



ARMENIAN LEGAL CENTER

FOR JUSTICE AND HUMAN RIGHTS

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Other Stakeholders Report Submitted by

Armenian Legal Center For Justice and Human Rights (ALC)

About ALC:

ALC is a USA based 501(c)(3) nonprofit, nongovernmental organization. ALC fights to redress human rights violations emanating from the Armenian Genocide and the Artsakh War that undermine regional stability that has for far too long been marred by policies not based upon human rights and justice. Through legal and educational initiatives, ALC addresses the geo-political, territorial and macro-economic implications of the Republic of Turkey's responsibility for the Armenian Genocide, and the Republic of Azerbaijan's aggression and war crimes. By partnering with advocates based in Armenia and globally, the ALC continues to be at the forefront of Armenian legal advocacy.

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Contents

A-	Introduction.....	3
B-	Prohibition of torture and inhuman treatment.....	3
	B1. Recommendations:.....	3
C-	Violations of Human Rights While Committing War Crimes.....	4
	C1. Recommendations:.....	6
D-	Azerbaijan’s policy of Cleansing Ethnic Armenians.....	6
	D1. Recommendations:.....	7
E-	Violations to the Right to Education.....	7
	E1. Recommendations:.....	8
F-	Conclusion.....	8
	F1. General Recommendations:.....	9

A- Introduction

- 1- This report focuses only on couple of human rights violations committed by Azerbaijan against Armenians, Armenia and Artsakh (Nagorno-Karabakh), It highlights violations committed during the Second Artsakh War in 2020 and after-war period. A set of recommendations are proposed at the end of each section.

B- Prohibition of torture and inhuman treatment

- 2- International Customary Law unequivocally prohibits torture, inhumane or degrading treatment. It also mandates the humane treatment of all individuals in custody. ¹ Azerbaijan, has not met its legal obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This non-compliance has resulted in an atmosphere of impunity for government officials and has heightened the possibility of a repeat of such heinous crimes.
- 3- The government of Azerbaijan has flagrantly violated the human rights of Armenian prisoners of war, hostages, and other detained individuals by subjecting them to torture, abuse, and mistreatment. This abuse occurred at various stages of captivity, including during capture, transfer, and while in custody at different detention facilities. ² HRW has closely examined 14 such cases and interviewed the families of five detainees whose mistreatment and abuse were documented. In addition, HRW has recorded numerous instances in which Azerbaijani forces used violence to detain civilians and then subjected them to torture and inhuman and degrading conditions of detention. ³ Furthermore, there are grave concerns that several of the POWs were victims of human trafficking.
- 4- The Azerbaijani government has a legal obligation to ensure that all detainees are treated humanely and that their rights are protected. These violations of international law not only represent a clear violation of Azerbaijan's legal obligations but also threaten the very foundations of human rights and dignity. Any allegations of torture, mistreatment or abuse should be taken seriously and thoroughly investigated to identify any perpetrators and hold them accountable for their actions. This is a crucial step in ensuring justice for victims and preventing such incidents from happening in the future.

B1. Recommendations:

5- Take all possible measures to eliminate torture, abuse and inhuman treatment of all detainees.

¹ See Article 7 & 10 of ICCPR and Article 3 the European Convention on Human Rights.

² See "Ad Hoc Public Report Responsibility of Azerbaijan for Torture And Inhuman Treatment of Armenian Captives: Evidence-Based Analysis (The 2020 Nagorno Karabakh War)", The Human Rights Defender of the Republic of Armenia, Yerevan, September 2021.

³ See "Azerbaijan: Armenian POWs Abused in Custody", HRW, 08 November 2020.

6- All accusations of torture, mistreatment and inhumane treatment must be thoroughly investigated, and those found responsible should be held accountable for their actions.

7- Provide effective and prompt reparation for the victims of torture Cruel, Inhuman or Degrading Treatment or Punishment.

C- Violations of Human Rights While Committing War Crimes

8- Under customary International Humanitarian Law (IHL) it is forbidden to attack, destroy, remove, or make unusable essential items necessary for the survival of civilian populations, including foodstuffs, agricultural areas, crops, livestock, drinking water, installations and supplies, and irrigation works. Article 18 of the Fourth Geneva Convention (GCIV) provides a particular safeguard for civilian hospitals, declaring that such facilities "may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict." However, the Azerbaijani armed forces have deliberately and repeatedly targeted critical civilian infrastructure, such as hospitals, electricity, communication, gas and water supply systems, bridges, and food supplies, across the entirety of Nagorno Karabakh, particularly targeting those in large settlements. These attacks were intended to deprive tens of thousands of peaceful individuals of essential living conditions and means for their continued survival. Such actions clearly violate both customary IHL and Article 18 of GCIV, which aim to protect the civilian population and their essential infrastructure during times of conflict.⁴

