

These written comments are submitted in the group of cases CCPR 4450/2023 et al, on behalf of The International and Comparative Law Center (ICLaw-Armenia), Protection of Rights without Borders (PRWB) and Union for Protection of the Interests and Rights of the Artsakh People (The Artsakh Union), pursuant to leave granted by the Human Rights Committee on 21 March 2025.

## **1. Factual and legal analysis of the Lachin Corridor blockade**

1. On 9 November 2020, the leaders of Armenia, Azerbaijan, and Russia signed a ceasefire statement (the “Trilateral Statement”) ending the 2020 Nagorno-Karabakh (NK) War<sup>1</sup>. Among its provisions was a commitment to ensure free movement along the Lachin Corridor, a vital humanitarian route connecting NK (also called Artsakh) with Armenia. The Trilateral Statement stipulated that the Lachin corridor (5 km wide) would ensure communication between NK and Armenia while circumventing Shushi, remaining under Russian peacekeeping control.
2. As a result NK became fully surrounded by Azerbaijani forces, except for the Lachin corridor. No Armenian residents have been allowed to return to territories that fell under Azerbaijani control, while Azerbaijan implemented settlement policies of its nationals in those areas.
3. As of November 2020, the Lachin corridor was the only road connecting NK and Armenia. Supply of goods, resources, and a passage for NK residents was conducted through this route, including for medical treatment unavailable locally. Main infrastructure, including power cables, gas pipelines and communications also passed along this road. Russian peacekeepers were deployed along the road, ensuring movement until December 2022.
4. Azerbaijani authorities and citizens accessed Shushi under Azerbaijani control only with official state authorization<sup>2</sup>.
5. First signs of blockade appeared on 3 December 2022, when Azerbaijani government employees briefly closed the Lachin Corridor at a Russian checkpoint near Shushi<sup>3</sup>. They demanded access to local mines under a pretext to inspect “illegal mining”, but the road reopened the same day<sup>4</sup>. Prior to this, Azerbaijani state media had voiced for Baku to seize control of the corridor<sup>5</sup>.
6. On 12 December 2022, Azerbaijanis, claiming to be “eco-activists”, blocked the road near Shushi. Azerbaijan began promoting rhetoric of “environmental concerns”, despite its history of

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<sup>1</sup> "Statement by the Prime Minister of the Republic of Armenia, the President of the Republic of Azerbaijan and the President of the Russian Federation," 10 November 2020. <https://www.primeminister.am/en/press-release/item/2020/11/10/Announcement/>.

<sup>2</sup> Apa.Az. "Citizens Will Be Able to Travel to Azerbaijan' Shusha, Sugovushan by Private Passenger Cars From December 27." Apa.az, 23 December 2023. <https://en.apa.az/tourism/citizens-will-be-able-to-travel-to-azerbajjans-shusha-sugovushan-by-private-passenger-cars-from-december-27-420687>.

<sup>3</sup> Gabriel Gavin, "New Nagorno-Karabakh standoff as Azerbaijani officials temporarily block key road," Eurasianet, 3 December 2022, <https://eurasianet.org/new-nagorno-karabakh-standoff-as-azerbaijani-officials-temporarily-block-key-road>.

<sup>4</sup> Ibid.

<sup>5</sup> CBC TV Azerbaijan. "Российские Миротворцы В Карабахе Не Справляются! Баку Вынужден Взять Под Контроль Лачинскую Дорогу," 28 November 2022. <https://www.youtube.com/watch?v=ecwuV5vtNIw>.

punishing environmental protesters<sup>6</sup> and peaceful assemblies<sup>7</sup>. This blockade lasted until 28 April 2023, when Azerbaijan installed an official checkpoint at the Hakari river.

7. Many of these individuals had previously shared social media posts proclaiming Azerbaijan's sovereignty over Artsakh and videos promoting violence against Armenians<sup>8</sup>. Some were identified as Azerbaijani servicemen disguised as eco-activists<sup>9</sup>. The “environmental concerns” likely served as a pretext to deprive the Armenian population of fundamental rights to movement, education, healthcare, food, and liberty, instill fear for survival and create hardship to prompt forced displacement into Armenia. Russian peacekeepers took no action to disperse protests or ensure free movement.
8. The self-proclaimed eco-activists repeatedly stopped International Committee of the Red Cross (ICRC) and peacekeepers' convoys, inspected vehicles, and harassed Armenian civilians, including children<sup>10</sup>.
9. On 14 December 2022, Armenia requested the European Court of Human Rights (ECtHR) to indicate interim measures regarding the blockade. The ECtHR indicated an interim measure requesting Azerbaijan to ensure security of persons, vehicles and cargo along the Lachin Corridor and ensure safe passage for seriously ill persons needing medical treatment in Armenia and those stranded without shelter or subsistence<sup>11</sup>. While initially the ECtHR gave benefit of the doubt to Azerbaijani government by “...noting that the extent to which the Government of Azerbaijan were currently in control of the situation in the “Lachin Corridor” was disputed and unclear at this stage”, the Court yet took into account the obligation of Azerbaijan under the Trilateral statement. With the developments in subsequent weeks, as confirmed in the International Court of Justice (ICJ) Order of 22 February, there were no doubts as to the control of Azerbaijan over the situation.
10. On 27 December 2022, the first humanitarian aid shipment, including medicine and baby formula, entered NK.

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<sup>6</sup> Institute for War and Peace Reporting. "Azerbaijani Authorities Crack Down on Eco Protests," <https://iwpr.net/global-voices/azerbaijani-authorities-crack-down-eco-protests>; Global Voices. "How to Silence an Environmental Protest Azerbaijan Style," 23 June 2023. <https://globalvoices.org/2023/06/23/how-to-silence-an-environmental-protest-azerbaijan-style/>.

<sup>7</sup> See, for example, Human Rights Watch. "Azerbaijan," 11 January 2024. <https://www.hrw.org/world-report/2024/country-chapters/azerbaijan#cea955>.

<sup>8</sup> International and Comparative Law Center – Armenia, Armenian Legal Center for Justice and Human Rights, "Artsakh/Nagorno-Karabakh: A Case Study in Ethnic Cleansing," 23-25.

<sup>9</sup> See, for example, Freedom House, International Partnership for Human Rights, Democracy Development Foundation, Helsinki Citizens' Assembly Vanadzor, Protection of Rights without Borders NGO, Law Development and Protection Foundation, Truth Hounds, *Why are there no Armenians in Nagorno-Karabakh?* 2024: [https://freedomhouse.org/sites/default/files/2024-06/DDF\\_FH-REPORT\\_06.2024.pdf](https://freedomhouse.org/sites/default/files/2024-06/DDF_FH-REPORT_06.2024.pdf), p. 29; Musayelian, Lusine. RFERL, "Who Are the Azerbaijani Eco-Activists?" 14 December 2022. <https://www.azatutyun.am/a/32176325.html>.

<sup>10</sup> Radar.am. "'The Car Carrying the Children Was Stopped by Azerbaijanis, One of the Children Fainted,' HRD of Artsakh," January 18, 2023. <https://radar.am/en/news/nagorno-karabakh-2547926013/>.

<sup>11</sup> "European Court decides to indicate interim measures in the 'Lachin Corridor,'" ECtHR, Interim Measures in the case Armenia v. Azerbaijan (4), Press release, 21 December 2022, p. 2. <https://hudoc.echr.coe.int/engpress?i=003-7528728-10337270>.

