

Urgent Call for Action

on instances of extrajudicial and arbitrary executions, torture and other cruel, inhuman or degrading treatment based on hatred against Armenians and public display of such acts on social media by the Azerbaijani armed forces

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I. Targeting civilians with weapons that are indiscriminate in nature, including internationally prohibited cluster munitions

On 27 September 2020, the Azerbaijani armed forces launched a widespread and heavy artillery and rocket fire against the civilian population in Nagorno Karabakh also known as Artsakh. The Azerbaijani armed forces targeted densely populated communities in Martuni, Martakert, Hadrut, Shushi and the capital of Stepanakert. The Ombudspersons of the Republic of Armenia and Artsakh¹ have independently documented and published the photo and video evidence and numerous footages of the use of cluster munitions deliberately targeting civilians in residential areas in Stepanakert, the capital of Nagorno Karabakh. Cluster bombs are inherently indiscriminate weapons in that they inflict suffering for civilian populations years after their use, and are internationally banned by the Convention on Cluster Munitions. On 5 October, Amnesty International has independently verified, reported and publicly condemned the use of cluster munitions targeting civilians in Stepanakert that appeared to have been fired by Azerbaijani forces.² It reported that “Cluster munitions scatter hundreds of bomblets, or submunitions, over a wide area. It is estimated that between 5 and 20

¹ See more at Second Interim report on the Azerbaijani atrocities against the civilian population of Artsakh, 10 October 2020, pp. 25-26, available at <https://artsakhombuds.am/sites/default/files/2020-10/Artsakh-Ombudsman-second-interim-report-on-September-October.pdf>; also Statement of the Ombudsperson of the Republic of Armenia Mr. Arman Tatoyan, available at https://www.facebook.com/permalink.php?story_fbid=723396871592854&id=100017676420633

² See more at Armenia/Azerbaijan: Civilians must be protected from use of banned cluster bombs, 5 October 2020, available at https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-civilians-must-be-protected-from-use-of-banned-cluster-bombs/?fbclid=IwAR0hXK3rDdWH5IPovF21WszFXxTcinNvKrhVx7xG2f_oJ58BxImpmwM35_0

percent of cluster bomblets fail to explode. They are then left behind, posing a threat to civilians similar to that of anti-personnel landmines. The use of these bombs violates the prohibition of indiscriminate attack because of the wide area covered by the numerous bomblets released, and the danger posed to all who come into contact with the unexploded munitions.”³

The use of cluster munitions in Artsakh has been confirmed also by the Human Rights Watch. After the on-site investigation in Stepanakert, it has been reported that “Human Rights Watch was not able to identify any military equipment or bases in the three neighborhoods where the attacks took place. Even if there had been, given the indiscriminate effects of cluster munitions, their use in a residential civilian setting is not permitted under the law of war”.⁴

Numerous international and national media outlets have also published photo and video footages of the targeting of the civilian objects and population by weapons that are by nature indiscriminate. In addition, wide-spread use of unmanned aerial vehicles (UAV), with a view to kill and/or cause life-changing injuries, is aimed at spreading terror and psychological suffering among the civilian population. The use of these prohibited under IHL weapons has contaminated large residential areas of city of Stepanakert with unexploded ordnance posing additional risks for the civilians including children.⁵ As of 12 October 2020, more than 670 unexploded ordnance, including bomblets from cluster munitions were found only in Stepanakert and surrounding territories.⁶ In addition to the above-mentioned cluster bombs, the Azerbaijani armed forces have utilized heavy weaponry, such as multiple rocket launchers “Smerch” and “Grad” against the civilian objects and civilians.⁷ Large number of combat UAVs, including Turkish made “Bayraktar” TB-2 and Israeli “Harop”, “Sky Striker”, Orbiter 1k, etc.⁸ have been used to target the civilians and civilian objects and infrastructure.

Systematic and indiscriminate shelling and direct strikes from UAVs resulted in significant human loss and people suffering life-changing injuries. As of 16 October 2020, 36 civilian persons were killed in Artsakh by the Azerbaijani armed forces, at least 125 civilians were wounded, including 95 with serious injuries.⁹ Majority of civilians were killed and injured in the places of their residence. About one-third of civilians were injured in public place, 12 civilians received serious injuries at their workplaces, and 6 civilians – while moving to a safer place.¹⁰ Moreover, civilian harm caused by indiscriminate and direct strikes extends far beyond killings and injuries as it causes significant

³ Ibid.

