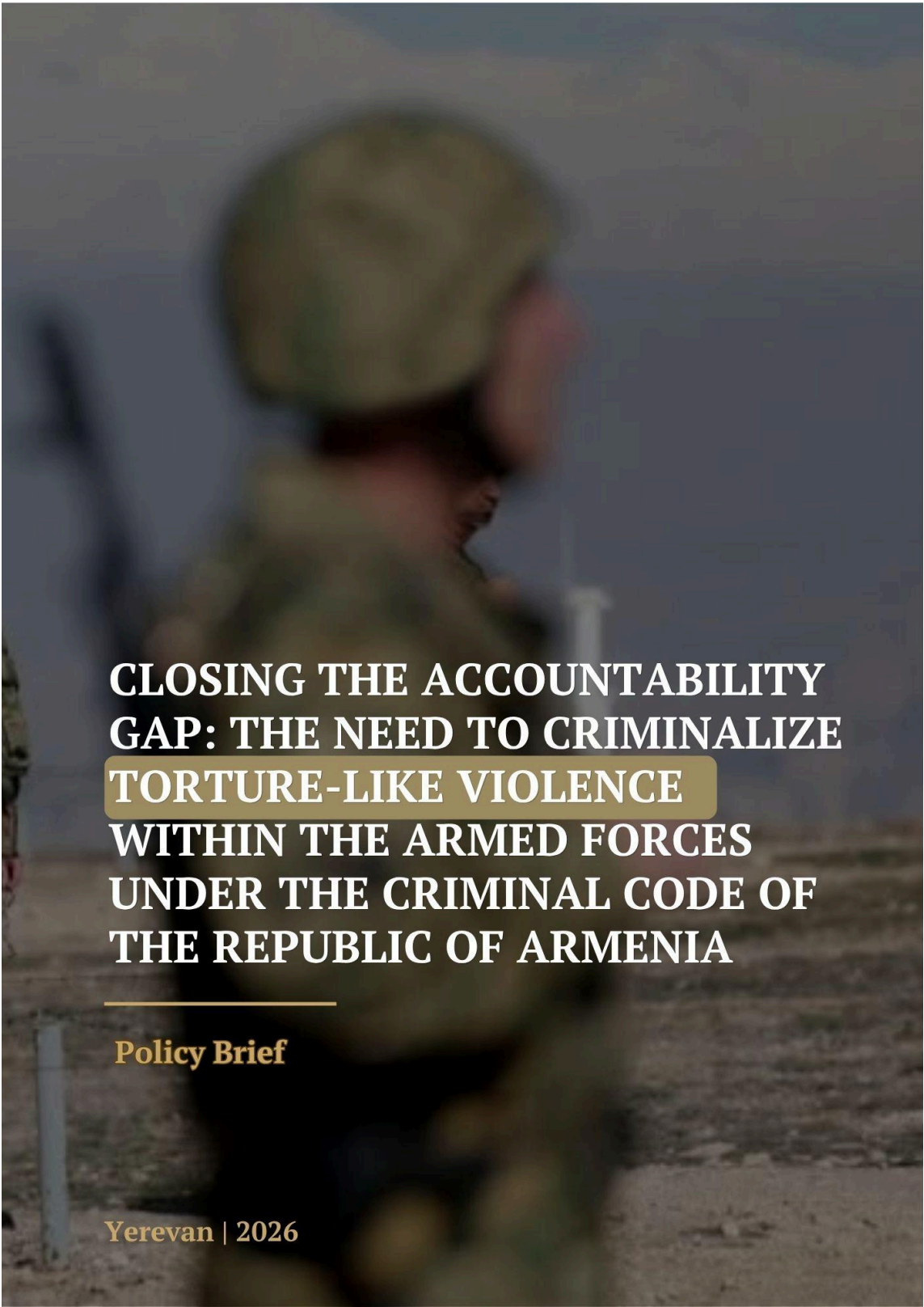




Protection of Rights
Without Borders NGO



**CLOSING THE ACCOUNTABILITY
GAP: THE NEED TO CRIMINALIZE
TORTURE-LIKE VIOLENCE
WITHIN THE ARMED FORCES
UNDER THE CRIMINAL CODE OF
THE REPUBLIC OF ARMENIA**

Policy Brief

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Executive Summary

The analysis of 51 criminal cases examined in Armenian courts in 2020-2025 reveals persistent patterns of physical and psychological abuse within the Armed Forces of Armenia, including systematic humiliation, coercion, and violence occurring both between peers and within hierarchical relationships, in some cases preceding suicide. Despite the severity of these acts, they were overwhelmingly prosecuted under Articles 519–521 as ordinary military violence, with widespread use of accelerated proceedings, suspended sentences, and termination of proceedings. The findings indicate a structural failure to examine whether such conduct meets the threshold of torture or other forms of ill-treatment under international law and domestic Criminal Code.

