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**JOINT SUBMISSION TO THE UN COMMITTEE AGAINST TORTURE
FOR THE FIFTH PERIODIC REPORT OF THE REPUBLIC OF
AZERBAIJAN**

Submitted on 18 March 2024

This joint report is submitted to the UN Committee against Torture for the 5th review of Azerbaijan. The report is submitted by the Protection of Rights without Borders NGO, Transparency International Anticorruption Center, Democracy Development Foundation, Helsinki Citizens' Assembly – Vanadzor, Law Development and Protection Foundation and International Partnership for Human Rights.

The Organizations have a long-standing experience in combating torture, including through monitoring, reporting and advocacy.

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I. Introduction

1. This joint report is submitted to the UN Committee against Torture (hereinafter – the Committee) by Protection of Rights without Borders, Transparency International Anticorruption Center, Democracy Development Foundation, Helsinki Citizens' Assembly-Vanadzor, Law Development and Protection Foundation and International Partnership for Human Rights in advance of the review of the 5-th periodic report of the Republic of Azerbaijan at the 79th session of the Committee.
2. Since the review in 2015, the human rights situation in Azerbaijan has significantly deteriorated. In addition to the practice of severe suppression of dissent, crackdown on media, disproportionate restrictions on fundamental freedoms, torture and arbitrary detention internally, Azerbaijan has launched several military attacks against Nagorno Karabakh and Armenia. The use of force coupled with flagrant violations of human rights and humanitarian law, including torture towards protected persons, nine month-long blockade of Nagorno Karabakh, leading to deprivation of access to adequate food and medication, intimidation and terrorization of the local Armenian population resulted in forced displacement of the local Armenian population of Nagorno Karabakh in September 2023.
3. The report focuses on the implementation of Azerbaijan's commitments to prevent and combat torture, in particular, combat impunity for torture, prevent instances of torture and ill-treatment that are based on the ground of ethnic discrimination against ethnic Armenians, and guarantee access to effective remedy and redress. It also includes an assessment of the situation with gender-based violence, death in custody and enforced disappearances in the context of armed conflict.
4. Since its fourth periodic review, Azerbaijan has failed to implement the Committee's recommendations to ensure a zero-tolerance approach to the continuing problem of torture and the practice of impunity and ensure in law and practice access of victims to independent and effective complaints mechanisms.
5. Azerbaijani authorities have failed to conduct effective investigation of allegations of torture and other forms of ill-treatment, bring perpetrators of torture to justice and combat absolute impunity, especially in the context of acts of torture and ill-treatment towards ethnic Armenians. Moreover, the promotion of hatred towards ethnic Armenians and glorification of perpetrators of violence towards Armenians by high-ranking officials, as established by the European Court of Human Rights (hereinafter - ECtHR), lack of efforts to examine ethnic hatred as a ground for subjecting victims to torture, execution, enforced disappearance and other serious violations of human rights resulted in an increase in number of crimes.
6. The report includes first-hand information gathered by the submitting organizations as well as evidence collected through open-source monitoring of Azerbaijani social media where alleged perpetrators of torture and ill-treatment - mostly Azerbaijani military - shared videos showing instances of torture, ill-treatment, arbitrary execution, gender-based violence, etc. The

information is verified through interviews with victims and their families, identification of victims on the videos as well as testimonies of witnesses, where relevant.

II. Prohibition of torture

7. In its Concluding observations in 2015, the UN Committee against Torture (the Committee) stated, *inter alia*, that Azerbaijan should “Apply a zero-tolerance approach to the continuing problem of torture and to the practice of impunity” and “Ensure, in law and in practice, that every person has access to independent and effective complaints mechanisms that will investigate and respond promptly; that alleged perpetrators are prosecuted and, if they are found guilty, receive sentences that are commensurate with the gravity of their acts; and that victims are afforded appropriate redress”.¹
8. However, Azerbaijan failed to implement these recommendations in relation to investigation of torture and ill-treatment of Armenians who found themselves in Azerbaijani custody. No independent complaints mechanism to investigate allegations of torture is in place, and no perpetrator of torture has been brought to justice; on the contrary, some of them were promoted in ranks; no appropriate redress is available to victims.
9. Azerbaijan continues to resort to arbitrary detention, torture and ill-treatment and even arbitrary deprivation of life to silence its opponents or critics, and more so – towards ethnic Armenians who fell into its custody, both prisoners of war (POW) and civilians.
10. In the period under review, Azerbaijan has launched several military assaults against Nagorno Karabakh and the Republic of Armenia. Our organizations have documented dozens of instances of subjecting Armenian POWs and civilians who fell in Azerbaijani custody in the context of armed conflict.² *These included numerous instances of routinely subjecting ethnic Armenians who fell in Azerbaijani custody, both civilians and prisoners of war, to torture and other forms of ill-treatment by Azerbaijani military and law enforcement officials. Such acts are often committed only because the person is ethnic Armenian, to intimidate him as an Armenian or, if the victim is of a certain age, to punish and coerce him to confess in alleged war crimes committed in early 1990-s in the context of the Nagorno-Karabakh conflict.*
11. Moreover, our organizations documented instances of beheading while alive of elderly Armenian civilians by a group of Azerbaijani servicemen. The intensity of suffering prior to the loss of life is so strong, that it amounts to torture.
12. On 22 November 2020, a video of brutal decapitation of **Genadi Petrosyan**, a 69-year-old civilian resident of Matadashen village of Askeran district of Nagorno-Karabakh was disseminated on Azerbaijani telegram channels. The video depicts Genadi Petrosyan being beheaded by servicemen in Azerbaijani uniform, the severed head is then placed on a dead animal (a pig). “See the pigs next to each other!”, “You dishonorable, all these for the blood of our martyrs” and “This is how we get revenge – by cutting off heads,” a voice says off

¹ The Committee against Torture Concluding observations on the fourth periodic report of Azerbaijan, CAT/C/AZE/CO/4, adopted at its 1382nd meeting, held on 26 November 2015.

² See OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, 2022, available at: https://www.osf.am/wp-content/uploads/2022/06/Fact-Finding-Report_FINAL_web.pdf?fbclid=IwAR3ICU-VDDByUv6JmrIY4pjWidt2EcvkQVOcPJOZ8NqDWcrhEw3JLhwB9m8

camera in Azerbaijani.³ In the second video, published on 3 December 2020⁴ on Azerbaijani Telegram channels, a group of servicemen in Azerbaijani military uniform, with the flag of Azerbaijan on the right shoulder, are seen holding a struggling man – Genadi Petrosyan, while another serviceman cuts off his head, and one of the other servicemen puts his hand on the body in order to help the perpetrator. None of the perpetrators has been brought to justice.