⁴ Human Rights Watch, Azerbaijan: Cluster Munitions used in Nagorno-Karabakh, 23 October 2020, <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh?fbclid=IwAR1izxbCrYsT8JyVNH3Nsfqv8M1idsFg01qAu8OnXWfi9g3uVTLKdyxgnl>

⁵ Armenia/Azerbaijan: Civilians must be protected from use of banned cluster bombs, 5 October 2020, <https://www.amnesty.org/en/latest/news/2020/10/armenia-azerbaijan-civilians-must-be-protected-from-use-of-banned-cluster-bombs/>; Human Rights Watch, Azerbaijan: Cluster Munitions used in Nagorno-Karabakh, 23 October 2020, <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh?fbclid=IwAR1izxbCrYsT8JyVNH3Nsfqv8M1idsFg01qAu8OnXWfi9g3uVTLKdyxgnl>

⁶ Armenpress.am, 673 unexploded bombs of Turkish and Israeli production found in Artsakh’s Stepanakert, 12 October 2020, <https://armenpress.am/eng/news/1031396.html>

⁷ See more at the Second Interim Report of the Ombudsperson of Artsakh, see supra note 1

⁸ Eurasian Times, Clash of Drones, How Israeli and Turkish drones have created havoc in Azerbaijan-Armenia war, available at <https://eurasianimes.com/clash-of-drones-how-israeli-turkish-drones-have-created-havoc-in-azerbaijan-armenia-war/>

⁹ Artsakh Ombudsperson Mr. Artak Beglaryan’s man Facebook account, <https://www.facebook.com/artak.beglaryan>

¹⁰ Artsakh Ombudsperson, Updated edition of the second interim report on the Azerbaijani atrocities against the Artsakh population in September-October 2020, available at https://artsakhombuds.am/en/document/735?fbclid=IwAR3Tg_nv4k48sGSWzbU7wQ8Fgrt9Nqc5TYpEr_sw6miPZTfkHwR8b2SPAuQ

psychological harm to civilians, particularly to children,¹¹ cripple daily activities,¹² etc. Regular use of drones over the city of Stepanakert creates an atmosphere of terror and constant fears among the civilian population who have to spend days and nights in shelters not to be targeted. As pointed out by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, precision of drones and surgical strikes by them in terms of avoiding casualties among the civil population is a myth.¹³

On 27 September 2020, a 2-year-old boy was injured while his 9-year-old sister died as a result of drone strike in Martuni town. A pregnant woman was injured as a result of drone strike to a civilian car fleeing from Mataghis village.

On 08 October 2020, the Azerbaijani armed forces deliberately targeted the Holy Savoir Ghazanchetsots Cathedral twice. At the moment of the first targeted strike children, women and elderly persons were sheltered in the basement of the Cathedral. Fortunately, no deaths or injuries were reported.¹⁴ Shortly after the first strike the Azerbaijani armed forces targeted the Cathedral for the second time with drone.¹⁵ Three journalists filming the destruction were injured, including Russian military commentator Yuri Kotenok, who was hospitalized in “critical condition”.¹⁶ According to the witness accounts, immediately prior to the strike, a drone was flying over the area.

II. Killing and torture and ill-treatment of civilians and persons hors de combat by the Azerbaijani armed forces

We would like to bring to your attention the following atrocities committed against the civilian population by the Azerbaijani armed forces.

On 10 October 2020, members of a subversive group that invaded the Hadrut city of Artsakh, killed at least four civilians. Among them were a person with disability and his elderly mother.¹⁷ Under IHL, the elderly, disabled and infirm affected by armed conflict are entitled to special respect and protection.

M. H., a person with disability who was in his bed, and his mother A.M. were shot to death in cold blood in their house in Hadrut. The pictures¹⁸ of the dead body of Misha Movsisyan reveal

¹¹ Los Angeles Times, A New Weapon complicates an old war in Nagorno-Karabakh, <https://www.latimes.com/world-nation/story/2020-10-15/drones-complicates-war-armenia-azerbaijan-nagorno-karabakh>

¹² News item at the webpage of the Ombudsperson of the Republic of Armenia, The representatives of the Human Rights Defender of Armenia visited today the child who was injured as a result of the Azerbaijan, https://www.ombuds.am/en_us/site/ViewNews/1334

¹³ See more at the Report on Targeted killings through armed drones and the case of Iranian General Quassem Soleimani, UN Special Rapporteur on extrajudicial, summary or arbitrary executions. A/HRC/44/38, pp. 6-7, available at www.ohchr.org

¹⁴ Paul Ronzheimer, BILD <https://twitter.com/ronzheimer/status/1314162740823457792?s=20>