11. Hundreds of NK residents were stranded in Armenia, unable to return home<sup>12</sup>. Armenia provided accommodation and funding. The fact-finding mission of one of the intervenors revealed the struggle of stranded family members in Armenia searching for ways to return<sup>13</sup>.
12. On 22 February 2023, the ICJ ordered Azerbaijan to “take all measures at its disposal to ensure unimpeded movement of persons, vehicles and cargo along the Lachin Corridor in both directions”<sup>14</sup>.
13. Azerbaijani military gradually took positions along the corridor previously under Russian peacekeeping control<sup>15</sup>. On 30 March 2023, Azerbaijani forces built a checkpoint on the Hakari Bridge by the Armenian border, officially inaugurated on 23 April 2023. That day, Russian peacekeepers reported Azerbaijan had unilaterally blocked traffic heading towards the Lachin Corridor<sup>16</sup>.
14. This checkpoint controlled access to/from NK. Russian peacekeepers took no action against the blockade.
15. Initially, with strict permission by Azerbaijani authorities and ‘eco-activists’, limited ICRC humanitarian aid convoys could pass through to deliver essential supplies, and some movement of people for health issues, and family reunification, albeit only with ICRC or Russian peacekeeper accompaniment.
16. However, from 15 June 2023, Azerbaijan banned all humanitarian aid convoys, triggering a total blockade. The ICRC confirmed the worsening humanitarian situation on 25 July 2023, stating it could not deliver life-saving medication and humanitarian assistance, including baby formula, for several weeks<sup>17</sup>.
17. From 15 June to 18 September 2023, Azerbaijan did not allow any food convoy to cross the Azerbaijani checkpoint<sup>18</sup>.
18. When limited movement resumed, ICRC convoys could transport Armenians for vital medical

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<sup>12</sup> Amos Chapple, “‘I Just Want to Go Home’: Karabakh Armenians in Limbo as Blockade Continues,” RFE/RL, July 11, 2023, <https://www.rferl.org/a/armenia-azerbaijan-blockade-nagorno-karabakh/32265520.html>.

<sup>13</sup> See excerpts of some interviews in the Freedom house report, *Why are there no Armenians in Nagorno-Karabakh?* p.52

<sup>14</sup> Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Provisional Measures, Order of February 22, 2023, para. 62.

<sup>15</sup> Azerbaijani Forces Take Over Strategic Town Linking Armenia With Nagorno-Karabakh, August 26, 2022, <https://www.rferl.org/a/azerbaijan-lacin-nagorno-karabakh-control-/32006090.html>.

<sup>16</sup> Ministry of Defense of the Russian Federation, “Информационный бюллетень Министерства обороны Российской Федерации о деятельности российского миротворческого контингента в зоне нагорно-карабахского конфликта (на 24 апреля 2023 г.),” 24 April 2024, [https://stat.mil.ru/russian\\_peacekeeping\\_forces/bulletins/more.htm?id=12465190@egNews](https://stat.mil.ru/russian_peacekeeping_forces/bulletins/more.htm?id=12465190@egNews).

<sup>17</sup> ICRC, “Azerbaijan/Armenia: Sides must reach ‘humanitarian consensus’ to ease suffering,” 25 July 2023, para 1, [https://www.icrc.org/en/document/azerbaijan-armenia-sides-must-reach-humanitarian-consensus-to-easesuffering?utm\\_source=facebook&utm\\_medium=social&linkId=100000210848287](https://www.icrc.org/en/document/azerbaijan-armenia-sides-must-reach-humanitarian-consensus-to-easesuffering?utm_source=facebook&utm_medium=social&linkId=100000210848287).

<sup>18</sup> International Committee of the Red Cross (ICRC), Operational update on ICRC’s work across the Lachin Corridor, 20 August 2023, <https://blogs.icrc.org/ir/en/2023/08/operational-update-on-icrc-s-work-across-the-lachin-corridor>.

treatments in **one direction only: from NK to Armenia**. On 29 July 2023, a 68-year-old patient, Vagif Khachatryan, was detained at the Hakari checkpoint while being transferred for heart treatment, later accused of alleged war crimes without evidence<sup>19</sup>. Three more male residents were detained at the checkpoint while being transferred by Russian peacekeepers in August<sup>20</sup>.

19. The blockade caused acute shortages of food, medicine, and fuel, and undermined access to medical treatment<sup>21</sup>, in violation of a number of international human rights law and international humanitarian law standards. Azerbaijan cut off gas and electricity supply from Armenia, creating dire winter conditions. As a result, all schools and kindergartens in NK were closed for several weeks due to the lack of heating<sup>22</sup>.
20. NK authorities introduced rationing in January 2023, limiting each person to one kilo of rice and pasta per month, one liter of oil, and minimal sugar<sup>23</sup>. Azerbaijani forces impeded domestic food production by firing at agricultural workers near the line of contact<sup>24</sup>. Agricultural work halted, food supplies depleted, and shops closed. In July 2023, NK declared restrictions on sales of food, with the NK authorities providing vouchers for bread and flour as bakeries could not produce enough<sup>25</sup>.
21. On 6 July, the ICJ clarified its order that Azerbaijan shall ensure unimpeded movement along the Lachin Corridor applied equally to the checkpoint<sup>26</sup>. Despite this confirmation of irreparable harm, neither Russian peacekeepers nor Azerbaijani authorities took effective steps to unblock the road.
22. The first confirmed death from malnutrition was reported on 15 August 2023, in Stepanakert<sup>27</sup>.

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<sup>19</sup> International and Comparative Law Center – Armenia, Armenian Legal Center for Justice and Human Rights, "Artsakh/Nagorno-Karabakh: A Case Study in Ethnic Cleansing," 26.

<sup>20</sup> Ani Avetisyan, "Azerbaijan Arrests Three Nagorno-Karabakh Armenians for 'Insulting' Azerbaijani Flag," OC Media, 4 September 2023, <https://oc-media.org/azerbaijan-arrests-three-nagorno-karabakh-armenians-forinsulting-azerbaijani-flag/>.

<sup>21</sup> Human Rights Watch, "Azerbaijan: Ensure Civilians' Rights in Nagorno Karabakh," September 23, 2023, para. 1. <https://www.hrw.org/news/2023/09/23/azerbaijan-ensure-civilians-rights-nagorno-karabakh>.

<sup>22</sup> Amnesty international, Azerbaijan: Blockade of Lachin corridor putting thousands of lives in peril must be immediately lifted: <https://www.amnesty.org/en/latest/news/2023/02/azerbaijan-blockade-of-lachin-corridor-putting-thousands-of-lives-in-peril-must-be-immediately-lifted/>.

<sup>23</sup> Human Rights Defender of Nagorno-Karabakh, Report on the Violations of the Individual and Collective Human Rights as a Result of Azerbaijan's Blockade of Artsakh (Nagorno-Karabakh). 150 days (Five Months), 11 May 2023, <https://web.archive.org/web/20230513180351/https://artsakhombuds.am/en/document/102>.

<sup>24</sup> See more details at Freedom House report, pp. 40-41.

<sup>25</sup> Regional Post. "Rationed Distribution of Bread Launched in Artsakh Capital," <https://regionalpost.org/en/articles/rationed-distribution-of-bread-launched-in-artsakh-capital.html>; Badalian, Susan. "Bread Shortage Worsens in Karabakh." 28 August 2023. <https://www.azatutyun.am/a/32568190.html>; Peyotto.com. "Արցախի Նախագահը Հաստատել է Կառավարության Որոշումը՝ Հանրային Սննդի Ծառայությունների Մատուցման Սահմանափակումները Սահմանելու Մասին," 3 July 2023. <https://www.aravot.am/2023/07/03/1352710/>.

<sup>26</sup> Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Request for the Modification of the Order of 22 February 2023 Indicating Provisional Measures, Order of 6 July 2023, paras. 9, 30.

<sup>27</sup> "Man dies of hunger in Karabakh," CivilNet, 15 August 2023, <https://www.civilnet.am/en/news/747294/mandies-of-hunger-in-karabakh/#:~:text=K.,food%2C%20medicine%20and%20critical%20supplies>. Ani Avetisyan, First

Healthcare professionals noted significant increases in immunodeficiency, anemia, and thyroid disease among women (especially pregnant women) and children due to food shortages<sup>28</sup>.