9- IPHR/Truth Hounds documented five incidents of what appear to be deliberate attacks by Azerbaijani armed forces against hospitals and medical personnel, including one attack on the Republican Hospital in Stepanakert which destroyed the newly built maternity ward.⁵ At least nine medical facilities were damaged in Stepanakert, and in the Martakert, Martuni, and Askeran districts of Nagorno-Karabakh.⁶

10- Medical facilities and personnel are civilian objects with special protections under the laws of war. Parties to a conflict are obligated to ensure that they do not endanger or harm medical personnel, and do not attack or damage hospitals and ambulances. HRW also documented a deliberate attack on 28 September 2020, apparently by Azerbaijani forces, on an Armenian military ambulance, in which assailants shot and killed a military doctor.⁷

11- Under customary international law, it is the responsibility of each party involved in a conflict to take all necessary measures to prevent the despoiling of the dead. The mutilation of dead bodies is strictly prohibited.⁸ However, the Azerbaijani armed

⁴ Siranush Ghazanchyan, "The rights of the Armenians of Artsakh have not yet been restored: MFA issues statement on World Refugee Day," Public Radio of Armenia, 20 June 2021.

⁵ See "When embers burst into flames, International Humanitarian Law and Human Rights Law violations during the 2020 Nagorno-Karabakh War," IPHR/Truth Hounds/ Global Diligence, May 2021.

⁶ Tanya Lokshina, "Survivors of unlawful detention in Nagorno-Karabakh speak out about war crimes" HRW, 12 March 2021.

⁷ Ibid.

⁸ Rule 113. Treatment of the Dead, HL Database.

forces have made the horrific practice of decapitation of Armenians a regular occurrence, both during times of peace and in times of war. This practice, along with torture and mutilation, has become a common occurrence and is openly endorsed by the State.

12- Another fundamental principle of IHL prohibits violence aimed at spreading terror among the civilian population, which is a part of parcel of customary international law and is applicable both during international and non-international armed conflicts.⁹ The systematic and deliberate targeting of the civilian settlements, among other things, had the purpose of forcing the civilian inhabitants to flee their homes and dwellings, thus breaching obligations under Article 49 of the GCIV.¹⁰

13- Under customary international law it is prohibited to use weapons which are “of a nature to strike military objectives and civilians or civilian objects without distinction”.¹¹ Weapons that are by nature indiscriminate are those that cannot be directed at a military objective or whose effects cannot be limited as required by IHL. The prohibition of such weapons is also supported by the general prohibition of indiscriminate attacks, which formally requires the use of such weapons so that to allow distinction when attacking certain objects.

14- Cluster bombs or cluster munition is a weapon which is by nature indiscriminate. Cluster munitions distribute large numbers of explosive sub-munitions over exceptionally large areas, there is a serious risk of civilian casualties where military objectives and civilians intermingle in a target area, and hence by using such type of munition Azerbaijan demonstrated its clear intention to target civilians and civilian objects, or at least disregarded to the lives of civilians.

15- Azerbaijani armed forces used cluster munitions in Nagorno-Karabakh on several occasions. This included attacks on September 27, October 3, and October 4, 2020, on Stepanakert, Nagorno-Karabakh’s administrative center. Azerbaijan also used cluster munitions in attacks on Hadrut on October 3 and 4, 2020. It may have used cluster munitions in Martakert on October 14, 2020.¹² In addition to cluster munitions, there were also allegations of the use of incendiary munitions containing chemical elements have been used in an indiscriminate attack on the civilian population including white phosphorus.¹³ The cluster munitions attacks caused civilian casualties, both at the time of attack and from submunitions that failed to detonate at the time of attack.

16- From a legal standpoint, the majority of officials responsible for human rights violations and war crimes in Azerbaijan have not been prosecuted or punished by the government. This lack of accountability represents a serious problem, as impunity for such severe human rights abuses serves as a significant obstacle to achieving long-lasting peace and reconciliation.

⁹ Rule 2. Acts of Violence Aimed at Spreading Terror among the Civilian Population, IHL Database.

¹⁰ See Article 49 of Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949.

¹¹ Rule 12. Definition of Discriminate Attacks, HL Database.

¹² See “Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh” HRW, 23 October 2020.

¹³ Comments of the Republic of Armenia Regarding the Memorandum of the Council of Europe Commissioner For Human Rights, 05 November 2021.

