HUMAN RIGHTS COUNCIL
Universal Periodic Review Working Group ***Review of REPUBLIC OF ARMENIA***
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Submission from: Canadian HIV/AIDS Legal Network, Eurasian Harm Reduction Network, International Drug Policy Consortium
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Introduction

1. This submission describes several key human rights priorities and provides recommendations for the Republic of Armenia to better respect, protect and fulfill human rights, consistent with its international legal obligations, in areas of particular relevance to effective response to HIV. In addition to the specific rights mentioned below, the recommendations herein all contribute to realizing enjoyment in the Republic of Armenia of the highest attainable standard of health, pursuant to the *International Covenant on Economic, Social and Cultural Rights*, to which Armenia has acceded.

HIV and drug use in the Republic of Armenia: a health and human rights challenge

2. While Armenia has comparatively low HIV prevalence (0.02%), the rate is growing rapidly,[1] and the actual prevalence is estimated to be approximately ten times higher, with a greater prevalence among distinct key population groups. According to the governmentôs most recent report to the UN on progress in achieving the targets set out in the General Assemblyôs 2001 ñDeclaration of Commitment on HIV/AIDSò, the main mode of HIV transmission in Armenia is injecting drug use (47.4%) and HIV prevalence amongst people who inject drugs is 6.78%.[2]

3. Despite significant progress achieved in recent years, coverage by harm reduction services remains comparatively low. Based on assessments between 2006-2008, it has been estimated that only 54% of injecting drug users, 41% of sex workers, and 10% of men who have sex with men (MSM) had been reached with HIV prevention programs in the past 12 months at the time of responding; for example, according to the 2008 UNGASS progress reports in Armenia, fewer than 25% of men who have sex with men have access to condoms.[3] (Some research also suggests the real prevalence of drug use exceeds official estimates considerably.[4]) In 2008, only 100 people with diagnosed HIV were receiving antiretroviral (ARV) therapy, which is less than 25% of the people identified as needing such treatment.[5]

Human rights and health of people who use drugs

4. ***Humanise drug laws:*** In 2008, Armenia implemented reforms aimed at mitigating penalties on people who use and/or are dependent on narcotic or psychotropic drugs, by removing the criminal penalty for mere drug *use*. Previously those who merely tested positive for past drug use, even in the absence of being found in possession of drugs, were liable to criminal prosecution. However, Armenian drug laws remain tough, with an approach that is predominantly focussed on prohibiting and punishing activities related to drugs rather than reflecting a public health approach to drug use as a public health problem. For example, mere *use* of drugs still leads to administrative liability with very high fines. Furthermore, the Armenian *Law on narcotic drugs and psychotropic substances* remains very strict: it prohibits not only the sale but also the *possession* of any amount of drugs for any unauthorized purpose. Such an approach creates a significant disincentive for people who use drugs, including those with addictions, to seek assistance from public health facilities, out of fear of prosecution by law enforcement authorities. Further reforms are needed to move away from penalizing people who use drugs and to instead focus on implementing evidence-based programs to (i) prevent drug

dependence, (ii) treat people with drug dependence, and (iii) prevent or reduce harms associated with drug use, including infection with HIV and other blood-borne diseases such as hepatitis C virus (HCV).

5. ***Improve system of drug dependence treatment:*** There is no comprehensive system of drug dependence treatment, including rehabilitation services to drug-addicted people, in Armenia. The treatment available is limited to short-term (ñdrug-freeò) detoxification with no provisions for rehabilitation or support.[6] According to reports, such treatment is of little benefit to many: some estimates show that only one out of twenty people who need treatment seek it.[7] There is no easy access to opioid substitution treatment (OST) for those with dependence on opioids (e.g., heroin), recognized to be a key health service, including for HIV prevention, among people with such dependence. In 2008, Armenia announced it would implement its first pilot of substitution therapy, but as of November 2009 there were still no programs. Armenia should improve its system of drug dependence treatment, including following through on the announced plan for introducing and scaling-up OST programs and establishing rehabilitation services.

