and were granted refugee status in Armenia. The majority of the rest took refuge in Russia, with small numbers remaining in Azerbaijan.

The National Assembly passed a law on citizenship in 1996 that provides for refugees of Armenian ethnicity to gain citizenship, provided they are stateless and have resided in the country for the past 3 years. During the year, the Government implemented regulations for the law and began new efforts to encourage refugees to accept Armenian citizenship. Although a few thousand have become citizens, most refugees are reluctant to do so, fearing the loss of housing, military exemptions, and other benefits

accorded refugees.

The Government cooperates with the office of the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting ethnic Armenian refugees.

There are no provisions in law for granting refugee/asylee status in accordance with the 1951 UN Convention Relating to the Status of Refugees and Its 1967 Protocol.

Armenia respects the right of first asylum in principle, but in the absence of a law specifying procedures for formal recognition of political asylum, the small number of Sudanese and other migrants not of Armenian ethnicity only rarely are granted residence permits, and their legal status remains unclear. Border officials have no training in asylum issues. In some cases, persons denied permission for legal residence are subject to fines for illegal residence when they attempt to depart the country. There were no reports of the forced return of persons to a country where they feared persecution.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

Serious flaws in the March presidential election continued to restrict the constitutional ability of citizens to change their government peacefully, as had the previous Government's manipulation of the 1996 presidential election. Serious breaches of the election law and numerous irregularities in the 1995 parliamentary elections, and the 1996 and 1998 presidential elections resulted in a lack of public confidence in the integrity of the overall election process.

In an interview in December, the former Interior Minister admitted that Ter-Petrosian avoided a runoff against a strong opponent in the 1996 presidential elections by falsifying the results of the first round.

In both rounds of the presidential elections in March, Organization for Security and Cooperation in Europe (OSCE) observers witnessed very substantial irregularities and concluded that the elections seriously challenged international democratic norms in regard to most key criteria. There were unusually high voter turnouts in certain areas, particularly in the second round, and these increases corresponded directly to high vote percentages for then Acting President Kocharian. Based on detailed analysis of the results tracked by observer reports in certain districts, it appears that ballot box stuffing, discrepancies in vote counts, a large number of unauthorized persons in polling stations, and other fraud perpetrated by local power structures inflated the number of votes for Kocharian by well over 100,000 votes in the second round, which he won by approximately 290,000 votes. Some military units were compelled to vote without exception for Kocharian, and officials used pressure to encourage a large turnout for the "official" candidate. Voters enjoyed a full spectrum of choices among candidates; all presidential candidates were provided opportunities to present themselves to the electorate through the provision of free and paid access to state media. However, state television, the most influential single source of information, provided coverage biased heavily in favor of the acting president. The electoral process fell far short of the authorities' commitments to their citizens. In September the Election Commission set aside the results of a seriously flawed municipal by-election in the city of Artashat.

There were no legal consequences for electoral fraud. The Government pursued only minor violations and no penalties were announced. There was no criminal investigation of the amply documented ballot box stuffing.

A universal electoral code, which must be completed before the May 1999 parliamentary elections, remained the subject of extensive debate in the National Assembly. Parliament discussed several competing drafts, which, after a year of meetings and conferences with political party representatives,

local NGO's, and international experts, for the most part reflected international standards. At year's end, Parliament had not yet completed action. Key issues still outstanding were the question of proportional versus majoritarian representation and creation of balanced, effective, and impartial electoral commissions. The Government's decision to postpone a national census until 2001 for budgetary reasons raised political suspicions about the process of creating new electoral districts, since existing voter rolls and other population records are out-of-date and seriously flawed.

Under the Constitution, the President appoints the Prime Minister and has considerable influence in appointing judges. The Constitution provides for independent legislative and judicial branches, but in practice these branches are not insulated from political pressure from the executive branch.

The Government appoints the 10 regional governors (marzpets). The Constitution gives local communities the right to elect local authorities. However, local elected officials have limited powers and are overshadowed in practice by the appointed governors, who can remove them from office.

The National Assembly continued to operate as a part-time institution for the duration of its first term. Regular sessions are held twice a year: the first from

mid-September to mid-December; and the second from early February until mid-June. Approximately one-third of the parliamentarians have been designated full-time deputies. Given the press of legislative business connected with the total reform of the legal system, special sessions frequently are called, but may not last more than 6 days.

There are no legal restrictions on the participation of women and minorities in government and politics. However, due to traditional social attitudes, both are underrepresented in all branches of government. There are no female cabinet ministers. Only 11 of the 190 deputies in the Parliament are women. There are no minority representatives in the Cabinet or in the Parliament.

#### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

There are several human rights NGO's that are active and operate openly, criticize abuses publicly, and publish their findings on government human rights violations. In general public access to information on human rights cases improved somewhat, with extensive private media coverage of significant court cases, and more openness by civilian and military prosecutors.

