HUMAN RIGHTS WATCH

Democracy on Rocky Ground

Armenia's Disputed 2008 Presidential Election, Post-Election Violence, and the One-Sided Pursuit of Accountability

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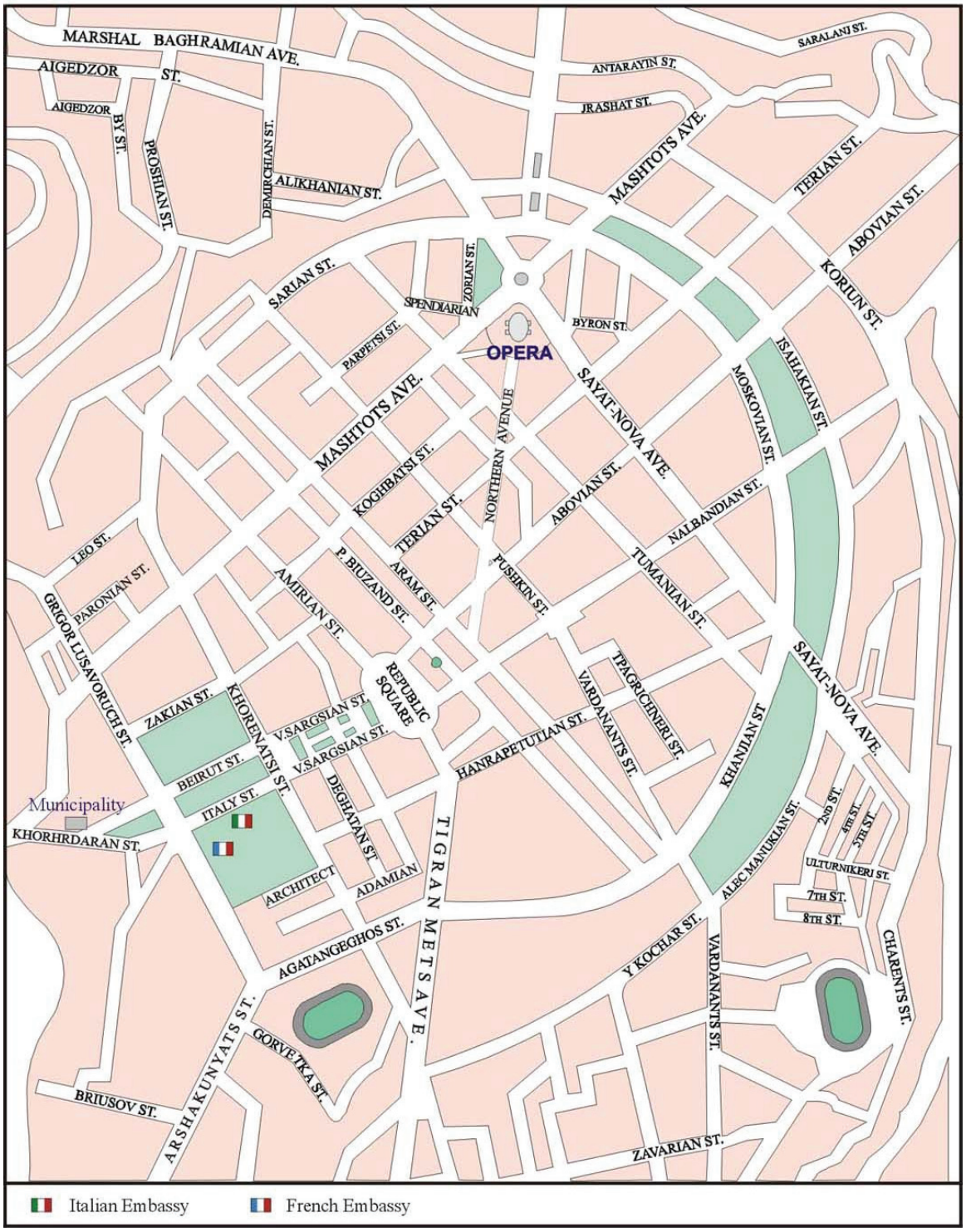
Map of Central Yerevan



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I. Summary

Police and protestors clashed in Armenia's capital Yerevan on March 1, 2008, bringing to a head the country's latest electoral dispute, over the results of a presidential poll in February. In the course of some 20 hours on March 1, in episodes at different city center locations, police variously set upon protestors without warning or resistance, negotiated, withdrew, returned to the offensive, and finally fought a pitched battle with a small group of protestors. At least ten people died—eight protestors and two police officers—and scores were injured.

The full picture of what happened in Yerevan on March 1 has yet to emerge. Law enforcement actions caused deaths and injuries at different times during the day and at different locations. The shifting dynamics between police and protestors mean that each police action needs to be assessed distinctly as to whether it went outside the boundaries of legitimate policing, as defined in international standards for use of force and firearms. Yet it is clear from multiple accounts that at various times police deployed excessive use of force, beating demonstrators who were not behaving aggressively, and some of the police use of firearms appears to have been indiscriminate or disproportionate. The fact that police were themselves under attack at times does not excuse those incidents where their own use of force was excessive. Neither does it excuse ill-treatment and torture of detained persons, nor the denial of due process rights such as access to lawyers of choice.

The demonstrators had been protesting the outcome of Armenia's presidential election on February 19, in which their candidate, Levon Ter-Petrossian, had lost to Serj Sargsyan. A group of protestors claiming that Sargsyan's victory was the result of fraud had established a continuous protest immediately after the election, with daily rallies and an overnight encampment on a city center square. Initially the authorities tolerated the protestors. A police pre-dawn raid on the camp on March 1, justified as a search for weapons, triggered the convening of a much larger demonstration elsewhere in the city center. By evening, with a major, violent confrontation unfolding on the streets of the capital, outgoing President Robert Kocharyan declared a 20-day state of emergency during which public gatherings and strikes were banned.

In the opening episode on March 1, riot police raided, dispersed, and dismantled the protestors' camp, beating protest participants including people who were entangled inside collapsed tents. Protestors regrouped in another part of the city center and their numbers swelled in the course of the morning; participants began to erect barricades and arm themselves with makeshift weapons. Police negotiated with protest leaders for relocation of

the demonstration to a different venue, and withdrew to allow the protestors to move, but the large crowd stayed put. Confrontation flared between protestors and some police officers departing from the scene, leading to police cars being set alight and protestors attacking police who were guarding the nearby Yerevan city hall.

In the evening, riot police returned in force. Their actions to end the demonstration opened with overly aggressive measures—tracer bullet fire and teargas, and, according to witnesses, no verbal warnings to disperse—and they used excessive force against people who were not physically challenging them. Protestors who had armed themselves with metal rods, sticks, paving stones, and even petrol bombs, repulsed the police attack, and the police withdrew to a road junction a few hundred meters away. While the main demonstration continued peacefully behind the barricades, a group of protestors began attacking the police, and a number of the fatalities seem to have occurred as a result. Whereas some shootings appear to have occurred when the police were under direct attack, it appears police also shot at protestors deliberately and indiscriminately in circumstances where there is no evidence that lethal force was justified.

In the aftermath of the violence there were more than 100 arrests. Human Rights Watch spoke to people who had been beaten in the course of being arrested, and assaulted, verbally abused, and threatened while in police custody. Detainees we spoke with were denied the right to inform their families of their whereabouts, and were refused access to lawyers of their own choosing.

The Armenian authorities' response to the March 1 events has been one-sided. While they have investigated, prosecuted, and convicted dozens of opposition members, sometimes in flawed and politically motivated trials, for organizing the demonstration and participating in violent disorder, they have not prosecuted a single representative of the authorities for excessive use of force. The Office of the Public Prosecutor has also dismissed all allegations of ill-treatment and torture in detention as unfounded.

Electoral politics in Armenia since independence has remained stuck in a cycle of uneven contests, fraud, and disputes that more often than not spill onto the streets. There is low public confidence in the way elections are run, and widespread cynicism about their outcome. The functioning of Armenia's multiparty system and genuine political competition are also hampered by the persistent inability of the array of political parties to stabilize and consolidate. To the extent that it exists, real political competition is volatile with a permanent risk of violence, and mutual respect between electoral competitors—especially between victors and losers—is lacking.

Specifically in respect of the deaths and injuries occurring on March 1, the Armenian Office of the Public Prosecutor should increase its efforts to conduct an independent, impartial investigation to establish whether law enforcement officials acted within limits set in national and international law for crowd control and use of force. This investigation should also cover the allegations of ill-treatment of people detained in connection with their participation in the March 1 events, assessing whether the array of international and European standards against torture, ill-treatment and arbitrary detention, to which Armenia is party, were breached.

More broadly, there is a need to address the deficiencies and manipulations in Armenia's electoral processes that contribute to distrust in their fairness and doubts about their outcomes. National authorities, and international partners concerned about Armenia's democratic transition, need to address both the causes and the symptoms of the pervasive public skepticism that genuine democracy can be made to work in Armenia.

II. Methodology

This report is based on interviews with over 80 witnesses and victims of the events of March 1, 2008, in Yerevan, as well as with family members and lawyers of those detained on March 1 and afterwards. The interviews were conducted during a mission to Yerevan by a Human Rights Watch researcher on March 10-15, and a second mission on March 24-April 1 during which that researcher was accompanied by a senior researcher at Human Rights Watch. The report was updated by a consultant to Human Rights Watch during a third mission to Yerevan on January 13-17, 2009.

Human Rights Watch identified the victims and witnesses of the events of March 1, 2008, with the assistance of Armenian nongovernmental organizations, as well as through Armenian lawyers.

Human Rights Watch also met with the deputy police chief and with the head of the Special Investigative Group of the Office of the Public Prosecutor of Armenia.

Most interviews were conducted in Russian, and some in English, by the primary researcher who is fluent in both Russian and English. A few interviews were conducted in Armenian, including those done by the senior researcher, during which a Human Rights Watch research assistant and a translator (both native speakers of Armenian), translated for the researchers into Russian and English.

In a few instances the full names of interviewees have been disguised with first names and initials (which do not reflect real names) at their request and out of concern for their security.

III. Background

Early Post-Soviet Politics and Society in Armenia

Armenia was propelled to independence as the Soviet Union unraveled in 1991. As elsewhere in the Soviet republics, a nationalist movement had emerged at the end of the 1980s to directly challenge one-party Communist rule. In 1990 many Soviet republics held multiparty elections for their national legislatures; in Armenia these were won by the Armenian Pan-National Movement (ANM).[1] A reformist, nationalist-oriented government was installed, which in September 1991 held an independence referendum that produced a 94 percent vote in favor.[2] Armenia achieved independence when the Soviet Union ceased to exist at the end of 1991, and this independence was internationally recognized in early 1992.

In Armenia, a catalyst for the nascent nationalist movement was the conflict over Nagorno-Karabakh, an enclave within neighboring Azerbaijan with a majority ethnic Armenian population. Confrontation started in early 1988 when the local ethnic Armenian population, backed by Armenia, sought through its legislature to separate the enclave from Azerbaijani administration and transfer it to Armenia. Political confrontation tipped into outright conflict with an anti-Armenian pogrom in the Azerbaijani city of Sumgait at the end of February, and mass expulsions from Armenia and Azerbaijan of their respective Azeri and Armenian minorities.[3] The conflict escalated in 1991 into full-scale war between Armenia and Azerbaijan. It raged on through Armenia's first independence years, with Armenian forces gaining the upper hand, until a ceasefire in 1994.[4] The conflict remains unresolved, and as a consequence, Armenia's border with Azerbaijan is closed, as is its border with Turkey (which supports Azerbaijan), complicating foreign trade relations and economic development.[5] The

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[1] Human Rights Watch, *World Report 1990* (New York: Human Rights Watch, 1990), Soviet Union chapter, http://www.hrw.org/reports/1990/WR90/HELSINKI.BOU-03.htm#P263_60248; *Keesing's Record of World Events*, vol. 36, 1990, pp. 37323, 37618.

[2] *Keesing's Record of World Events*, vol. 37, 1991, p. 38418.

[3] Thomas de Waal, "The Nagorny Karabakh conflict: origins, dynamics and misperceptions," in Laurence Broers, ed., "The Limits of Leadership: Elites and societies in the Nagorny Karabakh peace process," *Accord* series, Conciliation Resources, 2005, http://www.c-r.org/our-work/accord/nagorny-karabakh/origins-dynamics-misperceptions.php (accessed September 16, 2008).

[4] Ibid. At the ceasefire, Armenian forces controlled most of Nagorno-Karabakh as well as a large swathe of Azerbaijani territory between the enclave and the Armenian and Iranian borders. See also Volker Jakoby, "The role of the OSCE: an assessment of international mediation efforts," in Broers, ed., "The Limits of Leadership," http://www.c-r.org/our-work/accord/nagorny-karabakh/osce-role.php (accessed September 16, 2008).

[5] Turkey and Armenia severed diplomatic relations in 1993 over Turkish criticism of Armenian occupation of Nagorno-Karabakh. There has been a recent rapprochement: Turkish President Abdullah Gul visited Armenia on September 6, 2008, at President Sargsyan's invitation, and the resulting warming in Armenian-Turkish relations has included talks on reopening the border. See "Turkish - Armenian Relations In 2008," *Turkishpress.com*, January 5, 2009, http://www.turkishpress.com/news.asp?id=256512 (accessed January 9, 2009), and International Relations and Security

Karabakh conflict continues to loom large in Armenian political life, as the basis on which many leading politicians have built their careers and connections.

Adding to the dire conditions surrounding Armenia's independence, in 1991 the country had barely begun to recover from a December 1988 earthquake that had massively damaged the north, including Armenia's second and third cities Gyumri and Vanadzor, and killed some 25,000 people.[6] And as everywhere in the former Soviet Union, the abrupt end of central economic planning and subsidies and the switch to market conditions caused a catastrophic economic contraction that did not turn around until 1994.[7] Unemployment, food shortages, and drastic rationing of public utilities forced hundreds of thousands to emigrate from Armenia, temporarily or permanently, for work.[8]

The Ter-Petrossian presidency, 1991-98

The Armenian Pan-National Movement had evolved out of the Karabakh Committee, founded in 1988 by a group of Armenian intellectuals, which championed the Karabakh cause inside Armenia.[9] Levon Ter-Petrossian entered politics as one of the Karabakh Committee's and later the ANM's leaders.[10] When the ANM won the 1990 parliamentary elections he became parliamentary chairman and titular head of state. He went on to win Armenia's first presidential election, held in October 1991 while Armenia was still formally part of the Soviet Union, with 83 percent of the vote, and led the country to independence.[11]

As president during the troubled first years of independence, Ter-Petrossian struggled to maintain popular support. He was reelected in 1996 only by a narrow margin (see below). In

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Network, "NK: Frozen, but not still," January 9, 2008, http://www.isn.ethz.ch/isn/Current-Affairs/Security-Watch/Detail/?coguid=A647C846-E3F9-CF68-A317-42373E9ED3FB&lng=en&id=95151 (accessed January 9, 2009).

[6] "History of deadly earthquakes," *BBC News Online*, May 12, 2008, http://news.bbc.co.uk/1/hi/world/2059330.stm (accessed September 16, 2008). At the time of the earthquake Gyumri and Vanadzor had the Soviet-era names Leninakan and Kirovakan, respectively.

[7] According to Armenian government figures, the economy contracted by 54 percent in the period 1991-93. See "Economic Priorities and Prospects for Economic Growth and Poverty Reduction," speech by Prime Minister Andranik Margarian at the Paris Consultative Group Meeting on Armenia, July 10, 2001, http://www.gov.am/enversion/premier_2/primer_home.htm?mat=235 (accessed September 15, 2008). Armenia began recording modest economic growth in 1994. Ibid.

[8] Armenian International Policy Research Group, "Economics of Labor Migration from Armenia: a Conceptual Study," January 2006, http://pdc.ceu.hu/archive/00003150/01/economics_of_labor_migration_from_Armenia.pdf (accessed September 16, 2008), p. 14, citing estimates that in the period up to 2002 Armenia lost to emigration between 14 and 24 percent of its population (as calculated in 1990) of 3.4 million.

[9] International Crisis Group, "Armenia: Internal Instability Ahead," ICG Europe Report No. 158, October 18, 2004, http://www.crisisgroup.org/library/documents/europe/caucasus/158_armenia_s_internal_instability_ahead.pdf (accessed September 16, 2008).

[10] "Armenia: Vote 2008, Levon Ter-Petrosian – Candidate biography," *Eurasianet.org*, http://eurasianet.org/armenia08/gallery/levon/shtml (accessed May 21, 2008).

[11] Ibid.

1997 he advocated compromise with Azerbaijan over Nagorno-Karabakh; this, together with lingering questions about the legitimacy of his election victory the year before, cost him the presidency. He was forced to step down in early 1998 when the then defense minister, Vazgen Sargsyan, a prominent former Karabakh war commander, called for his resignation and 40 members of parliament quit the bloc that supported the president.[12]

Robert Kocharyan, a Karabakhi whom Ter-Petrossian had appointed prime minister in 1997, took over as acting president (as the constitution required), and went on to win the early presidential election held in March 1998. In May 1999 parliamentary elections the ANM was routed, holding on to only one seat in the 131-seat National Assembly. Vazgen Sargsyan became prime minister.

