



PROTECTION OF RIGHTS WITHOUT BORDERS NON-GOVERNMENTAL ORGANIZATION

STATEMENT ON BEHALF OF “PROTECTION OF RIGHTS WITHOUT BORDERS” NGO

Under the 1949 Geneva Conventions, the states undertook to respect and ensure respect for the Conventions in all circumstances. This means that states but also international organizations with relevant mandate, including human rights organizations react and respond to allegations of grave violations of the Geneva Conventions in all circumstances and not be guided by political convenience. Selective approach not only creates a strong sense of injustice among victims but also kills the idea of universal prohibition of war crimes and absolute prohibition of torture. Silence, lack of adequate condemnation of abhorrent war crimes in Nagorno Karabakh committed by Azerbaijani military paved the way for similar war crimes in other contexts in the OSCE region that we heard of today.

In the autumn of 2020, when Azerbaijan launched hostilities against Nagorno Karabakh, our organization together with partner NGOs documented hundreds of instances that constituted gross violations of Geneva Conventions and amounted to war crimes. This includes but is not limited to beheading of civilians, torture and wilful killing (execution) of prisoners of war (POW), wilfully depriving a prisoner of war of the right to a fair trial, arbitrary detention of civilians, enforced disappearance, shelling of civilian objects with cluster munitions and many more. Moreover, dozens of Armenian POWs continue to be held as hostages in Azerbaijan as a result of sham trials in a clear violation of Geneva Convention III and applicable human rights instruments. They are used as bargaining chips to extort concessions from Armenia. Under human rights law, their detention in Azerbaijan is arbitrary. Captivity of at least 33 Armenians, including civilians, is confirmed by Azerbaijan to-date.

Since 2020, Azerbaijan employed a new tactic of concealing some of the crimes committed. In dozens of cases since 2020 war, Armenian prisoners of war are considered missing as their fate and whereabouts are not confirmed by Azerbaijan despite ample evidence of Armenian servicemen and civilians being in the hands of Azerbaijani military and alive. These facts are confirmed by videos taken by Azerbaijani military themselves. These videos depict acts of torture and even execution. This is done first of all to conceal war crimes. Enforced disappearance is not only a gross human rights violation itself, but is at least inhuman treatment for the families as established by international human rights mechanism. The families sought protection via the European Court of Human Rights and asked for interim measures to be granted by the court to secure the right to life and physical integrity. However, despite interim measures granted by the European Court Azerbaijan fails to-date to provide any information on these people and return their bodies, if they are no longer alive. The Court even had to communicate this failure to the Committee of Ministers in relations to dozens of Armenian servicemen and civilians.

Rights and safeguards for the protected persons would remain on paper unless all states parties to the Geneva Conventions take a more active stance vis-à-vis states engaged in committing widespread violations. However, there was no due response by participating states and they failed to ensure respect of the Geneva Conventions by Azerbaijan in 2016 and 2020. Azerbaijani military beheaded Armenia servicemen and civilians, posed proudly with severed heads, did not conceal their identity. This resulted in absolute impunity for perpetrators whom Azerbaijan is not willing to bring to justice, moreover some of them are decorated with state medals. This in turn led to more instances of torture, executions and mutilations/desecration of bodies by Azerbaijani military in 2021 and 2022 during acts of aggressions against Armenia. In September 2022, Azerbaijani servicemen executed one more, but not the only group



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of Armenian servicemen on record. Many participating states and ODIHR expressed varying degrees of concerns over these incidents and called for effective investigation that has not been conducted to-date. Even in most abhorrent cases of executions when the faces of perpetrators are visible on video no one is even charged to-date.

In cases when Azerbaijani filmed providing assistance to Armenian POWs as a show, their dead bodies were returned few weeks later.

