



Save the Children



Yerevan, 2015

Child Rights Situation Analysis: Armenia



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LIST OF ACRONYMS

ADHS	Armenian Demographic and Health Survey
BBP	Basic Benefit Package
CRC	Child Rights Convention
CRSA	Child Rights Situation Analysis
ECD	Early Childhood Development
GDP	Gross Domestic Product
MES	Ministry of Education and Science
MLSI	Ministry of Labor and Social Issues
MOD	Ministry of Defense
MOE	Ministry of Education and Science
MOH	Ministry of Health
NCD	Non-communicable diseases
NCPCR	National Commission for the Protection of Child Rights
NGO	Non Governmental Organization
NSS	National Statistical Service
PHC	Primary Health Care
PIU	Project Implementation Unit
PRSP	Poverty Reduction Strategy Papers
RA	Republic of Armenia
RA CC	Republic of Armenia Criminal Code
RA CPC	Republic of Armenia Criminal Procedure Code
RA FC	Republic of Armenia Family Code
SCI	Save the Children International
SMS	State Migration Service
UN	United Nations
UNCRC	United Nations Child Rights Convention
UNDAF	United Nations Development Assistance Framework
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund

EXECUTIVE SUMMARY

In all countries of the world in which Save the Children operates, children face many problems. To develop and deliver need based programs, there was a need to implement a Child Rights Situational Analysis (CRSA) in Armenia. A CRSA is an in-depth description of the extent to which children's rights are being exercised and an analysis of the obstacles to, and enablers of, their realization. The aim of CRSA is to gather sufficient information to produce a 'good enough' analysis to inform strategic decision-making.

The methodology of the assessment included (a) a review of secondary data, and (b) meetings with key informants to gather data from primary sources. CRSA reviewed the following UNCRC rights: Child Rights Governance; Child Protection; Rights to Education and Culture; Rights to Health and Welfare. Below is the summary of the main findings.

Child Rights Governance:

The study revealed that the Republic of Armenia has ratified the key international treaties concerning the rights of the child; however, a few very important optional protocols still remain not ratified. At the same time, the newly adopted draft laws on the rights of the child are not required to be assessed according to RA legislation, in contrary to the legislative requirement to assess the impact of legal acts in a number of other fields. Regarding the RA Law on the Rights of the Child, the activities for the protection of the rights of the child are carried out in the manner and timeframe foreseen by the annual programmes, however, the assessment showed that these programmes have a lot of shortcomings.

Child Protection:

According to the results of the study, RA legislation associated with protecting the child from an insult, absence of care, indifference or rude treatment is not clear: in particular (a) the description of these phenomena and a struggle against them are still in the state of drafting; (b) not all incidents of violence are punishable under criminal law in the RA, (c) any manifestation of violence against the child is conditioned by the fact that the child is either not perceived or is partially perceived as an individual by the society, (d) children are still subjected to physical and psychological violence as methods of upbringing, (e) there is no separate legal act or a single and comprehensive document on physical and psychological integration of children and their social reintegration, (f) so far there is no legislation in the RA on juvenile justice.

Rights to Education and Culture:

The assessment showed that school age children enjoy the opportunity to attend general schools. The study revealed vulnerability of inclusive schools which are severely underequipped in terms of their physical conditions. The access to Early Childhood Development (ECD) institutions in general is quite low. In urban communities it is higher than in rural communities, as in rural communities children are mostly deprived of the opportunity to attend ECDs. Moreover, there is a lack of adjusted preschool centres for disabled children at preschool age.

Rights to Health and Welfare:

According to the findings of the assessment, the citizens of RA have access to health. Health services are paid for except for children under the age of 7 and certain groups of people. However, children and adults with disabilities face barriers in accessing the health and rehabilitation services they need in many settings, and particularly in rural areas. Nevertheless, there are different medical and social support programs provided by the State for free for children with special needs.

INTRODUCTION

Protection of children's rights and provision of a safe and non-violent environment for children are of high priority for every country. Therefore the issues concerning child abuse, neglect, violence and exploitation are prioritized by state and key action takers, like Save the Children, who implement various programmatic interventions and contribute to the improvement of the resources and policies.

Current report explores the child rights situation in Armenia using the methodology of Child Rights Situational Analysis. A CRSA is an analysis of the situation of children and their rights. It also identifies obstructions that may their rights being realised. The CRSA is informed by a range of perspectives, including those of children and young people. It looks at the trends in, and causes of, child rights issues, the key stakeholders involved, and the policies, programs and services already in place to prevent and respond to them. While the principal use of a CRSA remains as an input into strategic planning, CRSAs potentially have a significant value to other aspects of work, such as feeding into our program planning processes, coordinating our work with partners, governments, donors and other civil society actors, supporting policy design and implementation at various levels of the country, etc.

One of the challenges in child rights protection in Armenia was and in some terms remains the economic situation and poverty. The economy of the Republic of Armenia collapsed within the first years of the independence. It was followed by the subsidence of the currency system and decline in the conditions of the foreign trade with countries of the former Soviet Union. Nevertheless, the most devastating consequences were widespread impoverishment of the population and income inequality. Later on, in 1994-2005 the economy of Armenia experienced drastic structural shifts. High economic growth has been the main contributor towards the decline of poverty, which decreased from 55.1% in 1999 to 29.8% in 2005. However, from 2008 onwards, due to the influence of global economic crises, the economy of the RA has encountered a radical decline, increasing the poverty rate up to 32% in 2013. The child rights situation has worsened during recent years. According to 2013 state statistics, 3.3% of children in Armenia live in extreme poverty and 37.3%¹ - in poverty.

In 1992 by a resolution of the Supreme Council, the Republic of Armenia joined the United Nations Child Rights Convention (UNCRC), which entered into force in the RA on 22nd July 1993. The accession and subsequent ratification of the Convention set the start of the process of reforming legislative framework in the newly independent country as well as paved the way for the child care reform. A country's ratification of the CRC creates what can be regarded as a social contract between the state and its citizens as to the entitlements that children in its jurisdiction should be able to claim from the state and the society. States and societies face considerable challenges putting into place the means by which children's rights can be realized, especially in the context of a fast-changing and globalizing world.

The CRSA methodology provided a means to systematically analyze challenges, develop and provide evidence-based replicable solutions to the problems children encounter. The results of the study and recommendations are presented in sections below.

In the recent years a number of very informative research pieces have been undertaken in Armenia, analyzing the children's situation from a particular thematic or sectoral perspective². However, in Armenia there is a need of an up to date and comprehensive consolidation of the existing research on progress made towards achieving the UNCRC. For that purpose Save the Children in Armenia initiated a collaborative CRSA and has a coordinating role in this process.

The central task in managing a CRSA is to gather sufficient information to produce an analysis that is comprehensive enough to be able to lead to strategic decision-making. The Armenian CRSA of 2015 is an

¹ Social Snapshot and Poverty in Armenia, 2014. Part 1 - Armenia: Poverty Profile and Labor Market Developments in 2008-2013. RA National Statistics Service and World Bank. Retrieved from <http://www.armstat.am/en/?nid=82&id=1618> on June 22, 2015.

² Situation Analysis of Children in Armenia (UNICEF, 2012), A Snapshot of Alternative Care Arrangements in Armenia (SOS Children's Village, 2011), or Children's Rights in Child Care Centres and Special Educational Institutions: Systemic Analysis (RA Human Rights Defender, 2015).



analysis of the child rights situation in the country (following the standard CRSA methodology) with an aim to fill the gap of a comprehensive assessment on children's issues against the UNCRC commitments.. CRSA has been used by Save the Children since the UNCRC came into force in 1990, with Armenia adopting it's guidelines. The Armenia CRSA was undertaken nationally to provide an overview of the situation.

The CRSA process included reviewing secondary data and meeting with key informants to gather data from primary sources. Given the Armenia context, the CRSAs were channelled through a collaborative process with civil society partners and children, who contributed and participated at various stages of the CRSA and share their knowledge and insights. Additionally, feedback from NGOs and other interested organizations was received via an on-line feedback mechanism. Received feedback was reviewed by Save the Children Experts before being incorporated in the Report. We believe that this approach has many advantages, including all expertise and knowledge, shared ownership, relationship building and possible future coordination on common priorities. The limitation of the consultation process was that the comments received via on-line feedback mechanism were sometimes anonymous which prevents perceiving the reliability of the comments.

The CRSA is directly linked to the UNCRC commitments and its content is defined around eight Reporting Clusters of the UNCRC as presented in table 1 below:

Table 1: The reporting Clusters of UNCRC

Theme	Eight UNCRC reporting clusters	Humanitarian
Child rights governance (including investment in children)	General Measures of Implementation (Articles 4, 42, 44.6)	The CRSA endeavour to add analysis concerning the actual or potential impact of emergencies, climate change and the presence of emergency preparedness on the realisation of children's rights.
	General Principles (Articles 2, 3, 6, 12)	
	Civil rights and freedoms (Articles 7, 8, 13-17, 37)	
Child protection	Family environment (Articles 5, 9, 10, 11, 18, 19, 20, 21, 25, 27)	
	Special protection measures (Articles 22, 37-40)	
Education	Education and culture (Articles 28, 29, 31)	
Health and nutrition, hunger and livelihoods	Basic health and welfare (Articles 6, 18, 23, 24, 26, 27)	

2.1 POPULATION AND DEMOGRAPHIC TRENDS

According to recent official census data, the population of Armenia was 3,041,000 in 2011³. The ongoing tendency toward emigration and low birth rate contribute to a the decline of the population in Armenia⁴. The population in 2013 was 3,017,100 (1,914,100 in urban areas and 1,103,000 in rural areas) compared to 3,010,600 in 2014 (1,913,000 in urban areas and 1,097,600 in rural areas). Total Fertility rate in 2013 was 1.573 children per 1.000 females of fertile age (15-49), which is significantly lower than the indicator of 2.15 children needed for a mere replacement of population⁵.

The number of children in Armenia has declined during recent years. According to the 2011 Census, children below 16 years of age accounted for 20.2% of the population, compared to 26.3% in 2001 and 32.2% in 1990⁶. In 2013, the total number of children was 723,490, 209,890 of which were under 5 years old⁷:

The government's Poverty Reduction Strategy predicts a decline in the **child mortality rate** of children under 5 years old to 10 in 2015 (compared to 15.9 in 2002), and child mortality rate of children under 1 year old to 8.5% (compared to 13.4% in 2002). Since the formulation of the Poverty Reduction Papers (PRSP), the RA Government has taken a number of steps that have contributed to the reduction of child mortality rates and the improvement of the quality of health care services delivered to mothers and children. The political and socioeconomic changes in Armenia over the last 20 years have made an impact on the reproductive behaviour of the population resulting in a dramatic decline in the fertility rate (total fertility rate) from 2.62 children per woman of childbearing age in 1990 to 1.56 in 2010⁸.

2.2 DEVELOPMENT TRENDS

Children remain among the most economically disadvantaged groups in the society. Global economic crisis resulted in increased poverty in Armenia. In 2013, 32% of population live below the poverty line according to National Statistical Service data. Almost every third person is poor, among them 13.3% very poor, and 2.7% extremely poor. Children constitute 25% of the population. According to Armenia Poverty Snapshot 2014 Child poverty is at 37.3% and 3.2% of children in Armenia live in extreme poverty. High rates of child poverty contribute to the prevention of children's access to education, healthcare, and nutrition; children with disabilities are amongst the most affected.

State funding of education and health care is insignificant⁹. In recent years health care spending accounted for approximately 1.6-1.7% of the Gross Domestic Product (GDP), but in 2013

³ *The results of census of Republic of Armenia of 2011*. Statistical Service of Armenia. Retrieved from <http://www.armstat.am/en/?nid=337> on June 22, 2015.

⁴ *The Depopulation Crisis in Armenia*, Research Project (2013). Retrieved from <http://www.depop.am/> on June 22, 2015.

⁵ *Social Snapshot and Poverty in Armenia* (2014). PART I - Armenia: Poverty Profile and Labor Market Developments in 2008-2013. RA National Statistics Service and World Bank. Retrieved from <http://www.armstat.am/en/?nid=82&id=1618> on June 22, 2015.

⁶ *Ibid.*

⁷ *State of the World's Children 2015 Country Statistical Information, Armenia* (2015). UNICEF. Retrieved from http://www.unicef.org/infobycountry/armenia_statistics.html on June 22, 2015.

⁸ *Relevance of and Reasons for Sex Selective Abortions in Armenia* (2012). UNFPA

⁹ *Armenian Statistical Yearbook* (2014). Statistical Service of Armenia. Retrieved from <http://www.armstat.am/en/?nid=45> on June 22, 2015.



it decreased to 1.5% of the GDP. Education expenditure has been decreasing since 2009, and in 2013 it constituted 2.4% of the GDP. The share of the spending on health care and education has also decreased. From 2007 to 2013 the percentage of the spending on education has decreased from 14.98% to 9.02% as percentages of the state budget expenditures, while the spending on health care decreased from 7.4 % to 5.6%.

Corruption is the key factor impeding the economic development of Armenia. According to the Anti-Corruption Centre, Armenia listed as having high corruption rates. In 2003 Armenia was 78th on the Corruption Perception Index (published by Transparency International), but in 2011, Armenia's position dropped to 129th, implying increased corruption. It is publicly accepted (including in the Anticorruption Strategy of Armenian Government), that the most corrupt sectors in Armenia are education, health care, judiciary, law enforcement, tax and customs services. High corruption in education and health care sectors affects first and foremost children, as it means that they do not receive appropriate services.

Syrian conflict and trends: Approximately 15,000 people who fled from Syria live in Armenia, seeking protection and asylum. The main challenge Syrian refugees are facing in Armenia is the lack of economic opportunities - 42.5% of the surveyed population is unemployed. Another worrying fact is the inaccessibility of the preschools - around 50% of up to 6 year old Syrian children do not attend any preschools. It is expected that the flow of refugees in Armenia will increase in the coming months.⁹

Conflict: Though a cease-fire between Armenia and Azerbaijan has been in effect since 1994, the dispute over Nagorno-Karabakh still remains unresolved and threatens the country's security. Armenia's

borders with Turkey and Azerbaijan remain closed, which severely hampers the country's economic development. Only last year mutual shootings resulted in loss of dozens of human lives on both sides of the border. Bordering villages are affected by daily sniper fire.

Informal employment and unemployment remains high in Armenia. Those employed informally constitute almost half of the economically active population, while the unemployed account for slightly more than 16%. Armenian economy is dependent on the transfers coming from abroad (mainly from the Russian Federation). The financial oscillations registered in the Russian Federation at the end of 2014 were immediately echoed in Armenia entailing a devaluation of the national currency, growth in the prices of the commodity goods and lowered economic activity. More than 20% of the devaluation of Armenian currency occurred in late 2014 resulting in increased food prices and financial market fluctuations.

ANALYSIS OF THE UNCRC RIGHTS SITUATION

3.1 CHILD RIGHTS GOVERNANCE

**3.1.1 General Measures of Implementation:
Legal Reforms and Fulfilment of the Rights of the Child**

**Participation of the Republic of Armenia
in the International Treaties Concerning Child Rights Protection**

The Republic of Armenia has ratified the key international treaties concerning the rights of children. In 1992 by resolution of the Supreme Council, the Republic of Armenia joined the UNCRC, which came into force in the RA on 27th July 1993. In 2003, two Optional Protocols to the UNCRC – the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (with an attached declaration¹⁰) - were ratified in 2005¹¹.

Nevertheless, the Optional Protocol to the UNCRC on a Communications Procedure is not ratified. The Optional Protocol was adopted in 2011 and entered into force in April 2014. It entitles individuals and groups of individuals to file communications with the UN Committee on the Rights of the Child (hereinafter: the Committee) on the violations of the rights prescribed by the UNCRC and the two Optional Protocols thereof. It should also be noted that the UN Committee on the Rights of the Child recommended in its concluding observations adopted in July 2013 regarding Armenia's third and fourth periodic reports that the RA Government ratified the above Optional Protocol in order to further strengthen the fulfilment of children's rights.¹² In conformity with the information provided by the RA Ministry of Foreign Affairs, the issue of joining the Optional Protocol has to be discussed, taking into account the concluding observations of the UN Committee on the Rights of the Child. However, at present no progress has been made towards the signing and ratification of the Protocol.¹³

Included among the international treaties foreseeing a procedure for individual complaints are **the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol to the UN International Covenant on Economic, Social and Cultural Rights**, both of which are relevant

¹⁰ In conformity with Paragraph 2 of Article 3 of the Protocol "Each state shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced." The RA has deposited such a declaration.

¹¹ The list of ratified treaties includes the ILO Convention concerning Forced or Compulsory Labour; the ILO Convention on Abolition of Forced Labour; the ILO Minimum Age Convention, the ILO Worst Forms of Child Labour Convention, the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption along with declarations, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children, the Supplementary Protocol to the UN Convention against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air; the Hague Convention on the Civil Aspects of International Child Abduction, the UN Convention on the Rights of Persons with Disabilities, the Council of Europe Convention on Action against Trafficking in Human Beings. In 1994 the RA also joined the UN World Declaration on the Survival, Protection and Development of Children.

¹² Concluding Observations adopted by the UN Committee on the Rights of the Child on 8 July 2013 concerning the third and fourth periodic reports submitted by Armenia (CRC/C/ARM/CO/3-4).

¹³ Results of the interview with representative of human rights and humanitarian co-operation division, RA Ministry of Foreign Affairs.



to the protection of the rights of the child. **The Protocols were signed in 2007 and 2009, respectively. However, they have not yet been ratified by the Republic of Armenia.**

The National Human Rights Programme¹⁴ plans an action in respect of discussing the extent to which the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights is reasonable and of submitting a recommendation to this effect in the third quarter of 2014. However, according to the information provided by the RA Ministry of Foreign Affairs, no progress has yet been made on this.