6. ***Eliminate registration of people who use drugs:*** Under Armenian law, people who use narcotic drugs and/or are dependent on them are inscribed on a narcological registry for ñobservationò (i.e., surveillance).[8] The minimal observation period for ñepisodicò users is one year, but this term may be prolonged if a patient has one or more relapses or does not regularly contact narcological institutions during the year. While registration of narcological patients may be legitimate for some limited purposes (e.g., evaluating the effectiveness of treatment, which is in the patientôs own interest), any such system is justifiable only under conditions that strictly protect the confidentiality of those registered and preclude improper sharing and use of such information. To limit these violations, and to avoid deterring people from seeking treatment for drug dependence, Armenia should review the efficacy and cost-effectiveness of the current approach, with a view to either eliminating such registries or, at least, significantly improving the confidentiality of patient information on such registries. This should including a clear prohibition on the disclosure of patient information without a patientôs consent to anyone other than health care staff.

7. ***Limit wide provisions for drug testing:*** The current *Law on narcotic drugs and psychotropic substances* states that if there are ñsufficient groundsò to suspect that a person is drug dependent, is under the influence of drugs, or uses drugs without medical prescription, the person is ordered to undergo to drug testing (Art. 47). Such broad provisions, which compel people to undergo drug testing simply based on suspicion of drug use, open the door to abuses, including extortion.[9] Such involuntary drug testing violates privacy and security of the person, without justification in almost all circumstances ð drug testing merely shows past use of drugs and does not prove there is a serious risk of harm to self or others, which should be the only basis in law for possibly justifying the infringement of such human rights.

8. ***Compulsory drug dependence treatment:*** People who are diagnosed as drug-dependent under Article 49 of the *Law on narcotic drugs and psychotropic substances* may be forced into compulsory ótreatmentô that consists of detoxification unassisted by any sort of medication to manage withdrawal. However, international organizations underline the principle that drug dependence treatment should generally be voluntary. The *International Covenant on Civil and Political Rights* guarantees the rights to liberty and security of the person (Article 9) and to privacy (Article 17). Given that compulsory medical treatment, including for drug dependence, inherently involves infringements of these rights, it is only potentially justifiable in exceptional, clearly defined circumstances (e.g., in order to prevent a person from causing or risking imminent, serious harm to himself/herself or to others) and in compliance with the UNôs *Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights*. WHO recommends

that any instances of compulsory treatment be strictly regulated and their effectiveness assessed. The government of Armenia should: (i) review the use of compulsory drug dependence treatment with a view to limiting its use at most to circumstances that comply with the *Siracusa Principles*; and (ii) should evaluate the methods currently used for compulsory drug dependence treatment to ensure they are evidence-based and comply with widely recognized professional norms and human rights standards.

9. ***Alternatives to criminal penalties*:** Currently, no alternatives to criminal prosecution for non-violent offences related to drugs exist in Armenia. The law should be amended to provide explicitly that treatment may be ordered as an *alternative* to imprisonment, rather than *in addition to* imprisonment. This is permissible under international drug control treaties ratified by Armenia, which explicitly allow States Parties to those treaties to include, in their domestic legislation, *alternatives* to conviction and incarceration for drug offences, including providing treatment and rehabilitation services, instead of adding these on top of criminal sentences.[10]

10. ***Impact assessment and evaluation:*** Armenia should conduct an assessment of its policies and programmes addressing drug use, in light of stated goals and targets, and evaluate the impact of these initiatives on public health (including HIV prevention and care) and human rights. The assessment should be transparent and conducted with participation of civil society representatives.

Human rights of sex workers

11. Sex work can lead to administrative liability in the form of fines.[11] Harassment and criminalisation of sex workers contributes to their further stigmatization and marginalization, putting them at greater risk of human rights abuses and exacerbating vulnerability to HIV.[12] As a matter of human rights and good public health policy, it is recommended that Armenia abolish the administrative liability imposed on people engaged in sex work.