13. On 3 December 2020, a video of the decapitation of another Armenian civilian surfaced on the internet, and the victim in the video was later identified as **Yuri Asryan**, an 82-year-old civilian resident of Azokh village of Hadrut District, Nagorno-Karabakh. In the video, Yuri Asryan is seen asking not to be beheaded in the name of “Allah” but a serviceman wearing a uniform of the Azerbaijani Armed Forces beheads him in cold blood, and the other servicemen, who were present there, cheer.⁵
14. The overwhelming majority of deliberately killed and tortured Armenian civilians were elderly, including women and persons with disability. All the killings were racially motivated, most of the victims were executed on camera by perpetrators who later posted them on social media with the aim of terrorizing the Armenian population of Nagorno Karabakh. In some cases, perpetrators – Azerbaijani servicemen are identifiable.
15. Videos disseminated by Azerbaijani servicemen who recorded them showed acts of humiliation and ill-treatment such as kneeling and chanting, crawling, mutilations while alive, handcuffed naked with sacks on the heads of prisoners, physical assault, verbal abuse, executions and deliberate killings with gunshots and beheadings, including civilians, persons with disability, and military personnel, mutilation of dead bodies by Azerbaijani forces against Armenians.
16. More videos appeared in relation to Azerbaijan’s military attack on Armenia in September 2022 demonstrating torture of Armenian POWs. One of the videos posted on Azerbaijani social media revealed torture of wounded Armenian POWs by Azerbaijani servicemen where at least three servicemen in Armenian uniform can be seen, at least two of them clearly alive but seriously wounded. Azerbaijani servicemen drag wounded prisoners of war who yell in pain. This is accompanied with verbal insults. Sounds of beatings can be heard.⁶ Despite being taken captive alive they were later returned dead by Azerbaijan as confirmed by the Armenia’s Human Rights Defender.⁷
17. Torture and ill-treatment of POWs was a widespread practice during the hostilities launched by Azerbaijan against Nagorno Karabakh in 2020 and in its aftermath, including upon capture, during the transfer as well as in premises of the Azerbaijani Military Police, Ministry of

³ Amnesty International, Armenia/Azerbaijan: Decapitation and war crimes in gruesome videos must be urgently investigated (10 December 2020), available at: <https://www.amnesty.org/en/latest/news/2020/12/armenia-azerbaijan-decapitation-and-warcrimes-in-gruesome-videos-must-be-urgently-investigated>

⁴ OSF, HCAV, LDPP and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, 2022.

⁵ Washington Post, Videos from Nagorno-Karabakh conflict prompt accusations of war crimes (25 December 2020), available at: https://www.washingtonpost.com/world/armenia-nagornokarabakh-war-crimes/2020/12/24/f8b28900-4165-11eb-b58b-1623f6267960_story.html

⁶ Video on Telegram channel Khacherubka_Gorbagor, 11 October 2022
https://t.me/KHACHERUBKA_GORBAGOR/1476?fbclid=IwAR0zpQvZbN32RnWbi4Q1moS62WokxoOneMKidvnpj7XCRvI_zr4kCeeoes

⁷ Human Rights Defender of Armenia, Statement of the Defender on the new video of the execution of Armenian PoWs by the Azerbaijani armed forces, 12 October 2022, available at: <https://www.facebook.com/photo/?fbid=429270456058559&set=a.195303052788635>

National Security and other locations in Azerbaijan. The repatriated POWs interviewed by some of the submitting organizations stated that they were severely beaten just for “being Armenian”.⁸ They were subject to abuse by Azerbaijani servicemen immediately upon capture. Beatings and abuse took place mostly when they were transferred from the place of capture to temporary command points set up by Azerbaijani military. Azerbaijani servicemen in groups abused Armenian POWs, hit them on various parts of the body, including right on the wounds. Some of the Armenian servicemen reported that their skin was burned by cigarettes; some were subjected to electric shock during transfers. They also reported that they were subject to beatings particularly at the premises of the military police.

18. Footage posted on a Telegram channel on 25 October 2020, shows a group of captured persons in Armenian military uniforms, face down on the ground with their hands tied behind their backs and blindfolded. Some of them can be heard speaking Armenian. There are pierced wounds on the bodies of some of them. The video shows men in the uniform of the Azerbaijani Armed forces, speaking in Azerbaijani, who walk around and poke the bodies of some of the tied Armenians with a metal rod. While poking one of the tied Armenian servicemen on the ground, and kicking him, one of the Azerbaijani servicemen suggests in Azerbaijani to cut off his fingers. One of the Azerbaijani servicemen also kicked with booted feet at the captured Armenians in their heads and other parts of their bodies. The trousers of some of the Armenians are bloody, suggesting that they are wounded.⁹
19. On a number of videos, Azerbaijani servicemen beat Armenian POWs on record. For example, a video appeared on Telegram on 2 November 2020¹⁰, with a man in an Armenian uniform on the ground with his hands tied behind his back. A man in an Azerbaijani military uniform hits and slaps him on the face and insults him in Russian, hitting his head on the ground.
20. Narek (name changed) was a resident of Shushi. On approximately 8 November 2020, when getting out of a bomb shelter without knowing that the city had been taken, Narek was captured by approximately twelve Azerbaijani servicemen. During captivity, Narek was slashed with a knife and hit on the head. Azerbaijani servicemen also threatened to kill him, pointing a gun at his head and firing, but the gun was not loaded. Narek was not given any medical assistance and had to press a blanket hard and long against his wound to stop the bleeding. He was not given food or water for two days. Eventually Narek was transported to Baku. Narek states that he was held in a cell in cold and humid conditions with a rancid smell and no windows. During his ordeal, he was kept tightly handcuffed for ten days, such that his hands swelled up. He was also hit on his knees and on his head with a hammer to weaken him. At one point during his capture, a tall, stout man entered his cell, picked him up and dropped him on the ground from above, causing his whole body to hurt. Azerbaijanis walked on his hands, which were still red on the date he was interviewed. Narek was also held at the prison of the special security forces, where he was beaten. *“They beat me hard in that prison, with fists, kicked; five people were*

⁸OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, p.108

⁹ @karabah_news, Telegram video, <https://mega.nz/file/2kFyiAqL#zuMpUGQB465hNCg3IJtlWQtcvCISj1IPxLbkTmqGQ5w>

¹⁰ @xalqalq, “+18DİQQƏTSÖYÜŞ VAR+18,” November 2, 2020, Telegram video, https://mega.nz/file/X1NxxCZa#cP3rKokixMnwnli02Cx8YDHWN7m_uDjILwcVTUENE3Q

*hitting me at the same time. I was kept there for ten days, beaten every day; they splashed water on me and beat me. They gave me a loaf of white bread; they gave me just that bread for ten days. I did not sleep for that entire time.”*¹¹

21. In some instances, the beatings stopped only after an explicit command from their superiors. 19-year-old Arman (name changed) recounts: *“At their command point, Azerbaijani servicemen surrounded me. Some of these men did not speak Russian but showed with gestures that they would cut my throat. One of the men showed seven fingers and a throat-cutting gesture. I understood that he had cut the throats of seven people. I thought they would do the same with me. They started beating me; they did not care about my wound. If the commander did not show up in time and order not to abuse me, I would have been killed there”*.¹²
22. Some of the POWs interviewed by the PRWB stated that they were threatened there that all those captured Armenians would have to pay for everything that occurred in 1990-s and they would not go back. *“That trip was a nightmare. My hands got burned quite a lot, by cigarettes. The accompanying Azerbaijani servicemen used an electro shocker on my body, in the vehicle, pepper sprayed my wounds. They applied electroshocker even on my abdomen area, knowing that I was wounded there.”*¹³
23. *“I was kept alone (in the Ministry of National Security). Even at night, a very strong light was on, like a projector, so that I could not sleep properly. During the day, the light was made down low but still on. They would tell me to stand for the whole day, or to sit and freeze. If they did not enter to check on you, you were lucky. If they entered and saw that you were not following their order, that was not good at all, they would beat you. From my cell, I heard other Armenians screaming. I even recognized one of my fellow servicemen, we were captured together. Over there, I was beaten if not every day, then every other day for sure. Usually, they would beat me on the day of interrogation or the day before. They used batons to beat me, electric shockers, mostly on the sides of my abdomen area, on the neck, hands and calf muscles. They would use the electric shocker up to the point when I was about to pass out. I did not pass out, but if they used it for two seconds longer, I would. They would stop when they noticed that I was going to pass out. During interrogation, they would also beat me, mostly hit on my head. However, they would mostly beat me in my cell, and then take me for interrogation either on the same day or the next day. They would enter the cell, beat me with various accusations, force me to say ‘Karabakh-Azerbaijan,’ and swear at certain people”* – stated one of the POWs interviewed by the PRWB.¹⁴
24. Torture and ill-treatment of Armenian POWs is well documented by Human Rights Watch as well.¹⁵