In line with the 2013 Concluding Observations of the Committee on the Rights of the Child, it was that the RA Government ratifies **the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families**. In September 2013, the RA signed the above convention. **Currently, the Convention has not yet been ratified by the RA**, but ratification is in progress.¹⁵

¹⁴ Decision no 303-N dated 27.02.2014 of the RA Government on approving the plan of actions stemming from the National Human Rights Protection Strategy, para. 101.

¹⁵ Results of the interview with representative of human rights and humanitarian co-operation division, RA Ministry of Foreign Affairs.

THE RA HAS NOT YET RATIFIED THE EUROPEAN CONVENTION ON THE ADOPTION OF CHILDREN (REVISED) SIGNED IN 2008.

Reservations to the International Treaties

The reservations to the international treaties ratified by the Republic of Armenia in the area of the protection of the rights of the child include the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation of Parental Responsibility and Measures for the Protection of Children, the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, and the Hague Convention on the Civil Aspects of International Child Abduction. No reservations have been entered by the RA to the UN treaties on fundamental human rights.¹⁶

Compliance of the Domestic Legislation with the Requirements of the UN Convention on the Rights of the Child

The RA Law on the Rights of the Child (hereinafter: the Law) was adopted on 29th May 1996 and came into force on 27th June of that year. The RA Law on the Rights of the Child¹⁷ to a large extent is a repeat of the UN Convention on the Rights of the Child. The problem is mostly the lack of resources for the application of the rights and provisions prescribed by Law or in cases where there are resources, lack of their application.

The 2004-2015 National Programme for the Protection of the Rights of the Child approved by the Decision no 1745-N of the RA Government (dated 18th December 2003)¹⁸ identified the key issues of the legislation of the RA concerning the rights of the child. An example of a serious legislative flaw in this area was the state of the institutions implementing these legislative acts, reviewing the responsibility of adults for cruel and degrading treatment of the child. It was indicated that the current legislative framework needed serious reform in the area of the protection of the rights of vulnerable groups, such as beggar and street children. It was indicated that the promotion of alcohol and cigarettes by the various mass media has become more frequent, as have the cases of dissemination of degrading information and information propagating violence. It was indicated that the RA Law on State Pensions needed to include a separate provision on giving a right to social pension to children left without parental care, including children whose parents have denounced them in writing or are incapable of taking care of the child. It was registered that there is a need to urgently adopt the draft Family Code, which would introduce the concept of the foster family. It was also indicated that another priority was the improvement of the legal framework regulating the education, upbringing, and socio-psychological rehabilitation of children with special needs.

Although a number of legislative amendments have been made in recent years and new legal acts have been adopted with an aim of solving these problems, the majority of these problems still linger, 11 years after the adoption of the programme. This is mostly due to the lack of effective resources.

With regards to the imperfections of the bodies ensuring the implementation of the legislation on the rights of the child, it should be stated that the problem indicated by the Decision no 1745-N of the Government (dated 18th December 2003) has not yet been resolved despite a number of reforms made in this area. This fact was also admitted by the RA Government. By its decision no 1694-N of 2012, the RA

¹⁶ UN 9 international treaties and the Optional Protocol to UN Torture Convention.

¹⁷ The Law defines the fundamental rights and safeguards of the child, including the right to life, the right to name and nationality, the right to health, the right to an adequate standard of living, the right to protection from violence, the right to freedom of thought, conscience and religion, the right to education, the right of the child to live in a family, the right to housing, the right to inheritance, the right of the child to communicate with cultural values, the right to work, the right to rest, the right to protection of reputation and dignity. Regulations have been introduced in respect of the protection of the rights of the child in unfavourable conditions or extreme situations, as well as the main principles of the state policy for the protection of the rights of the child.

¹⁸ The programme lost its effect on 21.02.2013.



Government adopted a strategic programme for the protection of the rights of the child. This essentially addressed the inefficiency of the activities of the guardianship and trusteeship commissions, which have a key part to play in the system of child rights protection, the shortcomings of the activities of the National Commission for the Protection of the Rights of the Child and the ineffectiveness of the units within the RA Regional Administrations for the protection of the rights of the family, women and children.¹⁹

Under the Concluding Observations adopted in 2013 the Committee adopted the legislation that related to the rights of the child but expressed concerns about the obstacles to the adoption thereof. At the same time, the Committee expressed concerns about the insufficient level of enforcement of laws concerning the rights of the child.²⁰

The 2013 annual report of the RA Human Rights Defender stated that despite the fact that all necessary legal regulations are observed, there are a number of problems with ensuring that the rights of the child are met. These problems are caused by the lack of effective means for implementing the legislation, issues with investing the necessary finances and the problems existing in the law enforcement practice.²¹

In 2008 UNICEF conducted a study²² that was aimed at assessing the level of compliance of the domestic legislation with the Convention requirements. The study stated that the RA legislation in the area of the protection of the child and family is progressive. However, the majority of laws continue to remain on paper and the violations of the rights of the child still occur periodically.

In 2012, 45 non-governmental organizations submitted a shadow report to the UN Committee on the Rights of the Child. The report presented instances of incompliance of the RA legislations with the Convention on the Rights of the Child, including those related to the lack of child rights protection in families. In particular, the problems include the provision of the RA Family Code which states the need to prevent degrading, cruel, rude or other inhumane treatment of the child. The statement is abstract and gives room for various interpretations. According to the RA Criminal Code, a low level of exertion of physical force does not qualify as a crime. The shadow report also states that neither at the level of legislation nor at the level of law

¹⁹ The Decision no 1745-N of the RA Government dated 18.12.2013.

²⁰ Concluding observations on the combined third and fourth periodic reports of Armenia, adopted by the Committee on the Rights of the Child at its sixty-third session (27 May – 14 June 2013).

²¹ The Report of the RA Human Rights Defender on the Activities of the Defender in 2013 and Violations of Human Rights and Fundamental Freedoms in the Country (2013). Retrieved from www.pashtpan.am on 10 June 2015.

²² Legislative reform related to the Convention on the rights of the Child. National case studies: Armenia, Barbados and Ghana, 2008

enforcement does the Armenian judiciary take account of the peculiarities of investigations in cases involving juveniles on the basis of international practice.²³

The 2013 Annual Report of the RA Human Rights Defender highlights the significant flaws when addressing the protection of the rights of the child in disputes between parents that arise as a result of legislative flaws and the judicial practice. There had been a number of cases when the courts appoint one of the parents as the guardian of the child but the officers of the Service for the Enforcement of the Judicial Acts fail to ensure the enforcement of a judicial act. There is no clear-cut regulation of cases where an official agreement has not been made regarding the appointment of one of the parents as a guardian of the child but the other parent does not permit the child to communicate with the other.²⁴

The RA legislation does not essentially plan monitoring procedures of the care of children in foster families, adopted children and children who are under guardianship or trusteeship.²⁵ A number of steps are being taken by the RA Ministry of Justice towards drafting a new RA Family Code. Drafts of government decisions are being developed with a view to defining these monitoring procedures.²⁶

Assessment of the Impact of the Adopted Laws, Strategies and Programmes on the Rights of the Child

The RA legislation does not envision the assessment of the impact of newly adopted draft laws on the rights of the child becoming a requirement, although the RA Law on Legal Acts envisions the assessment of the impact of legal acts in a number of fields becoming a requirement. It is now mandatory to report the effect of the budget on environmental protection, social, health care, economic, including small and medium enterprises, competition, anti-corruption, and the budget.²⁷ Despite the fact that the impact on the rights of the child in such fields as social and health care also must also be subject of assessment, the RA legislation does not foresee requirement of assessing the impact on the rights of the child separately.

The Decree of the RA President No PD-174-N (dated 18th July 2007) dictates the procedure of the RA's Governmental activities, and it predicts that the drafts of laws of the RA, standard resolutions of the National Assembly of the Republic of Armenia, decrees and orders of the President of the Republic of Armenia, and the decisions of the Government and the Prime Minister must be agreed with other interested parties. In conformity with the information provided by the RA Ministry of Labour and Social Issues, all legal acts concerning the protection of the child/family are subject to impact assessment by the Ministry.²⁸ The drafts of laws related to human rights and fundamental freedoms are referred first to the RA Human Rights Defender for their opinion.²⁹ In conformity with the Decision of the Prime Minister of RA No 1295-N (dated 28th December 2012), the National Commission for the Protection of the Rights of the Child discusses the drafts of standard legal acts regulating the rights and interests of the child and issues opinions on them.

Nevertheless, the gaps in the RA legislation relating to the rights of the child and the lack of effective means for their enforcement demonstrates that the impact assessment on the rights of the child is not done adequately or that the recommendations of the interested bodies are not sufficiently taken into consideration by decision-makers.

²³ Shadow report to the Republic of Armenia 3rd and 4th combined reports on execution of the United Nations' Convention on the Rights of the Child, 2012, <http://www.wvarmenia.am/en/publication>

²⁴ The Report of the RA Human Rights Defender on the Activities of the Defender in 2013 and Violations of Human Rights and Fundamental Freedoms in the Country (2013). Retrieved from www.pashtpan.am on 10 June 2015; results of interviews with member of the Armenian Bar Chamber.

²⁵ Results of interview with representative of the Division of Issues of the Child within the RA Ministry of Labour and Social Issues; Submission to the UN Committee on the Rights of the Child (in advance of reviewing Armenia's 3rd and 4th periodic reports during 62nd-63rd pre-sessional working group in 8-12 October 2012), Partnership for Open Society Initiative

²⁶ Results of the interview with representative of the Division of Issues of the Child within the RA Ministry of Labour and Social Issues.

²⁷ RA Law on Legal Acts, Article 27.1.

²⁸ Results of the interview with representative of the Division of Issues of the Child within the RA MLSI

²⁹ RA President's Decree No PD-174-N dated 18.07.2007, para. 42.

A Comprehensive National Strategy on the Protection of the Rights of the Child

According to the RA Law on the Rights of the Child, the protection of the rights of the child is administered in the manner and timeframe foreseen by the annual programmes on the protection of the rights of the child. The first strategic programme for the protection of the rights of the child of the Republic of Armenia was adopted by the Decision of the RA Government No 1745-N (dated 18th December 2003). In light of this, the RA Government approved the 2004-2015 national program for the protection of the rights of the child of the Republic of Armenia and its action plan. An interagency national commission was established in 2001 for drafting the programme which comprised of the representatives of certain non-governmental organizations (My Right, Orran, Bridge of Hope, Association for the Protection of the Health of the Child, The First to Children).³⁰

The study of the action plan attached to the 2004-2015 strategic program demonstrates that 70 out of 76 actions needed funding. Only 28 out of the 70 actions were granted the required funding from the state budget. In case of other actions, the possible sources of funding were either the international or local organizations or else the state budget funds were indicated as sources of joint funding. Following the adoption of the 2004-2015 strategic programme, a three-tier system of protection of the rights of the child was established in the system of public administration. Furthermore, a number of reforms directed at safeguarding of the social, health, educational and cultural rights of the child were implemented, as well as a number of programmes created to address various issues faced by children.³¹ It was also planned that a unit for the protection of the rights of the child would be established, with a view to conducting additional monitoring and protection of the rights of the child. Nevertheless, the programmes and actions planned were not implemented appropriately in a number of cases, while the three-tier child rights protection system proved ineffective in a number of cases.

In 2003, the Poverty Reduction Strategic Programme was adopted and children got priority in the social assistance programme. Two of the objectives of the 2004-2015 National Programme for the Protection of the Rights of the Child in the RA are the improvement of the children's situation, and the establishment of requirements for ensuring better living standards for children. The implementation of these objectives may also be assessed on the basis of child poverty indicators.

Table 2 :The dynamics of child poverty in 2008-2013 (by their percentage rate)

2008	1.6	29.8	70.2
2009	3.8	35.7	64.3
2010	3.7	41.4	58.6
2011	4.7	41.9	58.1
2012	3.3	36.2	63.8
2013	3.3	37.3	62.7

Source: "The Social Picture of Armenia and Poverty, 2014", RA National Statistical Service

³⁰ The directions within the national programme on the protection of the rights of the child include improvement of the legislation, health care, social security, education, rest, leisure and cultural life, legal violations and justice, methods of oversight and further steps, recommendations made by non-governmental organizations. The programme has set forth a provision on a comparative analysis of the legal acts of the Republic of Armenia regulating the rights of the child specifying the legal acts while the action of improvement of the RA legislation related to the rights of the child.

³¹ Decision of the RA Government No 1273-N dated 13 November 2014.

Statistical data indicates that the proportion of children living in extreme poverty in 2012 and 2013 has remained constant (3.3), while the proportion of poor children increased by 1.1% in 2013 compared with 2012.

This data suggests that the effectiveness of programmes implemented in the direction of overcoming and reducing child poverty is low.

The report submitted to the UN Committee on the Rights of the Child in 2012 by the Partnership for Open Society Initiative states that no significant investment had been made for the implementation of the 2004-2015 national programme,³² and that the programme's implementation had been determined by the priorities of various international organizations and the investments made by them to achieve these objectives. According to reports by UNICEF, only 30% of the actions planned by the 2004-2015 national programme were implemented.³³

Under the Decision 1694-N (dated 2012), the RA Government approved the 2013-2016 strategic programme for the protection of the rights of the child and its action plan.³⁴ 22 out of the 84 actions within the plan do not require funding, for 25 actions out of the remaining 62 funds are to be funded by the RA state budget only. UNICEF reported that a significant number of actions planned by the strategic programme (2013-2016) and other programmes are to be funded from other sources, which demonstrates that the majority of actions are at risk of not being implemented.³⁵

According to the 2013 report on the activities of the RA Ministry of Labour and Social Issues, reforms in the area of the protection of the rights of the child were focussed on implementing the actions planned by the 2013-2016 strategic programme. The 6 orphanages under the Ministry provided care to about 731 children, 506 of which were in specialized orphanages. 750 of these children were from socially vulnerable families in 7 boarding institutions that provide children with care and protection. Services were provided to approximately 300 children in the risk group in 3 day care centres. In compliance with the contract signed between the Ministry and the non-governmental organization "Aravot", 25 children were returned to their biological families in 2013. That same year, assistance was provided to 17 beneficiaries by the Ministry and the NGO Armenian Relief Society through the project "State Support to the Graduates of the RA Child Care Institutions." The programme "Introduction of the Foster Family" was implemented, through which 16 children from orphanages were placed in 15 foster families.³⁶

The UN Committee on the Rights of the Child reported that lack of financial resources prevent the progression of the 2013-2016 strategic programme and its strategies, which depend mostly on funding by international organizations. The Committee expressed regret that the progress of such programmes and strategies is not assessed regularly, and called on the RA to provide all necessary resources to enable effective implementation of the National Programme for the Protection of the Rights of the Child.

Existence of Permanent Mechanisms of Coordination, Oversight and Assessment

The situation analysis conducted for the 2013-2016 strategic programme for the protection of the rights of the child (approved by the Decision of the RA Government No 1694-N dated 27th December 2012) indicated that the three-tier system introduced in the RA in 2005 has certain institutional and structural flaws which affect the effectiveness of policy in this field.

³² Submission to the UN Committee on the Rights of the Child (in advance of reviewing Armenia's 3rd and 4th periodic reports during 62nd-63rd pre-session working group in 8-12 October 2012), Partnership for Open Society Initiative.

³³ Results of the interview with the representative of the UNICEF.

³⁴ A number of programs were adopted in the area of the protection of the rights of the child including the 2006-2010 strategy on the social protection reform of children in difficult life situation, the state strategic program on the reform of the child care institutions, etc.

³⁵ *Ibid.*

³⁶ Report on the Activities of the RA Ministry of Labour and Social Issues. (n.d.). Retrieved from <http://www.mlsa.am/home/company.php?sec=report> on 15 June 2015.



- The actions of the interagency National Commission for the Protection of Child Rights (NCPCR) - the highest tier in the system - are organized with a view to hold discussions but without extensive professional examination of the relevant issues.
- The middle tier of the system of the protection of the rights of the child - the divisions of regional administrations dealing with the issues of the protection of the family, woman and child since 2006 - cannot ensure effective operations given their limited staff, the fact that they operate regionally (the Municipality of Yerevan), have overlapping functions, do not exercise powers with respect to territorial planning of delivered services and coordination of the provision of these services, as well as referral and oversight, including of monitoring and evaluation functions.
- The guardianship and trusteeship bodies, including the guardianship and trusteeship commissions established under them consist of 5-8 people working on a pro bono basis, while the majority of decisions are made without any in depth analysis of the problems of the child or his/her family in a difficult situation and without any consistent follow-up.³⁷

³⁷ Having a statutory problem of identifying children left without parental care, taking care of them, maintaining their register, co-operating with special schools for organizing and implementing care, as well as other child care and protection institutions, the latter do not have the relevant resources to ensure their proper implementation, the powers of taking decisions on issues related to organizing the care of children, defining the schedule of meetings of parents living separately, property-related disputes are not exercised. Neither do these commissions carry out control over the further organization of the protection of the rights of children living with the guardian, or carry out an in depth assessment of the capacity of the guardian family, as a result of which children often find themselves in boarding schools.



In 2012, 45 non-governmental organizations submitted a shadow report, which raised the issues faced by this three-tier system. It was noted that the national commission convened sessions on an irregular basis, the oversight carried out by the commission was insufficient, and there was neither a work plan nor a clear agenda. The shadow report also touched upon the issues related to the activities of the divisions for the protection of the rights of the family, women and children. In particular, it noted that these divisions were the structural subdivisions of the regional administration and were accordingly under it and that their status of a middle tier of the child rights protection system has to be reviewed. The guardianship and trusteeship commissions were described as being the weakest tier of the three-tier system with merely formalistic activities. The report laid down in detail the shortcomings of the commissions as well as clear recommendations.

The report submitted by Partnership for Open Society Initiative to the UN Committee on the Rights of the Child recorded that the majority of decisions adopted by the guardianship and trusteeship commissions were made after having seen the child or the parent once without any in depth analysis or further control.

