



HUMAN RIGHTS VIOLATIONS DURING THE 44-DAY WAR IN ARTSAKH

Fact-finding Report

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YEREVAN 2022

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Summary

This fact-finding report documents the war crimes and other violations of international humanitarian law (IHL) and human rights norms that occurred during, and consequential to the 44-Day War waged by Azerbaijan, principally against the population of Artsakh (a.k.a. Nagorno-Karabakh), during the fall of 2020. The evidence presented here is based on meticulous data collection and analysis from multiple sources of information. The result is substantiated documentation of war crimes and human rights violations, as well as a set of recommendations to relevant stakeholders for remedying the situation.

In the framework of this endeavor, a total of 879 witnesses were consulted, and in-depth interviews were conducted with 359 of them while reviewing already reported as well as unreported incidents of violations. In order to ensure the objectivity of the report, testimonies were corroborated by evidence and analysis retrieved from other sources, such as video and photographic materials, assessments by military intelligence experts, other human rights reports, and official government reports.

The collected data is analyzed in the context of respective legal norms, and, as a result, it is argued that Azerbaijan has committed war crimes, as well as violations of the right to life, freedom from torture and ill-treatment, rights to health, private and family life, and property, and crimes against the environment and cultural heritage. In particular, the report shows that Azerbaijan has targeted journalists, employed mercenaries, engaged in illegal means and methods of combat, and some of these practices amount to ethnic cleansing.

These crimes and violations had a systemic nature and a clear intent. The Azerbaijani side has been unwavering in its jingoistic attitude towards the people of Artsakh and their struggle for self-determination. Having a maximalist position, the government of Azerbaijan limited the space for a peaceful resolution and made preparations for a military “solution.” For decades, it propagated Armenophobia, constructing an image of Armenians as the radical “other.” Humiliating and destroying this “other” has become the ideological foundation for the official Azerbaijan, using all the means for seizing territories and eradicating the Armenian presence there.

Specifically, 193 communities have already been emptied of their native Armenian population. During the 44-Day War, the Azerbaijani side took deliberate measures to make it impossible for thousands of civilians to remain in their homes, through

indiscriminate shelling, targeting of civilian infrastructure and inducing fear. Both civilians and combatants were taken as hostages and prisoners of war (POWs), and they were either executed, tortured, or otherwise abused.

The report details the violations of right to live, torture and ill-treatment by Azerbaijani forces and demonstrates that these have been systemic during the war and its aftermath. In total, 19 cases of illegal execution of POWs are documented in the report, including civilians. Furthermore, the Azerbaijani side did not distinguish between civilians and combatants, evidenced by indiscriminate attacks in violation of IHL obligations. For instance, the use of high fragmentations explosive materials has been identified during field visits and analyses of open-source data. The report also shows that multiple residential buildings and civilian infrastructure objects were bombed by the Azerbaijani side. Interviews were carried out with four former POWs, who provided details of their torture and ill-treatment. The victims, often elderly, were beheaded alive, mutilated, or otherwise tortured.

The report also provides evidence of violations of the rights to health, right to private and family life, as well as right to property. In particular, it is documented that the conflict has caused physical as well as mental injuries for hundreds of Armenians. Besides, healthcare services for fighting the Covid-19 pandemic became paralyzed due to Azerbaijan's attacks, and following social distancing rules was not possible, as people were escaping bombardments in crowded shelters. There are multiple cases of family separations, disruptions in the education processes of children, worsened living conditions, and economic hardship issues caused by the war. Violations of the right to property are widespread. Many are unable to reside in their homes in communities that are currently under Azerbaijan's control. Due to rampant Armenophobia, it is not possible for these people to return to their homes. In addition, many families had to flee their homes without being able to retrieve their valuables.

The report also shows that during the war, Azerbaijani forces have also committed environmental crimes and destroyed multiple Armenian cultural heritages. The Fact-Finding Group has identified that they used incendiary weapons, causing many families to flee their communities. It is estimated that around 1800 hectares of forests were destroyed due to these attacks. Besides, there were deliberate attempts at erasing Armenian cultural presence in Artsakh. The report provides evidence of cases, where the Azerbaijani side destroyed Armenian churches and monuments. In other cases, it tried to erase the belonging of these monuments to Armenian heritage.

The report sheds light on the illegal means and methods that the Azerbaijani side used to create the above-mentioned atrocities. It provides detailed reflections on the weaponry used during the war and the acts of targeting civilian populations, residential areas, and infrastructures. For instance, substantial evidence of the use of cluster munition, targeted bombardments of civilian objects by Turkish and Israeli drones, and other illegal methods is demonstrated in the report. In addition, it is shown how Azerbaijan, with the help of Turkey, used Syrian mercenaries during the war.

Lastly, the Azerbaijani side tried to hide these acts of crime and violations by hindering the work of journalists during the war. For example, indiscriminate attacks in civilian areas also created security threats for journalists, and some of them had to leave Artsakh due to those reasons. While Azerbaijan had sufficient information about the presence of journalists in certain areas, it still carried out high-precision attacks, which put the lives of many reporters in danger and caused injuries to some of them.

The war launched by Azerbaijan against the population of Artsakh was a calculated choice. It has been described by international jurist and UN expert Alfred de Zayas as a war of aggression for which Azerbaijan's President Ilham Aliyev should be held accountable.¹ The war crimes and other violations of IHL and human rights norms documented in this report demand urgent action by the international community not only to render justice to the victims but also to tackle the impunity that continues even after the end of active hostilities. The fact that to date Azerbaijan refuses to return Armenian prisoners of war and uses aggressive and militant tactics that terrorize populations living both in Artsakh and bordering villages of Armenia is to an extent a product of a failed international response to Azerbaijan's actions. Without accountability, Aliyev's regime will succeed in its "military solution" as a means of suppressing self-determination, causing ethnic cleansing, and sidelining lasting solutions to the conflict.

¹ Alfred de Zayas, Twitter post, October 3, 2020, <https://twitter.com/alfreddezayas/status/1312400506069962754?lang=en>.

Methodology

This fact-finding report is a collective effort of a number of Armenian civil society organizations and aims to provide an extensive analysis of the crimes committed against the people of Artsakh during the 44-day war in 2020 and its aftermath. It is a result of a year-long endeavor that brings together the work of 11 researchers, 30 interviewers, eight media analysts; it also incorporates data provided by Armament Research Services (ARES), an apolitical technical intelligence consultancy, and Mnemonic, a cross-sectoral, cross-disciplinary organization that provides tools and methodologies that enable human rights defenders to utilize digital information. Having invested such substantial resources, it was possible to implement this fact-finding project with a broad thematic scope in order to produce comprehensive documentation of various crimes and violations.

The initiative started with the objective of revealing and assessing atrocities committed against the Armenian populations of Artsakh. In regard to the temporal scope of investigation, the 44-Day War was selected as the primary target; however, the data collection process was not strictly limited to it, and violations before and after the war were studied as well for the purpose of painting a holistic picture. As for its spatial dimension, the project mainly investigates the crimes committed by Azerbaijan in Artsakh and areas around it populated by Armenians. The report also makes observations concerning Azerbaijan's attacks on Armenia proper. With such a methodological starting point, the fact-finding project aims to let the data speak for itself. It is an inductive process that tries to discover and analyze as many different types and cases of human rights violations as possible.

For this purpose, a number of data collection tools were used. A significant part of the evidence was derived from in-depth interviews with witnesses and victims of various violations. A non-probability snowball sampling method was used. In this process, 879 individuals were initially consulted, the results of which were used to carry out in-depth interviews with 359 of them. In this way, the researchers managed to cast a wide net and reach out to a sufficiently large number of witnesses. The Fact-Finding Group interviewed witnesses who, due to the war, had temporarily relocated to Armenia from Artsakh and who were sheltered in hotels. After the war, the interviewers also traveled to Artsakh for the purpose of further data collection based on the snowballing method. Interviewers also identified witnesses following reported events, such as shelling or occupation of a town or a village.

The first round of interviews with 879 individuals were semi-structured, where the witnesses were asked to comment on specific events but also were given the op-

portunity to share their personal experiences. This framework allowed interviewers to capture human stories and what the witnesses themselves perceived to be cases of injustice. When a witness's story invoked a possible human rights violation, that individual was selected for the second round of in-depth interviews, in which more structured questionnaires were used to identify the details concerning those violations. All interviewers received advanced training from legal experts in order to make sure they can accurately identify potential cases of crimes and human rights violations.

Informed consent was an essential part of this effort. Interviewers made sure that the witnesses understood the project's goals and expectations and encouraged them to participate if they agreed with the principal objective — revealing the truth about what happened during the 2020 war. The interviewed witnesses understood that the project was not meant to address specific injustices that they had suffered individually and could not guarantee social justice for the community. Within these parameters, witnesses voluntarily shared their experiences and were offered the choices to have their name revealed, to have only their initials mentioned, or to refer to their testimonies using pseudonyms.

The data collected from these interviews were cross-checked with evidence from various open sources. In particular, media analysts assisted in this project by collecting and assessing domestic and international media reports, which researchers used to corroborate witness testimony. Analysts verified reports by assessing authenticity, whether the information was collected firsthand or not, whether the report was internally consistent, and by identifying misrepresentations made by public relations entities with dubious motives. In some cases, the data gathered from interviews and other sources was corroborated through available video materials distributed on the Internet. Independently obtained testimony of one witness was at times corroborated by that of other witnesses who were from the same location or who had shared the same experience. Finally, the satellite imagery, geolocation data, and other intelligence evidence provided by (Armament Research Services) ARES/Mnemonic were used for checking the validity of other sources and adding new evidence.

Within the frame of the project, an open-source intelligence team (OSINT) was set up, which focused on four main objectives: 1) analyzing photos, videos, social media posts, satellite imagery, and other digital open-source information, as defined in the Berkeley Protocol on Digital Open Source Investigations,² for the purpose of

2 The Human Rights Center at the University of California, Berkeley, School of Law and The United Nations High Commissioner for Human Rights (OHCHR), "Berkeley Protocol on Digital Open Source Investigations" (New York and Geneva, 2020), https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR_BerkeleyProtocol.pdf.

battle damage assessment; 2) geolocation, and, where possible, chronolocation of specific events of interest; 3) weapons identification; and 4) online content preservation and archiving. The team also reviewed photos and videos of allegedly executed soldiers with a licensed physician who is a medical expert in the context of human rights violations. Satellite imagery was obtained for the purposes of geolocation, chronolocation, and battle damage analysis from various sources, including Google Earth Pro, Planet's SkySat imagery archive, and Maxar Secure-Watch. Weapons identification was carried out by experts in the field who have extensive expertise in the military, firearms training, and/or remote identification of weapons by still image or video.

For analyzing metadata of photos and videos, OSINT used the command line tools exiftool and ffprobe, as well as MediaInfo, as GUI-based program. Also, Flourish, a data visualization platform was used to create "slider juxtaposition images," which are images that show one area of interest before and after a specific period of time. For example, to show where a munition might have landed on the ground, OSINT used a slider juxtaposition image to visualize what the satellite imagery showed both before and after the incident in question. Many times, overt damage was visible, however there were also incidents where damage was not visible due to the nature of the munition, the GSD (ground sample distance), or visual resolution, of the satellite image, or poor coverage of the area of interest during the period in question. For the scraping of web videos, the command line tool youtube-dl, source code of social media posts, and a Linux-based virtual machine for scraping Telegram content were used.

ARES is the organization that conducted the weapons identification and analysis. Geolocation and weapons identification experts wish to remain anonymous for security and privacy reasons, but each member of the team has extensive investigative experience and can provide examples of previous work or anonymized CVs upon request.

It is also noteworthy, that the Fact-Finding Group has taken measures to preserve the online data used for analyzing the crimes and violations discussed in the report. Considering that many of the studied materials could be removed by the content creators or the hosting platforms themselves (e.g., Telegram, YouTube, Twitter, etc.), they have been stored on Mega.nz, an encrypted cloud storage service based in New Zealand. To make sure that those materials are accessible to the reader, their original URLs, which could become non-functional in the future, have been replaced with the respective links to the Mega database in the citations of the report.

The large pool of data collected from different sources was categorized based on their relation to particular cases of violation. In this way, it was possible to look at each case from multiple angles and provide a detailed and credible observation of what happened. In this process, investigative reports prepared by other parties were used, as well. Subsequently, these observations were studied in their respective legal contexts to reveal whether there were instances of crime and human rights violations. In this process, legal experts were involved in order to assess the identified cases from the vantage point of IHL and human rights norms. Following these assessments, cases were clustered based on the types of human rights violations. Bringing these cases together in such a way also helped to showcase their regularity and systematic nature. The report itself is structured based on these thematic categorizations, where the gathered evidence is used to make arguments about the scope and nature of the crimes and violations.

To summarize, this report uses multiple sources to make evidence-based observations about the atrocities committed by Azerbaijan during the war. Nevertheless, it is important to note that this project is primarily driven by the experiences of the witnesses: the topics and issues discussed are based on what the witnesses reported. The review of other supplemental information was to corroborate and strengthen the value of these first-hand witness experiences. The report is comprehensive in scope as it documents both previously unreported human rights violations, as well as those reported by other human rights reports.

Recommendations

Based on the war crimes and other human rights violations documented in this report, and for the purpose of creating accountability for such violations, researchers are putting forward a set of recommendation. The recommendations are directed towards specific international, regional, and domestic actors, and are thematically organized in line with the report's Table of Contents.

To the Government of Armenia:

- Maximally use multilateral and international human rights mechanisms including the UN Human Rights Council, UN Security Council, the EU, Council of Europe and OSCE to shed light on the rights violations that have taken place during the 44-day war as well as on the continued Azerbaijani aggression; demand concrete actions, including legal.

As to anti-Armenian racism:

- With regard to the case recently taken against Azerbaijan before the International Court of Justice, engage also the UN Special Rapporteur on contemporary forms of racism, and once proceedings conclude, seek that the UN Human Rights Council refers this matter to the General Assembly and the Security Council for sanctions against Azerbaijan.
- Engage also with European and regional mechanisms like the European Commission against Racism and Intolerance (ECRI) and the OSCE advocating for Azerbaijan to be held accountable for its racist policies and practices.

As to all war crimes and all violations of human rights:

- Seek that UN Human Rights Council and OHCHR investigate the war crimes and violations of human rights committed by Azerbaijan as evidenced in this report, and that they recommend to the UN General Assembly and Security Council referral of the matter to the International Criminal Court.

As to the rights of private and family life and as regards displaced persons due to ethnic cleansing:

- In cooperation and coordination with international partners and donors, ensure that the immediate needs of displaced households and persons are met, including provision of food, clothing and shelter, and develop and implement social programs for resettlement and integration, including employment training and placement, and assistance to children.

- Facilitate and assist displaced persons to access international and regional legal mechanisms such as ECHR to remedy and redress the harms wrought by displacement.

As regards cultural heritage preservation:

- Report the facts of demolition and alterations of Armenian cultural and religious monuments and heritage to the Council of Europe's Committee for Culture, Heritage and Landscape with clear demands for actions and presentation of the situation to the Committee of Ministers.

As to use of foreign mercenaries by Azerbaijan and Turkey:

- Collaborate with other governments to enforce the implementation of the International Convention Against the Recruitment, Use, Financing and Training of Mercenaries.
- Compile information on mercenaries and their recruiters through cooperation with the intelligence agencies of other countries, as well as in cooperation with human rights organizations like Amnesty International and Human Rights Watch, and share this information with the International Criminal Court and with the UN Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise on the right of peoples to self-determination, in order to create accountability for private recruiters and States for engaging and deploying mercenaries.

As to the ethnic cleansing of Artsakh:

- Call upon the UN Human Rights Council's a) Special Rapporteur on the right to development, b) the Independent Expert on the promotion of a democratic and equitable international order, c) the Independent Expert on human rights and international solidarity, and d) the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, to study Artsakh's claim for self-determination within the framework of the 2014 report on self-determination (A/69/272) by the Independent Expert on the promotion of a democratic and equitable international order, and advocate that these Special Procedures report and recommend to the UN Human Rights Council, the General Assembly, and the Security Council, to recognize and support self-determination for Artsakh with defensible borders inclusive of all Armenian inhabited communities prior to the conflict and secure on land communication with Armenia.

To the various Special Procedures of the UN Human Rights Council:

As to anti-Armenian racism:

- To the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance: investigate Azerbaijan for its policy and practice of anti-Armenian racism, hate speech, and hate crimes, and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability, including mandating a Special Procedure specific to Azerbaijan.

As to war crimes and violations of the rights to life, liberty and security of person, and freedom from torture and ill treatment:

- To the Special Rapporteur on extrajudicial, summary or arbitrary executions, and to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: investigate Azerbaijan for the relevant war crimes documented in this report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability, including mandating a Special Procedure specific to Azerbaijan, and referring this matter to the International Criminal Court for the prosecution of war crimes and the crime of aggression.
- To the Working Group on Arbitrary Detention and the Working Group on enforced or involuntary disappearances: investigate Azerbaijan's taking of civilians as hostages and continued detention of POWs and all other ethnic Armenians regardless of the status Azerbaijan assigns to such persons, advocate for the release and repatriation of all ethnic Armenians, and report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability.

As to violations of the right to health:

- To the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: investigate and report on Azerbaijan's violation of the moratorium on armed conflict during the pandemic, and on the targeting of ambulances and destruction of medical facilities, all of which compromise the right to health in both the short and long term and during a pandemic, and report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability.

As regards environmental crimes:

- To the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy, and sustainable environment: investigate Azerbaijan's illegitimate use of white phosphorous and other acts harmful to the environment and which compromise the self-sustainability of villages and report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability.

As regards cultural heritage preservation:

- To the Special Rapporteur in the field of cultural rights: visit and investigate Azerbaijan's targeting, damaging or destroying of cultural monuments, as well as its altering and cultural appropriation of Armenian cultural monuments, and its refusal to return cultural property, and report and recommend that the Human Rights Council, the General Assembly and the Security Council take action to create accountability and to safeguard cultural monuments and historic sites currently under threat.

As regards respect for journalists and freedom of expression:

- To the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: investigate the targeting of journalists and bloggers, and the persecution and reprisals by Azerbaijan against journalists and bloggers, both inside and outside of Azerbaijan, advocate for the unfettered entry of journalists and bloggers to Artsakh from Armenia, and report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability.

As to use of foreign mercenaries by Azerbaijan and Turkey:

- To the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination: investigate Azerbaijan's deployment of mercenaries, and Turkey's recruitment and transport of such mercenaries for deployment in Artsakh, and study Artsakh's claim for self-determination, and report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability for the use of mercenaries.

As regards ethnic cleansing:

- To the Special Rapporteur on the right to development, to the Independent Expert on the promotion of a democratic and equitable international order, to the Independent Expert on human rights and international solidarity, and to the Special Rapporteur on the negative impact of unilateral coer-

cive measures on the enjoyment of human rights: study Artsakh's claim to self-determination and based on the 2014 report on self-determination (A/69/272) by Independent Expert on the promotion of a democratic and equitable international order, based on the *erga omnes* obligation under international law, based upon the principles of the UN Charter and the obligations of the International Covenants, report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to recognize and support the self-determination of the Armenians of Artsakh with defensible borders which include all Armenian populated communities prior to the 44-Day War and secure on land communication with Armenia.

To the various UN Treaty Bodies:

As to anti-Armenian racism by Azerbaijan:

- To the Committee on the Elimination of Racial Discrimination (CERD): considering Azerbaijan's policy and practice of anti-Armenian racism, as documented in CERD concluding observations for the years 2001, 2005, 2009, and 2016, and considering the latest hate speech by President Aliyev himself, recognize and notify other State Parties of Azerbaijan's failure to act in good faith in regard to the Convention, and cooperate with the Human Rights Council for referral and action by the General Assembly and the Security Council to hold Azerbaijan accountable.

As to war crimes and the violation of the rights to life, liberty and security of person, freedom from torture and ill-treatment:

- To the Committee Against Torture (CAT), and to the Committee on Enforced Disappearances: inquire, investigate and request remedial action from Azerbaijan for beheadings, summary executions, mutilations, and torture and ill-treatment of ethnic Armenians, including civilian hostages, POWs, and those of any other status; demand immediate release and repatriation of all ethnic Armenians detained by Azerbaijan regardless of the status ascribed by Azerbaijan; investigate Azerbaijan's failure to notify of ethnic Armenians detained; and report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability, including mandating a Special Procedure specific to Azerbaijan.
- To the Subcommittee on the Prevention of Torture (SPT): visit all ethnic Armenians detained in Azerbaijan, regardless of the status ascribed by Azerbaijan; advocate for their humane treatment and demand their release and repatriation.

As to violations of the rights to health, private and family life, property, environment, and cultural rights:

- To the Committee on Economic, Social and Cultural Rights (CESCR): investigate and request remedial action from Azerbaijan regarding all harms done by violating the moratorium on armed conflict during the pandemic; targeting, damaging and destroying ambulances and medical facilities and, thus, compromising access to health care in a pandemic; negatively impacting private and family life by targeting civilians, indiscriminate shelling of populations, destroying property and means of livelihood, and forced displacement via ethnic cleansing policies; damage to the environment reducing the self-sustainability of villages; damage and destruction of cultural monuments, historic sites, and undermining cultural heritage and identity; report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability.

As regards ethnic cleansing:

- To CESCR: study the Artsakh claim to self-determination and in the light of common covenant article 1(3) remind Azerbaijan of its good faith obligations to the covenants, and report and recommend that the Human Rights Council, the General Assembly, and the Security Council take action to create accountability.

To the Council of Europe and associated entities and institutions:

As to anti-Armenian racism by Azerbaijan:

- To the European Commission on Racism and Intolerance (ECRI): considering Azerbaijan's long history of anti-Armenian racism, the recent war crimes as a manifestation of such racism, and President Aliyev's continued hate speech and incitement to discrimination and violence, call upon the Committee of Ministers to take up this and related issues and to create accountability for Azerbaijan's continued violations.

As to violations of the prohibition on torture and the right to liberty and security:

- To the European Committee on the Prevention of Torture (CPT): carry out *ad hoc* visits to Azerbaijan, meet with all ethnic Armenians detained by Azerbaijan regardless of ascribed status, investigate and report on instances torture and ill treatment, and follow up on the implementation of CPT recommendations.

As to use of foreign mercenaries by Azerbaijan and Turkey:

- To the Group of States against corruption (GRECO), and to Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), and to The Conference of the Parties under the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS No. 198): investigate the sources of funding and the payment of mercenaries by Turkey and Azerbaijan for deployment in Artsakh as at least some mercenaries were recruited from terrorist factions of the Syrian National Army (SNA) backed by Turkey, and present a report with recommendations to the Committee of Ministers.

To Other International and Regional Organizations and Agencies:

As to cultural heritage preservation:

- To UNESCO: conduct an on-site visit to the territories under Azerbaijan's control to document and report the situation and prevent any further destructive acts against Armenian cultural heritage, monuments, and cemeteries.
- To International Criminal Police Organization (INTERPOL): closely monitor and stop the sale or transfer of cultural heritage from Artsakh and return intercepted artifacts and cultural heritage to the Republic of Artsakh.
- To the International Council of Museums (ICOM): include the cultural and religious portable monuments that appeared under Azerbaijan's control in the Red List published by the Organization 77 and denounce the destruction by Azerbaijan of Shushi's Geological Museum, Shushi's Historical Museum, Shushi's Museum of Fine arts and Hadrut's Museum of Homeland Studies named after Artur Mkrtchyan.
- To the International Council of Monuments and Sites (ICOMOS): denounce the destruction and vandalism of cultural property of Artsakh by Azerbaijan in a resolution; use the expertise of the members of the ICOMOS Scientific Committees and relevant ICOMOS National Committees to assess the significance of, and threats to, cultural property understood to be at risk; confirm the facts of the threats to, and the heritage and significance of the cultural property at risk; alert the public to the significance and threat to the cultural property at risk using ICOMOS networks to publicize the situation; and selectively act to support the conservation of the cultural property at risk.

To Individual States:

- States must call on Azerbaijan to immediately release and repatriate all ethnic Armenians detained by Azerbaijan regardless of their ascribed status, as foreseen by November 9, 2020 trilateral statement on ceasefire.
- States must act jointly and separately to restrict any sale or supply of military equipment and armaments to Azerbaijan, and to end the sharing of technology and military intelligence with Azerbaijan.
- States must call on the Human Rights Council to create a Special Procedure on Azerbaijan to investigate its systemic violations of human rights.
- Urge the government of Azerbaijan to ratify the Convention on Cluster Munitions, 30 May 2008, 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects and its protocols.
- Refrain from unaddressed and balanced calls to both states in a context when there is an obvious aggressor, given that these calls are seen as neglect and indifference to the situation and contribute to the ongoing impunity and gross rights violations and harming the perspective of solving the conflict peacefully.

The findings and recommendations of this report cannot be viewed in isolation from the events taking place today. To that end, we recommend that **individual member states**, as well as relevant **international organizations** condemn the current policy of aggression of Azerbaijan towards Armenia, manifested by setting up military positions across the de facto border, very close to Armenian villages and communities, and in some instances within the sovereign territory of Armenia, and given that these actions paralyze the livelihood of local population and have a considerable impact on their rights.

We call for an **urgent international human rights monitoring mission**, as well as creation of a **security zone** to ensure that local communities do not pay the price of this aggression and prevent possible escalation and attacks, similar to the one that Azerbaijan launched on November 16, 2021.

Background

The 2020 war in Artsakh, also known as the 44-Day War, was catastrophic in terms of human rights violations, which have not yet received due attention. The systemic nature of the abuse and the attempts at cleansing the targeted area from its native population are a result of decades-long, top-down policies of spreading hatred and building a state ideology around annihilating Armenians – the antagonistic ‘other.’ This is the context that served as the condition of possibility for the gruesome acts of violence presented below to occur. What happened in Artsakh in late 2020 had been in the making for many years.

This conflict is nothing short of complicated. It is rooted in exploitative and negligent imperial policies, where the interests and voices of locals were sidelined. The arbitrary decisions of the USSR government regarding territorial divisions, and its policies of Soviet nationalities, prepared the groundwork for the dispute. A historically Armenian region became part of the Azerbaijan Soviet Socialist Republic (SSR) in the form of the Nagorno-Karabagh Autonomous Oblast (NKAO). Azerbaijani identity as that of a titular nation was elevated, while Armenians had their cultural and political rights stripped. Discrimination against Armenians in NKAO was systemic and widespread, leading to economic and cultural alienation.³

Facing such conditions, the Armenian majority in Nagorno-Karabagh saw Mikhail Gorbachev’s policies of *perestroika* and *glasnost* as an opportunity to have their voices heard and called for self-determination. Their demands were met with violence and pogroms against Armenians in Sumgait, Kirovabad (Ganja), and Baku.⁴ Shortly after, the tension between Armenians and Azerbaijanis escalated, leading to a full-blown military conflict that lasted until May 1994. It became a struggle for survival for Armenians in Nagorno-Karabagh and around the world, solidifying the conviction that national self-determination was the only guarantee for that survival.⁵ The Azerbaijani side considered it unacceptable that the people of Artsakh could exercise their right to self-determination, locking the conflicting sides in a situation of diametrically opposing positions.⁶ Baku disregarded the concerns and

³ Ohannes Geukjian, *Ethnicity, Nationalism and Conflict in the South Caucasus: Nagorno-Karabakh and the Legacy of Soviet Nationalities Policy*, 1st edition (London New York: Routledge, 2016).

⁴ Vicken Cheterian, “Little Wars and a Great Game: Local Conflicts and International Competition in the Caucasus” (Berne: Swisspeace Foundation, July 2001), <https://www.files.ethz.ch/isn/114725/wp32.pdf>.

⁵ Christoph Zurcher, *The Post-Soviet Wars: Rebellion, Ethnic Conflict, and Nationhood in the Caucasus* (New York: NYU Press, 2009).

⁶ Laurence Broers, *Armenia and Azerbaijan: Anatomy of a Rivalry*, 1st edition (Edinburgh, UK: Edinburgh University Press, 2019).

grievances of Armenians in Artsakh, seeing the conflict exclusively in the framework of territorial sacralization articulated in the context of historical revisionism. As a result, negotiating a peace deal became a challenging endeavor. The protracted settlement process mediated by the OSCE Minsk Group did not manage to register any tangible success for many years. The negotiating parties did not move beyond coming to an agreement on a set of basic principles on which the settlement process was to be based.⁷

The Azerbaijani government decided to adopt a maximalist approach, ignoring the human rights, basic needs, and substantiated fears of Armenians in Artsakh that have been at the foundation of their struggle for self-determination.⁸ Confidence-building measures, which have immense importance for making progress in the resolution process, have been undermined by Baku's belligerent attitude. While threats or use of force have been criticized by many parties involved in the settlement process, the Azerbaijani side did not shy away from applying them.⁹ It did not exclude the possibility of achieving its objectives through violence if the other side did not agree to make one-sided concessions.

This approach became more visible at the June 2011 Kazan meeting between the presidents of Armenia and Azerbaijan mediated by the Russian side. There was a prospect of a breakthrough, but Baku started making additional demands, bringing the process to another stalemate.¹⁰ What followed was a drastic military build-up on the Azerbaijani side and frequent skirmishes at the line of contact.¹¹ Tensions were rising, leading to the four-day war in April 2016. Here as well, the Azerbaijani side tried to use coercion for achieving its maximalist objectives, ignoring one of the basic principles of the settlement process – not using force.¹² More threats followed the Four-Day War, making it apparent that Baku was entertaining the possibility of another attack if the other side did not give in to its pressure.¹³

7 “Digging out of Deadlock in Nagorno-Karabakh,” Europe and Central Asia (International Crisis Group, December 20, 2019), <https://d2071andvip0wj.cloudfront.net/255-digging-out-of-deadlock.pdf>.

8 Ohannes Geukjian, *Negotiating Armenian-Azerbaijani Peace: Opportunities, Obstacles, Prospects*, 1st edition (Ashgate, 2014).

9 “Collection of War Threat Statements by the President Ilham Aliyev and Other Azerbaijani Officials” (European Friends of Armenia, July 31, 2018), https://eufoa.org/wp-content/uploads/2018/04/AliyevWarThreats_update_31.07.2018.pdf.

10 Richard Solash, “Kazan Summit: Time For Breakthrough In Nagorno-Karabakh Peace Process?,” *Radio Free Europe/Radio Liberty*, June 23, 2011, sec. Features, https://www.rferl.org/a/nagorno-karabakh_kazan_summit_breakthrough_in_peace_process/24244645.html.

11 “Nagorno Karabakhs Gathering War Clouds,” Europe and Central Asia (International Crisis Group, June 1, 2017).

12 Broers, *Armenia and Azerbaijan*.

13 “Collection of War Threat Statements by the President Ilham Aliyev and Other Azerbaijani Officials.”

These developments demonstrate that official Baku was not interested in peaceful coexistence and interpreted the conflict predominantly in the context of defeating the enemy. Seeing Armenians as the antagonistic other and building an ideology around annihilating that other was an integral factor of the long-lasting conflict that fueled the above-mentioned belligerent attitude, which in turn reproduced the sense of enmity. The dictatorial regime in Azerbaijan amplified jingoistic sentiments, dehumanizing a whole ethnic group and rallying people around the mission of fighting the enemy, diverting their attention from domestic problems in the process.

The case of Ramil Safarov is very telling in this regard. Safarov murdered Guren Margaryan, an Armenian army lieutenant, in his sleep in Budapest, where they were attending a NATO training session. When the perpetrator was transferred to Azerbaijan by the Hungarian government, he received a hero's welcome.¹⁴ With this step, the Aliyev regime simply celebrated killing an Armenian.

The UN Committee for the Elimination of Racial Discrimination (CERD) condemned the act stating that, “by welcoming a citizen of the State party convicted of murdering an Armenian as a national hero and by pardoning and releasing that person upon transfer, the State party condones racial hatred and hate crimes and denies redress to victims.”¹⁵ This case, along with other issues, were also addressed by the UN Human Rights Committee (HRC) under its 2016 review of Azerbaijan's human rights obligations.¹⁶ With regard to this same case, the European Commission against Racism and Intolerance (ECRI) stated that the Aliyev regime had acted “without taking into account the risk of cultivating a sense of impunity for the perpetrators of racist crime.”¹⁷ Moreover, in a case before the European Court of Human Rights (ECtHR), the court found that the pardon and favoritism bestowed on the murderer were “racially motivated” and created impunity, and the court deplored the numerous statements “by a number of Azerbaijani officials glorifying R.S., his deeds and his pardon,” which, “expressed particular support for the fact that R.S.'s crimes had been directed against Armenian soldiers, congratulated him on his actions and called him a patriot, a role model and a hero.”¹⁸

14 “Azeri Killer Ramil Safarov: Concern over Armenian Anger,” *BBC News*, September 3, 2012, sec. Europe, <https://www.bbc.com/news/world-europe-19463968>.

15 “Concluding Observations on the Combined 7th to 9th Periodic Reports of Azerbaijan” (United Nations Committee on the Elimination of Racial Discrimination, June 10, 2016), 3, <https://bit.ly/39iPnBZ>.

16 “Concluding Observations on the Fourth Periodic Report of Azerbaijan” (United Nations Human Rights Committee, November 16, 2016), <https://bit.ly/3hBDrk1>.

17 “ECRI Report on Azerbaijan (Fifth Monitoring Cycle)” (European Commission against Racism and Intolerance, June 7, 2016), 9, <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>.

18 *Makuchyan and Minasyan v. Azerbaijan*, Application no. 17247/13 (European Court of Human Rights May 26, 2020).