23. Fuel scarcity and blackouts affected medical facilities and emergency vehicles. Intercommunity travel was significantly impaired, and at some point, halted<sup>29</sup>. Medicine and medical supply deficiencies particularly affected the elderly, people with disabilities, those with chronic conditions, pregnant women, and children<sup>30</sup>. Pharmacies ran out of supplies, even for basic medications. Miscarriages increased, and many mothers could not breastfeed due to malnutrition and stress. The lack of baby formula was especially problematic for NK's 30,000 children<sup>31</sup>.
24. The NK Human Rights Defender reported that on 13 December 2022, 1,100 people were stranded in harsh winter conditions, including 270 children separated from families<sup>32</sup>. The ICRC facilitated family reunification transfers: 19 individuals on 29 January 2023<sup>33</sup>, 17 more on 8 February<sup>34</sup>, reaching 400 by 27 March and 600 (including 230 minors) by 20 August<sup>35</sup>. Azerbaijan made this process increasingly bureaucratic, including imposing limits on the number of travelers from a family and screening medical documents. Families often had to choose which children to stay with<sup>36</sup>. Azerbaijan also restricted media access to hide the blockade's effects.
25. Stories of family separation and artificial obstacles for reunification were reported by Freedom

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death from starvation reported in blockade-struck Nagorno-Karabakh, <https://oc-media.org/first-death-from-starvation-reported-in-blockade-struck-nagorno-karabakh/>.

<sup>28</sup> "Miscarriages surge in Karabakh amid widespread food shortages," CivilNet, 20 July 2023, <https://www.civilnet.am/en/news/745150/miscarriages-surge-in-karabakh-amid-widespread-food-shortages/amp/>; Ministry of Health of Nagorno-Karabakh, "Արցախի լիակատար պաշարման հետևանքով կտրուկ աճել են մահվան և հիվանդացության տարրեր ցուցանիշներ," Armenpress, 8 August 2023, <https://armenpress.am/hy/article/1116962>. Amnesty international, Azerbaijan: Blockade of Lachin corridor putting thousands of lives in peril must be immediately lifted: <https://www.amnesty.org/en/latest/news/2023/02/azerbaijan-blockade-of-lachin-corridor-putting-thousands-of-lives-in-peril-must-be-immediately-lifted/>

<sup>29</sup> News.am, "Public transport in Artsakh will be completely stop operation from July 25," July 24, 2023, <https://news.am/eng/news/772135.html>

<sup>30</sup> Amnesty International, "Azerbaijan: Blockade of Lachin corridor putting thousands of lives in peril must be immediately lifted." See also European Disability Forum Joint statement on the blockade of the Lachin Corridor, Nagorno-Karabakh <https://www.edf-fepf.org/joint-statement-on-the-blockade-of-the-lachin-corridor-nagorno-karabakh/>.

<sup>31</sup> International and Comparative Law Center – Armenia, Armenian Legal Center for Justice and Human Rights, "Artsakh/Nagorno-Karabakh: A Case Study in Ethnic Cleansing," 28-29.

<sup>32</sup> "270 Children Stranded on Roads After Azerbaijan's Blocking of Lachin Corridor – Artsakh Ombudsman," Armenpress, December 13, 2022, <https://armenpress.am/en/article/1099518>. Similar numbers were mentioned in the statement of the Permanent Mission of the Republic of Armenia to the OSCE, see Permanent Mission of the Republic of Armenia to the OSCE, "Statement on "The Humanitarian Crisis in Nagorno-Karabakh as a result of the unlawful blockade imposed by Azerbaijan" as delivered by Mr Arman Hovhannisyan, Deputy Head of Mission at the 1403rd special meeting of the Permanent Council," 22 December 2022, <https://www.osce.org/files/f/documents/3/4/555642.pdf>.

<sup>33</sup> "ICRC Facilitates Transfer of 19 People from Artsakh to Armenia for Reunification with Families," Armenpress, 30 January 2023, <https://armenpress.am/en/article/1102847>.

<sup>34</sup> "ICRC Facilitates Transfer of 17 Persons Separated from Families in Artsakh Blockade," Armenpress, 8 February 2023, <https://armenpress.am/en/article/1103663>.

<sup>35</sup> ICRC, "Operational Update on ICRC's Work Across the Lachin Corridor," 23 August 2023, <https://blogs.icrc.org/ir/en/2023/08/operational-update-on-icrc-s-work-across-the-lachin-corridor>.

<sup>36</sup> See more at Freedom House report, op.cit., p. 54.

House<sup>37</sup>. In some cases, the transfer for the purposes of reunification was denied or delayed for prolonged periods<sup>38</sup>.

26. The restrictions on freedom of movement into and out of NK obstructed the access of the NK residents to homes, land and cemeteries. Families also struggled to bury deceased relatives in their homeland. According to the Armenian Human Rights Defender, during the blockade, 36 bodies could not be returned to NK and were buried in Armenia, with future reburials planned. Many families were unable to attend the funerals<sup>39</sup>.
27. Various international organisations noted extreme anti-Armenian discrimination and hatred<sup>40</sup>. The Lemkin Institute for Genocide Prevention highlighted the risk of genocide if the blockade continued, citing Azerbaijani authorities' statements indicating goals of either total deportation of Armenians or obstruction of their identities if they were to remain<sup>41</sup>.
28. During the blockade, Azerbaijan launched a media war, including footage comparing NK residents to a caged wild cat becoming tame through hardship. The blockade culminated in Azerbaijan's large-scale military offensive on 19 September 2023. Reports established that Azerbaijan's actions, including military operations, arbitrary detention and ill-treatment of civilians, arbitrary prosecution, road blockages, and harassment, created a climate of fear and psychological oppression that forced ethnic Armenians to leave NK. Consequently, these actions constitute the forcible displacement of people.<sup>42</sup>

## 2. Jurisdiction

29. Article 2 of the ICCPR provides that State parties to the Covenant undertake to respect and to ensure to all individuals within their territory and subject to their jurisdiction the rights under the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political

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<sup>37</sup> See Freedom House report, op.cit., p. 54.

<sup>38</sup> Խուլյան Արտակ. ««Փորձը Հեռախոսը Գրկել Պաշում Էր»։ Ստեփանակերտցի Կինը Երեխաներից Կարոտն Արդեն 9 Օր Է՝ Տեսագանգով Է Փորձում Առնել.» «Ազատ Եվրոպա/Ազատություն» Ռադիոկայան, 20 December 2022. <https://www.azatutyun.am/a/32184450.html>.

<sup>39</sup> Human Rights Defender of Armenia, Updated public ad-hoc report on the humanitarian consequences of blocking the Lachin Corridor: A manifestation of the policy of Armenophobia by Azerbaijan, 16 June 2023, <https://ombuds.am/images/files/798e81176d93081e6199ca90cfa31466.pdf>.

<sup>40</sup> See, UN CERD, Azerbaijan: Concluding observations, CERD/C/AZE/CO/10-12, 30 August 2022, paras. 4-5, 34, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FAZE%2FCO%2F10-12&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FCO%2FAZE%2FCO%2F10-12&Lang=en); PACE, 'The humanitarian situation in Nagorno-Karabakh', Resolution 2517 (2023), adopted by the Assembly on 12 October 2023 (23rd sitting), <https://pace.coe.int/en/files/33145/html>, The European Commission against Racism and Intolerance (ECRI), ECRI Report on the Azerbaijan, fifth monitoring cycle, adopted on 17 March 2016, <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>; also ECRI fifth report on Azerbaijan, Sixth monitoring cycle, adopted on 29 March 2023, <https://hudoc.ecri.coe.int/eng?i=AZE-CbC-VI-2023-18-ENG>.