According to the representative of the World Vision Armenia, considering the shortcomings and problems of the guardianship and trusteeship commissions, it is preferable to work with integrated social services. In this context the organization's priority is to introduce and enhance the role of a social worker, i.e. case manager in communities.³⁸

By its concluding observations (2013), the Committee welcomed the establishment in 2005 of a co-ordinating body and noted at the same time that the National Commission did not perform its co-ordinating function in a sufficiently effective manner. The Committee expressed concerns about the insufficient level

³⁸ Results of the interview with representatives of Child Protection and Education Programmes within World Vision Armenia.

of co-ordination of the activities at ministerial and regional and local self-government level. Measures with a view to supplying the National Assembly with the requisite powers and human, technical and financial resources were recommended.

It should be noted that under the Decision No 1295-N of the RA Prime Minister (dated 28 December 2012), the Decision no 835-N (dated 2005) on establishing a national commission for the protection of the rights of the child, on approving the statute and the composition of the commission. In light of this, a new composition of the national commission for the protection of the rights of the child was approved, which included several NGOs. The new composition of the National Commission was more progressive than the previous one, which did not include representatives of NGO's. The performance of the statutory function of monitoring of state strategic programmes in the area of child protection and the establishment of a monitoring group is also a positive step compared with the previous regulation. However, with regards to the rest of the regulation, no changes have been planned, and the concerns of the UN Committee on the Rights of the Child remain topical.

Budgetary Allocations for Children

In July 2013, the UN Committee on the Rights of the Child expressed concerns about the significant reduction of budget allocated to the education and health care sectors (from 2.1% in 2007 to 1.5% in 2012, and from 3.2% in 2010 to 2.5% in 2012), as well as a lack of information on the approach based on the rights of the child. The Committee recommended that the Government increased the funding of education and health care sectors. Another recommendation was to plan a budget process that takes into account the rights of the child, and would include child-related budget allocations by their relevant indicators, as well as established monitoring and evaluation procedures. However, the advice was not taken. According to the National Statistical Service in RA, the ratio of state budget expenditure to the GDP in 2013 was 1.5 for health care and 2.4 for education.³⁹

The shadow report submitted by the Partnership for Open Society Initiative in 2012 to the UN Committee on the Rights of the Child dealt with the issue of the budget allocations. In particular, it stated that no assessment of the impact of budget allocations or policy was carried out.

System of Data on the Situation of Children

The 2013-2016 RA Strategic Programme for the Protection of the Rights of the Child⁴⁰ suggests that the information provision subsystem is flawed in that it does not include all the necessary information regarding the rights and protection of the child. It does not include collecting information on children with disabilities or victims of violence, children in need of medical and social rehabilitation, care, upbringing and education, as well as victims of trafficking, children affected by familial conflicts, and victims of cruel treatment. Although it is planned to collect data on certain groups of children correspond with the set criteria, for which a relevant indicator exists, the bodies responsible for the distribution of this criteria only provide some of the information. Children that possess the criteria are either ignored or categorized with children in other vulnerable groups. Many of the existing databases of various groups of children have certain shortcomings since data is general and does not allow for differentiating between the necessary sub-indicators for targeted social programmes. The main flaw in the system is the lack of a system for regular collection of disaggregated data on the growth, development, health, behaviour and morbidity of schoolchildren and adolescents (by age and gender), insufficient monitoring of enrolment of children with special education needs, lack of indicators for data collection in the area of juvenile justice.⁴¹

³⁹ *Armenia Statistics Yearbook* (2014) National Statistical Service, retrieved from <http://www.armstat.am/file/doc/99489253.pdf> on 12 May 2015.

⁴⁰ Government of the Republic of Armenia, Decision No 1694-N dated 27.12.2012.

⁴¹ Decision No 1694-N of the Government of the Republic of Armenia dated 27.12.2012.



By its concluding observations adopted in July 2013, the UNCRC recommended once again that the RA Government adopted a comprehensive system for data analysis for assessing the progress in the area of the rights of the child and for developing strategies for the implementation of the Convention.

In 2012, the Partnership for Open Society Initiative submitted a shadow report to the UNCRC that touched upon the problem of data collection on vulnerable children, noting that despite the existence of an electronic database, the collection of such data is not purposive. The data is neither analyzed nor facilitates strategic programmes or actions. There is no procedure for exchange and co-ordination of this information between interested public bodies.

Independent Monitoring Bodies/ Ombuds-Institutions

The RA Law on Human Rights Defender entered into force on 1st January 2004. It foresees the powers, safeguards of independence, and terms of operations of the Human Rights Defender. Accordingly, the Human Rights Defender (hereinafter: the Defender) is an independent public official who protects human rights and freedoms violated by public administration bodies and local self-governments, and is governed by the fundamental principles of legality, social coexistence and social justice. The RA legislation does not foresee the establishment of a separate independent institution on the rights of the child. The chief advisor of the Defender is responsible for identifying issues that threaten the rights of the child, for recommending solutions, and for raising awareness within the state, all the while co-operating with state agencies and non-governmental organizations.

Infrequent applications to the Human Rights Defender by children were accounted for by the lack of awareness, as well as the limited nature of the Defender's powers. The Advisor also raised the issue of the lack of resources, in particular the fact that one person is not enough to carry out rapid response to the existing problems. According to the annual report of the Human Rights Defenders of 2013, 50 complaints were received from children, which mainly concerned social security, education and health care. There was also a complaint by a parent whose child's right to freedom of religion expression was threatened at school by fellow students and teachers. The advisor also mentioned that there were complaints related indirectly to the rights of the child, but these were not included in the above list.⁴² According to UNICEF, the Ombudsman's institution was an important partner for them.⁴³

3.1.2 Civil Rights and Freedoms: Right to Registration, Name and Nationality and Preservation of the Identity

Registration of Births

The registration of a child's birth is pivotal in terms of ensuring his or her rights. According to Article 7 of the Convention on the Rights of the Child, the child must be registered immediately after birth and have the right from birth to a name and to a nationality. A child whose birth is not registered is actually deprived of the elementary opportunities of health care, social security and education, and is more vulnerable to violence and trafficking.

In compliance with the social survey conducted in 2009 by the Armenian Relief Society on non-registered children, interviews held at 1330 households in the regions of Yerevan, Gegharkounik and Shirak revealed that in 97 families there were 126 children with no state registration of the birth, and 19 unregistered children in child care institutions. 35 of the 126 children were born at home rather than in hospital. According to the place of birth, 112 children were born in Armenia, and 33 children were born outside of Armenia. 39.9% of the failure to register the births was due to parents not possessing ID (registration, passport), 13.8 % was due to red tape related to birth registration, 12.5% was due to the family's difficult social situation, 9.8% was due to absence of the parent, and 9.7% was due to indifference of the parents. 3.5% blamed the failure to register birth on unlawful demands for money, 11.3% on lack of awareness regarding child registration and 9.5% indicated other reasons.

The shadow report submitted to the UN Committee for the Rights of the Child by 45 non-governmental organizations noted that there were children in Armenia who did not have birth certificates and that there was no system of unified statistics on children with no birth certificates.⁴⁴

In 2010, legislative amendments were drafted with a view to preventing and detecting unregistered births. For instance, the RA Law on Civil Registration Acts sets forth that if a declaration on the birth of a child is impossible, a written declaration on the birth of the child for civil registration is submitted by the head of the community or an authorized person. By an amendment in the RA Law on Local Self-Government, it was decided that the head of the community is to identify when births are not registered in his/her community, and ensure the state registration of these births, and by law must submit a written declaration on the state registration of the birth of the child. A similar provision was also set forth in the RA Law on Local Self-Government in the city of Yerevan.

In 2011 an amendment was made to the statute of the guardianship and trusteeship bodies to include detecting and registering unregistered births. It set forth that the guardianship and trusteeship bodies had to detect the cases of non-registration of the birth of the child in communities as prescribed by law, and notify the regional governor and register the birth.

⁴² Results of the interview with representative of RA Human Rights Defender.

⁴³ Results of the interview with a UNICEF representative.

⁴⁴ Alternative report to the Republic of Armenia 3rd and 4th joint regular reports on execution of the United Nations' Convention on the Rights of the Child (2012), Retrieved from <http://www.wvarmenia.am/en/publication> on 12 December 2014.

According to data procured from the Study on the Demography and Health in Armenia - 2010 conducted in 2012 by the RA National Statistical Service and the RA Ministry of Health Care, there was a tenfold decrease in the number of unregistered births in 5 years (4% in 2005 and 0.4% in 2010), the rate of home births decreased considerably (9% in 2000, 3% in 2005 and 1% in 2010). There was a significant improvement at a regional level (e.g. 2% in Gegharkounik in 2010 compared with 16% in 2005).⁴⁵

Stateless Children

According to the Convention on the Rights of the Child, a child has a right to a name and nationality from birth (Article 6 of the RA Law on the Rights of the Child). The States Parties ensure that the exercising of these rights falls in line with their domestic legislation and obligations undertaken by the relevant international tools, particularly in cases where a child will otherwise not have a nationality.

In 2013, the Office of the United Nations High Commissioner for Refugees conducted a study to assess RA's nationality legislation in order to conform to standards set forth in the 1961 Convention on the Reduction of Statelessness and the key international and regional tools on statelessness.

The main shortcomings identified during the study could be summed up as follows: the definition of the stateless person according to the RA legislation did not conform with that of the 1954 Convention Relating to the Status of Stateless Persons; there is no national procedure for the determination of statelessness; certain categories of stateless persons were missing from the current regime of granting documents and a status. These include persons who have entered or remained in Armenia illegally, as well as persons who have arrived in Armenia with travel documents of a stateless person issued by another state. The RA legislation does not foresee a provision on issuing ID to any stateless person in the territory of the RA. The travel documents issued to stateless persons in Armenia do not conform with the requirements prescribed by the Annex of the 1954 Convention Relating to the Status of Stateless Persons. It was stated that there were shortcomings in the provisions relating to the acquisition and loss of the RA nationality, as well as on stateless persons.⁴⁶ On the basis of the outcomes of the study, a draft law on the amendments and supplements to the RA Law on the Nationality of the Republic of Armenia was developed, approved by the Government and submitted to the National Assembly.

The legislative amendments will allow, in particular, for incapable persons to apply for nationality through their guardians and a procedure for the acquisition of the Armenian nationality by a child in case of the absence of the parents' consent (Article 16 of the Law). The issue of nationality of children under guardianship or trusteeship has been regulated. However, there is no condition for denouncing nationality for children based on the parent's application (a child must have a nationality of another state or a written confirmation on the acquisition thereof). A number of other regulations have been foreseen. On 19th May 2014, the draft was included in the agenda of the four-day session. Apart from the regulation of the legislative gaps, there are such problems in the law enforcement practice, which also prevent the exercising of rights to Armenian nationality.⁴⁷

According to the data of the 2011 census, 396 people considered themselves as not having RA nationality, and 363 stateless persons from the population were not living permanently in their permanent places of residence.⁴⁸

With regards to the Council of Europe conventions regulating nationality, the RA did not join the key conventions in this area. For example, no step has so far been taken by the RA Government towards joining the 1997 European Convention on Nationality (which became effective in 2000) and the Convention on the Avoidance of Statelessness in relation to State Succession.

⁴⁵ Armenia Demographic and Health Survey (2010) National Statistical Service of RA. Retrieved from <http://www.armstat.am/en/?nid=80&id=1338> on 12 December 2014.

⁴⁶ The Issues of Nationality and Statelessness in Armenia (2013) UNHCR.

⁴⁷ *Ibid.*

⁴⁸ *The results of census of Republic of Armenia of 2011*. Statistical Service of Armenia. Retrieved from <http://www.armstat.am/en/?nid=337> on December 2, 2014.



Name of the Child

In conformity with Article 45 of the RA Family Code, the child's family name is determined by the parents' family name. If parents have different family names, with the parents' consent s/he is given the family name of the mother or father (the given provision was stipulated by Article 18 of the RA Law on Civil Registration Acts). *In case of disagreement between parents regarding the first and family name of the child, this is resolved by the guardianship and trusteeship body.*

In conformity with paragraph 9 of Annex 2 of the Order No 97-N of the RA Minister of Justice (dated 14 May 2007) on Approving the Mandatory Instructions Relating to the Notes on Civil Registration Acts (hereinafter: the Order) in case of registering the determination of fatherhood based on the joint application of the parents, the name and family name of the child is determined upon the parents' consent. *In case of a lack of consent, then the guardianship and trusteeship body decides.* In case of registering determination of fatherhood on the basis of the father's application, the family name of the child is determined by the father's instruction. Paragraph 6 of the Order sets forth that in case of a court decision which has lawfully entered into force on determination of fatherhood or recognition of the fact of fatherhood, the information of the child's father are used to fill in the registration act on determination of fatherhood, pending court judgment. The family name of the child is registered under instruction of the applicant's (parent's). In case of a disagreement between parents, the family name is registered under instruction of the guardianship and trusteeship body.

Therefore, any disagreements between parents on the name and family name of the child are resolved by the guardianship and trusteeship body. The issues with this are as follows:

- There are no clear criteria to guide the guardianship and trusteeship body on making the decision.
- The legislation does not require that the outcome of the guardianship and trusteeship body's decision has to be duly substantiated. Moreover, it does not even need to be in writing.
- There is no procedure for the guardianship and trusteeship body to follow when issuing an instruction (i.e. whether it is necessary to listen to the parties, to assess their arguments, etc), and there are no clear timeframes for issuing such instructions.
- Due to these shortcomings that are encountered in the case of a disagreement between parents on the selection of the name of the child, there may be delays in the issuing of instructions by the guardianship and trusteeship bodies. Without clear regulations, there is also risk of corruption.



3.1.3. Child Participation

Challenges of ensuring that the rights of schoolchildren are met include (a) poor performance and capabilities of students, (b) low socio-economic status of the families, (c) preference of vocational training and (d) marriage. There are certain cases where children happen to be engaged in work to support families' livelihood due to hard socio-economic situation.

Most often, schoolchildren discuss with their parents which high school to select by considering in detail the subjects taught as well as the reputation of the school. This is true especially for local children. Comparatively, students from Syrian displaced families select primarily schools with appropriate language and tolerant environment. These children often drop out of or change school due to discriminative attitude demonstrated by teachers and peers.

Usually, children's participation in family decision-making is limited to study progress, leisure activities, and clothes preference, as well as choice of career. Other important family issues usually are not discussed with children. This situation becomes more problematic considering the fact that in most cases children support the idea that they should not be involved in the "adult-relevant" decision-making process.

With regards to the participation of children in school policy-making, only establishments of formal Student Councils within schools can be outlined. However, these Councils usually do not function as they should or as they are expected to. Moreover, teachers' councils also do not ensure children participation in school governance in any way.

At the same time, schoolchildren are mainly not aware of their right to form any legal group or association. Schoolchildren are not aware of opportunities to participate in local municipalities decisions that impact children. On the contrary, their suggestions are usually ignored or the implementation is challenged.

Recommendations

- Sign and ratify the Optional Protocol to the UNCRC on a Communications Procedure.
- Ratify the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the UN International Convention on the Protection of the Rights of All Migrant Workers and their Family Members and the European Convention on the Adoption of Children (revised).
- Examine the issues of the reservations made upon the international treaties ratified by the RA.
- In depth study of the international obligations undertaken by the RA in the area of the rights of the child, how to implement these on the basis of the comments of the relevant treaty bodies, decisions adopted on individual communications, reports, concluding observations, and judgments by the European Court of Human Rights.
- Comprehensive review of the RA legislation concerning children's rights, accounting for requirements of the RA international treaties, as well as the recommendations of international organizations, international treaty bodies and NGOs.
- Drafting and adoption of legislative amendments based on the results of these studies.
- Define by the RA Law on Legal Acts a requirement on impact assessment of the legal act on the rights of the child.
- Set and apply viable procedures for the detection of unregistered births, and raise public awareness of the issue.
- Work with all competent public agencies and local self-government bodies to detect and prevent unregistered births.
- Work with NGO's (including those in the field of the rights of the child and national minorities) operating in communities to detect and prevent unregistered births.
- Take account of the low effectiveness of the guardianship and trusteeship bodies' procedures (including introduction of financial and human resources) in order to detect unregistered births at the community level, and enable registration.
- Take steps towards the urgent adoption of the draft RA law on amendments and supplements to the RA Law on Nationality of the Republic of Armenia included in the NA agenda.

- Establish a procedure for registering stateless persons.
- Raise public awareness of the issue with an aim to eliminate statelessness.
- Carry out professional training programmes for territorial passport services on the procedures nationality acquisition. Also advise on assistance by the relevant parties.
- Sign and ratify the 1997 European Convention on Nationality and the Convention on the Avoidance of Statelessness in relation to State Succession.
- Introduce a unified system for collecting statistical data on unregistered births.
- Set clear criteria according to the legislation with an aim to clarify the procedure for issuing instructions by the guardianship and trusteeship body.
- Set requirements for the guardianship and trusteeship bodies to issue instructions that are duly reasoned.
- Set procedures and timeframes for the guardianship and trusteeship bodies to follow when issuing instructions.

3.2 CHILD PROTECTION

3.2.1 Child Protection Including the Family Environment

Parental guidance

In conformity with Article 41(2) of the RA Family Code,⁴⁹ every child has a right to be brought up within a family, to know his/her parents, to be cared for by them (where possible), to live with them (except when this may conflict with the interests of the child). In case of absent parents, being deprived of parental rights and parental care, the above rights are fulfilled by the guardianship and trusteeship body. In the RA, the responsibility of parents, other family members and other persons is stated in the RA Code of Administrative Violations⁵⁰ and the RA Criminal Code.⁵¹

Administrative liability for parents negatively influencing the child's development is set under Articles 177 and 178 as a fine in the amount of 20 000 or 30 000 AMD, while the statistics on crimes against the child are as in Table 3:

Table 3: Number of Crimes Against Children⁵²

RA CC	2003	2004	2005	2006	2007	2008	2009	2010
Art 165	35	32	26	25	20	16	11	21
Art 166	2	3	1	1		2		1
Art 167				1				1
Art 168	1		2		6	9	6	1
Art 169¹						3	2	10
Art 173	3	2	6	3	6	2	1	3
Total	41	37	35	30	32	32	20	37

⁴⁹ Hereinafter: the RA FC, adopted on 9 November 2004 and last amended on 30 April 2013.

