

“HUMAN RIGHTS
VIOLATION CASES OF
THE LGBTIQ+
COMMUNITY IN
ARMENIA”
RESEARCH

Right Side Human
Rights Defender NGO

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The content and views expressed herein are those of the Right Side Human Rights Defender NGO and may not necessarily reflect those of the Canada Fund for Local Initiatives (CFLI).

The research has been conducted among 400 LGBTIQ people living in all the regions of Armenia, human rights violation cases during 2021-2022 have been documented.

Content warning: This report includes descriptions of scenes of violence and cruelty and not recommended for reading for persons who are receptive to such information.

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PREFACE

Unlike many other countries, Armenia does not have separate statistics on hate speech, hate crimes and discrimination cases against LGBTIQ+ people and does not take any special measures to address them. On the contrary, Armenian bureaucratic culture more often suggests a formal creation of an idyllic situation in which the absence of various kinds of problems is desirable, and their presence, on the contrary, only hinders, creates a negative image of the police or even the country as a whole.

Unfortunately, Armenian law enforcement bodies do not collect information about hate crimes, especially when it comes to offenses against LGBTIQ+ people. In this situation, our organization tries to fill the gap, raise the issues faced by the community at every corner of the society, and advocate for changes. Right Side NGO plays an essential role in the protection of LGBTIQ+ people' rights and representation of their interests by trying to develop a dialogue with relevant bodies to promote the adaption of LGBTIQ+ inclusive laws and policies, collaborate with organizations that focus on gender-based violence to collaboratively raise awareness about hate crimes promoting the safety and well-being of the community.

We as a community-based and community-led organization believe that this research will help us to achieve our vision of an inclusive society, which respects gender diversity, where trans people are equal and live safely, healthy and equally participate in all aspects of life without any kind of discrimination.

President,
“Right Side” Human Rights Defender NGO
Lilit Martirosyan

1. INTRODUCTION

Hate crimes are a relatively new concept for criminology, activism, politics and everyday life. Despite the fact that such crimes have existed for centuries - for example, crimes against certain groups of people committed in Nazi Germany or by Ku Klux Klan supporters in the United States, but the crimes in the criminal law received special recognition only at the end of the twentieth century.

This reflects more general tendencies of increased sensitivity to social differences, an understanding of the value of diversity and, ultimately, the universal definition of humanity, which is gradually being adopted by law. More and more societies begin to consider that different groups of people are equally must be respected, accepted and equally must be supported and protected.

Legislation in the field of hate crimes aims at protecting those who occupy an unprivileged position in modern societies and, therefore, often are the objects of unjustified violence or other undesirable reactions provoked by negative feelings of offenders.

Hate crimes are condemned by many countries. There is a federal legislation in the USA, as well as state laws, defining hate crimes and preventive measures for such crimes. There is also a statistical form of the reporting for the Police. In Europe, OSCE works on hate crimes. In particular, the Office for Democratic Institutions and Human Rights OSCE monitors hate crimes and develops recommendations and policies in this area. Armenia is a participating state of the OSCE.

At the Ministerial Council meeting held at Maastricht in December 2003, the participating States of the OSCE collectively recognized the dangers posed by hate crimes and committed themselves to combating such crimes. Subsequently, OSCE participating States adopted a number of decisions that mandated ODIHR to work on hate crimes. The participating States made a commitment to *“consider enacting or strengthening, where appropriate, legislation that prohibits discrimination based on, or incitement to hate crimes ...”*¹

The data on LGBTIQ+ community’s situation is extremely limited in Armenia, there is no data collection mechanism available, that would allow to document hate crime cases in a consistent and highly professional manner, enhancing LGBTIQ+ people’s visibility not only in the society as such but also within the civil society sector. The violations of rights of LGBTIQ+ people are not included in national and international human rights reports produced by prominent general human rights organizations or by state bodies. Therefore, this research fills the gap by producing an evidence-based report in Armenia on hate crime cases against LGBTIQ+ people.