¹⁵ Journalist Yuri Kotenok told about the attack in Karabakh, see more at <https://www.kp.ru/online/news/4042532/>

¹⁶ See more at Ad hoc Public report on the Azerbaijani targeted attacks against the St. Holy Savior Ghazanchetsots Cathedral of Shushi, Artsakh (Nagorno Karabakh) as a war crime and crime against humanity, the Artsakh Ombudsperson, pp. 14-15, available at <https://artsakhombuds.am/en/document/740?fbclid=IwAR1fXwjqof8-eYqva0M8bBXENJIGVvix7cP1PpDvRdwD80ePHdUAT24d0E8>, also <https://twitter.com/ronzheimer/status/1314217037661499395?s=20v>

¹⁷ See more at Updated edition of the second interim report on the Azerbaijani atrocities against the Artsakh population in September-October 2020, the Artsakh Ombudsperson, available at https://artsakhombuds.am/en/document/735?fbclid=IwAR3Tg_nv4k48sGSWzbU7wQ8Fgrt9Nqc5TYpEr_sw6miPZTfkHwR8b2SPAuQ

¹⁸ See attached in the appendix.

*signs of violence on his body, e.g. in his chest and abdomen. His left hand palm was shot by a gun, supposedly raised to show he was unarmed at his home.*¹⁹

*On 15 October 2020, two video clips were circulated on social media showing how two Armenian men surrender to the Azerbaijani armed forces in the city of Hadrut, Artsakh, but in gross disrespect to the rules of IHL, were humiliated and executed in cold blood.*²⁰ *It was established that the executed persons were a resident of Hadrut city, B. H (born on 1947), and a resident of Tayk village Y. S. (born on 1995).*²¹ *Not only they were executed, but it was done to demonstrate the racial hatred (Armenophobia), a well-documented practice by Azerbaijan against Armenians. More specifically, prior to the execution both men were wrapped in the flags of the Republic of Armenia and Artsakh respectively.*²²

*On 18 October 2020, the Human Rights Defender of the Republic of Armenia, Mr. Arman Tatoyan, publicized information that he had received a complaint on the fact of beheading of an Armenian soldier by an Azerbaijani military officer in whose hands the latter was.*²³ *According to the information, on 16 October 2020, a member of the Azerbaijani armed forces called to the brother of the Armenian soldier in question and told that his brother was under their control, they beheaded him and were going to post his photo on the social network. This was done to cause severe suffering to the family members. Afterwards, several hours later, the brother found the photo of his killed brother on the latter's social media page.*²⁴ *Other instances of beheading of soldiers of Artsakh Defense Army were revealed in social media as well.*²⁵ *If beheaded alive, this also constitutes a violation of the right to life and prohibition of torture. In addition, the fact of beheading and posting the photo on social media also caused severe suffering to the family members.*

*According to the official information, there are at least 1 civilian woman and 12 prisoners of war of the Artsakh Defense Army in hands of Azerbaijan. On 22 October 2020 the Azerbaijani media channel "Kanal 1" published a video showing eight persons in the uniform of the Artsakh Defense Army being ordered to say "Karabakh-Azerbaijan" by the military officers of Azerbaijani armed forces. One of them was standing bent down with evident signs of being in pain*²⁶.

Moreover, footage revealed in social media showed a soldier of the Artsakh Defense Army in hands of Azerbaijani officers being kicked in head and orders to swear on the Armenian Prime

¹⁹ See more at Artsakh Ombudsperson's Official Twitter account,

https://twitter.com/Artak_Beglaryan/status/1315581056075128832?s=20

²⁰ See more details with verification of location and other details at "An execution in Hadrut-Karabakh", Bellingcat, available at <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/?fbclid=IwAR0rtIchQzDgSDSC7lkvLMxEiUzRSgG5F-Fv0pxEd68s4GPFS1v7z7wD6Q>

²¹ See more, for example. At Infocom.am, <https://infocom.am/Article/38966?fbclid=IwAR2DH89TFDPehDuPt-3T07NA6YoTLE7F9Jzu4EFEfRL03WBfFgacdYEblOQ>

²² See more at the statement of the Ombudsperson of the Republic of Armenia posted on the official Facebook page on 16 October 2020, <https://www.facebook.com/Armenianombudsman>

²³ See more at the news item on the Official web page of the Ombudsperson of the Republic of Armenia, available at https://ombuds.am/en_us/site/ViewNews/1337

²⁴ See more at the Ombudsperson of the Republic of Armenia, Official Personal Account post <https://www.facebook.com/photo/?fbid=733479247251283&set=a.363684047564140;>

²⁵ <https://twitter.com/Conflicts/status/1317050722635141121>

²⁶ https://www.youtube.com/watch?v=ftHHS7gUSu0&feature=youtu.be&fbclid=IwAR1Ca9eb7uyo0FN2O1Thd3W9ndZ6En4IMAGIkCSJwDOONGa_XSs_qLARhyg

Minister Nikol Pashinyan aiming to humiliate the leader of the country. The video clearly showed that the soldier was in painful and stressful condition²⁷.