⁵⁰ Hereinafter: the RA CAV, adopted on 6 December 1985 and last amended on 20 November 2014. The RA CAV foresees the following 2 articles: 177 – Making a minor drunk and 178 – Failure by Parents or Persons Substituting them to Perform their Duties in Respect of the Upbringing and Education of the Child.

⁵¹ Hereinafter: the RA CC, adopted on 18 April 2003 and last amended on 21 June 2014. Chapter 20 of the RA CC – Crimes against the Interests of the Family and the Child – foresees 10 crimes.

⁵² Info brief concerning the state of prosecutorial control over the inquiry and preliminary investigation of crimes against the interests of the family and the child, the practice of defending the charge in courts, Yerevan, 2011, p. 6.



No criminal cases were recorded under Articles 169, 170, 171, 172 and 174 of the RA Criminal Code. With regards to the right of the child to live in a family environment, it should be noted that in Armenia the care and upbringing of children left without parental care⁵³ is still not ideal. This notion is supported by data submitted by the RA MLSI. Thus, in 2013 the number of registered children in Armenia was 695068, of which 325235 were girls and 369833 - boys.⁵⁴ The majority of these children – more than 99% - lived in a family, some in orphanages (0.105%), and the remaining children (0.108%) lived in boarding schools.

Separation from parents

There may be grounds for one or both parents having their parental rights withdrawn, as per Article 59 of the RA Family Code. According to Article 42 of the RA Family Code, in case of parents living separately (in different states), a child has a right to communicate with both of them. A child in an emergency situation (arrested, detained, placed in a medical institution etc) has a right to communicate with his/her parents and close relatives. Similarly, a parent in an emergency situation has a right to communicate with his/her child in the manner prescribed by law. The latter is dealt with by the RA Penitentiary Code in relation to convicts, and the RA Law on Arrested and Detained Persons. The procedure for visits is set by the Decision of the RA Government No 1543-N (dated 3 August 2006) on Approving the Rules of Procedure for Detention Centres and Correctional Institutions. With regards to the protection of children that have lost the breadwinner, in conformity with Article 27 of the RA Law on the Rights of the Child, the child has the right to a pension. The assignment and payment of this pension must follow the RA legislation, while the RA Law on State Pensions prescribes that the types of pensions include the pension granted in the event of a loss of the breadwinner – both as an employment pension and as a military pension. According to Article 13 (1) (1) of the above Law, an employment pension is granted to the children of the deceased breadwinner under 18. The assignment and payment of a benefit in case of a loss of the breadwinner is prescribed by the Decision of the RA Government No 635-N (dated 26 June 2014).

The majority of respondents indicated that limiting or withdrawing parental rights is a lengthy process with bureaucratic red tape. Therefore, the number of such cases filed by the court is low, especially in RA provinces. In the RA, 45 complaints were filed with the court appealing for the withdrawal of parental rights in 2013, of which only 9 were granted. In 2012, only 17 out of the 48 filed complaints were granted.⁵⁵

Considering the importance of the issue, the RA Cassation Court passed a decision in a civil case, which became precedential on 23 March 2012 (EAQD/0474/02/11) in which the RA Cassation Court differentiates between legality and protection of the interests of the child and calls on lower courts to protect the interests of the child in an effective manner. The RA Cassation Court articulated its views on limiting the parental rights in civil cases No EADD /1513/02/08 and EAQD/1095/02/08.

People also appeal to court to restore parental rights. In 2013, 3 such complaints were filed and were all rejected. However, in 2012 the only 2 complaints filed were granted.⁵⁶

Regarding the cases of detention and prison sentences, in practice no problems arise in the area of ensuring the link between parents and children. Minors sentenced to detention or imprisonment are allowed meetings with their parents or guardian. By 20 December 2014, 2 minor convicts had been held in “Abovyan” penitentiary,⁵⁷ and their parents paid regular visits to the penitentiary to meet their children. If the detained or imprisoned person is the parent, then meetings are permitted if the convict’s child visits the penitentiary accompanied by an adult. However, if the child is also placed in a state institution, then organising a visit becomes complicated, as the staff members of the state institution are not obligated to accompany a child to the penitentiary. The Law allows a convict to remain in a penitentiary with a child under 3, and this is effectuated in practice, especially in “Abovyan” penitentiary, which is well equipped with rooms for mothers and children. By 20 December 2014, 3 children of 3 convicted women had been taken

⁵³ Hereinafter: CLPC.

⁵⁴ www.armstat.am

⁵⁵ Judicial Practice (2015). Retrieved from http://court.am/?l=lo&id=50&cat_id=0&page_num=1 on 15 November 2014

⁵⁶ Judicial Practice (2015). Retrieved from http://court.am/?l=lo&id=50&cat_id=0&page_num=1 on 15 November 2014

⁵⁷ Hereinafter: the Penitentiary.

care of at this penitentiary. No party will agree on the cohabitation of the convicted woman and her child, given the fact that both the length of cohabitation and the permissible age of the child are set on the basis of the assessments made, the actual practice and the viewpoints related to the matter in question.⁵⁸

In case of a loss of a breadwinner, the State assumes the duty to provide a pension to the child. The significance of this pension is determined by taking into account the RA Government Decision No 815-N (dated 17 July 2014), Decision No 895-N (dated 28 August 2014), etc. According to the data of the RA State Statistical Service, the overall number of beneficiaries of the pension for the loss of the breadwinner in 2013 was 2400, 2800 in 2012, and 3300 in 2011.⁵⁹ This decrease was caused by the children of parents killed during the war in Karabagh turning 18 and being removed from the beneficiaries' list.

Family reunification

In conformity with Article 42(1) of the RA FC, termination or annulment of the marriage of parents or their separation does not affect on the rights of the child. When parents live separately (e.g. in different states) the child maintains the right to communicate with both of them. Since a refugee child or the child of a refugee may also appear in such a situation, this issue will be analyzed under Article 22 of the Convention. In conformity with Article 10(1) of the RA Law on Aliens, the following are the types of visa for entry to the RA: a visitor's visa for the family reunification (in cases foreseen under sub-paragraphs "c" and "d" of paragraph 1 of Article 15 of this Law).⁶⁰ In conformity with paragraph 2 of Article 8 of this Law, granting of an entry visa to a foreigner (visa extension) may be rejected and the granted visa declared ineffective or a person's entry to the RA prohibited, if s/he is convicted in the RA under the RA CC for having committed a significant crime and the conviction has not been lifted or expired in due manner. However, this provision does not apply to persons having close relatives (e.g. spouse, child, parent, sibling etc.) in Armenia.

Considering the extensive campaigns aimed at family reunification carried out by international organizations (UN High Commissioner for Refugees, International Organization of Migration, etc.) and the State Migration Service (SMS)⁶¹, experts note that no problems have been recorded in this field. The RA SMS has not dismissed the applications submitted for family reunification. According to the information received from the RA SMS, only one case of an unaccompanied child was registered in 2010 when a 17-year-old child appeared in the RA from Mali.

Changes have been made to the practical aspects of the regulation of the transfer of children to other states. In conformation with the rules of the RA passport system and the amendments made to the Decision of the RA Government No 821 dated 25 December 1998 on approving the passport description of the Armenian national on 23 June 2011, all Armenian nationals must receive an RA passport at the age of 16 regardless of their place of residence. Armenian nationals under 16 acquire the RA passport if they wish, pending application from a parent or a legal representative. Since a valid RA passport enables the legal crossing of the RA border, a child cannot be prevented by crossing the border accompanied by one of the parents. In other words, the other parent may remain unaware of the child's transfer. Therefore, it is necessary to develop procedures for the return of the child and the fulfilment of the rights of the other parent.

Parental responsibilities and state assistance

The analysis of paragraphs 1 and 2 of Article 18 of the Convention was included in the analysis of Articles 5 and 9 of the Convention. With regards to the right of working parents, a number of articles of the RA Labour Code plans privileges for working parents taking care of children less than 1 or 3 years

⁵⁸ Европейские пенитенциарные правила (рекомендация №R (87)3). Выпуск 2/ Ред. совет Ю. К. Александров и др. М. 1999, стр. 57.

⁵⁹ Living Standards and Social Sphere. (2014). p. 33. Retrieved from http://armstat.am/file/article/armenia_14_5.pdf on 12 November 2014.

⁶⁰ These circumstances are: the spouse, parent or child of a foreigner having the status of a temporary RA resident or the spouse or the close relative (parent, child, brother, sister, grandmother, grandfather, grandchild) of an RA national having a permanent or a special residence status.

⁶¹ Hereinafter: RA SMS.

old⁶². However, if parents work, then pre-school education needs to be organized at the expense of the state. The number of preschool education establishments and the children attending them is presented in the Table 4⁶³.

Table 4: Number of preschool education establishments and the children attending

Number of preschool education establishments	660	683	697
In towns	419	421	422
In villages	241	262	275
Number of children attending preschool education establishments, 1,000 children	63.5	69.5	68.9
In towns	52.4	56.3	55.2
In villages	11.1	13.2	13.7

The waiting lists for state pre-school education establishments means that some parents are obliged to enrol their children in private establishments. Apart from this, the state policy is ineffective at dealing with this issue, as the overcrowding in establishments under the RA provinces and the municipality of Yerevan results in children dropping out of pre-school programmes rather than pay for private establishments. Data received during interviews based on the upbringing of children showed that there were cases of violation of children's rights in these establishments, including disciplinary beatings, discrimination of different social groups, inadequate treatment of children with special needs, etc. However, representatives of some structures insist that such incidents are non-existent in Armenia.

Protection from all forms of violence

In conformity with Article 9 of the RA Law on the Rights of the Child, every child has a right to protection from any form of violence (physical, psychological, etc.). Anyone, including the parents or other legal representatives, is prohibited from subjecting a child to violence or degrading punishment or treatment. The State and the relevant institutions protect the child from any form of violence, abuse, involvement in criminal activities, including use of drugs, involvement in their production or trade, begging, prostitution, gambling and other violations of his/her rights and lawful interests. Crimes against the health of the child are not separated in the RA CC and are considered within the general context of crimes against human health or as an exacerbating circumstance, while sexual violence and trafficking in children or child abuse fall under separate articles. The legislation related to sex crimes against children considerably improved on 23 December 2013. Children are also protected from abuse. In particular, under Article 132.2 of the RA CC, trafficking or abuse of children is deemed a severe crime. In contrast to trafficking in adults, the article does not include the ways of commission of the crime. Therefore, trafficking or abuse of a child is deemed to be completed regardless of whether violence is not life threatening to the child, violence is threatened, the child is deceived or abused in any other way.

When it comes to protecting the child from insult, absence of care, indifference or rude treatment, legislation is unclear. In particular, an attempt to outline these and tackle them was made under the draft RA Law on Prevention of Family Violence, which is currently undergoing further drafting. There is no other relevant legal act in the RA.

⁶² An incomplete working day or an incomplete working week is appointed upon the demand of a person taking care of a child under 1 (Article 141), a person taking care of a child under 3 may be involved in night work upon their consent (Article 148), persons taking care of a child under 1 may be involved in work during holidays or commemoration days upon their consent (156).

⁶³ Living Standards and Social Sphere. (2014). p. 37. Retrieved from http://armstat.am/file/article/armenia_14_5.pdf on 12 November 2014.

It should be noted that not all incidents of violence are punishable under criminal law in the RA. Therefore, the official published statistics reflect only the part related to criminal manifestation of violence, whereas in the RA, the most frequent manifestations of violence are those not punishable under criminal law (neglect, single hitting, psychological violence, etc.). Any manifestation of violence against the child is conditioned by the fact that the child is either not fully or only partially perceived as an individual by the society. Unfortunately, children are still subjected to physical or psychologically violence as methods of upbringing.

Regarding incidents of violence against children that are punishable under criminal law, statistics show that the following crimes are committed on children: crimes foreseen under Article 112 of the RA CC (intentionally causing serious damage to health), Article 119 (torture), Article 131 (abduction), sex crimes (the most widespread crimes. In 2004-2014, about 140 criminal cases were recorded involving sex crimes against children, in 7 cases the criminal was a minor. There is also an increase in abuse of children in prostitution and begging in Armenia. Since 2011, 11 cases of child trafficking or abuse were registered.⁶⁴ All cases of abuse in begging were committed on respect of boys, and one on a minor girl⁶⁵, who was abused by her mother's boyfriend. In all cases of sexual abuse the victims were girls.⁶⁶ Although the State applies clear methods for fighting violence against children that is punishable under criminal law, they are ineffective at protecting children from violence that is not deemed punishable under criminal law. In some cases, incidents subject to private prosecution (beating, intentional causing of a minor damage to health) are not effectively investigated.

In conformity with paragraph 53 of the Decision of the RA Government No 303-N (dated 27 February 2014), it is necessary to develop a concept on the fight against violence against children and its action plan when approving the action plan annexed to the National Human Rights Protection Strategy. The bodies in charge of this action are the RA MLSI and the RA Police, and they are obliged to present a single comprehensive document.

The institutions in charge of the care of the child do not have regulations, which would regulate relations with the child in the interest of child protection. The absence of a national child referral procedure with a view to protection from violence also contributes to the existing undesirable situation. In practice, "professionals" apply the methods of chiding, subjugation and other authoritarian methods. The expressions and the wording used by some of the staff to describe children and their parents are a violation in both ethical and professional terms. In all institutions, the "basket" of punishments is diverse: in addition to widespread methods of "putting in the corner," "shouting," "pulling on the ears," "beating", there are also methods such as "swearing," "closing in a dark place," "removing from school" (the latter one being a rare case), as well as other non-standard forms, such as ignoring the child in a classroom, prohibiting a child from seeing a psychologist, ignoring the child's greeting, scoring them a low grade, assigning more homework, depriving of food. Interestingly, the majority of children are instilled with the feeling that the above punishments are justified.⁶⁷

Children deprived of family environment

In conformity with Paragraph 1 of Article 109 of the RA FC, in the event of the death of the parents, depriving them of their parental rights, limiting the parental rights, recognizing the parents as incapacitated, avoidance by parents of the upbringing of the child or the protection of their rights and interests (including refusal by parents to take their children from educational, medical, social protection or any other similar organization), as well as in other cases of absence of parental care, the protection of the rights and interests of the child becomes the responsibility of the guardianship and trusteeship bodies. The guardianship and trusteeship bodies identify those children are without parental care, maintain the register of such children, record the reasons for their being deprived of parental care and choose forms of placement of these

⁶⁴ ԵԹԲԴ/0054/01/09 criminal case, ԵԷԴ/0079/01/09 criminal case, etc.

⁶⁵ ԵՇԴ/0026/01/12 criminal case.

⁶⁶ For example, criminal cases ԵԿԴ/0164/01/13, ԵՇԴ/0052/01/12, ԿԴԻ/0082/01/13, ԵՄԴ/0129/01/11, ԼԴ/0050/01/13, etc.

⁶⁷ Report of the monitoring of special education institutions, (2013), p. 10.

children. By its decision No 164-N (dated 24 February 2011), the RA Government approved the statute of the guardianship and trusteeship bodies, which prescribes in detail not only their functions, tasks and cooperation with other bodies, but also the rights and duties of these bodies (paragraph 14). The State assumes the care of children left without parental care by organizing guardianship, adoption, placement in a state institution or handover to an appropriate family.

In the RA MLSI system there are 6 round-o'clock care orphanages, of which 3 are general orphanages and 3 are special orphanages. At present, the number of children in these orphanages is 731, including 506 in special orphanages. In the RA MLSI system, there are 8 child care and protection boarding institutions, which are in charge of the care and upbringing of the children aged 6-18 registered as being socially insecure families. At present, about 750 children from socially vulnerable families receive care in child care and protection boarding institutions. In the RA MLSI system, two social care centres operate that provide care and social assistance to children in risk groups by providing educational, health care, socio-psychological services and advice, as well as activities directed at the solution of the problems of children in difficult life situation. Each centre provides day care and education to 100 children.⁶⁸ In the special institutions of the RA, 2106 children receive care/education, of which 1081 are boys.⁶⁹

In conformity with the report of the monitoring of special education institutions, formation of 'the self' in case of children placed in special education institutions is more complicated, particularly in suppressing their individuality. For instance, the institution believes that its only task is to exercise the child's right to education. However, it is impossible to exercise the right to education independently from other rights. It is worrying that the institutions have adopted such a non-holistic approach when working with children: it becomes even more complicated due to insufficient human resource, as well as inadequate co-operation with related social structures.⁷⁰

The living conditions, including the exterior of the buildings and the approaches of the staff in special institutions are not adequate for children. Children without their families or in a situation that goes against their best interests must receive special support in order to overcome the situation. Opinions expressed during interviews showed that the conditions in these institutions must make the child want to stay. Even colours must be attractive and soothing, while the professionals must be trained and assessed in the care of children.

According to paragraph 46 of the RA Government Decision N303-N (dated 27 February 2014) on approving the Action Plan of the National Human Rights Protection Strategy, the RA MLSI must submit recommendations to the RA Government for the reorganization of alternative services of the institutions that provide round-o'clock care and protection. It was noted during interviews that the institutions of care are not adequate for children, as living in a large group children causes them to lose their autonomy and in the future have problems in creating a family and in forming an opinion (especially if this opinion is different from that of others). Only boys in these institutions succeed, as they are exposed to army conditions within just two years. In Armenia, there is a need to differentiate between registered guardianship and unregistered guardianship. In the latter case, a close relative simply takes charge of the upbringing of the child without any official registration in view of the fact that registration is "formal" and is necessary in exceptional circumstances for possible contacts with state and local self-government bodies.

