THE ISSUE OF IMPROVEMENT OF SOME STRUCTURES OF LEGAL PROTECTION OF INDIVIDUAL'S HONOR, DIGNITY AND BUSINESS REPUTATION IN THE REPUBLIC OF ARMENIA

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In accordance with already formed legal positions of the European Court of Human Rights (hereinafter ECHR), freedom of expression is one of the supporting columns of democratic society and one of the main terms of its development, as well as self-improvement of each individual. It is implementable not only regarding such “information” or “notions” which are accepted favorably or are concerned as secure and neutral, but in the cases when insult, physiological stress or concern is being caused. Demands of tolerance, pluralism, and open-mindedness are the ones without which natural subsistence of “democratic society” is not possible².

Freedom of expression or right to respect human honor and dignity, which is more important? The long-lasting dispute on this issue continues up to now. By systemic analysis of Articles 3, 14, 27, 43 and 47 (first part) of the Constitution of the Republic of Armenia, it could be stated that the restriction of the rights and freedoms, which derive from of the human dignity, may be justified only within lawful frames, and such an approach has been envisaged in a number of relevant international documents.

Within the framework of this article, the appropriateness of some current issues are touched upon, in particular that of prescription of legal liability for non-public insult, as well as

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appropriateness of criminalization of slander and insult in terms of legal regulation of legal protection of individual's honor, dignity and business reputation. To ensure the accuracy of the study, international practice has also undergone relevant analysis.

First, let us state that the term "defamation"³, which is typical for the legal system of the USA and European countries, is not used in the legislation of the Republic of Armenia. This term also cannot be found in the legislation of the Russian Federation, regarding which the Decision of the Supreme Court Council of the Russian Federation, dated February 24, 2005, prescribes that the courts, while examining the relevant disputes, shall consider that the notion of defamation used by the ECHR is in concordance with the notion of dissemination of assaulting information which does not correspond to the reality, which is envisaged in Article 152 of the Civil Code of the Russian Federation⁴. On the contrary, some jurists suggest applying the term “defamation” as dissemination of assaulting information which is true. In particular, it is suggested that defamation should be understood as dissemination of information concerning the private life of a person, without the person's consent, which corresponds to reality, which is his/her private or family secret, and which assaults his/her honor, dignity or shatters his/her reputation, if it does not touch upon the interests of society and other people⁵. At the same time, there is a rather wide interpretation of the

³ This term has Latin origins (diffamatio, diffamare) and means to bring into disrepute or assault (see, for instance, Осакве К. Сравнительное правоведение: схематический комментарий. М.: Юристъ, 2008, С. 536).
⁵ See, for instance, Nurkaeva T., Sherbakov S. Уголовно правовая охрана чести и достоинства // Российская юстиция. – 2002, № 2, С. 51].
term “defamation”, pursuant to which any kind of dissemination of information, which assaults honor, dignity and business reputation, is considered as defamation⁶.

Deriving from the subjective approach concerning correspondence of disseminated information to reality, the following types of defamation are highlighted:

1. Dissemination of false assaulting information: 
   deliberately non trusty defamation or slander,
2. Imprudent dissemination of false information; imprudent non-reliable defamation,
3. Dissemination of assaulting information which corresponds to reality: reliable defamation⁷.

The provisions of the civil legislation of the Republic of Armenia, as a rule, do not allow imposing liability for dissemination of information which assaults the person’s honor, dignity, and business reputation if it has been proven that they correspond to reality⁸, in respect to which, such cases do not get proper legal

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⁸ Public statement may not be deemed as an insult in the given situation and by virtue of its content where it is based on accurate facts (except for congenital disorders) (Article 1087.1(2) of the Civil Code of the Republic of Armenia). The facts are considered accurate when they are substantiated by evidence at the time of the publication of the information or are well-known facts (not demanding proof), see Decisions issued on the basis of civil cases YeKD/2293/02/10 and N LD/of the Cassation Court of the Republic of Armenia of April 27, 2012.