The Safarov case is representative of the widespread nature of Armenophobia in Azerbaijan. It is visible in multiple instances – from school curricula to speeches by high-ranking officials.¹⁹ Azerbaijani history textbooks depict Armenians as “fascists,” “terrorists,” and “barbarians.”²⁰ Anti-Armenian rhetoric has been omnipresent in the statements of politicians, as well as in the media coverage.²¹ The head of the state himself has been fueling hatred towards Armenians. For instance, in 2012, Ilham Aliyev stated: “our main enemies are Armenians of the world and the hypocritical and corrupt politicians under their control.”²² In 2015, Aliyev tweeted: “Armenia is not even a colony, it is not even worthy of being a servant.”²³ In 2018, the President of Azerbaijan publicly declared: “Armenia is a loser state ... Their heroes, their generals are thieves, their army is an army of thieves ... The difference between us is like between heaven and earth....”²⁴

The systemic nature of this racism can be seen when looking at the ways dissident voices that questioned the strong anti-Armenian sentiments were silenced. A prime example is Akram Aylisli’s case. In a short novel called “Stone Dreams,” Aylisli, a prominent writer in Azerbaijan, talks about the atrocities committed against Armenians. The Aliyev regime responded to this work with harassment and detention.²⁵ Such measures were used against other public figures as well.²⁶ Any deviation from the official narrative of hating the enemy was not tolerated.

In such an environment, seeing Armenians exclusively through the prism of antagonism has become the norm in Azerbaijan. They are the radical other that are blamed for a wide range of issues facing the country. Therefore, it is not surprising that thousands of people took to the streets of Baku in July 2020 to demand

19 “Report on Xenophobia in Azerbaijan” (Yerevan-Stepanakert, February 28, 2021), <https://transparency.am/files/publications/1614606896-0-994587.pdf?v=4>.

20 “Armenian Image in History Textbooks of Azerbaijan,” *Caucasus Edition*, April 1, 2012, <https://caucasusedition.net/armenian-image-in-history-textbooks-of-azerbaijan/>.

21 “Second Report on Azerbaijan” (European Commission against Racism and Intolerance, May 24, 2007), <https://rm.coe.int/second-report-on-azerbaijan/16808b557b>.

22 “Closing Speech by Ilham Aliyev at the Conference on the Results of the Third Year into the ‘State Program on the Socioeconomic Development of Districts for 2009-2013’” (President.az, February 28, 2012), <https://en.president.az/articles/4423>.

23 Ilham Aliyev, “Armenia Is Not Even a Colony, It Is Not Even Worthy of Being a Servant.,” Tweet, @presidentaz, January 29, 2015, <https://twitter.com/presidentaz/status/560718307515318272?lang=en>.

24 “Collection of War Threat Statements by the President Ilham Aliyev and Other Azerbaijani Officials,” 1.

25 “Azeri Writer Akram Aylisli Hounded for ‘pro-Armenian’ Book,” *BBC News*, February 15, 2013, sec. Europe, <https://www.bbc.com/news/world-europe-21459091>; Alison Flood, “Azerbaijan Detains Writer Akram Aylisli at Airport on Way to Festival,” *The Guardian*, March 30, 2016, sec. Books, <https://www.theguardian.com/books/2016/mar/30/azerbaijan-akram-aylisli-airport-incroci-di-civilta-festival>.

26 “Azerbaijan’s Leyla Yunus, Human Rights Defender, Held,” *BBC News*, April 29, 2014, sec. Europe, <https://www.bbc.com/news/world-europe-27202134>.

war against the ‘enemy.’²⁷ The event was a vivid demonstration of what the decades-long policy of ethnic hatred can create. Seeing Armenians as the enemy has become a sedimented feature of the worldview in Azerbaijan, making any prospects of conflict resolution improbable. It is noteworthy that the 44-Day War erupted shortly after these protests.

In general, two parallel and interlinked dynamics can be observed that led to Azerbaijan’s attack on Artsakh in 2020. First, the negotiation process was at an impasse, as Baku demanded substantial one-sided concessions. Second, constructing an ideology around hating Armenians undermined the attempts at reconciliation and peaceful coexistence. Instead, these policies prepared the ground for the so-called “military solution.” These were deliberate measures by the Aliyev regime to normalize the option of starting a war in the eyes of the Azerbaijani public. The rights of the people living in Artsakh had no value in the jingoistic narratives popularized by the Azerbaijani government. Hence, destroying the enemy by any means was considered acceptable.

It was in this atmosphere of immense hatred that the violations documented in this report were made possible. The dictatorial regime in Azerbaijan glorified the war as an act of humiliating and destroying the enemy. In October 2020, Aliyev stated:

*We will continue to expel these [Armenian] liars. They see who is who now. They see that we were teaching them a lesson they will never forget ... They have neither conscience nor morality. They don't even have the brain.*²⁸

These atrocities were not just a means to meet the objective of seizing territory. Instead, violence against the enemy was an end in itself through which the state ideology of Armenophobia was performed. The Aliyev regime has not changed this approach even after the conflict. Armenians remain the main enemy in the Azerbaijani narratives, making it difficult to imagine any future of Armenian communities under Baku’s rule.

Survival remains the primary concern of Armenians in Artsakh. Their voices are not heard, and their rights are violated systematically. There is weak international oversight in regard to preventing such developments. The Aliyev regime has developed a sense of impunity, as the war did not lead to any ramifications; it is emboldened to continue its atrocious behavior, perpetuating the abuses illustrated in this document.

²⁷ “Azerbaijan Protesters Demand War after Armenia Clashes,” *BBC News*, July 15, 2020, sec. Europe, <https://www.bbc.com/news/world-europe-53415693>.

²⁸ presidentaz, “Ilham Aliyev Addressed the Nation,” October 17, 2020, YouTube video, <https://www.youtube.com/watch?v=PVdWkPP1le4>.

Legal Framework

This chapter presents the legal context in which the events studied in the framework of this report are situated. As the dispute revolves around a self-determination claim by the people of Artsakh, it is crucial to provide a review of the legal aspects of self-determination. As explained below, the Artsakh conflict is an international conflict to which the Geneva Conventions and all IHL rules apply. In addition, despite Azerbaijan's derogations during the 44-Day War, the chapter showcases that fundamental human rights norms are non-derogable. Consequently, Azerbaijan must be held accountable for all the violations found in this report.

The Grounds for Self-Determination

During the sixty-seventh session of the UN General Assembly, Mr. Alfred-Maurice de Zayas delivered his seminal report on the promotion of a democratic and equitable international order. In his report he states:

The unification of States is a sovereign act and an expression of self-determination, consistent with the sovereign equality of States stipulated in the Charter. It cannot be frustrated by the geopolitical interests of third States. Thus, peoples who have been separated by the drawing of colonial or other arbitrary frontiers have a right to demand adjustment and reunification.”

Secession has also occurred outside the decolonization context in response to a people-centred perception that full independence is the only means to restore fundamental rights and freedoms. This aspect of self-determination draws its legitimacy from the fundamental right of rebelling against tyranny, a right of last resort specifically referred to in the preamble to the Universal Declaration of Human Rights.

Guarantees of equality and non-discrimination are necessary for the internal stability of States, but non-discrimination alone may not be enough to keep peoples together when they do not want to live together. The principle of territorial integrity is not sufficient justification to perpetuate situations of internal conflict that may erupt in civil war and threaten regional and international peace and security.

When a multi-ethnic and/or multi-religious State entity is broken up, and the resulting new State entities are also multi-ethnic or multi-religious and continue to suffer from old animosities and violence, the same principle of secession can be applied. If a piece of the whole can be separated from the whole, then a piece of the piece can also be separated under the same rules of law and logic. The main goal is to arrive at a world order in which States observe human rights and the rule of law internally and live in peaceful relations with other States.

[T]he principle of territorial integrity no longer possesses a higher status in international law than the right of self-determination, which is anchored in the Charter of the United Nations and in the International Covenants on Human Rights. A balancing of rights and interests must be carried out, always with a view to achieving greater respect for human rights and widening the democratic space.²⁹

As the previous chapter shows, Artsakh's self-determination claim is as strong today as ever. Self-determination is a fundamental human right secured to the individual³⁰ and to a people, well-founded in law,³¹ recognized as *jus cogens*³² and *erga omnes*,³³ fundamental to the protection and promotion of all other rights,³⁴ and a universal premise for peace and security in the world.³⁵ "Sustainable internal and external peace requires the implementation of self-determination of peoples, which is an expression of democracy: government by consent of the governed."³⁶

In other words, individuals exercise freedom and choice individually through human rights, and collectively through democracy, which presupposes a natural community named a "people," which in turn politically manifests as the nation state. Denial of self-determination is a denial of human rights,³⁷ and denial of self-determination is a cause of violence,³⁸ and is thus a threat to international peace and security as recognized in the UN Charter itself. Also, as a *jus cogens* principle, self-determination applies always, independent of time or history, because it is fundamental in its nature regardless of when it was articulated and recorded, and "just as the rights to life, freedom and identity, it is too important to be waived."³⁹

29 Alfred M. de Zayas, "Interim Report of the Independent Expert on the Promotion of a Democratic and Equitable International Order" (UN General Assembly, August 7, 2014), paras. 34, 52, 70, 76, 82, <https://undocs.org/pdf?symbol=en/A/69/272>.

30 de Zayas, para. 30.

31 See Common Article 1 of "International Covenant on Civil and Political Rights" (UN General Assembly, December 16, 1966), <https://www.refworld.org/docid/3ae6b3aa0.html>; as well as "International Covenant on Economic, Social and Cultural Rights" (UN General Assembly, December 16, 1966), <https://www.refworld.org/docid/3ae6b36c0.html>.

32 de Zayas, "Interim Report," paras. 15, 30, 66.

33 de Zayas, paras. 5, 26, 30, 31.

34 "CCPR General Comment No. 12: Article 1 (Right to Self-Determination), The Right to Self-Determination of Peoples" (UN Human Rights Committee (HRC), March 13, 1984), paras. 1, 5, <https://www.refworld.org/docid/453883f822.html>.

35 "Charter of the United Nations" (United Nations, October 24, 1945), art. 1(2), 55, <https://www.refworld.org/docid/3ae6b3930.html>.

36 de Zayas, "Interim Report," para. 77.

37 The World Conference on Human Rights, "Vienna Declaration and Programme of Action" (UN General Assembly, July 12, 1993), paras. 1, 2, [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/ViennaDeclarationandProgrammeofAction\(1993\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/ViennaDeclarationandProgrammeofAction(1993).aspx).

38 de Zayas, "Interim Report," para. 78.

39 de Zayas, para. 66.

In contrast, territorial integrity is a political claim between states: it is not founded in human rights, it is not an exercise of democracy, it is not an expression of the *jus cogens, erga omnes* principle of self-determination. As per the UN Charter and Common Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), any state is a political entity expressing self-determination itself; a state's *raison d'être* is to express self-determination. Therefore, a state cannot claim territory inhabited by a population exercising self-determination contrary to such a state, because this would mean that the state in question itself is not an expression of self-determination, but only an expression of power. Consequently, a territorial claim in contradiction to an expression of self-determination by inhabitants of a territory is a logical fallacy under the UN Charter and human rights law.

Considering this premise in relation to Artsakh, the Aliyev regime's claim of territorial integrity is not equal to the principle of self-determination as exercised by the Armenians of Artsakh because peace and security, as the UN's overarching goal, is achieved through human rights and self-determination, denial of which is the cause of conflict. Territorial integrity must be weighed against self-determination when dissolution would cause greater conflict, and is only just when the state is in compliance with human rights in general, and with self-determination specifically:

In accordance with the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations, this [the fact the denial of self-determination is a violation of rights] shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.⁴⁰

In this regard, the facts are that during the Soviet Union, Azerbaijan SSR applied apartheid-type policies creating depopulation pressures, which in response produced periodic calls by Armenians for reunification,⁴¹ and that under the context of perestroika in 1988, motions were passed under the regional Soviets and by the

⁴⁰ The World Conference on Human Rights, "Vienna Declaration and Programme of Action," paras. 1, 2., emphasis added.

⁴¹ Christopher J. Walker, "The Armenian Presence in Mountainous Karabakh," in *Transcaucasian Boundaries*, ed. John Wright, Richard Schofield, and Suzanne Goldenberg, 1st ed., The SOAS/GRC Geopolitics Series (Routledge, 1996), 102–3.

Nagorno-Karabakh Autonomous Oblast (NKOA) Assembly for NKOA to be reincorporated into Armenia SSR.⁴² The response to these legal measures to exercise rights was racial retaliation in the form of Azeri pogroms against Armenians living in Sumgait, Kirovabad, and Baku.⁴³ Ultimately, based on a referendum, and with the dissolution of the Soviet Union, NKAO declared independence on September 2, 1991. Thus, the conduct of Azerbaijan SSR and its successor, which waged war against Artsakh, has never been in compliance with ‘the principle of equal rights and self-determination of peoples,’ but rather much to the opposite. This means that the Aliyev regime has no basis for arguing territorial integrity. This is even more true today considering the war crimes and human rights violations of the last war as reported in the findings of this report.

Moreover, borders contrary to self-determination are never faithful expressions of a state. For this reason:

Long-standing historical links to a territory or region, religious links to sacred sites, the consciousness of the heritage of prior generations as well as a subjective identification with a territory must be given due weight. Agreements with persons who are not properly authorized to represent the populations concerned and *a fortiori* agreements with puppet representatives are invalid.⁴⁴

By this logic, Artsakh is Armenian, based on the population and its historic ties. The Tsarist Russian and later Stalinist Soviet borders which separated Artsakh from Armenia, the formation of which were made possible by massacres of Armenians in 1919 and 1920 and by puppet representatives during the Soviet period as explained above, which today’s Aliyev regime uses to claim Artsakh, are illegitimate as per self-determination law.

Furthermore, it is immaterial that at the time it expressed its right to self-determination Artsakh had been named as an autonomous oblast within Azerbaijan, SSR:

When a multi-ethnic and/or multi-religious State entity is broken up, and the resulting new State entities are also multi-ethnic or multi-religious and continue to suffer from old animosities and violence, the same principle of secession can be applied. If a piece of the whole can be separated from the whole, then a piece of the piece can also be separated under the same rules of law and logic. The main goal is to arrive at a world order in which States observe human rights and the rule of law internally and live in peaceful relations with other States.⁴⁵

42 Walker, 104.

43 Cheterian, “Little Wars and a Great Game,” 5–17.

44 de Zayas, “Interim Report,” para. 73.

45 de Zayas, para. 76.

The Soviet Union dissolved, and the Soviet Republics emerged as new states. But these borders were expressions of imperialistic divide and rule, and not expressions of self-determination.⁴⁶ As an autonomous oblast, Artsakh had a right to claim self-determination as a step toward the re-unification that it had already declared.

As the Aliyev regime claims to act on behalf of Azerbaijan, it is legally estopped from claiming territory based on borders created for the benefit of imperialistic third parties, because it is the *erga omnes* obligation of all states to support and make manifest self-determination as of, and as per, the UN Charter. As explained above, as per the UN Charter all states are the political manifestation of self-determination, which cannot hold true should a state's territory include a population that manifests self-determination in contradiction to that state. Also, as per UN Charter Art. 56, all member states pledge to take joint and separate action for the purposes of Art. 55, and Art. 55 stipulates that the UN will strive for peace and stability based in equal rights and self-determination by promoting, amongst other things, universal respect for, and observance of, human rights (self-determination being one such human right). Additionally, in its decisions related to self-determination, the International Court of Justice has commented on the *erga omnes* obligation of other states. It is observed that:

The unification of States is a sovereign act and an expression of self-determination, consistent with the sovereign equality of States stipulated in the Charter. It cannot be frustrated by the geopolitical interests of third States. Thus, peoples who have been separated by the drawing of colonial or other arbitrary frontiers have a right to demand adjustment and reunification. Similarly, artificially separated States have a right to reunification....⁴⁷

In this regard, it has already been stated that Tsarist Russian imperialism first administratively separated Artsakh from Armenia, which was followed by the Stalinist Soviet efforts to divide and rule. Thus, the self-determination of the Armenians of Artsakh is a compelling exercise of self-determination in opposition to imperialism and racism.

⁴⁶ Council of Europe, *Andrei Sakharov and Human Rights* (Council of Europe Publishing, 2010).

⁴⁷ de Zayas, "Interim Report," para. 34.

Conflict Characterization, Applicable Rules, and the Question of Derogation

Due to the *erga omnes* nature of self-determination, it is Armenia's obligation under international law to support self-determination, and Armenia has lent such support to the Armenians of Artsakh in their self-determination claim during and after the dissolution of the Soviet Union. As two states are engaged in the conflict regarding Artsakh's self-determination, the conflict is characterized as an international conflict. As such, the rules of the Geneva Conventions, as well as rules reflecting customary international law norms, apply.

In addition to all customary norms, Azerbaijan is also bound by treaty norms as per IHL and International Human Rights Law (IHRL), as well as regional human rights law (i.e., the European Convention on Human Rights), as follows:

Treaty	Azerbaijan
International Covenant on Civil and Political Rights (ICCPR)	13 Aug 1992 (a)
Convention Against Torture (CAT)	16 Aug 1996 (a)
Convention for the Elimination of Racial Discrimination (CERD)	16 Aug 1996 (a)
European Convention on Human Rights (ECHR)	15/04/2002
Convention for the Protection of all Persons from Enforced Disappearance	06.04.2007
Geneva Conventions	01.06.1993
Convention on Mercenaries	04.12.1997
Convention prohibiting Chemical Weapons	29.02.2000
Convention on the Prohibition of Biological Weapons	26.02.2004
Hague Convention for the Protection of Cultural Property, 1954	20.09.1993
Hague Protocol for the Protection of Cultural Property, 1954	20.09.1993
Second Hague Protocol for the Protection of Cultural Property, 1999	17.04.2001
Genocide Convention	16.08.1996

Although Azerbaijan is not a State Party to the Additional Protocols of the Geneva Conventions, and therefore not bound directly by these provisions, in this report all references to the Additional Protocols are made to the extent and limited to the norms that are reflective of customary international law, and therefore still applicable as law to Azerbaijan.

It has become widely accepted that in situations of armed conflicts, IHL and IHRL apply concurrently⁴⁸ with the interrelationship between these two areas of law perceived as being complementary to each other. Depending on the exact norm in question, for example the right to life or freedom from torture, the primary norm of reference might be different depending on whether IHL or IHRL is applied, or both may apply. But for certain issues, like POWs, the sense is that Geneva Convention III is unique as it is specific to the topic. Complementary application of IHL and IHRL may entail the application of human rights norms in order to fill gaps in humanitarian law and to apply the norms of both regimes in order to heighten the level of protection, or to interpret the norms in consideration of each other.⁴⁹

It should also be noted that per certain treaties, states may derogate, or excuse themselves, from some obligations during war or emergency. However, while some norms are derogable, others are not, including the right to life: ICCPR allows no derogation for the right to life, whereas the European Court of Human Rights (ECHR) allows such derogation only “in respect of deaths resulting from lawful acts of war.” Additionally, Article 15 of ECHR allows no derogation from Articles 3 (prohibition on torture), 4(1) (slavery) and 7 (no punishment without law).

As for the ICCPR, the Human Rights Committee (HRC) has clarified the nature of a state’s obligations in times of emergencies, including armed conflicts. It has confirmed that even with derogating from their obligations under human rights treaties, which states can do “only if and to the extent that the situation constitutes a threat to the life of the nation,” the States shall observe their other obligations under international law, including their IHL obligations⁵⁰. According to the HRC, the ICCPR:

requires that even during an armed conflict measures derogating from the Covenant are allowed only if and to the extent that the situation constitutes a threat to

48 Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, ICJ, 8 July 1996, para 25; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, ICJ, 9 July 2004, para 106; Case Concerning Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, ICJ Reports 2005, paras 168, 216-219; HRC, General Comment no 36, para 64.

49 Héctor Gros-Espiell, “Humanitarian Law and Human Rights,” in Human Rights: Concept and Standards, ed. Janusz Symonides (Routledge, 2000), 345–59.

50 “CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency” (UN Human Rights Committee (HRC), August 31, 2001), para. 9, <https://www.refworld.org/docid/453883fd1f.html>.

the life of the nation. If States parties consider invoking Article 4 in other situations than an armed conflict, they should carefully consider the justification and why such a measure is necessary and legitimate in the circumstances⁵¹.

In other words, it is necessary to consider and assess the necessity and justification of each measure. It is also imperative not to blanket these issues with general statements as to the necessity of taking derogating measures.

Moreover, it is particularly important that States also “justify specific measures taken pursuant to the derogation and show that it is required by the exigencies of the situation, and the mere fact that a permissible derogation from a specific provision may, of itself, be justified by the exigencies of the situation does not obviate that requirement.”⁵² This will ensure that no provision of the Covenant, however validly derogated from, will be entirely inapplicable to the behavior of a State party. When considering States parties’ reports, the Committee has expressed its concern over insufficient attention being paid to the principle of proportionality⁵³.

In its Depositary Notification of 29 September 2020, the State of Azerbaijan informed the Secretary General of “exercising its right of derogation from its obligations under Articles 9, 12, 14, 17, 19, 21 and 22” of ICCPR. It was further mentioned, in general terms, that:

The measures taken by the Government are proportionate and targeted. Pursuant to Article 4, paragraph 1 of the International Covenant on Civil and Political Rights, the measures are required by the exigencies of the situation and consistent with the State’s other obligations under international law⁵⁴.

The text does not contain any specification as to the exact scope and nature of the ‘measures’ taken, or to be taken. However, it is required, as it has explicitly been stated by the HRC that the necessity and proportionality of a measure be assessed separately in each particular case.

Nevertheless, in derogating from its human rights obligations under ICCPR, Azerbaijan is bound by the restrictions regarding derogating measures. Specifically, even in relation to those provisions that are not listed in Article 4, para 2 (i.e., the provisions which are derogable), there are elements that cannot be made subject to lawful derogation. Such elements are, but are not limited to, that:

51 “CCPR General Comment No. 29,” para. 3.

52 “CCPR General Comment No. 29,” para. 4.

53 “CCPR General Comment No. 29,” para. 4.

54 “Reference: C.N.575.2020.TREATIES-IV.4 (Depositary Notification) [Depositary Notification by the Ministry of Foreign Affairs of Azerbaijan Filed with the Secretary General of the UN]” (UN, September 29, 2020), <https://treaties.un.org/doc/Publication/CN/2020/CN.575.2020-Eng.pdf>.

- (a) all persons deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person;
- (b) prohibitions against taking of hostages, abductions or unacknowledged detention, which are absolute prohibitions;
- (c) respect for the protection of the rights of persons belonging to minorities, which are reflected in the prohibition against genocide in international law, in the inclusion of a non-discrimination clause in Article 4, para 1, as well as the non-derogable nature of Article 18;
- (d) prohibition of deportation and forcible transfer as prohibited under international law⁵⁵.

Azerbaijan has filed for derogations from its obligations under ECHR as well. On 28 September 2020, it filed a *note verbale*⁵⁶ with the Secretary General of the Council of Europe notifying about the exercise of the right to derogation from its obligations under Articles 5, 6, 8, 10 and 11 of the Convention, Article 1 and 2 of the Protocol to the Convention, and Article 2 of the Protocol No.4 to the Convention. The derogation was lifted on 12 December 2020. It is to be noted that ECHR, in turn, requires that derogations comply with certain conditions, namely that they can be invoked only in times of war or other public emergency threatening the life of a nation, that the measures taken not go beyond the extent strictly required by the exigencies of the situations, and that those measures not be inconsistent with the State's other obligations under international law⁵⁷. In any case, no derogation can imply the imposition of measures which are in violation of the State's other obligations under international law.

In conclusion, the fact that Azerbaijan claims derogation of certain rights has been observed in preparation of this report, but due to limits on derogation, and due to the complementary nature of IHL and IHRL whereby one applies to fill the gap should any framework prove insufficient, it is submitted that all the findings of violations of law revealed in this report are valid beyond question and require international, regional, and national actors to hold the perpetrators accountable. Also, as self-determination is a *jus cogens* and *erga omnes* norm, Artsakh's self-determination claim remains so long as the population remains on the territory. This reality is pertinent to the ethnic cleansing aspects of the war discussed below.

⁵⁵ "CCPR General Comment No. 29," para. 13.

⁵⁶ Ministry of Foreign Affairs of the Republic of Azerbaijan, "Note Verbale No. 5/11-3283/01/20," December 15, 2020, 20, <https://rm.coe.int/0900001680a0bee4>.

⁵⁷ "Guide on Article 15 of the European Convention on Human Rights: Derogation in Time of Emergency" (Council of Europe; European Court of Human Rights, April 30, 2021), https://www.echr.coe.int/documents/Guide_Art_15_ENG.pdf.

Systemic Racism and Armenophobia: Acts of Ethnic Cleansing

The war crimes and human rights violations documented in this report occur in the context of anti-Armenian racism and Armenophobia propagated over years by the Azerbaijani government and President Aliyev himself. This context has been a contributing factor in the scale and nature of the many gross human rights violations that have been documented. Taken together, the actions of the Aliyev regime in promoting such racism amounts to war propaganda in violation of Article 20 of the International Covenant on Civil and Political Rights (ICCPR), as well as race-based incitement to violence in violation of Article 4 of the Convention on the Elimination of Racial Discrimination (CERD). These constitute crimes of aggression as per Article 8*bis* of the Rome Statute of the International Criminal Court (ICC).

Both the wartime statements of Azerbaijani public officials and actions of their armed forces were marked by an unprecedented Armenophobia. Azeri media outlets and social media were flooded with hateful statements and publications. Because of this propaganda, calls to use violence against Armenians and murder them, as well as public social media posts with horrific scenes of violence and brutality against Armenian civilians and soldiers, have found widespread endorsement and approval in Azerbaijani society⁵⁸. As this section demonstrates, anti-Armenian racism served as the ideological ground for the war crimes and attempts at ethnic cleansing during the 44-Day War. The overall aim of the Aliyev regime has been to rid Artsakh of its Armenian population and heritage.

Armenians as the Enemy: Racism as a Justification for Subjugation and Annihilation

The racism of the Aliyev regime against Armenians is well documented before, during and after the 44-Day War. The UN Committee for the Elimination of Racial Discrimination (CERD) documented such racism in its conclusive observations for the years 2001, 2005, 2009, and 2016. In the 2016 report, Aliyev's glorification of an Azeri army officer convicted in Budapest of beheading an Armenian army officer with an axe during a NATO training is particularly telling. The Aliyev regime

58 "The Updated Edition of the Second Interim Report on the Azerbaijani Atrocities against the Artsakh Population in September-October 2020," Interim Report (Stepanakert: The Human Rights Defender of the Republic of Artsakh, October 18, 2020), <https://artsakhombuds.am/en/document/735>.

procured the convict's release to Azerbaijan and pardoned him despite no legal provision in Azerbaijan to do so. CERD condemned the act stating that, "by welcoming a citizen of the State party convicted of murdering an Armenian as a national hero and by pardoning and releasing that person upon transfer, the State party condones racial hatred and hate crimes and denies redress to victims."⁵⁹ This case, along with other instances, were also addressed by the UN Human Rights Committee (HRC) under its 2016 review of Azerbaijan's human rights obligations⁶⁰.

With regard to this same case, the European Commission against Racism and Intolerance (ECRI) stated that the Aliyev regime had acted, "without taking into account the risk of cultivating a sense of impunity for the perpetrators of racist crime."⁶¹ Moreover, in a case before the European Court of Human Rights (ECHR), the court found that the pardon and favoritism bestowed on the murderer were "racially motivated" and created impunity, and the court deplored the numerous statements, "by a number of Azerbaijani officials glorifying R.S., his deeds and his pardon," which, "expressed particular support for the fact that R.S.'s crimes had been directed against Armenian soldiers, congratulated him on his actions and called him a patriot, a role model and a hero."⁶²

Furthermore, the ECRI 2003 report documented the promotion of widespread negative sentiment towards Armenians, and the 2007 report explained how politicians and media fuel negative stereotypes which not only cause harassment to the few Armenians still in Azerbaijan, but also negatively impact NGOs and human rights advocates who try to defend such person's rights⁶³. In its 2016 report, ECRI found that human rights advocates working towards reconciliation with Armenia are tried and sentenced on spurious charges, and that, "political leaders, educational institutions and media have continued using hate speech against Armenians; an entire generation of Azerbaijanis has now grown-up listening to this hateful rhetoric."⁶⁴ Cumulatively, this evidence shows that anti-Armenian racism under the Aliyev regime worsens over time, despite calls by international and regional mechanisms for the government to take corrective action.

59 "Concluding Observations on the Combined 7th to 9th Periodic Reports of Azerbaijan," 3.

60 "Concluding Observations on the Fourth Periodic Report of Azerbaijan."

61 "ECRI Report on Azerbaijan (Fifth Monitoring Cycle)" (European Commission against Racism and Intolerance, June 7, 2016), 21, <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>.

62 Case of Makuchyan and Minasyan v. Azerbaijan and Hungary, No. 17247/13 (European Court of Human Rights October 12, 2020).

63 "Report on Azerbaijan" (Strasbourg: European Commission against Racism and Intolerance, April 15, 2003), <https://rm.coe.int/first-report-on-azerbaijan/16808b5579>; "Second Report on Azerbaijan."

64 "ECRI Report on Azerbaijan (Fifth Monitoring Cycle)," 9.

A 2008 report from the Organization for Security and Co-operation (OSCE) found that in Azerbaijan, anti-Armenian propaganda is carried out in the following manner:

- formation of the image of Armenians as enemy and aggressor, and self-assuring the right of Azerbaijan towards Armenian territories;
- deliberate policy on distortion of the fact of the Armenian Genocide in the Ottoman Empire. To this end, the Azerbaijani authorities invented the idea to declare their own people as “victims of genocide”, and with this in mind President Heidar Aliyev signed in 1998 a Decree “On genocide of Azerbaijanis”. This document, which is full of false accusations, not supported by any reliable sources, credible research or even a single historical document, had another purpose as well, namely to render support in a form of diversion to Azerbaijan’s ethnically kin Turkey in the latter’s attempt to deny the Armenian Genocide;
- to create enmity between Armenians and Jews; in this regard efforts are made to prove the “anti-Semitic nature” of Armenians;
- searching for Armenian traces and blaming Armenians for virtually all internal failures of Azerbaijan;
- resonating to every single negative event in Armenia, in particular when the question is under the attention of the international community⁶⁵.

Additionally, Azerbaijan bans citizens from naming their children with Armenian names⁶⁶. Such anti-Armenian propaganda and Armenophobia classifies Armenians as the ‘other’ and as the enemy of Azeris. There are multiple examples of negative stereotypes and symbolizations of Armenians in this regard. Under the Aliyev regime, public school textbooks label all Armenians as “enemies,” “traitors,” “separatists,” “terrorists,” “extremists,” “fascists,” and just plain “nasty.”⁶⁷ In one children’s book, Armenians are described as “a futureless nation with a dead morality, with a mixture of rubbish and waste flowing in their veins, a spiteful and despicable nation...”⁶⁸ Moreover, in 2018 Aliyev himself publicly declared, “Armenia is a loser state ... Their heroes, their generals are thieves, their army is an army of thieves ... The difference between us is like between heaven and earth....”⁶⁹

65 “Anti-Armenian Propaganda and Hate Dissemination Carried out by Azerbaijan as a Serious Obstacle to the Negotiation Process” (OSCE, October 7, 2008), 3, <https://www.osce.org/files/f/documents/e/b/34195.pdf>.

66 Armine Adibekyan and Anzhela Elibegova, *Armenophobia in Azerbaijan* (Yerevan: Information and Public Relations Center of the Administration of the President of the Republic of Armenia, 2015).

67 “Armenian Image in History Textbooks of Azerbaijan.”

68 Adibekyan and Elibegova, *Armenophobia in Azerbaijan*, 93.

69 “Collection of War Threat Statements by the President Ilham Aliyev and Other Azerbaijani Officials,” 1.

This degradation through symbolization is also mimicked by other politicians and civic leaders in Azerbaijan. Such derogatory portrayals are further enhanced by dehumanization, in which Armenians are equated to animals and to diseases. Speaking to a forum of the Organization of the Black Sea Economic Cooperation on May 17th, 2012, Elmur Aslanov, the Azerbaijani Chief of Political Analysis and Information, commented: “Armenia is a grey spot on the map of the South Caucasus. It is ‘cancer’ of the region through which the illegal traffic of arms and drugs go.”⁷⁰

Given this history, it is understandable that during the 44-Day War there was a notable wave of hateful expression and Armenophobia. A few examples are listed below:

- “We will continue to expel these [Armenian] liars. They will see who is who now. They will see that we were teaching them a lesson they will never forget ... They have neither conscience nor morality. They don’t even have the brain.” -- Statement by President Aliyev, October 2020⁷¹.
- “Now we are going to kick them out like dogs.” -- President Aliyev referring to Armenians on October 4, 2020⁷².
- “For 30 years, it was in the hands of wild beasts, in the hands of predators, in the hands of jackals.” -- Aliyev referring to Artsakh on October 17, 2020⁷³.



Figure 6.1. Azerbaijani Postal Stamps, January 2021 (Source: the Calvert Journal)

On October 22, 2020, Azerbaijan announced production of new UAVs and named them ‘ItiQovan’ which in Azerbaijani means ‘dog chaser.’⁷⁴ Further dehumanizing symbolization includes an Azerbaijani postal stamp depicting the “disinfecting” of Artsakh of its Armenian population, similar to the eradication of a virus⁷⁵.

70 “Collection of War Threat Statements by the President Ilham Aliyev and Other Azerbaijani Officials,” 61.

71 presidentaz, “Ilham Aliyev Addressed the Nation,” October 17, 2020, YouTube video, <https://www.youtube.com/watch?v=PVdWkPP1le4>.

72 “President Aliyev: Azerbaijani Soldiers Drive Them Away like Dogs,” Defence.Az, October 4, 2020, <https://bit.ly/3qpANIs>.

73 “Azerbaijani President Ilham Aliyev Addresses Nation on TV - Video - Updated,” Defence.Az, October 20, 2020, <https://bit.ly/37QymCi>.