Adoption

According to Article 112 of the RA FC, adoption is a legal act, as a result of which the adopters and the adopted assume rights and duties foreseen by law for parents and children. Adoption is considered to be a preferable form of placement of children without parental care. Adoption of children of Armenian nationality by foreign nationals and stateless persons, as well as the RA nationals living outside Armenia, is

⁶⁸ Family, Women and Children Affairs / Statistics. (2015). Retrieved from http://www.mlsa.am/home/index.php?menu_id=110&child_id=128&code_id=200 on 5 December 2014.

⁶⁹ Report of the monitoring of special education institutions, (2013), p. 8:

⁷⁰ *Ibid*, pages 9-10.



allowed only in cases when it is not possible to either place these children in a family of Armenian nationals habitually residing in the territory of the RA or for these children to be adopted by their relatives. In conformity with Article 113 of the RA FC, adoption is allowed by the court depending upon the application of the person(s) wishing to adopt the child. Examination of the case for approving the adoption of the child is undertaken by the court according to the rules of the special procedure, as prescribed by the RA Civil Procedure Code. The adoption of a child requires the approval of the RA regional governor's office (Yerevan municipality) on the grounds of adoption and the compliance of this adoption with the interests of the child by indicating the best way to establish personal contact between the adopted child and the adopter(s). In conformity with Article 121 of the RA FC when adopting a child at and above the age of 10, the child's consent is mandatory.

One of the key problems in the area of child protection is adoption, which, along with its humanistic aspect, may lead to violation of child rights, in particular child abuse, sexual abuse, beatings or other form of violence. The highlight of Chapter 20 of the RA Criminal Code is Article 168, which has previously foreseen liability for the sale of children, and since 2011 it foresees liability for the purchase of a child with a view to assuming his/her care and his/her sale to the person undertaking care. Both the buyer and the seller of the child must be held liable.

According to the RA Judicial Department, in 2012, 99 applications were submitted for the adoption of a child, of which 96 were granted. In 2013, 82 applications were filed, of which 79 were granted. Adoption is not always a positive experience for the adopted child, as suggested by cases where the adoption was

terminated. In 2012, 16 applications were filed for the termination of the adoption, of which 8 were granted, and in 2013, 21 applications were filed, of which 13 were granted.⁷¹

According to the data of the RA MLSI, in 2013, the number of potential adopters was 245, of which 101 were RA nationals, while 144 were not. The number of children applicable for adoption was 109, the number of adopted children was 47 (20 by Armenian nationals and 27 by foreign nationals).⁷² In the RA, adoption is the main form of guardianship, but the 21 terminated adoptions in 2 years suggest that the adopters had committed an act listed under Article 130 of the RA FC. Taking this into consideration, it seems that there is a need to review adoption as being the main form of guardianship in the child's best interests.

Review of treatment in care

In conformity with Article 7 of the RA Law on the Rights of the Child, every child has a right to protection of their health. The relevant state authorities ensure a child's access to free of charge or privileged health services within the framework of annual targeted health programmes. If the parents of a child placed in an institution are unknown, then these bodies apply to the RA Police, and the latter, under Article 11 of the RA Law on Police must detect these persons, and in conformity with Article 28 of the Law, the Police may use without charge the mass media owned by the state with a view to identifying the parents. A child is not considered an orphan if his/her parents are not identified, unless no information on their whereabouts is found within one year (under Article 44 of the RA Civil Code)⁷³. The parents are then legally recognized as unknown absentee, upon the application of the interested persons. Only then can a child be adopted or his/her care taken with his/her involvement. Furthermore, if the unknown absentee is discovered, this entails annulment of the adoption.

By its decision No 1735-N (dated 9 November 2006), the Government approved the procedure for placing children in child care and protection institutions. According to paragraph 4 of the procedure for placing children in orphanages, children are placed in orphanages from medical institutions, RA Police institutions, families and round-o'clock institutions of temporary placement of children.

Within 3 months, the head of the territorial body of the RA Police notifies in writing the institution where the child is placed on the detection or failure to detect his/her parent (parents). According to paragraph 23 of the same procedure, the child placed in an orphanage is returned to parents on the basis of their application and the approval of the regional administration of the place of the parents' residence and in case of Yerevan – Yerevan municipality. In conformity with paragraph 4 of the order of placement of children in child care and protection boarding institutions, to place a child in a boarding institution, the child's parent or legal representative applies to the regional administration of the place of the child's residence, and in Yerevan – to Yerevan municipality. The procedure for removing the child from such an institution is the same.

By its decision No 318-N (dated 4 March 2004), the RA Government approved the insecure and special groups of the population entitled to free of charge or privileged medical assistance and services, which also include children under 7, children with disability under 18, children left without parental care between the ages of 18-23, children under 8 and at 12 for specialized dental services, children under 18 - under dispensary control, children with one parent and children in orphanages.

The procedure of placement of children in special institutions is by and large a process without complications compared to the complicated procedure of taking children out of such institutions. Sometimes the parent who has a right to take the child out of the institution faces difficulties. Once the child has already been deemed to be without parental care, the parent must first prove his/her rights in respect

⁷¹ Judicial Practice. (2015). Retrieved from http://court.am/?l=lo&id=50&cat_id=0&page_num=1 on 5 December 2014

⁷² The information was taken from the website of the MLSA: http://www.mlsa.am/home/index.php?menu_id=110&child_id=128&code_id=200.

⁷³ If it is impossible to determine the last day when information was received on the absentee, the start of the time for recognizing an unknown absentee is the first day of the month following the month when last information about the unknown absentee was received, and if this month is impossible to determine, then 1 January of next year.

of the child, and only then are allowed to take him/her. However, when the child is in a boarding school, parents encounter no obstacles for removing the child. Even when the staff of the institution believes that leaving the child with the parent is not in the child's best interests, s/he is unable to take action. As noted during the interview, this is due to the fact that "the state has responsibility for the upbringing and care of the child, but it leaves all rights of the child with the parent." Sometimes, the parent even "abuses" the parenthood, which obstructs the adoption of the child or any other action deemed to be in the interests of the child.

Regarding taking a child out of a medical institution, practical problems are uncommon. According to statistics, in the RA the number of cots for child patients in 2011 was enough for 20300 children, 20800 in 2012, and 20600 in 2013.⁷⁴

Adequate standard of living

In conformity with Article 68 of the FC, parents must take care of their children. The parents decide the procedure and terms for ensuring the child lives autonomously. Parents may agree on taking care of their children (on paying alimonies) according to Chapter 15 of the RA FC. If parents do not provide for the living of their children, then the alimonies are exacted from the parents via the court. The following persons may make use of these programmes: children in and graduates of orphanages and persons in difficult life situations.

In particular, according to Article 8 of the RA Law on Social Assistance,⁷⁵ the main social services are provision of advice, rehabilitation assistance, in-kind assistance, provision of a shelter, legal aid, pensions and benefits prescribed by law and other payments, as well as employment services prescribed by law and services in the area of medical-social expert examination, other social services not prohibited by law. It should be noted that the listed services are provided to persons in difficult life situations, including children left without parental care. On 6 March 2014 the RA Government approved the amount and the procedure for granting and paying the one-off child benefit. In parallel, another decision of the RA Government (dated 30 January 2014) applies, which has set the amount of the 2014 family benefit, social benefit, urgent assistance, care of children under 2, the amount of the one-off benefit to the child born before 1 January 2014, and the procedure of granting and paying this to the child born before 1 January 2014.

The implementation of social programmes in the RA has certain difficulties: They are unaffordable for certain people, difficult to finance, there are bureaucratic issues when granting a benefit or other assistance, etc. It was noted during the interviews that sometimes parents are uninformed in the correct assessment of the needs of the child and providing them with appropriate living conditions. When interviewed, some respondents indicated that the state fails to provide care to children, placing the burden on the parents or guardian. Furthermore, in kindergartens there are no positions for psychologists and the children from socially vulnerable families are sometimes placed in an institution for children with special needs, and this prevents normal development of a child.

By organizing the care of children left without parental care by means of guardianship, adoption, placement in a state institution or handover to a caretaker family, the State must regulate two important problems: selection of the guardian and the provision of the means of care (food, clothing, etc.). The State may not assist with the selection of guardianship or with adoption, but it does provide assistance when the child is being placed in a state institution or taken in by a caretaker family, by providing means of care to a child placed in a state institution, or paying a monthly stipend to the caretaker family. The latter case is quite rare despite it making more sense financially than to run special institutions. Judging from this, it can be concluded that the State does not provide the equality of implementers involved in this field and does not create favourable conditions for handover of children to guardians or for their adoption. This is why the actual guardianship of children is effectuated without due documents and these cases are raised when there is necessity for this in contacts with the state or local self-government body.

⁷⁴ Living Standards and Social Sphere. (2014). Retrieved from http://armstat.am/file/article/armenia_14_5.pdf, p. 37 on 3 December 2014.

⁷⁵ This law was adopted on 17 December 2014, became effective on 1 January 2015.

3.2.2 Child Protection: Special Protection Means

Refugee children

According to Article 30 of the RA Law on the Rights of the Child, a refugee child deprived of his/her home and personal belongings due to military operations and other conflicts has a right to protection of his/her interests.

In conformity with Article 8 of the RA Law on Refugees and Asylum, an unaccompanied minor or a minor separated from his/her family is anyone under 18 that does not have a legal representative (parent(s), guardian, or trustee) in the RA territory that seeks asylum or is a refugee. Unaccompanied minors or minors separated from their families have the same rights as asylum seekers or refugees. The authorized body must assist an accompanied minor or a minor separated from his/her family by law by placement and provision of care to the child, as well as enabling their rights according to RA legislation. All state bodies foreseen by Article 32 of this Law that deal with issues of unaccompanied minors or refugees, in view of the special condition of an unaccompanied minor or a minor separated from his/her family, as well as their best interests, must assist them as much as they can.

By its Decision No 1440-N (dated 19 November 2009), the RA Government approved the Procedure for Placing Asylum Seekers in Temporary Centre for Placement and Provision of Living Conditions. The authorized body places an asylum seeker or the family members of an asylum seeker in the Centre for Temporary Placement of asylum seekers, where they are provided with accommodation until a final decision is made on their applications. Refugees who have been declined asylum may remain in the Centre until they leave the RA or are granted asylum, pending permission of the RA SMS. Although there have not been any cases of recognizing an unaccompanied minor as a refugee, there have been numerous cases when once a family sought and was granted a refugee status, the child was also granted refugee status. The RA SMS ensures the protection of the rights and lawful interests of refugees, including children, by attracting international and NGOs.

Due to a massive inflow of refugees from Syria, the RA SMS applied to the Armenian resident office of the UN High Commissioner for Refugees, who has assisted by paying for the renting of apartments. In conformity with the Decision of the RA Government No 1440-N (dated 19 November 2009), if an asylum seeker is deemed a refugee, and then once s/he receives the decision, s/he must vacate the room occupied in the centre. In practice, since the asylum seeker having been granted a refugee status may not have a place of residence, s/he is allowed to remain in the centre for a short period of time. Afterwards, s/he is granted a right to live in flats that were once dormitories, along with all the necessary utilities (in either Abovyan or Yerevan). By its decision No 769-N (dated 17 July 2014), the RA Government approved the 2014-2016 action plan for aligning the RA legislation on migration with international standards, including the approaches and principles common to the EU and the Common Economic Area, which has provisions concerning children.

Detention and punishment

According to Article 31 of the RA Law on the Rights of the Child, a child may not be arrested, searched or detained other than in the manner prescribed by law. A child's parents or other legal representatives are immediately notified of the child's arrest or detention. Any child sentenced to imprisonment has a right to appeal the prison sentence in the manner prescribed by law. It is prohibited to place a child in detention with adults. In cases prescribed by the RA legislation when subjecting a child to criminal liability, it is mandatory to ensure the presence of an advocate (psychologist, teacher) during the inquiry, preliminary investigation and trial. A child is not obliged to testify against himself/herself, his parents or close relatives. It is prohibited to exert violence, threats and other unlawful methods on the child with a view to making him/her testify as a witness or confess a crime.

According to paragraph 2 of Article 60 of the RA CC, persons under 18 at the time of commission of the crime may not be sentenced to life imprisonment. No capital punishment is prescribed by our



legislation. Furthermore, the CC also renders a differentiated approach to the prison sentence for a certain period of time. According to Article 68(1)(2) of the RA Penitentiary Code, minors are detained separately from adults, except for cases foreseen under Article 109(1) of this Code.⁷⁶

According to Article 148 of the RA CPC, handover for control is a situation in which the parents, guardians, trustees or administration of a closed child institution of a minor suspect or accused are obligated to ensure proper behaviour of the latter, to appear before the body in charge of the proceedings upon the latter's summons and perform other procedural duties.

The conditions of arrest and detention of minors are considerably different from similar conditions of adults. For instance, arrested or detained minors are provided free of charge special food (Article 19 of the RA Law on Keeping Arrested or Detained Persons), there are improved living conditions for arrested or detained minors and they are entitled to at least a 2-hour walk on a daily basis, in the course of which they may do exercises (Article 27), minors are taken to a detention cell for no more than 5 days (Article 35), etc. Visits of minors have been discussed under Article 9 of the Convention.

Minor convicts serve their prison sentence or detention as a means of prevention in “Abovyan” penitentiary. Although the prison conditions of minor convicts are much more favourable, they do not fully comply with international standards applied to the convicts in this category. It has been noted, in particular, that it is necessary to ensure where possible the introduction of the European prison rules in the RA.⁷⁷ The measures applied to

⁷⁶ A minor sentenced to a definite prison term remains in the same correctional institution by the expiry of the sentence but not more than the attainment of the age of 12. In case of a negative behaviour by any convict above 18, this peculiarity does not apply.

⁷⁷ The international standards in the field of juvenile justice are reflected in the UN Minimum Standard Rules for Administering Juvenile Justice (The Beijing Rules), the UN Guidelines on Prevention of Juvenile Delinquency (The Riyadh Guidelines) and the UN Rules for the Protection of Juveniles Deprived of their Liberty.

adults under Article 16 of the RA PC are not sufficient for the correction of minors. It was noted during the interviews that it is necessary to apply cultural and educational methods, such as excursions, visits to museums, the theatre, sport events with their peers for the purpose of correction of the child.

It is undeniable that imprisonment must be an exceptional measure, but in practice it is not limited to the types of sanctions foreseen in respect of minors by the RA CC. In particular, under Article 86 of the RA CC, one of the following sanctions may be imposed on a minor: a fine, public works, detention or imprisonment for a certain period of time. Furthermore, the fine is imposed on the autonomous earnings of the minor or in case of property that may be seized; public works and detention are not imposed on a minor under 16, therefore in case of minors under 16, courts, having no alternative, impose a prison sentence for a definite period. However, sometimes they apply Article 70 of the RA CC and apply conditional release by setting a probation period, which is quite formal in nature. These conditions also work towards introducing the institute of probation in the RA.

In particular, the RA Ministry of Health is currently in the process of introducing the institute of probation with the financial support of the US Embassy. The legal basis for this work is the Order of the RA President on setting the 2012-2016 Strategy on RA Legal and Judicial Reforms and its Schedule of Actions. In conformity with paragraph 4.3 of this programme, it is foreseen to establish a separate probation service independent from the penitentiary service. To do that, it is necessary to develop a draft legal act regulating the operations of this probation service, and a system of continuous professional education of the staff of the probation service. A number of powers typical of probation are exercised by the division for alternative punishments under the penitentiary service and the subdivisions in charge of social, psychological and legal work. Considering the fact of foreseeing probation in the future RA CC as a mechanism for the correction and rehabilitation of a criminal, the necessity to apply effective means of fight against recidivism, at present it is important to establish a body that will perform these functions effectively.

War and armed conflicts

In conformity with Article 3 of the RA Law on Liability for Military Service, RA nationals are legally obliged to defend the RA. In Armenia, males aged 18-27 are subject to compulsory military service, as are the reserve officers in the first group under the age of 35 who were deemed fit for military service in time of peace.

Although children are not conscripted by law, there is an educational institution «Poqr Mher» in Armenia, which was established by the Decision of the RA Government No 1602 (dated 11 November 2004). The objective of the institution is the implementation of primary, basic, secondary education programmes, as well as military, professional and other general education programmes (hereinafter: general education programmes) and the upbringing of the students of the institution according to these programmes. The aim is to develop a person in the spirit of patriotism, statehood, humanism and professionalism. The institution admits children whose health is adequate for studies in the institution. The particularities of the education and living conditions of female students are determined by the board. In order to gain admission to the institute, it is necessary to submit the written consent of one parent or legal representative and the child.

As well as the educational institution “Poqr Mher,” there is a military college named after Monteh Melkonyan, for which admission is organized during the 9th year of basic education. There is no information on the involvement of children in armed conflicts in the RA or on cases of child victims of armed conflicts, but the fact that children under 15 may be enrolled in a military college or education institution as soldiers must be reviewed.

Rehabilitation of child victims

There is no separate legal act on physical and psychological integration of children and their social reintegration back into society. The RA Criminal Procedure Code foresees protection of persons participating in criminal proceedings. However, this does not concern physical or psychological rehabilitation and social reintegration. In case of some crimes, including trafficking or child abuse, children are provided

with such assistance.⁷⁸ Since the issue of assistance to children in difficult life situations has already been discussed (see under Article 27 of the Convention), it will not be included in this section.

Certain issues related to child rehabilitation and reintegration have also been dealt with in the draft on the Referral of the Victims of Family Violence but there is no single and comprehensive document directed at the rehabilitation and reintegration of children. The protection of children as victims of crimes is even more lamentable in the present context of the RA. Although in case of certain crimes, such as trafficking and abuse of



children, rape, other sex crimes, the rights of children are protected and no peculiarities are planned for other crimes (excluding certain peculiarities planned under the RA CPC).

The draft RA CPC has already included certain provisions that will apply in the RA, including the involvement of a psychologist in an investigative process involving a minor, prohibition of mass media from a hearing unless the court decides that it is necessary for the protection of a minor, i.e. interrogation of the minor while using technical devices (video recorder), etc.

