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Partnership Policy Brief

What Will it Take? Stopping Violence in the Armed Forces

Can military structures successfully integrate human rights and fundamental freedoms? Are the mechanisms for protecting human rights of the Armenian armed forces adequate? The flood of articles, the many academic debates, and the several international reports that have all appeared in the last two decades, bear witness to the importance of adhering to human rights commitments in the field of armed forces and increasing realization of the necessity to ensure civic control over military forces. Since the end of the Cold War the conventional realist focus on survival as the only national interest of states has been challenged robustly by the development of “critical” approaches that consider realist/neorealist understanding of security inaccurate and one-dimensional. Over the last two decades the security and human rights concerns became largely interlinked for OSCE member states within the framework of the comprehensive vision of security, however, the frozen conflict in Nagorno-Karabakh repeatedly obstructed the equal relation between human rights and security and opened the way for prioritization of security concerns.

The Armenian government has remained largely silent as this debate has intensified over the past decade, choosing to voice general support for the OSCE comprehensive concept of security without committing to specifics. More importantly, during this period the principles that separated military structures from politics crumbled and, today, the government tends to overlook steps that would substantially improve the situation of human rights in the armed forces. After two decades of illusive stability in the region, the debate surrounding the question of human right in the Armenian armed forces has intensified following the continuously alarming record of abusive and unlawful practices. To address these critical issues, Partnership for Open Society, the Organization for Security and Cooperation in Europe (OSCE), and the Council of Europe hosted a panel discussion with Ara Nazaryan, Deputy Minister of Defense of the Republic of Armenia (MOD); Ambassador Sergey Kapinos, head of the OSCE office in Yerevan; Levon Ayyvazyan, head of the Defense Policy Department of the MOD; Rustam Mahmudyan, adviser to the Human Rights Defender of RA on Military and Military Servicemen’s Issues; Jonathan Stark, Honorary Consul of the Republic of Ireland to Armenia; Lothar Muller, adviser to the Parliamentary Commissioner for the Armed Forces of German Bundestag; Alexander Avetisyan, deputy head of the Legal Unit of the

Defense Policy Department of the MOD; Gegham Harutyunyan, chairman of the Public Council adjunct to the Minister of Defense. Other participants included such leading experts as Arthur Sakunts, coordinator of the Helsinki Citizen's Assembly – Vanadzor Office; Eden Cole, deputy head of Operations NIS&Head Asia Task Force of the Geneva Centre for the Democratic Control of Armed Forces; Andrea Vesa, Human Rights Officer of the OSCE. The discussion was moderated by Richard Giragosian, Director of the Armenian Center for National and International Studies; Carel Hofstra, Deputy Head of the OSCE Office in Yerevan; and Stepan Danielyan, Chairman of the Collaboration for Democracy Center NGO.

Departing in several ways from the international and local reports on the state of human rights in the Armenian armed forces, panelists have consistently maintained that the crisis in the army, unlike other political realms, has tremendous implications in terms of the rising death toll. The degree of mismatch between Armenia's human rights commitments and the realities of ill-treatment, abuse, torture and other unlawful practices still remains striking. While Armenia is legally bound to the basic international human rights treaties, as well as regional documents such as the OSCE Code of Conduct on Politico-Military Aspects of Security that commits the member states to ensure that military, paramilitary, and security-service personnel are able to exercise their fundamental freedoms, a litany of serious abuses and human rights violations repeatedly go unpunished. Cases by case, such practices are eroding the military's credibility leading to public alienation from the armed forces. Having documented more than 40 death cases in the armed forces in 2010, local human rights organizations urged the Armenian authorities to take effective measures to prevent unlawful killings and hold abusive armed forces personnel to account. Despite these signs of a deep-seated crisis, Defense Ministry representatives made positive statements about human rights and efforts to raise rights awareness among the military personnel repeatedly stressing that abusive practices are allegedly institutionalized as part of the military culture and a shift in the system of values is needed to adequately resolve this issue. Fundamentally, however, there needs to be a better understanding of how mechanisms for protecting the rights of armed personnel could be reformed to become more adequate. Given the fact that the new draft law on internal discipline does not even seek to address the array of diffusive challenges facing the armed forces today and disregards the issue of accountability and criminal liability, it is clear that the authorities need to match its rhetoric on human rights commitments with concrete proposals and measures.

A central part of this debate concerns the range of civil society engagement strategies that aim to promote civil regulation, and their limitations. The public council is designed to build a confidence bridge between the civil society and the armed forces ensuring civilian supervision. Analyzing the questions surrounding this issue, the panelists identified important weaknesses in the existing laws on "Military Service" and "On Local Self Government," and agreed that the system needs to overcome serious limitations in scale and coherence through establishment of a separate institutional structure for addressing complaints about unlawful and abusive behavior in the military. While there is little agreement in the Armenian government as to which military supervision institution might prove to be more effective in the long run, there was a consensus among experts that the office of the Military Ombudsman – outside the

military chain of command - is to be created to ensure that Armenia successfully moves up the democratic and civilian control ladder. The panelists also drew attention to the equally important dimension of civic control, namely, oversight over the right of objection from military service on religious grounds. Numerous friction points in the alternative non-military service system were highlighted including the unreasonable duration of service. Acknowledging the civil society's concerns about conscientious objectors, the Ministry of Defense representatives expressed deep commitment to efforts to harmonize and reform the system.

Armenia needs to set priorities in the military realm based on its international and regional human rights commitments. The distinguished group of panelists offered detailed and wide-ranging recommendations for policy-makers that would build confidence between the military and the society, and foster its overall integration in the societal structures.

Recommendations:

- Urgently set up an impartial, independent, and transparent process to investigate human rights abuses committed in the armed forces and bring to justice all those involved in unlawful practices
- Make regulatory changes in the law on “Military Service” and create legal grounds for commanders’ responsibility and individual accountability for human rights abuses.
- Adopt the policy of “zero tolerance” in terms of breaking the rules of regulation and discipline advancing an effective system of sanctions and punishment.
- Incorporate an appropriate human rights course into the general military training in order to raise awareness and create a professional military culture.
- Launch an independent civic monitoring group for the armed forces outside the Ministry of Defense initiating a legal framework that would enable it to provide impartial, publicly available and informative analysis.
- Set up an OPCAT national preventive mechanism in the realm of armed forces and guarantee a system of regular visits to the barracks for the independent and impartial experts in order to ensure that torture and other ill-treatment does not occur and that the armed forces personnel is being treated well.