74 @cavidaga, “Following Aliyev’s This Speech, Azerbaijan Starts to Mass Produce Local Made UAVs - ‘Dog Chaser’,” Twitter, October 22, 2020, <https://twitter.com/cavidaga/status/1319158918908698625>.

75 Lucía de la Torre, “Azerbaijani Postal Stamps Accused of Spreading Anti-Armenian Propaganda,” The Calvert Journal, January 12, 2021, <https://www.calvertjournal.com/articles/show/12442/azerbaijan-stamps-nagorno-karabakh-war-anti-armenian-propaganda>.

Concurrent with the racist classification, symbolization, and dehumanization of Armenians under the Aliyev regime is discrimination in law and practice. Azerbaijani citizens of Armenian descent still living in Azerbaijan are subjected to discrimination and harassment regarding employment, housing, social services, and obtaining passports⁷⁶. They also face obstacles with regard to schooling, pensions, and renewal of resident permits for Baku. Judicial proceedings to secure such rights systemically fail⁷⁷.

Expressions of racism and hateful speech towards Armenians continued after the 44-Day War. Examples include Aliyev's post-war claims to parts of Armenia proper. While pronouncing victory in the 44-Day War, Aliyev declared that "Zangazur [Syunik], Goycha [Sevan] and Iravan [Yerevan] districts are our historical lands."⁷⁸ In April 2021, Aliyev made these claims more explicit:

We want the young generation to know that Zangazur is the historical land of Azerbaijan. Zangazur was given to Armenia in 1920, 101 years ago. Before, that area was ours. They call Lake Goycha Lake Sevan. Just look at the map of the early 20th century, you will not see Sevan there. The same applies to Irevan [Yerevan]. They destroyed the historical part of Yerevan. It is an obvious fact that Azeris, including my ancestors, lived there ... I said we would go back there. I did not say that we would return with tanks. I said we would return. If we return to the Zangezur corridor, if we use that road, then why not return to Yerevan? The time will come, we will do it. I express my position⁷⁹.

These statements show how the regime and Aliyev himself combine anti-Armenian racism with threats of territorial expansion, amounting to war propaganda, incitement to hostilities, and classic aggression.

Whereas ICCPR, Art. 20, specifies that states must prohibit by law war propaganda and advocacy of racial hate to incite hostilities or violence, the logic behind such prohibitions must also mean that states themselves, and political leaders in particular, must not engage in such war propaganda and hate-based advocacy. In fact,

⁷⁶ "2011 Country Reports on Human Rights Practices - Azerbaijan" (United States Department of State, May 24, 2012), <https://www.refworld.org/docid/4fc75abd5.html>; "2016 Country Reports on Human Rights Practices - Azerbaijan" (United States Department of State, March 3, 2017), <https://www.refworld.org/docid/58ec8a753.html>.

⁷⁷ "Report on Azerbaijan"; "Second Report on Azerbaijan."

⁷⁸ "At Baku Victory Parade, Aliyev Calls Yerevan, Zangezur, Sevan Historical Azerbaijani Lands, Erdogan Praises Enver Pasha," *The Armenian Mirror-Spectator*, December 11, 2020, <https://mirrorspectator.com/2020/12/11/at-baku-victory-parade-with-erdogan-aliyev-calls-yerevan-zangezur-sevan-historical-azerbaijani-lands-erdogan-praises-enver-pasha/>.

⁷⁹ "Ombudsman: Azerbaijani President's Latest Statements Proof of Fascism and Genocidal Policy towards Armenians," *Panorama.am*, April 14, 2021, <https://www.panorama.am/en/news/2021/04/14/ombudsman-azerbaijani-president/2485784>.

the Human Rights Committee has declared: “The Committee, therefore, believes that States parties which have not yet done so should take the measures necessary to fulfil the obligations contained in article 20, and should themselves refrain from any such propaganda or advocacy.”⁸⁰

Moreover, CERD Art. 4 also requires states to prohibit by law race-based incitement to violence, and Art. 4(c) explicitly adds that: “States shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.” In interpreting Art. 4(c) the Committee has further specified that: “Article 4(c) of the Convention outlines the obligations of public authorities. Public authorities at all administrative levels, including municipalities, are bound by this paragraph. The Committee holds that States parties must ensure that they observe these obligations and report on this.”⁸¹ Thus, the anti-Armenian racism promoted by the Aliyev regime is in clear violation of these international norms.

The wave of Armenophobia and threats continue. For example, in early 2021 President Aliyev made a video address, summarizing the previous year, where he threatened the Armenians and humiliated their dignity: “We stopped the war when Armenia accepted its humiliating defeat, fell on its knees and surrendered...” When speaking about Armenian officials’ visits to Artsakh, Aliyev publicly stated: “What is the Armenia’s Foreign Minister doing in Stepanakert? Let them [Armenians] not forget the war, our iron hand is still there. The visits of Armenians must be stopped. We warn that Armenia will have more regrets, if such inflammatory steps continue. Minister of Foreign Affairs of Armenia, who are you? If one more such step is made, our response will be vicious.”⁸²

On 12 April 2021, President Aliyev participated and had a speech during the opening of the ‘Trophy Park’ dedicated to the 44-Day War in Baku. The ‘park’ features Armenian military equipment and wax figures (mannequins) of Armenian soldiers, who are depicted in an extremely dehumanizing and degrading way; this incites hostile, disdainful and negative attitudes against ethnic Armenians. Such public exhibition grossly disrespects servicepersons killed during the war, as well as those taken captive or missing. It inflicts deep suffering in the families of those servicepersons and hurts the dignity and national feelings of Armenians.

⁸⁰ “CCPR General Comment No. 11: Article 20 Prohibition of Propaganda for War and Inciting National, Racial or Religious Hatred” (UN Human Rights Committee (HRC), July 29, 1983), emphasis added, <https://www.refworld.org/docid/453883f811.html>.

⁸¹ “General Recommendation XV on Article 4 of the Convention” (The UN Committee on the Elimination of Racial Discrimination, 1993), para. 7, <https://bit.ly/3qp77bt>.

⁸² АЗЕРТАДЖ Новости, “Состоялось Сопровождение в Видеоформате, Посвященное Итогам 2020 Года” January 6, 2021, YouTube video, https://www.youtube.com/watch?v=_gvL0JmGLQ8.

The evidence of racism presented above, along with the war crimes and infringements of international law documented throughout this report, support the charge that Aliyev himself has engaged in the crime of aggression under the Rome Statute of the ICC. The crime of aggression criminalizes the planning, preparation, initiation, or execution, by one in control of the state apparatus, of an act or acts of aggression, which by their nature and gravity violate the UN Charter. Acts of aggression include, among others: invasion, attack, occupation, bombardment, and the use of mercenaries⁸³. The UN Charter seeks to secure peace and security for all by, in part, promoting and protecting human rights, including self-determination, and the Charter specifically forbids discrimination based on race⁸⁴. Additionally, the International Court of Justice has held that a state practicing racism and suppressing self-determination is in violation of the UN Charter and its provisions⁸⁵.

Ethnic Cleansing: Having Artsakh without Armenians

“Azerbaijanis want to annihilate the population of Artsakh.”

- *A resident of Shushi*⁸⁶

Today in Artsakh, 193 communities once populated by Armenians are empty of their inhabitants and are occupied by Azerbaijani troops⁸⁷. It is a vivid act of ethnic cleansing, just as defined in the UN’s report on human rights abuses in the former Yugoslavia – “a systemic purge of the civilian population based on ethnic criteria, with a view to forcing it to abandon the territories where it lives.”⁸⁸ As Azerbaijani troops advanced, civilians fled, leaving behind their homes, their livelihoods, and their sense of community and belonging. These displaced persons, whether displaced to other areas of Artsakh or to Armenia proper, will need years of resettlement.

83 UN General Assembly, “Rome Statute of the International Criminal Court,” 92-9227-227-6 § (1998), <https://www.refworld.org/docid/3ae6b3a84.html>.

84 “Charter of the United Nations.” Art. 1, 2.

85 Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) (International Court of Justice June 21, 1971).

86 Interview with a resident of Shushi, 21 December 2020.

87 “Արցախը Ջրապարակել է Ադրբեջանի Տսկողության Տակ Անցած Համայնքների և Բնակավայրերի Ցանկը,” Ազատություն Ռադիոկայան, December 10, 2020, <https://www.azatutyun.am/amp/30993297.html>.

88 Tadeusz Mazowiecki, “Situation of Human Rights in the Territory of the Former Yugoslavia: 6th Periodic Report on the Situation of Human Rights in the Territory of the Former Yugoslavia / Submitted by Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, Pursuant to Paragraph 32 of Commission Resolution 1993/7 of 23 February 1993.” (UN. Commission on Human Rights. Special Rapporteur on the Situation of Human Rights in Bosnia and Herzegovina, February 21, 1994), para. 283, <https://digitallibrary.un.org/record/226410>.

ment support. Azerbaijan gained territory and natural resources, devoid of any Armenian population. For Azerbaijan, the ethnic cleansing fueled by racism, gross human rights violations and impunity, has been a success.

Despite the International Humanitarian Law (IHL) that protects civilians, Armenian families and communities rightly feared atrocities and fled. Such fear was justified considering the past and current context: a racist ideology, racist propaganda, recruitment of mercenaries, and gross violations of human rights such as extrajudicial killings and dissemination of such crimes via social media.



Figure 6.2. People Fleeing Artsakh to Armenia, 7 November 2020 (Source: AP)

Civilians left behind were taken hostage, tortured, or abused, and sometimes brutally executed. It is not surprising that Armenians living in Artsakh understood Azerbaijan's military operations as a way to uproot their presence, by any and all means. For instance, a resident who fled from Togh village, in the Hadrut district of Artsakh, stated:

They can kill everyone overnight and keep their promise — to keep in the museum the last Armenian alive. The Armenian nation may be wiped out. I cannot live with their flag flying over my head, I know how dangerous they are. They will force everyone to change religion, speak their language and gradually achieve their goal⁸⁹.

⁸⁹ Interview with a resident of Togh, 25 February 2021.

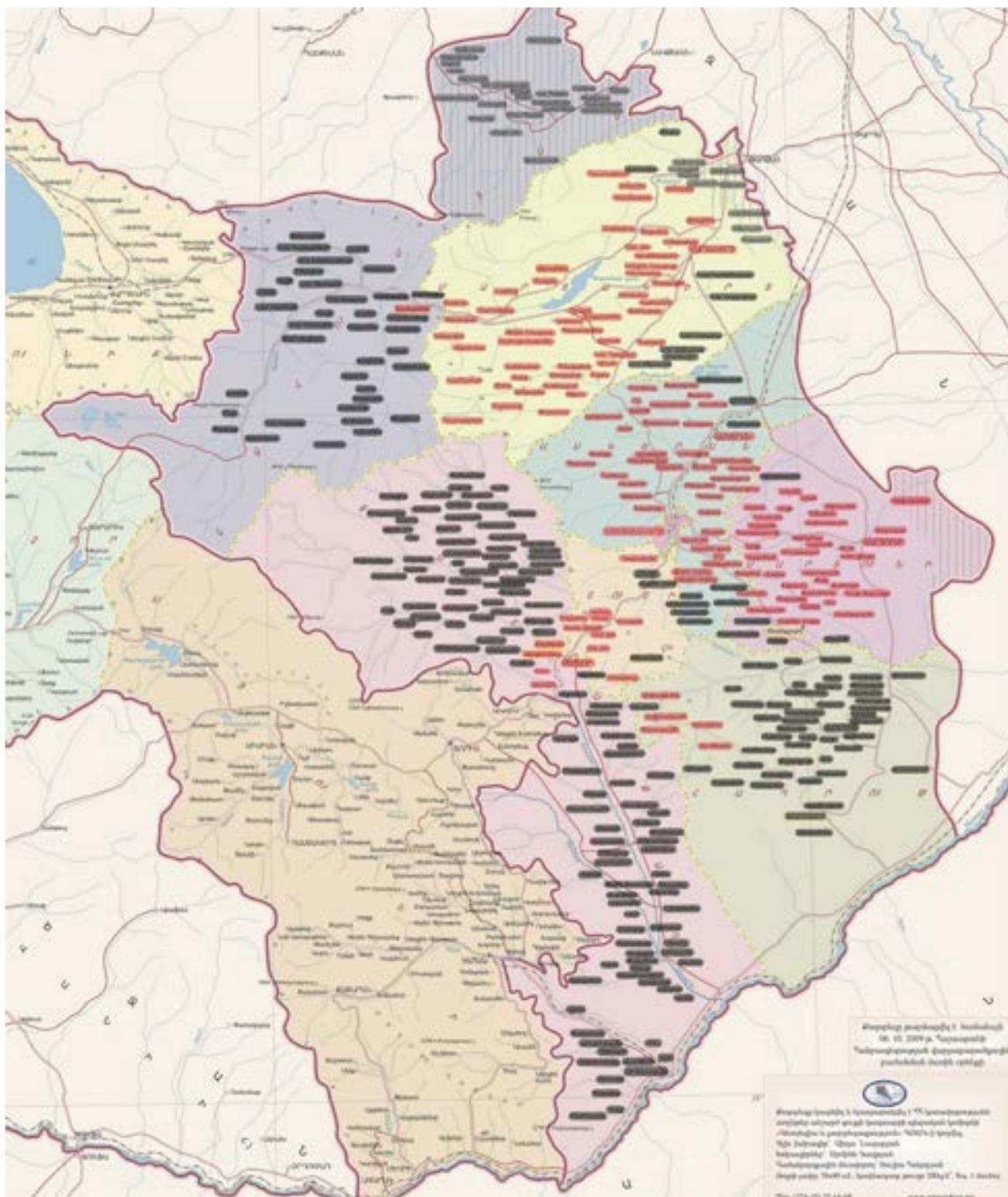


Figure 6.3. Map of Artsakh Communities under Armenian (Red) and Azerbaijani (Black) Control, 11 December 2020 (Source: Fact Investigation Platform)

Of a population of approximately 150,000, more than 90,000 people fled Artsakh to Armenia during the war⁹⁰. As of February 2021, assessments showed that 68,000 households remained in a refugee-like status, and of such households, nearly

⁹⁰ “Արցախից Տեղահանված եվ Հայաստան ժամանած Անձանց Տվյալների Հավաքագրում,” Migration Services of Armenia, December 18, 2020, <http://www.migration.am/news/412>.

37,000 remain in Armenia and are not expected to return to Artsakh⁹¹. Also, within Artsakh, many households displaced from their villages and towns remain in temporary shelters, mostly in Stepanakert. And as international humanitarian groups report: “most of the territory now under Azerbaijani control is empty, as any ethnic Armenians who had lived there have fled, and Azerbaijan has yet to develop plans for resettlement.”⁹²

In this situation, Armenians from Artsakh are afraid to return to their homes. As a resident of Askeran states:

We want to return home, even full of fear but... It is not safe to live when Azeris are just three km away, or less. In the past, the borders were stronger, though Azeris were again encroaching, now it will happen more often...⁹³

A resident of Togh village, Hadrut District expresses similar concerns: “If we take into account that the Azeris can cut off our heads, how can we return and live calmly next to them?”⁹⁴

The *de facto* situation makes the lives of those who have chosen to remain in Artsakh very difficult. A recent report by the International Crisis Group notes:

The shifting frontlines have placed Armenian military positions inside or right next to civilian settlements. Dozens of Armenian villages, and most of Artsakh’s Armenian-populated towns, including Stepanakert, are within sight of Azerbaijani troops based in Shusha or nearby. Soldiers on each side can hear their enemies talking on the other. Azerbaijani soldiers are also within earshot of Armenian civilians. ‘They are so close that at night we can hear them laughing’, said one villager.⁹⁵

Moreover, a review of a map of the region clearly shows how indefensible the new borders are. Armenia is to the west and Azerbaijan to the east; communities in red are inhabited by Armenians, and former communities now occupied by Azerbaijan are in grey.⁹⁶ Over the long term, this situation of instability and uncertainty

91 “Multi-Sector Needs Assessment in Armenia, Second Round” (REACH, June 2021), https://reliefweb.int/sites/reliefweb.int/files/resources/REACH_ARM_Report_ARM2002_MSNA-Second-round_June-2021.pdf.

92 “Post-War Prospects for Nagorno-Karabakh” (International Crisis Group, June 9, 2021), <https://www.crisis-group.org/europe-central-asia/caucasus/nagorno-karabakh-conflict/264-post-war-prospects-nagorno-karabakh>.

93 Interview with A. B., a resident of Avetaranots, 25 November 2020.

94 Interview with A. A., a resident of Togh, 04 December 2020.

95 “Post-War Prospects for Nagorno-Karabakh” (International Crisis Group, June 9, 2021), <https://www.crisis-group.org/europe-central-asia/caucasus/nagorno-karabakh-conflict/264-post-war-prospects-nagorno-karabakh>.

96 Նազարեթյան, Յովհաննես, “Արցախը պատերազմից հետո ինչ մնաց,” Փաստերի ստուգման հարթակ, November 25, 2020, <https://fip.am/13932>.

leads to emigration. People need to know whether it is worthwhile to rebuild their lives where they are now. As one former resident of Jrakan (Jebrail) stated:

I do not want to return. Firstly, there is no Jebrail, no Hadrut; secondly, it all has been desecrated. It is a stress for me and the children; every time my children see photos related to their childhood places, they are becoming stressed. Besides, it would be better if we leave the country. I am waiting for the Spring. I don't know, whatever they create here, good for them, but I have decided to leave.⁹⁷

Unless security can be restored, more Armenians will emigrate as Artsakh faces disintegration. This is in line with the goal of the Aliyev regime: to acquire territory devoid of a specific group of people. This act, which entails separating a population from their homes, communities, natural resources, and sources of livelihood, not only creates physical and mental trauma and loss, but also renders the whole ethnic group less sustainable in terms of physical sustenance, as well as community and identity. For this reason and others, the UN General Assembly also concluded that ethnic cleansing is a form of genocide.⁹⁸

For victims of ethnic cleansing, community and historic bonds that serve as a premise for identity are lost, rendering ethnic identity more less permanent. Consider the material and cultural loss expressed by the victims:

- “That village is a sacred place for me; I left there my parent’s grave, that is the most important thing for me.” Resident of Aknaghbyur Village, Askeran District.⁹⁹
- “My husband’s grave — left there — is the most painful for me. I had more than 5,000 books in the library. If I would have known, I would have at least taken with me old photos.” Resident of Hadrut, Hadrut District.¹⁰⁰
- “It is a bit difficult to live in Stepanakert and not go to Hadrut, not travel on the road to home...” Resident of Togh Village, Hadrut District.¹⁰¹
- “I left all my books behind...we had a huge library with some unique books signed by the authors; I had given part of the collection to my daughter living in Shushi. It causes me pain and suffering the most. I was painting and left there about 175 paintings. We had a very old, beautifully handmade dresser. We had a very old carpet that many tried to buy but we did not sell. One of the most important things left behind are our photo books. My youngest daughter just got married, we put together the dowry for her and this also very much hurts me; we can survive the rest. We are the 5th generation of descendants in Hadrut.”¹⁰²

97 Interview with a resident of Jabrayil, 25 November 2020.

98 “The Situation in Bosnia and Herzegovina: Resolution / Adopted by the General Assembly” (UN General Assembly, December 20, 1993), <https://www.refworld.org/docid/3b00f30940.html>.

99 Interview with S. G., a resident of Aknaghbyur, 25 November 2020.

100 Interview with a resident of Hadrut, 03 December 2020.

101 Interview with a resident of Togh, 04 December 2020.

102 Interview with a couple from Hadrut, 21 December 2020.

Since the breakout of the war, around 10,021 civilians had to flee from different villages of the Hadrut district, which is a unique community with idiosyncratic linguistic identity and collective memory. Essentially, after signing the ceasefire agreement on 9 November 2020, the population of the Hadrut district has been subjected to ethnic cleansing, being deprived of any prospect for a return to their home and denied any chance to visit the graves of their relatives. This creates threats for the preservation of their identity and connection with historical roots. Displacement also weakens the foundations upon which the ethnic and cultural identity of individuals, families, and communities are based.

Families that have lost their homes need housing, and the most recent needs-assessment places housing as the top priority.¹⁰³ After housing, the second most pressing issue is employment. As reported in other sections of this report, many villagers were self-sustaining based on their livestock, lands and local agriculture. These sources of livelihood are lost and can only be replaced by employment. Helping to solve these resettlement issues, whether these be families remaining in Armenia or in Artsakh, is a substantial burden for a struggling nation.

Impunity due to the Lack of Pressure

It is noteworthy that the Azerbaijani government has not faced any substantial opposition to its racist policies and attempts at ethnic cleansing, particularly internationally. Despite numerous reports that document the state level policy of racism towards Armenians, Azerbaijan does not show signs of changing its behavior. It marginalizes its opposition and silences human rights defenders by proclaiming them to be of Armenian ancestry, by labeling them as part of “the Armenian conspiracy,” or by connecting them with Armenians in other ways. Consider the following examples:

- prominent writer Akram Aylisli described in a novel violence by Azeris against Armenians in the 1920s and he was labeled “a traitor of the Azerbaijani nation”¹⁰⁴ and his wife and son lost their public sector jobs;¹⁰⁵
- prominent blogger and journalist Arzu Geybullayeva criticized the Aliyev regime and founded a conflict transformation center, and in response she was labeled a “traitor” and was sent death threats;¹⁰⁶

103 “Multi-Sector Needs Assessment in Armenia, Second Round” (REACH, June 2021), https://reliefweb.int/sites/reliefweb.int/files/resources/REACH_ARM_Report_ARM2002_MSNA-Second-round_June-2021.pdf.

104 “Azerbaijani Writer’s Books Burned,” Radio Free Europe/Radio Liberty, February 11, 2013, sec. Azerbaijan, <https://www.rferl.org/a/azerbaijani-writer-books-burned-akram-aylisli/24898784.html>.

105 “2013 Country Reports on Human Rights Practices - Azerbaijan” (United States Department of State, February 27, 2014), <https://www.refworld.org/docid/53284b6114.html>.

106 Aimee Hamilton, “Azerbaijan: Journalist Arzu Geybulla Threatened,” Index on Censorship, October 10,

- journalist Rauf Mirgadirov, who reported on political developments and key human rights issues in Azerbaijan and Turkey was deported from Turkey to Azerbaijan and then prosecuted for espionage, allegedly done on behalf of Armenia, despite protest from Human Rights Watch, Freedom House, Reporters without Borders, and others who consider the charges spurious;¹⁰⁷
- human rights defenders Leyla Yunus and her husband Arif Yunusov were arrested, charged with treason and financial crimes, and sentenced and fined, after they questioned through their work the Aliyev regime's narrative on Artsakh, and questioned the stereotyping of Armenians in school textbooks.¹⁰⁸

Thus, those who challenge the regime by reporting on human rights concerns are linked to Armenians and persecuted, and those who challenge the premises of anti-Armenian racism are also persecuted and marginalized.

In an authoritarian fashion, the Aliyev regime also applies this strategy to persons abroad. No foreigner can access Artsakh from Azerbaijan and any foreigner visiting Artsakh through Armenia is blacklisted as *persona non grata* in Azerbaijan; the list of 130 persons includes European officials and parliament members, journalists and researchers, and civil society actors like the head of the HALO Trust de-mining program.¹⁰⁹ An example of the extreme reach of the Aliyev regime is the case of Alexander Lapshin, a blogger and journalist, who after visiting Artsakh, was detained in Belarus, extradited to Azerbaijan and jailed. After his release was negotiated by diplomats, he filed a communication with the ECtHR, and the court has found that the communication meets initial evidentiary standards regarding attempted murder and torture while Lapshin was detained in Baku.¹¹⁰ Thus, any objective voice that may report to the world about Artsakh, that could set a premise for conflict resolution, that could potentially challenge and undermine the anti-Armenian stereotypes and racism promoted and protected by Aliyev regime, is silenced; moreover, such persons are also made an example of in order to discourage others.

2014, <https://www.indexoncensorship.org/2014/10/azerbaijan-journalist-arzu-geybullayeva-threatened/>.

107 "Turkey/Azerbaijan: Journalist Deported, Imprisoned," Human Rights Watch, April 24, 2014, <https://www.hrw.org/news/2014/04/24/turkey/azerbaijan-journalist-deported-imprisoned>.

108 "Case History: Leyla Yunus," Front Line Defenders, April 19, 2016, <https://www.frontlinedefenders.org/en/case/case-history-leyla-yunus>; Adibekyan and Elibegova, Armenophobia in Azerbaijan.

109 Sara Rajabova, "Foreign Ministry Releases List of Personas Non Grata," AzerNews.Az, August 5, 2013, sec. Nation, <https://www.azernews.az/nation/57769.html>; "Azerbaijan's Foreign Ministry Releases Names of Persons Declared Persona Non Grata for Paying Illegal Visits to Occupied Territories - FULL LIST," APA Azeri Press Agency, August 2, 2013, <https://bit.ly/3qsfWfB>; "List of People Declared Personae Non Gratae in Azerbaijan," in Wikipedia, March 22, 2022, https://en.wikipedia.org/w/index.php?title=List_of_people_declared_personae_non_gratae_in_Azerbaijan&oldid=1078540828.

110 Lapshin v. Azerbaijan, No. 13527/18 (European Court of Human Rights December 4, 2018).

While some get the stick, others are offered carrots. A scandal that broke in 2017 revealed that the Aliyev regime had engaged in a complicated process of laundering and distributing funds to Western politicians as outright bribes, specifically to buy the political support needed to cover-up and render inconsequential the regime's human rights abuses, as well as to prepare for the eventual war in Artsakh.¹¹¹ Despite the revelation, the scheme seems to have paid off, as during the most recent war the most influential global players remained silent.

As revealed in the findings of this report, the war itself is an act of racism, and the Aliyev regime has evaded any consequence. The Aliyev regime has put significant efforts into silencing any criticism towards its racist policies and aggressions and so far, these attempts have been successful, as the reactions from the international community have been insufficient, creating a sense of impunity. This inaction emboldens the Azerbaijani government and as a result, not only were the rights of thousands of people grossly violated before and during the 44-Day War, but there is also little hope for ending these abuses in the future.

¹¹¹ "In Whose Interest? Analysing How Corrupt and Repressive Regimes Seek Influence and Legitimacy through Engagement with UK Parliamentarians" (Transparency International UK, July 2018), https://www.transparency.org.uk/sites/default/files/pdf/publications/In_Whose_Interest_WEB3.pdf; "The Impact of the Azerbaijani Laundromat - News" (Transparency International, October 10, 2017), <https://www.transparency.org/en/news/the-impact-of-the-azerbaijani-laundromat>; "The Azerbaijani Laundromat" (Organized Crime and Corruption Reporting Project (OCCRP), September 4, 2017), <https://www.occrp.org/en/azerbaijanilaundromat/>; Andre Walker, "Westminster Was Bribed By Azerbaijan Ahead Of Armenian Invasion," October 11, 2020, YouTube video, <https://www.youtube.com/watch?v=lruywlyeLac>.

Violations of the Right to Life

Wilful Killings of Prisoners of War

On 9 November 2020, a ceasefire was concluded for the 44-Day War, and Paragraph 8 of the “Tripartite Statement,” which records the end of active hostilities, contains an explicit provision stipulating an exchange of all POWs, hostages and other peoples detained in the context of the armed conflict.¹¹² Since 9 November 2020, on a number of occasions, the parties have reaffirmed their commitment to exchange POWs and other persons detained in the context of the conflict. However, despite the agreement to swap “all-for-all” brokered by Russia¹¹³, as of 29 July 2021, Azerbaijani authorities have returned only 104 Armenians,¹¹⁴ including civilians, and the exact number of ethnic Armenians detained in the context of the armed conflict who remain in custody of Azerbaijan is unclear.

As of 29 July 2021, the Azerbaijani Government has confirmed capture and continuous detention of only 45 persons, including civilians. Moreover, the Azerbaijani Government has failed to return these 45 persons, claiming that the persons in question are not POWs, as the majority of them (but not all) fell into the hands of the Azerbaijani authorities after the 9 November 2020 Tripartite Statement, thus the latter is not applicable to them, and they are allegedly subject to criminal prosecution. It is also known that the Azerbaijani authorities have charged 56 Armenian captives, including the above-mentioned 45, with a number of crimes under its Penal Code.¹¹⁵ Eleven of them, together with four other Armenian servicemen captured in May 2021, were repatriated on 3 July 2021. Other members of the same group detained on 12-13 December 2020, in Khtsaber¹¹⁶ and Mets Tagher were convicted to longer prison terms and some of them remain in custody in Azerbaijan.¹¹⁷

¹¹² “Заявление Президента Азербайджанской Республики, Премьер-Министра Республики Армения и Президента Российской Федерации” (Kremlin.ru [официальное интернет-представительство президента России], November 10, 2020), <http://kremlin.ru/events/president/news/64384>.

¹¹³ “Война в Карабахе: Армения и Азербайджан обменялись пленными, Баку арестовал четверых военных,” BBC News Русская служба, December 15, 2020, <https://www.bbc.com/russian/news-55318145>.

¹¹⁴ The term ‘Armenian’ is used to define ethnic belonging, thus referring both to ethnic Armenians of Nagorno-Karabakh and to residents of Armenia.

¹¹⁵ Interview with lawyers representing interests of victims and their families by the fact-finding group members, 14 May 2020.

¹¹⁶ Siranush Ghazaryan, “15 Armenian POWs Return from Azerbaijani Captivity,” Public Radio of Armenia, July 3, 2021, <https://en.armradio.am/2021/07/03/15-armenian-pows-return-from-azerbaijani-captivity/>.

¹¹⁷ “Azerbaijan Imprisons 13 Armenian Military Personnel for Six Years,” Radio Free Europe/Radio Liberty, July 23, 2021, sec. Azerbaijan, <https://www.rferl.org/a/armenian-military-personnel-prison/31373868.html>; Ani

The Fact-Finding Group interviewed lawyers, families, and, where possible, the repatriated POWs (the victims of abuses). In the course of the fact-finding mission, the members of the Group interviewed four former POWs who were repatriated in December 2020. The cases presented below are corroborated with video evidence taken by the perpetrators or their colleagues and posted on social networks by members of the Azerbaijani Armed Forces or affiliated users, including on Telegram channels Caliber, Kolorit 18+, Karabah_News, as well as Facebook, Instagram and TikTok. Corroboration was also obtained via an interview with the lawyer representing the victims and their families before the ECtHR, and via interviews given by other repatriated POWs to media in relation to the same or related facts. The information presented in this report is also corroborated by the findings of the reports of the Ombudsperson, Human Rights Watch, Amnesty International, open-source investigations conducted by international media, as well as statements of international organizations.

Since 27 September 2020, Azerbaijani users of social media networks, including Telegram channels, regularly post video evidence of abuse of ethnic Armenian servicemen who fell under the control of the Azerbaijani military. In some of the footage, the detained persons introduce themselves;¹¹⁸ in other cases, family members of the detainees have recognized them. As the videos were uploaded on social media, their metadata on the time and location where they were recorded is not available. All the videos analyzed in this report were released on social media in the period from October 2020 to July 2021.

This Fact-Finding Group has concluded that there is strong evidence of the wilful killing (execution) of at least four Armenian¹¹⁹ servicemen by members of the Azerbaijani Armed Forces. There is additional evidence for the wilful killing of two groups (at least four servicemen in one incident and 13 servicemen in another incident) out of the group of 61 Armenian servicemen in Kovsakan (Zangilan) based on videos distributed on social media networks, statements by victims' representatives and the ombudsperson, as well as the findings of open-source investigations. The presented list of cases is not exhaustive. Azerbaijan has failed to acknowledge or investigate these widely reported instances of wilful killing, which considering context is endorsement of these human rights violations and war crimes.

Avetisyan, "New Convictions as Trials of Armenian Captives Continues in Azerbaijan," OC Media, July 30, 2021, <https://oc-media.org/new-convictions-as-trials-of-armenian-captives-continues-in-azerbaijan/>.

118 @samkarkav, " Наши армянские пленные в Азербайджане после 9 ноября до сих пор там!" December 1, 2020, Telegram video, <https://t.me/sisumasis/188>.

119 The term Armenian here and in all other contexts when speaking of uniformed participants of the hostilities refers to the ethnicity and indicates members of the Artsakh Defence Army, uniformed volunteers and reservists from Armenia and Artsakh who joined regular armed forces.

In some videos, the faces of alleged perpetrators can be seen. Members of the Azerbaijani Armed Forces not only filmed their participation in executions, torture, and mutilations of POWs but also continuously shared these through social networks or sent them to the family members of the victims. This practice, as well as the number of videos, their frequency, and the number of participants, including those who cheer in support of the perpetrators for their crimes indicate a lack of fear of being prosecuted for what amounts to war crimes, as is demonstrated below.

No high rank public or military official in Azerbaijan condemned such conduct. Hence, it is safe to assume that the Azerbaijani state has given at least its tacit approval for these war crimes. Moreover, the widespread and continuous nature of posting and sharing these videos may also indicate the deliberate aim of terrorizing the Armenian population.

All executed Armenian servicemen in the footage analyzed below were wearing uniforms and clearly distinguishing themselves from the civilian population.

The wilful killing or murder of a POW is the intentional killing of a combatant no longer taking direct part in hostilities due to injury or capture in the context of an armed conflict, and it is prohibited as a violation of the right to life under IHRL, and as a grave breach and a war crime under both treaty and customary IHL. This includes situations when a combatant who, having laid down his arms or no longer having a means of defense, has surrendered. Persons listed in Article 4 of Geneva Convention III (GC III) who have fallen into the hands of the enemy are protected persons, and they do not lose the protection guaranteed by IHL until their final release and repatriation. Wilful killing is prohibited and amounts to a grave breach, irrespective of the motivation behind the act. ‘Mercy killings’ intended to put wounded combatants ‘out of their misery’ are also prohibited. IHRL also prohibits arbitrary deprivation of life, including extrajudicial, summary or arbitrary executions – meaning the deliberate killing of individuals outside of any legal framework, as a violation of the right to life.