¹ OSCE Permanent Council Decision No. 621 “Tolerance and the Fight Against Racism, Xenophobia and Discrimination”, <http://www.osce.org/pc/35610>

The “Human Rights Violation Cases of the LGBTIQ+ Community in Armenia” research was developed from July 2021 to February 2022. The research is aimed at enhancing LGBTIQ+ individuals’ human rights protection in Armenia through fact-finding and evidence based advocacy. This research carried out among 400 LGBTIQ+ people is exclusively focused on hate crimes, violence and discrimination faced by LGBTIQ+ community in Armenia during 2021-2022, by creating a comprehensive and consistent data collection mechanism in Armenia on hate crime cases and incidents documentation. A separate questionnaire is filled for each case. Incidents happened only during last July 2021 - February 2022 have been collected and analyzed. The data set that is analyzed in this report pertains to 113 reports, of which 78 were reported by victims and 35 cases reported by witnesses. The research has been introduced to the relevant bodies with extensive communication campaign using “Right Side” Human Rights Defender NGO’s newsletters and social networks.

1.1 Methodology, Sampling and Targets, Tools, Confidentiality and Anonymity

1.1.1. Methodology

Within the framework of this research, “Right Side” Human Rights Defender NGO cooperated with a LGBTIQ+ community representatives who will provide community awareness and participation in the research. An outreach worker is linked between the organization and the LGBTIQ+ community.

Most reports are collected via face-to-face interviews with victims or witnesses. The survey is carried out by using different methods:

1. “Snowball” method - Everyone participating in the survey is be able to inform about theresearch within their communities.
2. To overcome the main challenges, we have been looking to connect with LGBTIQ+ community leaders outside Yerevan as well as to connect with LGBTIQ+ community in clubs, bars, making home visits, visits to gathering areas and sex work venues, including late at night times

1.1.2 Sampling and targets

This study includes cases of hate crimes or other hate motivated against LGBTIQ+ people in Armenia. A separate questionnaire is filled for each case. Incidents happened only during last two years (July 2021 - February 2022) have been collected and analyzed. The targets of the research are:

- a) LGBTIQ+ individuals who have been victims of hate crimes or other hate motivated incidents.
- b) People with any gender identities or expression who have been a witness of hate crimes or other hate-motivated incidents against LGBTIQ+ people in Armenia.

The survey has been conducted only with people aged 16 or over.

Overall, we collected 113 cases, 78 of them were victims and belong to LGBTIQ+ community and conducted interviews with 35 witnesses.

1.1.3 Research tools

1. Individual interviews through a standardized questionnaire in the safe area of the organization.
2. Individual interviews via a standardized questionnaire by phone.
3. Individual interviews via a standardized questionnaire in gathering places, sex work venues and by visiting LGBTIQ+ people' homes.

Standardized questionnaires have been extracted to both qualitative and quantitative data. The research also includes a legal analysis of the RA legislation and international legal documents related to hate crimes.

1.2 Limitations

Despite being a community-based organization, it has turned out that LGBTIQ+ people are still uncomfortable sharing personal information even when assured of their anonymity. Furthermore, they feel shame and stigma related to their identities and/or the incident that prevents them from reporting. During the interviews, we have even heard that some individuals feel that reporting “will change nothing”. Another limitation to the project is the demographic of individuals who have submitted the forms. 97 individuals who completed the form were under 30 years old. This may be due to the fact that LGBTIQ+ activism is young in Armenia, and older people are still hard to reach by the organizations. Most of the respondents have also mentioned that most of the incidents have happened in the Capital – Yerevan: because of the regions of Armenia are more conservative and LGBTIQ+ people have been moving to the Capital continuously.

1.3 Confidentiality and Anonymity

The research team is maintaining confidentiality of information collected from research participants and only the research team can identify the responses of individuals. However, we have adopted a number of techniques to prevent anyone outside of the project from connecting individuals with their responses.