C1. Recommendations:

17-Ensure accountability for human rights violations and war crimes committed by Azerbaijani forces, including at the command level.

18-Establish an independent international commission of inquiry to investigate and gather evidence on the serious human rights violations committed since 2020. Additionally, ratify the UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (CCW) and its relevant protocols to demonstrate a commitment to avoiding the use of explosive weapons with wide-area effects in populated areas.

D- Azerbaijan's policy of Cleansing Ethnic Armenians.

19-From a legal perspective, Azerbaijan's use and acceptance of racist hate speech is both indicative of and contributes to its overall policy of ethnically cleansing Armenians and Armenian heritage from Azerbaijan and Nagorno-Karabakh. This policy has resulted in a significant decrease in the ethnic Armenian population in Azerbaijan over the past four decades, as evidenced by Azerbaijan's own census data.¹⁴ Those Armenians who have remained in Azerbaijan continue to face racial discrimination in virtually every aspect of their social lives.

20-Numerous government officials and entities have made this policy of ethnic cleansing unmistakably clear. For example: Hajibala Abutalybov, former Deputy Prime Minister of Azerbaijan, explicitly acknowledged, while serving as Mayor of Baku, that Azerbaijan's goal is "the complete elimination of Armenians."¹⁵ Hafiz Hajiyev, former presidential candidate and Modern Musavat Party leader, called for the annihilation of all Armenians, stating that "[t]here should be no Armenian left in Azerbaijan."¹⁶

21-Since March 8, 2022, over 100,000 people living in Artsakh have been deprived of natural gas and heating due to damage to the main pipeline supplying gas to Artsakh from Armenia. The pipeline was damaged in the vicinity of Azerbaijani military positions in Shushi, which has been under Azerbaijani control since the end of the 2020 Artsakh War. The Azerbaijani side did not allow Armenians or Russian peacekeepers to take part in fixing the pipeline. The Human Rights Ombudsmen of the Republic of Armenia and the Republic of Artsakh claim that the Azerbaijani side installed a valve on the gas pipeline to allow them to

¹⁴ The State Statistical Committee of the Republic of Azerbaijan, Population of Azerbaijan (2021) (certified translation from Azerbaijani), p. 21.

¹⁵ Committee on Foreign Affairs, House of Representatives, 110th Congress, Second Session, The Caucasus: Frozen Conflicts and Closed Borders, Serial No. 110-200 (18 June 2008), p. 50. The comment was made to a visiting German delegation in shockingly explicit terms: "Our goal is the complete elimination of Armenians. You, Nazis, already eliminated the Jews in the 1930s and 40s, right? You should be able to understand us." Ibid.

¹⁶ "Azerbaijani former presidential candidate: We will blow up nuclear power plant and slaughter all Armenians." Panorama, 10 May 2016.

terrorize the population of Artsakh by closing it at any time.¹⁷

22-The policy of ethnic cleansing planned and carried out by Azerbaijan is a clear manifestation of the forced displacement of a specific group from a territory on the grounds of ethnic origin. The unlawful and aggressive military actions launched against Artsakh on September 27, 2020, by Azerbaijan are a clear example of such a policy being carried out in the 21st century. The grounds and factors contributing to such a policy emerged long ago, not only during the 2020 Artsakh War, but for decades. This policy is the outcome of hatred and Armenophobia seeded in Azerbaijani society by their authorities.

23-The severe breaches of international humanitarian law that occurred during the war, including the mistreatment and killing of civilians, especially women and elderly individuals, forced displacement of the local population, and detention or killing of those who stayed, along with the execution and mutilation of Armenian soldiers, and the distribution of videos of these actions on social media by Azerbaijani soldiers, indicate that these actions are a clear outcome and result of the prejudicial treatment and animosity towards Armenians.

24-The Azerbaijani actions have become more uncontrolled and alarming since February 2022 and the invasion of Ukraine by Russia. On a daily basis, the Azerbaijani Armed Forces use loudspeakers on the line of contact with Nagorno-Karabakh, in the immediate vicinity of Armenian villages, threatening the residents to leave their homes. The policy of ethnic cleansing, therefore, continues to deprive ethnic Armenians living in Artsakh of their vital rights and creates serious obstacles for their future survival in their homeland.¹⁸

D1. Recommendations:

25-- Refrain from practices of ethnic cleansing against Armenians; refrain from engaging in, glorifying, rewarding or condoning acts of racism and hate speech against Armenians, including in educational materials.

26- Condemn the repeated and unpunished use of inflammatory warmongering language by high-level politicians speaking about Armenia and the Armenians and its adverse impact on public views.