Prevailing Characteristics of Armenian Party Politics

On October 27, 1999, five gunmen entered the National Assembly chamber while the Assembly was in session with the government present. They took the entire chamber hostage, and assassinated prime minister Vazgen Sargsyan, parliamentary speaker Karen Demirchyan, and six other ministers and parliamentarians.[13] They then gave themselves up. After a protracted trial, five persons, including the group's leader, were sentenced in December 2003 to life imprisonment.[14] It has never been fully explained what motivated the attack: the gunmen claimed to have been acting on their own initiative,[15] and despite abundant conspiracy theories, no convincing evidence surfaced to suggest that any political leader or party was behind the attack. Nevertheless, the killings left a leadership void in the political establishment.

Armenia in the post-Soviet era has held four parliamentary elections and four presidential elections. It has remained stuck in a cycle of unfair contests, fraud, and disputes that more often than not spill onto the streets. There is low public confidence in the way elections are

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[12] Human Rights Watch, *World Report 1999* (New York: Human Rights Watch, 1999), Armenia chapter, http://www.hrw.org/worldreport99/europe/armenia.html.

[13] Human Rights Watch, *World Report 2000* (New York: Human Rights Watch, 2000), Armenia chapter, http://www.hrw.org/wr2k/Eca-01.htm#TopOfPage; Kenneth de Figueiredo, *Armenia: Presidential Elections February 2008* (Oslo: Norwegian Centre for Human Rights/NORDEM, 2008), http://www.humanrights.uio.no/forskning/publ/nr/2008/0608.pdf (accessed September 16, 2008).

[14] "Five defendants in Armenian parliament shooting case sentenced to life," Mediamax (Yerevan), December 2, 2003, reproduced by *Eurasianet.org*, December 3, 2003, http://www.eurasianet.org/resource/armenia/hypermail/200312/0006.shtml (accessed September 16, 2008).

[15] The group's leader, Nairi Unanyan, said at the opening of his trial that his actions were intended to save Armenia from "disintegration and government corruption." See "Armenia parliamentary killings trial begins," *BBC News Online*, February 15, 2001, http://news.bbc.co.uk/1/hi/world/europe/1171809.stm (accessed September 16, 2008).

run, and widespread cynicism about their outcome.[16] The functioning of Armenia's multiparty system and genuine political competition are hampered by the persistent failure of the array of political parties to stabilize and consolidate—established parties have waxed and waned dramatically, fragmented, and major new players have emerged, with almost every parliamentary election.

Disputes and Violence a Fixture in Armenian Elections

Ter-Petrossian's reelection, 1996

Ter-Petrossian ran for reelection in September 1996, his main challenger being fellow ANM founder Vazgen Manukyan, around whom most of the opposition had rallied. Ter-Petrossian passed the 50 percent threshold required for a first-round outright victory by just under 22,000 votes, but discrepancies of an almost identical number were recorded in the official results both in terms of ballot papers issued to polling stations but subsequently unaccounted for, and ballot papers recorded as issued but not recorded as being present in the ballot boxes.[17] On the basis of these and other irregularities international observers called into question the integrity of the overall election process.[18] The opposition's own suspicions of electoral fraud brought protestors onto the streets of Yerevan: demonstrators marched on and broke into the National Assembly, where the Central Election Commission (CEC) was then housed, to demand a recount. In the process protestors beat up the parliamentary speaker and deputy speaker. In response, police beat demonstrators and later arrested at least 28 opposition leaders and supporters and CEC staffers.[19]

In the wake of these events, police detained about 200 more individuals believed to have participated in the demonstration, President Ter-Petrossian banned public demonstrations and called in army troops to patrol Yerevan, and the prosecutor general announced his intention to bring criminal charges against Vazgen Manukyan and seven other opposition leaders, for attempting to violently overthrow the

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[16] The Council of Europe Parliamentary Assembly (PACE) noted, "[V]iolations and shortcomings observed [during 2008 Presidential elections] did nothing to increase currently lacking public confidence in the electoral process." CoE PACE Resolution 1609 (2008), "Functioning of Democtatic Institutions in Armenia," http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/ERES1609.htm (accessed February 6, 2009).

[17] Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights (OSCE/ODIHR), "Armenian Presidential Elections September 24, 1996, Final Report," October 24, 1996, http://www.osce.org/documents/odihr/1996/10/1208_en.pdf (accessed September 16, 2008).

[18] Ibid.

[19] Adrian Karatnycky, Alexander J. Motyl, Boris Shor, *Nations in Transit, 1997: Civil Society, Democracy and Markets in East Central Europe and the Newly Independent States*, (Transaction Publishers, 1997), p. 42

government. Police closed the offices of, among others, the National Democratic Union, Manukyan's party.[20]

These were not the first political party restrictions imposed by Ter-Petrossian's administration. At the end of 1994 Ter-Petrossian had suspended the Armenian Revolutionary Federation (ARF), a major opposition party, and ordered the closure of 12 media outlets allegedly associated with it, claiming that the ARF had become a cover for a secret organization allegedly responsible for terrorism, drug trafficking, and illegal arms trading. In January 1995 the Supreme Court upheld the ARF's suspension for a six-month period, citing, however, not threats to national security, but the presence of foreigners in the party's board. The government claimed that it was by mere coincidence that the six-month suspension was to lapse just after parliamentary elections (Armenia's first post-Soviet elections) on July 5, 1996. The government allowed individual ARF members to run for parliament, but the party's absence paved the way for a resounding victory of Ter-Petrossian's ANM.[21]

Kocharyan's 1998 election and 2003 reelection

The snap 1998 presidential election went to two rounds, with Robert Kocharyan beating Karen Demirchyan in the second-round runoff. Election observers from the Organization for Security and Co-operation in Europe (OSCE) found both rounds to have been marred by extensive fraud, and stated outright that the second round did not meet OSCE standards.[22]

Kocharyan was reelected in 2003 in an election that also went to two rounds and was again marred by irregularities.[23] The OSCE once again found the election fell short of international standards for democratic elections, declaring that the overall process failed to provide equal conditions for the candidates; voting, counting, and tabulation showed serious irregularities including widespread ballot box stuffing; and the political atmosphere was charged and marred by intimidation. The OSCE found, "The failure of the 2003 presidential election to

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[20] Human Rights Watch, *World Report 1997* (New York: Human Rights Watch, 1997), Armenia Chapter, http://www.hrw.org/reports/1997/WR97/HELSINKI-01.htm#P95_35834.

[21] Human Rights Watch, *World Report 1996* (New York: Human Rights Watch, 1996), Armenia Chapter, http://www.hrw.org/reports/1996/WR96/Helsinki-02.htm#P168_33365.

[22] Human Rights Watch, *World Report 1999*, Armenia chapter. The OSCE observer mission's final report noted that observers witnessed ballot stuffing, discrepancies in the vote count, a large presence of unauthorized persons in polling stations, and intimidation of voters, election workers, and even the international observers themselves.

[23] "Armenia: Election Marred by Intimidation, Ballot Stuffing," Human Rights Watch news release, March 7, 2003, http://hrw.org/english/docs/2003/03/07/armeni5383.htm.

meet international standards lay not in technical or procedural lapses, but in a lack of sufficient political determination by the authorities to ensure a fair and honest process."[24]

Between the announcement of preliminary first round results on February 20, 2003, and the official start of the second round campaign, the opposition who supported second-placed candidate Stepan Demirchyan held large unsanctioned rallies in Yerevan. Police on February 22 began detaining opposition supporters for alleged hooliganism and/or participation in unsanctioned public meetings: At least 200 individuals were detained including many opposition staff, and many were sentenced to up to 15 days of administrative detention, a clear attempt to damage the opposition prior to the runoff election held on March 5.[25] Following publication of the preliminary second-round results, the opposition resumed protest gatherings in Yerevan and staged a picket outside the CEC building for several days up to the announcement of the final results.[26]

Stepan Demirchyan challenged the 2003 second-round results in the Constitutional Court. The Court did not rule in his favor, but struck down results in 40 polling stations, and recommended that the National Assembly and president hold a "referendum of confidence" within a year.[27] On April 12, 2004 (almost a year to the day from the Constitutional Court ruling), Armenia's political opposition united in mass peaceful protests to force this "referendum of confidence" on President Kocharyan and to call for his resignation. The government dispersed the demonstrations using excessive force: repeating the cycle of repressive tactics from the 2003 election, the authorities arrested opposition leaders and supporters, violently dispersed demonstrators, raided political party headquarters, attacked journalists, and restricted travel to prevent people from participating in demonstrations. In response to international pressure, the government released some opposition leaders detained during the crackdown, and participated in discussions about cooperation with the opposition.[28] However, the referendum recommended in the 2003 Constitutional Court ruling never happened.

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[24] OSCE/ODIHR, "Republic Of Armenia Presidential Election 19 February and 5 March 2003, Final Report," April 28, 2003, http://www.osce.org/documents/odihr/2003/04/1203_en.pdf (accessed September 23, 2008).

[25] Ibid.; Human Rights Watch, *An Imitation of the Law: The Use of Administrative Detention in the 2003 Armenian Presidential Election,* May 23, 2003, http://www.hrw.org/backgrounder/eca/armenia/index.htm.

[26] OSCE/ODIHR, "Republic Of Armenia Presidential Election 19 February and 5 March 2003, Final Report."

[27] Ibid. The OSCE/ODIHR reported, "[The court] found that the arguments brought by Demirchyan were not refuted, but did not invalidate the results of the election. To address the violations identified during the case, the court ordered that in 40 designated polling stations where the results were proved to be implausible, the number of votes given to the candidate who won in that polling station should be deducted from the candidate's overall total. The Decision also stated that the Office of the Prosecutor General should investigate these cases and hold accountable those responsible for falsification of election documents in the 40 polling stations."

[28] Human Rights Watch, *Cycle of Repression: Human Rights Violations in Armenia*, May 4, 2004, http://hrw.org/backgrounder/eca/armenia/0504/.

IV. The 2008 Presidential Election

With Robert Kocharyan coming to the end of his two-term limit as president, his heir apparent in the 2008 presidential contest was Prime Minister Serj Sargsyan.[29] The scene for the election had largely been set by the parliamentary elections in 2007, in which Sargsyan's Armenian Republican Party had consolidated its grip on parliament.[30] Opposition parties had continued to decline in parliamentary representation, with the principal opposition from 2003, the Armenian People's Party, routed.

Levon Ter-Petrossian, after stepping down as president in 1998, had retreated from public life and avoided contact with the media. His party, the Armenian Pan-National Movement, had gone into sharp decline.[31] Ter-Petrossian gave his first public speech since his resignation on September 21, 2007, sharply criticizing the Kocharyan administration, calling it a "criminal regime" and denouncing widespread corruption in the country. In another speech on October 26 he confirmed publicly his intention to run for president against Sargsyan.[32]

Sargsyan and Ter-Petrossian were the frontrunners in a field of nine registered candidates when the election campaign officially opened on January 21, 2008.[33] Media coverage of the candidates was heavily skewed in Sargsyan's favor, as noted in critical statements before polling day by the Parliamentary Assembly of the Council of Europe (PACE) and the OSCE Office for Democratic Institutions and Human Rights (ODIHR).[34]

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[29] Sargsyan is a very common Armenian surname. Serj Sargsyan is not related to his late predecessor as prime minister, Vazgen Sargsyan.

[30] Sargsyan had assumed the premiership and the Republican Party leadership only when the 2007 parliamentary elections were already underway, after the sudden death of prime minister and Republican Party leader Andranik Margaryan. Sargsyan, then defense minister, had nevertheless been widely viewed as Kocharyan's heir apparent even before becoming prime minister.

[31] The ANM failed to win parliamentary representation in 2003, and after initially registering a candidate list it withdrew from the 2007 parliamentary elections. See OSCE/ODIHR, "Final report on the parliamentary elections in Armenia, 25 May 2003," July 31, 2003, http://www.osce.org/documents/odihr/2003/07/533_en.pdf; and "Final Report on the 12 May 2007 Parliamentary Elections in Armenia," September 10, 2007, http://www.osce.org/documents/odihr/2007/09/26169_en.pdf (both accessed September 17, 2008).

[32] "Armenian Ex-President Confirms Comeback Plans," Radio Free Europe/Radio Liberty, November 1, 2007, http://rferl.org/featuresarticle/2007/11/FC64B5FB-EFAC-4463-8E9F-13B3D6FD1714.html (accessed May 29, 2008).

[33] OSCE/ODIHR, "Republic of Armenia Presidential Election, 19 February 2008, Election Observation Mission Final Report," May 30, 2008, http://www.osce.org/documents/odihr/2008/05/31397_en.pdf (accessed September 15, 2008).

[34] "Armenia: Continued progress is key to ensuring public confidence in democratic election, says PACE delegation," Parliamentary Assembly of the Council of Europe press release, January 31, 2008, http://assembly.coe.int/ASP/Press/StopPressView.asp?ID=2003 (accessed September 1, 2008). "Levon Ter Petrosian is periodically negatively portrayed in Armenia mass media – says OSCE/ODHIR," January 31, 2008, *Arminfo* [in Russian], http://www.arminfo.info/popup.php?archive=file_20080131_215900_rus_6144.html (accessed December 30, 2008).

The election, held on February 19, resulted in Sargsyan winning outright with 52.8 percent of the vote, and Ter-Petrossian gaining 21.5 percent, according to official figures. An international observer mission comprising the OSCE, the PACE, and the European Parliament initially endorsed the election, issuing a preliminary report on February 20 that found the election "mostly in line with the country's international commitments."[35] Similar statements followed from European Union High Representative Javier Solana, European Commissioner for External Relations Benita Ferrero-Waldner, the EU presidency, and the Council of Europe's envoy.[36]

On March 3, however, the OSCE issued a harsher statement, claiming that there had been irregularities, including implausibly high voter turnout at some polling stations, high numbers of invalid ballots especially at some Yerevan polling stations, and significant procedural errors and irregularities in the vote counting and tabulation. In addition, it noted insufficient protection for registering and addressing voters' complaints.[37] On May 30 the OSCE issued a final report on the elections that, while maintaining its original generally favorable assessment, stated that there was "an insufficient regard for standards essential to democratic elections [which] devalued the overall election process."[38]

Immediately following the elections, Human Rights Watch documented nine cases of assailants intimidating, threatening, and even violently attacking opposition party activists, journalists, and observers. The victims had been complaining about what they believed to be electoral fraud and other violations of the electoral rules, such as incorrect voters' lists, intimidation of voters, violations of the right to a secret ballot, and ballot stuffing. In several of the incidents police were present during the assaults and did not intervene. Some of the victims reported the attacks to the police, who began investigating.[39]

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[35] "Armenian presidential election mostly in line with international commitments, but further improvements necessary," OSCE/ODIHR press release, February 20, 2008, http://www.osce.org/item/29779.html (accessed May 30, 2008).

[36] "Javier Solana, EU High Representative for the CFSP [Common Foreign and Security Policy], congratulates the Armenian people on the orderly conduct of the presidential elections," European Commission's Delegation to Armenia press release, February 20, 2008, http://www.delarm.ec.europa.eu/en/press/20_02_2008.htm (accessed May 30, 2008); "Declaration by the Presidency on behalf of the European Union on the presidential election in Armenia on 19 February 2008," European Commission's Delegation to Armenia press release, February 22, 2008, http://www.delarm.ec.europa.eu/en/press/22_02_2008.htm (accessed May 30, 2008); "Statement on the conduct of Presidential elections in Armenia," EU Commissioner for External Relations Benita Ferrero-Waldner, February 22, 2008, http://ec.europa.eu/commission_barroso/ferrero-waldner/speeches/index_en.htm (accessed May 30, 2008); "Council of Europe Envoy Praises Armenian Vote," *Armtown.com*, February 25, 2008, http://www.armtown.com/news/en/rfe/20080225/200802254/ (accessed May 30, 2008).

[37] OSCE/ODIHR Election Observation Mission to the Republic of Armenia Presidential Election 2008, "Post-Election Interim Report, 20 February – 3 March 2008," March 7, 2008, http://www.osce.org/documents/odihr/2008/03/30090_en.pdf (accessed September 24, 2008).

[38] OSCE/ODIHR, "Republic of Armenia Presidential Election, 19 February 2008, Election Observation Mission Final Report."

[39] Armenia: Violence at Polling Station Mars Elections," Human Rights Watch press release, February 20, 2008, at http://www.hrw.org/en/news/2008/02/20/armenia-violence-polling-stations-mars-elections (accessed December 26, 2008).

Levon Ter-Petrossian himself made accusations of widespread election falsification and claimed that he had won the election.[40] On March 5, 2008, Ter-Petrossian appealed to the Constitutional Court challenging the legitimacy of Sargsyan's victory and seeking to have the election declared invalid. His challenges were on technical grounds rather than on grounds that there had been violations in the conduct of the vote, however.[41] On March 8 the Constitutional Court rejected his appeal.[42]

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[40] OSCE/ODIHR, "Post-Election Interim Report, 20 February – 3 March 2008."

[41] "The Constitutional Court Has Placed Landmines Under the Legitimacy of Serzh Sargsyan," Levon Ter-Petrossian for President, March 11, 2008, http://www.levonpresident.am/?lang=eng (accessed May 29, 2008). Ter-Pertrossian claimed that according to article 78.1 of the Electoral Code, a prime minister may only be elected to be president if he has the status of acting president, which he claims Sargsyan did not have at this time. He further claimed a breach of article 53.1 of the constitution, which states that presidential elections cannot take place under martial law or state of emergency. Ter-Petrossian argued that the presidential elections refer to the entire period all the way through to the deadline for appeals to the Constitutional Court, and that because the Constitutional Court was in session hearing election-related appeals while the state of emergency was in force, the election was invalid.