<sup>41</sup> Lemkin Institute for Genocide Prevention, "Risk Factors and Indicators of the Crime of Genocide in the Republic of Artsakh: Applying the UN Framework of Analysis for Atrocity Crimes to the Nagorno-Karabakh Conflict."

<sup>42</sup> See, Freedom House report, op.cit., p. 88. "We Are No One: How Impunity for Three Years of Atrocities Is Erasing Nagorno-Karabakh's Armenians — University Network for Human Rights." University Network for Human Rights, 27 September 2024. <https://www.humanrightsnetwork.org/publications/we-are-no-one>.

or other opinion, national or social origin, property, birth or other status.

30. Following the 2020 NK war, Azerbaijan took control over parts of the territory of NK and deployed its military along the line of contact. No Armenian resident of NK was allowed to cross the line of contact and return to habitual place of residence in the areas that fell under Azerbaijani control.
31. Azerbaijan also deployed checkpoints on the Stepanakert-Goris highway, by the entrance to Shushi, exactly where the protest site was located. The participants of the protest regularly rotated, they were bussed in from Baku, accommodated in the hotel in Shushi<sup>43</sup> and protected by Azerbaijani military<sup>44</sup>. No Azerbaijani citizen had access to the location without prior authorisation by the authorities<sup>45</sup>.
32. From the initial stage of the blockade, the road was blocked by so-called protesters and the Azerbaijani agents were constantly present throughout the blockade period.
33. The right to freedom of peaceful assembly is not an absolute right. In cases where its exercise undermines the exercise of human rights and freedoms of others, its exercise shall be proportionate to the aim pursued and restrictions on the rights of others. To this end, the blockade violated the rights to freedom of movement and family life for prolonged periods of time, leaving underaged children and their parents in the situation of distress, culminating in humanitarian catastrophe.
34. Azerbaijani authorities took no steps to disperse the protesters given the disproportionate impact of their protest on the rights of others, nor did they open a part of the road to ensure free movement of people, vehicles and cargoes. Hence, Azerbaijan failed to take all measures at its disposal.
35. Referring to the Trilateral Statement a number of UN mandate holders underlined that “Azerbaijan’s authorities and the Russian peacekeeping forces deployed at the Lachin Corridor should ensure that access remains open, enable freedom of movement and ensure people have access to essential goods and services”<sup>46</sup>.
36. Multiple sources have verified that the eco-activists were directly linked to the Azerbaijani government<sup>47</sup>. This demonstrates that the protests were authorised and facilitated by the

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<sup>43</sup> OC Media. “Opinion | Greenwashing a Blockade,” 21 March 2023. <https://oc-media.org/opinion-greenwashing-a-blockade/>; [https://www.facebook.com/photo.php?fbid=6192117180821098&set=pb.100000686311761.-2207520000.&type=3](https://www.facebook.com/photo.php?fbid=6192117180821098&set=pb.100000686311761.-2207520000.&type=3;);

<sup>44</sup> “Активисты На Дороге Ханкенди-Лачин Призывают Мировое Сообщество Встать На Защиту Экологии,” Inews.az, March 9, 2023. <https://1news.az/news/20230309105248210-Aktivisty-na-doroge-KHankendi-Lachinprizyvayut-mirovoe-soobshchestvo-vstat-na-zashcitu-ekologii>.

<sup>45</sup> Petrova, Maria. “Azerbaijani Citizens to Be Allowed to Visit Lachin and Shusha by Private Cars.” Vestnik Kavkaza, 25 April 2023, <https://en.vestikavkaza.ru/material/167905>.

<sup>46</sup> See, communication from the UN special procedures, 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, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27840>

<sup>47</sup> Ani Grigoryan, “Who really are Azerbaijan’s ‘environmental activists’ blockading Karabakh?,” CivilNet,

Azerbaijani government.

37. Statements of international journalists not allowed to enter the territory by Azerbaijani military attest the control over the Lachin Corridor. The International Federation of Journalists (IFJ) noted that journalists in Azerbaijan must obtain rarely granted permits from the presidential administration to visit NK, often denied for “security reason”<sup>48</sup>. IFJ representatives were blocked by the Azerbaijani army from reaching the protest site, as were journalists from Meidan TV who also considered the protests to be organized by the government<sup>49</sup>, reflecting strict state control over media access.
38. From the moment of the Hakari Bridge checkpoint installation, Azerbaijani State agents officially took over the control over the road, effectively assuming the control and jurisdiction over the territory (its entrance and exit), in violation of the right to freedom of movement.
39. Transfers of any individual required prior Azerbaijani approval, causing delays. Hospitals submitted patient details to the NK Health Ministry, which relayed them to the ICRC for coordination with Azerbaijani authorities<sup>50</sup>.

### **3. State Party’s Obligations under ICCPR Article 12: State parties’ duties under international law to respect and protect the right to freedom of movement and the right to return.**

40. ICCPR Article 12 provides the right to freedom of movement, including the liberty to leave (paragraph 2) and return (paragraph 4) to one's own country. In its General Comment 27 the Human Rights Committee (HRC) clarified the notion of “his own country”, by interpreting it in a broader sense than the “country of his nationality”: “It is not limited to nationality in a formal sense, that is, nationality acquired at birth or by conferral; it embraces, at the very least, an individual who, because of his or her *special ties* to or claims in relation to a given country, cannot be considered to be a mere alien”<sup>51</sup>. Article 12 wording protects everyone without distinction based on nationality (“no one”), including “*individuals whose country of nationality has been*

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December 14, 2022, <https://www.civilnet.am/en/news/686152/who-really-are-azerbaijans-environmentalactivists-blockading-karabakh/>; Center for Law and Justice "Tatoyan" Foundation, Human Rights Defender of Nagorno-Karabakh, The Azerbaijani Government’s “Eco-Activist” Agents Who Blocked the Only Road of Life Connecting Artsakh to Armenia and the Outside World, 2023, [https://tatoyanfoundation.org/wp-content/uploads/2023/09/ECO\\_ACTIVISTS.pdf](https://tatoyanfoundation.org/wp-content/uploads/2023/09/ECO_ACTIVISTS.pdf); Lusine Musayelian, “Who Are The Azerbaijani Eco-Activists?” RFE/RL Armenian service, December 14, 2022, <https://www.azatutyun.am/a/32176325.html>

<sup>48</sup> International Federation of Journalists, “Azerbaijan: Freedom of Movement for Journalists in Karabakh Must Be Guaranteed.” July 25, 2023, para. 7. <https://www.ifj.org/media-centre/news/detail/category/europe/article/azerbaijan-freedom-of-movement-for-journalists-in-karabakh-must-be-guaranteed>

<sup>49</sup> “Müstəqil Jurnalistlər Şuşa-Xankəndi Yolundakı Aksiyaya Buraxılmadı.” MEYDAN.TV, 14 December 2022. [https://storage.googleapis.com/qurium/www.meydan.tv/az-article-musteqil-jurnalistler-susa-xankendi-yolundaki-aksiyaya-buraxilmadi.html?fbclid=IwAR2-QvQPSn\\_ja7dvsG8Fx0sKVAPbxwt8v1WbPdeBkJqJtPmbdZXzh\\_OzMc8&ref=oc-media.org](https://storage.googleapis.com/qurium/www.meydan.tv/az-article-musteqil-jurnalistler-susa-xankendi-yolundaki-aksiyaya-buraxilmadi.html?fbclid=IwAR2-QvQPSn_ja7dvsG8Fx0sKVAPbxwt8v1WbPdeBkJqJtPmbdZXzh_OzMc8&ref=oc-media.org)

<sup>50</sup> See more at Freedom House report, op.cit., pp.49-51

<sup>51</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 27: Article 12 (Freedom of Movement), CCPR/C/21/Rev.1/Add.9, 2 November 1999, para 20. <https://digitallibrary.un.org/record/366604?ln=en&v=pdf>

*incorporated in or transferred to another national entity*”<sup>52</sup>. The latter would be particularly relevant in consideration of the context of the Lachin Corridor blockade.