Analysis of the provision of Article 1087.1(3) of the Civil Code of the Republic of Armenia shows that one of the criteria for assessment of slander is the requirement of non-conformity of the specific statement to reality, i.e. the statement must be false, unsubstantiated or unreliable. At the same time, the legislator envisages the terms when public communication of factual data is not considered as slander (for details see part 5 of Article 1087.1).
Publicity is one of the mandatory elements of the characteristics of defamation, which is present even in the case of passing information to any third party. Interpretation of the term “public communication” is provided in the decisions of the Cassation Court of the Republic of Armenia. Meanwhile, verbal statements made and facts presented in the presence of a third party may be considered public. The latter is considered as accomplished in presence of a third party also in the case when the third party also makes verbal statements and presents facts, which by virtue of their contents are related to the verbal statements or facts made and presented by the tortfeasor. In such cases, the fact of causing joined damage is present.

In fact, in our Republic in the conditions of the current legal regulations, the verbal statements made non-publicly, which assault the individual’s honor, dignity, and business reputation, are not considered as insult and in this case, the person does not enjoy the means of protection prescribed by law. In such a situation, persons, whose honor, dignity or business reputation are assaulted non-publicly, are deprived from the legal protection, which, at least, is dubious as, for instance, no legal liability is prescribed for swearing a person non-publicly or insulting, e.g. spitting on his or her face.

Regarding the abovementioned, a number of cases are worth to be mentioned. For instance, the General Jurisdiction Court of Administrative Districts of Achapnyak and Davitashen declined the case YeAQD/2492/02/12 on April 29, 2013, initiated by T. Tovmasyan, the head manager of “Jokhovurd Terti Khmbagruyun” LLC (Editorial Office of Jokhovurd Newspaper) and S. A. Grigoryan against Kh. Khachatryan concerning the issue of

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9 The same issue is touched upon also in Decision SDVo-997 of the Constitutional Court of the Republic of Armenia of November 15, 2011.
10 See in details decisions issued on the basis of civil cases N YeKD/2293/02/10 and N LD/of the Cassation Court of the Republic of Armenia of April 27, 2012.
11 Necessity of resolving the issue of legal regulation of defense from non-public insult is pointed out in Decision DCC-997 of the Constitutional Court of the Republic of Armenia of November 15, 2011.
demand to oblige to apologize for the expressions assaulting the honor and dignity. According to the facts of the case, during the telephone conversation the Respondent insulted the Plaintiff S. Grigoryan saying, “…my dear, you are not a journalist, you are a prostitute (emphasis added – E.Sh.), and you may put this down too.” and disconnected. The Court, in particular, stated that the evidence provided by the Plaintiffs did not substantiate publicity of the “insult” of the Respondent as it was made during the personal telephone conversation and was non-public. There is no factual confirmation that the Respondent by means of a verbal expression, in writing, in pictures, through gesture or through acts, had made any public expression assaulting the honor, dignity or business reputation of the Plaintiff.12

Meanwhile, the respondent mentioned, inter alia, as legal argument the substantiations of a judgment of another case rendered by the RA court, which entered into force13. In particular, in accordance with the facts of the case, the Respondent called the Plaintiff “illiterate” (emphasis added – E.Sh.), disconnected, and as a response to the second call, during which the Plaintiff wanted to clarify the reason of being called “illiterate”, the Respondent used abusive expressions (emphasis added – E.Sh.) and again disconnected the telephone. The Decision of the RA Appeal Court of October 12, 2011 stated that the Respondent’s opinion is the person’s personal attitude towards the Plaintiff, and the Respondent’s opinion, personal attitude would have stopped being as such from the moment it was announced in public, but, meanwhile, in this case this fact is not present. It derives from this argumentation that the “expression”