¹¹ OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, p.134-135, Interview with Narek (name changed), 21 March 2021.

¹² Ibid.

¹³ Ibid., p. 107, Interview with Gnel (name changed), 1 July 2021.

¹⁴ Ibid., pp. 109-110.

¹⁵ Human Rights Watch, “Azerbaijan: Armenian Prisoners of War Badly Mistreated.”, 2 December 2020, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>; Azerbaijan: Armenian POWs Abused in Custody, 19 March 2021, [https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody#:~:text=\(Berlin\)%20%E2%80%93%20Azerbaijani%20forces%20abused,Human%20Rights%20Watch%20said%20today](https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody#:~:text=(Berlin)%20%E2%80%93%20Azerbaijani%20forces%20abused,Human%20Rights%20Watch%20said%20today)

25. As the practice of torture and execution of ethnic Armenians have become routine, the UN mandate-holders, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had to send at least three communications since 2020 concerning alleged unlawful killings of Armenian POWs and civilians, as well as torture and ill-treatment of Armenian POWs, by Azerbaijani armed forces and the desecration of bodies of dead Armenian soldiers, including women, and cases of enforced disappearance during the armed conflict in and around the Nagorno-Karabakh conflict zone.¹⁶ Azerbaijan failed to respond to the communication under references AL AZE 1/2021, sent on 2 February 2021.
26. Article 2(2) of the CAT provides that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. Human Rights Council Resolution 16/23 “emphasizes that acts of torture are serious violations of international human rights law and humanitarian law and can constitute crimes against humanity and, when committed in a situation of armed conflict, war crimes, and that the perpetrators thereof are liable to prosecution and punishment.
27. In its most recent reply to the communication by a group of UN special procedures concerning alleged unlawful killings of Armenian POWs and civilians, as well as torture and ill-treatment of Armenian POWs by Azerbaijani armed forces and the desecration of bodies of dead Armenian soldiers, including women in the context of Azerbaijan’s act of aggression against Armenia in September 2022, acknowledge the initiation of criminal investigations into the alleged violations raised in UA AZE 4/2020, however, they noted that they were yet to receive information on the results of such investigations, the factual and legal reasons for the continued detention of the POWs after the cessation of hostilities, and the measures taken to inform families of the disappeared about their fate and the exact whereabouts.¹⁷
28. Despite the plethora of evidence, including videos taken by perpetrators themselves filmed subjecting Armenian prisoners of war and civilians who fell in Azerbaijani custody, no effective investigation has been conducted to-date. Azerbaijan reported only about charging a few Azerbaijani servicemen with the desecration of dead bodies, but no one has been charged for the torture and execution of ethnic Armenian prisoners of war and civilians for acts committed in 2016 and 2020.
29. On 14 December 2020, the Azerbaijani General Prosecutor acknowledged the existence of videos depicting acts of torture and other forms of ill-treatment and stated that criminal proceedings were launched into Art. 115.2 (torture, cruel and/or inhumane treatment); however, no one has been charged for these acts to-date.¹⁸ Azerbaijan stated on 17 September 2022 in a public statement, that the Prosecutor committed to undertake an investigation into

¹⁶ AL AZE 1/2022, 28 November 2022,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27659>; AL AZE 1/2021, 2 February 2021;

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25857>; UA AZE 4/2020, 11 December 2020,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25763>

¹⁷ AL AZE 1/2022, 28 November 2022,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27659>

¹⁸ AL AZE 1/2021, 2 February 2021; p. 2,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25857>

these allegations.¹⁹ However, the investigation bore no results to date, and no perpetrator has been brought to justice.

30. In all communications, Azerbaijani authorities refer to formally launched investigations into allegations of torture but fail to demonstrate any results, especially in cases of executions and torture. As in case of perpetrators of such crimes against Armenian captives in 2016 and 2020, who went absolutely unpunished, despite the fact that on some videos the faces of perpetrators are clearly visible and easily identifiable,²⁰ no effective investigation is ensured into executions committed in September 2022.
31. Every time when on international fora Azerbaijan reports on any progress in ensuring effective investigation into credible allegations of ill-treatment of Armenians in its custody, Azerbaijani authorities present the same data that demonstrates a lack of will to punish perpetrators of most serious human rights violations, for example statement at the CERD review in August 2022²¹ and reply to the communication to a group of UN special mandates.²² Azerbaijani authorities report about “11 criminal investigations into members of the Azerbaijani military for gross violations of international human rights law and international humanitarian law, inter alia, the torture and ill-treatment of prisoners of war. As a result, four Azerbaijani servicemen had been charged with desecrating the tombs or corpses of Armenian soldiers and had been referred to the courts”. No results in investigation into torture, and arbitrary executions despite the fact that the faces of perpetrators are clearly visible on videos taken by their colleagues are reported to date. Reportedly, one of the charged perpetrators for desecration of bodies was awarded by President Aliyev in September 2022.²³
32. Given the well-documented practice of torture and ill-treatment of captured Armenians by Azerbaijan, on 7 December 2021, the International Court of Justice (ICJ) found it justified and grounded to grant the provisions measures in this regard. More specifically, the ICJ ordered Azerbaijan to Protect from violence and bodily harm all persons captured in relation to the 2020 Conflict who remain in detention, and ensure their security and equality before the law.²⁴
33. On 30 August 2022, the UN Committee on the Elimination of Racial Discrimination in its Concluding Observations on Azerbaijan raised its deep concern about “allegations of severe and grave human rights violations committed during the 2020 hostilities and beyond by Azerbaijani military forces against prisoners of war and other protected persons of Armenian

¹⁹ Reply submitted by the Permanent mission of the Azerbaijani Republic to the United Nations Office and Other International Organizations in Geneva, cited in Footnote 30.

²⁰ See OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report.