41. The notion of an individual’s own country invites the consideration of such matters as long-standing residence, close personal and family ties and intentions to remain, as well as the absence of such ties elsewhere<sup>53</sup>. In the context of historical and geopolitical developments the population of NK, having inter-generational long-term residence, as well as familial and cultural ties, has intended to remain on the territory of their ancestors. Therefore, the population having the “the special relationship” to that country has the right to enter his or her own country, within the meaning of ICCPR Article 12<sup>54</sup>. The established link with NK by its ethnic Armenian population is confirmed by the ICJ’s order for provisional measures in the case of *Armenia v Azerbaijan*<sup>55</sup>.
42. While right to freedom movement is not an absolute right, any restrictions imposed must be in conformity with paragraph 3<sup>56</sup>, that is to be “provided by law.., necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant”<sup>57</sup>.
43. In clarifying the permitted restrictions to the right to freedom of movement, this Committee has confirmed that restrictions must not impair the essence of the right, and they must be necessary and proportionate to a legitimate aim. The interveners submit that this blockade clearly fails that test.
44. Where freedom of movement restriction is made based on distinctions of any kind, including “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>58</sup>, it goes against the core of the fundamental rights protected under the Covenant. The Committee explicitly states that mass restrictions<sup>59</sup>, especially those that target specific ethnic groups or geographic populations, are likely to be discriminatory and unlawful.
45. The Lachin Corridor blockade and its effects on the civilian population amounts to a collective punishment (e.g., blocking food and medicine), resulting in widespread harm to basic rights and dignity. This is neither necessary nor proportionate, it does not have a legitimate aim and contradicts the principle of non-discrimination and other ICCPR rights, including Articles 6, 7 and 26. Where restrictive measures are applied, HRC has stressed that they “must conform to the principle of proportionality” and “must be the least intrusive instrument amongst those which

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<sup>52</sup> Ibid.

<sup>53</sup> John Falzon v. Australia, No. 3646/2019 7.2, see also B v. Australia, No. 2999/2017, paras. 9.2–9.4; Warsame v. Canada No. 1959/2010, paras. 8.4 and 8.5; and Nystrom et al. v. Australia, paras. 7.4 and 7.5.

<sup>54</sup> [GC 27], para 19.

<sup>55</sup> Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Armenia v. Azerbaijan), Provisional Measures, Order of 17 November 2023, I.C.J. Reports 2023.

<sup>56</sup> General Comment No. 27, para 5.

<sup>57</sup> General Comment No. 27, para 11.

<sup>58</sup> General Comment No. 27, para 18.

<sup>59</sup> Ibid, para 19.

might achieve the desired result”<sup>60</sup>.

46. In ensuring protection of the right to freedom of movement, State party obligations also extend to the acts of private parties.<sup>61</sup>

#### **4. Examination of international jurisprudence, UN treaty body interpretations and regional human rights law concerning freedom of movement and the right to return.**

47. The right to freedom of movement is enshrined in Regional Human Rights Bodies and other UN Treaty Bodies.

#### ***European Court of Human Rights (ECtHR):***

48. ECtHR has dealt with the freedom of movement rights arising both in individual applications and inter-state<sup>62</sup> under Article 2 of Protocol No. 4 to the European Convention of Human Rights (ECHR).
49. Similar to ICCPR, ECHR protection of the right to freedom of movement covers *everyone*, including aliens<sup>63</sup> and stateless persons<sup>64</sup>. ECtHR has also considered that Article 2 of Protocol 4 applies to “persons with a special status”, particularly in cases concerning “citizens of the former USSR”<sup>65</sup>. The NK population would fall under this category.
50. Where cases arise in the situations of armed conflict, with a particular segment of the population being prevented to return to their homes, the ECtHR has attributed the responsibility to ensure the right to freedom of movement to the State, which exercised “effective control” over those areas<sup>66</sup>. In these circumstances, to corroborate the allegations by the parties and in conducting the assessment of the role of the State and its obligations towards securing the rights under Article 2 of Protocol 4, in addition to the submissions by the parties, the Court has relied on media reports and materials originating from international organisations and independent international human rights organisations<sup>67</sup>.
51. Under ECHR, any measure restricting the right to liberty of movement must be in accordance

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<sup>60</sup> Ibid, para. 14.

<sup>61</sup> Ibid., para 6.

<sup>62</sup> Grand Chamber Admissibility Decision in the case of Ukraine v. Russia (re Crimea) (app nos 20958/14 and 38334/18), Council of Europe: European Court of Human Rights, 14 January 2021, <https://hudoc.echr.coe.int/eng?i=002-14347>

<sup>63</sup> See e.g. Bolat v. Russia, Appl. No. 14139/03, 05/10/2006; S.E. v. Serbia, No. 61365/16, 11/07/2023

<sup>64</sup> See e.g. Mogoş and Others v. Roumania (dec.), No. 20420/02, 6/05/2004

<sup>65</sup> Tatishvili v. Russia, No. 1509/02, 22/02/2007, paras 39-43.

<sup>66</sup> Georgia v. Russia (II) [GC] (merits), No. 38263/08, 21/01/2021, paras 292-301.

<sup>67</sup> Ibid, para 61. In relation to information concerning the Lachin corridor blockade and its impact on the Nagorno Karabakh population, please see Section 1 above. See also: UN experts urge Azerbaijan to lift Lachin corridor blockade and end humanitarian crisis in Nagorno-Karabakh: <https://www.ohchr.org/en/press-releases/2023/08/un-experts-urge-azerbaijan-lift-lachin-corridor-blockade-and-end>

with law<sup>68</sup>, which is compatible with the rule of law<sup>69</sup>. Interference must pursue a legitimate aim and be necessary in a democratic society, or be “justified by the public interest in a democratic society”<sup>70</sup>.

### ***Inter-American Human Rights System:***

52. The Inter-American Court of Human Rights (IACtHR) has addressed the right to return as an integral aspect of the right to freedom of movement under Article 22 of the American Convention on Human Rights (ACHR). This right is particularly emphasised in contexts involving displacement due to violence, state actions, or systemic discrimination. IACtHR has established that violation of the the right to freedom of movement may occur by *de facto* restrictions, i.e. when the State does not establish the conditions or provide the means to allow that right to be exercised, “for example, when a person is a victim of threats or harassment and the State does not provide the necessary guarantees to enable that person to move about and reside freely in the territory in question, even when the threats and harassment come from non-State actors”<sup>71</sup>. In the earlier case of *Moiwana Community v. Suriname*<sup>72</sup>, which concerned inability of the indigenous Moiwana community to return to their ancestral lands, the IACtHR ruled that where the State failed to “both establish conditions, as well as provide the means, that would allow the Moiwana community members to return ...in safety and with dignity, to their traditional lands, in relation to which they have a special dependency and attachment”<sup>73</sup> was in violation of Article 22 of ACHR.
53. The Inter-American Commission on Human Rights (IACHR) has considered the right to freedom of movement through the prism of the right to property over ancestral lands for indigenous communities, even a “prerequisite, to enjoyment of the rights to an existence under conditions of dignity, to food, water, health, life, honor, dignity, freedom of conscience and religion, freedom of association, the rights of the family...”<sup>74</sup>.

### ***African Human Rights System:***

54. The right to freedom of movement is enshrined in Article 12(2) of the African Charter on Human and Peoples’ Rights and underscores that the right to return to one's country is fundamental and that any denial must meet strict legal criteria. The African Court on Human and Peoples’ Rights

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<sup>68</sup> De Tommaso v. Italy [GC], No. 43395/09, 23/02/2017

<sup>69</sup> Khlyustov v. Russia, 2013, No. 28975/05, 11/07/2013, para. 70.

