

TORTURE AND INHUMAN
OR DEGRADING TREATMENT OR PUNISHMENT
IN THE REPUBLIC OF ARMENIA

Report by Helsinki Association of Armenia

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1. PREFACE

The present report is based on information gathered by the Helsinki Association of Armenia in its work during the period 1 April 2007 - 1 April 2008.

The report was prepared as part of a project to counteract the use of torture and ill-treatment in Armenia. The project had the following specific goals and objectives:

- Establishing a country-wide network for monitoring the situation with respect to torture and ill-treatment, with a particular focus on cases of abuse taking place in police stations, places of preliminary detention and penal institutions;
- With support of international human rights experts, training network members in monitoring torture, as well as the core staff of the applicant organization in the preparation of alternative reports on torture to international bodies;
- Building public awareness about problems of torture, inhuman and degrading treatment on the basis of monitoring results and other relevant information gathered with help of partner organizations and the public;
- Providing legal and psychological assistance to victims of torture and ill-treatment in places of detention and imprisonment, and consulting relatives of detainees.

As part of efforts to document the situation with respect to torture, inhuman and degrading treatment in Armenia, a sociological survey about manifestations of torture and public attitudes toward torture was undertaken. This survey was carried out by a group of sociologists, working in cooperation with the project team and international experts.

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It should be noted that the report was prepared at a time when massive human rights violations were taking place in Armenia. Following the events of 1 March 2008, when police violently dispersed opposition demonstrations organized in the wake of the February presidential elections, numerous criminal cases were brought against opposition leaders and activists. As of this writing, many of the cases were still under investigation or pending trial. The post-1 March developments are only partly covered by this report, which as already stated concerns the period until 1 April 2008. However, Helsinki Association experts are involved in providing legal assistance and monitoring trials related to the crackdown and information gathered in the course of these activities will be used as the basis for subsequent reports.

2. SUMMARY

The Armenian government has signed and ratified major international human rights treaties prohibiting torture and ill-treatment and amended national legislation to ensure compliance with these documents. While the amendments undertaken are a positive step as such, some of the new provisions included in national laws do not meet the requirements of international standards. Moreover, legislative changes adopted in past years have not resulted in a corresponding change in practice. As

documented by this report, torture and ill-treatment remain widespread in Armenia.

The use of torture and ill-treatment is, in particular, a problem in police detention. Police frequently detain individuals illegally, deny detainees the right to contact relatives or have access to a lawyer and subject detainees to abusive treatment in an attempt to extract "confessions" or other "evidence". In many cases, doctors do not report findings of abuse to the relevant authorities, while judges ignore allegations by defendants that they have been tortured or ill-treated during interrogation. Complaints about abuse filed by detainees are not always dealt with confidentially. When investigations are opened into torture allegations, they are typically lengthy and often discontinued despite sufficient evidence for bringing charges. No one has yet been convicted under a provision on torture included in the new Armenian Criminal Code adopted in 2003.

Abuse occurring in the military is frequently dismissed as suicide attempts or self-inflicted injuries.

Conditions in places of detention and imprisonment are characterized by overcrowding, lack of sanitation and poor access to medical care.

A major underlying reason behind the continued pattern of torture and ill-treatment in Armenia is that attitudes among prosecution, law enforcement and judicial authorities remain largely tolerant of abusive practices. There is also lack of public understanding of the problem. Thus, the Helsinki Association believes that a fundamental change in attitudes among both authorities and the public is necessary in order to effectively tackle the problem of torture and ill-treatment in the country.

3. THE PROHIBITION OF TORTURE AND ARMENIAN LEGISLATION

3.1. INTERNATIONAL INSTRUMENTS AND MECHANISMS

Since its independence in 1991, Armenia has ratified most major international human rights treaties, including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter Conventions against Torture). Armenia has also signed and ratified the optional protocol to the UN Convention against Torture and the two optional protocols to the European Convention against Torture.