For the “Right Side” Human Rights Defender NGO it is essential to do our best to be able to provide the confidentiality of the data:

- We use study codes on data completed questionnaire.
- Information is locked in a separate location and has restrict access (only research team).
- Face sheets containing identifiers from survey instruments containing data after receiving from the study participants have been removed.

Providing anonymity of information collected from the research participants means that either the project does not collect identifying information of individuals (e.g., name, address, Email, etc.), or the research cannot link individual responses with participants’ identities. A study should not collect identifying information of research participants unless it is essential to the study protocol.

2. KEY FINDINGS

The vast majority of the reported incidents (64%) took place in the capital city Yerevan, 23 % of all the reported cases took place in cruising areas, 13% of all the cases happened in other public places. It is important to highlight that 3 incidents happened in Government offices, 1 in border crossing point, and 7 in Police stations.

The majority of the cases – 79%, happened with young trans people aged 18-30, although there were reported cases from different age groups too: 16 respondents were in a group of 31-41, 5 respondents were in age group of 41-61 and only 3 people was older than 61. The youngest respondent was 18 years old, the oldest one was 64. The majority of the victims identified themselves as trans people - 76 people. Most of the respondents mentioned their sexual orientation as heterosexual. All the respondents were “out” in some capacity in their life, except 8 witnesses, who said that they don’t belong to LGBTIQ+ community.

56% of all the reported cases happened at nighttime and 18% happened in the evening, 15% of the cases happened in the morning and 11% of them in the afternoon.

Most of the incidents were threat of violence – 41%, insults or verbal abuses – 34% and physical violence – 11%. More than half of the incidents reported, were done by 1 perpetrator, 24 reported that there were 2 perpetrators and 15 cases were reported about group of perpetrators (more than 3 people). The fact that the perpetrator knew them as LGBTIQ+ person was mentioned by 63%. 84% of all the cases were reported to LGBTIQ+ NGOs, 2 cases were reported to the General Prosecutor's Office, because the victims were not satisfied with the decision of Police. None of the cases reported, were considered as a hate crime, because current Armenian legislation does not recognize sexual orientation or gender identity as aggravating circumstances in a crime. Thus, police and other law enforcement bodies are classifying transphobic and homophobic violence as ordinary crimes or administrative offenses. The majority of the victims have turned to “Right Side” Human Rights Defender NGO for legal assistance and advice.

3. BIAS MOTIVATED VIOLENCE AGAINST LGBTIQ+ PEOPLE

The legal situation of hate crime

The concept of "hate crime" is not hard to understand, the name already speaks about itself. This is why state bureaucracies, the media, citizens, activists and any other possible participant in discussions around this concept easily can understand the concept. Modern society presupposes a negative attitude towards the violation of the law, especially when it comes to criminal law. Beating, stealing or killing people, are widely accepted by the societies as unacceptable, although not everyone follows this principle.

According to ODIHR, hate crimes are criminal acts committed with a bias motive. This motive makes hate crimes different from other crimes. A hate crime is not one particular offence. It could be an act of intimidation, threats, property damage, assault, murder or any other criminal offence. The term "hate crime" or "bias crime", therefore, describes a type of crime, rather than a specific offence within a penal code. A person may commit a hate crime in a country where there is no specific criminal sanction because of bias or prejudice. The term describes a concept, rather than a legal definition.

Hate crimes always comprise two elements: a *criminal offence* committed with a *bias motive*.

A *criminal offence* crime is an act that constitutes an offence under ordinary criminal law. Hate crimes always require a base offence to have occurred. *If there is no base offence, there is no hate crime.*

The bias motive differentiates hate crimes from ordinary crimes. This means that the perpetrator intentionally chooses the target of the crime because of some protected characteristic.

- The target may be one or more people, or it may be property associated with a group that shares a particular characteristic.
- A protected characteristic is a characteristic shared by a group, such as "race", language, religion, ethnicity, nationality, or any other similar common factor².

RA Constitution³

Article 29. Prohibition of Discrimination

Discrimination based on sex, race, skin color, ethnic or social origin, genetic features, language, religion, worldview, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.

Article 30. Legal Equality of Women and Men

Women and men shall enjoy legal equality.