Extrajudicial Execution of Yuri Adamyan

This first incident became known to the broader public after two videos were circulated on Telegram on 15 October 2020, showing surrender and execution of two men.¹²⁰ Both videos were taken in the town of Hadrut, Artsakh. The Artsakh au-

¹²⁰ Nick Waters, “An Execution in Hadrut,” Bellingcat, October 15, 2020, <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/>. @antituran, “Вот так азербайджанские солдаты поступают с армянскими военнопленными, им не указ ни Женевская конвенция, ни общечеловеческие принципы,” October 15, 2020, Telegram video, <https://mega.nz/folder/60kEFQja#yqkGDf8NTbSy3GWJzuO-Hiw>.

thorities identified the two men in the first video as local residents Benik Hakobyan, 73 (a civilian, discussed further in the section below), from the town of Hadrut, and Yuri Adamyan, 25 (a voluntarily enlisted serviceman of the Artsakh Defense army), from Tyak village in the Hadrut region.¹²¹

The first video shows how two Armenian men surrender to a group of servicemen in a military uniform of the Azerbaijani Armed Forces. The younger man, Yuri Adamyan, is wearing a military outfit (camouflage, helmet and body armor). The video shows how Yuri Adamyan, at gunpoint, following an instruction of one of the Azerbaijani servicemen in Russian, puts down his body armor, lays down his arms and no longer has means of defense, surrendering to a group of Azerbaijani servicemen. Following the instruction in Russian he walks in the direction of the Azerbaijani servicemen who also told him to lie on the ground. Yuri can be seen walking with his hands up (see Figure 7.1).



Figure 7.1. Yuri Adamyan with his hands up and Benik Hakobyan surrendering at gunpoint, surrounded by Azerbaijani servicemen in October 2020 in Hadrut (Source: Karabakh_news Telegram channel).

At the end of the video Yuri can be seen on the ground with his hands behind his back whereas two Azerbaijani servicemen hold him at gun point. The Azerbaijani servicemen wear a uniform consistent with uniform on other videos with the participation of Azerbaijani servicemen, including the pattern, backpacks, helmet and guns (see Figure 7.2). Similar uniforms were seen on other videos with Azerbaijani servicemen¹²² (see Figure 7.3).

¹²¹ “Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan” (Stepanakert: The Republic of Artsakh Human Rights Ombudsman, September 27, 2021), <https://artsakhombuds.am/sites/default/files/2021-09/3.%2027.09.2021%20Open%20Report.pdf>.

¹²² For comparison, see @MaidenTower, “Видеозапись освобождённого от оккупации села Шукурбейли Джебраильского района-Минобороны АР,” October 7, 2020, Telegram video, <https://t.me/MaidenTower/4416>; @Caucasian_bureau, “Город Физули и 10 сел Физулинского района освобождены от армянской оккупации...,” October 17, 2020, Telegram post, https://t.me/Caucasian_bureau/1541; @MaidenTower, “В сети распространяется видео с поднятием флага Азербайджана в освобождённом от армянской оккупации селе Шукурбейли Джебраильского района Азербайджана,” October 7, 2020, Telegram video, <https://t.me/MaidenTower/4409>.



Figure 7.2. Azerbaijani servicemen from other videos during the 44-day war reportedly in Shukurbeyli (Source: Maiden Tower Telegram channel)



Figure 7.3. Azerbaijani servicemen who captured Benik Hakobyan and Yuri Adamyan (Source: Antituran Telegram channel).



Figure 7.4. Two men, with their hands tied, wrapped in flags, are shot. (Source: Antituran Telegram channel)

The second video shows two men with their hands tied behind their backs and wrapped up in the flags of the Republic of Armenia and Artsakh respectively. Upon a command, they are shot multiple times. One of the men who is wrapped in the flag of Artsakh is wearing a blue T shirt and camouflage trousers identical with Yuri Adamyan's clothes upon capture; hair and haircut of the man on both videos look identical (compare Figure 7.1 and Figure 7.4). According to the BBC translation, before shots are fired, someone orders in Azerbaijani: "Aim at their heads."¹²³

The BBC¹²⁴ and Bellingcat¹²⁵ carried out a detailed investigation and verification of the case. A consulting expert notably remarked that, "These are real bullets, this is a real killing. This is genuine, and I don't see any reason to assume it's staged."¹²⁶ The United Nations High Commissioner for Human Rights also referred to this case, stating that "in-depth investigations by media organizations into videos that appeared to show Azerbaijani troops summarily executing two captured Armenians in military uniforms uncovered compelling and deeply disturbing information."¹²⁷ According to lawyer Siranush Sahakyan, who is representing the families of the victims, the family members of Yuri Adamyan recognized him in the video.¹²⁸ The Armenian lawyers representing the interests of the victims before the ECtHR stated on 3 May 2021, that Yuri Adamyan was among those

¹²³ "Nagorno-Karabakh Conflict: 'Execution' Video Prompts War Crime Probe," BBC News, October 24, 2020, sec. Europe, <https://www.bbc.com/news/world-europe-54645254>.

¹²⁴ Ibid.

¹²⁵ Waters, "An Execution in Hadrut."

¹²⁶ "'Execution' Video Prompts War Crime Probe."

¹²⁷ "Continue in Populated Areas" (UNHR Office of the High Commissioner, November 2, 2020), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26464&LangID=E>.

¹²⁸ Interview with lawyer Siranush Sahakyan, 19 May 2021.



Figure 7.5. An Azerbaijani serviceman shoots unarmed and wounded Artur Manvelyan at short range (Source: Karabah_news Telegram channel).

seven ethnic Armenian servicemen executed while in the hands of Azerbaijan.¹²⁹ The Azerbaijani authorities have continuously denied the accusation and claimed it was staged; Azerbaijan failed to launch any investigation into this case. The body of Yuri Adamyan has not been returned by the Azerbaijani authorities as of 29 July 2021. This fact contributes to the deep suffering of his family.

Killing of Artur Manvelyan

Video footage of a scene where a serviceman in an Armenian uniform is being shot dead was distributed on a Telegram channel on 24 October 2020.¹³⁰ The video shows how a serviceman in an Azerbaijani uniform approaches Artur Manvelyan and shoots him in the head at short range while swearing non-stop in Russian (see Figure 7.5). According to the lawyer representing the victims before the ECtHR, the serviceman was identified by his family members as Artur Manvelyan, 41. According to the lawyer, Artur was heavily wounded, and could not flee the front when the Azerbaijani forces were approaching. The way the Azerbaijani serviceman is approaching Manvelyan before shooting him demonstrates no fear of being shot by Manvelyan; this also suggests that he was not armed or at least was not using any arms to defend himself or attack the Azerbaijani serviceman in question. This assertion is supported by the fact that no guns or other indication of Manvelyan participating in hostilities are seen in the video. This means that Manvelyan was hors de combat, was no longer participating in hostilities, at the moment when he was shot dead.

¹²⁹ "Armenian Human Rights Activist: Out of Captured Persons, 19 Have Been Tortured and Killed by Azerbaijani Servicemen," News.Am, May 3, 2021, <https://news.am/eng/news/641946.html>.

¹³⁰ @karabakh_news, Telegram video, https://mega.nz/file/j1N2BTAL#qn4MTsZ_MR9ViYHfv5nWSSjv_iOn-1RidmXVAT0hdvw8

Group One of Armenian Servicemen in Kovsakan (Zangilan)

More footage appeared on Telegram channels on 30 October 2020,¹³¹ which shows the bodies of at least eighteen men in Armenian military uniforms, some with tied hands and/or ankles, some blindfolded (their heads covered), and others unclothed, lined up on the ground. A serviceman in an Azerbaijani uniform walks by and films the bodies. According to the Digital investigator Benjamin Strick, Director of Investigations at the Center for Information Resilience (@Cen4infoRes), satellite imagery dated October 24, 2020, appears to show a line of dead bodies in uniform in Kovsakan (Zangilan) nearby a building¹³² (See Figure 7.6).

A series of videos with killed Armenian servicemen in a different location as well as some of them dragged by car appeared later.¹³³ The Fact-Finding Group members established that at least four of eighteen servicemen had their hands tied (see Figure 7.7).



Figure 7.6. Bodies of the servicemen in an Armenian uniform lined up on the ground in Kovsakan (Zangilan) (Source: Benjamin Strick's twitter page).

Analysis of these videos suggests that the last four servicemen in the row with tied hands were added later (see Figure 7.8). The fact that the dead servicemen are tied suggests that they fell into Azerbaijani custody while alive. Given the context and established practice of executing Armenian POWs by Azerbaijani servicemen, this suggests that they were executed.

¹³¹ @qarabagxeber, "Vətən torpağını murdarlayan hər kəsin sonu bu cür olacaq," October 30, 2020, Telegram video, <https://mega.nz/folder/u8EHFYQB#o9aKRTxhwwZn4Q2UITO65A>.

¹³² Benjamin Strick (@BenDoBrown), "Geolocation of footage which shows bodies, some handcuffed, others unclothed, in Zəngilan, #Karabakh...," Twitter, October 30, 2020, <https://twitter.com/BenDoBrown/status/1322200787141971971>.

¹³³ The respective videos and photos can be accessed here: https://mega.nz/folder/6oIHUI4L#xEcV_V0a-PLCpq3FITJQp-Q.



Figure 7.7. Bodies of servicemen in an Armenian uniform, some with tied hands in a row on the ground (Source: Qarabagxeber Telegram channel).



Figure 7.8. 14 bodies lined up (left). 4 more bodies with hands tied added to 14 (right) (Source: Qarabaginfo18 and Kolorit_18+ Telegram channels).

According to the report of the Armenian Ombudsperson, the fighting and execution occurred in Kovsakan after a group of 61 Armenian servicemen had been dispatched there on 21 October 2020.¹³⁴ The Ombudsperson established that the fact that the servicemen's faces were freshly shaved suggested that they were part of a detachment sent in the direction of Kovsakan shortly before the date of the incident. The Ombudsperson concluded that some of the servicemen lined up in Kovsakan (Zangilan) were the same servicemen whose bodies are seen being dragged along the road by servicemen in Azerbaijani military uniform. This conclusion is also supported by the fact that the ankles of most of the bodies were tied and the clothes lifted up. The Fact-Finding Group analyzed three videos where one of the killed Armenian servicemen looks alike: the video with the lined-up bodies, the video where two Armenian servicemen are being dragged, and video posted by Azerbaijani telegram channels allegedly depicting a sabotage group ambushed in Kovsakan. The bodies have similar wounds, were dressed up in a burgundy T shirt, and facial features look alike. This suggests that it could be the same person. (See Figure 7.9).



Figure 7.9. *The body of a killed Armenian serviceman being dragged (on the left). The body of an Armenian serviceman lined up in Kovsakan (on the right) (Source: Bunk_18 Telegram channel).*

¹³⁴ “Responsibility of Azerbaijan for Torture and Inhuman Treatment of Armenian Captives: Evidence-Based Analysis (the 2020 Nagorno Karabakh War),” Ad Hoc Public Report (The Human Rights Defender of the Republic of Armenia, September 2021), https://ombuds.am/images/files/5c7485fdc225adfd8a35d583830dcd17.pdf?fbclid=IwAR2OAjo6BxmRFaBSrtbXFqvsyXeM3M-5vZRFpgpCRCo4urVPVE2NPL_VO4g.



Figure 7.10. Azerbaijani servicemen use white synthetic rope to tie the hands of Armenian captives (Source: @elnuromarov7 and @natiq.eliyev948 Tiktok accounts).

According to the report of the Armenian ombudsperson, at least three of servicemen of the Kovsakan group who were captured alive and later on repatriated, reported that they saw four Armenian captives held in the Kovsakan Middle School on October 21, 2020. They described seeing the captives' hands tied with a type of synthetic rope frequently used in agriculture.¹³⁵ The Fact-Finding Group members observed the use of such rope in other videos with Armenian POWs (see Figure 7.10).

The testimonies of the repatriated Armenian servicemen coupled with the fact that the hands of the bodies were tied as well as in light of the well-established practice of execution of captured or hors de combat Armenian servicemen by Azerbaijani servicemen during the 44-day war suggest that at least four Armenian servicemen in that group of at least eighteen were executed by Azerbaijani servicemen. Faces of some of the Azerbaijani servicemen next to the bodies as well as their uniform type can be seen on the video (see Figure 7.11).

Azerbaijani servicemen standing by the bodies wear a uniform of the Azerbaijani State Border Service (SBS): a unique “green woodland” pattern camouflage uniform in recent years. The design incorporates black, dark green & aqua green woodland shapes on a sea green background (see Figure 7.12).

¹³⁵ <https://www.ombuds.am/images/files/5c7485fdc225adfd8a35d583830dcd17.pdf>



Figure 7.11. Azerbaijani servicemen posing by the bodies of killed Armenian servicemen (Source: Kolorit_18 Telegram channel).



Figure 7.12. Uniform of Azerbaijani servicemen standing by the bodies (on the left); uniform of the State Border service of Azerbaijan (on the right) (Source: Karabah_news Telegram channel and official web page of the SBS).

Execution of a group of Armenian servicemen

On October 28, 2020, footage with bodies of killed Armenian servicemen surfaced on one of the Azerbaijani Telegram channels with a comment stating that an Armenian sabotage group was liquidated in Zangilan.¹³⁶ This footage depicts a number of servicemen in an Armenian uniform; some of them had visible shots in the head (see Figure 7.13). They are all lying with their faces down.

¹³⁶ @caliber_az_official, “BC Азербайджана ликвидировали армянскую РДГ в Зангилане,” October 28, 2020, Telegram video, https://mega.nz/file/r18xGKBD#P5hj0TbPbdZia7-Nz_Q-omLt8r2eTj0sR9rqEeuWQcM.



Figure 7.13. Bodies of Armenian servicemen with gunshots in the head in Kavsakan (Source: Caliber Telegram channel)



Figure 7.14. A group of Armenian servicemen with hands tied on the ground (Source: Xalqxalq Telegram channel).

On 15 December 2020, footage appeared with a group of Armenian servicemen (at least 13 men), alive, on their knees, with hands tied sitting on the ground; a background voice can be heard speaking in Azerbaijani saying: “We captured these sons of a bitch. We are going to shoot all of them.”¹³⁷

One more video surfaced on Telegram depicting shooting of an Armenian serviceman with tied hands by an Azerbaijani serviceman and several bodies of Armenian servicemen scattered around.¹³⁸ The bodies of at least seven Armenian ser-

¹³⁷ @xalqxalq, “İgidlərimiz dıǵaları belə əsir götürdü,” December 15, 2020, Telegram video, https://mega.nz/file/L5k0DLxJ#nWS0pdDr5-jNFYJtqm8tUIHJJLuqo184J97TtW2V_w0.

¹³⁸ @ararathau, “Твари расстреливают армянских солдат фактически в упор,” December 16, 2020, Telegram video, <https://mega.nz/file/b5tXFBDY#EwfFifDcVhnXH-ss4lwAfkphH16oDe2Rx4xsxZU7oS4>.

vicemen could be seen, all lying on the ground, not moving suggesting that they were dead. The hands of at least four of the servicemen are tied behind their back suggesting that they were captured alive. A serviceman in an Azerbaijani uniform shoots at one of the Armenian servicemen. The location of the video of October 28 and this one seems identical, and features of some servicemen look alike suggesting that both videos depict the same Armenian servicemen (see Figure 7.15).

At least four servicemen can be seen with tied hands. The hands of one of the Armenian servicemen are tied with a white rope (see Figure 7.16). As indicated above, the Fact-Finding Group members observed that Azerbaijani servicemen used such a white rope when capturing Armenian servicemen to tie their hands.¹³⁹



Figure 7.15. Collage of locations on two videos with Armenian servicemen (Source: Ararat Telegram channel).



One of the killed servicemen in the video of October 28 about sabotage group discussed above is bold. In the video from the execution site, one of the killed Armenian servicemen looks identical: he is bold and wears similar uniform (See Figure 7.17). However, the way the bodies are scattered in the video about an alleged sabotage group suggests that the bodies were dragged and dropped randomly after the execution, faced down to imitate ambush but to prevent identification.

Figure 7.16. The bodies of Armenian servicemen on the ground with hands tied (Source: Ararat Telegram channel), the right (Source: Bunk_18 Telegram channel).

¹³⁹ @elnuromarov7, “#esgerlermiziqoru #azerbaycan #turkiyem #pakistan #qarabağ,” TikTok video, <https://bit.ly/3MmsAY8>; @ararathau, “Азербайджанские солдаты избивают армянского военнопленного,” January 15, 2021, Telegram video, <https://t.me/ararathau/5487>.



Figure 7.17. On the left, the body of a killed Armenian serviceman in Kovsakan. On the right, the body of a killed Armenian serviceman from the video claiming that an Armenian sabotage group was liquidated (Source: Ararat and Caliber Telegram channels).

Moreover, another video surfaced in November 2020 with a group of Armenian servicemen being marched with tied hands accompanied by Azerbaijani servicemen. Some of the Armenian servicemen look alike to those servicemen seen lined up on the knees (See Figure 7.18)



Figure 7.18. Images of captured Armenian servicemen on a march (left). Images of lined up Armenian servicemen (right) (Source: Karabah_news and Xalqxaq Telegram channels).



Figure 7.19. Azerbaijani serviceman shooting video with captured Armenian servicemen (Source: @L_Team10 Twitter microblog).

The face of the Azerbaijani serviceman who is shooting the video can be seen (see figure 7.19).

The existence of two videos¹⁴⁰ shot in the same place, where the Armenian servicemen are alive and in the second one they were lying on the ground as well as the fact that the hands of the killed Armenian servicemen were tied and an Azerbaijani serviceman shoots at least one of them allows us to conclude that this group of Armenian servicemen was executed. This conclusion is also supported by the fact that the majority of the bodies in the video about an alleged sabotage group had gunshot head wounds.

A Wounded Armenian Serviceman in a Trench

Other video footage appeared on a Telegram channel on 15 November 2020, that shows a serviceman *hors de combat* in an Armenian military uniform being shot dead by an Azerbaijani serviceman at close range.¹⁴¹ In the video, the serviceman in an Armenian uniform moves his right hand trying to protect himself, which also indicates that he was alive, when the serviceman in an Azerbaijani military uniform with a gun approaches him very closely and fires at him multiple times (at least 15 bullets) at close range (see Figure 7.20). Before shooting, a voice can be heard in the background saying in Azerbaijani: “We have captured him.” The Azerbaijani serviceman is aware that the man in the trench is alive because the voice of another Azerbaijani can be heard in the background instructing in Azerbaijani: “Shoot, shoot all your bullets so that he dies.” Moreover, the posture of the Azerbaijani serviceman when he shoots the Armenian serviceman suggests that the latter poses no threat to him. No weapon can be seen in the hands of the Armenian serviceman or in his immediate vicinity. This coupled with the fact of being heavily wounded suggests that the executed serviceman was *hors de combat*.

¹⁴⁰ See footnotes 27 and 28.

¹⁴¹ @kolorit_18, December 23, 2020, Telegram video, https://mega.nz/file/21InITZR#emUAWZeN22BI13fy_0o_EO01Drt1Mcfefiq2vB41dR4.



Figure 7.20. An Azerbaijani serviceman shoots at short range an Armenian serviceman who is hors de combat. (Source: Kolorit_18 Telegram channel).

Eric Mkhitarian

A video appeared on Telegram channels¹⁴² on 24 November 2020 with an Armenian serviceman on the ground, surrounded by at least three servicemen in an Azerbaijani military uniform, being instructed in Azerbaijani by with guns pointed at him and hands on the captive's neck, to say, "Karabakh Azerbaijan," repeatedly (See Figure 7.21). The Armenian serviceman was later identified as Eric Mkhitarian. The ECtHR granted a motion to apply interim measures in relation to Eric Mkhitarian on 30 November 2020; however, reportedly the Azerbaijani authorities have not officially confirmed his capture and whereabouts. Until April 2021, his fate was unknown. On 19 April 2021, the Representative of the Armenian Government before the ECtHR stated that Eric Mkhitarian's remains were identified¹⁴³ and confirmed by four DNA tests.¹⁴⁴ The fact that Eric was captured alive, suggests that he was killed while in Azerbaijani custody.

The faces of Azerbaijani officers in whose custody Eric was last seen alive can be clearly seen on that video (See Figure 7.22).

142 @ararathau, "Видеоматериал с нашим пленным, локация и дата съёмки неизвестны," January 7, 2021, https://mega.nz/file/LkFzUZDK#AbTJbfOPBPs1q-edRXdAyWROI-yRVSWM8e_2k-FlaCY.

143 Միջազգային իրավական հարցերով ՀՀ ներկայացուցիչ, "Ադրբեջանը խախտել է Եվրադատարանի կողմից իր դեմ կայացրած որոշումները," Facebook, April 19, 2021, https://www.facebook.com/permalink.php?story_fbid=pfbid0s8DRaTcDc1MNDGQNwpSM8aTqtQyToAJpbcseKeC8pPjwvQopr54qGRDBa-7JSvkel&id=108224237477781.

144 "Third Case of a Captive's Death in Azerbaijan: ECHR Upheld the Motion for an Interim Measure," First Channel News, April 19, 2021, <https://www.1lurer.am/en/2021/04/19/Third-case-of-a-captive-s-death-in-Azerbaijan-ECHR-upheld-the-motion-for-an-interim-measure/458236>.



Figure 7.21. Eric Mkhitarian, on the ground, is ordered by Azerbaijani servicemen to say “Karabakh Azerbaijan” (Source: Ararat Telegram Channel).



Figure 7.22. Azerbaijani servicemen in whose custody Eric Mkhitarian was seen alive for the last time (Source: Ararat Telegram channel).

Arman (not his real name), a repatriated POW, interviewed by the Fact-Finding Group, reported that one of his fellow servicemen, Eric Mkhitarian, was killed while in custody of Azerbaijani forces in Hadrut area. Arman informed that Eric was last seen in the Hadrut region in October of 2020. According to Arman, Eric was wounded in the legs.¹⁴⁵

On 3 May 2021, the Armenian lawyers representing the interests of the family members of a number of ethnic Armenian servicemen and civilians who fell into the hands of the Azerbaijani forces announced that they had evidence of nineteen Armenians, including seven servicemen, deliberately killed after falling into Azerbaijani custody. Eric Mkhitarian was one of them.¹⁴⁶ According to the lawyers representing the victims before the ECHR, Eric died being shot at his neck.

Wilful Killing of Civilians

Members of the Azerbaijani Armed Forces committed wilful killings of civilians during military activities. Instances of wilful killing were initially recorded in the Hadrut region, in October 2020, and later in other areas that fell under the control of Azerbaijan. Such instances were reported even months after the ceasefire and the signing of the Tripartite Statement. Evidence thereof includes videos taken and disseminated both in the course of military activities and following the declaration of the ceasefire on 9 November 2020, as well as information obtained through examination of the bodies of repatriated Armenian civilians with signs of abuse and mutilation while alive. The present report relies specifically on the following types of evidence of killings and summary executions of civilians: (a) videos recorded and disseminated on social media by members of the Azerbaijani Armed Forces, both in the course of military activities and following the conclusion of the ceasefire on November 9, 2020; (b) the fact-finding mission conducted by the Ombudsperson of the Republic of Artsakh; (c) interviews conducted by members of the Fact-Finding Group with other victims, relatives of the victims, the Ombudsperson of the Republic of Artsakh, and (d) statements of the lawyers representing the interests of victims, including statements based on the post-mortem examination of the bodies; where possible, conclusions of the post mortem examinations were examined by the members of the Fact-Finding Group in person.

Most of the civilians killed were elderly people who had remained in their villages or cities which were subsequently captured by Azerbaijan, including women and individuals with mental health issues. In some cases, the majority of the civilians

¹⁴⁵ Interview with Arman (name changed), 7 May 2021.

¹⁴⁶ Artak Zeynalyan, “Մամլո՞ր հաղորդագրություն - 8,” Facebook post, May 3, 2021, https://www.facebook.com/permalink.php?story_fbid=838308290099364&id=100017606020589

who had remained in their villages or cities subsequently captured by Azerbaijan were killed immediately upon the capture of those villages or cities. This is evidenced by the fact that after the conclusion of the Tripartite Statement, the dead bodies found during search operations in villages and cities captured by Azerbaijan in October-November 2020 were almost completely decomposed. Moreover, there have also been instances of killings of civilians even after the conclusion of the Tripartite Statement, which is established by the forensic examination of the repatriated dead bodies. Among them, A.M., from Shushi, who must have been captured on/after November 8, 2020, and killed afterwards; V.P., from Shushi, who had firearm injuries on his head and abdomen and the forensic examination established the date of his death as November 18, 2020.¹⁴⁷

In general, the examination of the repatriated bodies of some of the civilians killed also revealed signs of torture and mutilation.¹⁴⁸ Some of the civilians had penetrating firearm injuries, including to the head and the abdomen. Among them

- V.A., 83, from Sghnakh village (Askeran region), had gunshot injuries to his head;
- A.Kh., 57, lived in Martuni city. He had got lost and entered into territories controlled by Azerbaijan, where he was captured and detained. His body was repatriated to Armenia on December 3, 2020, bearing traces of torture and with a gunshot injury on his chest;
- V.L., 47, and S.G., 69, both from Mets Tagher village (Hadrut region), had gunshot injuries. Examination of the repatriated bodies also revealed cerebral injuries;
- M.M., 84, from Hadrut city, had cerebral injury imposed by violence;
- E.Zh., 64, from Shushi, had an open injury on his head.

According to the official data, as 28 May, 2021,¹⁴⁹ the number of deaths of Armenian civilians in the context of the 44-day war was 80, of whom 42 were killed as a result of aerial bombardments and shelling, and 38 were killed after falling into the custody of Azerbaijani servicemen. Seven of the civilians killed were female; most were elderly people, aged 65 and older; some of them had disabilities.¹⁵⁰

¹⁴⁷ Letter from the Prosecutor General's Office of Artsakh in response to the information request submitted by the Fact-Finding Group, May 10, 2021.

¹⁴⁸ Letter by the Prosecutor General's Office of Artsakh; "Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan."

¹⁴⁹ The data is collected from the Report by the Human Rights Defender of Artsakh on the Cases of Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan (28 January 2021, updated in September 2021), as well as from further enquiries addressed to the Human Rights Defender of Artsakh and the Prosecutor General's Office of Artsakh (10 May 2021).

¹⁵⁰ "Names of 19 Armenians POWs, Tortured and Killed by Azerbaijan, Publicized," Asbarez, May 3, 2021, <https://asbarez.com/names-of-19-armenians-pows-tortured-and-killed-by-azerbaijan-publicized/>; "Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan."

These acts violate the right to life and breach IHL, amounting to war crimes and crimes against humanity. The violations, as demonstrated below, include wilful killings of civilians, indiscriminate attacks against civilians and civilian objectives, including use of such weapons in populated areas which could not discriminate between civilian and military objectives, and a lack of any precautionary measures by Azerbaijan. The wilful killing of civilians or the causing of great suffering or serious injury to their bodies or their health, violate IHRL and constitute war crimes as grave breaches of the Geneva Conventions.¹⁵¹ It should also be noted that obligations regarding protection of the right to life in times of armed conflicts prohibit such practices which entail a risk to the lives of civilians and other persons protected by IHL.¹⁵² Therefore, this report refers not only to incidents that in fact resulted in civilian casualties, but also to such instances and to practices that could pose such a risk.

Extrajudicial Execution of Benik Hakobyan and His Wife

On October 15, 2020, two videos surfaced on Telegram channels depicting two Armenians being taken captive by Azerbaijani servicemen, and the summary execution of two men.¹⁵³ The videos were verified by Bellingcat¹⁵⁴ and BBC¹⁵⁵ confirming their authenticity. The elderly civilian captured in the video has been identified as Benik Hakobyan, a resident of Hadrut city, born in 1947.¹⁵⁶ In the first video, the Azerbaijani officers instructed Benik to walk with hands up (see Figure 7.23). Then, one of them at gun point pushes Benik on the ground (see Figure 7.24). At the end of the video a voice of an elderly can be heard screaming: “Vay, vay.”

The second video shows the execution of two men with their hands tied behind and wrapped up in the flags of the Republic of Armenia and Artsakh (see Figure 7.25). The executed men were identified as Benik Hakobyan and Yuri Adamyan (the incident is also discussed in the section above). The older man wrapped in the

151 “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)” (International Committee of the Red Cross, August 12, 1949), art. 3, 27, 146, 147, <https://ihl-databases.icrc.org/ihl/INTRO/380>; “Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)” (International Committee of the Red Cross, December 7, 1978), art. 75, <https://ihl-databases.icrc.org/ihl/INTRO/470>; UN General Assembly, “Rome Statute of the International Criminal Court,” 92-9227-227-6 § (1998), art. 8, para 2 (a)(b)(c) and (e), <https://www.refworld.org/docid/3ae6b3a84.html>.

152 “General Comment No. 36, Article 6 (Right to Life)” (UN Human Rights Committee (HRC), September 3, 2019), para. 64, <https://www.refworld.org/docid/5e5e75e04.html>.

153 <https://t.me/antituran/306>, <https://www.youtube.com/watch?v=zKQxy3fG9BY>, <https://mega.nz/folder/60kEFQja#yqkGDf8NTbSy3GwjZuOHiw>

154 <https://www.bellingcat.com/news/rest-of-world/2020/10/15/an-execution-in-hadrut-karabakh/>

155 <https://www.bbc.com/news/world-europe-54645254>

156 Report by the Human Rights Defender of Artsakh (January 2021, updated in September 2021) (available at: <https://artsakhombuds.am/en/document/785>).



Figure 7.23. Benik Hakobyan surrendering at gunpoint, surrounded by Azerbaijani serviceman in October 2020 in Hadrut (Source: Antituran Telegram channel).



Figure 7.24. An Azerbaijani serviceman pushes Benik Hakobyan on the ground and holds him at gun point (Source: Antituran Telegram channel).

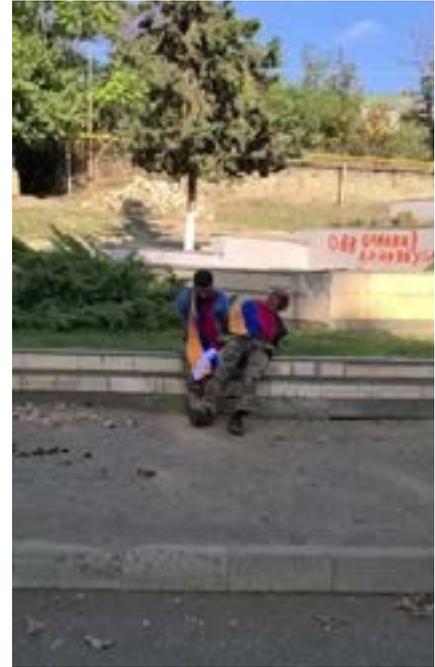


Figure 7.25. Execution of two Armenian captives in Hadrut (Source: Antituran Telegram channel).

flag of Armenia is wearing camouflage trousers, black sweater, black heavy boots identical to the clothes of Benik Hakobyan on the first video.

A consulting expert notably remarked that, “These are real bullets, this is a real killing. This is genuine, and I don’t see any reason to assume it’s staged.”¹⁵⁷ Benik Hakobyan’s body has not been repatriated. Benik Hakobyan’s wife, *E.H.*, 67, who had remained with her husband in their place of residence, was found murdered near her home in Hadrut on 4 January 2021.¹⁵⁸ Her repatriated body revealed signs of atrocities and the most brutal treatment: she was beheaded, and her legs were tied.¹⁵⁹

Decapitation of Yuri Asryan

On 3 December 2020, a video of the decapitation of an Armenian civilian surfaced on the internet,¹⁶⁰ and the victim in the video was later identified as Yuri Asryan, an 82-year-old resident of Azokh village (Hadrut region). His body was discovered

¹⁵⁷ “‘Execution’ Video Prompts War Crime Probe.”

¹⁵⁸ “Armenian Legal Center for Justice and Human Rights Issues Statement on the Release of POWs Represented before the ECHR,” *Horizon Weekly*, May 11, 2021, <https://bit.ly/3Kgmqr7>; Letter from the Prosecutor General’s Office of Artsakh; “Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan.”

¹⁵⁹ Letter from the Prosecutor General’s Office of Artsakh.

¹⁶⁰ @armeniangc, “Терористы из вс азербайджана в лучших традициях ИГИЛ перерезают горло беззащитному старику и записывают это на видео,” December 8 2020, Telegram video, <https://mega.nz/file/no9BBZhJ#h359CY2-82ZpFkzoOZNY7SR5EKZrTFQy0iPtEO6L6F4>.

on 21 January 2021, during search operations in the territories under Azerbaijan’s control.¹⁶¹ M.A., Yuri Asryan’s sister, was in the village of Azokh, in the Hadrut region, when the war started. She remained there with her brother until 16 October 2020, at which point almost everyone had already left the village.



Figure 7.26. The decapitation of Yuri Asryan (Source: Armenian Global Community Telegram channel).

When the head of the village left on 22 October 2020, her brother persisted in his refusal to leave. Later, they received information that the village had been captured on that exact day.¹⁶² In the video, Yuri Asryan is seen asking not to be beheaded in the name of “Allah” but a serviceman wearing a uniform of the Azerbaijani Armed Forces beheads him in cold blood, and the other servicemen present there cheer (See Figure 7.27).¹⁶³ The person cutting off his head is wearing a uniform of the same camouflage as that of the Azerbaijani military, and the flag of Azerbaijan is visible on the uniform, on the right shoulder.

The red band on the serviceman’s arm is also consistent with other images of Azerbaijan servicemen.¹⁶⁴ Amnesty International has also identified the uniform in the video as consistent with the Azerbaijani military.¹⁶⁵ The face of the other Azerbaijani serviceman who hands over a knife to be used for decapitation can be clearly seen on the video. In an interview with the members of the mission, Lilit (name changed) showed the mentioned video to the interviewer and identified the person in the video as her fellow villager, Yuri Asryan.¹⁶⁶

161 “Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan.”