12 See the Judgment of the General Jurisdiction Court of Administrative Districts of Achapnyak and Davitashen of April 29, 2013 on the case YeAQD/2492/02/12.
13 See the Judgment of the General Jurisdiction Court of the Administrative Districts of Avan and Nor Nork of June 7, 2011 on case YeAND/0251/02/11 based on the claim brought forward by G. Balasanyan, journalist of the newspaper “Hetq” against R. Hayrapetyan, deputy of the RA National Assembly, demanding to compensate the damage caused to his honor and dignity. This judgment, after being appealed in accordance with the appeal and cassation procedure, remained unchanged and entered into force on January 19, 2012.
made by the Respondent is not information assaulting the honor and dignity of the Plaintiff; therefore, as to satisfying the appeal, the relevant norms of the RA Civil Code are not applicable and thus the enforcement of Article 1087.1 of the RA Civil Code and subjecting to liability for such action are excluded (by virtue of Article 1087.1(3))

Regarding this, we would like to mention that pursuant to Article 3 of the Constitution of the Republic of Armenia human dignity is one of the highest values, and pursuant to Article 14 dignity of a person shall be respected and protected by the State as an inherent foundation for his or her rights and freedoms. Namely, human dignity is inviolable substance of his or her rights and freedoms and their respect and protection is the obligation of the State, which, in its turn, assumes protection of the person from any kind of humiliation. Meanwhile, analysis of the norms of Article 43 of the Constitution states that on the basis of this Article, Article 14 of the Constitution is not subject to restriction.

In a number of decisions, the Constitutional Court of the Republic of Armenia touched upon the issue of recognizing the constitutional legal contents of human dignity as highest value (SDVo-834, SDVo-913, etc.), emphasizing that this right is of utmost importance for free, non-restricted and guaranteed implementation of

14 Registering the above mentioned, the Court of Appeal stated that in such cases, when by the explanations presented in the case as well as evidence obtained during case examination, it was not confirmed that the Respondent with the means of "verbal expression, in writing, in pictures, through gesture or through acts made any public expression assaulting the honor, dignity or business reputation" in such circumstances which could be proved as a fact of insult, the Plaintiff’s demand was refused and the Court came to such a lawful conclusion.

15 Such formulations can be seen in the Constitutions of a number of democratic states, where immunity and inalienability of the human dignity, respecting and protecting the dignity of a person are obligations of the State. For instance, in the Fundamental Law of the Federal Republic of Germany of 1948, it is stipulated that that human dignity is inviolable, and the respect and protection thereof shall be the obligation of the State (Article 1(1)). According to the Constitution of Poland of 1997, the inherent and inalienable dignity of the person shall constitute a source of freedoms and rights of persons and citizens. It shall be inviolable. The respect and protection thereof shall be the obligation of public authorities (Article 30).
all fundamental rights and freedoms of an individual and a citizen, which also assumes implementation of certain activity and expression of will, as well as relevant obligation of the State to protect them.

Deriving from current legal regulations concerning the challenged issue, it may be stated that the State does not implement its constitutional obligation to protect human dignity completely as the structures for legal protection from non-public insult have not been prescribed.

Now, let us touch upon the issue of appropriateness of decriminalization of defamation on the basis of studies of the current international tendencies.

The European Council of Parliamentary Assembly in its Resolution 1577(2007) of 04.10.2007 towards decriminalization of defamation16, in particular, stated anyone charged with defamation to substantiate their statements in order to absolve themselves of possible criminal responsibility. After adoption of this Resolution, number of European Council member states, among them Republic of Armenia, initiated relevant legislative amendments directed towards decriminalization of defamation. In 2010, Articles 135 and 136 of the RA Criminal Code were repealed, and the RA Civil Code was supplemented with the challenged Article 1087.1. However, was it appropriate to undertake such an action, and by decriminalization of defamation, has not the human dignity been infringed? To answer these questions, let us, first, study the best practice of a number of foreign countries.