[42] International Crisis Group, "Armenia: Picking up the Pieces," ICG Europe Briefing No. 48, April 8, 2008, http://www.crisisgroup.org/home/index.cfm?id=5385&l=1 (accessed May 21, 2008).

V. The Post-Election Protests and Violence

Overview

Prior to election day, Levon Ter-Petrossian had called on his supporters to gather in Yerevan on February 20—when preliminary election results would be known—for either a victory or a protest rally depending on the outcome.[43] From February 21 a continuous protest was installed on Freedom Square (also known as Opera Square), on the north side of Yerevan city center. Daily, several thousand protestors would gather to hear opposition leaders speak, and each night a group of protestors stayed in front of the National Opera House on Freedom Square, mostly in tents, their numbers varying from a few hundred to just over a thousand.[44]

The authorities allowed the protest encampment and rallies for nine days. Ararat Mahtesyan, first deputy chief of national police, told Human Right Watch that although the demonstration was illegal—it was being conducted without permission from the Yerevan city authorities[45]—it was initially tolerated as the Central Election Commission had not announced final results of the presidential election, and police investigations into election day complaints were still ongoing.[46]

The Yerevan mayor's office issued a statement on February 25 saying the protests were unauthorized, "in violation of the law on assembly, rallies, demonstrations and marches," and urging demonstrators to call a halt to them.[47] Two days later the Armenian police issued a statement urging an end to the unauthorized rallies, saying that "the police are fully resolved and intend to protect the constitutional order in the country and public safety within the bounds set for it by the law."[48]

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[43] OSCE/ODIHR, "Post Election Interim Report, 20 February – 3 March, 2008." Addressing a mass rally in the capital Yerevan on 16 February, Ter-Petrossian warned the authorities that a rally planned by his supporters in Yerevan on February 20 would turn into open-ended protests if the election was rigged. Reported by *Arminfo*, February 16, 2008.

[44] Human Rights Watch interviews with Vahagn V., Yerevan, March 13; Hovsep H., Yerevan, March 26, 2008, Arsen A., Yerevan, March 28; and Ararat Mahtesian, first deputy chief of the Police of the Republic of Armenia, Yerevan, March 28, 2008.

[45] According to legislation in force at the time, organizers of mass public events had to notify the head of the community where the event was being held at least three working days in advance. Law on Conducting Meetings, Assemblies, Rallies and Demonstrations, 2004, as amended by the law adopted on October 4, 2005, http://www.legislationline.org/documents/action/popup/id/6628 (accessed January 16, 2009), art. 11. Ter-Petrossian's campaign notified the Yerevan city government that it would hold a rally on February 20 in Yerevan. However, the campaign did not lodge a notification with the city government on the subsequent assembly in Freedom Square from February 21 onwards. See OSCE/ODIHR, "Post-Election Interim Report, 20 February – 3 March 2008."

[46] Human Rights Watch interview with Ararat Mahtesian, Yerevan, March 28, 2008.

[47] "Armenian capital's mayor urges protestors to stop unsanctioned rallies," *Arminfo* (in Russian), February 25, 2008; and "Armenian Officials Demand End To Election Protests – AFP," Dow Jones International News, February 25, 2008.

[48] "Armenian Police urges opposition to suspend rallies in capital," *Arminfo* (in Russian), February 27, 2008.

The authorities moved to suppress the protests on March 1, and in several episodes of violent confrontation between law enforcement officials and protestors, at least eight protestors and two police officers were killed and more than 130 people were injured. President Kocharyan announced a 20-day state of emergency under which all public gatherings and strikes would be banned, and freedom of movement and independent broadcasting severely limited. The events of March 1 are described in detail below.

Armenia's International Legal Obligations on Police Use of Force

Governments are obligated to respect basic human rights standards governing the use of force in police operations, including in the dispersal of legal or illegal demonstrations. These universal standards are embodied in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.[49] The Basic Principles provide the following:

> Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.
>
> When using force, law enforcement officials shall exercise restraint and act in proportion to the seriousness of the offence and to the legitimate objective to be achieved. Law enforcement officials must seek to minimize damage and injury.[50]

With respect to the dispersal of assemblies that are unlawful but non-violent, "law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent necessary."[51]

The European Convention on Human Rights requires all states to prohibit and prevent the arbitrary taking of life and the infliction of torture or inhuman or degrading treatment especially by state officials. Case law of the European Court has confirmed that police authorities must prepare and carry out operations to minimize any risk to people's lives, and to completely prohibit ill-treatment. Where there is evidence that the police have taken a life or committed inhuman or degrading treatment, the authorities must ensure that there is an

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[49] Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 112 (1990).

[50] Ibid., principles 4 and 5.

[51] Ibid., principle 13.

open investigation leading to the investigation and prosecution of any police officer responsible.[52]

The Council of Europe's European Code of Police Ethics states that "police shall use force only when strictly necessary and only to the extent required to obtain a legitimate objective" and that "police must always verify the lawfulness of their intended actions."[53]

A recent viewpoint issued by the Council of Europe's Human Rights Commissioner Thomas Hammarberg, on impunity for police violence, states that "illegal behaviour by policemen is particularly serious as the very role of the police in a democratic society is to defend the population against crime, including violent crime. When the law enforcement forces themselves break the law, the whole system of justice is derailed." Citing European Court of Human Rights case law, the commissioner noted also that "[t]he use of force is justified only in a situation of absolute necessity and should be practiced with the maximum restraint."[54]

The statements Human Rights Watch took from demonstrators and bystanders suggest that the first police action, in the early morning of March 1 against the Freedom Square tent encampment, entailed excessive use of force, without warning and in the absence, at the start, of resistance. Although later protestors began throwing stones at police from side streets near Freedom Square, one participant described being beaten up by police who found him lying on the ground.

The events that unfolded later in the day were both more violent and more contentious. Sections of the very large crowd gathered near the French embassy appear to have been armed with metal rods, sticks, paving stones, and even petrol bombs, and seem to have initiated some of the clashes with police, such as at Yerevan City Hall on the afternoon of March 1. On the other hand, participants' statements to us show that police, in their actions that evening to end the demonstration, opened with overly aggressive measures (tracer bullet fire and teargas, and no verbal warnings to disperse), and used excessive force against people who were not physically challenging them. As protestors then responded with using force against police, at least some of the fatalities appear to have occurred because police discharged their firearms deliberately in circumstances where lethal force

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[52] See, for example, *Nachova and Others v. Bulgaria,* Application No. 43577/98 and 43579/98, Grand Chamber Judgment of 6 July 2005

[53] Council of Europe Committee of Ministers, Recommendation Rec(2001)10 of the Committee of Ministers to member states on the European Code of Police Ethics (Adopted on September 19, 2001 at the 765th meeting of Ministers' Deputies), http://www.legislationline.org/legislation.php?lid=4886&tid=155 (accessed September 1, 2008), paras. 37-38.

[54] Thomas Hammarberg, "There must be no impunity for police violence," Viewpoint of the Council of Europe Commissioner for Human Rights, December 3, 2007, http://www.coe.int/t/commissioner/Viewpoints/Default_en.asp (accessed December 3, 2007).

was not called for, or through improper use of crowd control measures, such as firing teargas canisters at close range.

Armenia's obligation to investigate all allegations of excessive use of force by police is discussed below, in Chapter VI.

The March 1 Events in Detail

Early morning removal of protestors and protest camp at Freedom Square

On the night of February 29 to March 1, several hundred protestors were on Freedom Square, staying in some 25 to 30 tents.[55] Police moved against the protestors' camp early on the morning of March 1.

According to first deputy police chief Ararat Mahtesyan, speaking to Human Rights Watch four weeks later, the police had arrived at the square on March 1 to conduct a search, acting on information that demonstrators had been arming themselves with metal rods, and possibly firearms, in preparation for committing acts of violent protest on March 1. Mahtesyan said that initially a group of 25-30 police officers, including experts and investigators, were sent to do the search of the protestors' camp. When the group tried to conduct the search, the protestors turned aggressive and resisted police with wooden sticks and iron bars, resulting in injuries to several policemen. At that stage more police had to be deployed and had to use force to disperse the crowd and support the group conducting the search. According to Mahtesyan, this operation lasted for about 30 minutes and 10 policemen sustained injuries as a result.[56] Despite Human Rights Watch's request, Mahtesyan did not provide any details about these injured police and the nature of the injuries they sustained.[57]

Several witnesses interviewed separately by Human Rights Watch consistently described a different sequence of events in front of the Opera House on the morning of March 1. According to them, sometime shortly after 6 a.m., while it was still dark and as demonstrators started waking, news spread that police were arriving at Freedom Square. Hundreds of Special Forces police in riot armor, with helmets, plastic shields, and rubber

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[55] Ibid.; Human Rights Watch interview with Gagik Shamshyan, photo correspondent for *Aravot* and *Chorrord Ishkhanutyun* newspapers, Yerevan, March 12, 2008.

[56] Human Rights Watch interview with Ararat Mahtesian, Yerevan, March 28, 2008.

[57] Ibid.

truncheons, started approaching the square, in four or five rows, from Tumanyan Street and Mashtots Avenue.[58] Police surrounded the square and stood there for a few minutes.[59]

Levon Ter-Petrossian, who had been sleeping in his car parked at the square, was woken up. According to the account he gave Human Rights Watch, he addressed the protestors, some of whom by this time were out of their tents, asking them to step back from the police line, and then to stay where they were and wait for instructions from the police. He also warned the police that there were women and children among the demonstrators.[60]

Even before Ter-Petrossian finished his address, police advanced towards the demonstrators in several lines, beating their truncheons against their plastic shields. According to multiple witnesses, the police made no audible demand for anyone to disperse nor gave any indication of the purpose of their presence. They started pushing demonstrators from the square with their shields, causing some to panic and scream and others to run. Some demonstrators appeared ready to fight the police, which was why, according to Ter-Petrossian, he urged the crowd not to resist the police. Others were still in their tents.[61]

Immediately afterwards, without any warning, riot police attacked the demonstrators, using rubber truncheons, iron sticks, and electric shock batons. According to Ter-Petrossian, a group of about 30 policemen under the command of Gen. Grigor Sargsyan approached him and forcibly took him aside. When asked if he was arrested, Ter-Petrossian was told that police were there to guarantee his safety and that he was requested to cooperate.[62] Levon Ter-Petrossian was subsequently taken home and effectively put under house arrest.[63]

Vahagn V., a 42-year-old economist who had spent the night on the square in front of the Opera House, gave this account:

> Without any warning police just started beating truncheons on their shields, making loud noises that created chaos. In a minute or so they started attacking from the side of Tumanyan and Mashtots. They switched off the microphones and electricity. It was still dark. The only lights I could see were

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[58] Human Rights Watch telephone interview with Sanasar S., March 1, 2008; Human Rights Watch interviews with Vahagn V., March 13; and Arsen A., March 28, 2008.

[59] Human Rights Watch interview with Levon Ter-Petrossian, Yerevan, March 29, 2008.

[60] Ibid. This was confirmed by all witnesses and victims of the event interviewed by Human Rights Watch.

[61] Ibid.; Human Rights Watch telephone interview with Sanasar S., March 1, 2008; Human Rights Watch interviews with Vahagn V., March 13; and Arsen A., Yerevan, March 28, 2008.

[62] Human Rights Watch interview with Levon Ter-Petrossian, Yerevan, March 29, 2008.

[63] Ibid.

> small red lights that I thought were flashlights, but they turned out to be from electric shock devices. One of them touched me on the left hand and it burnt my skin. They were attacking from all sides and beating people. Women were screaming. We ran. It was complete chaos...[64]

At least two witnesses described to Human Rights Watch how police ripped off the ropes supporting the tents and as the tents collapsed the police continued assaulting, with their truncheons, people who were still inside.[65] Gagik Shamshyan, a photo correspondent for political opposition newspapers who attempted to photograph the raid, was assaulted by police and then detained. He told Human Rights Watch:

> Policemen in riot uniforms in helmets, shields, and truncheons were beating the protestors.... They were also pouring buckets of water on the tents and continued to assault with truncheons. I was shooting photos and after making about 20-25 shots, some policemen saw my camera's flash and about 15 of them attacked me. One of them recognized me and instructed others to beat me ... Another one grabbed my camera and hit me with a truncheon on my back. I fell down and they continued to beat me with truncheons and kick me. They handcuffed me and were pulling my hands from behind. It was very painful ... Two of them grabbed me by my jacket and dragged me for about 40 meters, with my face down on the pavement. Another officer who recognized me shouted, "Beat him! He writes bad stuff about us ..." [He] approached me and threatened to gouge my eyes out, and even pushed his finger to my eye. I was terrified ...[66]

Police kept Shamshyan on the ground for about 20 minutes, assaulted him periodically, and then drove him to the central police station.[67] He was later released.

A 54-year-old artist, Sanasar S., gave Human Rights Watch the following account of what happened to him that morning:

> There were at least as many police in riot gear as people gathered in front of the Opera. Without saying anything police surrounded us and attacked us with truncheons and electric shock devices. People panicked and started

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[64] Human Rights Watch interview with Vahagn V., March 13, 2008.

[65] Ibid.; Human Rights Watch interview with Gagik Shamshyan, March 12, 2008.

[66] Ibid.

[67] Ibid.

> running away. I ran together with about 20 protestors towards the Northern Avenue, chased by the riot police. At the intersection of Pushkin Street and Mashtots Avenue about six of them caught up with me. I felt a blow to my head and I fell on the ground, losing consciousness. When I regained my senses I was surrounded by police. Two of them were holding me on my feet as I could not stand. My shoulder ached and my nose was bleeding.[68]

It turned out that Sanasar S. had sustained a broken arm. His subsequent detention is described below in Chapter V.

Murad M., age 30, told Human Rights Watch that a police officer chased him off the square and hit him on the head, causing him to lose consciousness. "I momentarily lost consciousness after a blow on the head, and fell ... When I came to my senses, my brother was carrying me away from the square. My head was bleeding and my hat was all covered in blood."[69] Murad M. required seven stitches on the right side of his forehead. He sustained bruises to his right hand, back, and legs. Fearing arrest, he refrained from going to a hospital and instead sought medical assistance from a private doctor.[70]

Hovsep H., a 32-year-old designer, ran from the square with a group of about one hundred others, with the police chasing them. The group thinned out as some people split off, and was in a stop-and-go chase with police for about an hour. At times the group threw stones at the police. When police finally caught up with Hovsep H., he was assaulted. He told Human Rights Watch:

> I felt very tired and could not run anymore. I tried to get into an apartment block entrance, but it was locked. Three or four police ran after me. I felt really exhausted and decided to lie down and cover my face with my hands to protect it. Policemen who were after me started beating me. They were using truncheons and kicking me with their boots. They were beating on my back, head, and kidney area. I felt a huge blow on my head and I lost the feeling of reality, I could not even feel pain anymore and it all felt like a dream. I don't remember anything else, but when I regained my senses, my head was bleeding and the jacket I wore was all bloodied. I was already in a police station by that time.[71]

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[68] Human Rights Watch interview with Sanasar S., March 26, 2008.

[69] Human Rights Watch telephone interview with interview with Murad M., March 1, 2008.

[70] Ibid.

[71] Human Rights Watch interview with Hovsep H., Yerevan, March 26, 2008.

Hovsep H.'s experience of further ill-treatment in detention is recounted in Chapter V.

As a result of the early morning police actions on Freedom Square, 31 people were officially reported to be injured, including six policemen.[72]

The police claimed that after the demonstrators were dispersed they found a stock of real and makeshift weapons, including "three guns, 15 grenades, two bullet cases and 138 bullets of various calibers, plastic explosives, big number of makeshift weapons, syringes and drugs."[73] All witnesses and victims interviewed by Human Rights Watch claimed that the alleged arms cache was planted after the demonstration was dispersed. The chairman of the ad hoc parliamentary commission established to investigate the March 1 events told Human Rights Watch in January 2009 that he had not seen any evidence linking the arms cache to the demonstration's participants or organizers.[74]

Demonstrators gather near the French embassy

As news spread about the morning's violence and the de facto house arrest of Ter-Petrossian, other people started making their way to Freedom Square, only to find it closed off by a police cordon. Police were ordering people away. Two eyewitnesses described separately to Human Rights Watch how police attacked, beat, and detained groups of 20 to 30 people who attempted to gather near the square.[75]

Unable to assemble on Freedom Square, many people started to gather near the Alexander Miasnikyan monument on Grigor Lusavorich Street, about 15 minutes walk across the city center from Freedom Square. The monument faces a large open area in front of the new Yerevan City Hall, with the French embassy on the adjacent corner. The Italian and Russian embassies are also in the vicinity.

The number of people assembling at this location grew very fast. Anahit Bakhshyan, a member of parliament from the opposition Heritage Party, told Human Rights Watch that when she arrived there at around 10:30 a.m. she saw fewer than 100 protestors, but in just 20 minutes the entire street became packed.[76] Protestors initially were divided into two

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[72] "Thirty-one injured as Armenian police disperse opposition rally," *Arminfo* (in Russian), March 1, 2008. The report quoted Ministry of Health information.