According to Article 19 of the UN Convention against Torture, the state parties to the Convention shall submit to the Committee Against Torture reports on the measures they have taken to give effect to their undertakings under this Convention within one year after the entry of the Convention into force. Thereafter, they shall submit supplementary reports every four years on any new measures taken, as well as any other report the Committee may request. However, in violation of the above-mentioned article, Armenia has failed to present to the Committee any report on torture and its prevention in Armenia following the first and the second periodic reports submitted in 1996 and 1999 respectively. After reviewing the second periodic

report submitted by Armenia in 1999, the Committee Against Torture made a number of recommendations to the government of Armenia,¹ most of which have not been implemented to date. The recommendations are cited below:

"a) Although Armenian legislation contains various provisions on some aspects of torture as defined by the Convention, in order to genuinely fulfill its treaty obligations the State party must adopt a definition of torture in compliance with article 1 and stipulate appropriate penalties;

(b) Counselor, family members and a doctor of their own choice must be guaranteed immediate access to persons deprived of liberty;

(c) While welcoming the plan to transfer responsibility for prison administration from the Ministry of the Interior to the Ministry of Justice, the Committee invites the State party to establish a truly independent and operational system for the inspection of all places of detention, whether under Ministry of the Interior, Ministry of Justice or Ministry of Defence;

(d) The Committee recommends that the State parties should conduct impartial investigations without delay into allegations of hazing ("dedovshchina") in the military and institute proceedings in substantiated cases;

(e) The Committee invites the State party to bring the regime of criminal responsibility for judges into line with the relevant international instruments, including the Basic Principles on the Independence of the Judiciary adopted in 1985 and the Guidelines on the Role of Prosecutors adopted in 1990;

(f) The Committee encourages the State party to continue education and training activities on the prevention of torture and the protection of individuals from torture and ill-treatment for police and for the staff of prisons, including Ministry of the Interior facilities and military prisons;

(g) The Committee recommends that, as soon as possible the State party should adopt the draft Penal Code, which abolishes death penalty, in order to resolve the situation of many persons who have been sentenced to death and who are being kept in uncertainty amounting to cruel and inhuman treatment in breach of article 16 of the Convention;

(h) The Committee would like to receive information regarding the recommendations it has made in connection with Armenia's initial report, particularly in reference to those concerning the allegations of ill-treatment which were brought to its attention and were to become subject of an immediate and impartial inquiry, the results on which were to be transmitted to the Committee;

(i) The Committee invites the State party to include the necessary statistics, disaggregated by gender and geographical region, in the next report to be submitted in October 2002.

On 31 March 2006, the National Assembly of Armenia ratified the Optional Protocol to the Convention Against Torture, which entered into force in respect of Armenia on 22 June the same year. According to Article 17 of the Protocol, no later than a year after the ratification of the Protocol, a state party shall establish, assign or create one or several national prevention mechanism for the prevention of torture. Such a mechanism, the so-called Civil Torture Prevention Board, was created in Armenia. This board has, however, failed to act independently and impartially as it is mainly composed of former employees of police and other ministerial departments.

Following a visit to Armenia in 2007, the European Committee against Torture, which was established by the European Convention against Torture, published a report that made a number of critical remarks regarding the efforts of the Armenian authorities to prevent torture. The report called upon the

¹ [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.56.44,paras.33-39.En?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.56.44,paras.33-39.En?Opendocument)

Armenian authorities, without further delay, to take effective measures to ensure that the detention of persons in police facilities is always duly recorded and that the time-limits of police custody are strictly adhered to in practice. It, further, emphasized the importance of ensuring, if necessary through legislative amendments, that all categories of persons deprived of their liberty are granted the right to contact a relative or a third party of their choice, as well as to access a lawyer, from the time they are detained and not only when a detention protocol has been written. The report also called upon the Armenian authorities to "deliver to all police staff a strong message, emanating from the highest political level, that the ill-treatment of detained persons is illegal and will be dealt with severely".²

Through its decisions and judgments, the European Court of Human Rights has established important case-law concerning the response of national authorities to torture and ill-treatment allegations. In particular, the court has pointed out that states are obliged to investigate all "arguable claims" of torture and that this obligation is "implicit both in the notion of the right to an effective remedy and the right to be protected from acts of torture." The Court has, further, stated: "Where an individual is taken into police custody in good health but is found to be injured at the time of release, it is pertinent for the state to provide a plausible explanation as to the cause of the injury. Where an individual raises an arguable claim that he has been seriously ill-treated by agents of the state, the authorities are obliged to carry out an effective and independent official investigation including the taking of witness statements and the gathering of forensic evidence capable of leading to the identification and punishment of those responsible."³

The UN Human Rights Committee, which is the body in charge of overseeing the International Covenant on Civil and Political Rights, has stated that the protection of detainees requires that each person detained be offered prompt and regular access to doctors. As set out by the UN Standard Minimum Rules for the Treatment of Prisoners, which all OSCE participating States have committed themselves to observe, a medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary. As recommended by the UN Special Rapporteur on Torture, at the time of arrest, a person should undergo a medical inspection, and medical inspections should be compulsory upon transfer to another place of detention.