This policy brief argues that Armenia should amend Chapter 46 of the Criminal Code (“Crimes against Military Service”) to introduce a specific crime addressing violence committed by servicemembers that intentionally inflicts severe physical or mental pain or suffering for prohibited purposes. Such amendments would strengthen compliance with Armenia’s international obligations, improve the adequacy of legal responses to serious abuses within the armed forces, and reinforce the preventive function of justice.

The Problem

The study identified several recurring characteristics of violence within military settings:

- repeated physical assaults over prolonged periods;
- systematic humiliation and degradation of dignity;
- forced nudity and exposure;
- sexually degrading insults;
- threats and intimidation;
- violence committed by superiors against subordinates;
- violence committed publicly in the presence of other servicemembers;
- coercive practices aimed at enforcing obedience;
- abuse facilitated by hierarchical military structures;
- conduct contributing to environments in which suicide became a foreseeable consequence.

The UN Committee against Torture (CAT) has repeatedly expressed concerns over the high number of reported cases of suicide and other non-combat deaths of service members in the armed forces of Armenia and the continued prevalence of practices such as hazing and the application of psychological pressure as a contributing factor in this regard. CAT has recommended to ensure prompt and effective investigations into all allegations of abuse and

deaths of personnel in the army, including suicides, prosecute and punish those responsible with appropriate penalties, and provide victims and their families with redress.¹

The findings of the study, corroborated by official statistics obtained from the competent authorities, indicate that Article 450 of the Criminal Code has not been applied in cases involving violence committed within the armed forces. During the monitored period, despite numerous incidents involving repeated beatings, forced nudity, humiliation, threats, coercion, and conduct preceding suicide, no criminal proceedings were instituted under the torture provision. Instead, all cases were prosecuted exclusively under Articles 519–521 of Chapter 46 of the Criminal Code.

Although some of these acts may satisfy the elements of torture or other forms of prohibited ill-treatment under international law and Armenia's Criminal Code (Art. 450), they were prosecuted as ordinary military offenses involving violence. This resulted in the non-application of safeguards provided in the Armenian legislation for cases of torture aimed at preventing impunity.

The findings suggest that Chapter 46 operates in practice as an exclusive regime governing violence within the armed forces. Although neither the Criminal Code nor the Criminal Procedure Code expressly excludes the application of Article 450 to servicemembers, the absence of any torture prosecutions indicates the existence of a *de facto lex specialis* doctrine. As a consequence, conduct that may satisfy the constitutive elements of torture is systematically reclassified as ordinary military violence

Some of the justice sector professionals argue that crimes committed in the context of armed service shall be qualified under Chapter 46 as *lex specialis*, hence, Art. 450 – torture is not applicable given that a specific article criminalizing violence between members of armed forces exists in the specific chapter (Art. 519-521). As a result, no charges of torture are ever brought in the context of resorting to violence, be it physical or psychological, if committed between members of the armed forces.

Such an approach risks undermining the object and purpose of Armenia's obligations under the Convention against torture and other cruel, inhuman or degrading treatment or punishment (UN Convention against Torture). The principle of *lex specialis* cannot justify excluding the application of torture safeguards where the substantive elements of torture are present.

The findings further demonstrate that neither investigative authorities nor courts assessed whether the severity, purpose, and context of the conduct required a different legal qualification.

As a result, the current legislative framework does not adequately distinguish between isolated acts of violence and conduct involving the intentional infliction of severe suffering for prohibited purposes.

¹ See, Concluding observations on the fifth periodic report of Armenia, CAT, Armenia, CAT/C/ARM/CO/5, 02 May 2025, paras. 26-27, available at <https://digitallibrary.un.org/record/4084312?v=pdf>; Concluding observations on the fourth periodic report of Armenia, CAT, Armenia, CAT/C/ARM/CO/4, 26 January 2017, available at <https://digitallibrary.un.org/record/1306830?v=pdf>

The Existing Legislative Gap

Articles 519, 520, and 521 of the Criminal Code criminalize violence by a subordinate against a superior, between servicemembers, and violence committed by superiors against subordinates. These provisions primarily protect military order, discipline, and relations of subordination.

However, they do not expressly address situations in which violence is used:

- to punish;
- to intimidate;
- to coerce;
- to degrade and humiliate;
- to enforce informal hierarchies;
- to discriminate against perceived weakness or vulnerability; or
- to intentionally inflict severe physical or mental suffering.

Consequently, as judicial monitoring demonstrates, conduct of exceptional gravity may be prosecuted and punished in the same manner as considerably less serious acts.

This approach inadequately reflects both the nature of the harm suffered by victims and the heightened responsibility arising from the closed and hierarchical environment of military service.

