

Conflicts and protection of human rights in the South Caucasus



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The white spots on the map of human rights protection

Article 2 of the Universal Declaration of Human Rights ensures that everyone is entitled to all the fundamental human rights and freedoms, without distinction of the political, jurisdictional or international status of the country or territory to which a person belongs. Whether this person lives in a country which is independent, trust, non-self-governing or under any other limitation of sovereignty, they should be granted all the fundamental human rights. Therefore, s/he is entitled to use the international instruments for protection of human rights as well. There should be no limits to the right of being in the center of attention of the human rights defenders. This sounds logical and fair. The person should not be blamed for the fact that his/her country is not, for instance self-governing, or is not recognized. However, a document dating back 60 years is one thing and the reality is another. In reality no application from the Republic of Nagorno Karabakh (NKR) has been accepted by the European Court of Human Rights. Regardless of the NKR status, its residents should have access to the international instruments for the protection of human rights. However, today they are deprived of such an access. Essentially, on the map of international mechanisms for the protection of human rights NKR remains a white spot.

It is necessary to promote the process of lodging applications to the international human rights defender organizations. It may sound counterintuitive, but the NKR state authorities should be among the first to encourage such a process. It is necessary to involve the human rights defender organizations into the process of protecting human rights in NKR. There should be no white spots on the human defenders map of the globe, and the people of NKR should once again fight for its security and space on the world map – this time, on the map of human rights defenders.

Contrasting the non-contrastable

In a region suffering conflicts the issues of protection of human rights are not restricted only to the unavailability of access to international instruments. For years voicing out any individual or systemic issue regarding the protection of human rights has been perceived a challenge to statehood and security. For instance, in the neighboring Georgia human rights protection issues are often reinterpreted as “spying passions”. In the case of unresolved conflicts between Georgia and Ossetia, Georgia and Abkhazia and lately Georgia and Russia the Georgian authorities consider activities aimed at the protection of human rights as dangerous. Such an approach still finds echoes in Armenia as well. For instance, there was a time when the issues regarding minority rights were being silenced out in order to avoid the label of the “5th column”. Cases of violation of human rights in the armed forces of three South Caucasian countries have also been discussed from this perspective.

Thus, the issue is being reduced to contrasting on one hand the human rights, and on the other, national security, a contrast which in principle is unacceptable, as in modern times the state is, first and foremost, the primary national institution for the protection of human rights. The primary goal of the state is to protect human rights of each and all individuals. Therefore, by voicing human rights issues it is impossible to challenge the very instrument which is supposed to address these issues.

It is interesting to note that the demise of the Soviet Union was triggered not in the name of protection of human rights, but due to the renaissance of national self-consciousness. The consequent conflicts emerged on the ground of national self-determination; therefore, it is not surprising that protection of human rights is erroneously being contrasted with the national interests, a trend, which proceeds by inertia even today. However, human rights are best protected in a strong nation-state and national interests are best protected by the individual of that society where his/her rights are securely protected.

In this regard raising awareness and the level of civic education of people both in Armenia and NKR is quite significant. It should be noted that the shortcomings of the NKR civic education and human rights protection activities are actually the result of unsound practices of the Armenian civil society

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institutions. Human rights defenders in Armenia should actively get involved in this process, with the support of the Armenian state authorities. Western human rights defenders and state authorities are very often unyielding opponents within their own countries, whereas while assisting other peoples, they act hand in hand. Human rights defenders in Armenia should also actively collaborate with their colleagues in Azerbaijan in protecting the rights of Armenians residing there. International human rights protection organizations have also a lot to do in this regard. It is time that the white stains are removed from the territory of the neighboring country.

Restriction of human rights and their protection

In the 90s of the last century a number of institutions of violation of rights, among which electoral violations were formed which having been functioning (with some changes, of course) till today. These institutions displayed the whole ugliness of their faces first in 1996 and later during each other election. Incidentally, mass violations of human rights in Armenia are regularly being explained and even justified by the unresolved conflict and war. Unfortunately, such an approach incites a contrast between some of the most important values, which essentially do not contrast each other, namely patriotism and freedom of mind, nationalism and protection of human rights. That these values do not contradict each other, but on the contrary, are complementary, is proved by the daily lives of people in NKR, who live under an immediate threat of war. Violation of human rights here are not more frequent than in 'continental' Armenia. Perhaps the situation is even much better there. In post-war years the lawful restrictions were eliminated there.

During conflicts it is often necessary to restrict certain rights of citizens. In this case a new issue emerges, that of proportion and lawfulness of the restriction of rights, specifically the need for legislative regulation of emergency rule. However, the issue of unrestricted rights is even more disturbing. In the 90s when Armenia was in war, it would have been logical to proportionally restrict certain rights, through a lawful act. However, it did not happen. Instead violation of unrestricted rights became quite widespread. Actually it was exactly then that the cynical attitude of the society towards human rights emerged. However, it is this very attitude that sucks the marrow off a state based on rule of law.

The solution is to establish a rule of law through starting with individual rights, raising the reputation of public and private institutions dealing with the protection of human rights and killing the worm of cynicism that spreads mistrust.

Armed forces: where the state reaches everywhere and protects everyone

Unresolved conflict affects also the rights of those serving in the armed forces. The issues are not being publicized, but this does not mean they disappear. Violations of rights caused by breaching chartered relations in the armed forces are quite problematic, and this in the case, when the army is the very institution where the personnel is under the absolute supervision of the state. A citizen rightly expects that the rights of his/her son in an institution under an absolute control of the state should be better protected, than those in the society in general. We often hear: "However the society is the army should be the same." However, the role of the state is more limited in the society, whereas in the army it is exclusive and absolute. Perhaps it is more accurate to say, "However the army is thus is the utmost level of the protection of human rights in that country." Actually, the state is responsible for every victim in the army. Eventually, it is an environment where certain human rights are restricted by law. Therefore, it is but fairer to expect that the restricted rights are not violated but are vehemently protected instead.

The whole burden of responsibility lies on the state. However, in case an institute of civilian control and monitoring is introduced into the armed forces, the role of the non-governmental institutions will have increased in sharing this responsibility. Still, today we lack institutions that are capable of effectively implementing such monitoring. We need to develop those.

The paper is elaborated based on the opinions passed by the participants of the discussion "Human Rights and Unrecognized Entities: National Minorities as Hostages to Conflicts and Political Interests", which took place on April 1, 2010. The roundtable discussion was attended by independent analysts, government officials, and representatives of the international organizations.

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