In the states of custom law, defamation is often defined as delict (civil infringement), although in a number of cases by dissemination of evidently assaulting information criminal persecution may be filed against the tortfeasor. Thus, for instance, in Great Britain the activity directed towards dissemination of such kind of information is classified as libel and slander. The first one is comprehended as a written or any other kind of false statement, which provides the

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disseminated information with permanent essence, while slander is an oral or other form of libel, which provides the disseminated information with temporary form. Here libel acts as independent corpus delicti, meanwhile slander may be criminalized when it is combined with insult and in a number of other cases. Satisfying the Applicant's demands is possible, if the victim proves that information was assaultive, concerned him/her and was disseminated. Meanwhile, fair comment regarding public significance of assaultive information, which has become known to the Respondent, does not bring to liability for defamation. An opinion or a comment may be considered bona fide if the Respondent considered it fair and had no intention to damage the victim. The necessary term for exclusion of liability for the interpretation is its “public significance” which is widely interpreted by the English courts if the action interests many people and may happen with them or other persons\textsuperscript{17}. Simultaneously, there is not liability for “innocent defamation”, if the tortfeasor offers denial of disseminated assaultive information to the victim.

In the USA compensation for damage is the main form of liability for defamation. Depending on what kind of compensation of damages demands the Plaintiff, the court is authorized to enforce diverse legal principles. The American law points out two forms of compensation of damage - compensation damages, which are imposed for real damage (moral damage, loss of earning capacity because of stress, legal costs, etc.) and punitive damages, which are imposed for “punishing” the offender and keeping him or her devoid from further offenses. The Respondent also pays back the sums of

\textsuperscript{17} M. E. Жаглина, "Диффамация и защита чести, достоинства и деловой репутации" // Вестник Воронежского института МВД России, 2009, № 2 (http://cyberleninka.ru/article/n/diffamatsiya-i-zaschita-chesti-dostoinstva-i-delovoy-reputatsii). It should be mentioned that foreigners often choose Great Britain as a place for judicial disputes against respondents. For instance, the Russian businessman B. Berezovsky submitted a defamation plea against the author of the article published in the American journal “Forbes”, despite the circumstance that none of the parties had any concern with Great Britain (Berezovsky v. Michaels [2000] 1 W.L.R. 1004, HL).
“punitive” damages to the Plaintiff. Meanwhile, concerning the cases of defamation, according to the legislation of the majority of the states of the USA, for the officials there are restrictions of the right to demand compensation for “punitive” damages. In the USA, in case of defamation the illegality of the behavior is manifested according to which the statement shall be factual and assaultive towards a certain person, *i.e.* shall damage the reputation\(^{18}\), shall be caused by the third party (through means of mass media, radio, television) and somehow personify the victim of libel, *i.e.* it shall be clear to the third party that the information concerns that certain person\(^{19}\). Besides, the guilt of the slanderer must be proved. The principle of actual malice, the action, which first covered all public figures, and since 1974 has also covered private persons,\(^{20}\) is of great importance. Generally, the American tendency of imposing gross majority of compensations indicates that the possibility of achieving civil-legal liability may serve as better suppressing factor than the risk of filing a criminal case. Despite, in the USA judicial practice successive priority of the First Amendment of the Constitution, which envisages the freedom of speech, is more noticeable regarding the protection of honor and dignity, especially when it concerns public figures.

In the states of continental law, dissemination of information assaults honor, dignity and business reputation, as a rule, serves as grounds for enforcement of criminal-legal norms. In the European states, which are ranked with the Romance-Germanic legal system, in criminal-legal aspect dissemination of allegations or assaultive facts are mainly considered as defamation. For instance, in the Federal Republic of Germany, three types of defamation are specified: insult, assaulting display and intentionally mendacious judgment. In the case of insult, the trustworthiness of display is not demanded to be proved or challenged if its assaultive essence is connected with the circumstances of the form and dissemination of display. If it concerns allegations, and it turned out that the displayed

information has been disseminated as intentionally mendacious, then *corpus delicti* is present and as justification the accused is authorized to prove that, to his or her opinion, he or she has disseminated true information. Legislative separation of factual statements and expression of opinion, typical to a number of states, is the most important element of the German legislation regarding defamation and, meanwhile, the latter is under ultimate protection of the law. For defamation crimes, the German Criminal Code envisages a number of means of liability, including imprisonment\(^\text{21}\). However, the criminal persecution is implemented very rarely, thus providing possibility for resolving identical cases by civil-legal order\(^\text{22}\).