According to the representatives of certain structures, the best protection of the interests of the victim is the imposition of a severe punishment on the criminal, which is not justified and the fight against any crime must combine prevention, punishment and assistance.

Juvenile Justice

According to Article 24 of the RA CC, anyone of the age of 16 or above prior to the committing of the crime is subject to criminal liability. Persons of the age of 14 prior to the commission of a crime can be subjected to criminal liability for a limited number of crimes. Once a person is of age but is unable to fully realize the nature and significance of his/her actions due to developmental setbacks, s/he is not subject to criminal liability.

According to Article 69 of the RA CPC, the defence council's participation in criminal proceedings is mandatory if either the suspect or the accused is a minor at the time that crime is committed. According to Article 10, everyone has a right to legal aid by this Code. The body in charge of the criminal proceedings may decide whether to provide free legal aid to the suspect or accused taking account of his/her estate.

Participants of the criminal procedure who does not speak the language of the criminal process may at the expense of state funds exercise his/her rights with the help of an interpreter.

The question of privacy of personal information of children is planned by Article 16 of the RA CPC, according to which in exceptional cases when this does not have an adverse effect on the administration of justice or unjustified limitation of the principle of public trial, the court may decide to hold a private hearing also:

1) in cases involving crimes related to private and family life, honour and dignity of a person;

⁷⁸ Article 20 of the RA Law on the Identification of and Assistance to the Victims of Trafficking and Abuse sets that any victim of a victim within a special category has a right to assistance and protection in the manner prescribed by law. The forms, type, duration, sizes of protection and assistance to victims and the victims in special categories cannot in any way be interconnected with or dependent on the fact of their participation in actions taken by the law enforcement bodies as prescribed by the RA Law. The assistance is provided by the RA MLSI.

- 2) in cases involving crimes against sexual freedom and sexual security of a person;
- 3) in case of a necessity to protect the participants of criminal proceedings or their close relatives.

So far there is no legislation in the RA on juvenile justice. Provisions on juvenile justice are foreseen in the RA CC, RA CPC, the RA Penitentiary Code, as well as other laws. In conformity with Paragraph 50 of the Decision of the RA Government No 303-N (dated 27 February 2014) on Approving the Action Plan of the RA National Human Rights Protection Strategy, the legislation must set additional safeguards for the protection of privacy in criminal cases involving minors, as the current mechanisms are not adequate. The fulfilment/exercise of the child's right to privacy and holding of private hearings must be clarified. Thus, according to Article 169 of the draft RA CPC, the body in charge of the proceedings must take measures foreseen by law to maintain discretion in matters related to the child's private and family life. Information related to a person's private or family life must not be collected, preserved, used or disseminated in the course of the proceedings arbitrarily. If the body in charge of the proceedings so demands, the participants must not disclose such information, and must sign on it. The evidence related to the most sensitive aspects of a person's private or family life must, if the interested party so demands, be examined in a private hearing. Despite the actions taken, there are still problems with proceedings involving minors.

A minor develops an identity of a "criminal" when a prison sentence is imposed on them. They learn criminal tricks, speak criminals' language and adapt to criminal culture, which most probably strengthens the child's perception of himself/herself as a criminal. Once their self-perception is that of a criminal and once they are recognized as a criminal by the broader society, they find it more difficult to change in the future and adapt to school and family life. The statistics of juvenile punishments in 2012-2013 are: in 2013 69 minors were convicted⁷⁹ of which 44 were released on parole, other sanctions were applied to 14 minors, and an act of amnesty was applied to 15 minors. In 2012, 76 minors were sentenced to imprisonment⁸⁰, of which 52 were released on parole; other sanctions were applied to 11 minors. No act of amnesty was applied to any minor.⁸¹

Recommendations

In order to protect the rights and interests of the child, to strengthen child's confidence and sense of self, and to develop a child-centred policy, the following is recommended:

- It is stipulated by law and by the RA Cassation Court that the guardianship and trusteeship body must by law examine the life of the child rather than being a mere administration. This should be done in a complete, objective manner, be based on facts and supplied with reasons.
- The status of the National Child Protection Commission has to be reviewed. In particular, there is a need to streamline the functions of the Commission by giving them the power to make legally enforceable decisions.
- In order to strengthen the efficiency of the three-tier system of child protection, it is necessary to strengthen child protection at local/community level by equipping the commissions with relevant professionals, financial resources and conditions and by granting them a wider scope of powers.
- There are provisions on the rights of the child and their protection in diverse legal acts having diverse legal force. The existence of divisions of legal acts causes difficulties not only in the perception of these rights but also their implementation and protection. Therefore, it will be desirable for the RA to have one single codified document on the sector.
- In practice, there are cases when the parent serves his/her sentence in a penitentiary or is detained, while his/her child is placed in a state institution. Since both of them are under state control, the state must ensure the organization of meetings between these persons, thereby fulfilling the right of the

⁷⁹ 8 of the 69 minors were received a prison sentence for up to 1 year, 8 – 1-2 years, 18 – 2-3 years, 26 – 3-5 years and 9 – for 5-8 years.

⁸⁰ 8 of the 76 minors received a prison sentence for up to 1 year, 12 for 1-2 years, 13 - for 2-3 years, 39 - for 3-5 years, 3 for 5-8 years and 1 - for 8-10 years.

⁸¹ Judicial Practice. (2015). Retrieved from http://court.am/?l=lo&id=50&cat_id=0&page_num=1 on 3 December 2014.



child to communicate with his/her parent. These meetings must be organized jointly by the institution and the correctional institution.

- In conformity with the Decision of the RA Government No 821 dated 25 December 1998, a person under the age of 16 is given an RA passport once requested on the basis of the application of one of the parents or a legal representative. Therefore, one parent makes a decision on the child's crossing of the border lawfully. However, in a situation like this, the other parent may be unaware of the transfer of the child. Therefore, agreeing on the fact that there must be no unnecessary restrictions on the child's right to free movement, there is a need to develop comprehensive procedure for the return of the child if necessary, and for fulfilling the rights of the other parent.
- It is necessary to develop the procedure for prevention of violence against the child and supporting children subjected to violence by involving not only state authorized bodies (RA MLSI, RA MoE, RA MoH, RA Police, etc.) but also NGOs working in the area of child protection. This procedure must apply to any child subjected to violence, while exceptions must be foreseen for certain manifestations of violence, such as victims of trafficking or child abuse taking account of the specifics of violence and the issue of whether they are regulated by law. The proposed route may be referring the child subjected to violence.
- It is necessary to eliminate the non-pedagogic forms of upbringing in respect of the child, such as 'placing in a corner,' 'pulling on the ear,' 'beating,' 'placing in a dark room,' etc. In order to achieve this, it is necessary to distribute among parents and other persons in charge of the care and upbringing of the child free of charge materials on the methods of upbringing, and train the professionals in the field.

- It is necessary to take steps in the RA to eliminate 'unregistered guardianship,' thereby creating favourable conditions for the actual guardian to register their interest, and not to be forced to do so when there is a need to communicate with the state and local self-government bodies.
- Under the RA legislation, a mother of a child under 2 receives the relevant benefits and she may take a vacation to take care of a child under 3. Therefore, the living terms of a mother of a 2-3 year old child is also that of the child. In the course of this year, a woman has a right by law to take care of the child but no legal act foresees any procedure exercising this right. Therefore, unless a woman has help (a grandmother, mother, sister, babysitter, etc.), she has difficulty in providing adequate living conditions for the child.
- Boarding institutions must be transformed into other services due to 80% of the children placed there have at least one parent. Thus, if the parent has access to basic living conditions, financial and other support, the parent would perform his/her parental duties rather than place a child in an institution.
- When making a decision on the care of a child based on his/her best interests, there is a need to involve the legal representative of a child who will be enabled to protect the child's rights. When making a decision, the court or the administrative body must carry out an accurate assessment of facts, plan the care and upbringing of the child and develop concrete procedures in the best interests of the child, the making of which will require the involvement of a highly qualified professional team. In parallel to this, explanatory/advisory visits must be paid to the child taking account of the capabilities of the child, his/her parents/guardians.
- It is necessary to review the bases for depriving or limiting the parental rights. For example, the basis of 'commission of an intentional crime against their children' is not exhaustive. It must also include committing of negligent crimes against children.
- There is a need to tighten the bases for depriving persons of rights by annulling the adoption at an earlier stage of violations if they are avoiding performing their duties involved when adopting a child. For instance, it is not necessary for the adopters to treat a child cruelly but any manifestation of violence is sufficient, or for the adopters to be chronic alcoholics: even abuse of alcohol regularly rather than chronically must be sufficient for annulling adoption.
- The State, by ensuring the equality of agents involved in the organization of the child's care, must create favourable conditions for organizing the care of a child in a family environment. Moreover, the State must support the child's return to the family if the main causes of separation of the child from the family have been resolved. Only after this must the State organize other forms of care of the child.
- It is necessary to reduce the time of keeping a child temporarily taken to orphanage, following which the child would be considered to be left without parental care, and this would allow organizing an alternative care of the child.
- Not only must the State develop relevant quality indicators for handover of a child to guardians, adoption, and placement in a care institution or family but also monitor such processes, assess their effectiveness, analyze and present recommendations for improvement.
- Although the detention conditions of minor convicts are incomparably better than those of adults, they still do not comply with the requirements applied to the convicts in this category by international standards. In other words, the RA must aspire to introduce requirements set by the European Prison Rules in the RA penitentiary system. The measures applied to adults under Article 16 of the RA Penitentiary Code are not sufficient for the correction of minor convicts. In order to correct children, it is necessary to organize cultural and educational events, including excursions, museum visits, theatre, sport events with their peers etc.
- In Armenia it is necessary to criminalize illegal adoption, failure by a member of a caretaker family to carry out his/her obligations or abuse of their, abuse of powers by a member of the guardianship commission, involvement of a minor in an armed conflict, as well as activities that are dangerous to the society, which may occur in the area of the care and upbringing of a child.

- It is necessary to review the legislation and judicial practice when considering child abduction, especially international child abduction, by prosecuting the parent who ignores the other parent's will and transfer a child abroad or refuse to return.
- It is necessary to review the practice of application of Article 170 of the Criminal Code. Under this article, failure by a parent to perform his/her duty of raising a child is a crime, thus the judicial practice must develop a way of ensuring that a parent who fail to perform the duties prescribed by Chapter 11 of the RA FC are liable, especially when there are negative consequences.
- Children under the age of 15 are enrolled in the educational institution "Poqr Mher" and the Military College after M. Melkonyan under the RA MoD, which is contrary to Article 38 of the Convention and has to be reviewed.
- It is necessary to review the system of criminal liability of minors and to develop alternative criminal prosecution measures by creating the necessary legislative framework and the logistical basis. Furthermore, the institute of probation introduced by the RA MoJ must stress in particular the best interests of the child and ensure the application of the main principles of justice in the RA.
- In Armenia, it is necessary to make the principle of respect and adequate attention to the views of the child work, and any child capable of forming an opinion must be able to exercise this right in all cases concerning the child, his/her interests, rights and preferences. The right to freedom of opinion is articulated in the RA FC and foresees the 10-year threshold only in certain cases, which is not justified. Therefore, it is necessary to amend the RA FC by removing this threshold and foresee the right to freedom of opinion considering the mental and cognitive abilities of the child and the peculiarities of a concrete situation.
- In order to further improve the domestic mechanism of child protection, it would be effective to create the institute of the Defender of the Rights of the Child or a separate subdivision in the Office of the Human Rights Defender based on the principles of independence, autonomy, impartiality, transparency, justice, equality, professionalism and plurality. It must adopt a more direct and proactive approach and ensure co-operation with public institutions, mass media and civil society.

3.3 RIGHTS TO EDUCATION AND CULTURE

3.3.1 *The Right of the Child to Preschool Education*

The 2008-2015 State Programme on Education Development plans to achieve a rate of 90% of children having access to preschool education in Armenia. However, according to the data of the National Statistical Service, in 2013 the number of operational community, departmental and non-state Early Childhood Development (ECD) institutions was 697, of which 491 were kindergartens, 179 nurseries, and 27 school-based preschool education centres or early childhood development centres. In addition to these, preschool education centres have been established with the support of international organizations. A number of state and international programmes are implemented to increase availability of preschool education. 290 school-based preschool centres were founded in 2010-2014 by the Ministry of Education and Science (MES) PIUs in the framework of a World Bank loan programme, which have accommodated 8000 children. In 2010-2014 the organization Save the Children founded 12 school-based preschool education centres.

According to the NSS's data, 648 ECDs are municipal, 5 are departmental and 44 are non-state. The enrolment of children in ECDs (all children between the ages of 0-5) was 27.3%, of which 35.2% were in urban communities, and 14.3% were in rural communities. The average number of children in one group was 28; the actual enrolment rate was 86.6%. In average, 99 children attended one ECD with one teacher educating 12 children. Children at preschool age in rural communities are the most vulnerable since there are essentially no preschool education centres in rural communities⁸². With regards to the teacher/student ratio, Armenia is in a favourable position: according to international standards, the optimum teacher/student ratio is 1/15⁸³.

⁸² NSS, RA's Social Situation, 2013, retrieved from <http://armstat.am/file/doc/99489193.pdf>

⁸³ SABER, ECD, Armenia, 2012



UNICEF supported Armenia in developing state preschool education standards determining the content of education. According to these standards, the language of preschool education must be the child's mother tongue. However, this puts ethnic minorities in a vulnerable position, as all preschool centres are either in Armenian or Russian.

Numerous international programmes are implemented in Armenia aiming to establish preschool education centres. However, their sustainability is questionable considering the fact that oftentimes the future of the centres introduced under international programmes becomes risky when they are transferred to municipal funding.

There is a lack of specialised preschool centres for disabled children at preschool age. However, according to the data of the study conducted by UNICEF, 28 disabled children between the ages of 2-6 attend or have attended kindergartens.⁸⁴

3.3.2 The Right of the Child to School Education

General education schools (1-9 classes) are compulsory in Armenia. Every child has a right to choose a school of their, their parents' or their legal representative's preference.

The State has adopted laws directed at the exercise of the right to education, many of which comply with international standards. However, the legal acts ensuring the implementation of the laws regulating this and the relevant procedures are either not adopted in a timely manner or do not ensure proper implementation of these laws. There is method for evaluating the implemented programmes, monitoring or evaluation of spending and results.

According to the Alternative Report, there are also inconsistencies between the RA Law on Education (adopted in 1999) and the Law on the Education of Children in Need of Special Education Conditions (adopted in 2005). The NGOs and international organizations acting in this field have discussed time

⁸⁴ *This is About Inclusion*, (2012) UNICEF, p. 35.

and again the reasonableness of the latter law given the fact that it limits inclusive education by laying down specifics for the provision of education for disabled children. Meanwhile, inclusive education implies inclusion of all children in general education regardless of their religion, social origin, status and ethnicity.⁸⁵

In the academic year 2013/2014 there were 1434 general education schools in the RA, with 360,446 children enrolled, of which 47.9% were girls. The gross student enrolment rate⁸⁶ was 87.9%, and 94.1% for primary schools, 92.6% for the basic school and 74.0% for the high school. The gross student enrolment rate in high schools is low given the fact that 18.2% of the graduates of the basic school continued education in primary vocational and secondary vocational education establishments.

As has already been mentioned, general education (1-9 classes) is compulsory in Armenia. However, the child's right to education is not always ensured. According to a 2005 UNICEF study,⁸⁷ 18,000 children dropped out of schools. In 2007, this rate decreased to 7000. This is also the result of the decrease of the limit of permissible school absences to 180 from 240. At present, it is 160. In other words, the reduction of the number of drop-outs is not proof of increased level of access to education. In 2011, Armenia Helsinki Committee conducted monitoring which showed that the right to education of many children is not secured in Armenia, as these children do not benefit from compulsory education. "Even public servants are mostly unaware of these children."⁸⁸ Many children in vulnerable groups are left out of compulsory education. According to the NSS's data, more than 50% of drop-outs are due to social conditions. In order to receive accurate data on drop-outs or children that do not receive compulsory education, we should take into account the fact that since general education schools are funded per number of students, the actual number of children attending a particular school may be lower than the registered number. This problem is also typical for inclusive and special schools, particularly if we take into account the fact that special schools receive more funding for children in need of special education conditions than schools for children not in need of special education conditions.

The right to education implies that not only do all children have a right to receive compulsory free education but also quality education that is aimed at developing one's personality, and physical and intellectual abilities. Interviews with representatives in the field of education held in the framework of the situation analysis have demonstrated that today's general education aims at developing their grinding skills rather their individual abilities.

Armenia Millennium Development Goals 2005-2009 report states that there are considerable shortcomings in the state's general education sector. Instead of attending schools, students have to seek private tutors to acquire the admission requirements and gain entry to the next stage of education (RA Government and UN Armenia Office, 2010).

As has been indicated in the 2012 report on Availability of School Education, a number of reforms are implemented in the system of RA school education, which have had a negative impact on daily educational activities. "Three main areas of reform may be singled out: extension of school education years, change in the evaluation system and creation of high schools." The old system implied 10 years of school education. In 2001 it was changed to 11 years and in 2006 it became 12 (RA National Assembly, 1999). The current National General Education Curriculum is a 12-year programme consisting of compulsory primary (1-4 years), compulsory secondary (5-9 years) and higher secondary or high school (10-12 years) education stages. Vocational and technical-vocational schools are an alternative to the high school (UNESCO, 2011). Another serious change in the area of school education is the transition from 5 to the 10-point evaluation system, which became effective in 2006 and which aimed to improve the accuracy and verity of evaluation outcomes (RA Government and the UN Armenia team, 2010). According to education experts, the new system of evaluation enables teachers to show a more flexible and differentiated approach to the evaluation of children. In terms of improving the process of education and development of individual abilities, the shaping evaluation can be more targeted. However, it is not part of the evaluation system at present.