The **Article 29** defines also an open list (“personal or social circumstances”) of grounds or characteristics, to be prohibited for discrimination, which allows spreading exclusion of discrimination to any feature and shall include gender identity and/or expression⁴. However, Armenia ratified Protocol 12 to the European Convention on Human Rights, Article 1 of which defines general prohibition of discrimination. The European Convention with the mentioned protocol is incorporated into the national legal system and is applied in the domestic practice.

Article 77. Prohibition of Abuse of Basic Rights and Freedoms

The use of basic rights and freedoms for the purpose of violent overthrow of the constitutional order, incitement of national, racial or religious hatred or propaganda of violence or war shall be prohibited.

² Hate Crime Laws a Practical Guide, Published by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) Warsaw, Poland, pp 16-18.

³ The Constitution of the Republic of Armenia of 5 July 1995, with the amendments of 2015,

<http://www.arlis.am/DocumentView.aspx?DocID=108723>.

⁴ This is not interpreted in any legal document, and this is the view of the researcher.

RA Legislation⁵

The Criminal Code of the Republic of Armenia defines racism as a specific crime, and as a qualitative criterion of other crimes. **Article 143** defines a criminal liability for a direct or indirect violation of human rights and freedoms, if they were based on a number of characteristics, protected with the prohibition of discrimination, including the race, skin color, ethnic origin, membership of a national minority. The same crime, if committed by a public officer and with the abuse of office, implies aggravation of punishment. **Article 226** implies criminal liability for incitement of national, racial or religious hatred, as well as for actions aimed at the racial superiority or humiliation of national dignity. If the same actions were committed publicly or by mass media, with violence or threat of violence, or abuse of office, as well as by an organized group, they would be punished by imprisonment for the term of 3-6 years. **Article 392** implies imprisonment for the term of 10-20 years or life sentence for deportation, **illegal arrest, enslavement, mass and regular execution without trial, kidnapping followed by disappearance, torture or cruel treatment of civilians**, which are committed on the basis of racial, national, ethnic identity, political views and religion.

The Article 16 of the new Criminal Procedure Code defines that all procedures, set up by law, shall be unified for all persons, involved in the criminal proceeding, regardless the race, skin color, ethnic **and social origin and other specifics**, protected by the prohibition of discrimination⁶.

Armenia's hate crime laws consist of general and specific penalty-enhancement provisions but do not cover grounds of gender identity and/or expression.

⁵ Hate Crimes in the Republic of Armenia, Ara Ghazaryan, Stepan Danielyan, Collaboration For Democracy Centre 28.06.2016, <http://www.v1.relignons.am/eng/articles/hate-crimes-in-the-republic-of-armenia/>

⁶ RA Ministry of Justice page: <http://justice.am/legal/drafts.>

Hate crimes and hate incidents

Background of the respondents

Most of the respondents identified themselves as LGBTIQ+ people. All the respondents were “out” in some capacity in their lives except 8 witnesses, who said that they don’t belong to LGBTI community.

Almost half of the respondents identified themselves heterosexual, but there were 49 gay men, 42 lesbian women, 127 bisexual people and only 7 people identified themselves asexual.

271 of 400 respondents were in age group of 18-30, 97 respondents were in a group of 31- 41, 23 respondents were in age group of 41-61, and 9 people were older than 61. The youngest respondent was 18 years old, the oldest one was 64.

Most of the respondents has been involved in LGBTIQ+ organizations, except 11 people.

Incidents

Most of the incidents reported happened at nighttime and in the evenings. There were only 17 cases happened in the morning and 12 in the afternoon.

72 incidents happened in Yerevan, the other 38 cases happened in other big cities (Sevan, Kapan, Gyumri and Vanadzor) in Armenia, and only 3 happened in rural areas. 26 incidents happened in cruising areas, 15 incidents happened in public spaces, 3 incidents happened in Government offices and 1 in Border crossing, the other 68 incidents happened at home, shops, salons, cafes, restaurants, etc. There were no incidents happened at workplace, because almost all the respondents mentioned in the interview that they were unemployed.