<sup>70</sup> Sissanis v. Romania, 2007, No. 23468/02, 25/01/ 2007, para 78; Tatishvili v. Russia (2007), supra note 63, para 54

<sup>71</sup> Río Negro Massacres v. Guatemala, Inter-American Court of Human Rights (IACrHR), 4 September 2012, para 175.

<sup>72</sup> Case of the Moiwana Community v. Suriname Judgment of June 15, 2005 (Preliminary Objections, Merits, Reparations and Costs)

<sup>73</sup> Ibid, para. 120.

<sup>74</sup> Inter-American Commission on Human Rights Report on Indigenous And Tribal Peoples’ Rights Over Their Ancestral Lands And Natural Resources: Norms and Jurisprudence of the Inter-American Human Rights System, OEA/Ser.L/V/II. Doc. 56/09 30 December 2009

(AFCtHR) has made clear that any limitation to the free movement, and right to return to one's country in particular, must be founded on a clear legal basis, that serves a legitimate purpose that conforms with international law, allowing concerned to challenge the interference before an independent body<sup>75</sup>.

55. The African Commission for Peoples' and Human Rights (ACPHR) has highlighted that any restrictions on movements must respect the right to equality and non-discrimination and "must not be exercised or targeted specifically at stigmatising a particular group"<sup>76</sup>.

***International Court of Justice (ICJ):***

56. In its Advisory Opinion of 9 July 2004 on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory ICJ established that the wall impeded the liberty of movement of the inhabitants of the territory as guaranteed by ICCPR (under Article 12), and consequently affected the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living as proclaimed in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and in the Convention on the Rights of the Child (CRC)<sup>77</sup>.

***UN Treaty Bodies:***

57. CRC Article 10 provides that "...States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country". Where children have been separated from their families, the CRC Committee has established that in addressing the fate of unaccompanied or separated children it is crucial "to identify a durable solution that addresses all their protection needs, takes into account the child's view and, wherever possible, leads to overcoming the situation of a child being unaccompanied or separated. Efforts to find durable solutions for unaccompanied or separated children should be initiated and implemented without undue delay and, wherever possible, immediately"<sup>78</sup>. The determination of durable solution must be conducted with a rights-based approach<sup>79</sup> and the "return measures must be conducted in a safe, child-appropriate and gender sensitive manner"<sup>80</sup>.
58. The ICERD (International Convention on the Elimination of All Forms of Racial Discrimination) doesn't explicitly state a right to freedom of movement. However, it does prohibit racial discrimination in the enjoyment of human rights and fundamental freedoms, which includes

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<sup>75</sup> Kennedy Gihana & others vs Republic of Rwanda, Application 017/2015, 28/11/2019.

<sup>76</sup> African Commission on Peoples' and Human Rights, General Comment 5 on the Right to Freedom of Movement and Residence under Article 12 (1), para. 15.

<sup>77</sup> Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, -, International Court of Justice (ICJ), 9 July 2004, para. 134.

<sup>78</sup> UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, CRC/GC/2005/6, 1 September 2005, para 79.

<https://digitallibrary.un.org/record/566055?ln=en&v=pdf>.

<sup>79</sup> Ibid, para 79.

<sup>80</sup> Ibid, para 86.

freedom of movement, as outlined in Article 5. This means ICERD prevents states from discriminating against individuals based on race or ethnicity when it comes to their right to exercise freedom of movement.

59. In relation to blockades, most relevant to the consideration of the situation of the Lachin Corridor Blockade, in its concluding observations for Israel in 2020<sup>81</sup>, CERD Committee highlighted Israel's prolonged closure of the Gaza Strip violated the right to freedom of movement and access to basic services, especially health care, and safe drinking water<sup>82</sup>. CERD also urged Israel to ensure access to humanitarian assistance and rights in compliance with the Convention<sup>83</sup>.

#### **4. Assessment of how restrictions on movement and return may lead to violations of ICCPR Articles 7 and 17, particularly where the imposed conditions result in severe humanitarian consequences**

60. The inability to return to one's country or residence can adversely affect the rights enshrined in Articles 7 and 17 of the ICCPR. Such impediments can lead to mental suffering and disrupt family life, as well as potentially constituting inhuman or degrading treatment and arbitrary interference. States are obligated to ensure that their actions or policies do not result in such violations and must take into account the principles outlined by the HRC.

##### ***4.1. Violation of Article 7***

61. The prohibition in Article 7 relates not only to acts that cause physical pain but also to acts that cause mental suffering<sup>84</sup>. Article 7 aims to protect the dignity of individuals as well as their physical and mental integrity, thus the prohibition extends to acts causing mental suffering as well as physical pain<sup>85</sup>. There are both subjective and objective components to the determination of whether a violation of Article 7 has taken place. In *Vuolanne v. Finland*<sup>86</sup> (265/87), the HRC stated that whether an act falls under the scope of Article 7: “depends on all the circumstances of the case...the duration and manner of the treatment, its physical or mental effects as well as the sex, age and state of health of the victim”<sup>87</sup>.
62. Mental distress is clearly recognised by the HRC as an equally valid form of suffering for the purposes of findings under Article 7, as physical pain. The evolving interpretation of Article 7, recognises the diverse forms of suffering that can arise from state policies or neglect, and affirms the necessity for states to uphold the dignity and mental well-being of individuals and their

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<sup>81</sup> Concluding observations on the combined seventeenth to nineteenth reports of Israel, 27 January 2020.

<https://digitallibrary.un.org/record/3863934?ln=en&v=pdf>.

<sup>82</sup> Ibid, para 44.

<sup>83</sup> Ibid, para 45.

<sup>84</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment), 10 March 1992, para 5.

<sup>85</sup> General Comment No. 20: Article 7, para 2.5

<sup>86</sup> *Vuolanne v. Finland*, No. 265/87

<sup>87</sup> Ibid, para 9.2

families<sup>88</sup>.

63. Under the International Humanitarian Law (IHL) blockades are considered as a weapon of war, whereby the aim is “to control, prevent or block partially or completely the flow of goods, persons to and from specific areas, be they territories, regions under their control”<sup>89</sup>. A blockade will be deemed unlawful under IHL if it is implemented in a way that denies the civilian population “access to essential goods necessary for their survival”<sup>90</sup>.
64. In certain circumstances such practices may constitute crimes against humanity if they meet the conditions of the Rome Statute definition, which includes “the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population”<sup>91</sup>.
65. In the context of inability to return to “one’s own country” within the meaning of the ICCPR, the International Criminal Court (ICC) has considered that such arbitrary deprivation of the right could amount to “be of a character similar to the crime against humanity of persecution, which “means the intentional and severe deprivation of fundamental rights contrary to international law”<sup>92</sup>. In reaching this conclusion ICC has taken into account the “great suffering, or serious injury [...] to mental [...] health” caused by the prevention of returning home, coupled with the anguish rendering the uprooted people to face an uncertain future<sup>93</sup>.
66. **The interveners submit that in the context of the Lachin corridor blockade, the mental anguish experienced by those unable to return to their own country, facing uncertainty as to their own fate on the possibility to going back, as well as the psychological distress in witnessing their families and community members suffering as a result of the blockade reaches the threshold of ICCPR Article 7.**
67. Disproportionate restrictions on the freedom of movement, supply of food and medicines, resulted in physical and mental suffering of the population of NK. Interviews with the displaced, conducted by the intervening organisations, revealed a clear pattern. The impact of the blockade is also well documented in the Freedom House report, corroborating that “the circumstances of the blockade, intentionally created by the Azerbaijani government, were deliberately designed to inflict mental suffering on ethnic Armenians in NK, effectively subjecting them to psychological

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<sup>88</sup> See for instance *Quinteros v. Uruguay*, 107/81, *Bousroual v. Algeria*, 992/01, para 9.8, *Sarma v. Sri Lanka*, 950/00, para 9.5

<sup>89</sup> Médecins Sans Frontières, The Practical Guide to Humanitarian Law: <https://guide-humanitarian-law.org/content/article/3/blockade/>.