In *France* liability for defamation is envisaged in the Act on Freedom of Press of 1881 where insult and libel were differentiated. The latter is defined as *allegation or imputation* of an act, which dishonors or damages a person’s honor, dignity, and reputation. Demonstration or reproduction of such allegation or imputation are liable to punishment even if has been done as an assumption and certain people are not pointed out but they could be recognized on the basis of the information provided. Any insult is defined as an outrageous expression, terms of despise or invectives that *do not contain* any fact to the insulted person and are considered as insult\(^\text{23}\). Here as a rule, examination of the cases on defamation are held without the participation of juries. No imprisonment is practically imposed. Usually the accused is fined, compensating the damage caused to the victim of the insult or libel. Although the criminal law is relatively “lenient”, it is more frequently used in France than in other European states, and a tangible part of the judgments are adopted in favor of the plaintiff (victim). Criminal persecution on

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\(^{22}\) Sergey Dikman, Problems of responsibility for Defamation: the experience of foreign countries and international standards. [Сергей Дикман, Проблемы ответственности за диффамацию: зарубежный опыт и международные стандарты] (www.hrights.ru/text/b25/Chapter3%204.htm).

\(^{23}\) Law on the Freedom of the Press of 29 July 1881, Article 29.
The charge of defamation is terminated if the accused is able to prove the correspondence of the disseminated information to reality. However, presentation of such evidence is excluded if the assaulting information concerns the victim's private life. If the accused is not able to confirm the reliability of the disseminated information, then the law derives from the presumption of “unfairness” of his or her actions. In such a case, the accused may also prove the opposite but it is not enough just to prove that he or she was convinced in the truthfulness of the disseminated information. He or she must prove that the disseminated information was precisely checked by him or her and was disseminated by lawful aims and, in certain circumstances of the case, as cautiously as possible.

According to the Criminal Code of Switzerland, any person who in addressing a third party, makes an accusation against or casts suspicion on another of dishonorable conduct or of other conduct that is liable to damage another's reputation and disseminates such accusations or suspicions, is criminally liable. If the accused proves that the statement made or disseminated by him corresponds to the truth or that he had substantial grounds to hold an honest belief that it was true, he may not be held guilty of an offence except for cases, when his statements are not directed towards protection of public interests, in particular, concern private or family life and are done with intention to show the victim as a negative person. Insult, that is, any person who attacks the honor of another verbally, in writing, in pictures, through gestures or through acts of aggression is criminally liable. Meanwhile, if the "insulted" party has directly provoked the insult by improper behavior, the court may dispense with imposing a penalty on the offender. If there is an immediate response to the insult by way of a retaliatory insult or act of aggression, the court may dispense with imposing a penalty on either party.

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or both offenders\textsuperscript{26}.

In accordance with the Criminal Code of Sweden, if a person points out someone as being a criminal or of leading reprehensible way of living or otherwise furnishes information intended to cause exposure to the disrespect of others, shall be subject to criminal liability. If the person was duty-bound to express himself or if, considering the circumstances, the furnishing of information on the matter was defensible, or if he can show that the information was true or that he had reasonable grounds for it, no punishment shall be imposed\textsuperscript{27}.