²¹ Summary record of the 2904th meeting, 16 August 2022, CERD/C/SR.2904, pp. 6-7,

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2556&Lang=en

²² Reply submitted by the Permanent mission of the Azerbaijani Republic to the United Nations Office and Other International Organizations in Geneva, 21 February 2023,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=37389>

²³ Azeri Times, Four Azerbaijani servicemen arrested, 14 December 2020, available at:

<https://azeritimes.com/2020/12/14/four-azerbaijani-servicemen-arrested/>, Fact Investigation Platform, Aliyev awarded the mutilator of the killed Armenian Soldier’s Body in August, 19 September 2022, available at:

<https://fip.am/en/20460>

²⁴ Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Request for the indication of provisional measures, Order of 7 December 2021, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20211207-ORD-01-00-EN.pdf>

- ethnic or national origin – including extrajudicial killings, torture and other ill-treatment and arbitrary detention, as well as the destruction of houses, schools and other civilian facilities”.²⁵
34. A month after the review and recommendations made, and despite the existing legally binding order by the ICJ, on 13-14 September 2022, Azerbaijan launched another military attack on the Armenian territory. As a result, it confirmed the detention of 17 Armenian POWs. On 4 October 2022, 17 POWs were repatriated to Armenia. The Human Rights Defender of Armenia provided information that almost all POWs told about being subjected to torture while under the Azerbaijani control.
35. “The POWs were even mistreated by Azeri medics”.²⁶ On some of the videos taken by Azerbaijani servicemen themselves in September 2022 it is clearly seen that wounded POWs are not treated. On the contrary, Armenian servicemen with bleeding wounds have their hands tied behind their backs, lying on the ground and breathing with difficulty, at gunpoint, and forced to repeat on-camera greetings in Azerbaijani and repeat other words aimed at their humiliation.²⁷ Several of the wounded POWs captured in 2022 died in Azerbaijani custody.²⁸
36. Days after the aggressive attack by Azerbaijan on the sovereign territory of the Republic of Armenia in September 2022, Azerbaijan started another psychological warfare by creating telegram stickers of war crimes, of tortured bodies of Armenian servicemen and civilians. Although Telegram has blocked the stickers, they had more than 20.000 downloads in five days.²⁹
37. In the reporting period, the ECtHR delivered at least five judgements where the Court found a violation of the right of Armenians who fell in Azerbaijani custody not to be subject to torture by Azerbaijani state agents.³⁰ In *Saribekyan v Azerbaijan*, the Court ruled that there was “no doubt that it involved very serious and cruel suffering and that it was carried out intentionally on a detained person under the exclusive control of the authorities. The suffering experienced by Mr Saribekyan prior to his death is to be characterised as torture”. In the above-mentioned cases, the Court noted that Azerbaijani authorities failed to investigate allegations of torture, including whether ethnic hatred had played a role in the treatment of victims – ethnic Armenians.
38. Azerbaijan fails to implement general and special measures adopted in the context of the implementation of judgments of the European Court of Human Rights where violation of the

²⁵ UN CERD, Concluding observations on the combined seventh to ninth periodic reports on Azerbaijan, cited in Footnote 1, paras. 4-5.

²⁶ Armenpress.am, Virtually every former Armenian POW testifies on torture and humiliation in Azeri custody, even by medics, 07 October 2022, available at: <https://armenpress.am/eng/news/1094356/>

²⁷ Video on Telegram channel Khacherubka_Gorbagor, 13 September 2022, https://t.me/GORBAGOR_TV/738

²⁸ Human Rights Defender of Armenia, Statement of the Defender on the new video of the execution of Armenian PoWs by the Azerbaijani armed forces, 12 October 2022, available at: <https://www.facebook.com/photo/?fbid=429270456058559&set=a.195303052788635>

²⁹ Stickers with tortured bodies of Armenian servicemen and civilians created in the Azerbaijani domain of Telegram: Arman Tatoyan gives details, <https://infocom.am/en/article/88836>

³⁰ ECHR, *Makuchyan and Minasyan v. Azerbaijan*, app. no. 17247/13, judgment of 26 May 2020, paras. 212, 216-218, available at <https://hudoc.echr.coe.int/eng/?i=001-202524>; ECHR, *Saribekyan and Balyan v. Azerbaijan*, App. No. 35746/11, judgment 30.01.2020, <https://hudoc.echr.coe.int/eng/?i=001-200439>, ECHR, *Khojuyan and Vardazaryan v. Azerbaijan*, App. no. 62161/14, judgment 04.11.2021, <https://hudoc.echr.coe.int/eng/?i=001-212964>; ECHR, *Ghazaryan and Bayramyan v. Azerbaijan*, App. No. 33050/18, 05/10/2023, <https://hudoc.echr.coe.int/?i=001-227739>.

right not to be subject to torture and cruel, inhuman and degrading treatment. This demonstrates a principled political stance of Azerbaijani authorities of no will to bring perpetrators to justice and to prevent further acts of torture and ill-treatment.

39. Videos showing subjecting Armenian POWs and civilians to torture and ill-treatment by Azerbaijani servicemen were posted and widely circulated on social media by Azerbaijani users themselves. Given that access to the internet was restricted in Azerbaijan during the active phase of hostilities, the fact that Azerbaijani servicemen at the frontline not only recorded the execution and torture of Armenians who fell into their custody but also were able to transmit and/or post it online *en mass*, suggests that there was an approval of such practice by high-rank Azerbaijani officials.
40. Condoning or even promoting ethnic hatred by high-ranking officials in Azerbaijan that resulted in ethnically-motivated hate crimes is established by the ECtHR as well. The ECHR in *Makuchyan and Minasyan v. Azerbaijan* case³¹ related to the brutal murder in Budapest, Hungary in 2004 of an Armenian Army officer Lieutenant Gurgen Margaryan, by an Azerbaijani army Lieutenant, Ramil Safarov, who was later extradited to Azerbaijan and given hero's welcome, pardon by the president Aliyev and promotion upon his return, addressed the issue of impunity and encouragement for ethnically motivated killing of Armenians. In its judgment of 26 May 2020, the ECHR found a violation of Article 14 in conjunction with Article 2 of the European Convention on Human Rights and found it "particularly disturbing" that the ethnically driven acts of the Azerbaijani officer receive official glorification by the State of Azerbaijan, its high-ranking officials, and eventually concluded that the measures taken by the Azerbaijani authorities in respect of the Azerbaijani army officer were racially motivated. The perpetrator continues to walk free in Azerbaijan.
41. This practice also aims to create fear among the remaining Armenian population of Nagorno-Karabakh, to terrorize them, subject to severe psychological suffering, as to their fate if they fall into the hands of Azerbaijani, pushing them to leave with no possibility of return to their homes, the objective that Azerbaijan managed to achieve in September 2023 – following a nine-month long blockade, large-scale military attack and forced displacement of the entire local Armenian population.
42. Promotion of ethnically motivated hatred on the highest level coupled with absolute impunity for perpetrators of heinous crimes against Armenians in Azerbaijan, including torture, has resulted in the rising number of new crimes in recent years.

III. Fundamental legal safeguards

43. Azerbaijan failed to implement the recommendation of the Committee made in its Concluding observations in 2015 to "adopt measures to ensure in practice that every person deprived of his or her liberty is afforded legal safeguards against torture from the outset of deprivation of liberty".
44. None of the captured Armenians had prompt and unimpeded access to an independent lawyer of their choice, many of them could contact their families only weeks or even months after captures for the first time, or did not have that opportunity at all throughout the entire period

³¹ ECHR, *Makuchyan and Minasyan v. Azerbaijan*, app. no. 17247/13, judgment of 26 May 2020, paras. 212, 216-218, available at <https://hudoc.echr.coe.int/eng?i=001-202524>

of captivity (deprivation of liberty).³² None of them had an opportunity to immediately undergo an independent medical examination in full confidentiality. Regardless of the existence of traces of torture or ill-treatment on their bodies, no prompt and independent investigations was conducted. Moreover, our organizations documented cases where medical personnel themselves subjected the detained Armenians to violence.