[73] Human Rights Watch interview with Ararat Mahtesyan, March 28, 2008. See also, OSCE/ODIHR, "Post Election Interim Report, 20 February – 3 March, 2008," March 7, 2008, http://www.osce.org/documents/odihr/2008/03/30090_en.pdf (accessed June 10, 2008).

[74] Human Rights Watch interview with Samvel Nikoyan, Yerevan, January 13, 2009.

[75] Human Rights Watch telephone interviews with Lala L. and Zhanna Z., March 1, 2008.

[76] Human Rights Watch interview with Anahit Bakhshyan, MP, Heritage Party, Yerevan, March 26, 2008.

groups, those gathered in front of the French embassy and those across the road at the Miasnikyan monument, with police standing in between and preventing them joining up.[77] Bakhshyan, together with other women, made a line between police and the protestors, trying to calm the angry crowd. She told Human Rights Watch:

> Police allowed me to use their loudspeaker to address the protestors, calling for calm. Some people threw stones at police. We managed to calm people down a bit … Police threatened to beat people up unless they dispersed. One young man objected to them, saying that they had no right to beat the protestors. As soon as he said that, a policeman hit him with a truncheon on his head and he fell down. We tried to help him and drag him away, but police also were pulling on him and they managed to take him away.[78]

The protestors started setting up barricades of motor vehicles.[79] As one participant, Gevorg. G., a 28-year-old painter, explained to Human Rights Watch, "We were expecting police to attack, and unlike in the morning we wanted to be more prepared for it. We made barricades at Grigor Lusavorich Street, by stopping buses and trolley buses and mini vans … and then using them to barricade."[80]

Lack of accurate information about the earlier police operation at Freedom Square contributed to numerous rumors about possible casualties and heightened feelings among the demonstrators. As Gevorg G. explained to Human Rights Watch, "There were rumors floating around about a 12-year-old girl having been killed during the police attack in the morning. People were just furious about it and wanted to be more prepared if police attacked again."[81] (This rumor was untrue: there were no fatalities during the events at Freedom Square.)

Negotiations and police withdrawal

Around 11:30 a.m. other opposition leaders arrived near the French embassy.[82] Estimates vary widely as to the number of protestors gathered by then, but they were at least many

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[77] Ibid.; Human Rights Watch interviews with Levon Zourabyan, Yerevan, March 12,; and David Shahnazaryan, Yerevan, March 28, 2008.

[78] Human Rights Watch interview with Anahit Bakhshian, Yerevan, March 26, 2008.

[79] Ibid.; Human Rights Watch interview with Gohar Veziryan, journalist, *Chorrord Ishkhanutyun*, Yerevan, March 26, 2008.

[80] Human Rights Watch interview with Gevorg G., Yerevan, March 27, 2008.

[81] Ibid.

[82] Human Rights Watch interview with David Shahnazaryan, Yerevan, March 28, 2008.

thousands.[83] David Shahnazaryan and Levon Zourabyan, close Ter-Petrossian associates, led negotiations with police officials Alexander Affyan, deputy police chief and Ashot Giziryan, head of the 6th Department, on changing the venue for the spontaneous rally that was already in progress. The police offered to allow the demonstration to continue at the Dinamo football stadium, but the protest leaders rejected this; according to Anahit Bakhshyan, "we were afraid it would be too easy to entrap people there and beat them."[84]

According to Zourabyan, the police seemed genuinely engaged in negotiating a new venue and in deescalating the situation, and even provided a car for him to travel to Levon Ter-Petrossian's residence to talk to him about a possible new venue for the rally.[85] The police offered to move the demonstration to a venue in front of Matenadaran, the museum of ancient manuscripts in downtown Yerevan, a venue frequently used for political meetings. They allowed David Shahnazaryan to address the crowd through a police loudhailer at 1 p.m., to announce that the police would withdraw soon to allow the crowd to move to Matenadaran.[86] Believing that they had agreement that police would leave and people would move on, at around 2 p.m. police began withdrawing, allowing the two groups of protestors to come together.[87]

Deputy police chief Mahtesyan told Human Rights Watch that Nikol Pashnyan, an opposition leader and member of Ter-Petrossian's pre-election campaign, broke the deal, calling for people to stay put.[88] However, eyewitnesses interviewed by Human Rights Watch claimed that people did not want to leave as they felt more secure at the present location, as roads were barricaded and the venue was close to several foreign embassies, and also that they wanted to see Ter-Petrossian first.[89]

As police withdrew, an incident occurred that led to the first violence at the afternoon demonstration. A police car with three policemen inside drove into people at high speed, injuring at least two protestors; two witnesses who recounted the incident to us believed that the driver lost control of the car in panic at being among the last police to leave the

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[83] Deputy Police Chief told Human Rights Watch that there were about 7,000 people gathered at the Miasnikyan monument. Human Rights Watch interview with Ararat Mahtesyan, March 28, 2008. David Shahnazaryan, an opposition leader and Levon Ter-Petrossian's close associate, put the number of protestors at 100,000. Human Rights Watch interview with David Shahnazaryan, March 28, 2008.

[84] Human Rights Watch interview with Anahit Bakhshyan, Yerevan, March 26, 2008.

[85] Human Rights Watch interview with Levon Zourabyan, Yerevan, March 12, 2008.

[86] Human Rights Watch interviews with with Levon Zourabyan, March 12; and David Shahnazaryan, March 28, 2008.

[87] Ibid.; Human Rights Watch interview with Ararat Mahtesyan, March 28, 2008.

[88] Human Rights Watch interview with Ararat Mahtesyan, March 28, 2008.

[89] Human Rights Watch interview with Tsovinar Nazaryan, freelance journalist, Yerevan, March 26; Levon Zourabyan, March 12; and Lala L, March 1, 2008.

scene.[90] The incident further infuriated the protestors, who attacked the police car and set it on fire, while the policemen escaped.[91]

A group of mostly young protestors began throwing stones at a group of about 50 policemen outside Yerevan City Hall.[92] Recounting the episode to us, Stepan S., a 35-year-old doctor, noted, "The crowd did not look like the crowd that had been demonstrating peacefully for 10 days. People were furious."[93] Another group of protestors tried to protect the policemen by forming a line between the sides. Heritage party MP Armen Martirosyan, who also tried to calm people down and protect the police officers, was stabbed in the stomach by a member of the crowd.[94] The police retreated inside the building.

In a statement issued by Heritage on March 1, the party blamed what it alleged were government agents acting as "provocateurs" inside the crowd for the incident:

> An unfortunate incident did take place today, however, when a group of provocateurs tried to attack a high ranking police officer. Their efforts were hindered by Heritage party member and parliamentarian Armen Martirosyan. As a result, Mr. Martirosyan was stabbed and hospitalized in the third hospital, where he received immediate and urgent care. It is interesting to note that before the stabbing, one of the members of the group had yelled out "This is the deputy who asked a question to Serj [Sargsyan]." It is evident that these provocations are well planned and that, if repeated, they will present a serious threat. We once again call upon the peaceful rally participants to restrain from responding to any such incitements.[95]

The authorities have investigated the stabbing of Martirosyan together with other aspects of the March 1 events, but according to Martirosyan they have not identified any suspects, as far as he knows. The investigation has granted him status as an aggrieved party in a case

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[90] Human Rights Watch interviews with Anahit Bakhshyan and Tsovinar Nazaryan, March 26, 2008.

[91] Human Rights Watch interviews with Stepan S., Yerevan, March 27; Levon Zourabyan, March 12; Tsovinar Nazaryan, March 26; and Anahit Bakhshyan, March 26, 2008.

[92] Human Rights Watch interview with Stepan S., March 26, 2008.

[93] Ibid. A journalist who was present told Human Rights Watch that even though the two people taken to hospital after being hit by the car were announced to the crowd as not being seriously hurt, absent proper loudspeaker equipment few could hear this, and rumors took hold that there had been fatalities. Human Rights Watch interview with Tsovinar Nazaryan, March 26, 2008.

[94] Human Rights Watch interview with Anahit Bakhshyan, March 26, 2008.

[95] "Heritage Supplementary Statement," Heritage party press release, March 1, 2008, http://www.heritage.am/pr/010308-1.htm (accessed September 18, 2007). Human Rights Watch cannot comment on the veracity of Heritage's claim that "provacateurs" were present.

against seven alleged organizers (see Chapter VI), something which Martirosyan has unsuccessfully tried to have rescinded.[96]

Demonstrators prepare for police attack

There were two construction sites near City Hall. Gevorg G. told Human Rights Watch:

> We went into the construction sites and collected the iron and wooden bars. We did not destroy anything, but collected loose iron bars from there. Some also collected stuff from the nearby parks…. We were expecting to be attacked and wanted to be better prepared for it.[97]

Gevorg G. also said that demonstrators broke closed-circuit television security surveillance cameras in front of City Hall.[98]

Vigen V. told Human Rights Watch:

> People were getting makeshift weapons from a construction site. Almost everyone was under the impression that the protestors were violently dispersed in the morning and there were rumors about several deaths. People were very angry. They wanted to see the leader, but we heard on the radio that Levon Ter-Petrossian was under house arrest.[99]

During this time police was not making any calls to the protestors to disperse.[100] Around 5 p.m. loudspeaker equipment was brought to the rally (opposition leaders had been attempting to address the crowd before this with a loudhailer, but their attempts had been largely inaudible).[101] The leaders called for the gathered demonstrators to stay calm and not to provoke the police. At the same time, however, calls to build further barricades to prevent police from attacking were also made.[102] People were shouting "Levon! Levon!" and demanded his appearance.

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[96] Human Rights Watch interview with Armen Martirosyan, Yerevan, January 14, 2009.

[97] Human Rights Watch interview with Gevorg G., March 27, 2008.

[98] Ibid.

[99] Human Rights Watch interview with Vigen V., Yerevan, March 29, 2008.

[100] Human Rights Watch interview with Gevorg G., March 27, 2008 and Human Rights Watch interview with Vigen V., Yerevan, March 29, 2008.

[101] Human Rights Watch interview with Stepan S., March 26, 2008. Human Rights Watch interviews with David Matevossyan, March 23; and Gohar Veziryan, March 26, 2008.

[102] Human Rights Watch interview with Stepan S., March 26, 2008.

Police build-up, evening of March 1

Towards the end of the day journalists and demonstrators saw police and other security personnel regrouping in parts of the city center close to where the demonstrators were gathered, notably in the vicinity of Republic Square and Mashtots Avenue, and on Leo and Paronyan streets.[103] A journalist who attempted to drive through Republic Square around 9 p.m. told Human Rights Watch:

> The whole of Republic Square was packed with military and police. I could see them holding shields, but could not see weapons. It was getting dark already. I counted three armored troop carriers by the government building. I also saw six-seven buses and several lorries full of military.[104]

Violent clashes and police use of force

At the Miasnikyan monument, a rally continued until around 3 a.m. on March 2. An aggressive police action to disperse the crowd began at around 9:30 p.m. on March 1, and was met with stone throwing and even petrol bombs from the side of the demonstrators. After that, the police retreated and left the large crowd alone. A smaller group of demonstrators, however, engaged in a violent confrontation with police and security forces. It was in this context that most of the fatalities occurred.

Tracer bullets and police attack

Multiple witnesses told Human Rights Watch that shortly after 9 p.m., without prior warning, police started shooting tracer bullets in the air, apparently intending to intimidate the demonstrators and make them disperse. A first episode of tracer fire lasted about 10-15 minutes.[105] Half an hour later, police in riot gear began approaching from the direction of Leo and Paronyan streets. Organized in four to five rows, they advanced toward the demonstrators, accompanied by the second episode of tracer fire.

One witness who was on Shahumyan Square, just behind the Miasnikyan monument, told Human Rights Watch, "I could see the sky full of tracer bullets, shining in red lights. The

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[103] Human Rights Watch interviews with Gohar Veziryan, March 26; Tsovinar Nazaryan, March 26, and Gevorg G., March 27; 2008.

[104] Human Rights Watch interview with Gohar Veziryan, March 26, 2008. The head of the Special Investigative Group, Vahagn Harutyunyan, insisted to Human Rights Watch no military forces had been involved before the declaration of the state of emergency. He explained that the police had, however, requested and used military vehicles borrowed from the military because of a shortage of vehicles. Human Rights Watch interview with Vahagn Harutyunyan, January 15, 2009.

[105] Human Rights Watch interview with David Shahnazaryan, March 28, 2008.

intense fire lasted for at least 10 minutes and I saw the police advancing in several lines, beating truncheons on the shields and making loud noises."[106]

Whether the police were supported by other security personnel is unclear. Two witnesses stated that military personnel accompanied police, but their accounts differ substantially: Gurgen G. said the first three to four rows of approaching security forces were young military conscripts, followed by riot police shooting the tracer bullets,[107] while Arevik A., observing from her balcony as the forces got into formation on Paronyan street, described police forming into four to five rows, and military personnel lining up behind them.[108] Speaking to Human Rights Watch, deputy police chief Ararat Mahtesyan, denied that any military units participated in the operation until the state of emergency was decreed by the president at 10:30 p.m.[109] According to him, only riot police and regular police were deployed until then.[110] The head of the Special Investigative Group, Vahagn Harutyunyan, suggested to Human Rights Watch that the belief that the military was involved earlier might stem from the fact that military conscripts, sometimes wearing military uniforms, also serve in the Ministry of Internal Affairs.[111]

Numerous witnesses interviewed by Human Rights Watch described in similar terms the sequence of ensuing events. Security forces were making short advances towards the demonstrators. According to witness Gevorg G., the painter, twice police made short advances and then stopped. The third time, however, they "advanced for real, attacking the demonstrators."[112]

Grizelda Kazaryan, 58, and her daughter Gayane Kazaryan, 24, were trying to leave the rally around that time, as Gayane felt sick, and there was a friend's apartment nearby where they could rest. Their departure coincided with a police advance. Grizelda Kazaryan told Human Rights Watch:

> We were in between the security forces and the demonstrators. They were in blue and green uniforms. Some of them had iron shields. We tried to talk to

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[106] Human Rights Watch interview with Gohar Veziryan, March 26, 2008.

[107] Human Rights Watch interview with Gurgen G., Yerevan, March 26, 2008.

[108] Human Rights Watch interview with Arevik A., Yerevan, March 29, 2008.

[109] Human Rights Watch interview with Ararat Mahtesyan, March 28, 2008.

[110] Ibid.

[111] Human Rights Watch interview with Vahagn Harutyunyan, January 15, 2009. In also insisting to Human Rights Watch that no military forces had been involved before the declaration of the state of emergency, Harutyunyan explained that the police had, however, requested and used military vehicles borrowed from the military because of a shortage of vehicles.

[112] Human Rights Watch interview with Gevorg G., March 27, 2008.

> them, asking "why are you doing this?", begging them to stop. One of them in a mask came to me and hit me with a truncheon in the stomach. It was very painful.[113]

The women retreated back to the rally. The advancing police started to press the crowd back toward the monument. Gayane Kazaryan told Human Rights Watch:

> Men in white helmets attacked us. We were trying to find shelter in the apartment building entrances. I saw my mom trying to get inside one as she was hit with a truncheon on her head and fell down.[114]

Grizelda Kazaryan recounted to Human Rights Watch:

> I got a blow from the back and I fell down. They continued to beat me with a truncheon and also kicked me on the head, shoulder, and back. Momentarily I lost a sense of reality; I could not understand where I was and what was happening. I felt dizzy and wanted to throw up.[115]

When Grizelda regained consciousness she saw four or five officers grab her daughter, shouting, "We should beat this whore!"[116] Gayane told Human Rights Watch that as she fell down police continued to assault her, kicking her on the face, back, and legs.[117] Eventually, mother and daughter were saved by a security official, who recognized them, dragged them into a building entrance, and locked the door behind them.[118]

At the time when Human Rights Watch interviewed her, Gayane still had numerous bruises, including on the shoulder, right arm, legs, and back. She had difficulty sitting upright and was confined to bed. Grizelda herself was diagnosed with concussion and required eight stitches on her head. Human Rights Watch interviewed another person who witnessed the entire incident and corroborated the account.[119]

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[113] Human Rights Watch interview with Grizelda Kazaryan, Yerevan, March 11, 2008.
[114] Human Rights Watch interview with Gayane Kazaryan, Yerevan, March 11, 2008.
[115] Human Rights Watch interview with Grizelda Kazaryan, March 11, 2008.
[116] Ibid.
[117] Human Rights Watch interview with Gayane Kazaryan, March 11, 2008.
[118] Human Rights Watch interview with Grizelda and Gayane Kazaryan, March 11, 2008.
[119] Human Rights Watch interview with Tatevik T., Yerevan, March 29, 2008.