The Government has permitted monitoring of human rights by the Council of Europe and the ICRC, which had full access to civilian detention facilities for the first time during the year.

The Government invited an OSCE election observer mission to observe the entire course of the 1998 presidential elections and provided international observers with unimpeded countrywide access. Current electoral law allows local observer organizations to monitor parliamentary elections but not the presidential polls.

An office created by the Prosecutor General in 1997 to communicate with international observers was responsive to requests for information, although information about criminal cases remained relatively general and incomplete.

In April President Kocharian appointed a prominent opposition politician to head a new human rights commission based in the President's Office. This new commission has no formal legal powers but has

had a modest impact in getting authorities to review official actions on issues ranging from apartment allocations to police behavior, in some cases winning official reconsideration.

## **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

Discrimination based on race, sex, religion, disability, language, or social status is prohibited by the Constitution. However, cultural and economic factors prevent women, ethnic and religious minorities, and persons with disabilities from participating fully in public life, and the religion law discriminates against some religious groups.

### **Women**

There is no specific law banning violence against women. Few cases of rape, spousal abuse, or other violence against women were reported in this conservative, patriarchal society; however, their number is likely higher than the statistics indicate. In the first

11 months of the year, the Prosecutor's Office registered 25 cases of rape. There are no separate statistics for other instances of violence against women. The law (the old Soviet code) cites specific punishments for rape, forced abortion, forbidding a woman from marrying, and discrimination in hiring due to pregnancy.

In view of the phenomenon of Armenian women working as prostitutes in the Middle East, it is likely that trafficking in women and girls is more of a problem than the Government and women's organizations have recognized.

In the workplace, women receive equal pay for equal work, but generally are not afforded the same professional opportunities given to men and often are relegated to more menial or low-skill jobs. The 1992 Law on Employment prohibits discrimination in employment, but the extremely high unemployment rate makes it difficult to gauge how effectively the law has been implemented to prevent discrimination. According to a women's group, women make up 69 percent of those officially registered as unemployed.

Currently there are more women receiving university and postgraduate education than men.

### **Children**

The Government does not have the economic means to provide fully for the welfare of children. Education is free, universal, and compulsory through age 16, but facilities are poor and teachers are forced to tutor pupils privately to survive. Free children's health care is available, but of poor quality, with an increasing trend toward overt or concealed payment of fees for service. Girls and boys receive equal educational opportunities. The Government focuses its efforts on children's rights and welfare with measures to insulate large families--those with four or more children--from the effects of the country's current difficult circumstances. The Government similarly directs foreign humanitarian aid programs toward large families. Despite social programs, the problem of street children remains significant. The family tradition is strong, and child abuse does not appear to be a serious problem.

### **People with Disabilities**

The Constitution provides for the right to social security in the event of disability. The 1993 Law on Invalids provides for the social, political, and individual rights of the disabled but does not mandate the

provision of accessibility for the disabled. In its current economic circumstances, the Government has difficulty fulfilling its commitments in this area. The Government's enforcement of the rights of the disabled remains rudimentary. Legal safeguards for those with psychiatric problems are inadequate to protect patients' rights. There is societal discrimination against the disabled. Hospitals, residential care, and other facilities for the seriously disabled do not meet international norms. The Health Ministry and the U.N. Children's Fund hosted a conference on disabilities in August that brought useful new attention to the subject from various international organizations.

### **Religious Minorities**

There was no reported violence against minority religious groups. However, newer religious organizations are viewed with suspicion. Six members of Jehovah's Witnesses were in detention at year's end, and a seventh was free on probation. They were charged with draft evasion or, if forcibly drafted, with desertion. Another 20 were reportedly in hiding from the draft. Alternative nonmilitary service is sometimes available for persons willing to act as teachers in remote villages, an option not offered to members of Jehovah's Witnesses. A leading Armenian Apostolic Church cleric published a virulent press attack on Jehovah's Witnesses in September, calling them servants of the Anti-Christ. Some other religious groups previously have been accused of proselytism, including using material inducements or offers of emigration to entice converts. A relatively high percentage of members of some of these religious groups, particularly Hare Krishnas but evangelical Christians as well, joined the wave of emigration from the country, for social, economic, and philosophical reasons. Despite the previous Government's pledge to apprehend those alleged "Yerkrapah" members, who staged a series of destructive attacks against a dozen religious groups in 1995, the authorities took no steps during the year to bring the perpetrators to justice.