3.2. NATIONAL LEGISLATION

By ratifying various international treaties, Armenia has undertaken to ensure that its national legislation contains provisions on preventing and combating torture. Such provisions are included in the Constitution of the Republic of Armenia, the Criminal Code, the Criminal Procedure Code, the Code on Enforcement of Criminal Punishment, and the Law on Police.

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

² <http://www.cpt.coe.int/documents/arm/2007-12-13-eng.htm>

³ see *Assenov and Others*, judgment of 28 October 1998, Reports 1998-VIII, p. 3290, § 102, and *Labita v. Italy* [GC], no. 26772/95, § 131, ECHR 2000-IV

and convicted persons have the right to be treated humanely and with respect for their dignity.

Article 119 of the new Criminal Code of Armenia adopted in 2003 establishes legal responsibility for acts of torture. Article 341 provides for liability for forcing testimony through torture and violence. Article 392 of the Criminal Code, further, classifies torture as a crime against human security.

Article 9 of the Criminal Procedure Code of Armenia provides that, during a criminal investigation process, no one shall be subjected to degrading treatment or kept in demeaning conditions.

Although Article 1 of the Convention Against Torture clearly provides that torture is defined as "...pain or suffering inflicted by ... a public official or other person acting in an official capacity...", Article 119 of the Armenian Criminal Code does not elaborate on the status of the offender.

In July 2008, the Helsinki Association requested information from the country's judicial and police departments as to whether any criminal cases had been filed under Article 119, and if any law-enforcement official had been convicted under this article, since the entry into force of the new Criminal Code. After renewing its request several times, the organization eventually received information. Most curiously, the two departments cited different numbers of filed cases. The judicial department stated that there had not been a single case when a law-enforcement official would have been convicted under the relevant article.

4. MAJOR ISSUES CONCERNING COMPLIANCE WITH THE CONVENTION AGAINST TORTURE IN ARMENIA

Despite the legislation in place, torture and ill-treatment remain a serious problem in Armenia. The use of torture and ill-treatment often takes place at the time of arrest and preliminary interrogation, i.e. before a detention order has been issued by court. While persons suspected of committing crimes are especially unprotected at this stage of investigation, the authorities have not given adequate attention to this problem.

Moreover, authorities are often tolerant of abusive practices. Judges usually ignore allegations by defendants and their defense lawyers that testimonies have been obtained under torture or ill-treatment, although such evidence is illegal, and allegations of abuse are often not adequately investigated and punished. There is also lack of public awareness and understanding of the problem of torture.

Below, major problems relating to the provisions of individual articles of the UN Convention against Torture are highlighted.

4.1. ARTICLE 4

"1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature."

Article 4 of the Convention against Torture

The new Criminal Code of the Republic of Armenia has an article that provides penalties for acts of torture (Article 119). However, both the formulation of this article and the level of severity of the penalties it provides for are problematic. The article does not correspond to the definition of torture established by basic international human rights documents.

Article 119 states: "torture is any act inflicting severe pain, or either bodily or psychological suffering, on a person, if this did not result in the consequences envisaged in Article 112 or 113". As can be seen, the article does not say anything particular about the perpetrator, unlike the internationally recognized definition of torture, which states that torture is pain or suffering inflicted by, or with the consent of, a person acting in an official capacity. Moreover, the article makes reference to other articles of the Criminal Code, which provide penalties for general offences of inflicting serious and medium harm to a person's health, thus further obfuscating its purpose.

The unclear nature of Article 119 makes it possible for the authorities to interpret it as they wish. As of writing, there has not been a single case in which an official, or any other person, would have been charged or convicted under the article.

Given the flaws of Article 119, it can be concluded that the Armenian authorities have failed to live up to their obligation to ensure that torture is criminally punishable.

4.2. ARTICLE 11

"Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture."