<sup>90</sup> Ibid.

<sup>91</sup> Rome Statute of the International Criminal Court, UN General Assembly, 17 July 1998: <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>. See also OMCT report on Yemeni blockade: torture in slow motion: <https://www.omct.org/site-resources/images/Torture-in-slow-motion.pdf>

<sup>92</sup> Situation in Myanmar Bangladesh, ICC-RoC46(3)-01/18, "Decision on the "Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute" to Pre-Trial Chamber I, para. 77, International Criminal Court, 6 September 2018, para 77.

<sup>93</sup> Ibid.

torture”<sup>94</sup>.

68. Interviewed witnesses and victims, coupled with data from open sources, indicate that NK was experiencing a healthcare crisis. Restrictions on, or complete bans of, the movement of people and goods created challenging and, at times, life-threatening situations for the residents. The situation periodically worsened due to arbitrarily imposed restrictions by Azerbaijan.<sup>95</sup>
69. Given instances of arbitrary arrests at the checkpoint or denial of return, including of bodies, several patients, including with urgent medical needs, declined to travel to Armenia fearing inability to return or be buried in their homeland.
70. The ICJ has ruled that such instances can cause irreparable prejudice “where the persons concerned are exposed to privation, hardship, anguish and even danger to life and health...” finding “that individuals forced to leave their own place of residence and deprived of their right of return could, depending on the circumstances, be subject to a serious risk of irreparable prejudice”.<sup>96</sup>

#### ***4.2. Violation of Article 17***

71. Article 17 provides for the right of every person to be protected against arbitrary or unlawful interference with his privacy, family, home or correspondence. The Committee has stated that this right is required to be guaranteed against all such interferences and attacks whether they emanate from State authorities or from natural or legal persons.<sup>97</sup>
72. “Unlawful” means that no interference can take place except in cases envisaged by the law. Interference authorised by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.
73. “Arbitrary interference” is also relevant to the protection of the right under Article 17. In the Committee's view, the expression “arbitrary interference” can also extend to interference provided for under the law. The introduction of the concept of arbitrariness is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be reasonable in the particular circumstances<sup>98</sup>.

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<sup>94</sup> See more in detail Freedom House report, *op.cit.*, pp. 56-59.

<sup>95</sup> Specifically, between April 20 and May 17, the ICRC was not able to transfer any medical supplies to Nagorno-Karabakh. “Last time medication was transferred to Artsakh by ICRC on April 20,” Hetq, 11 May 2023, <https://hetq.am/hy/article/155945>. Azerbaijan also imposed restrictions arbitrarily. Beginning April 29, 2023, the Azerbaijani authorities suspended the transfer of patients by the ICRC for a month, citing security concerns. Susan Badalian, “Medical Evacuations from Karabakh Halted Due to Azeri Checkpoint,” RFE/RL Armenian service, 10 May 2023, <https://www.azatutyun.am/a/32404949.html>.

<sup>96</sup> Application of the International Convention on the Elimination of all Forms of Racial Discrimination (Georgia v. Russian Federation), Provisional Measures, Order of 15 October 2008, I.C.J. Reports 2008, para. 142

<sup>97</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 8 April 1988

<sup>98</sup> UN Human Rights Committee (HRC), CCPR General Comment No. 16: Article 17 (Right to Privacy), The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation, 8 April 1988, para.4. <https://www.refworld.org/legal/general/hrc/1988/en/27539>

74. The intervening organisations maintain that the measures imposed by Azerbaijan against the free movement of the persons to and from NK, in light of arbitrariness of limitations and bans on movement, including for medical transfers and humanitarian aid, failed to meet the arbitrariness test.
75. The objectives of the Covenant require that the term “family” be given a broad interpretation to include all those comprising the family as understood in the society of the State party concerned.
76. The term “home” in English, <...> is to be understood to indicate the place where a person resides or carries out his usual occupation<sup>99</sup>.
77. In its case-law, in situations where it has been established that the applicant was the owner of a house, the ECtHR has not required further documentary evidence of their residence there to show that the house constituted a “home” within the meaning of Article 8 of ECHR<sup>100</sup>.
78. Interference includes obstructing contact between family members or preventing cohabitation. The complete and prolonged prevention of family members from traveling to or from home during blockades constitutes interference with the right to family life. Compelling parents or other family members to choose with whom to stay was considered by the HRC as a state interference, and was found to be arbitrary and contrary to article 17 of the Covenant<sup>101</sup>.
79. Regional human rights bodies have established freedom of movement as an aspect of the person’s right to respect his or her private life. ECtHR ruled that preventing a person from returning to his country of residence for a prolonged period of time without sufficient justification amounts to a disproportionate interference with the person’s right to respect for his private and/or family life under ECHR Article 8 (equivalent to ICCPR Article 17). In the case of *Nada v. Switzerland*, the ECtHR found applicant’s right under Article 8 violated, as an Italian National, who was unable to leave the Swiss territory not even to travel to Italy (referring to the UN Security Council resolution) as the Swiss authorities failed to harmonise the obligations that they regarded as divergent and did not take appropriate measures to strike a fair balance between his right to protection of his private and family life and the legitimate aim (in the case referred to the national security and public safety)<sup>102</sup>.
80. Consequently, as stipulated by ICJ<sup>103</sup>, limitations on the freedom of movement result in the impediments to the exercise by the persons concerned of the right to work, to health, to education and to an adequate standard of living as proclaimed in ICESCR and in the UN CRC.
81. Family reunification with assistance of the ICRC, based on bureaucratic and arbitrarily suspended for prolonged periods by a State authorising a blockade of a main humanitarian route, cannot be

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<sup>99</sup> Ibid.

<sup>100</sup> *Orphanides v. Turkey* No. 36705/97, 20/01/2009, para 39.

<sup>101</sup> *Hendrick Winata and so Lan Li V. Australia*, No. 930/2000, para. 7.2, see paras 24-26 above.

<sup>102</sup> *Nada v. Switzerland*, appl. No. 10593/08 , judgment of 12/09/2012, paras 197-199.

<sup>103</sup> Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice (ICJ), 9 July 2004, para. 134.

considered as free movement.

82. The intervening organisations conclude that where the interference is not necessary, proportionate, or based on individual circumstances, discriminatory, being targeted at a specific ethnic population, is unlawful under the international human rights law.

## ANNEX 1

### **Selected excerpts from testimonies of the displaced residents of Nagorno-Karabakh on the effects of the blockade on their rights<sup>104</sup>**

#### ***Related to the freedom of movement***

*“There has been no gas in our village since December 2022 as Azerbaijanis cut off the supply. I think they were doing everything to disappoint [us] and [make us] leave our houses and Artsakh”.*

*The blockade had a big impact on my work. I was engaged in the cosmetic repair of cars in my own car repair shop. However, as soon as the blockade began, problems arose with finding materials and spare parts, which were regularly brought from Armenia. Also, there was a problem with electricity, which also hindered [my] work. As a result, I lost my job. Food prices, except for bread, had increased more than ten times.*

*Following the blockade, beginning from January, I did not work for eight months because the sewing factory was unable to obtain textile supplies. During that time, I did not receive a salary.*

*When the blockade started, I lost my job because construction materials were imported to Artsakh from Armenia. Since the road was closed, construction materials and goods did not enter Artsakh.*

*Artsakh’s police officers were securing that road on shifts. However, one time the Azerbaijanis blocked the road for the police officers and killed them. Since then, no food was delivered via that road.*

*There were hundreds of registered patients for transfer to Armenia. However, the ICRC was [only] able to transfer patients to Armenia once or twice a week, eight to ten people each time.... They did not possess suitable vehicles for bedridden patients. The procedure was lengthy and complicated. There was an additional problem with getting permissions for the companions [or caregivers] of patients. Later, it was possible to transfer patients with 18-seat vehicles, including companions. There were cases when we had to transfer the person without any companion. The*

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<sup>104</sup> Source - Freedom house report, op.cit.