162 “Հայրենի Ազդիսի Եւ Սպանված Եղբոր Կարոտով. Մարիա Ասրյանի Նոր Գաղթի Ճանապարհը,” Mediamax News Agency, April 12, 2021, <https://mediamax.am/am/news/hadrut/42708/>.

163 “Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan”; Liz Cookman, “Videos from Nagorno-Karabakh Conflict Prompt Accusations of War Crimes,” Washington Post, December 25, 2020, https://www.washingtonpost.com/world/armenia-nagornokarabakh-war-crimes/2020/12/24/f8b28900-4165-11eb-b58b-1623f6267960_story.html.

164 See, in other instances, @Caucasian_bureau, “Город Физули и 10 сел Физулинского района освобождены от армянской оккупации...,” October 17, 2020, Telegram post, https://t.me/Caucasian_bureau/1541; @MaidenTower, “В сети распространяется видео с поднятием флага Азербайджана в освобождённом от армянской оккупации селе Шукурбейли Джебраильского района Азербайджана,” October 7, 2020, Telegram video, <https://t.me/MaidenTower/4409>.

165 “Armenia/Azerbaijan: Decapitation and War Crimes in Gruesome Videos Must Be Urgently Investigated,” Amnesty International, December 10, 2020, <https://www.amnesty.org/en/latest/news/2020/12/armenia-azerbaijan-decapitation-and-war-crimes-in-gruesome-videos-must-be-urgently-investigated/>.

166 Interview with Lilit, 19 January 2021.

Decapitation of Genadi Petrosyan

Evidence of yet another brutal decapitation surfaced on 22 November 2020.¹⁶⁷ The person in the video was Genadi Petrosyan¹⁶⁸, a 69-year-old resident of Madatashen village in the Askeran region, Artsakh. He had returned to the village after its evacuation on 27 October 2020, to pick up his belongings, and was captured by Azerbaijani servicemen. The disseminated video depicts Genadi Petrosyan being beheaded, the severed head is then placed on a dead animal (a pig) (see Figure 7.27). “See the pigs next to each other!”, “You dishonorable, all these for the blood of our martyrs”¹⁶⁹ and “This is how we get revenge – by cutting off heads,” a voice says off camera in Azerbaijani.¹⁷⁰



In the second video, published on 3 December 2020¹⁷¹, a group of servicemen in Azerbaijani military uniform, with the flag of Azerbaijan on the right shoulder, are seen holding a struggling man, while another serviceman cuts off his head, and one of the other servicemen steps on the body in order to help the perpetrator (see Figure 7.28). Other sources have also identified the uniform as that of the servicemen of the Azerbaijani army.¹⁷²

Figure 7.27. The severed head of Genadi Petrosyan is placed on a pig (Source: Karabah_news Telegram channel).

¹⁶⁷ @kolorit_18l, December 23, 2020, Telegram video, https://mega.nz/file/PgInUTSQ#z3oW8vPMRKxP-na5M--nFF_IKRjrQU_mDYI5rVPDrHUA.

¹⁶⁸ Identified by the Human Rights Defender of Artsakh, the lawyers representing the interests of Genadi Petrosyan’s relatives, as well as Genadi Petrosyan’s fellow villagers.

¹⁶⁹ Translation by a member of the Fact-Finding Group.

¹⁷⁰ “Armenia/Azerbaijan: Decapitation and war crimes in gruesome videos must be urgently investigated.”

¹⁷¹ @kolorit_18l, December 24, 2020, Telegram video, <https://mega.nz/file/6wVAGbIT#1ygF0xQm3h6G1d-KnemsdeGPBXgblwj-hk0WvjNjcmi8>.

¹⁷² Cookman, “Videos from Nagorno-Karabakh Conflict Prompt Accusations of War Crimes”; Andrew Roth, “Two Men Beheaded in Videos from Nagorno-Karabakh War Identified,” The Guardian, December 15, 2020, sec. World news, <https://www.theguardian.com/world/2020/dec/15/two-men-beheaded-in-videos-from-nagorno-karabakh-war-identified>.



Figure 7.28. Azerbaijani servicemen cut the throat of Genadi Petrosyan (Source: Kolorit_18 Telegram channel)

Killing of Arsen Gharakhanyan

Arsen Gharakhanyan, 44, a resident of the city of Hadrut, was killed while in detention in Azerbaijan. He was killed in January 2021, after the conclusion of the Tripartite Statement ending the war. After the war started, Arsen and his family members remained in the city until 7 October 2020, when, seeing that the Azerbaijani Armed Forces were getting closer, they decided to leave.

In an interview with the members of the Fact-Finding Group, M.G., Arsen's sister, said that on October 7th they left Hadrut city, accompanied by Arsen, but their father, Sasha, refused to leave with them. After Arsen took the family out of Hadrut, he returned to Hadrut city. The last time the family spoke to Arsen was on 9 October 2020. Afterwards, they were informed that the Azerbaijanis had entered the city of Hadrut. On 15 October 2020, they applied to the ICRC, informing the latter that Arsen and his father were missing.

There was no news of Arsen until 6 January 2021, when they saw a video of Arsen on the internet: Arsen is indoors, he was forced to repeat after someone armed instructing him to say in Azerbaijani, 'Karabakh is Azerbaijan', swear at the Armenian. Prime Minister Pashinyan and other phrases in Azerbaijani.¹⁷³ In another vid-

¹⁷³ @herbixeber, "Söyüş var. Xanımlar izləməsin," January 27, 2021, Telegram video, <https://mega.nz/file/iwd-nEKaC#brPV8OCxcMY2X6lt5FuWQkFOuCPkTofw4P8aVxLEa2E>.

eo,¹⁷⁴ Arsen can be seen on a pickup vehicle surrounded by men speaking Azerbaijani who instruct him to greet all good people (see Figure 7.29). Black helmets identical to the helmets worn by the Special Operation Forces of the State Security Service of Azerbaijan (DTX) or in other incidents with the killed Armenian servicemen can be seen next to Arsen. The Fact-Finding Group members observed that the Azerbaijani servicemen in the video with Eric Mkhitaryan (discussed above) also wore black helmets (See Figure 7.30).



Figure 7.29. Arsen Gharakhanyan is compelled to say Karabakh Azerbaijan (left). Arsen is on a pickup vehicle compelled to greet good people (right).

According to the family, the second video was published on January 8, 2021; in the video Arsen was held down, and he was told to say “good-bye” in Azerbaijani.

After seeing the first video, the family members contacted everyone they could, including the ICRC and the Russian peacekeepers, but without any results.



Figure 7.30. Black helmets in the pickup vehicle next to Arsen Gharakhanyan (left); Outfit of the Azerbaijani State Security Service (center); Azerbaijani serviceman in the video with Eric Mkhitaryan (right) (Source: Caspian News and Dtx.Gov.Az).

174 Telegram video, https://mega.nz/file/TkcitAoR#ITz_aHikzIRn3g2aQNIG1cZEb7gE6_oQ8W9RZZD7UrU.

On January 18, 2021, they were contacted by the State Service of Emergency Situations of the Ministry of Internal Affairs of the Republic of Artsakh (State Service of Emergency Situations of Artsakh) and were invited for identification of a man's corpse looking like the person in the videos. M.G. and her son went to the morgue and were able to identify the body of Arsen. The body had been found during search operations. His body had been buried within 2-3 km from Hadrut city, but his head was left above the ground.



Figure 7.31. The injury on Arsen's head, 3 March 2021 (Source: photo provided by Arsen's sister).

Forensic experts believe that he must have been killed on 14 or 15 January 2021. The family members told in the interview that Arsen did not have a beard in October 2020, while in the videos he had a beard, based on which they assumed that some time had elapsed from his capture and the time of recording the video.

Arsen was buried wearing his underwear and sport clothes, his sister recognized his facial features and the scar on his appendix. Arsen's head was covered in the mud because of having been left outside. There were signs of severe beatings and blunt force injuries to his head, chest, including broken bones and ribs and hematomas in his head and body. There were two gunshot injuries on Arsen's head inflicted post-mortem (See Figure 7.31) Based on external observation, M.G. believed that his skin was burnt as well.¹⁷⁵

Other Incidents of Killings of Ethnic Armenian Civilians

In an interview with the members of this mission, a resident of Togh village, A.M. reported that two villagers from Togh, namely R.S. and M.A., had been beheaded by Azerbaijani servicemen.¹⁷⁶ The Human Rights Defender confirmed in his report, that during the search operations for dead bodies in the village of Togh, the decaying corpses of R.S. and M.A. were found. R.S.'s head was missing, and their legs were broken.¹⁷⁷

M.A., 68, a resident of Togh village, near Hadrut, was found dead during search operations in Togh village.¹⁷⁸ According to his wife, when the war started in Septem-

¹⁷⁵ Interview with M.G., 3 March 2021

¹⁷⁶ Interview with A.M., 25 February 2021.

¹⁷⁷ "Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan."

¹⁷⁸ Letter from the Prosecution General's Office of Artsakh.

ber 2020, their fellow villagers started leaving the village, but she and her family remained for some time. Later (she does not remember the exact date), she and her children left the village, but her husband refused to leave. After leaving, she talked to her husband only once. The last communication that he had was with his children, and there was no call afterwards (the wife does not remember the exact date of the call). Then she was informed by relatives that the village had been taken over by Azerbaijani servicemen, after which she started seeking information, contacting acquaintances, as well as the ICRC. Only two months afterwards did they get concrete information that M.A. had been killed: M.A.'s wife's brother and her grandson participated in the search operations and went to the village; they saw M.A., and according to them, first, M.A. had been injured and then his head was cut off.¹⁷⁹

Wilful Killing of Armenian Women

Atrocities and brutal murders were committed against ethnic Armenian women as well. For example, N.D., a woman aged 83, was found in the village of Vardashat, in the Hadrut region: her head was cut off from her body and her hand was broken.¹⁸⁰ According to her daughter, when the other members of N.D.'s family left the village, N.D. and her husband, D.D., refused and stayed. Later, they did not have news from her parents until 18 December 2020, when they were contacted by the State Service of Emergency Situations of Artsakh and invited for corpse identification. N.D.'s grandson was able to identify her, but D.D. was still missing. Later, in January 2021, N.D.'s other grandson Manvel (not his real name) joined the peacekeepers and members of the State Service of Emergency Situations for search operations in their village. D.D.'s body was found 50 m from his house, where he had a garden. When Manvel went to the garden, he spotted his grandfather's clothes: his grandfather was there, lying on the ground, dead.¹⁸¹ According to N.D.'s and D.D.'s daughter, D.D. had an injury on his back.

Other women were found dead as well. A.T., a 52-year-old woman from Karin Tak village, was found dead on 13 January 2021, during the search operations in the same village. Examination of the body revealed obvious signs of torture; the left ear was cut off and the tongue was cut out.¹⁸² Forensic examination of A.T.'s body established that her death was caused by fractures to the skull, hematomas under her neck, fracture to the left hemisphere of the brain, and blunt force injury of the brain.¹⁸³ These findings corroborate suspicions of torture. Additionally, A.T.'s

¹⁷⁹ Interview with E.N., M.A.'s wife, 29 June 2021.

¹⁸⁰ Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan."

¹⁸¹ Confirmed also by the Letter from the Prosecutor General's Office of Artsakh.

¹⁸² "Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan."

¹⁸³ Letter from the Investigative Committee of Artsakh in response to the request for information by the



Figure 7.32. The locations where Armenian civilians were deliberately killed by advancing Azerbaijani armed forces during the advance of Azerbaijani armed forces (left). The map showing the territory under the Azerbaijani control as of 14 December 2020 (Sources: Fact-Finding Group and the Ministry of Defense of the Russian Federation).

relatives have stated that her body was mutilated; her hand, ear and leg were cut off. A.T.'s body was identified by her brother, S.T., who took part in the search operations.¹⁸⁴ Lastly, E.V., 69, was found dead together with her husband, S.V., 71, in Hadrut city.¹⁸⁵

Analysis of the places where the wilful killing of civilians took place coincides the advance of Azerbaijani forces on the way from Hadrut to Shushi and territories falling under their control (see Figure 7.32).

Evidence about the above instances of wilful killings was gathered from different sources, including videos disseminated online, and verified against interviews with the victims' relatives, information collected by the lawyers representing the victims' relatives, as well as the Human Rights Defender's Offices of Armenia and Artsakh, the Prosecutor General's Office of Artsakh, the Investigative Committee of Artsakh, and finally post-mortem forensic examinations. Furthermore, some of the videos depicting executions published on the Internet were analyzed and their authenticity was verified by international human rights organizations including Human Rights Watch, Amnesty International and other international news media companies.

Fact-Finding Group, June 29, 2021.

184 ՍարկիստվանԱնյա, «Քարին Տակի բնակիչ Ալվարդ Թովմասյանի դիակի վրա խոշտանգման հետքեր են եղել», Յետք, January 14, 2021, <https://hetq.am/hy/article/126270>; «Torturing and Killing of an Elderly Woman by Azeris in Karin Tak Village», AzeriWarCrimes.org, June 14, 2021, <https://azeriwarcrimes.org/2021/06/14/torturing-and-killing-of-an-elderly-woman-by-azeris-in-karin-tak-village/>.

185 Letter from the Prosecutor General's Office of Artsakh.

Additionally, where possible, the identity of the individuals in the videos was also confirmed through information received from other victims interviewed in the course of the fact-finding mission who identified their fellow servicemen and villager(s) in the disseminated videos. Another verification source has been information gathered by the lawyers of the victims who represent their interests in the proceedings before the ECtHR.

Thus, all above-mentioned cases demonstrate that Azerbaijani servicemen wilfully killed a number of Armenian servicemen *hors de combat*. Video evidence demonstrates that the killed Armenian servicemen either surrendered, or were tied or wounded, seemingly unarmed, and posed no threat to the Azerbaijani servicemen. The Azerbaijani servicemen knew of the status of the Armenian servicemen, as all of them were in the Armenian military uniform, and they had had sufficient time and possibility to understand that the Armenians no longer participated in hostilities, and still they killed the persons in their custody.

Under IHL, killing or wounding persons who are recognized as *hors de combat* is prohibited. Wilful killings of protected persons, including POWs, constitute grave breaches of GC III and war crimes. Additionally, both the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) prohibit arbitrary deprivation of life.¹⁸⁶

These acts against protected persons constitute a clear violation of the right to life, and they are to be prosecuted as grave breaches of IHL and war crimes of wilful killing, combined with torture, outrage upon personal dignity, and deliberate spread of terror among the civilian population.¹⁸⁷ These acts are specifically in breach of Common Article 3 to the Geneva Conventions, Customary international humanitarian law, and also violate the right to life and freedom from ill treatment and torture under IHRL instruments, including ICCPR and ECHR.

Failure to Distinguish between Civilians and Combatants

In conducting its targeting activities, Azerbaijan applied practices which breach the IHL obligation of distinguishing at all times between civilians and combatants, a fundamental obligation under IHL.¹⁸⁸ Under IHL specifically, as well as under hu-

¹⁸⁶ “International Covenant on Civil and Political Rights” (UN General Assembly, December 16, 1966), <https://www.refworld.org/docid/3ae6b3aa0.html>; “European Convention for the Protection of Human Rights and Fundamental Freedoms, as Amended by Protocols Nos. 11 and 14” (Council of Europe, November 4, 1950), <https://www.refworld.org/docid/3ae6b3b04.html>.

¹⁸⁷ See further below.

¹⁸⁸ “Customary IHL - Rule 1. The Principle of Distinction between Civilians and Combatants” (International Committee of the Red Cross), accessed April 6, 2022, <https://ihl-databases.icrc.org/customary-ihl/eng/docs/>

man rights law, all civilians are protected persons during any armed conflict, and any purposeful or reckless endangerment of a person's life is akin to a violation of the right to life. As demonstrated below, Azerbaijan violated the right to life of civilians by engaging in indiscriminate attacks, i.e., attacks of a nature which could strike civilians or civilian objects, or military objectives, without distinction. As such, Azerbaijan conducted the following types of attacks, which under IHL are considered as indiscriminate by their nature:¹⁸⁹ (a) attacks which employ a method or means of combat the effects of which cannot be limited as required by IHL rules;¹⁹⁰ (b) attacks which are not directed at a specific military objective.

The attacks launched by Azerbaijan were characterized by indiscriminate, indirect artillery fire of weapons into populated civilian areas, with no clearly apparent legitimate military objective. It is firmly established that attacks may only be directed against a specific and distinguishable target, and they must also employ specific weapons and methods of warfare that are limited (or at least limiting) in their results.¹⁹¹ Therefore, attacks launched for purposes other than gaining a definite military advantage, including terrorizing the population, or breaking determination to resist, are also prohibited.¹⁹²

IHL also prohibits treating certain areas as “bombardment areas;” that manner of bombardment exposes the civilian population and civilian objects to danger. Instead, attacks are to be directed only at a specific and definable military objective. In cases when the target is a ground area, it must be a military objective in its entirety, and it is not permissible to combine separable objectives as one “bombardment area.” However, as demonstrated below, and as also confirmed by Human Rights Watch, Azerbaijan applied such practice.¹⁹³

The indiscriminate nature of the attacks is also apparent from the type of weapons used by Azerbaijan. Based on the existing evidence (including reports by OSINT experts and photos of the remnants of the weapons, the traces of which were recorded and documented by journalists, both Armenian and foreign, as well as by international human rights organizations like the Office of the High Commissioner on Human Rights, Human Rights Watch, Amnesty International, as well as the Human Rights Defenders of Armenia and Artsakh and the Fact-Finding Group

vI_rul_ruleI.

189 “Customary IHL - Rule 12. Definition of Indiscriminate Attacks” (International Committee of the Red Cross), accessed April 22, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/vI_rul_rule12.

190 “Customary IHL - Rule 12. Definition of Indiscriminate Attacks.”

191 Dieter Fleck, ed., *The Handbook of International Humanitarian Law*, Fourth Edition (Oxford, New York: Oxford University Press, 2021), 129.

192 Fleck, 170.D. Fleck, *The Handbook of International Humanitarian Law* (OUP 2014), p. 170.

193 “Azerbaijan: Unlawful Strikes in Nagorno-Karabakh,” Human Rights Watch, December 11, 2020, <https://www.hrw.org/news/2020/12/11/azerbaijan-unlawful-strikes-nagorno-karabakh>.

members themselves), the main weapons used in shelling civilians and civilian populations were Grad MBRL,¹⁹⁴ and SMERCH rocket launchers,¹⁹⁵ which, due to their inherent technical characteristics have been classified as indiscriminate when used in or in the vicinity of residential areas.

Moreover, the existing evidence unequivocally proves use of sophisticated weapons, such as drones (unmanned aerial vehicles, or UAVs), by Azerbaijan, including both loitering munitions (also known as suicide drones), surveillance drones and rocket drones. Considering the sophisticated targeting capabilities of the drones/UAVs, the evidence suggests that Azerbaijan targeted civilians at times purposefully, at times recklessly, and at times indiscriminately, all of which constitute violations.

In this context, the assertion that Azerbaijan resorted to indiscriminate attacks and direct targeting of civilians is further supported by Azerbaijan's failure to take precautionary measures as required under international law. Under IHL, States must manage operations to minimize risk of incidental loss of life, and they have a duty to give effective warning, which must be understandable and offer a realistic opportunity for compliance. Management of military operations and the need to undertake respective precautionary measures also relates to consideration of the types of weapons deployed, their inherent technical characteristics, their potential impact on the civilian population, and the use of possible alternative weapons allowing higher precision. These aspects of Azerbaijan's targeting activities are also considered in this section of the report.

Thus, the evidence presented in the forthcoming sections shows that Azerbaijan failed to distinguish between civilians and combatants through: (a) indiscriminate attacks: use of indiscriminate weapons including cluster munitions, SMERCH and GRAD artillery systems; and (b) direct targeting of civilians, principally via drone attacks. This conclusion was based only on evidence that the Fact-Finding Group deemed credible and trustworthy because it was possible to establish, verify, and

¹⁹⁴ “Մարտունիում 4 զոհի ու 11 վիրավորի հանգեցրած հրետակոծությունը պատերազմական հանցագործություն է Արտակ Բեգլարյան,” The Human Rights Defender of Artsakh, October 1, 2020, <https://artsakhombuds.am/hy/news/460>; “Յրադադարի պայմանավորվածության ուժի մեջ մտնելուց հետո ադրբեջանական կողմը սպանել է առնվազն հինգ քաղաքացիական անձի,” The Human Rights Defender of Artsakh, October 11, 2020, <https://artsakhombuds.am/hy/news/467>; Armenian Refugees from Azerbaijan (@ArmRefugeesAze), “Azerbaijan Launched a Rocket Fire from BM-21 ‘Grad’ (122 Mm) against One of the Residential Areas of Stepanakert, Too Close to a School and Kindergarten via @ArtsakhCenter,” Twitter, September 29, 2020, <https://twitter.com/ArmRefugeesAze/status/1310873477935751168>; @KarabakhRecords, “В течение дня враг продолжал обстреливать мирные населенные пункты Арцаха,” November 5, 2020, Telegram post, <https://t.me/KarabakhRecords/1710>.

¹⁹⁵ @reartsakh, “Еще одно доказательство того, что ВС Азербайджана обстреливают снарядами гражданские населённые пункты,” September 28, 2020, Telegram post, <https://t.me/reartsakh/3589>; Neil Hauer (@NeilPHauer), “Remains of Two Different Smerch Missiles in Shushi, Karabakh,” Twitter, October 12, 2020, <https://twitter.com/NeilPHauer/status/1315699515765264384>; @Abbasdjuma, “Неразорвавшиеся снаряды от «Смерча» близ Степанакерта,” October 1, 2020, Telegram post, <https://t.me/Abbasdjuma/6680>.

corroborate any one piece of evidence based on other credible evidence. Specifically, this evidence was gathered through first-hand witness interviews, analysis of videos published on the internet, (including on such platforms as Telegram channels, TikTok and Instagram), the veracity of which, and the identity of the individuals in the videos, was confirmed based on at least one of the following sources: witness testimonies, statements from lawyers representing the relatives of victims, and/or information received by competent state authorities. The members of this mission also visited some of the targeted civilian areas, documented the damage inflicted against civilian objectives and residential areas, gathered information from the residents about the victims and the timeline of the attacks; and the evidence gathered from the field visits has been verified against the information and details from other sources. Only corroborated incidents and details have been included in the report. Where possible, expert examination, including forensic medical examination, forensic firearm examination, and analysis of satellite data, were used as a further means of corroborating the existing information.

Indiscriminate Attacks: The Use of Indiscriminate Weapons including Cluster Munitions, and SMERCH and GRAD Artillery Systems

During the military operations, Azerbaijan used various weapons from its military arsenal, including artillery systems such as BM-21 and SMERCH multiple-barreled rocket launchers (MBRL), LORA long-range artillery systems, and Polonez self-propelled multiple rocket launchers. Evidence thereof has been collected through field visits by the members of the Fact-Finding Group, mass media sources, and information received through enquiries addressed to competent authorities, including the Prosecutor General's Office of Artsakh. Based on the evidence available, the OSINT expert team has identified multiple incidents of the use of unguided, high-explosive fragmentation weapons, the use of which in populated areas is problematic. Such weapons have blast, fragmentation and heat effects. It is important to note that the fragments initially travel at high speed (thousands of meters per second) away from the point of detonation, causing damage to personnel, structures, and material, typically at a much greater distance than blast effects.¹⁹⁶ Importantly, high explosive fragmentation (HE-FRAG) warheads are primarily designed to cause target damage through the creation of high velocity fragments as opposed to blast energy,¹⁹⁷ which makes their use in populated areas even more

¹⁹⁶ Ove Dullum et al., "Indirect Fire: A Technical Analysis of the Employment, Accuracy, and Effects of Indirect-Fire Artillery Weapons" (Armament Research Services, January 2017), 79, <https://www.icrc.org/en/document/indirect-fire-technical-analysis-employment-accuracy-and-effects-indirect-fire-artillery>.

¹⁹⁷ Dullum et al., 83.

concerning and disturbing. Specifically, the OSINT team has identified use of Elbit Systems Extended Range Artillery (EXTRA) 306 mm surface-to-surface rockets, 122 mm 9M5-series surface-to-surface rockets, 300 mm 9M5-series surface-to-surface rockets, the 160 mm LAR rockets. As for the artillery launcher systems, the OSINT team has identified BM-21 Grad MBRL, 9K58-series SMERCH (Смерч; 'tornado') MBRL and 'Lynx' MBRL systems.

It is necessary to especially highlight that some of the technical characteristics of the weapons used in and in the vicinity of populated areas further makes their use indiscriminate. The propulsion sections of 9M5 series rockets (as well as those of some of the other rockets, including Israeli Elbit Systems Extended Range Artillery [EXTRA] 306 mm surface-to-surface guided missiles), which have been documented on multiple occasions during the present conflict, are discarded at the midpoint of the rocket's trajectory and commonly have impact areas between the launch and target sites.¹⁹⁸ Thus, given that the State deploying the ammunition is and shall be aware of the technical characteristics of the mentioned weapons in their military arsenal, it must assess the likelihood of the propulsion section landing in a populated area and the foreseeable harm thereof, in order to avoid that harm being inflicted by the propulsion section of the weapons used when determining the indiscriminate nature of the attack. It should be noted that damage to populated areas inflicted by propulsion sections of the weapons has been recorded on multiple occasions during this conflict, including in the cities of Stepanakert, Shushi and Martuni.

It must also be noted that Grad and SMERCH MBRL, in the context of other armed conflicts, have been characterized as indiscriminate when used in civilian areas. Specifically, the Human Rights Council has stated that SMERCH MBLR is an unguided area weapon, able to fire a salvo of up to twelve rockets, which increases its lethal area, thereby making this weapon even less discriminate.¹⁹⁹ As for GRAD, in other words, BM-21, which is an indirect wide-area weapon, it is not suitable for engaging a point target. It has a disproportionate effect on civilians owing to its inaccuracy and the high number of fired projectiles.²⁰⁰ On yet another occasion, it was concluded that GRAD multiple rocket launching systems and cluster munitions

¹⁹⁸ Analysis by OSINT experts. Also see N.R. Jenzen-Jones, "9M27K Series Cargo Rockets Used in Ukraine," Armament Research Services (ARES), July 11, 2014, <https://armamentresearch.com/9m27k-series-cargo-rockets-used-in-ukraine/>.

¹⁹⁹ "Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (A/HRC/44/61) (Advance Unedited Version) - Syrian Arab Republic" (UN Human Rights Council, July 2, 2020), para. 53, <https://reliefweb.int/report/syrian-arab-republic/report-independent-international-commission-inquiry-syrian-arab-10>.

²⁰⁰ "Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (A/HRC/44/61) (Advance Unedited Version) - Syrian Arab Republic," para. 87

are the two types of weaponry considered particularly dangerous for non-combatants because of their indiscriminate deadly effects.²⁰¹ The OHCHR in its conclusions on fact finding missions in the Libyan conflict has similarly concluded that “heavy weaponry such as Grad rockets and rocket propelled grenades are not appropriate for use in highly populated residential areas given that they cannot be targeted with sufficient precision.”²⁰² The fact that their use in built-up, residential areas had led to extensive damage to civilian buildings, and death and injury to civilians, was considered an indication of indiscriminate attack.²⁰³ Additionally, according to the ICRC, explosive weapons with a wide impact area should not be used in densely populated areas due to the significant likelihood of indiscriminate effects, meaning that their use against military objectives located in populated areas²⁰⁴ is likely to fall foul of the IHL rules prohibiting indiscriminate and disproportionate attacks.²⁰⁵ Therefore, even where there might be military objectives in the vicinity of residential areas, use of indiscriminate weapons, which Azerbaijan did use on numerous instances in populated areas, constitute a violation of IHL rules on targeting, and therefore violate of the right to life as well.

During the armed activities initiated in September 2020, as mentioned above, Azerbaijan used unguided weapons such as SMERCH and Grad MBRL weapons against civilian areas, despite possessing weapons with exact targeting capabilities like UAVs, and the LORA missile, which has a ten-meter circular error probable (CEP). Thus, the use of imprecise weapons when precise weapons and precise reconnaissance (like drones) were available, indicate an intentional abuse in choice of weapons, in violation of the obligation to distinguish between civilian and military objectives.

In their field visit to Martuni city, members of the Fact-Finding Group witnessed the consequences of such use of weapons, which was apparent throughout the entire city.

201 “Independent International Fact-Finding Mission on the Conflict in Georgia” (Council of the European Union, September 2009), para. 29, <https://casebook.icrc.org/case-study/georgiarussia-independent-international-fact-finding-mission-conflict-south-ossetia>; “Civilians in the Line of Fire: The Georgia-Russia Conflict.” (Amnesty International, November 18, 2008), 24, <https://www.amnesty.org/en/documents/eur04/005/2008/en/>.

202 “Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya: Detailed Findings” (UN Human Rights Council, February 15, 2016), para. 101, https://www.ohchr.org/sites/default/files/Documents/Countries/LY/A_HRC_31_CRP_3.pdf.

203 “Investigation by the Office of the United Nations High Commissioner for Human Rights on Libya: Detailed Findings.”

204 Cities, towns, villages or other areas containing a similar concentration of civilians or civilian objects shall be treated as densely populated areas. See “International Humanitarian Law and the Challenges of Contemporary Armed Conflicts,” Report (International Committee of the Red Cross, November 13, 2015), 49, <https://www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts>.

205 “Expert Meeting: Explosive Weapons in Populated Areas” (International Committee of the Red Cross, February 25, 2015), 8, <https://shop.icrc.org/expert-meeting-explosive-weapons-in-populated-areas.html>.



Figure 7.33. Destruction of houses in Martuni city, 11 December 2020 (Source: Fact-Finding Group).

Obvious evidence of bombardment and shelling, including craters throughout the city,²⁰⁶ left the immediate impression that the residential houses and buildings had come under indiscriminate fire by Azerbaijan. A resident of Martuni stated:

For a moment, I lost consciousness. Then I opened my eyes, I was not able to hear anything, I could only see. I saw that something fell on my neighbor's house as well, and they dropped something on the house of my other neighbor, who died. They were deliberately dropping [bombs] on houses ...

I managed to get up somehow, I was shouting, I could not hear anything. My child was lying there, unconscious: her eyes were closed, she was not crying. My sister-in-law [Manush Gevorgyan] was by my side, her leg was injured. My neighbor, El-lada [Babayan] was bleeding. I was shouting, thinking that others might hear me, though I could not hear. Then I saw my other children coming out of the house, and I made a sign to them to stay inside. Then, when Igor [the husband] managed to get up, we all got into the bus [her husband's bus] and headed towards Martuni city's hospital.²⁰⁷

In an interview with the members of the Fact-Finding Group, A.G. explained that early in the morning of 27 September 2020, at around 7:05 am, she was awakened to sounds of shelling. She said those were not sounds of usual shooting, which they were used to; it was louder. Her husband told them to get ready in order to go to a shelter. While her older children were putting on their clothes, A.G. went outside holding her youngest child (a two-year-old), and Vika, her 9-year-old daughter.

²⁰⁶ Դավիթ Գալստյան, “Ադրբեջանի ՋՈւ-ի թիրախ դարձած Մարտունիին «Գրադից» հետո. լուսանկարներ, տեսանյութ,” Sputnik Արմենիա, September 28, 2020, sec. Լուրեր, <https://armeniasputnik.am/20200928/grad-arcax-martuni-hretakocutyun-24646482.html>.

²⁰⁷ Interview with A.G., a resident of Martuni, 21 February 2021.

When outside, she saw planes, helicopters and UAVs. At that moment, something exploded without any sound, and her daughter, Vika, died instantly.²⁰⁸ A.G. was injured, and her two-year-old son was severely injured. She says that the explosion was right on top of them. Her daughter, Vika, received a fragment injury to her heart (a forensic examination of Vika's body revealed that her death was caused from penetration of multiple fragments and blunt injuries.)²⁰⁹ A.G. received fragment injuries as well; her two-year-old son had a broken leg, fragment injuries, and an injured hand and had to stay in the hospital for around three weeks later, until 20 October 2020, but even afterwards he remained under medical supervision.²¹⁰ Today, the big fragments that hit A.G. have been removed, while a couple of small ones still remain; her son has undergone three surgeries).

A.G.'s sister-in-law, M.G., was also injured on 27 September 2020, and explained:

On the morning of 27 September 2020, at around 7:10am, we heard loud sounds. We went to the yard and saw that the whole sky was filled with UAVs. ... My husband, who was at a military post, called, telling me to stay inside. Then we gathered with neighbors and decided to find a shelter, because there were none in our district. We went outside to make a call. I was there with my sister-in-law, A.G., her two-year-old son in her hands, and her nine-year old daughter [Vika] was by my side. Our neighbor, Ellada, was by my side as well. We were trying to call a taxi, but did not manage to, before fire fell right amongst us. The child was lying by my side, I had fallen as well...

I took the child [Vika] up from the ground; part of her head was entirely covered in blood. At that moment, I lost consciousness. I do not remember how I managed to get to the hospital.²¹¹

M.G. received fragment injuries to her back and head. There are still fragments in her body, specifically in her leg. She was severely injured. She underwent surgeries first in Stepanakert, and then she was taken to the hospital in Shushi. Later she was taken to Yerevan, where she underwent surgeries on her knee and leg. Basically, all her limbs are injured except for her left hand.

208 ARTSAKH TV NEWS ՕՐ, "Լրատվական, Հակառակորդը Թիրախավորել է Մարտունի Քաղաքի Թաղամասերից Մեկը," September 27, 2020, YouTube video, <https://www.youtube.com/watch?v=rLKCdWB-V4WE>; @wargonzo, "-ЭКСКЛЮЗИВ-Карабах в огне...," September 28, 2020, Telegram video, <https://t.me/wargonzo/3492>; "Artsakh Human Rights Defender Reports the Names of Four Killed Civilians," The Human Rights Defender of Artsakh, September 29, 2020, <https://artsakhombuds.am/en/news/456..>

209 Letter from the Investigative Committee of Artsakh.

210 Interview with A.G., 22 February 2021; see also "Արցախում վիրավորված փոքրիկ Արծվիկը դուրս է գրվել հիվանդանոցից. լուսանկար," Sputnik Արմենիա, October 20, 2020, sec. Լուրեր, <https://armeniasputnik.am/20201020/poqrrik-artsviky-durse-grvel-hivandanocic-24989816.html>.