45. All repatriated POWs interviewed by the submitting organizations stated that they were forced to sign procedural documents that were in Azerbaijani - the language they did not understand. No translation into Armenian was provided.
46. The Human Rights Defender of Azerbaijan stated that she had visited Armenian detainees. However, she and her team failed to document traces of ill-treatment or follow up on existing compelling evidence of torture towards detained Armenians, even where such instances were formally acknowledged by the by Azerbaijani Prosecutor General's Office. The lack of independence and impartiality of the Office of the Human Rights Defender of Azerbaijan further undermines access to fundamental legal safeguards for Armenians detained in Azerbaijan.
47. In a number of instances, the captured Armenians were not even transferred to detention facilities in Baku where there would be some probability of independent visits by the ICRC. On the contrary, they were not afforded any fundamental legal safeguards, detained for weeks arbitrarily without a possibility to notify their families, held in very poor conditions, subject to routine violence with a view to punish them just for being Armenians, and some of them were killed in Azerbaijani custody. In some of these cases, Azerbaijan failed to acknowledge their detention and provided no information on their whereabouts despite the solid evidence of the victims being in Azerbaijani custody. Later on, some of these captives were found dead in various locations during search and retrieval operations, while the whereabouts of the others remain unknown.

IV. Independence of the judiciary and the right to a fair trial

48. The Committee repeatedly recommended that Azerbaijan should guarantee the full independence and impartiality of the judiciary, give practical effect to the guarantees for judicial independence laid down in its legislation and review the regime of appointment, promotion and dismissal of judges in line with the relevant international standards, including the Basic Principles on the Independence of the Judiciary.
49. However, the victims of gross human rights violations, including execution, torture and arbitrary detention, do not have access to effective remedies in Azerbaijan. Azerbaijan uses the justice system as a tool to silence its opponents.
50. Lack of effective remedies coupled with absolute impunity for war crimes and other violations of human rights, especially in the context of armed conflict, leads to more crimes. Courts are used as a tool to punish Armenian POWs.³³

³² See more at See OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report.

³³ See Reply submitted by the Permanent mission of the Azerbaijani Republic to the United Nations Office and Other International Organizations in Geneva, 21 February 2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=37389>;

51. No steps were taken to give practical effect to the guarantees for judicial independence laid down in its legislation.
52. In the reporting period, Azerbaijan has continued its practice of arbitrary detention on bogus charges of government critics and other opponents. Azerbaijan added Armenian POWs to the list.
53. Since 2020, Azerbaijan has detained dozens of Armenians. In flagrant disregard of international law, Azerbaijan denies detained servicemen a POW status and refuses to repatriate them after cessation of active hostilities as envisaged by Geneva Convention III. Some of the captured Armenians spend three years in captivity after the cessations of active hostilities.
54. Both under IHL and human rights law, their detention is arbitrary.³⁴ IHL applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached <...>. Until that moment, IHL continues to apply in the whole territory of the warring States <...>, whether or not actual combat takes place there.³⁵ IHL is applicable to Armenian POWs regardless of the fact when they fell into Azerbaijani custody before the 9 November 2020 statement was signed or after, until a peace treaty is signed.
55. All of the servicemen were detained in the context of armed conflict, however, instead of being released, they were convicted in Azerbaijan in sham trials, mostly for acts constituting “combatant privilege”. The authority to prosecute POWs for acts committed prior to capture is also circumscribed by the so-called ‘combatant’s immunity’ or ‘combatant’s privilege’. POWs who are combatants may not be prosecuted for lawful acts of war committed in the course of an armed conflict, even if their acts constitute a criminal offence under the domestic laws of the Detaining Power.³⁶ POWs cannot be prosecuted for taking a direct part in hostilities.³⁷ Their detention is not a form of punishment, but only aims to prevent further participation in the conflict. They must be released and repatriated without delay after the cessation of active hostilities.
56. The overwhelming majority of captured Armenians were convicted to prolonged terms of imprisonment on charges that are regular combatant privilege and cannot be punished for.³⁸ Moreover, some of the members of the same group detained together and charged for the same acts were repatriated either before the trial or during or after the conviction as part of the deal

<https://en.armradio.am/2022/09/08/azerbaijan-returns-five-pows-to-armenian-side/>,

<https://mfa.gov.az/en/news/7396/view>

³⁴ See more at https://prwb.am/en/2023/04/04/briefing-note-on-arbitrary-detention-of-armenians-by-azerbaijan/?fbclid=IwAR1exrvkJw7NGYBovIEECaLWlWsuaa0ok1NT2FoK0bcOA7bquUPRQhtm_EA

³⁵ ICTY, *The Prosecutor v. Dusko Tadic*, Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction, IT-94-1-A, 2 October 1995, para. 70, <https://casebook.icrc.org/case-study/icty-prosecutor-v-tadic>

³⁶ See e.g. Dinstein, ‘Unlawful Combatancy’, *Israel Yearbook on Human Rights*, Vol. 32, 2002, pp. 247–270, at 250; Knut Dörmann, ‘The legal situation of “unlawful/unprivileged combatants”’, *International Review of the Red Cross*, Vol. 85, No. 849, March 2003, pp. 45–74, at 45–48; and Rowe, 2015, p. 1031. See also Introduction, para. 20, and the commentary on Article 5, para. 1114. Cited from the commentary, para.3634

³⁷ ‘Prisoners of war and detainees protected under international humanitarian law’, <https://www.icrc.org/en/doc/war-and-law/protected-persons/prisoners-war/overview-detainees-protected-persons.htm>

³⁸ ‘New convictions as trials of Armenian captives continues in Azerbaijan’, <https://oc-media.org/new-convictions-as-trials-of-armenian-captives-continues-in-azerbaijan/>

in exchange for maps for mine fields.³⁹ All of the Armenian detainees are used as a bargaining chip by Azerbaijan to extort concessions from Armenia.

57. In the context of armed conflict civilians can be detained only for the imperative reasons of security.⁴⁰ In the case of all Armenian civilians detained to-date in Azerbaijan, Azerbaijan failed to demonstrate these reasons.
58. Instead, Azerbaijan organized sham trials against both civilians and Armenian servicemen. Their rights under the right to a fair trial have not been ensured.
59. At the moment, Azerbaijan acknowledges the detention of 23 ethnic Armenians. Some of them - captured in 2020, are convicted for prolonged periods, whereas some of those captured in September 2023 are charged under fabricated charges of financing terrorism or similar activities, while there is no publicly available information on the status and charges of some of those captured in September 2023.