Article 11 of the Convention against Torture

While laws pertaining to the activities of law enforcement authorities in Armenia laws do not contain any provisions explicitly prohibiting the use of torture and ill-treatment, they safeguard the principles of legality and superiority of human rights. Among such laws are the Criminal Procedure Law, the Law on Operative-investigative Actions, the Law on the Police, and the Law on the Prosecution Agencies.

However, although provisions consistent with international standards have been included in new legislation adopted, as well as amendments made to existing legislation, these provisions have not had any substantial practical impact on the treatment of suspects and detainees. The relevant authorities have failed to undertake institutional changes necessary for the effective execution of the above mentioned legal acts, and have failed to provide necessary material resources. As a result, the practices related to arrest, detention and custody, as well as the treatment of detainees, have remained largely unchanged.

The disproportionate and unjustified use of force and fire-arms during arrest, or for the purpose of maintaining public order, remains a problem.

- *In the early morning of 1 March 2008, law-enforcement authorities, with the support of special police forces, cracked down on opposition demonstrators camping in the Liberty Square in the centre of Yerevan, dismantling tents and beating people. Later the same day, police, with support of regular army squads, used arms and heavy military machinery to violently disperse an opposition rally held in another part of Yerevan, as a result of which eight persons died and hundreds were injured.*

A major issue of concern regarding the treatment of detainees is falsification of detention records. In a widespread practice, individuals are brought to police stations as witnesses and held there as long as deemed necessary to obtain desired information.

- *While witnessing the violent dispersal of opposition protesters in Liberty Square on 1 March 2008, Gagik Shamsyan, a journalist with the Aravot and Chorord Ishkhanutyun newspapers, was severely beaten by police officers and had his camera smashed into pieces. He was thereafter taken to a police station, where he was interrogated although he was in urgent need of medical assistance and had informed the police that he was a journalist. He was subjected to psychological pressure and eventually lost consciousness, whereby the police officers interrogating him simply splashed water on his face. He was released only at night after intervention by the Armenian Ombudsman. Throughout his detention, he was denied legal assistance.*

In some cases, individuals are held in police stations under the mere pretext of conducting "operative interviews" or implementing "operative actions." Such "interviews" are not defined by law, and although it would be reasonable to assume that they would be conducted only on the basis of voluntary agreement, those invited for the interviews are in reality deprived of liberty and unable to end the interviews when they wish.

- *On 12 May 2007, Levon Gulyan was found dead after a fall from the second floor of a police station in Yerevan. According to the police investigation, he had been invited to the police to provide information in connection with the investigation of a crime and fell when he tried to jump from the window of the investigator's office, which is located on the second floor of the building in question. The relatives of Levon Gulyan insisted that he was tortured by the police and pushed out of the window. Two medical forensic examinations (one official and one independent) were conducted. The official one supported the conclusions of the police investigation, while the independent one was inconclusive.*

Persons who have not been officially summoned to appear before law enforcement authorities are also subject to incommunicado detention. As there are no records of their detention, it is typically impossible to hold those responsible accountable. The Helsinki Association has received many complaints of cases in which people thought to be missing have turned out to be detained.

One of the most violated rights of detainees is the right to have access to a lawyer from the first moment of detention. Although this right is enshrined in both the Constitution and the Criminal Procedure Code and other documents, the investigative authorities often seek to restrict it, not only during the first hours of arrest, but also for several days after a person was arrested. An additional reason why detainees are not able to make use of legal services is the fact that such services often are costly.

- *On 25 August 2007, the Prosecutor Office of the Lori region of Armenia was shot dead near his home in the town of Vanadzor. A special investigation group was established by the General Prosecutor's Office of Armenia and traveled to the region to investigate the crime on the spot. The Helsinki Association received numerous allegations that the special investigation group used torture and ill-treatment to obtain "evidence" in connection with the assassination. According to these allegations, persons suspected of possessing any kind of information about the crime were summoned, and in the absence of a lawyer, abused in an attempt to force them to provide desired information.*

In the aftermath of the events of 1 March 2008, the authorities launched a major campaign against oppositional activists, arresting and detaining them in violation of basic rights, such as the right of those detained to legal assistance and to have the charges against them explained. Many were beaten and tortured while in detention.