211 Interview with M.G., a resident of Martuni, 21 February 2021.



Figure 7.34. Place of the incident on 27 September 2020, Martuni city (Source: Artsakh TV News)



Figure 7.35. Damage to the external areas of the house (vicinity of the place of the incident) (Source: Lurer.com news agency).

Ellada, another resident of Martuni city, died as a result of this incident. In an interview with members of the Fact-Finding Group, Ellada's husband, S.B., said:

During the first explosion, I was at home. When we heard the explosion, we went outside; I looked outside, and fragments hit me. The closest explosion was within three meters, not farther than that. One fragment made a hole on the wall of the house. For a considerable time, I was not telling my mother-in-law that her daughter had died, she was constantly asking where Ellada was, and I was telling her that she would come soon. My mother-in-law is a very old woman.²¹²

OSINT examination has revealed that in the vicinity of the location where this incident happened, an Israeli Elbit Systems LAR-160 surface-to-surface rocket, carried and fired by the 'Lynx' MBRL system capable of carrying 26 of these rockets, was used.²¹³ It is an unguided, high-explosive fragmentation weapon, and is described as a relatively imprecise munition. The inherent technical characteristics of this munition may increase the likelihood of civilian casualties if used in urban or otherwise densely populated areas.²¹⁴ OSINT experts assessed that the damage had been caused by a combination of fragmentation and blast overpressure, consistent with the use of HE-FRAG weapons. In this context it is necessary to note that the ICRC regards as cause for concern those weapons which are unguided, have a wide impact area and have a large fragmentation and blast range or effect.²¹⁵ Use of such weapons in a populated area constitutes indiscriminate targeting.



Figure 7.36. Place of the incident on September 27, 2020, Martuni city (Source: Artsakh TV News).

212 Interview with S.B., a resident of Martuni, 17 December 2020.

213 Conclusions by OSINT experts.

214 Conclusions by OSINT experts; see also Ove Dullum, "The Rocket Artillery Reference Book" (Norwegian Defence Research Establishment, June 30, 2010), <https://www.ffi.no/en/publications-archive/the-rocket-artillery-reference-book>.

215 "International Humanitarian Law and the Challenges of Contemporary Armed Conflicts," 49.



Figure 7.37. Picture of the weapon with which N.B.'s house was targeted, Martuni city, 11 December 2020 (Source: Fact-Finding Group).



Figure 7.38. Damaged roof of N.B.'s house, Martuni city, 11 December 2020 (Source: Fact-Finding Group).

Numerous other houses and objects were subjected to indiscriminate shelling during the military activities. For example, N.B.'s house in Martuni city was hit by a rocket, which cut through the ceiling of the second floor of the house. N.B. found the remnant of the weapon inside his house and removed it to his garden. In their field visit to Martuni, members of the mission observed the house which is in an entirely civilian district of the city; no military objects could be identified in the vicinity.



Figure 7.39. The house of P.S., Martuni city, 11 December 2020 (Source: Fact-Finding Group).



Figure 7.40. The house of P.S., Martuni city, 11 December 2020 (Source: Fact-Finding Group).

P.S., 75, a resident of Martuni city was killed on 10 October 2020, when his house was shelled; the house collapsed leaving P.S. under the rubble. His body was removed from the rubble by the residents of Martuni and the rescue forces of Artsakh State Emergency Situations Service.²¹⁶ A forensic examination of P.S.'s body established hematomas and fractures on different parts of his head and body,²¹⁷ which must have been caused as a result of being trapped under the rubble of his house after the explosion. In their field visit to Martuni, members of the mission observed the house which is in an entirely civilian district of the city, and no military objects could be identified in the vicinity.

G.M., 61, lived in the Keshimesh district of Martakert city, on Azatamartikner street. He said that Martakert city started to be bombarded in the early morning of September 27th, around 7:30-8:00am.²¹⁸ He counted to tell the Fact-Finding Group:

After the first day [27 September 2020], they started hitting Martakert city proper; I cannot say how much they fired, there were GRADs, rockets, aerial bombs ... they bombarded at night as well ... the last night after the ceasefire [9 November 2020], they fired the last rocket at the building in front of our hospital, there is a pharmacy and a bistro there, and everything was shattered. It would have been at about 2:00-3:00 am.²¹⁹

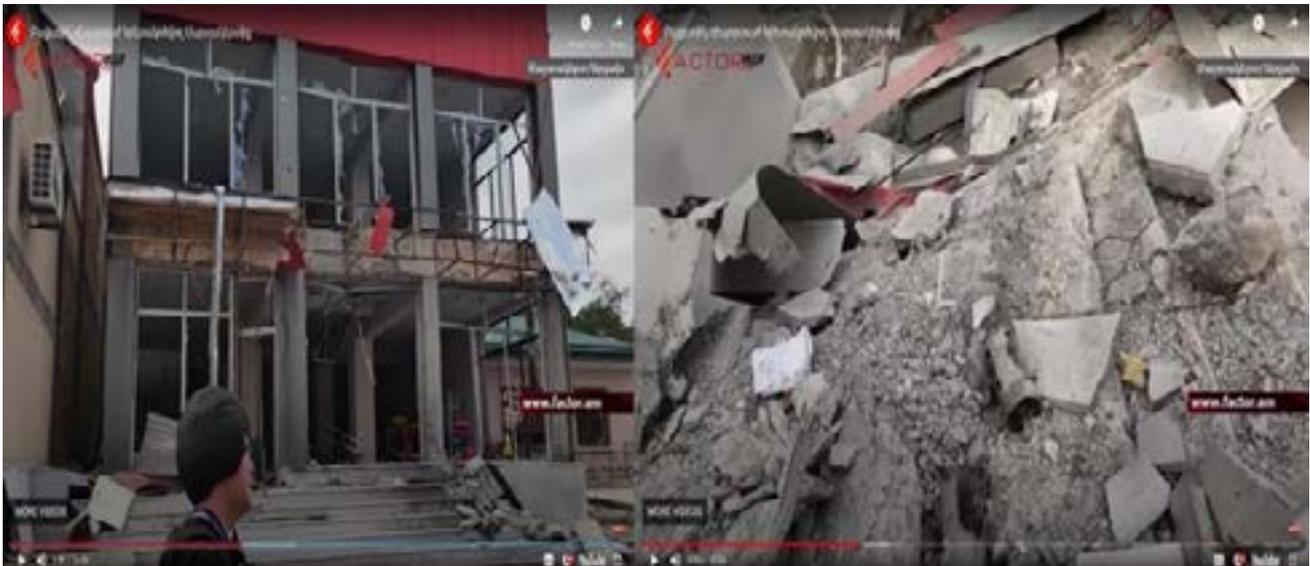


Figure 7.41. The red shop near which D.Kh.'s father, mother and aunt died; the remains of the weapon (Source: Factor TV).

²¹⁶ Letter by the Prosecutor General's Office; "Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan;" "Մարտունիում Յրեսակոծությունից Մահացել է 75-Ամյա Պարզև Սաղյանը. ՏԵՍԱՆՅՈՒԹ," Ֆակտոր տեղեկատվական կենտրոն, October 12, 2020, <https://factor.am/294613.html>.

²¹⁷ Letter from the Investigative Committee of Artsakh.

²¹⁸ Interview with G.M., a resident of Martakert, 18 December 2020.

²¹⁹ Ibid.

In an interview with the members of the Fact-Finding Group, D.Kh., 38, a resident of Martakert city, mentioned that Martakert city started being bombarded from the first day, September 27, 2020. On 30 September 2020, he had come to Martakert city to deliver food, when he witnessed the shops in the city being hit. He and his family were at their own grocery shop at the time. When they came out of the shop, his mother, father, and aunt fled, but D.Kh. went back to grab the keys from the shop and lock it. It was because he went back inside the shop that he stayed alive, whereas the others, i.e., his mother, father, and aunt, who had already gone outside, died instantaneously after being hit by fragments of a GRAD weapon (D.Kh. claims that the weapon used to target the areas was GRAD).²²⁰ D.Kh.'s father, H.Kh, 65, died of hemorrhagic shock, as well as shrapnel injuries to his head, chest and abdomen. D.Kh.'s mother, L.M., 63, died of traumatic hemorrhagic shock, injuries to her head, chest, limbs and a cerebral hematoma. D.Kh. received serious injuries: he had penetrating fragment injuries on his right and left calves, and a fracture of the gastrocnemius on his left side.²²¹

Indiscriminate attacks against the capital city of Stepanakert attracted the attention of international human rights organizations, which have confirmed the indiscriminate nature of those attacks. Representatives of Human Rights Watch paid a visit to Stepanakert, and Human Rights Watch on-site investigation in Stepanakert found numerous incidents in which Azerbaijan's forces used inherently indiscriminate cluster munitions and artillery rockets or other weapons that did not distinguish between military targets and civilian objects.²²² Human Rights Watch has also confirmed that cluster munitions and rockets fired from SMERCH and Grad MBRLs, which are not capable of precision targeting, were used in conducting the strikes against Stepanakert.

Importantly, one of the conclusions of the on-site visit by members of the Fact-Finding Group was that Azerbaijani forces did not refrain from attacks against residential areas with inherently indiscriminate weapons, as well as dropped aerial munitions and fired heavy artillery into populated areas that contained no apparent military objectives. During their visit to Stepanakert in December 2020, members of the Fact-Finding Group also witnessed the impact of the targeting by Azerbaijani Armed Forces against such objects which were not military objectives, or in the vicinity of which there were no military objectives.

A.S., one of the residents of Stepanakert who was injured on the first day of the conflict, reported that in the morning of 27 September 2020, at around 7:00 am,

²²⁰ Interview with D.Kh., a resident of Martakert, 19 March 2021; see also “Բացառիկ ռեպորտաժ հրետակոծվող Մարտակերտից. ՏԵՍԱՆՅՈՒԹ,” Ֆակտոր տեղեկատվական կենտրոն, October 2, 2020, <https://factor.am/290128.html>.

²²¹ Report about stationary care at Erebuni Medical Centre.

²²² “Azerbaijan: Unlawful Strikes in Nagorno-Karabakh.”

he left the house to go and collect his working tools and gear (he was working in construction).²²³ When he was driving in his car, he heard sounds above him. Then he parked his car and after getting out of the car and looking upwards, he noticed that bombs were falling. At that time, he felt an explosion to his right side. He started running towards his house but realizing that it might be dangerous, given that there were explosions, he went inside a nearby building's basement. Once inside, he tore apart his clothing and bandaged his leg, which had been injured, and covered the injuries on his back so as to stop the bleeding. He had received several fragment injuries on his back, and a medical examination later concluded that it was impossible to do surgery, because the fragments are too close to the nervous system, and it would be dangerous to do surgery in that area. He believes that he was injured as a result of UAV bombing.²²⁴ Another witness, L.S., 65, was at home at 7:00 am in the morning of 27 September 2020, when he heard sounds, and thinking that there was an explosion somewhere, he went outside. He recounted:

I went outside. I saw that there were explosions in other locations as well and three parachutes were descending right above my head. That is when I turned to go back, and the closest place to me was the entrance to our building. I was hit right at the entrance, I did not understand whether it was the force [of the explosion] or the bomb, I do not remember. I got up, not feeling pain, saw that the cars were burning, one was shattered. I understood that a war was beginning. I was not feeling any pain, but when my neighbors saw me, they forced me to go to hospital. I was surprised, because I could not feel any pain, but they told me that my entire back was covered in blood. Turns out, fragments had hit me.²²⁵

When taken to the hospital, the doctors saw that his condition was severe. L.S. has undergone surgery, but there are still fragments in his body. According to L.S., the district where he lived in Stepanakert was one of the most targeted areas because it was close to the electrical station.

The description of the explosion, the circumstances, the fact that multiple parachutes were spotted before the explosion, and the type of injuries sustained by L.S. all match the characteristics of cluster munitions weapons. Specifically, the parachutes spotted by the victim are indicative of air-delivered weapons like cluster munitions, which release submunitions deployed by parachutes stabilizing their descent.²²⁶

²²³ Interview with A.S., a resident of Stepanakert, 2 February 2021.

²²⁴ The letter from the Prosecutor General's office states that A.S. was injured as a result of rocket explosion, the exact type of the weapon is not specified.

²²⁵ Interview with L.S., a resident of Stepanakert, 2 March 2021.

²²⁶ "How Cluster Bombs Work," Humanity and Inclusion, accessed April 23, 2022, https://www.hi-us.org/how_cluster_bombs_work.

The wide area of the impact of the weapon used is also typical of cluster munitions given that just one container of submunitions can cover a wide area with submunition strikes.²²⁷ Additionally, multiple blasts and fragment injuries,²²⁸ similar to those sustained by L.S., suggest the use of cluster munitions. The use of cluster munitions throughout Artsakh has been documented by such international organizations as The HALO Trust²²⁹ and Human Rights Watch.²³⁰

N.L. lived on Alek Manukyan Street, in Stepanakert city. Alek Manukyan street was shelled by Azerbaijan on 4 October 2020,²³¹ and his father, A.L., who was at home at the time, received fragment injuries as a result of the shelling and died.²³² He was found dead on the balcony of his house, bleeding from fragment injuries. N.L. claims that there were no military objectives near their house. In response to the enquiry by members of the mission to the Prosecutor General's Office of Artsakh, the latter confirmed that A.L. had died as a result of artillery fire at Alek Manukyan Street, in Stepanakert city, on 4 October 2020.



Figure 7.42. Pictures of the targeted buildings at Alek Manukyan Street, Stepanakert city, 12 December 2020 (Source: Fact-Finding Group).

227 "How Cluster Bombs Work."

228 "Cluster Munition Victims" (International Committee of the Red Cross, February 29, 2008), <https://www.icrc.org/en/doc/resources/documents/legal-fact-sheet/cluster-munitions-victims-factsheet-020208.htm>.

229 "A Cluster Bomb in the Attic: Aro's Story," The HALO Trust, accessed April 14, 2022, <https://www.halotrust.org/latest/halo-updates/stories/aros-story/>; "Making Civilians Safe in Karabakh," The HALO Trust, accessed April 23, 2022, <https://www.halotrust.org/latest/halo-updates/stories/karabakh-update/>; "Beware the Pink Ribbons," The HALO Trust, accessed April 23, 2022, <https://www.halotrust.org/latest/halo-updates/stories/beware-the-pink-ribbons/>.

230 "Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh," Human Rights Watch, October 23, 2020, <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

231 Artsakh Public TV, "Ստեփանակերտի Ռմբակոծության Եզակի Կադրերը Степанакерт Обстреливают Из Запрещенного Оружия," October 4, 2020, YouTube video, <https://www.youtube.com/watch?v=tM5KnYm-cl-A>.

232 Interview with N.L., a resident of Stepanakert, 18 December 2020.



Figure 7.43. 5, Isakov avenue, Stepanakert city (consequences of the shelling on 4 October 2020), 10 December 2021 (Source: Fact-Finding Group).



Figure 7.44. Propulsion section of a 300mm 9M5-series surface-to-surface, Stepanakert (Source: War Gonzo Telegram channel).

233 “Interim Report: On the Cases of the Killing of Civilians in Artsakh by the Armed Forces of Azerbaijan;” Letter by the Prosecutor General’s Office.

Indiscriminate Targeting of Villages of Artsakh

Villages in Artsakh also came under indiscriminate attacks. On 27 September 2020, S.A. from Taghaser village in the Hadrut region experienced the following:

I was at home at around 8:10-8:20 am. I was getting ready to go to work, I was in the yard when I heard two sounds. I stood up to look around, and it was two seconds after that that a rocket hit right next to me, and there were fragments on my legs, hands and lower abdomen. I do not know the exact type of the rocket that hit me; it had landed on the ground near me and looked like a pipe.²³⁴

He then somehow managed to get into the car and drive to the hospital in Hadrut city. He was bleeding; he had a large injury on his leg which hurt the most. When he was in the hospital in Hadrut city, he saw other fellow villagers who had been injured as a result of the attack. S.A. said that there are no military objectives in their village, which is within 3 km distance from the city of Hadrut.

At the time of the interview with the members of the mission, some of his injuries had healed, but there are still fragments in his body, he is not able to bend his left leg, and his knee was injured. The latest examination that he had undergone in Yerevan, revealed twelve fragments inside his body. He has numbness in his left hand, rendering him unable to make normal use of it. Cold makes him especially vulnerable.

Also, in the Hadrut region, A.A., 23, a resident of the village of Vardashat, which is within 1 km distance of Taghaser village, mentioned above, was at home, asleep, on September 27th. In the morning, at around 7:15am, he was awakened to what felt like an earthquake. He heard his family members shouting. A.A. said:

I realized that it was not an earthquake. I quickly realized that something had started. I got up, ran towards the windows. Opening the windows, I saw five rockets hit in the left direction of the village.²³⁵

Thus, the village was targeted right from the first day of the armed conflict. A.A. also reported that he had been injured as a result of cluster munitions. The submunitions from one of those weapons hit the roof of their house; some of them fell off the roof, and he was injured by one of those submunitions. A.A. recounted:

Luckily not all of the submunitions fell off the roof, otherwise, I would not be here. Once it exploded, it broke my leg, there was fire, a spark from the explosion, then there was a blast from the explosion which threw me against the wall. Then I saw that my hand was broken, the upper bone was shattered. The lower bone was also broken, only tendons were holding my arm.²³⁶

²³⁴ Interview with S.A., a resident of Taghaser village, 2 March 2021.

²³⁵ Interview with A.A., a resident of Vardashat village, 27 January 2021.

²³⁶ Ibid.

A.A. said that there were no military objects in the village of Vardashat.

In another case, a resident of the village of Avetaranots, H.A., 58, was injured as a result of the shelling of Avetaranots village. Evacuations started when the Azeri servicemen were moving in the direction of the village, and beginning on October 26th, the village started to be heavily bombarded. H.A. claims that cluster munitions were used, and when cluster munitions were deployed for the fifth time in October, H.A. was injured on his hand and leg; he received fragment injuries. He told the Fact-Finding Group:

I was in the garden of our house. When the cluster bomb was released, my brother-in-law and I were injured. There were elderly people in the village, they came to us running, and bandaged the injuries so as to stop the bleeding. Then somebody took us in their car to Stepanakert's hospital.²³⁷

The local residents rendered assistance to him. The residents of Avetaranots village, among them Siranush (name changed), have asserted the absence of any military objectives in the village in an interview to the members of the mission.²³⁸

Apart from the specific incidents mentioned above, other residential areas of Artsakh have also come under indiscriminate fire by use of, as the damage clearly suggests, explosive, fragmentation weapons. Members of the Fact-Finding Group also conducted a field visit to the village of Karmir Shuka. The images presented below were taken by the members of the mission during their visit in December 2020.



²³⁷ Interview with H.A., a resident of Avetaranots village, 17 December 2020.

²³⁸ Interview with Siranush, a resident of Avetaranots village, 16 February 2021.



Figure 7.45. Karmir Shuka village (photos of different houses in Karmir Shuka, taken by members of the mission), 11 December 2020 (Source: Fact-Finding Group).

As already mentioned, damage was inflicted not only by the warheads of the rockets fired, but also by the propulsion sections of the weapons used.



Figure 7.46. Propulsion section of a 300mm 9M5-series surface-to-surface rocket, civilian garden, Shushi (Source: open-source materials).²³⁹

Direct Targeting of Civilians: Drone/UAV Attacks

*With the UAVs that they were using, they definitely knew that the targeted object was a bakery. We could see those UAVs, some of them were flying very close to us, at other times we could hear them. There is the sound, you hear the motor, and then all of a sudden it hits somewhere. Upon hearing the sound, we would hide somewhere. Those machines were constantly video recording Martakert city, they knew what was there.*²⁴⁰

As mentioned above, the military operations launched by Azerbaijan in September 2020 were marked by the extensive use of drone technology.²⁴¹ The military arsenal of Azerbaijan includes a range of sophisticated unmanned aerial vehicles (UAVs), intended both for surveillance and combat functions. Those vehicles include, specifically, surveillance drones such as the Aerostar and the Searcher, lo-

²³⁹ Weapon identified by the OSINT experts (based on OSINT conclusions).

²⁴⁰ Interview with M.G., a resident of Martakert, 18 December 2020.

²⁴¹ Robyn Dixon, "Azerbaijan's Drones Owned the Battlefield in Nagorno-Karabakh — and Showed Future of Warfare," Washington Post, November 11, 2020, https://www.washingtonpost.com/world/europe/nagorno-karabakh-drones-azerbaijan-aremenia/2020/11/11/441bcabd2-193d-11eb-8bda-814ca56e138b_story.html; Shaan Shaikh and Wes Rumbaugh, "The Air and Missile War in Nagorno-Karabakh: Lessons for the Future of Strike and Defense" (Center for Strategic and International Studies, December 8, 2020), <https://www.csis.org/analysis/air-and-missile-war-nagorno-karabakh-lessons-future-strike-and-defense>; Mike Eckel, "Drone Wars: In Nagorno-Karabakh, The Future Of Warfare Is Now," Radio Free Europe/Radio Liberty, October 9, 2020, sec. Features & Blogs, <https://www.rferl.org/a/drone-wars-in-nagorno-karabakh-the-future-of-warfare-is-now/30885007.html>.

tering munitions, such as the Orbiter 1K and the HAROP, as well as multifunctional UAVs equipped with surveillance and precision rocket attack capabilities, such as the Heron, SkyStriker, Bayraktar TB2, and Hermes 900.²⁴² The mentioned drones are equipped with advanced surveillance and targeting capabilities, which enable high-precision targeting. Specifically, navigation, surveillance and location of targets is performed mostly with advanced intelligence capabilities such as various electronic intelligence sensors (COMINT, ELINT, i.e. intelligence gathering by interception of signals, including communication between people and from electronic signals not directly used in communication),²⁴³ GPS navigation, as well as navigation in GPS-denied areas.²⁴⁴ Some UAVs are designed as silent, invisible and surprise attackers, capable of operating at low altitudes, which gives them the ability to observe and identify an enemy target before delivering a rapid precision airstrike.²⁴⁵ The foregoing, which illustrates only part of the advanced surveillance and targeting capabilities of the UAVs possessed by Azerbaijan, proves that Azerbaijan had the ability to exactly determine and distinguish military and civilian targets, and to carry out precise attacks at a selected target.

Existing evidence demonstrates that Azerbaijan used the mentioned drones both before the war, for surveillance purposes, and during the war initiated in September 2020, for surveillance and combat purposes. Some civilians interviewed by the members of the mission reported seeing drones some months before the start of the war, saying that drones were heard and seen hovering above residential areas even before the beginning of the armed activities in September 2020. M.A. reported to the Fact-Finding Group:

Before [September 27], two months before that, drones were hovering above our house. They would come, stay there, record the location and then leave. There were many of them; at the time we thought those could be our drones, who could think what would happen...²⁴⁶

It was obviously visible that drones were hovering above our village, recording and then leaving. [Azerbaijan] knew the location of everything.²⁴⁷

242 “Skystriker,” Elbit Systems, accessed April 23, 2022, <https://elbitsystems.com/products/uas/skystriker/>; “Bayraktar TB2,” accessed April 23, 2022, <https://www.baykartech.com/en/baykartech.com>; “Hermes™ 900 Maritime Patrol UAS,” Elbit Systems, n.d., https://elbitsystems.com/media/naval_hermes_900_maritime_2018_LR.pdf.

243 “Aerostar Tactical UAS (TUAS),” Aeronautics Group, accessed April 23, 2022, <https://aeronautics-sys.com/home-page/page-systems/page-systems-aerostar-tuas/>.

244 “Orbiter 1K,” Aeronautics Group, accessed April 23, 2022, <https://aeronautics-sys.com/home-page/page-systems/page-systems-orbiter-1k-muas/>.

245 “Skystriker.”

246 Interview with A.G., 21 February 2021.

247 Interview with M.A., 21 February 2021.

An investigation of the remnants of weapons and an examination of the videos released by the armed forces of Azerbaijan has allowed to confirm the use of surveillance UAVs. “Orbiter 2,3,” “Searcher 2,” “Heron 1,” “SkyStriker” loitering munition, and “Harop” loitering munition.²⁴⁸ Additionally, an examination of open data sources, including videos released by the armed forces of Azerbaijan and pictures of destroyed drones, has helped experts to identify the use of Aerostar surveillance UAVs, IAI Harop loitering munitions, Skystriker loitering munitions, Orbiter 1K loitering munitions, Bayraktar TB2 UCAVs and other UAVs (which were difficult to identify by the experts).²⁴⁹

During the war, Azerbaijan used drones not only against military, but also against civilian objectives. Instances of targeting of civilians and civilian objectives, as well as civilian casualties resulting from drone targeting were recorded. Such evidence was collected by members of the mission from interviews, from open access sources, as well as from the reports of Human Rights Defender of Artsakh and information from the Prosecutor General’s Office of Artsakh.

For instance, according to the response provided by the Prosecutor General’s Office of Artsakh, L.S. was killed as a result of being hit by loitering munition (i.e., a suicide drone or kamikaze drone). In an interview with members of the mission, L.S.’s death was confirmed by M. J., a resident of Karmrakuch village, which is 2-3 km away from Hadrut city. M.J. knew L.S.’s husband. Additionally, in another interview, a resident of Vank village, Narine (not her real name), mentioned being aware of a civilian named L.S. having died as a result of drone targeting by Azerbaijan.

Another civilian killed by drones was E.Kh., a resident of Khnapat village, in the Askeran region. On 28 October 2020, he had gone to the city of Martuni, and on his way back he was spotted by an Azerbaijani drone and was killed as a result of being hit by a rocket fired from the drone.²⁵⁰

S.B., a resident of Taghavard village, 60, was also killed after being hit by a rocket fired from an Azerbaijani UAV. As of 30 October 2020, the village of Taghavard was completely evacuated, but on that day, some inhabitants of the villages of Taghavard and Karmir Shuka had gathered around the food shop in Aknaghbyur village. At that time, rockets were fired in their direction from Azerbaijani UAVs, and S.B. was killed as a result of the explosion; six other civilians sustained different levels of bodily injuries²⁵¹.

248 Letter from the Investigative Committee of Artsakh.

249 “The Fight for Nagorno-Karabakh: Documenting Losses on The Sides Of Armenia And Azerbaijan,” Oryx, September 27, 2020, <https://www.oryxspioenkop.com/2020/09/the-fight-for-nagorno-karabakh.html>.

250 Letter from the Prosecutor General’s Office of Artsakh.

251 Ibid.

Open data sources have also recorded use of drones against civilian areas. Specifically, on October 1st, the Information Center of Artsakh reported that one of the Azerbaijani drones targeting the city of Askeran was destroyed near a residential area.²⁵²

Thus, being in possession of advanced drone weapon systems equipped with sophisticated surveillance and targeting capabilities, Azerbaijan had the ability to determine and distinguish exact military and civilian targets and carry out precise attacks at a selected target. Therefore, in instances where civilian objects are proved to have been attacked by UAVs/drones, the evidence proves that Azerbaijan deliberately targeted such civilians and civilian objectives.

The above evidence proves that Azerbaijan violated its obligations to distinguish between civilian and military objectives by, firstly, using weapons which are inherently indiscriminate if used in civilian areas, and secondly, by using precision guided UAV systems against civilians.

The manner in which Azerbaijan conducted the targeting operations also indicates that Azerbaijan failed to take precautionary measures, and engaged in acts with disregard to human life, in violation of human rights and IHL. Evidence shows that purely civilian centers were attacked without warning. Also, the timing of attacks, as well as choice of weapons, cumulatively prove that Azerbaijan failed to take precautionary measures.

The evidence presented above shows that civilian populations were attacked without warning, rendering incidental loss of life. The evidence of the morning attacks on residential areas while residents were at home proves that these were surprise attacks on civilians without warning, resulting in violations of IHL legal norms and human rights because civilians were endangered. The evidence also shows that the use of UAVs provided exact reconnaissance information which would allow Azerbaijan to target military objects and not civilian areas. Management of military operations includes consideration as to types of weapons deployed. By their nature, cluster munitions are indiscriminate and thus their deployment especially in civilian areas is in violation of IHL norms.

Furthermore, the choice of weapons used for targeting further confirms the indiscriminate nature of the targeting activities. As noted above, given their inherent

252 @reartsakh, "На фото показан один из уничтоженных азербайджанских беспилотников в городе Аскеран. БПЛА целился в мирное население и был поврежден недалеко от жилого района. - передаёт Информационный штаб Арцаха," October 1, 2020, Telegram post, <https://t.me/reartsakh/3824>.

technical characteristics, SMERCH and GRAD rocket launchers, which were used extensively during the conflict, have been characterized as indiscriminate weapons, taking into account not only the damage inflicted by their warhead, but also their propulsion sections. It has been especially disturbing that Azerbaijan continued its use of SMERCH and cluster munitions even after it became evident, including through extensive media coverage and official statements, that the attacks pose extensive risk to civilians, resulting in their injuries and deaths in residential areas. Further use of a particular weapon, after its effect on the civilian population has been extensively circulated through media, points to the intent to target civilians and civilian objects rather than military objectives.²⁵³ Finally, use of imprecise weapons when precise weapons and precise reconnaissance were available indicate an intentional abuse in choice of weapons and the planning of targeting operations.

²⁵³ Prosecutor v. Milan Martić (Judgment), No. IT-95-11-T (International Criminal Tribunal for the former Yugoslavia June 12, 2007).

Torture and Other Forms of Ill-Treatment, Including Degrading Treatment, or Wilfully Causing Great Suffering or Serious Injury to Body or Health

Prisoners of War

The Fact-Finding Group analyzed dozens of videos with the torture and other forms of ill-treatment of Armenian servicemen in the hands of the Azerbaijani forces. Footage posted on Telegram channels and TikTok demonstrate beatings, degrading treatment, and mocking and humiliation, upon capture of ethnic Armenian servicemen by members of the Azerbaijani Armed Forces, during transfer,²⁵⁴ as well as other authorities at all types of detention facilities while in custody in Azerbaijan. Videos examined by the Fact-Finding Group members depict Azerbaijani servicemen slapping, kicking, hitting, and prodding, threatening to mutilate Armenian POWs upon capture, and compelling them, under obvious duress and with the apparent intent to humiliate them, to kiss the Azerbaijani flag, swear at the Armenian Prime Minister Nikol Pashinyan, and declare that Karabakh is Azerbaijan. Repatriated POWs interviewed by the Fact-Finding Group also reported being subjected to such treatment.

Testimonies by POWs on Ill-Treatment

The cases presented below are first-hand accounts from four repatriated POWs about their experience in detention in Azerbaijan, starting from their capture and up until their repatriation. The interviewed POWs spent from 48 to 65 days in Azerbaijani custody before they were repatriated to Armenia in December 2020.

The testimonies of all four POWs are corroborated and consistent with video evidence taken by the alleged perpetrators or their colleagues and posted on social networks by members of the Azerbaijani Armed Forces or affiliated users, including on Telegram channels and other social media, as well as supported by interviews with the lawyer representing the victims before the ECtHR, and interviews given

254 @karabagxeber, "Erməni əsirlər "Qarabağ Azərbaycan", "Lənkəran", "Kürdəmir uşaqları", "Paşinyan suka" söyləyə - söyləyə, Gəncə həbsxanasına aparıldı...", November 15, 2020, Telegram video, <https://mega.nz/file/Wx0DXYZ#vhf5oNB4VbO6kBP-bwH5pTH4QgmZFs2kts56ZLJGGSw>.

by other repatriated POWs to media in relation to the same or related facts. All four interviewed POWs were subjects of videos, and their appearance and treatment is consistent with their testimonies. The information presented in this report is also corroborated by the findings of the reports of the Ombudsperson, Human Rights Watch, Amnesty International, open-source investigations conducted by international media, as well as statements of international organizations.²⁵⁵ In particular, Human Rights Watch reported on 19 March 2021 that Azerbaijani security and armed forces had abused Armenian POWs, subjecting them to cruel and degrading treatment and torture either when they were captured, during their transfer, or while in custody at various detention facilities; and that Azerbaijan denies accusations that Armenian POWs have been subjected to treatment violating the Geneva Conventions.²⁵⁶

The European parliament in its Resolution, in particular, stated that “whereas military personnel and civilians detained before and after the ceasefire enjoy different statuses under international law; whereas, on the one hand, military personnel taken into captivity before and after the ceasefire should be recognized as POWs and benefit from protection under the Geneva Conventions; whereas, on the other hand, civilians detained during the conflict must be recognized as protected persons and are also protected under the Geneva Conventions; whereas civilians detained after the ceasefire are instead protected under international human rights law.” The European parliament noted that “whereas according to worrying reports, approximately 200 Armenians are being held in Azerbaijani captivity; whereas the European Court of Human Rights (ECtHR) stated that it has received complaints regarding 249 Armenians captured by Azerbaijan; whereas the ECtHR has applied interim measures with regard to the 229 Armenians, and 183 still remain in force; whereas the ECtHR concluded on 9 March 2021 that Azerbaijan had failed to comply with the measures, judging the information provided as too general and limited; whereas the Azerbaijani authorities acknowledged that 72 Armenians are in their captivity; whereas with regard to a further 112 individuals, no information has been submitted by Azerbaijan to the ECtHR; whereas the fate of the other Armenian POWs is unknown; whereas since the cessation of hostilities, 73 Armenian POWs and civilians have been repatriated to Armenia.”²⁵⁷

255 “Armenia/Azerbaijan: Decapitation and War Crimes in Gruesome Videos Must Be Urgently Investigated,” Amnesty International, December 10, 2020, <https://www.amnesty.org/en/latest/news/2020/12/armenia-azerbaijan-decapitation-and-war-crimes-in-gruesome-videos-must-be-urgently-investigated/>; “Azerbaijan: Allow Human Rights Court to Investigate Reports of Detainee Torture,” Freedom House, May 11, 2021, <https://freedomhouse.org/article/azerbaijan-allow-human-rights-court-investigate-reports-detainee-torture>.