The last change in the system of school education is the creation of high schools as distinct schools, which unite students of different schools. This is problematic in terms of integration of children and their adaptation to the new environment. Another factor, which greatly impacts the quality of education, is the logistical provision at schools.

⁸⁵ Alternative Report to the Third and Fourth Periodic Reports submitted by the Republic of Armenia in conformity with the UN Convention on the Rights of the Child, 2012թ., joint report of 45 organizations, p. 30.

⁸⁶ The gross enrolment rate is the percentage share of the general number of students in a particular education system in the overall number of the age group officially set for the education system of the permanent population.

⁸⁷ Country Profile (2010), Education in Armenia. Retrieved from http://www.unicef.org/ceecis/Armenia_2010.pdf

⁸⁸ Situation Analysis of Children in Armenia, UNICEF, 2013, page 27



Despite the existence of a number of repair programmes at schools and the efforts to equip them with state-of-the-art technology, the physical conditions of certain schools remain problematic. Although nominally there are computers in all schools, they are held behind closed doors or students are simply not encouraged to use them. The lack of equipment in laboratories prevents students from properly understanding the courses taught.⁸⁹

Inclusive schools are the most vulnerable in this sense. The law on persons in need of special education conditions contains quite ambiguous wording concerning the standards of physical facilities of inclusive education schools. This concerns the necessary areas/infrastructure with no reference to their substantive aspects. The results of an assessment of the physical facilities of 34 sample inclusive schools in the framework of a study aimed at assessing the effectiveness of inclusive education demonstrated that all 34 IE schools are severely underequipped physically⁹⁰: they only have ramps at the entrance and a cafeteria but they do not have adjusted classrooms, lavatories, gyms, etc. Another important constituent of school education – textbooks – are also significantly impacting the quality of education. The previous studies and the representatives of this sector point to the complexity of textbooks and controversial information included in them.⁹¹

Teachers are an important resource of ensuring the exercise of children's right to education. According to the official data of the National Statistical Service, the average student/teacher ratio is 1/11⁹². However,

⁸⁹ Research on the Availability of School Education, Turpanjian Centre for Policy Research, American University of Armenia, 2012, p. 55.

⁹⁰ Assessment of the effectiveness of inclusive education, Centre for Educational Research and Consulting, Yerevan, 2013, p. 8.

⁹¹ Assessment of the professional development of teachers and the substance of education in Armenia in the context of general education reform, Barev NGO, Yerevan, 2013, p. 7.

⁹² NSS, RA Social Situation, 2013

the quality of the teachers and their quality assurance is of concern. Despite the introduction of the system of teacher attestation, this system does not enable detecting and dismissing teachers whose performance is not satisfactory. Attestation is a certificate attesting to the teacher's participation in training and his/her theoretical knowledge, and does not attesting to the teacher's ability to work in a classroom with new methods.

Training is still the only form of teachers' professional development. Numerous teacher training programmes have been held on course criteria, new teaching methods, evaluation, information technologies, human rights and child rights. However, teachers do not receive sufficient support for applying new knowledge and skills in the classroom. 37% of teachers surveyed believe they need training to develop skills to communicate with students.⁹³

An important issue in inclusive schools is the professional level of the multidisciplinary staff working with children in need of special education conditions. Once a school acquires the status of an inclusive school, the school teachers and the members of the multidisciplinary team have to undergo training. There is no unified approach to the compulsory composition and functions of the multidisciplinary team. Also there is no job description or passport for a particular specialist. Due to this lack of regulation, the composition of multidisciplinary teams and their duties vary not only between regions but also between schools.⁹⁴

A factor influencing the exercise of the right to education is also school governance, which is effectuated by a collegial body – the school governance board. However, very often the activities of these boards are quite formalistic, as the board members are appointed by the principal of the school with no regard for transparency. The student boards are quite formalistic too, and their activities are limited to organizing extra school activities. Students are not always aware of the real scope of functions of student boards when they nominate presidents of these boards or determine the directions of the board activity. The involvement of students in student self-governance bodies is encouraged to supplement civic education and participation in school life along with development of civic values and skills. However, in actual fact students do not receive civic education due to the aforementioned circumstances. Furthermore, social science courses are not always taught by adequate teachers. Children have an opportunity to receive civic education also in the frames of other courses through the use of teaching methods – group work, argumentation, critical thinking. However, education is an end in itself, formalistic and largely conditioned by the teacher. Only some teachers are able to apply methods adequate for teaching in a literate manner. Teachers largely apply traditional methods, limiting equal participation of all children in the education, as well as building lessons around one or two highly progressive students.

Programmes directed at civic education are implemented by local and international organizations, such as CIVITAS, Save the Children, and World Vision. In 2008-2014 Civitas trained around 1000 teachers in social science, each of which subsequently implemented the project CITIZEN with 15 students according to a special methodology directed at the development of civic values, knowledge and skills among children.

Another constituent of the right to education is disaster risk reduction education in Armenia with the participation of NGOs and international organizations. The UN Children's Fund and Save the Children have implemented educational projects in general education and special schools aimed at reducing risks of disaster. As indicated in the book entitled "Disaster Risk Management Education in the Light of the Needs and Rights of Children with Disability" and documents determining the content of general education, the disaster risk management education issues are not sufficiently reflected in the standards and programmes and possess no unified concept or methodology.⁹⁵ Manuals have been developed for teachers on disaster risk reduction education.⁹⁶

⁹³ Assessment of the professional development of teachers and the content of education in Armenia in the context of general education reform, Barev NGO, Yerevan, 2013, p. 6.

⁹⁴ Assessment of the effectiveness of inclusive education, Center for Educational Research and Consulting Yerevan, 2013, p. 9

⁹⁵ Disaster Risk Management Education in the Light of the Needs and Rights of Children with Disability, Yerevan, 2013, p. 34

⁹⁶ RA Ministry of Education and Science, General Education, Disaster Risk Reduction Library <http://www.edu.am/index.php?menu1=9&menu2=528&arch=0>

3.3.3 Education of Children in Vulnerable Groups

The child's right to education implies equal educational opportunities for all children. Here, we will discuss the extent to which these rights are exercised in RA for vulnerable groups.

Children with Disability

The right to education of children with disability is determined by the RA Law on Education and the RA Law on Persons with Special Educational Needs, as well as the philosophy of inclusive education, according to which all schools will become inclusive by 2022. At present, there are 139 inclusive schools in Armenia, which exist in all provinces of the RA despite their unequal distribution. There is an unequal population distribution of the RA provinces, and the distribution of inclusive education schools in provinces is unequal – there are 3 inclusive education schools each in the Aragatsotn, Ararat and Armavir provinces. In conformity with the 2013-2016 Child Rights Protection Strategy, 2000 children with special educational needs studied in the RA inclusive education schools. However, the data of the enrolment of these children is not complete. Given the fact that the system for identification of the children with special educational needs and the system of inclusive education are not universal, it is not possible to indicate the number of child drop-outs. Apart from this, the guardianship and trusteeship commissions within communities must be proactive in detecting children with special educational needs and ensuring their right to education, carrying out monitoring. However, as the members of the commission work on a *pro bono* basis, they do not always perform their functions fully and properly.

Apart from the attendance of children with special educational needs, there are other problems for their exercising of their rights, including the prejudices and stereotypes that some teachers have towards children with special educational needs. In some cases, teachers treat these children as incapable, sick children and believe that they waste time on them since they are incapable of perceiving any serious knowledge.⁹⁷

Disabled children continue to receive their education in special schools. There are 23 state special schools. Although state programmes foresee unloading special schools, reduction of the number of students in them, they, nevertheless, continue to operate. A number of studies cite violations of children's rights occurring in these schools, including cases of violence against these children, non-professional approach to the development of their personal capabilities, and isolation from society.

1 out of 3 disabled children have attended or attend a kindergarten. This rate in rural communities is almost twice as less (23%) than that in urban communities (44%). The disabled children within institutions are in a twice more vulnerable position, as testified by a number of studies: "The disabled children that live in orphanages are almost left out of basic general education. Only 1 in 20 children attend the basic school of general education (5%), 5 attend special schools (23%), while 14 do not attend school at all (72%)."⁹⁸

Socially Insecure (Poor) Children

Socially insecure children are vulnerable in terms of availability – the rate of drop-outs reaches 35%.⁹⁹ Surveys conducted among school children show that there is a certain link between poverty and performance. Students with below average scores also feel less comfortable at home studying and have less time to spend on homework.¹⁰⁰

⁹⁷ Assessment of the effectiveness of inclusive education, Centre for Educational Studies and Advice, 2012.

⁹⁸ This concerns inclusion, p. 15, UNICEF.

⁹⁹ Situation Analysis of Children in Armenia, 2012, UNICEF

¹⁰⁰ Access to School Education in Armenia, Turpanjian Centre for Policy Analysis, American University of Armenia, 2012, p. 43.

Children in institutions (boarding schools, boarding institutions for care and education, orphanages, special schools)

By 2014, the number of children in childcare and protection institutions under the Ministry of Labour and Social Issues was 1481, of which 74% were schoolchildren, and 14% were of preschool age. Only 77% of school children receive general education, 76% of which attend universal general education schools, while 19% were in special general education schools. The children of preschool age receive education in institutions. However, they do not always receive quality education.

Ethnic Minorities

According to the data of the 2011 census, there are 16 480 representatives of national minorities under the age of 19, as reflected in detail in Chart I below.

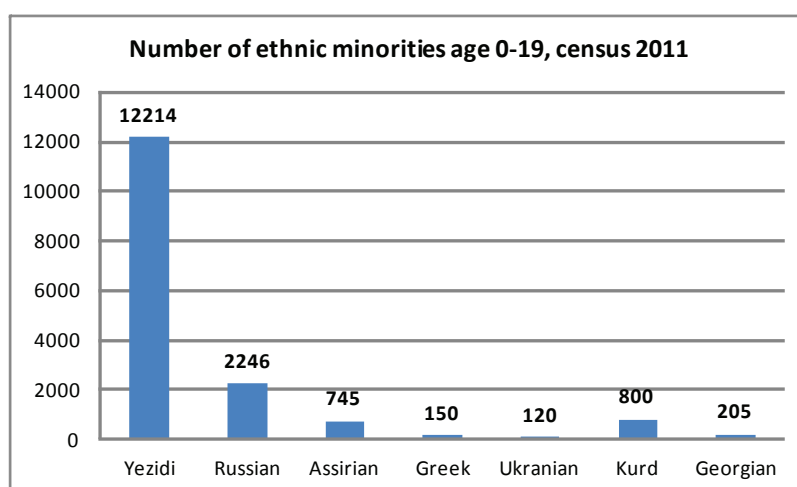


Chart I. Distribution of ethnic minorities at the age of 0-19.

There is insubstantial statistical information on children that do not attend accessible schools. It is especially difficult to obtain disaggregated data based on age, gender, place of living, ethnic origin, religious belonging and socio-economic condition. The UN Human Rights Committee requested from the RA Government a list of problems in order to prepare Armenia's third and fourth combined reports (2012) detailed data.¹⁰¹ However, most probably such data does not exist. At the same time, the European Commission against Racism and Intolerance and the UN Child Rights Commission indicated in their updated documents on Armenia that the number of children not attending school is high.

Children in Contact with the Law¹⁰²

The RA legislation does not have a clear policy and written development directions on the correction and rehabilitation of minor delinquents as an institutional approach. It is especially worrying that there are no legal regulations but many shortcomings in the area of the education of minor delinquents. There is no legal act foreseeing concrete procedures in the area of organizing education or vocational education for minor detainees and convicts.

Minor convicts are held in Abovyan penitentiary where all minors must receive compulsory general education and primary vocational education in the manner prescribed by law (joinery, agricultural mechanics, and electrical engineering). Furthermore, due to the number of minors and lack of resources, children receive compulsory education in completed classes with minor convicts at different ages studying

¹⁰¹ CRC/C/ARM/Q/3-4, p. 3

¹⁰² Children in contact with the law, UNICEF

in the same class. Studies show that the management of a penitentiary assign a convict according to the convict's statement regarding the class he had been in prior to his/her conviction. The educational needs of convicts are not assessed, and his/her previous performance taken into account. Additionally, classroom participation is quite formalistic in order to register attendance.¹⁰³

3.3.4 Children's Participation in Cultural Life

The RA Ministry of Culture has drafted and submitted a Concept on Aesthetic Education to the RA Government for approval with a view to implementing a unified policy in the area of children's artistic education and aesthetic upbringing. According to the RA legislation, the purpose of out-of-school upbringing is to advance children's interests by organizing their leisure activities, and is aimed at their spiritual, aesthetic, physical development, military-patriotic upbringing, acquisition of knowledge on nature protection and other applied knowledge. Out-of-school upbringing is effectuated by means of youth creativity and aesthetics, music, drawing and art schools, clubs, stations of young patriots, technicians, biologists and tourists, sport schools, health camps and other organizations.

According to the data of the National Statistical Service, in the academic year 2013/2014 there were 226 schools and centres of music, art, fine arts and youth creativity in Armenia covering all provinces (unequally). That year, the number of students in these schools was 47,822 (65.6 % girls), of which 70.3% paid school fees (73.3% girls). It should be noted that the rate of participation of boys is lower.

In the academic year of 2013/2014, 1919 children participated in fests and contests, of which 70% were girls. A school philharmonic and puppet theatres have been founded. However, children's involvement in them needs to be carefully studied. There are numerous state and non-state out-of-school education establishments. Furthermore, 8 state out-of-school educational establishments operate under the RA Ministry of Science and Education; their geography is quite limited, covering only Yerevan and Tavoush. According to official data, the number of students attending these establishments is 4,500.¹⁰⁴ In order to ensure access to education in the arts, the decision of the RA Government no 1167-N (dated 11 October 2007) approved the programme of education on mastering national music instruments. 2,443 students in 144 schools received reimbursement of their tuition fees in 2009-2011.

A number of NGOs and international organizations have implemented extracurricular programmes. However, accurate statistical data - particularly regarding gender, age and province distribution of the attending children - does not exist. Neither does accurate data regarding children's enrolment in non-state centres for leisure and cultural activities.

As stated in the Alternative Report, there have been considerable positive developments in the area of children's artistic education. Firstly, there has been an increase in understanding by the communities of the importance of allocating resources for the development of culture, art and sport among the youth and children. Secondly, the number of state programmes directed at the advancement of artistic education, youth programmes, contests, and events has increased. However, there are still problems in this area. In general, libraries in schools and communities are in poor condition. The existing literature is approximately 20-30 years old. Students believe there is a lack of military-patriotic and aesthetic education. Schools have minimal physical resources for organizing events – stages, gyms. However, the events are the same each year and do not interest the children.¹⁰⁵

¹⁰³ Education and professional training of minor convicts, Social Justice NGO, 2011.

¹⁰⁴ State out-of school educational institutions under RA Ministry of Education and Science <http://www.edu.am/DownloadFile/6102arm-CANK.pdf>

¹⁰⁵ Alternative Report.

3.3.5 The Right of Children to Receive Primary and Secondary Vocational Education

In the academic year 2013/2014, there were 45 state education institutions offering primary vocational (craftsmanship) courses in the country, of which 25 were primary vocational (craftsmanship) and 20 were secondary vocational schools. The studies were based on basic and secondary education. 7448 students attended, of which 24.1% were girls.

The rate of students receiving free education was 95.6% and 4.4% paid school fees. The gross enrolment rate of students 7.2% (3.7%, women, 10.3% men), the gender balance rate (the ratio of men's gross enrolment rate v. women's gross enrolment rate) was 0.36.

There are 28 education establishments offering primary vocational programmes in all provinces, except Vayots Dzor and Ararat.

The statistical data shows that the number of students in primary education establishments tends to increase: experts see a connection with the number of reforms in the educational sector, including 12-year academic system, the right to mandatory deferment, international programmes in the area of primary vocational education.

In the academic year 2013/2014, 6,193 children studied in primary vocational programmes: this is the number of students below the age of 18, according to the statistical service, of which about 90% received free education. The same year, the number of students admitted to the 99 secondary vocational education state and non-state education establishments was 9,785 (54.4% girls), 30,125 students in total (53.3% girls), 7,019 graduated (58.9% girls). The studies were based on basic and secondary education. The student gross enrolment rate was 12.2% (13.4% girls, 11.1% boys), the gender balance rate (the ratio of men's gross enrolment rate v. women's gross enrolment rate) was 1.21%. In 2013/2014, the number of state secondary vocational education establishments was 82. The number of students was 28,333 (the number of students below the age of 18 was 22,259), of which 52.4% were girls. The rate of students paying school fees was 60.5% and 39.5% received free education.

3.3.6 Funding of Educational Programmes

The costs of general education are covered by the RA state budget. The state also funds a number of additional costs. For example, the Government has foreseen a programme of food provision to children at school age, in which food is provided to 50,000 children. On average, 150 children benefit from services for the detection and assessment of the peculiarities of physical, intellectual and (or) psychological development, the state takes steps to reimburse the costs of textbooks of children from socially vulnerable families, funds the transport costs of teachers and schoolchildren from certain schools of general education, and delivers other educational services to children.

However, both civil society and a number of media publications voice their concerns about collection of money at schools when the management of schools requires money from parents of schoolchildren for various services (additional payments to cleaning ladies or guards) or for purchase of certain goods (chalk or soap).

Recommendations

Based on the data in the analysis, the following recommendations are made to improve the exercise of the rights of the child in the education sector:

- Make the preschool education centres available in all communities and for all children, including those with disabilities.
- Develop a system of registration and monitoring for children who have dropped out of school, including for children in different vulnerable groups, such as those with disability, socially insecure, etc.

- Improve the quality of educational services in closed institutions, including in penitentiaries, special schools.
- Introduce flexible procedures for assessing the needs and performance of children in need of special conditions for education.
- Introduce differentiated cultural sections.
- Develop the skills of children that are involved in student boards in organising the work of student self-governance bodies and participation processes.
- Introduce a more targeted and operational teacher support system.
- Involve children in the improvement of the quality of education.