The Austrian legislation prescribes both criminal and civil liability for defamation. Although imprisonment is prescribed as punishment likewise, it is rarely implemented. During the past years, the main part of the cases on libel and insult have been examined through civil procedure which is mainly conditioned with the circumstance that in the civil cases, where the main burden of proof is on the respondent, the plaintiffs may achieve better results, as well as in the aspect of compensation of moral damage. Besides the formed practice, Austria prescribes special protection for the employees of the mass media\textsuperscript{28}. The journalist is not punishable for a media contents offence for which the proof of truth is admissible, not only if the truth of the statement has been proved but also in such cases if the public had a predominant interest in the publication and, also in application of the journalistic diligence required, there was sufficient reason to take the statement for true and he has shown such a professional approach which is in compliance with the standards of ECHR.

The Criminal Code of the Russian Federation prescribes slander as spreading deliberately falsified information that denigrates the honor and dignity of another person or undermines his reputation. Liability is prescribed also for slander contained in a

\textsuperscript{26} Ibid, Article 177.
\textsuperscript{27} Criminal Code of the Kingdom of Sweden, Chapter 5, section 1.
\textsuperscript{28} Federal Act on the Press and other Publication Media of 12 June 1981 (Media Act Austria), Section 5, page 29.
public speech or in a publicly performed work, or mass media libel and abusing official position for libel. Libel concerning false information about disease, which endangers the surrounding, as well as sexual libel or accusing a person of committing a grave or especially grave crime is also punishable. No imprisonment is prescribed for the mentioned actions.\textsuperscript{29} It is noteworthy that the article of the Criminal Code of the Russian Federation on insult was decriminalized\textsuperscript{30}, and for insult administrative liability is prescribed. The Code of Administrative Offences of the Russian Federation defines insult as indecent humiliation of the honor and dignity of a person. Liability is also prescribed for insult contained in a public speech or in a publicly performed work, and mass-media libel, or for not undertaking measures aimed at not allowing insult contained in a public speech or in a publicly performed work, and mass-media libel\textsuperscript{31}. In the meantime, Article 319 of the Criminal Code of the Russian Federation prescribes for public insult of a representative of the authority during the discharge by him of his official duties, or in connection with their discharge\textsuperscript{32}.

Taking as grounds the abovementioned, we would like to mention that decriminalization of slander and insult may not be admissible unequivocally. Although Article 1087.1(7) and Article 1087.1(8) of the current Civil Code of the Republic of Armenia, together with material compensation, prescribe non-material compensation, to our opinion, in the cases of unlawful abuse of

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  \item \textsuperscript{29} Criminal Code of Russian Federation, 13.06.1996 N 63-ФЗ (ред. от 05.04.2013), art. 128.1.[“Уголовный кодекс Российской Федерации” от 13.06.1996 N 63-ФЗ (ред. от 05.04.2013), ст. 128.1 (введена Федеральным законом от 28.07.2012 N 141-ФЗ)].
  \item \textsuperscript{30} Article 130 of the Criminal Code of the Russian Federation was repealed (see: Федеральный закон от 07.12.2011 N 420-ФЗ).
  \item \textsuperscript{31} Administrative Offences code of Russian Federation, 30.12.2001 N 195-ФЗ , article 5.61. [“Кодекс Российской Федерации об административных правонарушениях” от 30.12.2001 N 195-ФЗ (ред. от 05.04.2013), ст. 5.61 (введена Федеральным законом от 07.12.2011 N 420-ФЗ)].
  \item \textsuperscript{32} Article 318 of the Criminal Code of the Republic of Armenia, prescribing liability for public insult of a representative of the authority, was repealed on May 19, 2008 on the basis of the Law HO-67-N.
\end{itemize}
freedom of speech legislative prescription of material and non-material compensation cannot serve as an effective guarantee for protection of the dignity of a person. Otherwise, a person who abuses his or her prosperous position may regularly publicly “violate” the dignity of another person, clearly comprehending that he or she is able “to buy” it. We state that libel (also taking into consideration the public danger of the latter) shall be envisaged as a criminally liable action[^33] and fine or imprisonment for a certain term shall be imposed as means of punishment. Meanwhile, in accordance with the RA Criminal Code in the case of impossibility of paying the fine the court may replace the fine or unpaid part of the fine with public works (emphasis added – E.Sh.).[^34] The latter is imposed by the court, in the area determined by the competent body, as execution of unpaid socially useful, authorized work by the convict. Public works may be imposed on persons who committed not grave or medium gravity crimes and are sentenced to not more than two years of imprisonment. Public works are assigned as an alternative punishment to imprisonment, following certain time periods as well as in the case mentioned above (Parts 1-3 of Article 54 of the RA Criminal Code). To our opinion, the public works may serve as more