V. Death in custody

60. At least two Armenian elderly civilians – 84-year-old Misha Melkumyan and 79-year-old Eduard Shahgeldyan who were detained by Azerbaijan in Nagorno Karabakh in 2020 in violation of Geneva Convention IV died in detention in Baku a few weeks later as a result of being subjected to violence.⁴¹ In the context of armed conflict, civilians may be detained only for imperative reasons of security, and Azerbaijan failed to demonstrate how the detention of 80-year-old civilians in Nagorno Karabakh posed a threat to its security and rendered the need for detention. Similar practices of killing of Armenians in Azerbaijani custody and violations of the right to life by Azerbaijan were confirmed by the ECtHR.
61. In several instances, civilians and POWs were killed a few hours, days or even weeks after the capture by the Azerbaijani military, who did not transfer the captives to headquarters in Baku. In all these cases, detainees were detained arbitrarily, no guarantees pertaining to their status under the Geneva Conventions of 1949 and international treaties, including the Convention against Torture, were afforded to them.
62. Several of the wounded Armenian POWs captured alive in 2022 died in Azerbaijani custody.⁴²
63. No effective investigation into the death in custody was carried out.
64. There is no effective remedy for families to bring complaints to Azerbaijan. This is confirmed by the jurisprudence of the ECtHR. On a number of occasions when examining cases brought by ethnic Armenians against Azerbaijan, the ECtHR found that the respondent Government -

³⁹ [theGuardian.com/world/2021/jun/13/azerbaijan-swaps-15-armenian-pows-for-map-of-landmines](https://www.theguardian.com/world/2021/jun/13/azerbaijan-swaps-15-armenian-pows-for-map-of-landmines), <https://www.euractiv.com/section/eastern-europe/news/georgian-mediation-obtains-the-release-of-15-armenian-pows-by-azerbaijan/>, <https://iravaban.net/336053.html>

⁴⁰ Geneva Convention IV, 1949, Article 78, customary IHL rules, https://ihl-databases.icrc.org/en/customary-ihl/v1/rule99#Fn_C677AEE7_00006

⁴¹ See Tanya Lokshina, “Survivors of Unlawful Detention in Nagorno-Karabakh Speak out about War Crimes,” Human Rights Watch, March 12, 2021, <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>; See details in the OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, 2022, cited in Footnote 12, pp.130-131; <https://www.azatutyun.am/a/30933613.html>

⁴² Human Rights Defender of Armenia, Statement of the Defender on the new video of the execution of Armenian PoWs by the Azerbaijani armed forces, 12 October 2022, available at: <https://www.facebook.com/photo/?fbid=429270456058559&set=a.195303052788635>

Azerbaijan - has not provided any example of a domestic case or remedy which would show that individuals in the applicants' situation are able to seek redress before the Azerbaijani authorities. On the contrary, the refusal of those authorities to give any assistance or even to reply to the request of the Armenian Prosecutor-General rather points to the unavailability of effective remedies for Armenian citizens in Azerbaijan.⁴³

Enforced disappearances

65. The UN Declaration on Enforced Disappearance, adopted by consensus, specifies that enforced disappearance constitutes a violation of the right to recognition as a person before the law, the right to liberty and security of the person and the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment and that it violates or constitutes a grave threat to the right to life. In addition, as stated in the UN Declaration on Enforced Disappearance, enforced disappearances inflict severe suffering, not only on the victims but also on their families. The UN Human Rights Committee and the European Court of Human Rights have similarly found that the enforced disappearance of a close family member constitutes inhuman treatment of the next-of-kin.⁴⁴ The UN Human Rights Committee also stressed in its General Comment on Article 4 of the International Covenant on Civil and Political Rights that the prohibition of abductions and unacknowledged detention were not subject to derogation and stated that “the absolute nature of these prohibitions, even in times of emergency, is justified by their status as norms of general international law”.⁴⁵
66. The UN Working Group on Enforced or Involuntary Disappearance (WGEID) in its General Comment on the Right to Truth noted that for the family of the direct victim, the enforced disappearance can constitute an act of torture. In particular the WGEID stated that States “cannot restrict the right to know the truth about the fate and the whereabouts of the disappeared as such restriction only adds to, and prolongs, the continuous torture inflicted upon the relatives.”⁴⁶
67. In the period under review, our organizations revealed serious violations and obstacles encountered in the implementation of the Declaration on the Protection of All Persons from Enforced Disappearance in Azerbaijan, with particular reference to the areas that fell under the control of Azerbaijan following the 44-day war launched by Azerbaijan against Nagorno Karabakh on 27 September 2020 and in September 2023 as well as acts of aggression against Armenia in 2021-2022.⁴⁷

⁴³ ECHR, *Sargsyan v. Azerbaijan*, no. 40167/06, 16 June 2015, para. 116; ECHR, *Saribekyan and Balyan v. Azerbaijan*, no. 35746/11, 30.01.2020, paras. 42-48.

⁴⁴ UN Human Rights Committee, *Quinteros v. Uruguay* (§ 2439), *Lyashkevich v. Belarus* (§ 2440); European Court of Human Rights, *Kurt v. Turkey* (§ 2442), *Timurtas v. Turkey* (§ 2443), *Cyprus case* (§ 2444)

⁴⁵ UN Human Rights Committee, General Comment No. 29 (Article 4 of the International Covenant on Civil and Political Rights) (§ 2438)

⁴⁶ Working Group on Enforced or Involuntary Disappearances, General Comment on the Right to the Truth in Relation to Enforced Disappearances,

https://www.ohchr.org/sites/default/files/Documents/Issues/Disappearances/GC-right_to_the_truth.pdf

⁴⁷ See OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report.

68. Since the offensive on 27 September 2020 to-date, over 320 Armenians, including at least 25 civilian residents of Nagorno Karabakh, men and women, the majority of them elderly, went missing after the territory fell under the control of Azerbaijani armed forces. Witnesses saw them alive up until the moment the Azerbaijani armed forces occupied the territory. In case of dozens of the missing persons, especially servicemen, there are videos taken by Azerbaijani servicemen themselves demonstrating that these persons were alive when they fell into the hands of Azerbaijani armed forces. Failure to provide information on their fate and whereabouts makes them victims of enforced disappearances.
69. Since 15 September 2022, when the cease-fire was agreed, Azerbaijani armed forces have obstructed search and body retrieval operations by the Armenian authorities to collect the bodies of the fallen service persons and possibly civilians,⁴⁸ contributing to great suffering of the families and subjecting them to inhuman and degrading treatment. In one case, Azerbaijani military did not allow them to search for and collect the body of the killed Armenian serviceman threatening to kill anyone who would try. As a result, the family had to severely suffer seeing the body of their son for months, decaying, but having no opportunity to collect it and bury it according to the religious and cultural traditions. This was done to cause great suffering to the family and punish only because they were Armenians.
70. As a result of Azerbaijan's large-scale military assault against Nagorno Karabakh in September 2023, the entire local Armenian population had to flee. At least 20 persons went missing, including at least five civilians. Azerbaijan fails to take any measures to establish their whereabouts as well as does not allow them to conduct search operations by neutral actors. Family members are subject to double suffering – having no news on the whereabouts and fates of their next-of-kin and being forcibly displaced from their homes with no possibility to return and search for their missing relatives.
71. In relation to at least 18 Armenians whose fate is unknown since 2020 the UN Working Group on Enforced Disappearances examined the communications and transmitted the cases to Azerbaijan.⁴⁹ According to the Working Group, information provided by Azerbaijan was considered insufficient to clarify the cases.⁵⁰ More cases are pending examination by the Working Group.
72. In many cases, the family members learned of the captivity of their next-to-kins only from footage taken and disseminated by Azerbaijani servicemen themselves. In most of the videos, captured Armenians are subject to torture or other forms of ill-treatment. Despite the horror of the family members witnessing such treatment towards their next-of-kin, that video often was the only evidence of capturing the victims alive by Azerbaijani military. Azerbaijani Government failed to officially notify or acknowledge capture of dozens of Armenians, including in response to the requests for information by the ECtHR. The ECtHR had to notify