3.4 RIGHTS TO HEALTH AND WELFARE

3.4.1 Maternal Health: Access and Quality of Reproductive Health

As a WHO/Europe partner country, WHO supervises Armenia's efforts to reduce health threats to children and to achieve the United Nations Millennium Development Goals, particularly Goals 4 and 5 on reducing child mortality and improving maternal health.

There are around 1.32 million women of reproductive age (15-49 years) living in Armenia.

On the legislative level, reproductive health is insured by RA Law on Provision of Health Care to Population (adopted 04.03.1996) and RA Law on Human Reproductive Health and Reproductive Rights (Adopted 11.12.2002) as well as several Government Decrees and Indicators developed by the RA Ministry of Health (MOH) (See Annex). On a service level, reproductive and maternal health care in Armenia is implemented through feldsher-accoucher posts, ambulatory polyclinics, and hospitals. The primary health care services (PHC) for reproductive health are provided through women's consultation clinics and rural health facilities. Basic Benefits Package (BBP) covers a set of limited reproductive health services, such as initial visits to gynaecologist, checks for basic STD-s once in a year, pre-conception immunization for all women, and broader services are free for certain vulnerable groups. The BBP does not cover the expenses of further examination, screening, laboratory tests or of treatment and medications if required.

Antenatal care in Armenia is covered by BBP for all women. Armenian Demographic and Health Survey 2010 (ADHS) shows that 99% of Armenian women received antenatal care. Most women (93%) reported to have four or more antenatal care visits during pregnancy in the last 5 years. Based on data from ADHS 2010, 74% of women did not pay for antenatal care and 53% were eligible to receive free medicine. The issue of accessibility of antenatal services for disabled woman is still current in Armenia, because most healthcare facilities are not equipped or physically accessible for people in wheelchairs. People with hearing or visual problems also face obstacles in accessing appropriate care.

The data of the RA Ministry of Health show that in 2010 the maternal mortality rate was 0.12 per 100,000 live births, and it increased to 0.30 in 2013.¹⁰⁶ Deliveries at home declined from 9% in 2000 to 2% in 2005, then to less than 1% in 2010.¹⁰⁷ MOH statistical data shows that in 2007, there were 40,055 live births, 41,258 in 2008, 44,306 in 2009, 44,330 in 2010 and in 2013 it dropped to 41,668. The slight increase of live births during 2008-2010 could be linked to the introductions of birth certificate program, but this should not be considered as the only explanation.

Reproductive health also refers to family planning issues and abortions. According to the legislation on reproductive health and rights adopted by the parliament of Armenia in 2002, use of contraception, including voluntary sterilization, is legal in Armenia. Abortions are also legal if they are performed before 12th week of pregnancy. More than half of women are not using any method of contraception, and in some

¹⁰⁶ National Institute of Health and MOH Statistical Yearbook, Health and Public Health 2014

¹⁰⁷ Armenian Demographic and Health Survey 2010

regions, the proportion of nonusers is 73%¹⁰⁸. The number of registered abortions per 1,000 women at fertile age (15-49 years old) was 15.9 in 2013 which is very close to the rates recorded during the past 5 years¹⁰⁹. The proportion of pregnancies ending in abortion has declined over the past ten years, from 55% in 2000, to 45% in 2005, and to 29% in 2010. ADHS 2010 shows that 39% of women who had abortions cited their unwillingness to have any more children as the reason for having the abortion. Sex selection was cited as a reason for 9% of abortions, most often because the desired sex was male (8%).¹¹⁰ According to demographical statistics, starting from 1990, the natural male/female proportion among newborns has shifted toward prevalence of male newborns. In 2012, this number reached 114 male to 100 female for the second child, while the natural proportion should be 102-106 male to 100 female.

The amendment to RA Law on Human Reproductive Health and Reproductive Rights was introduced to restrict revealing the sex of baby to the family before 30th week of pregnancy. From 2013, RA MOH (supported by international organizations) has been developing public awareness campaigns that are believed to be even more effective than the legislative restrictions.

Recommendations

- Provide continuous training for maternal hospital staff on neonatal care, premature newborn care, maternal and child health preventive measures and outreach care, as well as ambulatories staff training on proper counselling, particularly in rural areas.
- Provide equal access to all health-care services, in particular impartial access to health care during pregnancy, and during labour for women with disabilities.
- Taking into account high rates of premature and underweight newborns, more attention should be paid to the mother's health, particularly to pre-conception care services and screening and treatment packages for couples and pregnant woman.
- Provide more proactive parental education on newborn nutrition, development and recognition of the danger signs of newborn diseases.
- Provide both future mothers and rural health care providers with better knowledge and understanding of danger signs during pregnancy.
- Improve early screening and treatment of infertility, as well as better access to assisted reproductive technologies for low income families.
- Encourage public awareness campaigns on health and nutrition of pregnant woman to lower the number of low birth weight newborns and premature newborns.
- Along with public awareness campaigns and strengthening of gender equality and woman's role in society, it is essential to insure legislative regulations on prevention of sex selective abortions.
- Insure treatment of conditions revealed during pre-conception counselling and antenatal care to insure mother's health.

3.4.2 Child (6-18) Health and Nutrition

Health Screening Programs and Nutrition

While in previous age stages, the health and wellbeing of child was mostly dependant on provisions from the caregiver and the health services. At school and adolescent age the behavioural risk factors are summed up along with general morbidity. If we fail to introduce adolescents to healthy behaviours and healthy lifestyle skills, 70% of disease in adulthood will be attributed to unhealthy or risky behaviour during their youth.¹¹¹

¹⁰⁸ Armenian Demographic and Health Survey 2010

¹⁰⁹ National Institute of Health and MOH Statistical Yearbook, Health and Public Health 2014

¹¹⁰ Armenian Demographic and Health Survey 2010

¹¹¹ Health for the World's Adolescents A second chance in the second decade, WHO 2014

In Armenia, along with all general legislative documents that support children health rights, health rights of schoolchildren are specifically outlined in Order on Children Medical Care in Preschool and School Educational Institutions (09.04.2013) Order N 874-A and Order of Minister of Health on Approval Of Indicators for Child Medical Care and Services Provision In Frames of State Guaranteed Free Health Care and Services (03.11.2013), N 70- N. The children and adolescents health information and statistics is not collected on a systematic level. For example, the MOH provides services of one nurse for every school with more than 350 students and if the number of students is lower, the nurse attends more than one school. The school nurse has links to the local polyclinic and is primarily responsible for first aid, epidemic response and routine screenings. The screenings are annual, they are fixed by the Order N 70-N and Order N 874-A and include weight, height, blood pressure, sight problems, hearing problems, posture deviations; starting from 2008 psycho-sociological questionnaires are administered, but no universal statistics are collected for all of these measurements. For some pilot schools, the Arabkir JMC is doing the statistical review which is not universal or representative for all Armenia. Nurse is also responsible for providing Youth Friendly Health Services. However the quality and real functioning of these services in schools is in question. From 2003, with support of Pan Armenian Association for Family and Health and UNFPA, over 30 Youth Friendly Health Services were operating in Armenia. Specialists were trained in youth friendly approaches, counselling and communication. But once the programme was completed, most of the services were unsustainable, because they do not receive financial support from the State.

Some of the polyclinics and some schools have psychologists in their staff, but it is not a formal requirement of the MOH, so the mental health status of school children and adolescence can be assessed only during screenings between the ages of 12-17.

As for hospital care, parents should pay for children from 8 years old.

The prevention of WHO Non-communicable diseases (NCDs) four risk factors (tobacco use, physical inactivity, unhealthy diet and the harmful use of alcohol) as well as prevention of mental health problems should start during adolescence. On a policy level, the protection of children from the drug, tobacco and alcohol use stated in RA Law on Restrictions of Tobacco Sale, Consumption and Use, RA Law on Narcotic and Psychotropic Drugs, RA Law on Advertisement. There is no recent official statistic available on school age alcohol, drug or tobacco use in Armenia. School health survey - self-reported by schoolchildren conducted by Arabkir JMC in 2012 - shows that 11% and 1.5% of 15 year old boys and girls respectively are smoking, 18% and 6% of 15 years old boys and girls respectively are using alcohol, and 6% and 0.4% of 15 years old boys and girls respectively are using drugs. Schools include healthy lifestyles discussions in their curriculum and usually cover consequences of tobacco, alcohol and drug use on health. There are 42 hours of health related topics in curricula for grades 9-11 grades.

Obesity also becomes prevalent among school age children. Children nutrition is under supervision of the Government and is regulated by following legislative acts and programmes: National Child Protection Program and Action Plan for 2004-2015 (2003), the UN Development Assistance Framework 2010-2015 program (UNDAF), the National Program on Flour Fortification, National Strategy on Child Nutrition and 2012-2015 Action Plan (2011), The National Program to Eliminate Iodine Deficiency and Sanitary norms and regulations for food provision in school (06.06.2014).

Recommendations

- Continue health education (provide sufficient number of health education classes consistently in all grades) on healthy lifestyles among school-age children, including active involvement of children.
- Ensure adequate pre-service and in-service training for teachers
- Provide knowledge and awareness to parents, teachers/educators and health care providers about issues related to healthy lifestyle and sexual health.
- Provide knowledge and awareness to parents, teachers and health care providers about issues related to school/adolescent health and nutrition.



- Improving the nutrition of school-age children and adolescents, especially in rural areas. This includes promoting healthy eating habits, including awareness campaigns on consequences of overconsumption of sugary drinks and “junk food” which is contributing to a growing problem of obesity in children.
- Ensure enforcement and monitoring of appropriate policies for food quality.
- Support development and sustainability of Youth Friendly Health Services.
- Ensure centralized collection of statistics from the school screenings that could be further used to address emerging health issues in school age children.
- Ensure enforcement of tobacco and alcohol legislation and the advertisement of alcohol, particularly their availability to children under 18 years old.

3.4.3 School Health and Nutrition (SHN)

School Health and Nutrition (SHN) is a comprehensive concept that encompasses many components aimed to effectively prevent and address health risks and issues of schoolchildren aged 6 - 18. It is critical to provide appropriate conditions for school children to keep healthy (in a broad sense of this word) to ensure effective education system, learning outcomes and further success in life.

Due to physiological and behavioral characteristics schoolchildren are liable to different health conditions and risks. It is still possible to reduce those risks by timely and appropriate

SC in Armenian implemented assessment of SHN situation using internationally recommended framework – FRESH (Focusing Resources on Effective School Health) comprised four essential components: existence and implementation of school health and nutrition policies; ensuring healthy physical and socio-emotional learning environment; delivering skill-based health education and providing free and comprehensive access to the wide range of health and nutrition services.

The following main results were identified:

- No comprehensive country-wide representative school health situation analysis is done. The available statistics on school children health is incomplete and outdated for most of the indicators. Information on certain indicators is missing (obesity, worms' prevalence, oral health, violence in school, teen pregnancy, etc.)
- There is significant number of various SHN policy documents; however there is lack of awareness and dissemination/sharing of available policies as well as no consistent enforcement and monitoring of existing policies' implementation at the school level.
- Policies ensuring safe physical environment include general requirements for educational establishments, sanitary norms for school building construction, standards for water and sanitation, school food quality and safety, physical education facilities as well as DRR. However those are not consistently disseminated and user-friendly. Last sanitary-hygienic norms for schools have been developed and adopted by the Government in 2002; they do not include special needs of children from various disability groups, prevention of disease and many other points. Various School facility assessments conducted in Save the Children target schools revealed significant number of schools that do not comply with sanitary norms and standards for physical environment, including lack of drinking water, sanitation and hand washing facilities, school cafeteria and playgrounds.
- There is lack of mechanisms for ensuring healthy socio-emotional environment in schools; no consistent external and internal policies addressing violence, bullying, discriminative attitude toward minorities as well as substance abuse in schools; Staff and children are not consistently trained on child rights and child protection issues;
- Skills based health education is not provided consistently and adequately in all schools. There is lack of training for teachers as well as materials for staff and children. Hours allocated for each topic as well as inconsistent implementation of child-centered teaching methods are not enough for building necessary skills and adopting healthy lifestyle among schoolchildren.
- Physical education classes are included in school curricula, however no alternative curriculum (special) classes for students having health problems or any limitations, e.g. (shortsightedness, etc.)
- Defined package of health services is not enough to thoroughly assess and address schoolchildren existing health needs (in broad sense), such as mental status, problems with interpersonal communication, sexuality issues, substance abuse, suicides attempts and so on.

Recommendations:

- State to review and improve School Sanitary-Hygiene norms;
- State to prioritize and increase budget allocation for health of school-age children, for consistent enforcement of school policies and standards and enhance monitoring of that implementation;
- Strengthen state inter-sectoral collaboration and coordination in development/revision and implementation of policies addressing school health and nutrition. Ensure that special needs of children with disabilities are addressed;
- Explore possibilities and coordinate resources for the implementation of country-wide school level FRESH assessment to study information disseminated from top to down and use of existing national policies;
- Explore possibilities for implementation of country wide representative school health situation analyses including clinical and behavioral research;
- Enhance education and health information systems, taking into account feedback from stakeholders on effectiveness of the system;

- Coordinate advocacy efforts for the improvement of health education curricula in primary and secondary schools, including:
 - Revision of teachers in-service training package with the inclusion of recommended topics focused on socio-emotional aspects, as well as enhancing health education skill-based teaching methods;
 - Develop criteria for the selection of teachers on healthy lifestyle as well as further assessment of their performance to ensure appropriate implementation of health education classes in schools;
 - Revise school health education curricula with the inclusion of recommended topics; allocating more hours on each following grade for the essential topics ensuring repetition and deeper coverage with more detail to build-up knowledge and foster healthy lifestyle;
 - Ensure adequate number of training modules and education materials for children;
 - Introduce system for knowledge assessment for healthy lifestyle classes.
- Introduce unified school policies addressing socio-emotional environment in schools, including violence in school, safe internet, stigma and discrimination as well as substance abuse
- Explore possibilities and advocate for alternative physical education classes for children with limited abilities (shortsighted, overweighted, etc.)

3.4.4 Health of Children with Special Needs

WHO defines disability as impairments, activity limitations, and participation restrictions. Often, children with disabilities face barriers in accessing the health and rehabilitation services they need in many settings and particularly in rural areas.

At a policy level, the disabled people and children rights are protected by RA Law On Disability Social Protection (1993), National Strategic Plan of Disability Social Protection 2005-2015 (2005) and the UN Convention on the Rights of Persons with Disabilities (ratified on 17.05.2010). According to Legislation, the person recognized as disabled in the medical and social experience is given a Disability Group (Groups I, II and III), and the child under 18 years of age acquires the status of a disabled child. There is also draft law on “Rights Protection and Social Inclusion of Persons with Disabilities” that reflects the social model approach to disability.

There are different medical and social support programs provided by the State for free to children with special needs. According to Armenia’s laws, basic rehabilitation devices are free of charge for children deemed to have a qualifying disability. There is a free individual rehabilitation program that local social services can assign the child to. It includes provision of relevant rehabilitation services, prosthetic-orthopaedic devices, rehabilitation support and technical means/equipment. NGOs (Full Life NGO, 2012) reported by that individual rehabilitation plans and services are of formal nature. According to the UNICEF 2012 Report, the number of children with disability statements is around 1% (8,000 children registered in State registry) out of the total number of children. In the same report, it is estimated that if RA is in line with the average global estimated proportion of children with disabilities (2.5%), there must be approximately 12,000 children with disabilities who do not have disability statements for various reasons. These children are therefore not included in social and rehabilitation programs. As of 2005, Armenia is practicing a three-tier child protection system – financed by the EU - that should identify children in difficult circumstances, on national and provincial levels. In reality, however, this system is shown to be ineffective at identifying children with special needs.

Any type of medical care is free of charge for disabled children under 18 years of age. Children with disabilities are supplied with free medication according to their physician’s prescription. In general, the special groups of people who are eligible for free medication are identified by Government Decree N 1717-N, (23.11.2006). Despite this, the Ombudsman’s office reported cases of disabled people (including disabled children) were not getting the medication from their local primary health care facilities.

The recent (2012) assessment of UNICEF on accessibility of health services for children with disabilities and parents’ satisfaction revealed that on average 19% of disabled children in urban areas and

25% in rural are not under any surveillance by a paediatrician. In the opinion of 48% of the parents, there is no need for such services, 26% cannot pay for such services, 16% said such services were lacking in their community, 12% said that they were unaware of the service, and 12% said the quality of services available was insufficient. Respondents in the rural communities mentioned the lack of services and financial obstacles more frequently.

There are also other reasons for exclusion of children with special needs from the state social and medical programs, such as lack of information among parents. For example, UNICEF's 2012 study shows that only 23% of children with special needs get services through an individual rehabilitation program, only 32% of families did not pay for medical services, 52% paid for medicine, 28% paid for medical examination, 6% for technical devices and 22% for doctors and nurses. More 50% of parents mentioned that they are not aware of individual rehabilitation plan or the list of free medicine. In support of this, the UN Committee mentioned that children with special needs in provinces do not have access to adequate care and services.

The other problem is the physical accessibility of health services to children with motor system disabilities. Children with visual/auditory impairments are deprived from their right to have information about health risks because there is no information available in Brail, sign language and no medical educational TV programs are supported with sign language or subtitles.

Recommendations

- It is recommended that the Disability Registration and Reporting System is improved so that no child with a disability will be excluded from the State support programs.
- Increase awareness of parents of children with special need on current legislation and State supported social services for disabled children. The information could be disseminated through media companies, social workers, and medical professionals, posting information in primary health care facilities and in offices of local social service providers in urban and rural areas. Also informational booklets with could be distributed to beneficiaries.
- The additional social package should be introduced for parents of disabled children.
- The improvement of rehabilitation programs and services (modernized equipment, accessibility in local communities) is required, particularly in rural areas.
- Provide health related educational materials using Brail system for school children with visual impairments. Similarly, provide medical educational TV program that will have gesture translation or subtitles for children with hearing impairments.