According to Gevorg G., when the police fired teargas "that's when we started to fight back. We hid behind cars and buses and threw stones in return. Some also threw Molotov cocktails made of petrol."[120]

Another protestor who was in a part of the crowd standing near the Russian embassy told Human Rights Watch:

> Internal troops came and without any warning attacked the demonstrators. I stood in the middle of the protestors. … When the police were approaching, demonstrators first retreated toward the trolley buses which were used to barricade off the main demonstration site. But then we realized that we could not retreat any further as behind stood our mothers, sisters and brothers… I did not see who threw the first stone, but stones were thrown from both sides. We collected stones from the sidewalks, broke them into pieces and used them to throw at police.[121]

A journalist observing the events described to Human Rights Watch what she saw:

> I had a feeling that they [security forces] were going to kill us all. I was terrified and ran back through Proshyan Street. People were throwing stones and Molotov cocktails. They intended to slow down the approaching police.[122]

Although Human Rights Watch was not able to determine under what exact circumstances the first casualties took place, the resistance from demonstrators intensified when at least one of the protestors was shot. A witness described to Human Rights Watch that around 9 p.m. he saw a man get shot in the leg near the Russian embassy as the police were retreating, but he could not elaborate the exact circumstances of the incident.[123] Possibly describing the same incident, another witness told Human Rights Watch that she saw a man in his forties with an apparent gunshot wound to his leg: "I could actually see the hole in his left leg. It was bleeding and his pants were covered in blood."[124] Human Rights Watch was not able to obtain additional information about those casualties and their fate.

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[120] Human Rights Watch interview with Gevorg G., March 27, 2008.
[121] Human Rights Watch interview with Gurgen G., March 26, 2008.
[122] Human Rights Watch interview with Gohar Veziryan, March 26, 2008.
[123] Human Rights Watch interview with Vigen V., Yerevan, March 29, 2008.
[124] Human Rights Watch interview with Gohar Veziryan, March 26, 2008.

Gevorg G. described to Human Rights Watch how a group of 10-15 young men took the fight to the police, chanting "Struggle, Struggle, Struggle to the End!"[125]

Faced with this level of resistance, police retreated, but a small part of the crowd—one witness said around 100 people—pursued them, continuing to attack them.[126] According to Gevorg G., police attempted to block the street with razor wire, "but [the barrier] did not prevent the people. It was simply pushed aside." A lorry carrying razor wire was set on fire.[127] Witness Gurgen G. described to Human Rights Watch seeing five police vehicles burning and a civilian car turned upside down as a result of the first clashes.[128]

Gevorg G., stressed that most others stayed near the barricades. Some had the feeling that "it was over, we won," he said.[129]

Clash between police and demonstrators near Kentron police station

Police regrouped north of the demonstration site at the junction of Paronyan and Leo streets, several meters away from an arch that leads to the Kentron (central district) police station.[130] According to Stepan S., 40, high-ranking police (as evident from their uniforms and epaulettes) were at the arch from the time of the police advance on the crowd,[131] which suggests that operations were being directed, or at least officially observed, from there.

This witness, and another interviewed separately by Human Rights Watch, gave similar descriptions of the ensuing clashes between police and demonstrators who advanced on them. Stepan S. was in the archway and observed from the ground. The other, Arevik A., observed the events from a balcony overlooking the junction.[132] At least three other witnesses corroborated parts of the two accounts.[133]

About 15 to 20 meters away from the police line stood several dozen mostly young demonstrators, chanting "Levon, Levon!" and throwing stones at police.[134] The protestors

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[125] Human Rights Watch interview with Gevorg G., March 27, 2008.

[126] Human Rights Watch interviews with Gurgen G., March 26; and Gevorg G., March 27, 2008.

[127] Human Rights Watch interview with Gevorg G., March 27, 2008.

[128] Human Rights Watch interview with Gurgen G., March 26, 2008.

[129] Human Rights Watch interview with Gevorg G., March 27, 2008.

[130] Human Rights Watch interview with Ararat Mahtesyan, March 28, 2008.

[131] Human Rights Watch interview with Stepan S., March 27, 2008.

[132] Human Rights Watch inspected the scene and confirmed that Arevik A. would have had an unobstructed view of the events from his balcony.

[133] Human Rights Watch interviews with Grizelda and Gayane Kazaryan, March 11; and Tatevik T., March 29, 2008.

[134] Ibid., and Human Rights Watch interview with Arevik A., March 29, 2008.

were not armed, but collected stones from the sidewalks and broke them into pieces. Some also had iron and wooden sticks.[135] Both witnesses described to Human Rights Watch that without any advance warning, police used teargas against the protestors. Arevik A., told Human Rights Watch:

> I heard some kind of an explosion on the crossroad of Paronyan Street and Mashtots Avenue. I could see a big cloud of smoke rising from the spot and soon it became hard to breathe. It did not burn my eyes, but it became impossible to breathe and I started choking and had to run inside.[136]

Stepan S. also felt the teargas effects while standing inside the arch when he had to run inside the yard together with the police.[137] Both witnesses told Human Rights Watch that tracer bullets were shot by military standing behind the three to four rows of riot police.[138]

Some protestors attempted to ram an unmanned car into the police line. Stepan S. told Human Rights Watch:

> I saw an Ural type car driving towards the police line, but there was no driver inside. The car stopped in the middle. Security forces immediately opened intense fire from submachine guns at the car. I saw a young man was trying to get into the car, but then police used teargas and I had to run inside the yard to get fresh air.... When I came back the shooting was over and I saw a dead body next to the car. Another young man, apparently his friend, was crying for help.[139]

Stepan S. ran to help. The man on the ground was about 40, slightly bald, and wearing a black coat; his head and neck were covered in blood. Stepan S. helped to carry the body to the sidewalk, where somebody checked for a pulse and said the man was already dead.[140]

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[135] Ibid.

[136] Human Rights Watch interview with Arevik A., March 29, 2008.

[137] Human Rights Watch interview with Stepan S., March 27, 2008.

[138] Ibid., and Human Rights Watch interview with Arevik A., March 29, 2008. Tracer bullets are modified to accept a small pyrotechnic charge in their base, which ignites upon firing and burns very brightly, making the projectile visible to the naked eye.

[139] Human Rights Watch interview with Stepan S., March 27, 2008.

[140] Ibid.

Arevik A. saw a minivan with about 15 young protestors drive toward the police lines. Police opened fire on it, bringing it to a stop, and those inside the minivan fled (the witness did not report seeing whether any of them had been injured).[141]

Stepan S. also described to Human Rights Watch how, around 10 p.m., a police officer stepped from beneath the arch, pointed his Makarov pistol in the direction of protestors a few meters away who were throwing stones, and fired six shots, apparently randomly. Stepan S. did not see whether anyone was hit.[142]

Arevik A. saw one man shot dead, and another shot in the leg, as they walked toward police lines:

> I saw two young men together coming from Mashtots Avenue and when they approached the crossroads I heard a shot and one of them fell on the ground. The other of the two started crying that he was killed. Then a policeman who stood under the arch came and kicked the body, but he was told by others not to do that as he was already dead. Four-five minutes later the other guy was shot in the leg as well and he fell down. He was picked up by others and put into a Zhiguli and taken away.[143]

Stepan S. described to Human Rights Watch how four policemen dragged a wounded protestor into the arch and beat him with truncheons until he was unconscious.[144] Arevik A. also saw how about six officers attacked three young men who approached the lines from the direction of the main demonstration:

> Policemen hit one boy with truncheons on his legs. He buckled over with pain and then police made him lie down on the ground and started kicking him and beating him with truncheons. He was then picked up and put into a police car and taken away.[145]

The clashes were over by midnight. As one witness told Human Rights Watch, "The crossroad and nearby streets resembled a battlefield."[146] On the other hand, the main

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[141] Human Rights Watch interview with Arevik A., March 29, 2008.
[142] Human Rights Watch interview with Stepan S., March 27, 2008.
[143] Human Rights Watch interview with Arevik A., March 29, 2008.
[144] Human Rights Watch interview with Stepan S., March 27, 2008.
[145] Human Rights Watch interview with Arevik A., March 29, 2008.
[146] Human Rights Watch interview with Gohar Veziryan, March 26, 2008.

demonstration in front of the Miasnikyan monument with about four or five thousand protestors continued and stayed peaceful.[147] It appears that the majority had no idea about the series of clashes that had taken place a block north at the crossroads. When a witness of the events went to the leaders asking if they knew what was happing on the other side of the barricades, the opposition leaders told her that police was shooting, but just to scare them.[148] The protestors at the main demonstration dispersed around 2-3 a.m. after Levon Ter-Petrossian addressed them by phone, asking them to do so in order to avert greater casualties.[149]

Casualties

At least 10 people were killed as a result of the March 1 events. According to summaries of the deaths publicized by the Office of the Public Prosecutor, four civilians died from wounds from firearms, three civilians died from direct impact of unexploded teargas canisters (apparently fired directly at the demonstrators from close range), and one police officer died from fragmentation wounds. Another two people died later from injuries sustained on March 1: one civilian died from a head wound and a serviceman with the Ministry of Internal Affairs died from a firearm wound.[150]

Shop looting and other criminal damage

Some demonstrators broke into shops on Mashtots Avenue and looted them. Most protestors to whom Human Rights Watch spoke alleged that those shops were broken into by so-called provocateurs intending to smear the peaceful demonstrators. However, at least two witnesses who had been participants in the demonstrations told Human Rights Watch that three shops belonging to prominent supporters of then President-elect Sargsyan were broken into, and thus tried to justify the crowd's behavior as targeting certain oligarchs only.[151] One of the witnesses, Gevorg G., told Human Rights Watch that he saw that protestors had broken into a supermarket and were eating food on the spot.[152]

The Office of the Public Prosecutor reported that altogether seven shops were looted and 63 vehicles were set on fire.[153]

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[147] Human Rights Watch interview with David Matevosyan, March 27, 2008;

[148] Human Rights Watch interview with Gohar Veziryan, March 26, 2008

[149] Human Rights Watch interviews with David Matevossyan, March 27; and Levon Ter-Petrossian, March 29, 2008.

[150] "90 cases concerning 111 people have been sent to court," Office of the Public Prosecutor of the Republic of Armenia, December 12, 2008, http://www.genproc.am/main/ru/121/5329/ (accessed January 19, 2009).

[151] Human Rights Watch interview with Vigen V., March 29, 2008.

[152] Human Rights Watch interviews with Gevorg G., March 27; and Vigen V., March 29, 2008.

[153] "Armenian prosecutor gives details of damage caused by opposition rally," *Arminfo* (in Russian), March 4, 2008.

State of Emergency

At approximately 10:30 p.m. on March 1, President Robert Kocharyan signed a decree, "To Prevent a threat to Constitutional Order and Protect the rights and Legal Interests of the Population," declaring a state of emergency in Armenia.[154] The National Assembly formally approved the state of emergency on March 2.[155] The decree remained in force for 20 days and imposed severe restrictions, including a ban on all mass gatherings and a requirement that all news media use only official information in their domestic coverage. Radio Free Europe/Radio Liberty's (RFE/RL) Armenian language broadcasting was taken off the air and their website blocked.[156] Several other online news publications, including *A1+*, *Haikakan Zhamanak*, and *Aravot*, were blocked by internet service providers on the orders of the security services. During the state of emergency all pro-opposition newspapers were banned from publishing, after they went through prescreening by security service representatives at the publishing houses. The Editor-in-chief of *Chorrord Ishkhanutyun* told Human Rights Watch that twice, on March 4 and 13, she and her staff attempted to publish the newspaper, but were refused by the publishing house without any explanation after the editions were checked by the security officials.[157] Although media restrictions were lifted on March 13, security service representatives continued interfering with the opposition newspapers' printing, allowing them to publish only on March 21.

International reaction to the state of emergency

After the March 1 events, various international actors expressed serious concern over the violence during the demonstrations. On March 2, then-UN High Commissioner for Human Rights Louise Arbour said she was "deeply troubled" by the deaths and injuries following the demonstrations, and called on Armenia to honor its commitments under the International Covenant on Civil and Political Rights, which states that "even during states of emergency, fundamental rights—such as the right to life and prohibition of torture and cruel, inhumane and degrading treatment—cannot be suspended. Any restrictions of rights must be proportionate and may only be applied to the extent and duration strictly warranted by the

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[154] Human Rights Watch interview with Ararat Mahtesyan, March 28, 2008.

[155] Human Rights Watch interview with Anahit Bakhshyan, March 26, 2008.

[156] "RFE/RL news broadcasts, Internet blocked in Armenia," RFE/RL, March 3, 2008, at http://www.rferl.org/content/PressRelease/1105988.html (accessed December 30, 2008).

[157] Human Rights Watch interview with Shogher Matevosyan, editor-in-chief, Yerevan, March 25, 2008.

circumstances."[158] The EU presidency and external relations commissioner Ferrero-Waldner both issued statements on March 4 condemning the violence.[159]

A statement by Lluis Maria de Puig, the president of the Parliamentary Assembly of the Council of Europe (PACE), on March 2 stated that "the authorities must show the utmost restraint and respect the principle of proportionality. The state of emergency that has been declared is an extreme measure and should be lifted as soon as possible: round ups of peaceful demonstrators and gagging the media is not the response of real democrats to differing views."[160] The Council of Europe Commissioner for Human Rights Thomas Hammarberg went to Yerevan at the beginning of March to meet with senior government officials and promote protection of human rights,[161] as did Matthew Bryza, US deputy assistant secretary of state; Peter Semneby, the EU special representative for the south Caucasus; and John Prescott of PACE. PACE called for, among other steps, lifting the state of emergency and restoring rights and freedoms, the release of all jailed activists who had not committed violent crimes, and an independent investigation into the March 1 events.[162]

Post-state of emergency restrictions on freedom of assembly

Just before lifting the state of emergency on March 21, 2008, the National Assembly passed amendments to the law on public assembly that severely restricted public gatherings.[163] The amendments, which were criticized by the Venice Commission of the Council of Europe and by the OSCE, repealed a provision that allowed smaller events to develop into "mass" assemblies without prior authorization, granted police and other national security authorities broad and unchallengeable powers to restrict freedom of assembly, and

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[158] "Arbour deeply troubled about deaths during post election protests in Armenia," United Nations press release, March 2, 2008, http://www.unhchr.ch/huricane/huricane.nsf/view01/A1B086787D61D9AAC1257400007F9420?opendocument (accessed May 30, 2008).

[159] "Declaration by the Presidency on behalf of the EU on the situation after the presidential elections in Armenia on 1st March 2008," European Union press release, March 4, 2008, http://www.eu2008.si/en/News_and_Documents/CFSP_Statements/March/0403MZZ_Armenia.html (accessed May 30, 2008). "Statement on riots in Yerevan, Armenia, on March 1, 2008," EU Commissioner for External Relations Benita Ferrero-Waldner, March 4, 2008, http://ec.europa.eu/commission_barroso/ferrero-waldner/speeches/index_en.htm (accessed May 30, 2008).

[160] "PA President appeals for calm in Yerevan, calls for dialogue," Council of Europe press release, March 2, 2008, http://assembly.coe.int/ASP/Press/StopPressView.asp?ID=2016 (accessed September 1, 2008).

[161] "Armenia: Commissioner Hammarberg visits Yerevan to advocate human rights protection after post election violence," Council of Europe press release, March 11, 2008, https://wcd.coe.int/ViewDoc.jsp?id=1259795&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679 (accessed September 1, 2008).

[162] "PACE Monitoring Committee concerned about continuing arrests in Armenia," Council of Europe press release, March 18, 2008, http://assembly.coe.int/ASP/Press/StopPressView.asp?ID=2023 (accessed May 30, 2008).

[163] "Parliament adopted in full the law proposal introducing amendments to the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations," National Assembly of the Republic of Armenia, March 17, 2008, http://www.parliament.am/news.php?do=view&ID=2698&cat_id=2&day=17&month=03&year=2008〈=rus (accessed January 16, 2009).

introduced new powers relating to the suspension of assemblies if "mass disorder" resulted in loss of life.[164] As the Venice Commission pointed out, this provision allowed the authorities to disperse assemblies where the use of excessive force by the authorities themselves resulted in the loss of life.[165] On June 11, 2008, the National Assembly adopted additional amendments to the law on public assembly that largely addressed the concerns expressed by the Venice Commission, which concluded that the new version of the law is "generally in conformity with the applicable European standards."[166]

A member of the opposition, however, told Human Rights Watch in January 2009 that the authorities had granted only two of almost a hundred requests for rallies made by the opposition since the lifting of the state of emergency, and that the authorities had not sanctioned any marches since March 1, 2008.167 Human Rights Watch documented the brief detention of at least 90 people who participated in peaceful "public walks" organized by political opposition supporters in March 2008. On January 16, 2009, several members of the opposition who had gathered to attend a trial decided to march to the prosecutor's office when the trial was postponed. Police prevented the march by surrounding the marchers and eventually used force to disperse them.[168]

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[164] See for example, "Joint Opinion on the amendments of 17 March 2008 to the Law on Conducting Meetings, Assemblies, Rallies and Demonstrations of the Republic of Armenia by the Venice Commission and OSCE/ODIHR endorsed by the Venice Commission at its 75th Plenary Session (Venice, 13-14 June 2008)," Opinion no. 474 / 2008, CDL-AD(2008)018, June 17, 2008, http://www.venice.coe.int/docs/2008/CDL-AD(2008)018-e.asp (accessed January 16, 2009).

[165] Ibid.

[166] "Joint Opinion on the Draft Law amending and supplementing the law on conducting meetings, assemblies, rallies and demonstrations of the Republic of Armenia by the Venice Commission and OSCE/ODIHR endorsed by the Venice Commission at its 75th Plenary Session (Venice, 13-14 June 2008)," Opinion no. 474 / 2008, CDL-AD(2008)020, June 24, 2008, http://www.venice.coe.int/docs/2008/CDL-AD(2008)020-e.asp (accessed January 16, 2009.