27- Promote public education and awareness campaigns to educate the public about the harms of racial discrimination, and to promote tolerance, respect, and understanding among all members of society.

E- Violations to the Right to Education

28- As soon as the Azerbaijani offensive against the Republic of Artsakh began in Sept. 2020, numerous students were forced to flee the country, thereby impeding their education. The ongoing hostilities have continued to jeopardize their studies, leaving them without access to education for over two months. Azerbaijani forces

¹⁷ Hasmik Harutyunyan, "Azerbaijan's Ongoing Policy of Ethnic Cleansing in Nagorno-Karabakh," EVN Report, 27 March 2022.

¹⁸ Ibid.

have targeted schools and kindergartens, resulting in extensive damage to education infrastructure. Official reports indicate that at least 71 schools, including two in the Republic of Armenia, were destroyed or damaged, along with numerous kindergartens, arts schools, sports schools, and vocational schools.¹⁹ Even after the hostilities ceased, most of these educational facilities were unusable for an extended period due to the damage they sustained. Azerbaijan further destroyed Armenian schools during its violation of the September 13/14, 2022 ceasefire, leaving 30,000 children unable to attend school.²⁰

29- Furthermore, the Lachin Corridor blockade imposed by Azerbaijan since December 2022 resulted in approximately 300 children from Artsakh being separated from their families and unable to return to their homes and schools. Additionally, around 22,000 children in Artsakh were unable to access their right to education due to the absence of proper heating or/and electricity. Such actions represent a clear violation of children's fundamental rights, including their right to education.²¹

E1. Recommendations:

30- Conduct thorough investigations into instances of Azerbaijani forces positioning military targets near schools and take appropriate action against those responsible.

31-Take measures to ensure the continuity of education for children in Artsakh, including the return of confiscated school records and property, and endorsing the Safe Schools Declaration.

F- Conclusion

32-The 2020 Artsakh War launched by Azerbaijan against Artsakh involved gross violations of international humanitarian law and International Human Rights Law. Azerbaijan constantly shelled Stepanakert and other cities, causing significant damage and casualties among the civil population, including children. The hatred and anti-Armenian policy of Azerbaijan were also demonstrated by the destruction and falsification of Armenian cultural heritage in territories that came under Azerbaijani control after the war.

33-More than 90,000 residents of Artsakh were forced to leave and temporarily reside in Armenia. Currently, Azerbaijani actions have become more uncontrolled and alarming, resulting in the violation of vital rights of ethnic Armenians living in Artsakh and creating serious obstacles for their future survival in their homeland.

34-The comprehensive and lasting resolution to the Nagorno-Karabakh conflict presumes the determination of the status of Nagorno-Karabakh

¹⁹ Bil Van Esveld, "Lessons of War: Attacks on Schools During the Nagorno-Karabakh War," HRW, 08 September 2021.

²⁰ [More than 30 thousand children in Armenia cannot go to schools and kindergartens because of Azerbaijani attacks](#), Arka News Agency, 19 September 2022

²¹ [Current situation in Artsakh is a violation of children's fundamental rights, including the right to education](#), Armenpress, 16 December 2022.

taking into account the realization of the inalienable **right to self-determination of Artsakh People as their basic human right**. The recognition and respect of the right to self-determination of the people of Artsakh is crucial for conflict resolution and sustainable peacebuilding in the region. In addition, any sustainable and transformative resolution to the conflict should ensure the security of the people of Nagorno Karabakh, de-occupation of areas of Nagorno-Karabakh that have fallen under the Azerbaijani control, safe and dignified return of the displaced population to their settlements throughout the entire territory of Nagorno-Karabakh, and preservation of the Armenian cultural and religious heritage in the territories currently under the Azerbaijani control.

35-All victims of serious human rights violations have the right to adequate, effective and prompt reparation for the harm suffered, in line with the 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of IHL.

36-Azerbaijan needs to put in place effective policies and mechanisms at the national level to ensure adequate reparations for the victims and their families, developed in consultation with them. This should include programs of assistance to survivors of serious human rights violations, including ill-treatment, and their families, striving to ensure their rehabilitation to the greatest extent possible.

F1. General Recommendations:

37- Respect the right to self-determination of the people of Artsakh, in accordance with international law.

38-Stop the use of corruptive means to foster Azerbaijan's conflict perception in different international organizations.

39-Carry out thorough, prompt, independent and impartial investigations into allegations of serious human rights violations committed during the recent war and its aftermath to hold perpetrators accountable and provide adequate and effective reparations to the victims.