### **National/Racial/Ethnic Minorities**

In his inaugural address, President Kocharian made special mention of the rights of the country's national minorities. The Government does not discriminate against the small, officially recognized, "national" communities, though their economic and social situation has deteriorated substantially since independence in 1991. Groups that the Government includes in this category are Russians, Jews, Kurds, Yezidis, Georgians, Greeks, and Assyrians. Following the protracted Nagorno Karabakh conflict (see Section 2.d.), there is no significant Azeri minority. The several hundred Azeris or persons of mixed Azeri heritage still living in the country maintain a low profile in the face of societal discrimination.

The Constitution grants national minorities the right to preserve their cultural traditions and language, and the 1992 law on language provides linguistic minorities with the right to publish and study in their native language. There are token publications in minority languages, but the Government has devoted minimal resources to maintaining minority language schools. The large network of Russian-language schools has been reduced greatly in recent years. In practice virtually all students, including members of the Yezidi and Greek communities, now attend Armenian-language schools with very limited classes in their mother tongue. In the Yezidi community, a high percentage of pupils do not attend school, partly for family economic reasons and partly because of discrimination from ethnic Armenian schoolmates and teachers.

Yezidi leaders met with the new Government and the President's human rights commission in July to repeat long-standing complaints that their community (which speaks a Kurdish dialect and practices a traditional non-Christian, non-Muslim religion) is subject to discrimination by police and local authorities. They cited numerous incidents of unfair adjudication of land, water, and grazing disputes; nonreceipt of privatized agricultural land; and lack of police response to even serious crimes committed against Yezidis. The Yezidi complaints likely reflect societal discrimination as well as the general

problem of poorly functioning local governing bodies. The Commission reaffirmed the Government's commitment to improving the situation but took no specific steps.

## **Section 6 Worker Rights**

### **a. The Right of Association**

The Constitution provides employees with the right to form and join trade unions and the right to strike. The Constitution stipulates that the right to form associations--including political parties and trade unions--may be limited with respect to persons serving in the armed services and law enforcement agencies.

A 1993 presidential decree prohibits the Government and other employers from retaliating against strikers and labor leaders, but workers have no confidence in this protection. In practice labor organization remains weak due to high unemployment and the weak economy. Workers have neither the financial resources to maintain a strike nor enforceable legal protection against retaliation, and the existing unions play a relatively passive role. However, there were no reports of retaliation against strikers or labor leaders. The purportedly independent labor federation created in December 1997 took no action during the year.

The absence of real unions and accurate employment data precludes a reliable estimate of the percentage of the workforce that is unionized.

Unions are free to affiliate with international organizations.

### **b. The Right to Organize and Bargain Collectively**

Collective bargaining is not practiced. The Constitution provides all citizens with the right to a just wage no lower than the minimum set by the Government. Although the 1992 Law on Employment provides for the right to organize and bargain collectively, voluntary and direct negotiations do not take place between unions and employers without the participation of the Government because most large employers remain under state control. The near collapse of major industrial production has undercut the organization of labor unions.

The Government encourages profitable factories to establish their own pay scales. Factory directorates generally set the pay scales without consultation with employees. Wage and other labor disputes are adjudicated through the Arbitration Court.

There are no export processing zones.

### **c. Prohibition of Forced or Compulsory Labor**

The Constitution and the 1992 Law on Employment prohibit forced and bonded labor, including that by children, and it is not known to occur. This provision is enforced by the local councils of deputies, unemployment offices, and, as a final board of appeal, the Arbitration Commission.

### **d. Status of Child Labor Practices and Minimum Age for Employment**

According to the 1992 Law on Employment, 16 years is the minimum age for employment. Children may work from the age of 14 with the permission of a medical commission and the relevant labor union

board. The Law on Employment is enforced by the local councils of deputies, unemployment offices, and, as a final board of appeal, the Arbitration Commission. Forced or bonded labor by children is prohibited, and it is not known to occur (see Section 6.c.).

#### e. Acceptable Conditions of Work

The Government sets the minimum wage by decree. In October Parliament quintupled the national minimum wage to \$10 (5,000 drams) per month; however, the minimum wage is insufficient to support an individual.

The majority of the population lives below the officially recognized poverty level as a result of the economic dislocations caused by the breakup of the Soviet Union, the 1988 earthquake, the conflict in Nagorno Karabakh, and the resulting blockade and disruptions in trade. The majority of enterprises are either idle or operating at a fraction of their capacity. Some furloughed workers still are receiving minimal partial compensation from their enterprises, but most are no longer receiving any payment if they are not working. The standard legal workweek is 41 hours; many persons work multiple jobs.

The Constitution provides citizens with the right to clean and safe work places, but Soviet-era occupational and safety standards remain in force. Labor legislation from 1988 places responsibility on the employer and the management of each firm to ensure "healthy and normal" labor conditions for employees, but it provides no definition of healthy and normal. The employment situation is such that workers are unlikely to attempt to remove themselves from hazardous working conditions due to the risk of losing their jobs.

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