256 “Azerbaijan: Armenian POWs Abused in Custody,” Human Rights Watch, March 19, 2021, <https://www.hrw.org/news/2021/03/19/azerbaijan-armenian-pows-abused-custody>.

257 https://www.europarl.europa.eu/doceo/document/TA-9-2021-0251_EN.html

All four interviewed POWs stated that they were kept at the military police premises, Ministry of the State Security (referred by the POWs as KGB) as well as in a prison. Some of them explicitly stated that the prison was Baku pre-trial detention facility in Kurdakhani, some called it “Romashka” (given its shape) (see Figure 8.1)



Figure 8.1 Baku pre-trial detention facility (Source: Google maps).

All four interviewed former POWs told the Fact-Finding Group that starting from the capture until their transfer to a prison they were subjected to beatings, their skin was burned; they were forced to swear at the Armenian Prime Minister Nikol Pashinyan and other people; they were subjected to humiliation by various means, including being compelled to kiss the Azerbaijani flag. They were compelled to say on camera as well as to stand up and state that Karabakh is Azerbaijan every time the cell door was opened. Most of them were physically ill-treated in various phases of detention, including during transfer from facility to facility; at the premises of the Ministry of National Security (MNS), in military police custody as well as before, during and after interrogation. Three of them reported that their skin was burned by cigarettes; two were subjected to electric shock. Wounded POWs also reported being ill-treated by medical personnel, including while in hospital.

Some of them reported that persons who introduced themselves as their lawyers handed over some papers in Azerbaijani for signature, also tried to convince them to denounce the Armenian citizenship and stay in Azerbaijan. Prison guards told them that Armenia was not willing to repatriate them.

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.

Upon capture, Azerbaijani servicemen tied the hands of the captives with a zip tie or plastic rope that in some cases remained on their hands for several days; as a result, their hands were swollen. The Fact-Finding Group members established that the use of plastic zip ties or ropes by Azerbaijani servicemen was common based on the analysis of footage and testimonies of other POWs in interviews to Armenian media as shown below.

Upon Capture

The interviewed repatriated POWs reported that they were subject to abuse by Azerbaijani servicemen immediately upon capture. Beatings and abuse took place mostly when they were transferred from the place of capture to temporary command points set up by Azerbaijani military. Azerbaijani servicemen in groups abused the POWs, hit them on various parts of the body, including right on the injuries. In some instances, the beatings stopped only after an explicit command from their superiors. 19-year-old Arman (name changed) recounts:

At their command point, Azerbaijani servicemen surrounded me. Some of these men did not speak Russian but showed with gestures that they would cut my throat. One of the men showed seven fingers and a throat-cutting gesture. I understood that he had cut the throats of seven people. I thought they would do the same with me. They started beating me; they did not care about my wound. If the commander did not show up in time and order not to abuse me, I would have been killed there.²⁵⁸

23-year-old Babken (name changed) told the Fact-Finding Group:

An hour after my capture, Azerbaijani servicemen tied my hands, threw me on the ground, stepped on my head, beat me on various parts of the body, and prodded my body. As I was blindfolded, I did not understand whether it was a knife or something else. I got a heavy hit on my nose, I did not see what was used to hit me, and I believe it was with the rifle butt. My nose was broken, it was bleeding, and

²⁵⁸ Interview with Arman (name changed), 7 May 2021.

I could not breathe for two-three days because of my broken nose. All that time my hands were tightly tied, so my hands were swollen. Only when they took the zip tie off, I had an opportunity to wash my face, so that I could breathe again.²⁵⁹

During Transfer

Azerbaijani servicemen subjected Armenian POWs to abuse also during the transfer by car on the way to Baku. Three of them reported that their skin was burned by cigarettes; two were subjected to electric shock. The Fact-Finding Group members observed scars on the hands of the interviewed repatriated POWs which are consistent with their testimony. 24-year-old Gnel (name changed) states:

After my capture, I was taken to the command point of the reconnaissance unit. From there, I was taken to the military police premises. That trip was a nightmare. My hands got burned quite a lot, by cigarettes. The accompanying Azerbaijani servicemen used an electro shocker on my body, in the vehicle, pepper sprayed my wounds. They applied electroshocker even on my abdomen area, knowing that I was wounded there.²⁶⁰

24-year-old Sanasar told the members of the Fact-Finding Group:

They placed me in a vehicle in the company of two Azerbaijani servicemen. On the way, these Azerbaijani servicemen burned my skin with cigarettes. Then I was placed in a different vehicle partitioned with cages inside.²⁶¹ There were two more Armenians inside; however, we were not in the same cell. On the way, I was not beaten, I was just lying on the floor, I kept silent, I was extremely weak because of my wound. However, I heard how one of these two Armenians was constantly beaten on the journey. I kept silent; I was not able to make any sound so weak I was. When I was supposed to get off the first vehicle, they pushed me and threw me on the ground. So, this time when we arrived at the destination, I thought that this vehicle is higher, so if they pulled and threw me out of it like last time, I would sustain a fracture. So, I first took my head and hands out, so that I fall on my hands, if they threw me out. It happened the way I expected. They threw me on the ground and told to go in certain direction.²⁶²

Some of the interviewed POWs were immediately transferred to Baku, whereas some were kept in buildings on the way.

²⁵⁹ Interview with Babken (name changed), 3 March 2021.

²⁶⁰ Interview with Gnel (name changed), 1 July 2021.

²⁶¹ For example, see @karabagxeber, "Erməni əsirlər "Qarabağ Azərbaycan", "Lənkəran", "Kürdəmir uşaqları", "Paşinyan suka" söyləyə - söyləyə, Gəncə həbsxanasına aparıldı...", November 15, 2020, Telegram video, <https://mega.nz/file/Wx0DXYZ#vhf5oNB4VbO6kBP-bwH5pTH4QgmZFs2kts56ZLJGGSw>.

²⁶² Interview with Sanasar, 1 July 2021.

On the way, they kept me in some buildings, I think these were military compounds, I do not know where exactly. It took me three days to get to Baku. There I was kept alone. In every new location, they beat me, every minute. If you made a sound, they would get excited and beat even more. I tried not to make any sound. They beat us only for being Armenians... At nights, I was transferred with my eyes blindfolded, and during the day, I was chained to the heating system in humid rooms. It was the end of October and rather cold. Later in Baku, my cellmates – other POWs – told me that in their case Azerbaijani servicemen poured water on the ground where the captured Armenians were sitting chained. In Baku, I also learned that Azerbaijani servicemen applied electric shockers to all my cellmates, except for me.²⁶³

At the military police premises

All interviewed repatriated POWs reported that they were subject to beatings particularly at the premises of the military police. In particular, older POWs were treated worse than younger ones for their alleged participation in the First Karabakh war. Some of the interviewed POWs stated that they were threatened there that all those captured Armenians would have to pay for everything occurred in the 1990s. For instance, Gnel recounts:

At the military police, I was beaten several times, subjected to electric shock. They beat me with their hands, kick with boots, hit with a baton, hit my head. Only after that I was transferred to a hospital for a medical check-up as I was wounded.

Sanasar states:

At the military police premises, whoever had nothing to do would come and beat me. I stayed there for five hours. There was no difference whether you were wounded or not. They chained us over there. There was an old Armenian captive with us. They were beating him for his participation in the war in the 1990s and because this time he volunteered. There were lots of people, personnel of the military police and young servicemen would come group by group and beat us in turn. During the five hours that I spent there, I was seriously beaten. There were three breaks when they poured water on us. At some point, two servicemen came, pulled me, made me stand up, and tied me to a pipe. They told me that if I fell, they would kill me. So I stood. They started beating me; they handcuffed me, and then started beating me with wooden batons. Five minutes later, I was about to fall thinking that in any case I was going to die. I pretended that I was fainting and was about to fall, however, at that moment one of them kicked my hands, I squeezed my muscles, as a result the handcuffs broke. They told me: aahh, so you are a sportsman here, and pick me up to beat again. There was an old Armenian

²⁶³ Interview with Arman (name changed), 7 May 2021.

man with me; he was captured on the same day. They ordered him to hit me, while I was lying on the ground tied, he refused; then they hit him, and he would hit me. They forced Armenians to hit each other. They checked my phone, asked about all my contacts and photos. They kept my phone; they logged in to my social network accounts and checked my photos.²⁶⁴

Babken recollects:

They threatened that we would not go back to Armenia. Psychological pressure was there since day one. They would tell us that we would pay for everything that had happened before, regardless of who did what. They treated older captives worse than younger ones for their alleged participation in the first war. I was subject to physical violence up until the last stage, i.e., when I was transferred to a prison.²⁶⁵

At the Premises of the Ministry of National Security²⁶⁶

All of the interviewed POWs reported that they were moved from the premises of the military police to the premises of the MNS. There, the Azerbaijanis also subjected them to physical violence and caused suffering. Azerbaijani guards would order them to stand the whole day or, on the contrary, to sit and not move for hours; they would be beaten if caught not following the instructions. If the orders were not followed, then the captives were beaten. Very often, they were insulted, for example, with such words as “jackal”, or “ogrash” (insult in Azerbaijani).

Babken told the Fact-Finding Group:

I was kept alone. Even at night, a very strong light was on, like a projector, so that I could not sleep properly. During the day, the light was turned down low but still on. They would tell me to stand for the whole day, or to sit and freeze. If they did not enter to check on you, you were lucky. If they entered and saw that you were not following their order, that was not good at all, they would beat you. From my cell, I heard other Armenians screaming. I even recognized one of my fellow servicemen, we were captured together. Over there, I was beaten if not every day, then every other day for sure. Usually, they would beat me on the day of interrogation or the day before. *They used batons to beat me, electric shockers, mostly on the sides of my abdomen area, on the neck, hands and calf muscles. They would use the electric shocker up to the point when I was about to pass out. I did not pass out, but if they used it for two seconds longer, I would. They would stop when they noticed that I was going to pass out. During interrogation, they*

²⁶⁴ Interview with Sanasar, 1 July 2021.

²⁶⁵ Interview with Babken (name changed), 3 March 2021.

²⁶⁶ The interviewed POWs called it KGB.

would also beat me, mostly hit on my head. However, they would mostly beat me in my cell, and then take me for interrogation either on the same day or the next day. They would enter the cell, beat me with various accusations, force me to say 'Karabakh-Azerbaijan,' and swear at certain people.²⁶⁷

Gnel recounts:

After a check-up in the hospital, I was taken to the KGB premises. I spent around ten days there. I was in such bad shape there that they did not touch me. Whatever happened, it took place before the KGB, in the first days after my capture. I told their chief that even if they did not touch me, I would suffer, because of my condition. He promised to warn them. Azerbaijani servicemen there did not beat me, but I heard how others in the nearby cells were beaten. In the beginning, for the first hours after the transfer, they did not allow me to lie down, forcing me to sit. I raised that issue and solved it as well. They would open the door and order us to sit.²⁶⁸

Arman told the Fact-Finding Group:

Three days after I was captured, they transferred me to Baku. I saw glass buildings of Baku, that's how I realized that they took me to Baku. I stayed there for around ten days. Those who interrogated me in the MNS seemed higher in ranks, they did not beat me. However, after the interrogation, I was beaten; they would beat me with batons. They also beat me, before I was transferred to a prison.²⁶⁹

At the Kurdakhani Prison

All interviewed former POWs stated that at some point of their captivity they were transferred to a prison where they stayed up until their repatriation. Some of them explicitly indicated that this was Kurdakhani prison located not far from Baku. In the prison, they shared a cell with other Armenian captives. All of them stated that they were not physically abused in the prison, however prison guards ordered them to say 'Karabakh is Azerbaijan' regularly. One of the interviewees mentioned that he heard female voices screaming in Armenian at night, demanding release and return to their children. The fact of captivity of women shocked him and his cellmates as they could not imagine that women would be captured and transferred to Baku. As Gnel recollects:

There were both civilians and servicemen in my cell. There was no beating in the prison. They told us to say Karabakh is Azerbaijan every time when they opened

²⁶⁷ Interview with Babken (name changed), 3 March 2021.

²⁶⁸ Interview with Gnel (name changed), 1 July 2021.

²⁶⁹ Interview with Arman (name changed), 7 May 2021.

the door, and also to swear at an elderly Armenian who shared the cell with us. Azerbaijani prisoners were kept in the same prison, on a higher floor. We overheard them speaking over the sewer ladder.²⁷⁰

Medical Assistance

All interviewed former POWs were wounded in action, however only one of them was treated in hospital. Despite the fact that they had obvious and serious injuries, no one attended to their wounds upon capture, they were not provided with painkillers, unless, for example, a commander ordered the medical personnel to do something about the wound. However, when the commander left, the medical personnel abused the wounded captive and deliberately hurt the wound to cause severe pain. For days and in some cases, for weeks, at most, their bandage got changed. Babken says:

I had a gunshot wound on my leg; however, a doctor visited and examined me only two and half weeks after my capture when I was transferred to a prison in Baku. There was no medical intervention; they told us that if one was able to walk, there was no need to do anything. Medical assistance was provided to those who were severely wounded. But when I asked for painkillers to relieve pain and to be able to sleep, they provided me with the pills.²⁷¹

Sanasar told the Fact-Finding Group:

In the hospital, in the beginning, the guys from SOF who were guarding me, beat me every day. Every time before giving me food and after, they beat me. There were two of them who beat me with particular cruelty. This did not allow me to sleep. Once when I was falling asleep, one of them poured hot tea on my forehead. Once, they hit my head with a walkie-talkie. They have beaten me for so many days, that it seems that at some point they got tired of beating me, there was no excitement anymore, I guess. Some other doctors, from the military, when they visited, they would check to make sure that no one was watching them, and then they would enter my ward and beat me while I was in such condition: both my hands were always handcuffed. They uncuffed me only when I had meals. I lost a lot of weight; I was around 40 kg there.²⁷²

Gnel shares similar experience of ill-treatment:

I was wounded, so after beating me they took me to the hospital for a check-up. But I stayed there only for an hour. In the prison, a doctor would come two-three

²⁷⁰ Interview with Gnel (name changed), 1 July 2021.

²⁷¹ Interview with Babken (name changed), 3 March 2021.

²⁷² Interview with Sanasar, 1 July 2021.

times a week to change the bandage. The doctor would ask what kind of medicine we need. At times, when we asked for painkillers, they would provide it.²⁷³

Arman states:

The paramedic who put the first bandage on my wound, beat me after that. He put on a bandage only after he got an explicit order from the commanding officer. During the first days, they only changed my bandage. They did not give me even a painkiller despite the fact that I had a bone fracture. When there were other people around, medical personnel behaved ok. However, when there was no one around to supervise them, at times they hurt me on purpose.²⁷⁴

Food

The interviewees reported that in the initial phase of their captivity by Azerbaijani servicemen up until the transfer to the prison, they received no food or in small portions. In some cases, during the first four to five days, Armenian captives were provided with no food, they made them starve. In his interview, Babken said:

For four-five days, I did not eat anything, they kept us starving. Then, they gave us little food, handful amount of buckwheat or rice. Then, in the KGB premises they fed us relatively ok, but again buckwheat, rice, water.²⁷⁵

“The food at the KGB was good but in small portions. In the prison, we got more food, but it was tasteless, there was no use in it,” Gnel recounted.²⁷⁶ “In the initial period, until we got to Baku, they gave me only bread and water. Then, at the KGB premises I got meals three times a day, but the portions were small,” Arman shared his experience.²⁷⁷ “In the prison the food was a problem. It was just to survive. Once, the ICRC visited us so that my cellmate could talk to his family, so we had a good meal that day,” Sanasar told the Fact-Finding Group members.²⁷⁸

Communication with the External World

Three out of four interviewed former POWs were able to establish contact with their family members with the assistance of the ICRC by phone or through a letter. However, they had no contact at all with the family up until the 50th day of their captivity. Up until then, their family members had no information on their where-

²⁷³ Interview with Gnel (name changed), 1 July 2021.

²⁷⁴ Interview with Arman (name changed), 7 May 2021.

²⁷⁵ Interview with Babken (name changed), 3 March 2021.

²⁷⁶ Interview with Gnel (name changed), 1 July 2021.

²⁷⁷ Interview with Arman (name changed), 7 May 2021.

²⁷⁸ Interview with Sanasar, 1 July 2021.

abouts. For around two months that one of the POWs was in captivity, he had no opportunity to contact his family, neither was he visited by the ICRC or any other neutral authority.

Arman told the Fact-Finding Group:

Once when we were in the prison, they gave us new clothes, and took us to the basement. When we returned to our cell, we felt that there were other people there (we saw leftovers of food and cigarettes). Later on, we learned from other Armenian captives held there that on that day the ICRC visited the prison. Up until my repatriation, my family did not know anything of my whereabouts, except for the video confirming my captivity by Azerbaijani servicemen. After repatriation, I contacted the family members of my cellmates to inform them about their whereabouts. I learned from the family members that my cellmates, who were not repatriated together with me, had the opportunity to contact their families for the first time only in February 2021, four months after capture.²⁷⁹

Gnel states:

I did not speak to my family, but I had an opportunity to send a letter via the ICRC almost a month prior to my repatriation. It made it to my family. When the ICRC visited me, we even got upset: they brought us so much stuff that we thought that we would have to stay there for two years. There were sweets, hygiene items, etc., in the package.

Widespread practice of resorting to physical violence, in particular by the vanguard groups of Azerbaijani armed forces and at the premises of the military police, absolute impunity for such acts, promotion of such practice by dissemination of videos depicting acts of ill-treatment and humiliation, suggest a systemic approach employed by the Azerbaijani authorities. This conclusion is also supported by the previous (pre-44-day war) record of Azerbaijan of subjecting Armenian captives to torture and wilfully killing them in captivity confirmed by the ECtHR.²⁸⁰ As it was already mentioned, in rare cases when commanding officers intervened and ordered not to abuse the captives, their subordinates stopped the abuse. This means that it was possible to prevent torture and ill-treatment of Armenian POWs should the Azerbaijani authorities have such an intention. At the same time, Azerbaijani servicemen when not supervised as well as medical personnel considered that they could and should abuse Armenian captives. Such approach is a result of the decades-long policy of Armenophobia promoted by the Azerbaijani authorities.

²⁷⁹ Interview with Arman (name changed), 7 May 2021.

²⁸⁰ For example, see *Petrosyan v. Azerbaijan*, No. 32427/16 (European Court of Human Rights November 4, 2021); *Khojoyan and Vardazaryan v. Azerbaijan*, No. 62161/14 (European Court of Human Rights November 4, 2021).

Inhuman Treatment of Other POWs

The Fact-Finding Group members analyzed a number of videos distributed in Telegram channels showing ill-treatment of Armenian servicemen.

Ill-treatment of A.S.

Footage appeared on 7 October 2020²⁸¹ on an Azerbaijani Telegram channel depicting an Armenian in plain clothes. The person swears in Russian at the Armenian Prime Minister, and then tells in Armenian that he had no fault, he came to do his two-year military service and belongs to Jebrail regiment, he is 18. Whatever he says he looks at someone standing by him to get approval (Se). A background voice in Russian asks A.S. to repeat the same in Russian; A.S. looks scared and disoriented and asks for a break (See Figure 8.2). He is visibly in pain and breathes with difficulty. He is also asked whether he is a member of Erkrpah (a union of Armenian volunteers).²⁸²



Later, a series of videos appeared on Telegram channels with the same Armenian, later identified by the Fact-Finding Group as A.S., 19, a conscript.²⁸³ The first video in that series that appeared on 9 November 2020, shows an Armenian serviceman with his hands up who says in Armenian that he is wounded in the leg and has been there for a week, while men speaking Azerbaijani yell at him and swear²⁸⁴ (see Figure 8.3). In another episode,²⁸⁵ A.S. is on the ground taking a hit from Azerbaijani servicemen.

Figure 8.2. A.S. when instructed to swear at Armenian Prime Minister Pashinyan. (Source:Herbixeber Telegram channel).

281 @herbixeber, “Döyüşlərdə Xüsusi Təyinatlılar tərəfindən əsir götürülən erməni əsgəri Paşinyanı söyür,” October 7, 2020, Telegram video, https://mega.nz/file/7wV2HRyK#d4M_bFuM0JjaUY9F0jO7hGAbidsf9xTo-r9YgFgLzpiK.

282 “Երկրապահ կամավորական միություն,” Երկրապահ կամավորական միություն, accessed April 24, 2022, <https://ekm.am/>.

283 “Azerbaijan: Armenian Prisoners of War Badly Mistreated,” Human Rights Watch, December 2, 2020, <https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated>.

284 <https://t.me/herbixeber/2591>, https://mega.nz/file/m8shGADY#8NyewFXOCBTPKf3I5_g0MuirRx-wh46OV245SeifH7eM

285 https://t.me/kolorit_21/376, <https://mega.nz/file/WssX3CIB#zVpzKduA9fHx53QwNYQNBrXpadD34qSnk-GUffAFbMIY>

In another fragment,²⁸⁶ the Armenian serviceman wearing the same clothes, on the ground shouts in pain “Karabakh Azerbaijan.” In another fragment,²⁸⁷ the same serviceman, in uniform, begs for water repeatedly while a voice in Azerbaijani demands from him to repeat a phrase in Azerbaijani (See Figure 8.4). The next video shows the same Armenian serviceman sitting, wounded, chained to the top of the tank. The video depicts him surrounded by a group of Azerbaijani servicemen. One of the Azerbaijani servicemen is standing on the hand of the wounded captured Armenian soldier. The serviceman repeats after an Azerbaijani soldier, and shouts on camera “Karabakh is Azerbaijan” and to say a phrase about the Armenian Prime Minister Pashinyan in Azerbaijani while surrounding Azerbaijani servicemen whistle and cheer”²⁸⁸ (see Figure 8.5).



Figure 8.3. A.S. surrendering with hands up to Azerbaijani servicemen (Source: Herbixeber Telegram channel).



Figure 8.4. A.S. lying on the ground and begging for water (Source: Kolorit_18 Telegram channel).



Figure 8.5. A.S. chained to the tank shouting ‘Karabakh Azerbaijan’, while an Azerbaijani serviceman stands on his hand. (Source: Karabah_news Telegram channel).

286 https://t.me/kolorit_21/1999, <https://mega.nz/file/e01iyQTI#NcUQZibX1FqBQafWzVYqHX2vwpVYevQGV-JZ0USEJR8o>

287 Link not available, <https://mega.nz/file/LwFmiKxR#3xZX74TbBuopu6y1xW5mNXhjAy2DqAn5gkuQrkUin-wl>

288 https://t.me/karabah_news/1329; <https://t.me/xalqxaq/1929>, <https://mega.nz/file/61dRBDIL#KNGYQ9H-FonOJ6cZvLDPLxXDLRDJzZk4W3d2U0wDnNqE>

Ill-treatment of S.A.

Footage posted on a Telegram channel on 20 October 2020, shows an Armenian serviceman in a room with Azerbaijani President Aliyev's picture on the wall.²⁸⁹ An Azerbaijani serviceman hits him on the head (see Figure 8.6). He is ordered by someone in Russian to swear at the Armenian Prime Minister Pashinyan in Russian repeatedly. The Fact-Finding Group members later identified the Armenian serviceman as S.A.²⁹⁰



Figure 8.6. An Azerbaijani serviceman hits a captured Armenian serviceman (Source: Karabakh_news telegram channel).

A group of Armenian Servicemen Captured in Mataghis

On 22 October 2020, a video appeared on Telegram channels where a group of eight servicemen in Armenian military uniforms were standing in a row in front of a building, possibly an administrative building in a military unit, later confirmed by the repatriated servicemen to be the Armenian military base in Mataghis²⁹¹ (see Figure 8.7). Later, another footage was posted on Tiktok depicting the mo-

289 @karabakh_news, Telegram video, https://mega.nz/file/yktD0DIQ#Fk-aGnvYCPCme5ZeILYi-Y2_A3qnp-gfh1IFINOIOFBk.

290 Kentron Channel, “«Ակզբում ճատ Վատ էր, Հետո՝ Ուղղակի Վատ». 55 Օր Բաքվի Բերդում Անցկացրած Սամվելը Վերհիշել է Ծանր Օրերը,” February 1, 2021, YouTube video, <https://www.youtube.com/watch?v=2prjgb8YnBc>.

291 @qarabagxeber, “Erməni əsirlər: “QARABAĞ AZƏRBAYCANDIR”,” October 22, 2020, Telegram video, https://mega.nz/file/mhISDb5T#-yzqk9gxZ8Wnl32j-I5Rq76aMP_75skJjZ-VcvQm4Mc.

ment when, where and by whom the Armenian servicemen were found.²⁹² The Fact-Finding Group identified V.H., H.D., N.N., R.R., and G. based on interviews given to Armenian media after their repatriation.²⁹³ In the footage, a voice in Russian instructs all of them to repeat one after another, “Karabakh-Azerbaijan,” while an Azerbaijani serviceman walks along the row. In another video that appeared on 23 October 2020, the same Armenians are on their knees on the ground at a different location,²⁹⁴ their hands behind their heads, and they are instructed to say all together, repeatedly, ‘Karabakh-Azerbaijan’ (see Figure 8.8). According to one of the repatriated POWs, H.D., a member of that group, the second video was shot in a location approximately a one-hour’s drive from Talysh.²⁹⁵



Figure 8.7. A group of Armenian servicemen captured lined up and forced to say, ‘Karabakh is Azerbaijan’ (Source: Qarabagxeber Telegram channel).

According to an interview with H.D. given to Armenian media,²⁹⁶ on 22 October 2020, Azerbaijanis found them in a bunker in the military base of Mataghis. Some of them were wounded in the fighting, including H.D. and V.H. H.D. also stated that despite strong hostility from Azerbaijani servicemen, up until the group was

292 @ruhinmikayilov, TikTok video, <https://mega.nz/file/ul0TRbQD#IcMfD6LhCpfN2qrdAcNTUAMYA-Q5vm-sDX8TWyk31FE>.

293 Ազատություն, “Գերությունից Վերադարձած Զինծառայողները Պնդում Են՝ Իրենք Ծառայության Պատրաստ Չեն,” April 25, 2021, YouTube video, <https://www.youtube.com/watch?v=2shi9HV6WQ0>.

294 @Caucasian_bureau, “Армянские солдаты, попавшие в плен, утверждают, что Карабах - это Азербайджан. Думаю соглашусь с ними в этот раз,” October 23, 2020, Telegram video, <https://mega.nz/file/Pk1hVRbQ#60QJo6jhKGloqGBBcAQpyTwZVEkCAWDwiqYCKefHqU>.

295 Ժիրայր Ոսկանյան, “#ԱնցնելովՍահմանը ԲԱՅԱՌԻԿ Մանրամասներ. Կապեցին Ու Տարան Բաքու. Բանտում Հայ Գերիների Ձայներ Էի Lunւմ,” February 6, 2021, YouTube video, https://www.youtube.com/watch?v=KnHXMc_RC9w.

296 bid.

transferred to the military police, they were not physically abused because two commanders made sure no one touched them. However, they were subjected to beatings in the military police premises. V.H., from the same group, stated in an interview to Armenian media after his repatriation that they were beaten, “for six to seven days, despite being wounded.”²⁹⁷

They were later exposed on Azerbaijani TV.²⁹⁸



Figure 8.8. The same Armenian servicemen on their knees, forced to say, ‘Karabakh is Azerbaijan.’ (Source: Caucasian Bureau Telegram channel).

In the third video with the same group,²⁹⁹ one of them is interrogated by Azerbaijani Major-General Hikmet Hasanov while the others are lined up with hands tied, some of them blindfolded (see Figure 8.9). This is consistent with their testimonies given after repatriation. Analysis of the two videos suggests that they were taken in the same place (see Figure 8.10).

297 “Բացարդիկ մանրամասներ Բաքվի բանտից հայ գերու պատմությունը. ՏԵՍԱՆՅՈՒԹ,” Ֆակտոր տեղեկատվական կենտրոն, January 22, 2021, <https://factor.am/330952.html>.

298 @xalqalq, “10 günə yaxın bunkerdə gizlənən erməni hərbiçilərdən biri əsir götürülmə anlarını danışıb...,” November 2, 2020, Telegram video, <https://t.me/xalqalq/3914>.

299 @herbixeber, “Vətən müharibəsində Ağdərə Suqovuşan istiqamətində mühasirəyə salınan ermənilərin 6-cı dağ atıcı alayının əsir götürülən hərbiçiləri,” September 27, 2020, Telegram video, <https://mega.nz/file/bhISWDZa#T-tOpBbJj9L5l659K3Y8PA3DxS-S8RgQPvIVcsY-Oi0>.

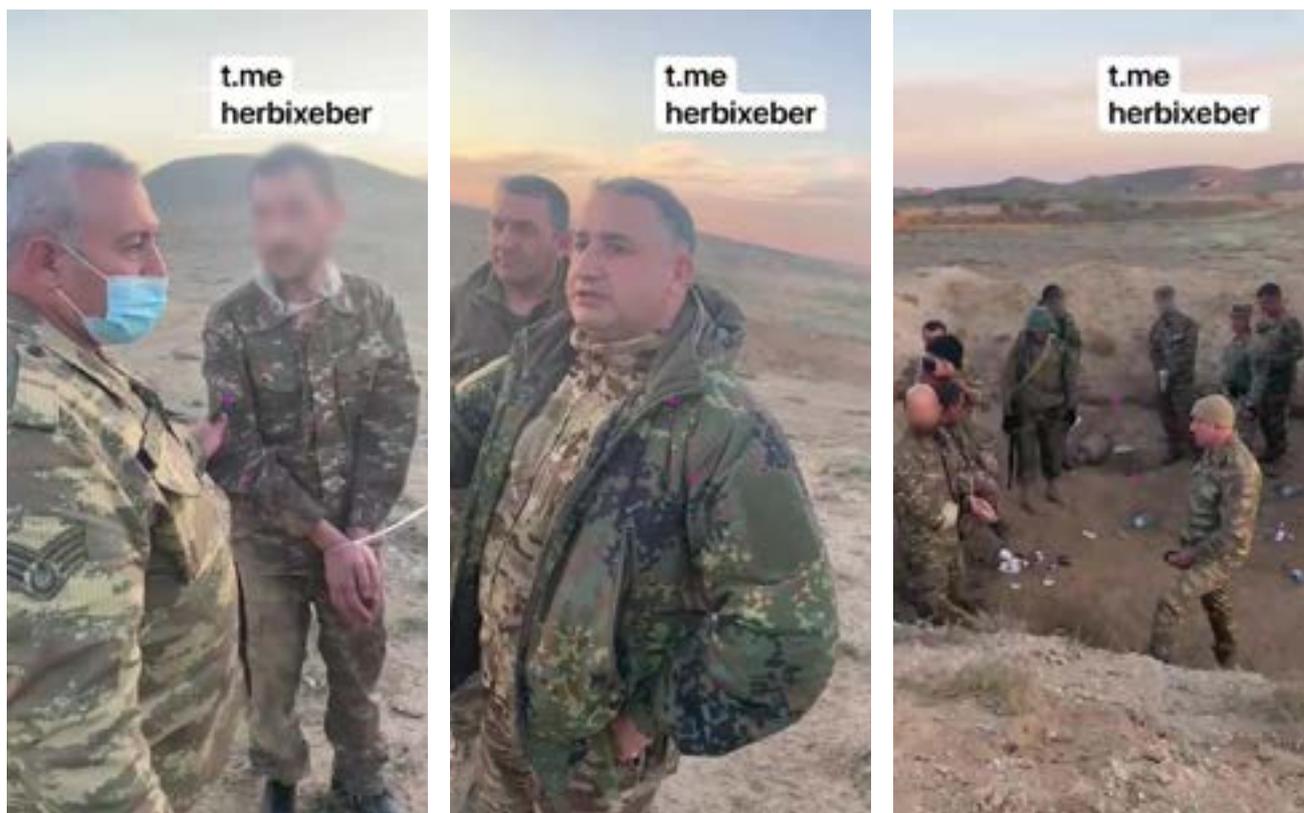


Figure 8.9. Captured Armenian serviceman is interrogated by Azerbaijani servicemen (Source: Herbixeber Telegram channel).



Figure 8.10. The place where the two video were shot (Source: Caucasian Bureau and Xerbixeber Telegram channels).

III-Treatment of Six Armenian Captives

Footage posted on a Telegram channel on 25 October 2020, shows a group of captured persons in Armenian military uniforms, face down on the ground with their hands tied behind their backs and blindfolded.³⁰⁰ Some of them can be heard speaking Armenian. There are pierced wounds on the bodies of some of them. The video shows men in the uniform of the Azerbaijani Armed Forces, speaking in Azerbaijani, who walk around and poke the bodies of some of the tied Armenians with a metal rod (see Figure 8.11). While poking one of the tied Armenian servicemen on the ground, and kicking him, one of the Azerbaijani servicemen suggests in Azerbaijani to cut off his fingers. The Armenian serviceman asks in Russian not to do that. One of the tied, blindfolded Armenians says in Russian, “Do not do it! I will tell everything.” The Azerbaijani servicemen kick him several times, step on his head and leg, and prod him (See Figure 8.12). A few seconds later, a background voice speaking Azerbaijani tells someone to cut off his fingers while another Azerbaijani serviceman touches the hands of the tied Armenian captive with a metal item³⁰¹ (See Figure 8.13). Human Rights Watch verified the identity of this serviceman as M.M., 21. HRW also established the identity of another Armenian in this group as L.M., 51.³⁰² Two Azerbaijani servicemen repeatedly kick and poke him with the metal rod on his head, back, stomach, and legs, as he pleads with them not to hurt him. The capture of L.M. has been confirmed by the Azerbaijani authorities, as they have charged L.M. with torture of detainees during the First Karabakh War.³⁰³

One of the Azerbaijani servicemen also kicked with booted feet at the captured Armenians in their heads and other parts of their bodies. The trousers of some of the Armenians are bloody, suggesting that they are wounded. The lawyers representing Armenian POWs confirmed to the Fact-Finding Group that family members who are their clients had identified three other servicemen depicted in the video: V.H., A.H., and A.M.³⁰⁴ One more serviceman was identified by the members of the Fact-Finding Group, based on his interview to Armenian media after his repatria-

300 @karabah_news, Telegram video, <https://mega.nz/file/2kFyiAqL#zuMpUGQB465hNCg3IJtIWQtcvCIS-jlIPxLbkTmqGQ5w>.