⁴⁸ Armenpress.am, Azerbaijan creates obstacles for search operations of dead bodies of Armenian soldiers- PM, 25 October 2022, available at: <https://armenpress.am/eng/news/1095630.html>

⁴⁹ Communications transmitted, cases examined, observations made and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, 126th session (7–11 February 2022), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/325/96/PDF/G2232596.pdf?OpenElement>,

⁵⁰ Communications transmitted, cases examined, observations made and other activities conducted by the Working Group on Enforced or Involuntary Disappearances, 128th session, 19–28 September 2022, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G22/598/35/PDF/G2259835.pdf?OpenElement>

the Committee of Ministers of the measures taken by it, having regard to the Azerbaijani Government's failure to respect the time-limits set by the Court for the submission of information on the individuals concerned and the rather general and limited information provided by them.⁵¹

73. Azerbaijan failed to carry out effective investigation into disappearances with a consequential failure to identify and prosecute the perpetrators and to provide meaningful information to the families of the disappeared individuals as to the fate of their relative. Azerbaijan did not pay any compensation to the families of the Armenian victims of enforced disappearance and other gross human rights violations.

Gender-based violence

74. Armenian women who fell into Azerbaijani custody were abused, tortured, executed and desecrated.
75. On 15 September 2022, photos and videos filmed by the Azerbaijani servicemen and circulated in Azerbaijani social media showed that also female service members of the Armenian armed forces were subjected to torture and ill-treatment. Azerbaijani servicemen stripped the bodies of servicewomen, sexually abused, desecrated, dismembered and mutilated their bodies. Azerbaijani armed forces wrote "YASMA", the name of Azerbaijani Special Forces, on the body of one of the killed and desecrated servicewomen, while her hands were placed above her head and a cut finger inserted into her mouth. Another woman body was seen in the video. The Azeri soldier pushed her body by the boot with the aim of showing her naked breast. The footage looks like that her throat had been cut earlier.⁵² In the second video circulated in Azerbaijani social platforms a stripped Armenian servicewoman was filmed in a military position.⁵³ The fact that all three servicewomen were deliberately stripped naked and filmed zoomed in to show their female body parts and voices heard in the background verbally assaulting them as women demonstrates the aim of desecration and gender-based violence against them.
76. In 2020, after the cessation of hostilities, as a result of search operations, bodies of tortured women were found on the territory that fell under Azerbaijani control. The victims, elderly women, remained in their homes when Azerbaijani forces advanced and took over the territory. Few weeks after the takeover, their bodies were found. N.D., a woman aged 83, was found in the village of Vardashat, in the Hadrut region, Nagorno Karabakh: her head was cut off from her body and her hand was broken. A.T., a 52-year-old woman from Karin Tak village, was found dead on 13 January 2021. Examination of the body revealed obvious signs of torture; the left ear was cut off and the tongue was cut out. Forensic examination of A.T.'s body

⁵¹ Press release issued by the Registrar of the Court, ECtHR, ECHR 086 (2021), 16.03.2021, Armenia v. Azerbaijan and alleged captives: notification to the Committee of Ministers of interim measures indicated, available at <https://hudoc.echr.coe.int/engpress?i=003-6965126-9374600> [last accessed: 09.09.2022]

⁵² Video on Telegram channel Khacherubka_Gorbagor, 15 September 2022 https://t.me/KHACHERUBKA_GORBAGOR/807?fbclid=IwAR17KdFqpQ3jVgP9xCzwqOWNjmYKiYRXZbAZH3IMPt4NPY_Vy00J-LpMI20o

⁵³ See video at 00:16, https://t.me/GORBAGOR_TV/6

established that her death was caused by fractures to the skull, hematomas under her neck, fracture to the left hemisphere of the brain, and blunt force injury of the brain.⁵⁴

77. In 2016, Azerbaijani servicemen deliberately killed two elderly Armenian women in their house in Talish village. They also mutilated their bodies. One of the women was 92 years old.⁵⁵

78. Treatment of Armenian women who fell into Azerbaijani custody, mostly elderly and with disability, demonstrate strong gender-based violence patterns reinforced by ethnic hatred.

Blockade as a form of inhuman, cruel and degrading treatment

79. On 12 December 2022, a group of self-proclaimed environmentalists from Azerbaijan backed by the Azerbaijani government blocked the only humanitarian corridor (also known as the Lachin Corridor) that connects Nagorno-Karabakh to the outside world. The only road remains closed for around nine months despite a binding order granted by the ICJ on 22 February 2023 requesting Azerbaijan, pending the final decision in the case and in accordance with its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, to take all measures at its disposal to ensure unimpeded movement of persons, vehicles and cargo along the Lachin Corridor in both directions.⁵⁶

80. The blockade of the only road, coupled with the air blockade by Azerbaijan, constitutes a full blockade. Nagorno-Karabakh was effectively under siege—a method prohibited to be used against the civilian population. No international organizations except for the ICRC were allowed to enter the territory and monitor the situation. However, since June 15, 2023, even the ICRC was prohibited from transferring food and patients. This ban lasted for several weeks.

81. At the same time unprovoked violence by the Azerbaijani armed forces has become the norm in the aftermath of the 44-day war. After the signature of the ceasefire statement of 9 November 2020, at least three Armenian civilians were deliberately killed (executed)⁵⁷ and more than ten wounded by Azerbaijani state agents. The majority of them were engaged in agricultural and repair works. Such practice intensified during the blockade of Nagorno Karabakh by Azerbaijan. Azerbaijan not only blocked the access of humanitarian food to Nagorno Karabakh for months, but also routinely prevented the local Armenian population from doing the

⁵⁴OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, pp. 76-77

⁵⁵'Azerbaijani Soldiers Execute Elderly Armenian Couple in Artsakh; Then Cut Off Their Ears', <https://hetq.am/en/article/66976>

⁵⁶ Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia V. Azerbaijan), Order, 22 February 2023, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20230222-ORD-01-00-EN.pdf>

⁵⁷ The 55-year-old man, Aram Tepnants, an ethnic Armenian farmer in Nagorno-Karabakh was shot dead by Azerbaijani forces while working in his pomegranate grove on 11 October 2021. Azatutyun.am, Karabakh civilian killed in truce violation, <https://www.azatutyun.am/a/31503243.html> . On 08 November 2021, Azerbaijani servicemen opened fire on the employees of the Water and Sewerage CJSC while repairing waters pipes at the crossroad near Shushi, killing one person and injuring three, see Armenpress.am <https://armenpress.am/eng/news/1067635/> ; On 3 December 2021, 65-year-old Seyran Sargsyan, a resident of Tchartar town of the Martuni region, while grazing his cattle, got lost and was captured and killed near Tchartar; <https://hetq.am/en/article/138566>

agricultural work in the spring of 2023 and then in the summer when trying to collect the harvest. Some of those incidents occurred in the presence of the Russian peacekeepers.