It is also causing psychological suffering. Some new developments as of 2020, some of the interviewed POWs also reported that Azerbaijani servicemen logged in into their social media networks accounts, and posted content, including videos with their statements made under duress. In one case, Azerbaijani captor contacted the family of the Armenian serviceman via his social media account, and told them that he was going to behead their relative. Sometime later, a photo with severed head of the Armenian serviceman was posted on his timeline. This was done with the aim to amplify the suffering to the extent possible.

In some instances, perpetrators used social media accounts of victims to contact the families and post content with execution of their family member. This was done to escalate the suffering of the family. Filming executions of civilians in Nagorno Karabakh aimed to terrorize the local Armenian population to force them to leave their homes otherwise being subjected to such a fate – with a view to do ethnic cleansing.

Participating states that are also members of other international organizations, such as the UN and Council of Europe, shall use all applicable platforms to ensure that Azerbaijan not only conducts effective investigation of war crimes committed by its military but also takes measures to prevent new crimes. For example, in few months, Azerbaijan will undergo the universal periodic review at the UN where all participating states that are also UN members have a possibility to speak up.

Participating states could also contribute to better respect of IHL through more active application of universal jurisdiction for war crimes regardless of where they were committed. In many instances, this would be the only option for victims to achieve justice as states whose state agents commit war crimes are not willing to prosecute perpetrators.

ODIHR should develop and offer participating states a training course on investigation of war crimes, something similar to Training against Hate Crimes for Law Enforcement (TAHCLE) and Prosecutors and Hate Crimes Training (PAHCT).

Apart from justice mechanisms, it is also important to make sure that forces engaged in committing war crimes are not invited to take part in NATO events, and integrity standards are promoted and enforced. Despite solid evidence taken by perpetrators themselves of large-scale practice of war crimes by Azerbaijani military, and instead of clear-cut condemnation of such conduct, they are invited to NATO exercises called Worthy partner.

The European Court of Human Rights remains the most effective avenue for victims of war crimes to seek justice as it is not accessible on national level in Azerbaijan. Most of the OSCE participating States are members of the Council of Europe, and they should and could exercise more diligence in ensuring



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enforcement of judgments. This is equally relevant for the provisional measures of the ICJ that are binding in nature. Political support is absolute a must to ensure that international justice mechanisms work.

It is of paramount importance to ensure that international human rights organizations have access to affected territories and people. The Moscow mechanism within the OSCE could serve as an important tool to document the violations with a view to prevent new ones.

Last but not least. Participating states shall more actively apply existing mechanisms for individual sanctions for human rights abuses for war criminals. For example, only one Azerbaijani official is designated by the USA for torture of Azerbaijani military. But no one is designated for numerous cases of torture and execution of Armenian prisoners of war and civilians. In many cases, it is the same units in Azerbaijan that are engaged in widespread war crimes and they are identifiable with a clear chain of command. With high-level endorsement of war crimes against Armenians in Azerbaijan, such measures by certain participating state should serve as additional deterrence for new crimes as justice on national level in Azerbaijan remains idle.

Recommendations

OSCE/ODIHR

- Develop and offer participating states a training course on investigation of war crimes, something similar to Training against Hate Crimes for Law Enforcement (TAHCLE) and Prosecutors and Hate Crimes Training (PAHCT).
- More consistently respond to strong allegations of human rights abuses and war crimes in the context of all ongoing armed conflicts in the OSCE region.

Participating States

- Activate the Moscow mechanism in relation to the conflict in and around Nagorno Karabakh to document the violations with a view to facilitate access to justice and ensure accountability
- Use all measures possible to contribute to the enforcement of the judgements of the European Court of Human Rights by Azerbaijan as well as provisional measures that are of binding nature granted by the International Court of Justice, including prevention of torture, ensuring free and secure movement along the Lachin corridor for people, goods and commercial cargo.
- Use leverage to ensure that Armenian prisoners of war detained arbitrarily in Azerbaijan are repatriated without delay.
- Apply individual sanctions to Azerbaijani perpetrators of gross human rights violations, including war crimes.