[167] The opposition held other unsanctioned rallies, including two unsanctioned marches. These events were tolerated by the police even though the interaction between the demonstrators and the police became tense on several occasions. Human Rights Watch interview with Levon Zourabyan, Yerevan, January 13, 2008.

[168] Human Rights Watch interview with Levon Zourabyan, Yerevan, January 16, 2008. See also "Ombudsman Criticizes Break-up of Opposition Protest," Armenialiberty.org, January 19, 2009, http://www.armenialiberty.org/armeniareport/report/en/2009/01/35894B0A-C845-4D6F-A2B1-F43099B3EB1C.ASP (accessed January 21, 2009).

VI. Ill-treatment and Torture

Treatment of People Detained in Connection with March 1

Human Rights Watch documented physical abuse and ill-treatment of detainees during arrest as well as while being transported to the police department. In some cases abuse—verbal and physical—continued in custody. Our research has shown a number of serious due process violations in the course of those arrests and prosecutions, including incommunicado detention and lack of access to a lawyer of one's choice. Several cases are detailed below.

Armenia's international legal obligations regarding treatment of detainees

The prohibition on torture and ill-treatment

Armenia is a member of the Council of Europe and a party to its core regional human rights treaties, as well as core international human rights treaties. These include the ECHR, the European Convention on the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (ECPT),[169] the International Covenant on Civil and Political Rights (ICCPR),[170] and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and the latter's Optional Protocol.[171] These treaties provide for the protection of basic civil and political rights and also specific guarantees relating to treatment and conditions in custody for those deprived of their liberty. They are supplemented by instruments specific to treatment of those in detention.

The most fundamental of protections for prisoners and detainees is the absolute prohibition on torture. The ICCPR and the Convention against Torture both prohibit torture and cruel, inhuman, or degrading treatment or punishment, without exception or derogation. Article 10 of the ICCPR, in addition, mandates that "[a]ll persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."[172]

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[169] European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, E.T.S. 126, entered into force February 1, 1989, ratified by Armenia on June 18, 2002.

[170] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 999 U.N.T.S. 171 (entered into force March 23, 1976), acceded to by Armenia on June 23, 1993.

[171] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and opened for signature, ratification and accession by G.A. Res. 39/46 (entered into force June 26, 1987), acceded to by Armenia on September 13, 1993 . Optional Protocol to this Convention, adopted by G.A. Resolution A/RES/57/199 of 9 January 2003; entered into force June 22, 2006; acceded to by Armenia on September 14, 2006.

[172] ICCPR, art. 10.

Article 3 of the European Convention on Human Rights (ECHR) also prohibits torture and inhuman and degrading treatment, in absolute terms.[173]

Armenian legislation contains several provisions prohibiting the use of torture. Article 17 of the Armenian Constitution (part I) provides that no one shall be subjected to torture and inhuman or degrading treatment or punishment. It also states that arrested, detained, and convicted persons have the right to be treated humanely and with respect for their dignity.[174] Article 119 of the Criminal Code of Armenia establishes legal responsibility for acts of torture;[175] article 341 provides for liability for forcing testimony through torture and violence;[176] and article 392 classifies torture as a crime against human security.[177] Article 9 of the Criminal Procedure Code of Armenia provides that, during a criminal investigation, no one shall be subjected to degrading treatment or kept in demeaning conditions.[178] Article 5 of the Law on Police prohibits police officers from subjecting a person to torture, cruel or degrading treatment, or using violence against a person.[179]

Right to inform others of one's arrest

Rule 92 of the UN Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules) provides that:

> An untried prisoner shall be allowed to inform immediately his family of his detention and shall be given all reasonable facilities for communicating with his family and friends, and for receiving visits from them, subject only to restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution.[180]

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[173] "No one shall be subjected to torture or to inhuman or degrading treatment or punishment," European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), art. 3.

[174] Constitution of the Republic of Armenia, 1995, http://www.parliament.am/legislation.php?sel=show&ID=1&lang=rus (accessed January 18, 2009), art. 17.

[175] Criminal Code of the Republic of Armenia, 2003, (accessed January 18, 2009), art. 119.

[176] Ibid., art. 341.

[177] Ibid., art. 392.

[178] Criminal Procedure Code of the Republic of Armenia, 1998, http://www.parliament.am/law_docs/010998HO248eng.pdf?lang=eng (accessed January 18, 2009), art. 119.

[179] Law on Police of the Republic of Armenia, 2001, http://www.parliament.am/legislation.php?sel=show&ID=1271&lang=rus (accessed January 18, 2009), art. 5.

[180] United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, rule 92.

In 1988 the United Nations General Assembly adopted a Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), further strengthening international standards of detention. Principle 15 states that a detained person's "communication … with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days."[181] The detainee has a right to notify, or have the authorities notify, "members of his family or other appropriate persons of his choice of his arrest, detention or imprisonment or of the transfer and of the place where he is kept in custody."[182]

Article 16 of the Armenian Constitution states, "Everyone who is deprived of his/her liberty shall have a right to immediately notify this to any person chosen by him/her."[183] The Criminal Procedure Code states that a detained person has the right to "immediately after detention, but no later than after 12 hours … inform [his/her] close relatives."[184]

Right of access to counsel

The right of all persons accused of a crime to the assistance of a lawyer is a fundamental procedural guarantee. Article 14 of the ICCPR and article 6 of the ECHR stipulate that everyone charged with a criminal offense has the right "to defend himself in person or through legal assistance of his own choosing" or be assigned free legal assistance if necessary. The UN Human Rights Committee and the European Court of Human Rights have considered these provisions applicable to periods before trial, including the period in police custody.[185] The European Court of Human Rights found the United Kingdom in violation of

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[181] Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988), principle 15.

[182] Ibid., principle 16(1).

[183] Constitution of the Republic of Armenia, art. 16.

[184] Criminal Procedure Code of the Republic of Armenia, art. 63(2)(9). In its report after its 2006 visit to Armenia, the European Committee for the Prevention of Torture pointed out the seeming contradiction between the requirement of immediacy in the Constitution and the possibility of delaying notification for 12 hours in the Criminal Procedure Code. Committee for the Prevention of Torture, "Report to the Armenian Government on the visit to Armenia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 12 April 2006," CPT/Inf (2007) 47, December 13, 2007, http://www.cpt.coe.int/documents/arm/2007-47-inf-eng.htm (accessed January 18, 2009), para. 21. In its comment, the Armenian government stated that the relatives "have to be informed about the location of the mentioned persons immediately, and in case if there is no possibility to inform, it m[u]st be done not late then in 12 hours." Committee for the Prevention of Torture, "Response of the Armenian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Armenia from 2 to 12 April 2006," CPT/Inf (2007) 48, December 13, 2007, http://www.cpt.coe.int/documents/arm/2007-48-inf-eng.htm (accessed December 18, 2009).

[185] The Human Rights Committee held that the provision of the UK's Terrorism Act 2000 allowing suspects to be detained for 48 hours without access to a lawyer was of "suspect compatibility" with articles 9 and 14 of the ICCPR. CCPR/CO/73/UK, para. 19 (2001); the European Court of Human Rights similarly held that article 6 of the ECHR applies even in the preliminary stages of a police investigation. In the *Imbroscia v. Switzerland* judgment, the Court stated that "[c]ertainly the primary purpose of Article 6 as far as criminal matters are concerned is to ensure a fair trial by a 'tribunal' competent to determine any criminal charge,but it does not follow that the Article (Art.6) has no application to pre-trial proceedings," and that the requirements of

article 6 of the Convention because it denied a detainee access to a lawyer for the first 48 hours of police questioning. The Court held:

> [T]he concept of fairness enshrined in Article 6 (art. 6) requires that the accused has the benefit of the assistance of a lawyer already at the initial stages of police interrogation. To deny access to a lawyer for the first 48 hours of police questioning, in a situation where the rights of the defence may well be irretrievably prejudiced, is–whatever the justification for such denial–incompatible with the rights of the accused under Article 6 (art. 6).[186]

The UN Basic Principles on the Role of Lawyers requires that

> All arrested, detained or imprisoned persons shall be provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer, without delay, interception or censorship and in full confidentiality.[187]

According to the Armenian Criminal Procedure Code, a person has the right to have or to refuse a defense lawyer or to defend him or herself from the moment when he or she is presented with a decision of detention, the protocol of detention, or a decision regarding other measures of restraint.[188]

Cases of ill-treatment during arrest and in custody

Over a hundred people were arrested on March 1 and in the following days. When possible, Human Rights Watch interviewed detainees post-release, while in other cases our sources of information were witnesses, lawyers, and family members of detainees still in custody. Human Rights Watch documented 38 detention cases, in 27 of which the individual alleged ill-treatment.

Criminal lawyer Seda Safaryan told Human Rights Watch about the March 1 detention of one of her clients, Musheg M. Safaryan managed to see her client on March 2 and saw that he

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article 6(3), including the right to legal assistance, "may … be relevant before a case is sent to trial if and in so far as the fairness of the trial is likely to be seriously prejudiced by an initial failure to comply with them." *Imbroscia v. Switzerland*, Judgment of November 24, 1993, Series A, No. 275, available at www.echr.coe.int, para. 36.

[186] European Court of Human Rights, *Murray v. United Kingdom*, Judgment of February 8, 1996, Reports of Judgments and Decisions 1996-I, available at www.echr.coe.int, para. 66.

[187] Basic Principles on the Role of Lawyers, adopted at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 118 (1990), number 8.

[188] "Criminal Procedure Code of Armenia," art. 63, part 2(9).

bore clear marks of injury, he could hardly stand, and moved very slowly, the slightest jolt causing him to double up in pain. Musheg M. told Safaryan that he had been ill-treated and assaulted during arrest: he said he had been stopped while riding in a taxi, forced out, and pushed to the ground, whereupon several people in civilian clothes and black masks set about kicking him before transferring him to a police station. Musheg M. said he was also beaten at the police station.[189]

Safaryan described to us how another of her clients, David Arakelyan, bore serious bruises, particularly visible on his face, when she visited him in police custody. Arakelyan explained to the lawyer that the bruises had been sustained during arrest and that he had also been assaulted while being transferred to the police station. Safaryan requested a forensic medical examination of Arakelyan on March 2, but the examination was done only on March 10.[190]

Amalia Avakyan, criminal lawyer for Hrach H., told Human Rights Watch that her client required serious medical intervention after he was assaulted during arrest. Hrach H. had been detained at around 10 a.m. on March 1 and taken to the Kentron police station, before being transferred to Erebuni police station in south Yerevan. Hrach H. stated that police assaulted him during arrest, causing serious injuries including a broken left wrist. He required eight stitches on his head and was diagnosed with concussion, but was not given a forensic medical examination until 10 days after his arrest.[191]

Araz Zakharyan, criminal lawyer for Mher M., also stated that his client had been ill-treated during arrest and transfer. Mher M. had spent the night of February 29-March 1 at Freedom Square, but ran away when police arrived in the morning. Zakharyan told Human Rights Watch that his client claims to have been arrested by police in black masks, who stuffed him into a minivan and assaulted him on the way to the police station. Allegedly, Mher M. was forced to lie down in the van and a policeman in a black mask put a foot on his face, pinning him flat down, while another one kicked him in the back, head, and stomach. Zakharyan showed us photographs of Mher M. that he took when visiting his client in police custody. Bruises were clearly visible on Mher M.'s face and head as well as his right hand. At the time Human Rights Watch interviewed Zakharyan, 10 days after the alleged assault, his request for a forensic medical examination of Mher M. remained unanswered.[192]

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[189] Human Rights Watch interview with Seda Safaryan, Yerevan, March 11, 2008.

[190] Ibid.

[191] Human Rights Watch interview with Amalia Avakyan, criminal lawyer, Yerevan, March 11, 2008.

[192] Human Rights Watch interview with Araz Zakharyan, criminal lawyer, Yerevan, March 11, 2008.

Persons interviewed by Human Rights Watch have also reported ill-treatment, threats, and humiliation in custody at police stations and in pretrial detention facilities. Sanasar S., the artist whose beating by police after the break up of the Freedom Square demonstration is described above in Chapter IV, was arrested and taken to the police 6th department. He told Human Rights Watch:

> I was brought into the station around 8:00 a.m. and kept there until 4:30 p.m. They wanted me to write an explanatory statement, but I could not as my arm really hurt. Then they took me to the hospital, where my arm was put in plaster before they brought back to the police. They did not allow me to contact family members or a lawyer. No one explained to me what was my status and why was I kept there.

Next day Sanasar S. was questioned by an investigator from the prosecutor's office. He said he was verbally abused and threatened during and after the interrogation. Sanasar S. recounted to Human Rights Watch:

> They did not beat me, but it might have been better if they had. They were insulting my dignity. They told me, "We know you have a nice wife and a daughter," and they would swear about them, calling them whores and threatening to do bad things to them. They threatened to rape me with a truncheon. I am still very shocked. I keep thinking about it and I fear that they'll come after me and carry out their threats.[193]

Sanasar S., who is from Yeghednadzor, a small town about two hours' drive southeast of Yerevan, was released after giving a statement, but was detained again on March 7 and taken to the local police station, where he said he was kept incommunicado for 20 hours. He was released the next day after being questioned for two hours. He was asked to confess that the opposition was armed with firearms and sticks on March 1. Sanasar S. said he was again threatened that he would have serious problems if he was seen at any opposition rally again; he was asked to think about his family and what could happen to them if he were to disobey. Sanasar S. was not allowed to have a lawyer of his choice at any stage of his dealings with the police.[194]

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[193] Human Rights Watch interview with Sanasar S., March 26, 2008.

[194] Ibid.

Hovsep H., who had also been at Freedom Square and had run away from police only to be assaulted after police caught up with him, regained consciousness in a police station (see Chapter IV). He described to Human Rights Watch being in a big room with about 20-25 detainees in it, saying that almost all bore signs of beatings. Hovsep H. thinks that one of the detainees had an attack of epilepsy, as he was on the floor and rolling uncontrollably. Another one was bleeding from his head and also lying on the floor. Hovsep H. was shortly afterwards taken to hospital as his head was also bleeding and his back aching. He required several stitches on his head and had to spend 10 days in hospital recovering.

A police investigator visited Hovsep H. in hospital and took a statement from him. Hovsep H. said he was threatened that he could get into trouble if he complained about how he had sustained his injuries. Hovsep H. told Human Rights Watch:

> They [the policemen] told me that if I wanted to go home from the hospital and I did not want problems, I should write that I had just panicked and fell down, sustaining the head injury. I was told that I would be charged with resisting the police and put in prison for a long time if I wrote that police had beaten me. I wrote what they asked me to do in order to avoid prosecution.[195]

Early in the morning of March 2, Suren S., a 25-year-old man from Aparan (Aragatsotn region, northwest of Yerevan), was traveling in a taxi when police flagged down the vehicle and apprehended Suren S. and the other passenger. As recounted by Suren S. to Human Rights Watch in January 2009, the police threw him to the ground and beat him with batons before they threw him into a car and took him to the 6th department. At the police station, he said, police officers in masks continued to beat him, including outdoors at one point:

> Around dawn they took us out, put us on the ground and police officers would step on us. It lasted for half an hour to an hour. They would hit us, yell at us, and tell us that this would be our end.[196]

Afterwards, Suren S. spent time in various offices at the police station. He was also taken to a separate location to be tested for narcotics before he was taken back to the police station to write a statement. He told Human Rights Watch:

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[195] Human Rights Watch interview with Hovsep H., Yerevan, March 26, 2008.

[196] Human Rights Watch interview with Suren S., Yerevan, January 16, 2009

> The investigator dictated what I should write. He made me write that [name withheld] organized the mass disorder. I wanted to write what I had seen, but he did not allow me. He said "You should write what I tell you!" I started crying. I told them, "I didn't see that he organized the disorder." What could I do? I had just been through that hell. There was no way I could resist.
>
> It was difficult to write because my hands were trembling so much. There was even a point when I lost consciousness. I wanted to write what they told me so that I could get out of there, but my hands were trembling too much.[197]

Police refused Suren's requests to call his family to inform them where he was. Only around 1 a.m. was he allowed to call his parents. Police eventually released him when his father arrived at the police station with his passport.

Upon returning home, Suren S. retained a lawyer who accompanied him to the prosecutor's office when he was summoned for questioning sometime in March. According to Suren S., the investigator in the case apparently had not expected that he would bring a lawyer and that he would not confirm the statement that he had given at the police station. As a result, the first interrogation was short. On July 28, however, the prosecutor's office again summoned Suren for questioning. This time, they interrogated him for four hours each day for four days, exercising pressure on him to confirm his initial statement. A high-ranking employee at the prosecutor office accused him of lying, and two police officers testified that they had detained Suren and that they had not used any force against him.

After the initial interrogation, Suren wrote complaints to the Office of the Public Prosecutor, the Office of the Public Defender, the ad hoc parliamentary commission, the prime minister and the president. He has not received any information about whether there has been an investigation into the alleged torture and ill-treatment.[198]

In a public statement concerning the criminal case against seven people accused of organizing mass disorder aggravated by murder (article 225-3) and usurpation of power (article 300), the Office of the Public Prosecutor referred to Suren's initial statement as part of the evidence against the seven.[199] (The case is described in the next chapter.)