Human rights of people living with HIV

12. Recently, Armenia made some welcome changes to its *Law on preventing the disease caused by the human immunodeficiency virus*.[13] In April 2009, the government repealed the rules refusing visas for any HIV-positive foreigner seeking to enter the country for more than three months and mandating the deportation of any foreigner in the country found to be HIV-positive. The amendments also significantly narrowed the scope of involuntary HIV testing: according to the new law, only blood donors and children born to HIV-positive mothers are subject to mandatory HIV testing. These amendments are a positive development, as they demonstrate greater respect for human rights in the countryôs legislative response to HIV. However, issues of concern remain. For example, the *Law on foreigners* still contains provisions banning the admission of HIV-positive foreigners, thus contradicting the amended law on HIV. UN agencies have indicated there is no justification for such travel restrictions based on HIV status; Armenia should repeal this article, and bring the law on foreigners in line with the rest of national legislation.

Women's rights

13. ***Health care:*** According to the most recent concluding observations from the Committee on the Elimination of Discrimination Against Women (CEDAW) in its review of Armenia, there is insufficient access to adequate general health-care services, including reproductive health-care services for women, especially those living in rural and remote areas. There is also evidence of lack of family planning knowledge and sex education among young people (e.g., the rates of teenage pregnancy and abortion are high).[14] We join the CEDAW Committee in recommending that Armenia improve womenôs access to general health care and

to sexual and reproductive health-care services in particular, including family planning, by mobilizing resources for this purpose and monitoring the actual access to those services by women. As recommended by the CEDAW Committee, Armenia needs to promote family planning and reproductive health education widely, including education regarding HIV and other sexually transmitted infections.

14. ***Violence against women:*** There is evidence of widespread domestic violence in Armenia and an inadequate government response to said violence, including by police and health care workers. There is no specific legislation addressing violence against women and the Criminal Code does not define domestic violence as a separate crime. The Legal Network joins CEDAW and Amnesty International in recommending that Armenia enact, without delay, legislation specifically addressing domestic violence against women, which legislation should ensure that violence against women and girls constitutes both a criminal offence and a civil wrong.[15] Perpetrators should be prosecuted and appropriate sentences imposed that reflect the severity of this human rights violation; women and girls who are victims of violence should have access to immediate means of redress and protection, including protection orders and availability of a sufficient number of adequate shelters, and these services must address the needs of rural women, women with disabilities, refugees, minority women and women who use drugs. Armenia should also implement training for the judiciary and public officials, in particular law enforcement personnel and health services providers, regarding all forms of violence against women, in particular domestic violence, so as to ensure such personnel can provide adequate support to those who experience such violence.

Human rights of people in prison

15. Research indicates that in 2005, HIV prevalence in Armeniaגs prisons was 2.4%, which is 27 times higher than in the population as a whole. In addition, such research indicates that the prevalence of HCV in prison in 2005 was 23.8%, also dramatically higher than in the population as a whole. The most important risk factor for contracting HCV in the study population was drug use; the second most significant risk factor was time spent in prison within the last 10 years.[16] This data further highlights the importance of ensuring adequate coverage of evidence-based, human rights-respective health services (including needle exchange programs, opioid substitution therapy, and effective drug dependence treatment) and of moving away from prosecution and incarceration as a predominant response to the health problem of drug use, as this only compounds the problem.

16. Armenia provides harm reduction services for prisoners. Commendably, this includes needle exchange programs, although only in 3 institutions; this needs to be expanded to all prisons. According to reports, drug dependence treatment remains inadequate; scaling up OST programs should include prisons.

17. Prison health care is currently under the purview of the Ministry of Justice, rather than the Ministry of Health.[17] International experience suggests that, in the interests of ensuring adequacy and equivalence of care with health care outside prisons, responsibility for health care in the prison system should be transferred to the Ministry of Health.