- *Vahram Mkhitarian, an oppositional activist, was arrested during the dispersal of opposition demonstrators on 1 March 2008. He was taken to Erebuni Police department, where he was tortured and held incommunicado for three days. He was severely beaten in an attempt to force him to testify against himself and was denied legal representation. As of this writing, charges had been brought against him and his case was pending trial.*

Another issue of concern is that judges are often reluctant to consider alternative measures to detention on remand, if such detention is requested by the investigative authorities. The Criminal Procedure Code does not establish any maximum term for detention pending trial and, in practice, detainees are held even after the investigations in their cases have been concluded, throughout the period of trial, and until a verdict has been delivered. Thus, the period of detention can be very long. Judges are inclined to automatically prolong the detention period, without examining the issue in detail.

4.3. ARTICLE 12

"Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

Article 12 of the Convention against Torture

The problem of ineffective investigations into allegations of torture is primarily of a practical, rather than a legal, nature in Armenia. However, there also concerns that provisions

regulating the work of law enforcement authorities are inadequate with respect to ensuring accountability for torture. For example, there are serious doubts about the effectiveness of provisions, according to which doctors are expected to inform law enforcement authorities when they discover signs of torture. This is, in particular, a particular problem in military institutions as doctors working there are not civil doctors but rather employees of a medical department subordinate to the Ministry of Justice.

Moreover, in violation of their obligations under the Criminal Procedure Code, prosecution authorities often do not take adequate measures to investigate cases of alleged torture or ill-treatment brought to their attention. Investigations are often unreasonably lengthy, existing evidence is not properly assessed, and questionable decisions are made with respect to criminal proceedings. The major reasons for this state of affairs are, firstly, that prosecution authorities are not independent and, secondly, that there are no effective legal remedies for procedural violations conducted in the course of investigations.

- *In September 2007, the preliminary investigation into the death of Levon Gulyan was prolonged for two months without concrete reasons for this decision being provided. The Helsinki Association made numerous requests for information to the prosecutor in charge of the case, but these requests were rejected on grounds other than those provided for by the Criminal Procedure Code. Finally, on 12 March 2008, the prosecutor's office discontinued the investigation into the case because of the purported absence of elements of a crime.*
- *Khachatur Melikyan died while serving in the military. Although the medical examiner's report documented a number of injuries on his body, thus providing evidence that he was killed because of the use of violence, the Prosecutor's Office adopted a version of negligent killing. The Syunik regional court accepted this version and delivered a corresponding sentence in the absence of representatives of the injured party.*
- *Arman Hambartsumyan was convicted of theft in 2006 and sentenced to 2,5 years in prison, although he claimed in court that he had been denied access to a lawyer, severely beaten and forced to confess while held in police detention following his arrest. Finally, in 2007, prosecution authorities opened an investigation into his allegations about abuse and the appellate court, to which he had appealed the verdict, suspended the hearing of his case pending the investigation. As of this writing, the investigation had been going on for more than 8 months, and Hambartsumyan continued to serve his sentence, effectively denied the right to have his case heard on appeal.*
- *Robert Hovhannisyan, a soldier, was found dead in 2005 at a guarding post. His body bore traces of torture and abuse. On the basis of the official investigation into his death, the Military Prosecutor's Office cited two contradictory versions of the incident, on the one hand murder, on the other hand suicide. A number of soldiers were charged with instigation to suicide, but were subsequently released. In 2006, the case was discontinued*

allegedly because it was impossible to find the perpetrators. In 2007, the proceedings in the case resumed, but a full and impartial investigation has yet to take place. The relatives of Hovhannisyan have been repeatedly misinformed and had their requests dismissed.

In a common practice, investigative and prosecution authorities seek to conceal the occurrence of torture and ill-treatment in the army by, for example, describing injuries as self-afflicted, or claiming that they are caused by fellow soldiers or due to suicide attempts. While there are individual cases in which criminal cases have been opened on the basis of allegations on torture and ill-treatment, the relevant authorities typically fail to bring charges for such offences, even if evidence is available.