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[197] Ibid.

[198] Ibid.

[199] "Information on the criminal case concerning March 1-2 2008," Office of the Public Prosecutor, December 12, 2008, http://www.genproc.am/main/en/117/5281/ (accessed January 22, 2009).

Vasili Khanagyan, age 54, a resident of Ararat region south of Yerevan and a Ter-Petrossian supporter, spent the day of February 29 on Freedom Square, but he did not spend the night there. According to Khanagyan, he was detained on March 3, when around 10 a.m. two officers in civilian clothes took him to the Masis district police station. He was being questioned about involvement in the March 1 events by two officers when, he alleges, a senior police official of Masis district attacked him, with five other policemen joining in. Khanagyan described to Human Rights Watch:

> I was standing when [the senior police official] came into the room. He shouted, "Enough politics!" and slapped me several times on the right side of the face. My ears still hurt. Then all of them started beating and kicking me mercilessly. There were six of them altogether. They were kicking me on my shoulders, chest, and back. I fell down … They were spitting at me. I felt devastated. The spitting hurt even more than the actual beating as it was very humiliating. They swore and cursed at me all the time. After they stopped beating me, they continued to pressure me psychologically. They humiliated and insulted me, cursing me and threatening to rape me.[200]

Khanagyan said that police demanded that he confess that he had participated in breaking into and looting shops: "They were asking me to at least write that I found stuff and took it." After taking a statement from Khanagyan, police took his fingerprints and locked him in a cell. Khanagyan described to Human Rights Watch his detention conditions:

> I was kept in a tiny cell, one meter by one meter. I was not able to sit properly or lie down. I could just barely sit down on the floor. I spent the entire night like that, sitting. They did not feed me or give me any water. I was not even taken to a toilet.[201]

Khanagyan was not allowed to contact his family or a lawyer throughout this period. He was released around 4 p.m. the next day, after being questioned by an investigator from Yerevan: "They wanted me to promise that I would not participate in any rallies, and released me afterwards." Khanagyan gave an interview to Radio Free Europe/Radio Liberty describing his ill-treatment at Masis police station. He was brought to Masis police station again on March 12 to speak with the senior police official, who was upset about the radio interview and tried to explain to Khanagyan that there was some kind of misunderstanding, that he had treated

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[200] Human Rights Watch interview with Vasili Khanagyan, Yerevan, March 14, 2008
[201] Ibid.

Khanagyan as a friend and he was disappointed that the latter had misunderstood his "friendly pats."[202]

Armen Manukyan, a 48-years-old businessman from Masis who participated in the March 1 demonstration in front of the Miasnikyan monument, had a similar experience of ill-treatment at the Masis police station. Three policemen picked up Manukyan from his office on March 3 at around 11 a.m. Manukyan told Human Rights Watch:

> When I asked them what happened and why they were taking me, they replied that it was about demonstrations and riots. I asked if they had a warrant and they started cursing me, using foul language. They threatened me that they would lock me up for 10 years. I told them that I wanted to call my lawyer, but they would not allow it. I was forced to write an explanatory statement. Initially I refused, but then they threatened that they would lock me up in the basement, and I gave in. I was completely helpless.

Manukyan was released around 2 a.m., the next day, only after police made him sign a document that he would return later in the day. The police retained his passport and car. Later, on March 4, Manukyan went back to the police station after he got a phone call requesting his appearance around 1 p.m. This time an investigator from the prosecutor's office questioned him. At one point he was asked to step outside into the hallway, where Manukyan was attacked by a man in civilian clothes, who later identified himself as an officer working in the 6th department. Manukyan described to Human Rights Watch the details of the attack:

> A man in civilian clothes approached me in the hallway of the police station building and shouted at me, "You wanted the revolution, right?" Then he started cursing me and then hit me in the chest with his fists. Then he used his fists to hit me on the face. He also slapped me about six to seven times. Policemen saw all this, but no one intervened, allowing the guy to continue. One blow was so powerful that I felt dizzy. He was shouting at me: "you know where I work, right? I am from Masis and work in the 6th department." He wanted to provoke me to hit him back, but I refrained and just stood there. I was taken back into the room. The same guy who assaulted me came into the room. I was terrified. He told me that his friend, a fellow officer, died on March 1.

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[202] Ibid.

Manukyan told Human Rights Watch that the attitude of the police toward him changed after his lawyer started asking for him. Around midnight he was released after the Masis police chief spoke to him, demanding that Manukyan stay away from any future demonstrations. At no point on either March 3 or 4 was it explained to Manukyan what his status was—he assumes he was questioned as a witness. He was not allowed to have access to a lawyer at any stage. [203]

Arsen A. witnessed ill-treatment of another detainee at Kanaker-Zeytun police station in Yerevan. He told Human Rights Watch:

> There was this young man who was complaining that his right leg hurt as he had been beaten up on Freedom Square. There were four more detainees and about five-six police officers in the room. Police wanted to transfer us to the prosecutor's office. This young man objected to it. One policeman approached him and started beating, slapping him on a face and back and kicking him. Two of them were beating him: one holding and another one kicking.[204]

Poghos P., age 32, a Ter-Petrossian activist who participated in the March 1 rallies, was arrested on March 3. A little over a week later Human Rights Watch spoke to members of his family, as Poghos P. was in custody charged with assaulting a police officer. A day after the arrest, the family managed to organize a meeting with Poghos P. through an acquaintance working in the police. Poghos P.'s parents described to Human Rights Watch his dire condition:

> I could hardly recognize my son. He was badly beaten. His entire face was swollen. I could see red spots on his face, which were swollen and looked like blood pools. His right eyebrow was broken, bleeding and hanging on his eye. He was bleeding from the mouth as well. He could not stand and could hardly talk.[205]

A member of Human Rights Watch's research team watched a news report featuring Poghos P. on Armenian public television on March 8 and saw that bruises on his face were clearly visible.

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[203] Human Rights Watch interview with Armen Manukyan, Yerevan, March 11, 2008.

[204] Human Rights Watch interview with Arsen A., March 28, 2008.

[205] Human Rights Watch interview with Poghos P.'s parents, Yerevan, March 12, 2008.

Lack of opportunity to inform family members and access a lawyer of one's choice

Most of those who were arrested on March 1 where first taken to Kentron police station and then distributed among various district police stations within Yerevan.[206] Most detainees were not allowed to make a phone call and inform their relatives about their places of detention, and their right to engage a lawyer of their choice was often impeded.[207]

Several relatives of arrested opposition supporters complained to Human Rights Watch that they sometimes had spent days searching for them. Julieta Antonyan, mother of 33-year-old Gurgen Mikaelyan, who was arrested on March 1, told Human Rights Watch that she located him at Kentron, but he was repeatedly transferred and she had to search for him each time:

> On March 2 I found out that he was kept in Kentron police station. I went to bring his passport and medicines … I had no information about him for the next two days and when I went back I was told that he was transferred and I should look for him in district police stations. I found him in [Kanaker-]Zeytun district police station. No one was explaining to me why he was kept there and what were the charges against him. On March 5, I found out that he was transferred to Erebuni pretrial detention facility. On March 7, when I brought food to him, I was told that he was transferred to Nubarashen pretrial facility. After going there, I was told that he was in solitary confinement for eight days.[208]

Human Rights Watch interviewed Julieta Antonyan 12 days after her son was arrested. Considering that he was by then in a pretrial detention facility, this meant that Gurgen Mikaelyan by then would have been charged and remanded in custody. However, since she had not been able to secure a lawyer for her son, she had no idea what charges he was facing.[209] Mikaelyan was acquitted by the court in summer 2008.

Human Rights Watch also spoke to a relative of Mihran M., who was picked up on March 3 from his apartment in Yerevan. Mihran M. was home alone when he was arrested and nobody was notified about it. His family looked for him everywhere for several days, but could not find him. Mihran M.'s brother told Human Rights Watch:

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[206] Human Rights Watch interviews with Seda Safaryan, March 11; and Zaruhi Postanjyan, MP, Yerevan, March 15, 2008.

[207] Human Rights Watch interviews with lawyers, family members of detainees and released detainees, Yerevan, March-April, 2008.

[208] Human Rights Watch interview with Julieta Antonyan, Yerevan, March 12, 2008.

[209] Ibid. It is possible that Mikaelyan was provided with a state appointed lawyer that his family was not aware of.

> I had no idea what happened to him, I continuously called him for two to three days, but his phone was off. I've been looking for him everywhere, I called all police stations asking if they had my brother, but the answer was "no" everywhere. Three days later an unidentified person called on my cell phone to tell me that he was kept in the National Security Service basement.[210]

At the time when Human Rights Watch spoke to Mihran M.'s brother he was at Nubarashen pretrial detention facility and had access to a lawyer of his choice.[211]

Arsen A. did not pass through Kentron but was taken straight to Kanaker-Zeytun police station after his arrest near Freedom Square on the morning of March 1. He was kept there overnight, without being able to contact his family or a lawyer. He told Human Rights Watch, "I got no explanation why I was there or how long they would keep me there. I was asked to write a statement and they promised to let me go. So I wrote down that I was treated well, but they did not release me. At night they took me upstairs to a room and I slept in a chair." Arsen A. also told Human Rights Watch, "I continued to ask for a lawyer, but they told me that I did not need one and if I cooperate they would release me soon"; when he persisted he was ridiculed by the police and threatened that he would be in even bigger trouble. Arsen A. was released only around 4 p.m. on March 2. His family had had no idea where he was kept and had been looking for him.[212]

Even in cases where a lawyer was engaged on behalf of a detainee, access was sometimes impeded. Several defense lawyers told Human Rights Watch that they had to secure the responsible investigator's signature in order to be able to visit their clients in pretrial detention facilities, and obtaining this signature could prove very difficult.[213] Harutyun Bagdasaryan, a criminal lawyer, explained to Human Rights Watch, "In one case I have been trying to obtain the investigator's approval for seven days, but every time I call him to meet with him, he tells me that he is very busy and could not meet with me."[214]

Another criminal lawyer, Hovik Arsenyan, shared a similar story. He had been trying to meet with his client who was kept in Nubarashen pretrial detention facility, but the investigator

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[210] Human Rights Watch interview with brother of Mihran M., Hrazdan, March 30, 2008.

[211] Ibid.

[212] Human Rights Watch interview with Arsen A., March 28, 2008. Police kept his cell phone and passport, which he got back 10 days later only with the help of a lawyer.

[213] Human Rights Watch interviews with with Hovik Arsenyan, lawyer, Yerevan, March 12; and Harutyun Bagdasaryan, lawyer, Yerevan, March 13, 2008.

[214] Human Rights Watch interview with Harutyun Bagdasaryan, March 13, 2008.

had been refusing to sign a document granting him access.[215] His client had been arrested on March 2, Hovik Arsenyan got involved in the case on March 4, and nine days later he still had no access to his client.

The mother of 27-year-old Rubik R. had similar problems securing a lawyer for her son. Rubik R. was detained on March 5 and transferred to Erebuni pretrial detention facility the next day. When his mother went to bring him food and clothes on March 7, she was told by someone passing a message from Rubik that he wanted a lawyer. She told Human Rights Watch:

> For three days I have been trying to find out who is an investigator in my son's case. I went to the general prosecutor's office, as well as to the city prosecutor's office, but could not. I needed to know who the investigator was, as he had to sign a document for a lawyer to get involved and see my son. On March 9 I found out that my son was already sentenced to two months pretrial detention. We learned that a state-appointed lawyer was present at the hearing, but we never saw him.[216]

Family members of Poghos P. faced a similar problem: Although they managed to hire a lawyer for their son, the lawyer could not find out who the investigator in the case was, as three different investigators had been in charge of the case in the space of just four days. The lawyer finally gained access to Poghos P. on March 18, more than two weeks after he had been detained and 10 days after he was hired by the family.[217]

Vahagn Harutyunyan, chief investigator of the Special Investigation Service, told Human Rights Watch that no one had been denied access to a lawyer, although he admitted that there were some cases when a detainee's family would hire a lawyer, but a contract with a family member was not sufficient to be a legal representative of the defendant if the latter had refused initially to have one.[218] Human Rights Watch documented at least one case when a lawyer retained by the defendant's family one month after the arrest still did not have access to the client because the investigator in the case claimed the defendant refused to have one. Harutyunyan was also aware of the case, but claimed that the defendant had a state appointed lawyer and had refused to have another one.[219] Human Rights Watch is

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[215] Human Rights Watch interview with Hovik Arsenyan, March 12, 2008.

[216] Human Rights Watch interview with mother of Rubik R., Yerevan, March 12, 2008.

[217] Human Rights Watch interview with Poghos P.'s lawyer (name withheld), January 17, 2009.

[218] Human Rights Watch interview with Vahagn Harutyunyan, March 31, 2008.

[219] Ibid.

aware of at least one other case when an investigator refused a defense lawyer involvement in a case, arguing that the defendant had himself refused the lawyer. The lawyers did not have an opportunity to confirm this with the defendants, but rather had to take the investigator's word for it.[220]

[220] Human Rights Watch interview with Harutyun Bagdasaryan, March 13, 2008.

VII. Official Investigation and Prosecution

The authorities' response to the March 1 events has focused on establishing responsibility for organizing the demonstration and prosecuting people for participating in violent disorder. Dozens of opposition members have been tried and sentenced, some to lengthy prison sentences, in sometimes flawed and apparently politically motivated proceedings. At the same time, the authorities have failed to establish the exact circumstances surrounding the 10 deaths. Even though investigative authorities insist that the investigation into the legality of the police actions continues, it seems unlikely that the Office of the Public Prosecutor on its own will prosecute any representative of the authorities for excessive use of force. A parliamentary commission tasked with investigating the events might shed light on that day's events, but the commission's inquiry cannot be a substitute for a thorough official investigation and subsequent prosecution.

Special Investigative Group and Parliamentary Commission

The prosecutor general tasked the Special Investigation Service with investigating the post-election violence in Armenia.[221] The Special Investigation Service was created in November 2007 as part of justice system reforms in Armenia.[222] The group is under the supervision of the Office of the Public Prosecutor and it takes the lead in investigating the conduct of public officials; it was tasked with the investigation of post-election events in general.[223] It is not subordinated to any other state agencies, but the prosecutor general has an oversight function on cases investigated by the Special Investigation Service.[224]

On June 16, 2008, the National Assembly established an ad hoc parliamentary commission tasked with investigating the events of March 1 and 2 and their reasons.[225] The commission was controversial, however, because the majority of the membership was reserved for pro-government parties, and the opposition boycotted the commission as a result. A separate fact-finding group consisting of two members from the opposition, two members from pro-

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[221] Human Rights Watch interview with Vahagn Harutyunyan, a senior investigator of the Special Investigation Service and the Head of the Special Investigation Group, Yerevan, March 31, 2008.

[222] "Law proposal on the 2008 State budget has been adopted," National Assembly of the Republic of Armenia, November 28, 2007, http://www.parliament.am/news.php?do=view&ID=2574&cat_id=2&day=28&month=11&year=2007〈=rus (accessed January 16, 2009).

[223] Human Rights Watch interview with Vahagn Harutyunyan. March 31, 2008.

[224] Ibid.

[225] "Extraordinary session of the National Assembly," National Assembly of the Republic of Armenia, June 16, 2008, http://www.parliament.am/news.php?do=view&ID=2799&cat_id=2&day=16&month=06&year=2008&lang=rus (accessed January 21, 2009).

government parties and one representative from the Armenian Public Defender's office has been tasked to establish the facts of the March 1 events and will submit these to the commission, which will take these findings into account. The findings of the fact-finding group are, however, non-binding on the commission.

Although the fact-finding group and the ad hoc commission might shed light on the factual events of March 1, they do not have prosecutorial power leading to accountability for rights violations.

Investigation and Prosecution of Demonstrators

Vahagn Harutyunyan, a senior investigator of the Special Investigation Service and the head of the Special Investigative Group responsible for investigating the March 1 events, told Human Rights Watch that considering the complexity of the cases and the fact that MPs and other public officials could have been involved in the events of March 1, the prosecutor general created a large team of the most experienced investigators within the Special Investigative Service to lead the investigation.[226]

A criminal investigation was opened into "organization and holding of mass events with violation of stipulated order, illegal procurement and keeping of weapons, ammunition, resistance to police officers, who are representatives of authorities, accompanied with violence, as well as organization of mass disorders at Yerevan city mayor's office's adjacent territory and central streets, accompanied with violence, pogroms, arson, destruction or damage to property, using fire-arms, explosives or explosive devices and by armed resistance to the representative of the authorities, by the candidate for President Levon Ter-Petrosian and his adherents on March 1, 2008 on the Freedom square."[227]

As of December 17, 2008, the Office of the Public Prosecutor had submitted 90 cases concerning 111 people to court for prosecution. Courts had handed down judgments in 87 cases concerning 101 people, sentencing 52 people to imprisonment and 38 people to suspended imprisonment. Only five people were acquitted.[228] The majority of the convicted

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[226] Article 190 of the Criminal Procedures Code of Armenia defines investigative subordinations. It says that the procuracy investigators conduct the preliminary investigation of crimes committed by parliamentarians, judges, prosecutors, investigators, officers of the internal affairs and national security bodies, and lawyers. Human Rights Watch interview with Vahagn Harutyunyan, March 31, 2008.