There were no cases of homicide, attempted killing, sexual harassment (without assault) reported. Most of the incidents were threat of violence, insults and verbal abuses and physical violence.

Perpetrators and Motives

More than half of the incidents reported were done by one perpetrator, 24 reported that there were 2 perpetrators and 15 cases were reported about group of perpetrators.

“Most of the attacks were by my clients, they came here to get my services, but they behave inadequately in the end by refusing to pay, by making me to do the things that I do not want to, by humiliating and mocking and beating me. They are often drunk or under drugs. However, I can remember cases when transphobic people have pretended to be clients and organized groups attacks to me to beat” – Transgender sex worker K.K., 31 years-old, Yerevan.

Most of the perpetrators were private persons. And the interview respondents have mentioned that the perpetrators have been both people using their services, or a person who just have seen them on the streets.

In most cases, the motive for the incidents has been a combination of their gender identity, gender expression and sexual orientation. This illustrates that with these incidents, the motive is rooted in both transphobia, whorephobia and homophobia.

Respondents were asked why they believed that the incidents had been motivated by one of the above characteristics, 28 victims answered that it was clear from the language or words used during the incident, 31 individuals said it was because of the place, "...everyone knows that there are gays and trans people in pleshka (edit: cruising area)." The fact that the perpetrator knew them as LGBTIQ+ was mentioned by 71 people. One trans woman explained, "they knew me, because we used to live in the same neighborhood, they saw me going out at nighttime a number of times for more than 3 years."

Consequences of Incidents and Follow Up Actions

Only 18 victims sought medical assistance, when asked why they said, "I don't trust the medical staff", "the attitude at the medical centers are discriminative", "I don't want that they call the police and I am fined because of sex work", etc.

These incidents did have a psychological impact on the victims. Respondents said that the incident had an impact on their personal or social life. The majority of individuals turned to their friends, sexual partner, community members and LGBTIQ+ NGOs for getting psychological, social and legal support. There were also trans sex workers who mentioned that they sought support from their clients.

4. POLICE AND OTHER LAW ENFORCEMENT AUTHORITIES

The LGBTIQ+ community in Armenia has not longstanding relationship with the RA police that other minority communities have, and the police still only deals with a small number of victims and offenders who identify as LGBTIQ+. While the overall number of LGBTIQ+ people reporting hate crime is low, reports are increasing year by year.

Out of 113 incidents only 27 cases were reported to the police but none of them were considered as a hate crime.

When asked why you did not report to police, respondents said, "I don't believe in police", "they will not do anything", "I am scared of them", "I do not feel secure and protected in the police station", "I think they will call to my parents and inform about my gender identity", etc.

When asked about the reaction of the police, most of the respondents said that the police was neutral, only 4 victims found the police was supportive. 7 respondents said they were mocking and one respondent found insulting, one of the victims said that the police attitude "...depends on the police station, if it happens in the center of Yerevan, they know us already and often try to help, but if it happens in the peripheries, they we should forget about help." None of the reported cases was taken to court.

95 cases were reported to LGBTIQ+ NGOs, 2 cases were reported to the General Prosecutor's Office, because the victims were not satisfied with the decision of police. They dropped the case due to lack of sufficient evidence. There is a lack of confidence in the Police within the LGBTIQ+ community members. There are negative stories of poor police interactions, inappropriate behaviors that cause the lack of trust and confidence in the police. LGBTIQ+ community and human rights

organizations still have a way to go and enhance the cooperation with the RA police and work with the community to make sure their needs are met, so that civil society and state bodies can build inclusive, strong communities and end hate crime in Armenia.

GLOSSARY

Asexual: is the lack of sexual orientation or any manifestation of sexuality.

Bisexual: a person's constant emotional, sensual, romantic and sexual attractions towards the members of the same sex and opposite sex. Bisexual people get sexual pleasure from having sex with both men and women.