- 7 July 2008, Artur Meltonyan, a soldier, died in the premises of the military unit where he was serving. He was found to have died by being shot in his head. The Military Prosecutor's Office launched a criminal case on charges of inciting suicide and summoned numerous soldiers, who were reportedly subject to abuse in an attempt to force them to provide the necessary "evidence".
- In July 2005, Arsen Simonyan, a soldier, was found dead near a guarding post where he was on duty. According to the official explanation offered by the Military Prosecutor's Office, he committed suicide by shooting himself, on instigation by a fellow soldier. However, there was ample evidence suggesting that he, in fact, was tortured and killed. These conclusions were well supported by the medical examiner's report. During trial, it was discovered that, prior to Simonyan's death, about 15 soldiers from the unit where he was serving had been detained for some 20 days in the Hadrut Military Garrison of the unrecognized Nagorno-Karabakh Republic, where they had been repeatedly beaten and abused. During trial, two soldiers charged in the case also alleged that they had been subjected to abuse in order to confess. While the soldiers were held in remand prior to and throughout the trial, a military platoon commander against whom charged also were brought, was released, with an obligation to appear when called. The commander did not appear for the final stage of the trial, which gave rise to suspicion that he sought to avoid liability.
- Another case of serious concern, which attracted wide attention, is that of a young soldier called Garik Mikaelyan who served in a remotely located military unit. According to Miakelyan's parents, who turned to the Helsinki Association for help in August 2007, he was frequently abused, both verbally and physically, by a military officer serving in the same unit. Driven to desperation by the mockery and humiliation he was subjected to, Mikaelyan attempted to commit suicide by grabbing on to a high voltage power cable. He suffered an electric shock, but was not given timely medical assistance. He was brought to hospital only 10 hours after the incident, although the nearest hospital was located a 3-4 hour drive away. As a result, both of his arms and hands had to be amputated. The Military Prosecutor's Office opened an investigation into Mikealyan's death, but has refused to deal with it as a case of incitement to suicide.

4.4. ARTICLE 13

"Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any testimony given."

Article 13 of the Convention against Torture

Armenian law safeguards the right of individuals held in places of detention and prisons to file complaints about their treatment with prosecutors, courts or other state authorities without interference by the administration of the place where they are held. However, in practice, detainees experience numerous difficulties in exercising this right. This is particularly true in terms of individuals held in temporary isolation cells (TICs), who seek to file complaints about abuse perpetrated prior to their transfer from a police department to the temporary isolation cell. Police stations and TICs are overseen by the same authority and are frequently located in the same buildings, as a result of which police officers easily have access to detainees also after they have been transferred to TICs. Officials of prosecutor's offices, which supervise the legality of the treatment of those held in TICs, often do not respond adequately to oral complaints made by detained individuals.

Jeopardizing the safety of those who file complaints, information received by prosecution authorities is frequently not kept secret, and thus becomes known to law enforcement officials accused of abuse. As a result, the individuals filing the complaints, and witnesses to their ill-treatment may be subjected to further abuse and pressure by the same officials or their colleagues.

- *Following the death of Levon Gulyan (see above), Mikael Danielyan, the chairman of the Helsinki Association, met two employees of the restaurant owned by Gulyan. These two employees, barman Hayk Melkonyan and waitress Marine Grigoryan, were detained by police at the same time as Gulyan and alleged that they were physically and verbally abused while held by police. The Helsinki Association made a request to the General Prosecutor's Office to open a criminal case into their allegations and to conduct a transparent and effective investigation. Soon after this, Melkonyan and Grigoryan were summoned by prosecutor Hrant Chakhoyan, as witnesses in the case of the death of Gulyan. During the interrogation, Chakhoyan sought to pressure the two to admit that Danielyan had forced them to allege that they had been subjected to abuse. Later, the Yerevan Prosecutor's Office announced that it had opened a separate investigation into Melkonyan's and Grigoryan's allegations and summoned Danielyan to provide information. However, when heard, Danielyan was also made to understand that if the allegations of torture were not confirmed, and if it could be shown that he had forced Melkonyan and Grigoryan to make their allegations, he would be charged with coercing witnesses and impeding the official investigation process.*

4.5. ARTICLE 16

"1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by, or at the instigation of, or with the consent, or acquiescence of a public official, or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture or references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion."

Article 16 of the Convention against Torture

Some of the major problems relating to this article include overcrowding, poor sanitation and hygiene, and otherwise inadequate conditions in pre-trial detention facilities, TICs and prisons. There are also concerns regarding the food and medical assistance provided to detainees, as well as conditions of labor and social rehabilitation opportunities for prisoners.