*situation of patients with oncology was particularly difficult as the treatment was delayed. Delays in examinations or interferences led to the deterioration of patients' health.*

*During the blockade, my husband's father was diagnosed with a stomach tumor. We applied to the ICRC for his transfer. The paperwork was very lengthy and there were many patients waiting for their turn. He died before his turn came.*

*In the fifth month of the blockade, my father died of cancer complications, as he could not travel to Yerevan for further medical treatment. They allowed my father to be transported alone without a companion, but he refused to go alone in his condition. The doctors, of course, did everything possible to save his life.*

### ***Related to Article 7***

*It was very difficult to survive. We were thinking that at the end we would really starve. It is impossible to describe our feelings when there was no food, no hygiene items, no medicine.*

*The situation was extremely difficult. People were thinking that they would not make it in December, there was no bread.*

*Since July, there had been a severe shortage of bread; our family of five were owed two and a half loaves of bread based on the coupon ration, but it was not sufficient. My two adult children and I did not eat bread in order to give [bread] to our younger children. The lines for bread were very long; sometimes I stood in line for 24 hours or more to buy bread. It happened that we did not have bread for two to three days, because the bread produced by the bakeries was not enough for everyone. The quality of bread was also very bad for some time; it was made from bran. Some foods that were brought from the villages could be bought from time to time at very high prices.*

*The most difficult was the situation of the elderly, pregnant women and children. Due to the lack of transportation, they had to walk long distances. It was necessary to walk from home to the hospital for two to three kilometers; it was unbearable for elderly and pregnant women. There were frequent cases of fainting; people were losing consciousness due to exhaustion.*

*During the blockade, the number of pregnancies with suspicion of chromosomal or other abnormalities increased; it was due to the stressful situation. There was a need for specific tests and examinations which were not available in Nagorno-Karabakh, and women had to travel to Armenia. The number of miscarriages and premature births increased dramatically during the blockade due to the constant stress. Due to the malnutrition of pregnant women, cases of anomalies increased. Under my supervision there were 100 or even more pregnant women, 60 of whom were malnourished. As a result of anemia, children acquired chronic hypoxia or were born with low weight; you can't say what problems the children would have later. There were problems with medicines from the beginning, and although the hospital received some drugs, vitamins that were*

*supposed to be food supplements, it was not sufficient. It did not matter whether there was a vitamin or not; women should have food.*

*During my pregnancy, I went for regular checkups to the doctor by walking as there was no transport and no fuel. I was pregnant with twins and could not eat enough. My mother was saving me; she was standing in lines to find some food for me and my child. Sometimes there was very little food, so I used to give it to my child, but we did not eat it.*

*It was extremely difficult to provide for kids. There were days when we did not have bread at all; the children stayed hungry. Quite often, my children would not go to school due to hunger. My daughter who was in the eleventh grade fainted on the way back home from school due to hunger. Luckily, some acquaintance saw her and accompanied her home.*

*My children's education suffered a lot during the blockade. My older daughter studied in a college in Stepanakert. But she was not able to attend classes as there was no transport available. In addition, there was no food in Stepanakert's shops, and the college cafeteria did not operate due to the lack of food. Two of my other daughters attended school in the village. However, there was a heating problem at that school. It was cold and children got sick regularly. The classes were shortened from 45 minutes to 30. At times, it was so cold that children were sent home earlier. For a month, our village school was closed due to lack of food. The blockade affected the quality of education, as a malnourished child would not be able to comprehend everything the same way that a full person could. There were incidents when children both in our village school and in the neighboring village Arachadzor fainted from hunger.*

*During the blockade there was a lack of baby formula. There were many women in the community that had newborns. Peacekeepers and the ICRC tried to provide baby formula, but that was before the end of spring. In the beginning of summer, the road was completely closed, and baby formula and medicine for pregnant women were not available.*

*During the harvesting, villagers were shot at, with equipment being the primary target. Initially, the Russians were strict with the Azerbaijanis, which gave us a sense of security. But this changed as the Russian staff rotated. They had a post on the way to the village that started with two guards, [which was] then reduced to one, and eventually, there were none. During the blockade, they didn't even come to accompany us during the agricultural work, leaving us vulnerable. Shots were fired at agricultural workers, and our cattle that crossed over into Azerbaijani territory were not returned. We also heard about a shepherd in the village of Chartar who was captured and killed during the summer.*

*In Nerkin Sznek, prior to September 19, it was not calm in our area. There was regular shooting; however, when they started targeting tractors or combiners working in the field, that was a serious problem. Their aim was to not allow the people to work in the fields so that they were not able to plant anything, harvest anything, and sustain themselves... Their aim was to constantly terrorize*

*us so that people would leave. A father and his son from our village were targeted during the 2023 harvest.*

*There were lines for food. For example, I went out in the morning to get rice and returned at 4 o'clock. During that time, I left my four children alone at home. [One day], a mother from Aghabekalanj village next to us left her children to go and stand in line for food in Martakert. She returned home to find the children gone. It was discovered that the children got into the car on the road in a state of exhaustion and died in the heat. Those deaths were due to food shortages caused by the blockade.*

*My husband needed medication. He suffered a brain and skull injury back in 2019, and since then, he has had frequent pain attacks. In such a case, the only remedy is to take strong painkillers. During the blockade, it was difficult to find medicine, and he had no medicine, so he had to suffer until the pain episode passed.*

*There was a shortage of medicine. I was using drugs that improve my heart function and lower blood pressure, but in the last two to three months, there was a complete shortage of drugs in pharmacies. I could not get them, so I did not take them at all. Also, my mother-in-law has leukemia. She had to take "Leukeran" [name of brand] pills, which we were able to find until June 2023. But after that, she did not take the medicine until we arrived in Armenia.*

*I ran out of medicine in May. It was not possible to find the medicine I needed in the pharmacies. I found the medicine from a woman whose mother had also used the medicine, but had died, and some medicine was left. My sister's medicine was also unavailable during the blockade. She had a serious blood pressure issue, and on September 18, she was hospitalized with a stroke.*

*My son has epilepsy.... During the blockade, we could not buy medicines for him. That is why the fainting spells became frequent. Now, he has them almost every day.*

*Azerbaijan did everything to prevent the Armenians from having a normal life, so that we would leave Artsakh. However, we continued to live and struggle. We did not intend to leave our land even though we endured hardship. People would feel demoralized at times due to hardships and get angry, but our lives carried on.*

### ***Right to family life***

*During the blockade, my son was in Armenia, studying in the twelfth grade. In January, my son fell ill with measles. They allowed me to come to Armenia to take care of him, but since I couldn't take my daughters with me, I was not able to go.*

*My husband was stranded in Armenia during the blockade. He came to Armenia in November to have an eye surgery. After the operation the blockade began, and he could not return to Artsakh. Essentially, our family was separated because of the blockade.*

*My niece went to Armenia in March 2023 with the assistance of Russian peacekeepers; she had to undergo an urgent surgery. For two months after the surgery, she was not able to return to Artsakh to reunite with her family. Eventually, she managed to return with the assistance of the ICRC. Some of my colleagues who went to Armenia for treatment were not able to return to Artsakh at all.*

*My husband went to Armenia prior to the blockade; he had problems with his kidneys. He never had an opportunity to return due to the blockade. He applied with the ICRC to be transferred back, but his turn never came. I also tried to transfer my child to Armenia with the assistance of the ICRC due to his health issues, but I was told that his condition was not so bad.*

*In July 2023, my father died in Moscow, and we were not able—or actually, we were not allowed to go to Armenia to attend his funeral.*