Discrimination: unequal or unfair treatment which can be based on a range of grounds, such as age, ethnic background, disability, sexual orientation or gender identity. Can be divided into four different types of discrimination, which all can lead to victimisation and harassment: Direct discrimination: where a person is treated less favourably than others on grounds of their sexual orientation or gender identity. Indirect discrimination: where an apparently neutral provision or practice would put people of particular sexual orientation or gender identity at a disadvantage compared to others. Multiple discrimination: discrimination based on more than one ground.

Gay: a man who is sexually and/or emotionally attracted to men. Gay is sometimes also used as a blanket term to cover lesbian women and bisexual people as well as gay men. However, this usage has been disputed by a large part of the LGBTI community and gay is therefore only used here when referring to men who are emotionally and/or sexually attracted to men.

Gender: is the identity and self-expression of a person with such social roles, that are traditionally divided into male and female based on historical-geographical, ethnic-cultural and social norms. This separation is based on the stereotypical roles of a person accepted by the society. However, there are cases when a person's social gender does not coincide with either male or female gender classifications. People who classify themselves as both male and female are called bigender, and those who do not classify themselves as either male or female are called agender.

Gender Expression: is the expression of a person's own (or perceived by others) gender identity. A person's gender identity is expressed in their tactics, preferences, behavior, and other external manifestations, which the society attributes as male or female.

Gender Identity: is the social expression of a person in the society, which may not coincide with their biological sex, but is based on the dual notions of male and female.

Hate Crime: offences that are motivated by hate or by bias against a particular group of people. This could be based on gender, gender identity, sexual orientation, ethnicity, religion, age or disability. Also called bias crime

Homophobia: fear, unreasonable anger, intolerance or/and hatred directed towards homosexuality.

Homosexual: is a person's constant emotional, sensual, romantic and sexual orientation towards a member of the same sex. Homosexual people get sexual pleasure from having sex with members of the same sex.

Intersex: a term that relates to a range of physical traits or variations that lie between stereotypical ideals of male and female. Intersex people are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male. Many forms of intersex exist; it is a spectrum or umbrella term, rather than a single category

LGBTIQ+: Acronym for lesbian, gay, bisexual, trans, intersex and queer people.

OSCE: The Organization for Security and Co-operation in Europe (OSCE) is the largest regional security organisation in the world with 56 participating states from Europe, Central Asia and North America. Important institutions, bodies or charters: Office for Democratic Institutions and Human Rights (ODIHR): the OSCE institution, which deals with elections, human rights and democratization.

Out: being openly gay, lesbian, bisexual, trans or intersex.

Pride events: Pride events and marches are annual demonstrations (against homophobia/transphobia and in favour of LGBTI rights) that take place around the world.

RA: Republic of Armenia

Sexual Orientation: refers to each person's capacity for profound affection, emotional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.

Trans Person/People/Man/Woman: is an inclusive umbrella term referring to those people whose gender identity and/or a gender expression differs from the sex they were assigned at birth. It includes, but is not limited to: men and women with transsexual pasts, and people who identify as transsexual, transgender, transvestite/cross-dressing, androgyne, polygender, genderqueer, agender, gender variant or with any other gender identity and/or expression which is not standard male or female and express their gender through their choice of clothes, presentation or body modifications, including undergoing multiple surgical procedures.

Transphobia: refers to negative cultural and personal beliefs, opinions, attitudes and behaviors based on prejudice, disgust, fear and/or hatred of trans people or against variations of gender identity and gender expression.

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RIGHT SIDE HUMAN RIGHTS DEFENDER NGO

Right Side is a community based, democratic, human rights defender NGO, founded in January 2016 by trans activists in Armenia. It is the first and leading NGO run by and for trans people and sex workers in Armenia and in the South Caucasus region. The NGO strives to ensure the well-being, protection and equality of the trans community and sex workers in the region by achieving social-cultural and legal changes through cooperation with the state bodies, civil society and international organizations.

Email: rightsidengo@gmail.com

Web.: <http://rightsidengo.com/>

Tel.: +374 11 880770