Armenia's International Obligations

Armenia is bound by international obligations prohibiting torture and other cruel, inhuman, or degrading treatment or punishment.

These obligations require States not only to refrain from torture, but also to establish effective legislative frameworks capable of preventing, investigating, prosecuting, and punishing acts amounting to torture or ill-treatment. International law requires States to ensure that conduct satisfying the constituent elements of torture is capable, both in law and in practice, of being investigated, prosecuted, and punished as torture.

International standards recognize that severe physical or mental suffering intentionally inflicted for purposes such as punishment, intimidation, coercion, or discrimination requires a distinct legal response reflecting the particular gravity of the conduct.

The jurisprudence of international human rights bodies has repeatedly emphasized that inadequate legal qualification of serious ill-treatment may itself undermine the effectiveness of investigations and contribute to impunity.² Impunity risk arises when conduct is not effectively investigated, properly classified, and adequately sanctioned.

² See, for example, *Chamber v. Russia*, no. [7188/03](#), 03 July 2008, para. 61.

The European Court has found violations of Article 3 where prosecutions became time-barred owing to the inadequate characterisation by the domestic authorities of acts of torture or other forms of ill-treatment as less serious offences, leading to shorter limitation periods and allowing the perpetrator to escape criminal responsibility.³

In Armenia, torture has been criminalized since 2015, and the criminalization in the current Criminal Code is generally in line with international standards.⁴ The definition reflects the definition of the UN Convention against torture, while the Criminal Code prohibits the application of amnesty, pardon, and statute of limitations, and given the gravity of the crime of torture, a reconciliation procedure is also not applicable. However, this does not concern the applicability of accelerated proceedings as if perpetrators of grave crimes are eligible to benefit from it, should a prosecutor and the victim not object.

The CAT clarified that torture obligations extend to all public officials:

"The Convention's obligations are applicable to all persons acting, de jure or de facto, in the name of the State, in conjunction with the State, under its direction or control, or otherwise under colour of law."⁵

This means that practices amounting to torture, if committed in the armed forces, shall be classified and investigated as torture, not lesser offences.

Analysis of the legal framework and case-law suggests that torture depends on severity and purpose, not location. Where the constitutive elements of torture are present, international law requires States to ensure that such conduct is capable of being qualified as torture, irrespective of the institutional setting in which it occurs, including the armed forces.

Why Existing Torture Provisions Are Insufficient

The findings indicate that reliance on Article 450 alone is unlikely to address the problem. First, Article 450 requires the involvement of a public official or conduct committed upon the consent, or acquiescence of such an official. This excludes cases of torture by fellow service members as private soldiers are not considered public officials as defined in the Criminal Code.

Second, many incidents documented by the study involved conscripts or fellow servicemembers acting outside a formal system of dominance, and without evidence sufficient to establish the requisite nexus with an official. At the same time, under the Criminal Code, conscripts cannot be considered as public officials.

³ See, among other authorities, *Pădureț v. the Republic of Moldova*, no. [33134/03](#), § 75, 05 January 2010; *Velev v. Bulgaria*, no. [43531/08](#), § 61, 16 April 2013; and *O.R. and L.R. v. the Republic of Moldova*, no. [24129/11](#), §§ 73-74, 30 October 2018

⁴ However, despite the option of imposing heavier penalties in cases where there are aggravating circumstances, the minimum penalty for torture remains low. See CAT Concluding observations on the fifth periodic report of Armenia, 02 May 2025

⁵ CAT General Comment No. 2, CAT/C/GC/2, para. 15.

Third, prosecutorial practice demonstrates a consistent preference for qualification under Chapter 46. Consequently, even where severe suffering is intentionally inflicted for prohibited purposes, the existing torture provision does not provide an effective practical response.

Why a Military-Specific Provision Is Necessary

Introducing such provisions would not duplicate existing offenses but would address the distinctive realities of military service.

The monitored cases demonstrate that violence within the armed forces frequently occurs:

- within a closed institutional environment;
- under conditions of dependence and unequal power;
- in the presence of other servicemembers;
- through repeated acts intended to establish dominance;
- with the acquiescence or ineffective intervention of command structures; and
- in contexts where victims face practical barriers to reporting abuse.

Moreover, in addition to the argument about the non-applicability of Art. 450 to private soldiers and *lex specialis* approach adopted by Armenian legislator for the crimes committed in the context of military service, the existing Articles 519-521 address only physical violence, leaving conduct causing severe psychological suffering outside.⁶

At the same time, in some of the monitored cases, torture-like conduct was inflicted by servicemembers without relationships of subordination, and it is not clear whether this was done with consent or acquiescence of the commanders. In such a case, conscripts are not considered public officials; hence, they cannot be charged under Art. 450 for conduct that otherwise would be classified as torture if committed by a public official, unless we can prove that it was committed with the consent or acquiescence of the commanders or at least a sergeant/chief.