III. Racial hatred and Armenophobic policy of Azerbaijan against Armenians

The military aggression against Artsakh and direct attacks against the civilian objects and civilian population fits into the policy of Armenophobia and hatred against Armenians developed by Azerbaijani government for decades aiming at destruction and extermination of Armenians from their homeland. The Armenophobic policy of Azerbaijan against Armenians and everything related to Armenians has been periodically stressed in ECRI reports.²⁸ The fact of discriminatory policy and racism by Azerbaijan towards Armenians has been pointed out also by the Advisory Committee on the Council of Europe Framework Convention for the Protection of National Minorities. In its opinions on Azerbaijan, the Advisory Committee pointed out the incidents of “hostility and discrimination” against Armenians, existence of anti-Armenian sentiments in Azerbaijan and recommended Azerbaijan to take steps for eliminating the discriminatory attitude towards Armenians.²⁹

The anti-Armenian policy of Azerbaijani Government was confirmed also by the European Court of Human Rights in the latest case of *Makuchyan and Minasyan v. Azerbaijan and Hungary* related to release from life imprisonment and glorification by the Azerbaijani Government of Ramil Safarov, military officer of Azerbaijan, who had murdered with an axe Gurgen Margaryan, an Armenian military officer, while asleep and attempting to kill another Armenian servicemen, during a NATO-organized event.³⁰

In these circumstances and in the context of the ongoing armed conflict, there are serious concerns about the physical and psychological well-being of civilian persons and combatants hors de combat who fall under the control of the Azerbaijani armed forces and other relevant structures. There are serious grounds to believe that these individuals are at imminent risk of being killed or subjected to torture, and other cruel, inhuman or degrading treatment by the Azerbaijani armed forces.

IV. Causing unnecessary suffering and inevitable death to wounded because of failure by Azerbaijan to provide conditions for exchange of wounded and dead

Azerbaijan twice failed to adhere to the conditions of the humanitarian truce as agreed by the Ministers of Foreign Affairs of Armenia and Azerbaijan on 10 October and reaffirmed on 17 October, thus making provision of proper medical care and treatment to the wounded combatants *hors de combat* who are on the territories under the control by the Azerbaijani armed forces impossible leading to their unnecessary suffering and inevitable death. Footage produced and widely disseminated by the Azerbaijani Ministry of Defense demonstrates not only high number of casualties

²⁷ <https://twitter.com/KarabakhRecords/status/1319203595368226818>

²⁸ European Commission against Racism and Intolerance. CRI(2016)17. ECRI Report on Azerbaijan (fifth monitoring circle). Adopted on 17 March 2016. Published on 7 June 2016. At par. 25. The full text of the report is available at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Azerbaijan/AZE-CbC-V-2016-017-ENG.pdf>

European Commission against Racism and Intolerance, Report on Azerbaijan, Adopted on 28 June 2002, available in <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Azerbaijan/AZE-CbC-II-2003-003-ENG.pdf>

²⁹ See more at Fourth Opinion on Azerbaijan – adopted on 8 November 2017, ACFC/OP/IV(2017)006, available at <https://rm.coe.int/4th-acfc-opinion-on-azerbaijan-english-language-version/1680923201>

³⁰ ECHR, *Makuchyan and Minasyan v. Azerbaijan and Hungary*, judgment of 26 May 2020, available at <http://hudoc.echr.coe.int/eng?i=001-202524>

among the Artsakh military personnel but also potentially high number of wounded persons who are left without any assistance in the territory under control of the Azerbaijani armed forces or in no-man zone.³¹ Availability of footage coupled with lack of opportunity to provide assistance to the wounded contributes to the severe psychological suffering of the family members as regards suffering of their next-to-kin left unattended in the battle-field. Such practice in principle goes against the principle of humanity and undermines the spirit of IHL as such.