[^33]: Meanwhile, the RA Criminal Code prescribes liability for defamation of a judge, prosecutor, investigator, person carrying out inquest or a judicial acts compulsory enforcement officer (Article 344). Such actions are punished with a fine or imprisonment.

[^34]: Article 51(4) of the RA Criminal Code, as the result of calculation for replacing the fine or the unpaid part of the fine with public works, does not appropriately guarantee the legal possibility of implementation of public works less than two hundred seventy hours regarding the persons who cannot afford paying the fine, therefore blocking the implementation of the effective means of their of legal protection, as well as differentiated approach is not shown between the impossibility of the circumstances of paying the fine and avoiding it, which in accordance with the Decision SDVo-1082 of the RA Constitutional Court of April 23, 2013 was recognized as contradicting Article 18 of the RA Constitution and thus null and void.
effective means for the protection of human dignity than forms of material and non-material compensation prescribed by the RA Civil Code. In this regard, we welcome the prescription of punishment in the form of “compulsory work” for defamation envisaged in the Criminal Code of the Russian Federation. This compulsory work consists of the performance of unpaid socially useful works by the convicted person during his spare time (Article 49(1) of the Criminal Code of the Russian Federation).

Regarding insult, a number of articles of the RA Criminal Code prescribe liability for insulting persons of certain categories. This regards insulting the RA Human Rights Defender with regard to the exercise of his powers (emphasis added – E.Sh.) (Article 332). Contempt of court, which is expressed by insulting the participants of the proceeding, as well as by insulting the judge with respect to the exercise of the official powers of the latter (emphasis added – E.Sh.) also result in criminal liability (Article 343(2) and Article 343(3)). The mentioned actions are punished with a fine or imprisonment. Regarding this, it should be mentioned that criminal liability imposed with respect to the execution of official powers of officials and insulting them has been prescribed by the legislation of a number of states, and in this concern, the above-mentioned legal regulations in our Republic are justified.

Simultaneously, Article 360 of the RA Criminal Code prescribes corpus delicti for insulting a serviceman. According to this, insulting a serviceman, i.e. obscene humiliation of a serviceman’s honor and dignity by another serviceman in relation to performing the duties of military services (emphasis added – E.Sh.)… It derives from the formulation that insulting a serviceman by another serviceman shall be committed in the military base or other location of military service, i.e. the category of subjects who insult or the place of insulting has been legislatively specified.

In all cases, it is evident that this definition differs from the

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35 The mentioned articles are in the Chapter titled “Crimes against Justice” of the RA Criminal Code.
definition provided in the RA Civil Code, \textit{i.e.} in this case the legislator showed differentiated approach to the notion of insult, its legal consequences, as well as in the aspect of the legal stipulation of the frames of the victim, which, to our opinion, cannot follow lawful goals.

Deriving from the above-mentioned we can conclude that the immunity and inalienability and duty of the state to respect and protect human dignity, as a constitutionally declared ultimate value, are directly envisaged in the Fundamental Laws of a number of democratic states, as well as in the RA Constitution, the acting legal structure which shall protect the above mentioned personal non-property rights are not precise and do not precisely guarantee protection of highest constitutional values and need further elaboration.