Rights of lesbian, gay, bisexual and transgender (LGBT) people

18. Discrimination based on sexual orientation or gender identity is pervasive and perpetrated with impunity in Armenia. There are reports of discrimination in health, employment and educational settings. For LGBT people, there is little recourse available for crimes based on their sexual orientation or gender identity, as the option of reporting crime or going to court involves exposure and consequent harassment and further discrimination. For example, in the armed forces, where conscription is compulsory for two years for men

between 18 and 27 years old, homosexuality is seen as an illness, not an orientation; prison authorities and inmates hold the same view; and the police are reported to use bribery, extortion and violence against LGBT persons.[18] The army is reluctant to recruit homosexual men, and if the medical commission identifies them or they declare their sexual orientation themselves, they are sent to psychiatric hospital, where they spend from one day to a couple of weeks, and are eventually certified as having a mental disorder. According to the law, homosexual men are discharged from the military service (Article 12 of the *Republic of Armenia Law on Military Service*), as they are considered ñunfit for military service due to health conditionsò. Armenia should urgently address wide spread discrimination on the basis of sexual orientation and gender identity. The designation of homosexuality as a disease should be abolished from legislation and practices. The government, including the Ministry of Health, armed forces, law enforcement and other agencies, should ensure the training of government employees such as healthcare providers, social workers, educators, students about sexual orientation and gender identity.

Rights of persons with disabilities

19. Armenia signed the *Convention on the Rights of Persons with Disabilities* and its *Optional Protocol* in 2007 but has not yet ratified them. We urge Armenia to ratify the Convention and the Optional Protocol at the earliest opportunity, to include HIV and drug dependence as conditions recognized as disabilities under domestic law, and to ensure that people with these conditions receive protection from discrimination on the basis of their health status.

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[1] National South Caucasus Anti-Drug (SCAD) Programme, *Country (Drug) Situation Summary – Armenia*, 30 June 2008, online: http://scadarmenia.org/eng/entry/33.
[2] *UNGASS Country Progress Report: Republic of Armenia*, January 2008.
[3] WHO, UNAIDS & UNICEF, *Towards Universal Access: Scaling up Priority HIV/AIDS Interventions in the Health Sector -- Progress Report* (2009).
[4] V. Davidyants et al, *National Drug Report 2008* (Yerevan: South Caucasus Anti-Drug Programme, Monitoring Centre on Drugs and Drug Addiction, 2009).
[5] UNAIDS, *Report on the Global AIDS Epidemic* (2008).
[6] *Country (Drug) Situation Summary – Armenia*, *supra* note 1.
[7] Davidyants et al, *supra* note 4.
[8] *Law on narcotic drugs and psychotropic substances*, Law No. 66 (26 December 2002), ıţ -518, last amended 8 September 2008, Article 48.
[9] K. Markosyan, *Meeting the Challenge of Injection Drug Use and HIV in Armenia* (Yerevan: International Policy Fellowship, 2005), online via www.policy.hu.
[10] *Single Convention on Narcotic Drugs, 1961*, UN, 520 UNTS 331, as amended by the *1972 Protocol*, Article 36(2); *Convention on Psychotropic Substances, 1971*, UN, 1019 UNTS 175, Article 22; *Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988*, Article 3(4).
[11] *Code of the Republic of Armenia on Administrative Offences*, 6 December 1985 (with amendments), Article 179(1).
[12] Central and Eastern European Harm Reduction Network, *Sex Work, HIV/AIDS, and Human Rights in Central and Eastern Europe and Central Asia*, July 2005.
[13] *Law on amendments and supplements to the Republic of Armenia Law on Preventing the Disease Caused by the Human Immunodeficiency Virus,* 6 April 2009.
[14] Committee on the Elimination of Discrimination against Women, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Armenia*, Forty-third session, 2 February 2009.
[15] Ibid., and Amnesty International, *No Pride in Silence: Countering Violence in the Family in Armenia* (2008).
[16] *Country (Drug) Situation Summary – Armenia*, *supra* note 1.
[17] Group of Public Observers Conducting Public Monitoring of Penitentiary Institutions and Bodies of the Ministry of Justice of the Republic of Armenia, *Penitentiary System of the Ministry of Justice of the Republic of Armenia in 2008: Report* (Yerevan: OSCE and the Open Society Institute Law and Health Initiative, 2009).
[18] A. Carrol & S. Quinn, *Forced Out: LGBT People in Armenia* (ILGA Europe, 2009).