Military-specific provisions would not only address the issue of *lex generalis v lex specialis*, but also recognize these realities and ensure that the criminal law adequately captures the seriousness of such conduct.

Proposed Legislative Reform

It is recommended that the National Assembly of the Republic of Armenia amend Chapter 46 of the Criminal Code by adding Article 521.1 stipulating liability for torture-like conduct committed within military relationships.

⁶Articles 519-521 use a term ‘violence’ which is defined in the Criminal Code as “Intentionally exerting physical force on another person against their will or ignoring their will, or causing them physical harm in this way” (Art. 3, part 1 (9)).

The amendments should expressly criminalize conduct whereby a servicemember intentionally inflicts severe physical or mental pain or suffering upon another servicemember for prohibited purposes. The following formulation may be considered:

Proposed amendment to the Criminal Code

Article 521.1 Subjecting a servicemember to torture or other forms of inhuman or degrading treatment by another service member

1. Violation of the code of conduct for military personnel in the absence of a relationship of subordination between them, which is expressed in intentionally causing severe pain or suffering, physical or mental, on another service member in order to obtain information or punish, or to intimidate him or her or force to commit or refrain from committing any act, or for any reason based on discrimination of any nature`

Is punishable by imprisonment from four to eight years.

2. The conduct stipulated in paragraph one if:

- 1) committed by a group of people,
- 2) committed by a subordinate or superior,
- 3) committed by an officer or by a senior non-commissioned officer
- 4) resulted in causing medium gravity harm to health`

Is punishable by imprisonment from six to 10 years.

3. The conduct stipulated in paragraph one and two if`

- 1) committed with the use of arms or other objects specifically designed to serve as a weapon,
- 2) committed with particular cruelty,
- 3) resulted in serious harm to health or other serious consequences by accident `

Is punishable by imprisonment from seven to twelve years.

To ensure that equivalent safeguards are applied as in the case of torture, it is proposed to amend the following articles of the Criminal Code to include a reference to Article 521.1:

- Article 7, part 2 - exceptions to the interpretation of the double jeopardy;
- Article 81, part 1.2 - prohibition of the release from liability on the ground of active repentance;
- Article 83, part 9 - prohibition of the application of the statute of limitations to release from liability;

- Article 90, part 7 - prohibition of the application of the statute of limitations in the case of a guilty verdict;
- Article 91, part 2 - prohibition of the application of amnesty;
- Article 92, part 2 - prohibition of the application of pardon;
- Article 473, part 1 - criminalisation of non-reporting of a particular crime.

Proposed amendment to the Criminal Procedure Code

To amend Art 464.1 (2) of the Criminal Procedure Code with the following provision:

“5. This procedure cannot be applied if the defendant is charged with Art. 441 (2), 450, and 521.1 of the Criminal Code”.

To amend Art 458 (2) of the Criminal Procedure Code with the following provision:

“6. This procedure cannot be applied if the defendant is charged with Art. 441 (2), 450, and 521.1 of the Criminal Code”.

The proposed provisions are not intended to establish a distinct form of torture applicable only to servicemembers. Rather, they are designed to ensure that torture-like conduct occurring within military relationships cannot evade adequate legal qualification because of uncertainties surrounding the relationship between Article 450 and Chapter 46.

Expected Impact of Reform

The proposed amendments would:

- strengthen compliance with Armenia’s international human rights obligations;
- improve the legal qualification of serious abuses within the armed forces;
- reinforce the distinction between ordinary interpersonal or disciplinary violence and torture-like conduct;
- enhance the preventive and expressive functions of criminal law;
- reduce the risk of impunity arising from under-classification of offenses;
- encourage more thorough investigations into the causes and context of abuse;
- contribute to the development of more coherent judicial practice; and
- strengthen trust among servicemembers and society in the justice system.

Conclusion

The findings of PRWB's study reveal that violence within the Armenian armed forces cannot be viewed solely as isolated breaches of military discipline. In several cases, the conduct involved the intentional infliction of severe physical and psychological suffering through punishment, intimidation, coercion, humiliation, and abuse of power. Such conduct may amount to torture or other forms of prohibited ill-treatment.

The absence of explicit provisions addressing this reality creates a significant accountability gap. Amending Chapter 46 of the Criminal Code to adequately criminalize the intentional infliction of severe physical or mental pain or suffering for prohibited purposes would constitute an important step toward ensuring effective protection of servicemembers' rights, strengthening military discipline founded upon respect for human dignity, and fulfilling Armenia's obligations under international human rights law.

International standards require not only effective investigation of such allegations but also legal frameworks capable of reflecting the true gravity of the conduct. The absence of specific offences addressing torture-like violence within the chapter on crimes against military service risks trivialising serious abuse, weakening deterrence, and contributing to impunity.