[227] Office of the Public Prosecutor of the Republic of Armenia, letter from Prosecutor General Agvan G. Hovsepian to Thomas Hammarberg, Council of Europe human rights commissioner, April 17, 2008, http://www.genproc.am/main/en/101/4017/ (accessed July 28, 2008).

[228] In addition, five people were ordered to pay fines and in one case, the issue was resolved through friendly resettlement. "90 cases concerning 111 people have been sent to court," Office of the Public Prosecutor of the Republic of Armenia, December 12, 2008, http://www.genproc.am/main/ru/121/5329/ (accessed January 19, 2009).

were found to have violated the following articles of the Criminal Code: organization of mass disorder (article 225), usurping state power (article 300), violence against a representative of the authorities (article 316), robbery and theft (articles 176 and 177).[229] As of January 24, 2009, President Sargsyan had pardoned 28 individuals convicted in connection with the March 1 events. Despite Western and domestic pressure, the president has not granted a general amnesty, but has granted pardons to those individuals who have admitted their guilt and expressed remorse.[230]

Controversial ongoing prosecution including three members of parliament

A key ongoing case concerns seven people, including three members of parliament, who are accused of organizing mass disorder aggravated with murder (article 225-3) and usurpation of power (article 300). The case has been the subject of severe international criticism, and the nature of the criminal charges against defendants suggest that the case is politically motivated.

Three of the defendants are members of the National Assembly and thus enjoyed immunity from prosecution. They officially belonged to the ruling Republican Party, but had openly supported Ter-Petrossian's candidacy for the presidency. At the request of the Office of the Public Prosecutor, the National Assembly lifted their immunity on March 4 on the basis of evidence presented by the prosecutor general.[231] Even so, it took the prosecution another seven months to gather evidence and finalize the indictment, suggesting, in the words of two rapporteurs from the Parliamentary Assembly of the Council of Europe, that the "National Assembly had taken its decision to lift the parliamentary immunity of 3 of its members on very summary evidence at best, which could indicate that political motivations played a role in this decision."[232]

At this writing, in mid-January 2009, the trial was ongoing, but the judge had postponed court sessions several times because the defendants refused to stand up in the presence of the judge.

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[229] Human Rights Watch interview with Vahagn Harutyunyan, January 15, 2009.

[230] "More oppositionists pardoned by Sarkisian," Armenialiberty.org, January 13, 2009, http://www.armenialiberty.org/armeniareport/report/en/2009/01/0DB8EE77-F22F-404F-9AEB-CD1BCFF1E81C.ASP (accessed January 23, 2009); and "Armenian President pardons 16 participants in March riots," Arminfo, January 24, 2009.

[231] "National Assembly adopted the proposal of the General Prosecutor of the RA," National Assembly press release, March 4, 2008, http://www.parliament.am/news.php?do=view&ID=2685&cat_id=2&day=04&month=03&year=2008〈=rus (accessed January 23, 2009).

[232] "The implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008)," Doc. 11786, December 22, 2008, http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc08/EDOC11786.htm (accessed January 21, 2009), para 30.

Complaints about the fairness of trial proceedings

Lawyers and trial monitors interviewed by Human Rights Watch described procedural violations, unresolved contradictions, the use of template decisions, and numerous other violations that raise serious questions as to whether the defendants accused of organizing and participating in the demonstrations received a fair trial.

Criminal lawyer Seda Safaryan told Human Rights Watch that even though her client David Arakelyan was sentenced to two years of suspended imprisonment for violence against a representative of the authorities (see Chapter V for a description of Arakelyan's detention), the prosecution never established the identity of the person against whom Arakelyan allegedly used violence. According to Safaryan, the conviction was based solely on the testimony of three police officers whose testimonies also figure as crucial evidence in several other cases.[233]

In the case against another of Sefaryan's clients, Musheg M., who was sentenced to five years in prison for violence against a representative of the authorities and illegal possession of weapons (a knife), the prosecution alleged that Musheg M. had beaten a police officer on Freedom Square at 7:15 a.m. on March 1. Afterwards, Musheg M. allegedly fled the scene, but was apprehended several kilometers away by the same police officers who testified against Arakelyan. The detention protocol,[234] however, indicates that Musheg M. was detained at 6:30 a.m. on March 1, 45 minutes before he allegedly fled from the Freedom Square. The judge in the case against Musheg M. never resolved this contradiction.[235]

Lawyer Amalia Avakyan's client Hrach H. was questioned as a suspect on March 2 and later charged under articles 225 and 316. He was remanded in two months' pretrial custody. Avakyan told Human Rights Watch that when she challenged the investigator in the preliminary hearing as to the necessity of two months' pretrial custody, and whether there was any evidence or victims in the case, the investigator replied that the investigation did not have any, but that was why they needed two months to come up with the evidence. Hrach H. was sentenced to one and a half years of suspended imprisonment for violence against a representative of the authorities.[236]

An analysis of court decisions and judgments reveals that in many cases investigative and judicial authorities have used the exact same language in different cases, raising serious

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[233] Human Rights Watch interview with Seda Safaryan, Yerevan, January 17, 2009.

[234] A detention protocol is drawn after a person is apprehended, detailing the time and circumstances of the detention.

[235] Human Rights Watch interview with Seda Safaryan, Yerevan, January 17, 2009.

[236] Human Rights Watch interiview with Amalia Avakyan, Yerevan, January 15, 2009.

questions as to whether the cases were treated in an individual manner. In several court decisions on pretrial custody ordered by the Court of General Jurisdiction on file with Human Rights Watch, the explanatory parts of the decision are almost identical from one defendant to the next. A trial monitor interviewed by Human Rights Watch confirmed that the same pattern could be observed in judgments.[237]

Arsen A., age 28, was detained after the March 1 morning dispersal of the Freedom Square demonstration. Together with several other protestors he was transferred to Kanaker-Zeytun district police station in north Yerevan. He described to Human Rights Watch a dispute between police officers over how to draw up his detention protocol:

> One police officer wrote a detention protocol describing where and in what circumstances I was apprehended and brought to the police station. Another officer who came into the room demanded that he change the protocol to say that I resisted the police during detention. The officer writing my protocol refused to do so and the other one shouted at him, "Just do it! I have done four already!"[238]

Some of the articles that have been frequently invoked against opposition members, such as the organization of mass disorder (article 225) and usurping state power (article 300), are problematic as (to quote the Parliamentary Assembly of the Council of Europe) they "allow for broad interpretation, leave excessive discretion to the prosecutor and 'fail to give clear guidance on the dividing line between legitimate expressions of opinion and incitement to violence.'"[239] The conviction of several opposition members for violating article 225-3, organization of mass disorder aggravated by murder, and the ongoing prosecution of seven persons on the same charge, described above, seem particularly problematic given that the Armenian authorities have not established the circumstance of a single of the 10 deaths that occurred on March 1.

In a report on Armenia's implementation of Council of Europe resolutions 1609 and 1620, the authors write:

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[237] Human Rights Watch interview with trial monitor (name withheld), Yerevan, January 15, 2009. According to another trial monitor, halfway through the judgment against Levik Khachatryan, the name of the defendant changes to a different defendant before it changes back to Khachtryan towards the end, indicating that substantial portions of the judgment was copied from another judgment. Human Rights Watch interview with Armen Khachatryan, Yerevan, January 13, 2009.

[238] Human Rights Watch interview with Arsen A., March 28, 2008.

[239] The implementation by Armenia of Assembly Resolutions 1609 (2008) and 1620 (2008)," Doc. 11786, December 22, 2008, http://assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc08/EDOC11786.htm, para 34.

> On the basis of our observations regarding articles 225-3 and 300, we can only conclude that the charges brought under these articles were politically motivated and, unless the Armenian authorities can provide us with detailed and conclusive evidence to the contrary for each individual case, that persons convicted on these charges should be considered political prisoners.[240]

On January 27, 2009, the PACE adopted resolution 1643 (2009) and decided not to suspend the voting rights of the Armenian Parliamentary delegation to the assembly. It did, however, decide to "remain seized of the matter" and tasked its Monitoring Committee to examine the progress by its next session in April 2009.[241]

Investigation of Excessive Use of Force

Armenia's international obligations in respect of use of force by police officers are set out above in Chapter IV. Those obligations extend to investigation and accountability where use of excessive force has occurred: Article 3 of the European Convention on Human Rights, to which Armenia has been a party since 2002, prohibits torture or inhuman or degrading treatment or punishment. The European Court of Human Rights has found on several occasions that where individuals have sustained injuries as a result of the use of force by law enforcement officers to disperse demonstrators, the burden rests on the government to demonstrate with convincing arguments that the use of force was not excessive.[242] Article 3 also places a positive obligation on governments to effectively investigate all allegations of ill-treatment by law enforcement personnel and hold those responsible accountable.

Regarding the many episodes of apparent excessive force, the fact that violence against demonstrators was widespread and the methods used strongly suggest that the force was condoned or at least tolerated by senior officers responsible for commanding the operations. These individuals, in addition to individual officers engaged in assault and other crimes, should be investigated and held accountable. In accordance with the Basic Principles on the Use of Force and Firearms, "governments and law enforcement agencies shall ensure that superior officers are held responsible if they know, or should have known, that law enforcement officials under their command are resorting, or have resorted, to the

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[240] Ibid., para 38.

[241] PACE Resolution 1620 (2009), "The implementation by Armenia of Assembly Resolution 1609 (2008) and 1620 (2008)," adopted on January 27, 2009, http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta09/ERES1643.htm (accessed February 8, 2009).

[242] See a recent judgment, *Balcik and others v. Turkey*, (application no. 25/02), judgment of November 27, 2007, available at www.echr.coe.int.

unlawful use of force and firearms, and they did not take all measures in their power to prevent, suppress or report such use."[243]

The official investigation into the March 1 events has so far failed to identify the people responsible for the 10 deaths, and whether any of the deaths were caused by excessive use of force. Even with regards to the three deaths caused by direct impact of teargas canisters, weapons only used by the police, the investigation has failed to establish the exact circumstances in which these deaths occurred even though only four police officers were in possession of teargas launchers.[244]

Human Rights Watch does not underestimate the challenge the authorities face in getting to the truth of what happened to the persons who were killed or injured, and establishing who bears individual responsibility for that. We have spoken to family members of five protestors who were killed, as well as to the police and prosecutor's offices, but in most cases it is impossible for Human Rights Watch to establish the circumstances in which the deceased died. We have not been able to identify witnesses to most of the killings, and in the two incidents where witnesses described to us seeing someone killed, the victim was not known to them. Those witnesses were fearful of having their identities disclosed to the authorities. The violent events of March 1 were principally in the hours of darkness.[245]

Nevertheless, the authorities have a positive obligation in international law to embark on a meaningful investigation into police actions on March 1, and to seek to establish accountability and redress for deaths and injuries that arose from unlawful law enforcement actions.

Investigation of Torture and Ill-Treatment

The authorities also have an obligation to investigate the allegations that people were ill-treated during arrest and in custody, and subject to violations of the safeguards for detainees in international law.

According to Vahagn Harutyunyan, the Office of the Public Prosecutor had received several complaints concerning the use of excessive force, ill-treatment, and torture during detention. Harutyunyan told Human Rights Watch that the Office of the Public Prosecutor had examined all allegations, including ordering forensic medical examination when this was necessary,

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[243] Basic Principles on the Use of Force and Firearms, principle 24.

[244] Human Rights Watch interview with Vahagn Harutyunyan, Yerevan, January 15, 2009.

[245] One witness has alleged that for 15-20 minutes the electricity supply was cut in the neighborhood where the evening clash between police and protestors took place. Human Rights Watch interview with Tatevik T., March 29, 2008.

but that none of the allegations had been confirmed. In most cases, according to Harutyunyan, the allegations were presented during the trial, usually during the last stages, an indication that the allegations were made in order to avoid criminal responsibility for the crimes that had been committed.[246]

In at least two cases, however, the Office of the Public Prosecutor did not respond to written complaints about torture that lawyers submitted on behalf of their clients, even though the Office of the Public Prosecutor is obligated to respond to such complaints within one month.[247] In one case, when the lawyer told the judge during the trial that her client had been tortured, the judge postponed the discussion of the issue until the defendant, who suffered from health problems, gave up on raising the torture and accepted a suspended sentence.[248] In the second case, the prosecution argued that a separate investigation into the torture allegations was being conducted and that the trial against the defendant should continue. The judge dismissed the lawyer's argument that the question of whether his client had been tortured during detention was relevant to the case against him.[249]

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[246] Human Rights Watch interview with Vahagn Harutyunyan, Yerevan, January 15, 2009.

[247] Human Rights Watch interview with Seda Safaryan and Vardan Zurkorchyan, Yerevan, January 17, 2009.

[248] Human Rights Watch interview with Seda Safaryan, Yerevan, January 17, 2009.

[249] Human Rights Watch interview with Vardan Zurkochyan, Yerevan, January 17, 2009.

VIII. Recommendations

To the Armenian Government

Regarding the dispersal of and attacks on protestors

- The Office of the Public Prosecutor should conduct a thorough and independent investigation into the dispersal of protestors on March 1 at Freedom Square, and into the police actions against protestors in the vicinity of the Miasnikyan monument. The investigation should:
  - Pay particular attention to allegations of assault and the excessive use of force by law enforcement agents, including force leading to death;
  - Make use of all available video and photographic evidence as well as witness testimony;
  - Determine whether the use of force and firearms was consistent with national law and international human rights law and standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
  - Examine the rules of engagement, including the risk assessment made in advance, orders given to the law enforcement units involved, and the equipment they had at their disposal, including firearms;
  - Carefully examine not only individual responsibility for use of excessive force but also the command responsibility of those overseeing operations in which force was found to be excessive;
  - In accordance with the requirements of the European Convention on Human Rights, the investigation should be open to public scrutiny and the participation of the victims and their families, and capable of leading to the prosecution of any determined to be responsible for causing injuries in violation of article 3.
- The Police of the Republic of Armenia (PRA) should immediately suspend from active duty any law enforcement personnel under investigation for possible crimes committed on March 1.
- Where there is evidence that law enforcement personnel were responsible for crimes on March 1, they should be promptly prosecuted with a fair trial.
- The Police should conduct a thorough internal investigation into the conduct of the operations to disperse protestors on March 1. This investigation should seek to determine whether law enforcement agents acted in full accordance with international and Armenian law and regulations on the use of force. The results of the investigation should be made public.

- In order to ensure full transparency and accountability for the actions of law enforcement officers on March 1, the Police should, without delay, make public the exact composition of forces engaged in the dispersal of protestors on Freedom Square and the attempted dispersal of protestors in the vicinity of the Miasnikyan monument.
- Without delay, the government should enact legislation that requires all law enforcement agents, including riot police and members of the special forces, to wear identification, and provide all law enforcement agents with uniforms that include appropriate identification.
- The government should review all legislation related to policing and crowd control and ensure that all laws relating to use of force are in full accordance with the ICCPR, the ECHR and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- The government and Police should make public the nature of the training in crowd control received by all of the forces on duty on March 1. They should review all such training given to law enforcement officials to ensure that it fully integrates established human rights principles and obligations. To this end the government and Ministry of Interior should consider drafting a Manual on the Use of Force, incorporating the obligations set out under the ICCPR, the ECHR and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, with the assistance of international and Armenian experts and members of civil society.

Regarding the treatment of people during arrest and in custody

- The Office of the Public Prosecutor should conduct a thorough, independent and transparent investigation into the allegations of ill-treatment by police officials during arrest and in custody. The investigation should be capable of leading to the identification and prosecution of offenders.
- Pending the investigation Police authorities should ensure that police officers against whom there are allegations of ill-treatment during arrest and in custody are suspended from active duties.
- Authorities should adopt legislative changes granting unimpeded access to a lawyer of one's choice from the moment of detention. No impediments should be imposed on exercising this right.
- Armenia acceded to the Optional Protocol to the Convention against Torture (OPCAT) in September 2006. In accordance to the OPCAT Armenia should strengthen the Ombudsman's capacity, as an independent national body, to carry out regular and ad hoc unannounced visits to all places of detention.

Regarding the conduct of elections

- Continue cooperation with the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and other European bodies on improving the conduct of electoral processes in Armenia. Implement all recommendations that remain relevant and are outstanding from OSCE/ODIHR reports on its observation of Armenian elections, including its final report on the February 19, 2008 presidential election, which calls on state and electoral authorities to seriously address the manifest lack of public confidence in the electoral process.

To the Council of Europe Parliamentary Assembly (PACE)

Continue monitoring the PACE Resolutions 1609 (2008) and urge the Armenian government to ensure an independent, thorough, impartial and credible investigation into the events of March 1 and 2, as well as into allegations of violations of due process rights, including ill-treatment, in the aftermath.

To the United States and the European Union

The US and the EU must make clear to the Armenian government that their engagement with Armenia depends fundamentally on Armenia's demonstrating its genuine commitment to the rule of law, human rights, accountability for human rights abuses, and free and fair elections, including through the following specific steps:

- A thorough investigation of the actions of law enforcement officials on March 1.
- Ensuring that all law enforcement personnel receive practical training on the use of force and the limits with regard to established human rights principles.
- Full uptake of the recommendations of international election observation bodies, notably those in the final report on the February 19, 2008 elections by the OSCE/ODHIR, which calls on state and electoral authorities to seriously address the manifest lack of public confidence in the electoral process.

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