82. A group of UN mandate holders expressed serious concern over the consequences of the blockade on the enjoyment of human rights, some of which are non-derogable. Moreover, they reminded Azerbaijan of the need to comply with its human rights and IHL obligations and ensure open access, free movement and access to goods and services, regardless of who blocked the road.⁵⁸
83. The situation negatively affected the operation of medical facilities. All pre-planned medical interventions have been suspended for months. Patients requiring serious treatment and medication that is no longer available are evacuated by the ICRC to Armenia, however, the transfer is not unhindered, but with prior authorizations – in violation of the regime applicable.
84. The lack of medication became particularly acute when Azerbaijan launched a large-scale military assault against Nagorno Karabakh on 19 September. While the hospitals were overwhelmed with the wounded, and lacked medication to provide adequate care, the situation became unbearable when a fuel depot exploded, leaving hundreds dead and wounded. Many of the wounded men went through great suffering as the local hospitals in Nagorno Karabakh did not even have basic painkillers. Many of the wounded died in pain due to the lack of adequate medical care and no possibility of being immediately transferred to Armenia for treatment – all this due to the blockade by Azerbaijan.
85. Due to the blockade and manmade shortage of food, Nagorno Karabakh authorities had to introduce food rationing and vouchers for essential food. This means that the local population was not able to have regular, permanent and unrestricted access directly or by means of financial purchases— to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear. They do not have physical and economic access at all times to adequate food or means for its procurement.⁵⁹
86. Even with food rationing, there was an acute shortage of most of the dairy products, eggs, children formula; food for people with specific dietary needs, including children with diabetes and epilepsy is not available.⁶⁰ As a result of the blockade, shortage of essential food and medicine was reported both by local authorities and local residents interviewed by our organizations. This leads to malnutrition and under-nutrition of children, especially in light of

⁵⁸ Mandates of the Special Rapporteur on the right to food; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the right to education; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Independent Expert on the enjoyment of all human rights by older persons, UA AZE 1/2023, 2 February 2023, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27840&fbclid=IwAR2V6lhGct3bbfTpDleL2ISSdOZxEdeBOSosw-1DOhkHnwOCObjAjYhETKo>

⁵⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999, para. 6, available at: <https://www.refworld.org/docid/4538838c11.html>

⁶⁰ ‘Humanitarian crisis in Nagorno-Karabakh: Potatoes are a luxury, bananas are a dream’, <https://www.europeantimes.news/2023/01/humanitarian-crisis-in-nagorno-karabakh-potatoes-are-a-luxury-bananas-are-a-dream/>

winter conditions and avitaminosis. As a result, local doctors report increases in the number of children with health problems.

87. Shortage of food and medicine, regular gas cut-offs by Azerbaijan in winter conditions coupled with prolonged rolling blackouts due to damaged power lines and Azerbaijan not allowing them to be repaired, caused serious suffering and led to long-lasting systemic consequences for the local Armenian population.
88. Children were most affected by the blockade, especially those with health issues and in need of treatment and a special diet. A number of their fundamental rights are violated, including the right to adequate food, access to medicine and the highest attainable standard of healthcare, right to education and, importantly, the right to family as dozens of children remain separated from their parents. Some of them remained stranded in Armenia, separated from their families, for months not being able to return home. This negatively affects both physical and mental health.”⁶¹
89. Effectively, food was used as an instrument of political and economic pressure. Azerbaijani authorities were clear about their aim to ethnically cleanse the territory using these methods. The president of Azerbaijan and other public officials publicly stated that the road was open “one-way” for local Armenians to vacate Nagorno Karabakh on their own, or on vehicles of peacekeepers, or by bus.⁶²
90. Statements of other Azerbaijani public officials demonstrate that the blockade of the only road was a deliberate action endorsed by the authorities.⁶³ Such statements of Azerbaijani officials demonstrated that the protesters were backed by the government and the blockage of the only road aims to create conditions unbearable for the civilian population and to deliberately use starvation as a method of warfare against the civilian population explicitly prohibited under IHL.
91. Nagorno Karabakh female Armenians forcibly displaced by Azerbaijan reported that they went through severe suffering not being able to find baby formula or medication during the months of blockade when even the ICRC was not able to deliver humanitarian assistance.
92. During the displacement, at least 69 persons died on the road - due to stress and poor health condition that deteriorated due to blockade and panic that followed the takeover of Nagorno Karabakh by Azerbaijani military. Their family members had to keep the bodies in the vehicles - for up to two days as the road was overloaded. The interviewed displaced who lost a next-of-kin on the road reported extreme levels of distress and suffering speaking about their experience of sharing a vehicle with the deceased, not telling their kids about the death of the family member, etc.

Recommendations:

⁶¹ Listen to Mothers Besieged in Artsakh/Nagorno-Karabakh, Siranush Sargsyan and Lynn Zovigian: <https://www.newsweek.com/listen-mothers-besieged-artsakh-nagorno-karabakh-opinion-1774812>

⁶² ‘Whoever does not want to become our citizen, road is not closed, it is open - President Ilham Aliyev’, <https://en.trend.az/azerbaijan/politics/3693367.html>

⁶³ Translation of the statement available at <https://twitter.com/cavidaga/status/1618015667156049921>

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Repatriate all the Armenian detainees and POWs kept in Azerbaijan without delay in line with IHL and human rights law.
- Conduct an independent, speedy and effective investigation into all allegations of arbitrary execution, torture, and ill-treatment of the Armenian POWs and detainees, including in the context of the 2020-2023 hostilities, bring those responsible to justice, and provide further specific information regarding the steps taken to investigate cases of alleged torture and ill-treatment.
- Take measures to eradicate torture, ill-treatment and arbitrary arrests in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Ensure, in law and in practice, that every person has access to independent and effective complaints mechanisms that will investigate and respond promptly; that alleged perpetrators are prosecuted and, if they are found guilty, receive sentences that are commensurate with the gravity of their acts; and that victims are afforded appropriate redress.
- Ensure that detained Armenians have prompt and unimpeded access to an independent lawyer of their choice, can contact a family member and can immediately undergo an independent medical examination in full confidentiality.
- Ensure unhindered access to all places of deprivation of liberty for international human rights mechanisms, including Sub-Committee against Torture (SPT), European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and UN mandate holders.
- Strengthen training for its military forces on gender-based violence, prohibition of torture and arbitrary deprivation of life of protected persons.
- Take effective measures to prevent war crimes by the armed forces of Azerbaijan, and ensure effective investigation into the committed war crimes.
- Fully implement provisional measures ordered by the ICJ, including to protect from violence and bodily harm all persons captured in relation to the 2020 conflict and beyond who remain in detention, and ensure their security and equality before the law.
- Guarantee the full independence and impartiality of the judiciary, give practical effect to the guarantees for judicial independence.
- Ensure that statements made as a result of torture may not be invoked as evidence in any proceedings, except against the person accused of torture.
- Take prompt measures to ensure that all instances of death in custody are promptly investigated and that those responsible for deaths resulting from torture, ill-treatment or any other illegal actions are prosecuted.
- Ensure that victims of torture obtain redress and rehabilitation and have an enforceable right to fair and adequate compensation, including the means for as full a rehabilitation as possible.