Moreover, failure to adhere to the conditions of the humanitarian truce as regards return of the bodies of the dead combatants to their relatives as well as high risk of mistreatment and/or killing combatants hors do combat or mutilation of their dead bodies in light of the documented practice by the Azerbaijani forces both in April 2016³² and in September-October 2020, cause the family members of the deceased combatants extreme suffering amounting to inhuman treatment, endure the pain and feeling of family members of the deceased soldiers of the Artsakh Defense Army in light of the policy of encouragement and glorification of such cruel and inhuman acts by the Azerbaijani authorities against ethnic Armenians.

V. *Whereabouts of members of armed forces of Artsakh.*

Failure to comply with the conditions of the humanitarian truce by Azerbaijan also leads to lack of information about the whereabouts of their next-to-kin as exchange of persons detained in the context of the armed conflict and dead bodies do not take place. Hence, family members of the missing military personnel experience serious anguish and distress. Psychological suffering is enhanced by the fact that twice Azerbaijani authorities committed to have a humanitarian truce for this purpose giving hope to the family members to learn more about the fate of their next-to-kins. As concluded by the Human Rights Committee (HRC), family members of disappeared persons may themselves be victims of a violation of Article 7 of the ICCPR.³³ Failure to return mortal remains will lead to the increase in the number of missing persons and further suffering of the family members because of lack of information about the whereabouts of their next-to-kin and their fates. Failure to return the remains deprives the family members of an opportunity to organize and take part in the burial of their relatives' bodies and also to know the location of the gravesite and to visit it subsequently, a very important tradition in the Armenian society.

Based on the abovementioned, we urge the Special Rapporteur on Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, and Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, xenophobia and related intolerance to respond effectively to this information and in line with the mandates:

- To immediately engage with the Government of Azerbaijan and call for immediate end of targeting civilians and demand the respect and protection of the right to life and well-being of

³¹ Visual details available at footage posted on the Youtube channel of the Azerbaijani Ministry of Defense - Azərbaycan Respublikası Müdafiə Nazirliyi, https://www.youtube.com/watch?v=jUB3TLnpiWY&fbclid=IwAR3InEjPzS2K_mH_n7j4an8-qZ1njEJIGRBn_DqYuL-g2M6S8Xd3b5387g. Videos also available at various twitter accounts, for example, Clashreport, <https://twitter.com/clashreport/status/1312058644410839040?s=20&fbclid=IwAR2tWpyyBu5QqibBcPE7itU5o01oWoebTaQn1cUItWQE9dhEku62xV5bvDA>, https://twitter.com/clashreport/status/1312058644410839040?s=20&fbclid=IwAR2dU2W11QAxukhhdOUfvyA1weOTFmf6_tpdGM84kgZg9CwviI85PzYNWk

³² During Four-war in April 2016 the Azerbaijani armed forces beheaded three servicemen of Artsakh Defense Army, one of them was decapitated while alive. https://www.fidh.org/IMG/pdf/20160713_nagorno_karabakh_situation_note_en_final.pdf

³³ See, for example, *Quinteros Almeida v Uruguay*, HRC Communication No. 107/1981, 21 July 1983, §14; see also *Kurt v. Turkey*, 25 May 1998, §§ 130-34, Reports 1998-III, ECtHR.

- any civilian person or combatant *hors de combat* under the control of the Azerbaijani authorities,
- To immediately engage with the Government of Azerbaijan to ensure that medical treatment is provided to prisoners of war and persons hors de combat, including wounded who are on the territories under control by the Azerbaijani forces. This is of paramount importance given failure of the Azerbaijani authorities to adhere to the conditions of the humanitarian truce as agreed in Moscow on 10 October and reaffirmed on 17 October,
 - To request information on what measures have been taken to record information on the dead and the return of the remains to the country of nationality and/or family,
 - To request information on the measures taken to prevent the recurrence of racist and xenophobic acts, to foster tolerance, mutual understanding and social harmony, and promote respect for cultural diversity,
 - To immediately draw attention of the Human rights Council and the General Assembly of the torture and or other cruel, inhuman or degrading treatment or punishment by the Azerbaijani armed forces against the Armenians of the Artsakh Republic.

Protection of Rights without Borders NGO

Transparency International Anti-Corruption Center

Open Society Foundations-Armenia

Helsinki Citizens' Assembly – Vanadzor

Law Development and Protection Foundation

Analytical Centre on Globalization and Regional Cooperation

Appendix: Photos of killed persons and munitions used by the Azerbaijani armed forces (taken from the Artsakh Ombudsman's Second Interim Report on the Azerbaijani atrocities against the Artsakh Population in September-October, 13 October 2020)

Photo 1. Civilian killed in Martuni



Photo 2: Person with disability M. H. killed in Hadrut



Photo 3: Ordnance neutralized in Stepanakert as of 12 October 2020