301 Translation from Azerbaijani into English is done by one of the members of the Fact-Finding Group.

302 “Azerbaijan: Armenian Prisoners of War Badly Mistreated.”

303 CBC TV Azerbaijan, “Людвиг Мкртчян и Алеша Хосровян Пытали Азербайджанских Пленных,” June 6, 2021, YouTube video, <https://www.youtube.com/watch?v=rfrkz9tq6Cw>; Тимур Рзаев, “Арестован гражданин Армении, пытавший азербайджанских пленных в годы первой Карабахской войны,” *Inews.az*, December 22, 2020, <https://inews.az/news/20201222055740909-Arestovan-grazhdanin-Armenii-pytavshii-azerbaidzhanskikh-plennykh-v-gody-pervoi-Karabakhskoi-voiny>.

304 Interview with lawyer Siranush Sahakyan, 14 May 2021.



Figure 8.11. Armenian servicemen lying on the ground with hands tied, blindfolded, being prodded by Azerbaijani servicemen (Source: Kolorit_18 Telegram channel).



Figure 8.12. An Azerbaijani serviceman kicks the head of an Armenian serviceman who is on the ground blindfolded (Source: Kolorit_18 Telegram channel).



Figure 8.13. An Azerbaijani serviceman threatens to cut off the fingers of a captured and tied Armenian soldier (Source: Kolorit_18 Telegram channel).

tion, as S.M., 18.³⁰⁵ S.M. stated in that interview that he was wounded when he was captured, then beaten and not provided with adequate medical assistance.

Arman (name changed), interviewed by the Fact-Finding Group, shared a cell with L.M. while in Azerbaijani custody.³⁰⁶ Arman confirmed that he saw scars on the head and other parts of the body of L.M. sustained because of ill-treatment during capture by Azerbaijani servicemen, including prodding with metal prods. The description of scars was consistent with wounds sustained because of treatment on the video. L.M. told Arman that upon falling into the hands of Azerbaijani servicemen, he and other servicemen were ill-treated. L.M. felt that he was pierced with something sharp but could not understand what it was.

³⁰⁵ Ազատություն, «Գերությունից վերադարձած Զինծառայողները Պևոյմ ԵՆ՝ Իրենք Ծառայության Պատրաստ ՉԵՆ.»

³⁰⁶ Interview with Arman (name changed), 7 May 2021.

A Wounded Armenian Serviceman

On 1 November 2020, footage appeared showing an Armenian serviceman with a bandage on his right hand being compelled by an armed Azerbaijani serviceman to kiss the Azerbaijani flag³⁰⁷ (see Figure 8.14). The Fact-Finding Group established the identity of the captured Armenian serviceman as E.A., 19.



Figure 8.14. Armenian serviceman is compelled by an Azerbaijani serviceman to kiss the Azerbaijani flag (Source: Karabah_news Telegram channel).



Figure 8.15. An Armenian serviceman with tied hands on the ground is beaten and insulted by an Azerbaijani serviceman. (Source: Xalqxaq Telegram channel).

The Case of S.K.

A video appeared on Telegram on November 2, 2020³⁰⁸, with a man on the ground with his hands tied behind his back. A man in an Azerbaijani military uniform hits and slaps him on the face and insults him in Russian, hitting his head on the ground (see Figure 8.15). The lawyer representing him before the ECtHR told the members of the Fact-Finding Group that the man was identified as S.K. He was repatriated in December 2020.

307 @karabah_news, Telegram video, https://mega.nz/file/uIVXRa5T#D3Q0c6UdTWA961lc_5q1uyuks2CZNbs_Hw5JWVGRXdA.

308 @xalqxaq, "+18DiQQƏTSÖYÜŞ VAR+18," November 2, 2020, Telegram video, https://mega.nz/file/X1Nxx-CZa#p3rKokixMnwnli02Cx8YDHWn7m_uDjLwcVTUENE3Q.

A Group of Armenian Conscripts in Vank Village

Another series of videos appeared on Telegram channels on 22 November 2020, of a group of Armenian servicemen in military uniform. In the first video,³⁰⁹ an Armenian serviceman, surrounded by Azerbaijani servicemen, is compelled to repeat phrases in Azerbaijani and then he takes a hit from one of them. The location later identified as Vank village, in the Hadrut region. One of the Azerbaijani servicemen poses with a sign of “Grey Wolves”, a Turkish ultranationalist organization prohibited in a number of European countries for hate crimes³¹⁰ (see Figure 8.16)



Figure 8.16. An Azerbaijani serviceman is posing with a grey-wolf sign while another Azerbaijani serviceman slaps an Armenian captive (Source: Karabah_news Telegram channel).



In another video,³¹¹ four Armenian servicemen can be by the gates of a house and sounds of beating can be heard in the background. Another video³¹² taken at the same place shows three Armenian servicemen, identified as E.S., R.V., and A.G., on their knees on the ground while the Azerbaijani servicemen play music and dance and tell the captured Armenians to applaud (see Figure 8.17).

Figure 8.17. Armenian servicemen asked to clap on his knees and say Karabakh is Azerbaijan surrounded by armed Azerbaijani servicemen (Source: Karabax news, Karabax, Kavkaz Telegram channel).

309 @karabah_news, Telegram video, <https://mega.nz/file/y9MRWbJA#mMIYbgit5dYXNz46QEG2RqJLoxvbcio6Lu07Zakp4PI>.

310 Patrick Keddie, “France Has Banned the ‘Grey Wolves’ – but Who Are They?,” Al Jazeera, November 24, 2020, <https://www.aljazeera.com/features/2020/11/24/france-has-banned-the-grey-wolves-but-who-are-they>.

311 @Herbihisse, January 6, 2021, Telegram video, https://mega.nz/file/289jyZYK#xyN83v5ur7n_WS8NsrUG-sApUrY0V_BppRPDIqB8oFOU.

312 @Herbihisse “Nə qəşeng əl çalırlar...,” November 23, 2020, Telegram video, https://mega.nz/file/nwIDX-lpQ#ayGVzu99TGGFu05E8HnCAI2ac5hnCxwBilr69oyu_8A.

In another video all five Armenian servicemen are forced to say Karabakh Azerbaijan, one by one.³¹³ In this video, the fifth Armenian soldier, later identified as R.V.,³¹⁴ can be seen. In another video,³¹⁵ taken inside the courtyard, an Azerbaijani serviceman asks five Armenian servicemen to introduce themselves and the names of at least three of them can be heard: R., E.Kh., and K.M. They say on camera that all five are wounded.



In other videos taken indoors with the same Armenians, Azerbaijani servicemen instruct them to repeat, “Karabakh is Azerbaijan.”³¹⁶ In another video,³¹⁷ a captured Armenian introduces himself, A., and an Azerbaijani serviceman instructs him to repeat statements in Azerbaijani. A. looks confused, disoriented and scared to the extent that he automatically repeats all words pronounced by the Azerbaijani soldier, even the instruction in Russian (see Figure 8.18)

Figure 8.18. Azerbaijani serviceman compels an Armenian captive to repeat statements in Azerbaijani (Source: Karabah_news Telegram channel).

Another Armenian in this group, later identified by the Fact-Finding Group based on interviews with the repatriated captive as K.M., is filmed alone in a room surrounded by a group of Azerbaijani servicemen. They drag him on a chair and instruct to repeat sentences in Azerbaijani, including insults to the Prime Minister of Armenia³¹⁸ The serviceman looks scared of any movement from the Azerbaijani serviceman next to him, as if he expects a hit (see Figure 8.19)

³¹³ @qarabagxeber, “Erməni əsirləri ilə bağlı yeni video yayıldı! Qorxmuş ermənilər “Qarabağ Azərbaycanıdır”, qışqırırlar,” January 6, 2021, Telegram video, <https://mega.nz/file/zg8DTJiL#C4wO3GJ2pmjwDxtnnxsoAJ20I7WYHxZW9bb28RcS84E>.

³¹⁴ “Azerbaijan: Armenian Prisoners of War Badly Mistreated.”

³¹⁵ @karabah_news, Telegram video, <https://mega.nz/file/ro1UAbKL#7Nv2R62LjDaJI-M3zactAh7J3x0bn-H7hSKPBnMaW98c>.

³¹⁶ @arathau, “Очередное доказательство жестокого обращения с армянскими военнопленными...,” December 24, 2020, Telegram video, <https://mega.nz/file/esdHSJpl#c6Bnw1L3dPnGXljdZdaSN-HvZB3ZJsCsu-JhVHKaLDE8>.

³¹⁷ @karabah_news, Telegram video, <https://mega.nz/file/D9FEhaDB#KVOuaBG54PWFJHk1zXA4gk-BhZA9sGUoetd4GarH0SQ>.

³¹⁸ https://t.me/kolorit_21/1404, <https://mega.nz/file/vtkkUTaR#fhivWyyrAdZ0-zb9ZhgUlgadwbcFtqJMS-SATTLdG-vg>

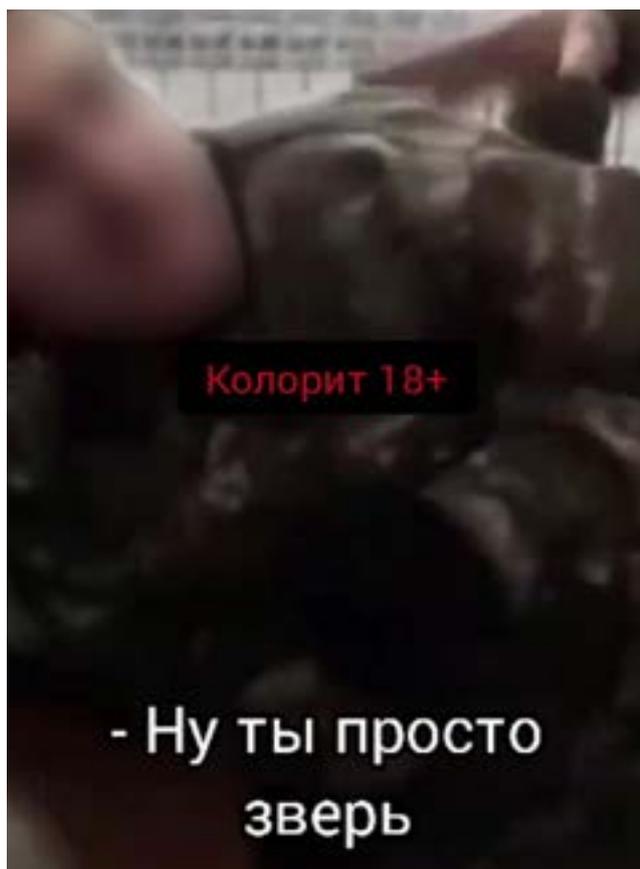


Figure 8.19. An Armenian captive is being physically assaulted by an Azerbaijani soldier to ensure that he is following the instructions (Source: Kolorit_18+ Telegram channel).



Figure 8.20. An Azerbaijani serviceman is pulling the ear of the captured Armenian serviceman (Source: Kolorit_18 Telegram channel).

In another video,³¹⁹ three of the captives can be seen indoors, and an Azerbaijani serviceman subjects K.M. to humiliating treatment, including pulling his ears (see Figure 8.20).

In another video³²⁰ with the same group of Armenian servicemen, they are holding the Armenian flag and an Azerbaijani serviceman instructs them to repeat after him in Russian and Azerbaijani that he will bring the Armenian flag home, as promised, so that his son can burn the flag (see Figure 8.21). E.Kh. can be seen with a bandage on his left hand. In another video, three of the Armenian captives from this group are forced to kiss the Azerbaijani flag, one after another.³²¹ (See Figure 8.22)

³¹⁹ @sisumasias, "икол! Еще сколько будут издеваться эти азербараны над нашими братьями? У тебя вообще есть честь?," December 16, 2020, Telegram video,

³²⁰ @Herbihisse, April 22, 2021, Telegram post, <https://mega.nz/file/K5slmAYL#iN2sruP6KAwYi4ND-nIGJUnYTofj5gDHiPGBgnQbx8BA>.

³²¹ @kolorit_21, Telegram video, <https://mega.nz/file/748nUIbl#denax6sRvBK8d4XZLGwoNruXBXIne-6JaT-WuzzbZJFc>.



Figure 8.21. A group of Armenian servicemen standing with the Armenian flag while an Azerbaijani serviceman instructs them to repeat after him that as promised the Azerbaijani serviceman will bring home the Armenian flag to be burned by his son (Source: Kolorit_18 Telegram channel).

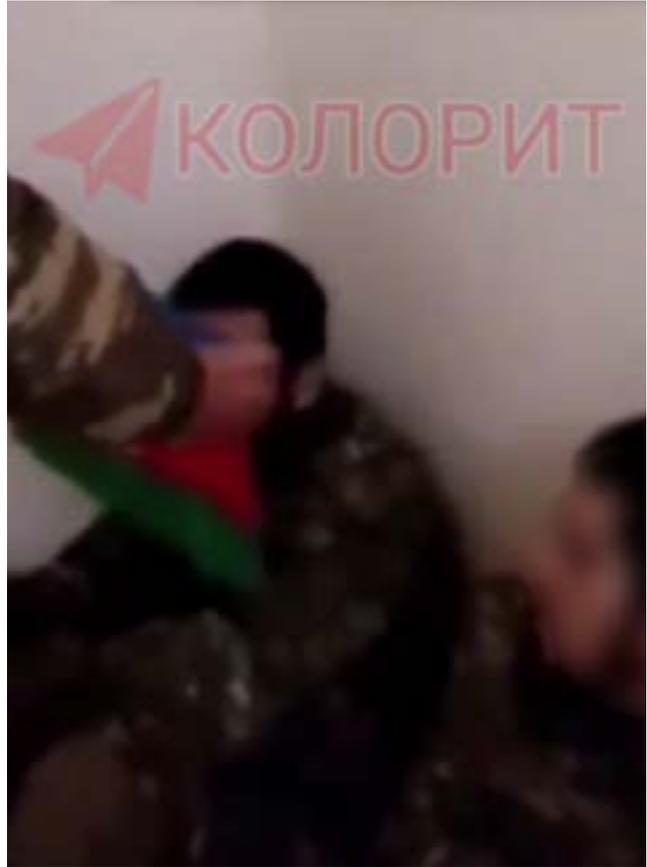


Figure 8.22. Two Armenian servicemen are forced to kiss the Azerbaijani flag (Source: Kolorit_18+ Telegram channel).

Some of the members of this group were not repatriated until nearly seven months after capture.³²² After repatriation, in an interview to Armenian media, K.M. said that they were captured on 21 November 2020, after the cessation of hostilities. All of them were wounded and were hiding in a house, as they did not know how to get to the territory controlled by Armenians.³²³

The Case of E.G.

On 13 December 2020, a series of videos appeared on Telegram channels where a serviceman in an Armenian military uniform, his hands tied behind his back, was

³²² “15 գերի վերադառնում է Ջայաստան,” Ազատություն ռադիոկայան, June 12, 2021, sec. Լուրեր, <https://www.azatutyun.am/a/31304127.html>.

³²³ “Ուզում եմ գոհված ընկերոջս նորից տեսնել գերությունից վերադարձած 19-ամյա Կարենն ուզում է աշխատել ու նպատակներն իրագործել,” Ջայկական ժամանակ, September 3, 2021, <https://armtimes.com/hy/article/219217>.

surrounded by at least seven armed Azerbaijani servicemen, and was instructed to say on camera that, “Karabakh is Azerbaijan”³²⁴ (see Figure 8.23). In another video,³²⁵ the same Armenian serviceman can be seen on a pickup truck accompanied by two Azerbaijani servicemen, and another serviceman asking him to introduce himself on camera. The Armenian man says his name is E.G. In another video,³²⁶ the same serviceman is forced to wash the boots of an Azerbaijani serviceman on camera (see Figure 8.24). In another video,³²⁷ with the same Armenian soldier, he is on a different truck and ordered to repeat phrases in Azerbaijani. He tried to cover his face with hands to protect from a hit and looked confused, tired and scared (see Figure 8.25). E.G. was repatriated almost seven months after his capture.³²⁸



Figure 8.23. Armenian serviceman is forced to say Karabakh is Azerbaijan (Source: Qarabagxeber Telegram channel).



Figure 8.24. E.G. is protecting himself from taking a hit from an Azerbaijani serviceman (Source: Kolorit18+ Telegram channel).



Figure 8.25. E.G. is forced to wash the boots of an Azerbaijani soldier (Source: Kolorit18+ Telegram channel).

324 @qarabagxeber, “Əsir tutulan erməni terrorçusu: Qarabağ Azərbaycandır,” December 13, 2020, Telegram video, <https://t.me/qarabagxeber/4611>; @Caucasian_bureau, “Ещё одно видео с армянским сепаратистом, которого азербайджанские военнослужащие взяли в плен вчера в Гадруте,” December 13, 2020, Telegram video, <https://mega.nz/file/Ps0AhSID#JTW91JnVOgOPAMxU0ZGQL-afxL2L3agRIN6PFzFqijc>.

325 @ geo_official1, TikTok video, https://mega.nz/file/PgNGXZIS#APGSI5A-04BVBSgYOkbQzUsCUAWu-vaOsvah_WfMScc1.

326 @kolorit_21, Telegram video, https://mega.nz/file/K8NR1Qob#tzjithJgwako2hbC4KFVd_IBoEz-t6oEkauR2T2CDyAY.

327 @kolorit_21, Telegram video, https://mega.nz/file/G4dyGTJQ#QiwZRni_uug-de63FBXw0qWLLagwPFn-Fek1fC_nb2cqY.

328 “15 գերի վերադառնում է Հայաստան.”

Four Armenian Servicemen Marching

More footage appeared on 19 December 2020,³²⁹ with a group of four captured Armenian servicemen who are instructed to march and sing a song in Azerbaijani. Azerbaijani servicemen stand around them and laugh, demanding that they sing louder (see Figure 8.26).

An Armenian Serviceman with Tied Hands

In another video that appeared on a Telegram channel on March 10, 2021,³³⁰ a man speaking Azerbaijani orders a captured Armenian serviceman, with his hands tied and breathing with difficulty (suggesting that he is wounded), to say “Karabakh is Azerbaijan” repeatedly. When the latter does not follow the instruction, the Azerbaijani serviceman slaps him in the face (see Figure 8.27) In the final part of the video, despite the fact that the captured Armenian repeats what he was instructed to, the Azerbaijani kicks him with boots two times. The Fact-Finding Group later identified that the Armenian serviceman is A.A. captured in Kovsakan.

Most of the people in the videos discussed above were repatriated. However, in case of some of them, despite the existence of video evidence confirming captivity by Azerbaijani servicemen, as well as the fact that the ECtHR granted interim measures, Azerbaijan failed to acknowledge their captivity and inform of their whereabouts.



Figure 8.26. Captured Armenian servicemen are ordered to march and sing a song in Azerbaijani (Source: Qarabagxeber Telegram channel).



Figure 8.27. Captured Armenian serviceman with tied hands takes a hit by an Azerbaijani serviceman (Source: Kolorit_18 Telegram channel).

329 @karabagxeber, “Guya döyüşməyə gəlmişdilər. Silahları da vardı,” December 19, 2020, Telegram video, <https://mega.nz/file/e9VRGQDZ#yROBCJt23cQ2JzPNxR2f7ROZ8E7cldoJG-XWfHd-ndk>.

330 @kolorit_21, Telegram video, <https://mega.nz/file/3xFEQlyC#k4-z59MzO1SDZ2zf2tI9SSzslIGg-9NO-khMOg19M3kg>.

Some of the repatriated POWs spoke to Armenian media and presented what happened to them after capture. Their accounts are consistent with what can be seen in the footage distributed via Telegram and TikTok. In addition, repatriated POWs interviewed by the Fact-Finding Group shared cells with some of the above-mentioned captured Armenian servicemen, such as L.M., S.M., S.M., and H.D. The latter described instances of ill-treatment, including those in the videos discussed above.

IHL requires that persons hors de combat must be treated humanely, and prohibits torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment. Torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health, constitutes a grave breach of GC III and is thus a war crime. Under human rights law, persons deprived of their liberty must be treated with humanity and respect for the inherent dignity of the human person. This includes a duty to investigate effectively and punish those responsible for abuses of these principles.

Captivity, Torture, and Ill-Treatment of Civilians

Numerous instances of civilians having been taken as hostages by the Azerbaijani military have been reported in the course of military activities. Even during armed conflict, civilians have the right to liberty and security of person under human rights law. Under IHL norms, only civilians who pose a security risk may be detained.³³¹ However, the evidence shows that Azerbaijan took hostage and held captive civilians who were unable or unwilling to leave their homes and villages, even though they posed no security issue. Moreover, the evidence shows that during such captivity, civilians were either tortured and/or subjected to ill treatment, in violation of both human rights and IHL norms.

Sasha (age 70) and His Son Arsen Gharakhanyans (Age 45), Hadrut, (9-10 October 2020)

M.G., who is the sister of Arsen (who was captured and killed as reported above in Chapter 7),³³² and the daughter of Sasha, reported to the members of the Fact-Finding Group that fearing the advance of Azerbaijani troops, the family had left Hadrut City for Togh Village on 7 October 2020.³³³ However, Sasha refused to leave and stayed behind. Concerned, Arsen then returned to Hadrut.

³³¹ Hassan v. the United Kingdom, No. 29750/09 (European Court of Human Rights September 16, 2014).

³³² The circumstances of Arsen Gharakhanyan's killing are presented in the section named "Wilful Killing of Civilians."

³³³ During the interview, Sasha Gharakhanyan's daughter, M.G., recounted what Sasha had told the family after his repatriation, 3 March 2021.



Figure 8.28. Injury on Sasha Gharakhanyan's leg, 3 March 2021 (Source: Fact-Finding Group).

The family last had contact with Arsen on October 9th. On November 14th, a video uploaded on the Internet showed Sasha speaking in Azerbaijani and being forced to kiss the Azerbaijani flag. On December 14th, Sasha was repatriated to Armenia from Azerbaijan.

Upon his capture, Sasha was subjected to ill treatment in Hadrut. He was beaten on his head, tied to a car by his left hand and leg, and he does not remember how long he remained like that. Afterwards he was taken in a big car to an unknown location; they blind-folded him, so he could not see anything.

Sasha remembers being interrogated in a prison in Baku. Sasha reported that during his captivity in a prison in Baku, his hands were tightly bound with wire; he was hit on the head with a rifle butt and prodded in the back with a metal rod. The tendon between the thumb and index finger of his left hand was cut, cuts were made on his palm, his skin peeled off; Sasha said that he himself had put his skin back on his palm and put cigarette ash on it so that the wound could heal. The members of the Fact-Finding Group were informed that a medical examination after repatriation also revealed broken ribs and a broken nose. Scars consistent with the description of the injuries were observed by the Fact-Finding Group.

Shahgeldyan Arega (Age 72) and Eduard (Age 79), Spouses, Avetaranots Village, 27 October 2020

Although others had left their village towards the end of October, Arega and Eduard had as of yet refused to leave their home. But on 27 October 2020 their daughter called the couple to say that the family was coming to take them out of the village. Later, when their daughter called again, a stranger answered the phone in Azeri and said, "I'm Azerbaijani and this is Azerbaijan," and then the phone went dead.³³⁴ Footage appeared on Telegram depicting how Azerbaijani servicemen push to walk several elderly people³³⁵ (see Figure 8.29).

³³⁴ Tanya Lokshina, "Survivors of Unlawful Detention in Nagorno-Karabakh Speak out about War Crimes," Human Rights Watch, March 12, 2021, <https://www.hrw.org/news/2021/03/12/survivors-unlawful-detention-nagorno-karabakh-speak-out-about-war-crimes>.

³³⁵ @kolorit_181, "Азербайджанские солдаты куда то уводят несколько пожилых местных жителей," December 23, 2020, Telegram video, https://mega.nz/file/35FmDTwZ#fUo43UHJAHB_8OZd2tYYbs7BhoMuSxiXf-dJTZJp14A.



Figure 8.29. Azerbaijani servicemen taking Arega Shahgeldyan, Eduard Shahgeldyan, and other detainees out of the village of Avetaranots (Source: Kolorit_18 Telegram Channel).

Arega, who was later repatriated, told the HRW about ill treatment during her captivity.³³⁶ She said that Azerbaijani servicemen removed the couple from their home at gunpoint, while shouting and threatening them with automatic rifles. Arega's husband, Eduard, was punched several times and kicked by booted servicemen, in front of Arega. After being transported to Azerbaijan, Arega was held captive in a cell.

Arega's daughter reported that on 5 December 2020, she received a call during which she heard her mother crying and mumbling incoherently. The daughter asked to speak to Eduard and the phone went dead. Approximately three minutes later the daughter received another call and a man with an Azeri accent told her in Russian that, "your mother was trying to tell you that your father died. I'm sorry."

During her interview with the HRW,³³⁷ Arega recounted how that morning the guards had opened her cell and told her that Eduard had died in his sleep and that they were to take her to his cell to view the body. She was in a state of shock and does not remember much about those awful moments, except that her husband's face was black and blue. Although Arega was repatriated on December, 2020, and although her husband's body was to also be repatriated at the same time, Eduard's corpse was not repatriated until 28 December 2020.³³⁸ Despite this delay, an examination of the body still revealed signs of torture and abuse consistent with Arega's testimony.³³⁹

³³⁶ Lokshina, "Survivors of Unlawful Detention in Nagorno-Karabakh Speak out about War Crimes."

³³⁷ Lokshina.

³³⁸ "ALC Releases Brief Information on 19 Armenian Captives, Both Military and Civilian, Who Were Tortured to Death by Azerbaijanis," Arka News Agency, May 12, 2021, http://arka.am/en/news/politics/alc_releases_brief_information_on_19_armenian_captives_both_military_and_civilian_who_were_tortured_/.

³³⁹ Lawyers representing the interests of Arega and Eduard Shahgeldyans before the European Court of Human Rights. See also Lokshina, "Survivors of Unlawful Detention in Nagorno-Karabakh Speak out about War Crimes."

S.P. (90) and His Son K.P. (56), Avetaranots Village, 27 October 2020

As explained by S., S.P.'s daughter-in-law and K.P.'s sister-in-law,³⁴⁰ on 25 October 2020, the family left Avetaranots for Stepanakert. However, after learning of the impending ceasefire the next day, S.P. asked his sons, K.P. and V.P. (S.'s husband), to take him back to the village to retrieve his passport. The three returned and stayed the night there. On the morning of October 27th, K.P. went out into the yard, and when he did not return, S.P. went to look for him. When S.P. did not return either, V.P. took the car to drive around the village in search of them. The village was deserted. V.P. found a group of Armenian servicemen at one end of the village and so he was able to escape.

After repatriation, on 8 December 2020, S.P. explained to the Fact-Finding Group that he had found his son K.P. just 50 meters from the house, accompanied by three persons, who then captured S.P. as well; they were Azerbaijani servicemen. As S.P. has difficulty walking, the servicemen dragged him part of the way (see Figure 8.28). The money in his pockets was taken and he was transported to an unknown location.³⁴¹

Karine (name changed), K.P.'s niece, added that upon return, S.P. had scars showing that "he had been beaten on his legs," and that, "he could not walk, and his memory has been faulty."³⁴² Karine also informed the Fact-Finding Group that they believed that her uncle, K.P., had been killed in detention. She shared the information received from her grandfather, S.P.; according to him, following their capture K.P. had been taken to an unknown location, and later his shoes were brought to S.P., informing him that his son had been killed.³⁴³

Another villager from Avetaranots village, V.P., 66, who had also been captured upon Azerbaijani servicemen' entry into the village, had seen K.P. alive after his capture.³⁴⁴ According to V.P., after being captured by Azerbaijani servicemen, he was taken to the forests around the village where he saw two fellow villagers, K.P. and M.G. He hardly managed to talk to them, because Azerbaijani servicemen had threatened to kill them if they said anything in Armenian. The following day, they were taken to a car; when they finally reached the vehicle, V.P. saw other fellow villagers as well, S.P. as well as Arega and Eduard Shahgeldyans. Once in the car, they were beaten (see Figure 8.30).

340 Interview with S., 16 February 2021. S.P. was present during the interview as well, but due to old age and ill health, members of the Group talked mainly with S.P.'s daughter-in-law.

341 See figure 8.29.

342 Interview with Karine (name changed), 2 February 2021.

343 Interview with Karine (name changed), 2 February 2021.

344 Անյա Սարկիսովա և Էդիկ Բաղդասարյան, "48 օր գերության մեջ. Վալերի Պողոսյանի պատմությունը," Զեպք, July 20, 2021, <https://hetq.am/hy/article/133306>.



They were then all taken to a prison in Azerbaijan (V.P. assumes that it must have been the special security prison, not far away from Baku), where V.P. was kept in the same cell with K.P. and M.G. On the day following their arrival at that prison, K.P. was moved from the cell, and V.P. did not see him again. A couple of days later M.G. was moved as well, and no further news were received of him either.³⁴⁵ V.P. was repatriated on December 14, 2020.

Figure 8.30. One of the civilian Armenian captives driven in a car is kicked several times (Source: Kolorit_18 Telegram channel).

B.B., Avetaranots Village, 29 October 2020

B.B. told the Fact-Finding Group the story of his capture and escape.³⁴⁶ He was living alone, and when the Azerbaijani servicemen entered the village, he hid in the “tonir” (an underground oven). He was later detained on 27 October 2020, near the front of the gates of his house. He said that the Azerbaijani servicemen only told him that he was going to be transported to Baku. He confirms that other fellow villagers, including S.P., Eduard Shahgeldyan and Arega Shahgeldyan were kept together with him. B.B. states that he and the other hostages were initially kept in the henhouse of one of the houses in the upper part of the village, but then they were moved to an animal barn in the backyard of another house. The walls of that building were partly collapsed, and B.B. managed to escape from there. He escaped in the direction of Aknaghbyur village (to the north-east from Avetaranots village).³⁴⁷

M.G. (Age 37) Shekher Village (Hadrut Region), 4 November 2020

M.G. lived with her father in Shekher Village, approximately fifteen km northwest of Hadrut and 25 km southeast of Stepanakert. She reported that on 4 November 2020, she left home to bring water back from the spring, but at the spring she was captured by approximately nineteen men. She was placed in a Mercedes car and transported to Azerbaijan where she was held captive in a place resembling

³⁴⁵ Սարկիսովա և Բաղդասարյան.

³⁴⁶ Interviews with B.B. and I.B., 17 March 2021. The witnesses were in Stepanakert, and the interviews were carried out via phone.

³⁴⁷ His escape is confirmed by the testimonies of fellow villagers as well.

a warehouse. She was kept in a cell which was cold, and she only had a mattress on the floor and a duvet, but no bed. The toilet was in the cell. She was alone the entire time and was not questioned. After a visit from the ICRC delegates, she was repatriated to Armenia by plane on 10 December 2020. As for her father, M.G. has no information about him but rumors are that he was killed.³⁴⁸

Narek (Name Changed), Shushi, 8 November 2020

Narek (name changed) was a resident of Shushi. When the war started, he sent his family to Yerevan. On approximately 8 November 2020, when getting out of a bomb shelter without knowing that the city had been taken, Narek was captured by approximately twelve Azerbaijani servicemen. He says that the servicemen were enraged that he was still in Shushi, and they wanted to shoot him, but then someone called out in Russian “don’t shoot, don’t shoot.” He believes this could have been a Russian peacekeeper. Narek was held captive along with another Armenian, A.G. During captivity, Narek was slashed with a knife and hit on the head. Azerbaijani servicemen also threatened to kill him, pointing a gun at his head and firing, but the gun was not loaded. The same was done to A.G.

Narek was not given any medical assistance and had to press a blanket hard and long against his wound to stop the bleeding. He was not given food or water for two days. Eventually both Narek and A.G. were transported to Baku. Narek states that he was held in a cell in cold and humid conditions with a rancid smell and no windows. During his ordeal, he was kept tightly handcuffed for ten days, such that his hands swelled up. He was also hit on his knees and on his head with a hammer to weaken him. At one point during his capture, a tall, stout man entered his cell, picked him up and dropped him on the ground from above, causing his whole body to hurt. Azerbaijanis walked on his hands, which were still red on the date he was interviewed. Narek was also held at the prison of the special security forces, where he was beaten.

They beat me hard in that prison, with fists, kicked; five people were hitting me at the same time. I was kept there for ten days, beaten every day; they splashed water on me and beat me. They gave me a loaf of white bread; they gave me just that bread for ten days. I did not sleep for that entire time.³⁴⁹

Afterwards he was transferred to another prison where he was held with four other Armenians and visited by the ICRC. He received medical treatment and sufficient food and water. Here he was interrogated twice, and the interrogator constantly swore and insulted Armenia’s Prime Minister.

³⁴⁸ Interview with G.M., 16 February 2021.

³⁴⁹ Interview with Narek (name changed), 21 March 2021.

On 14 December 2020, Narek was repatriated to Armenia. He received medical treatment. As of the time of the interview, his spine still hurt because of the beatings he had been subjected to, he had difficulty walking, and he was on medication.

K.M., Sghnakh Village, Askeran Region, 1 November 2020



Figure 8.31. Screenshot from a video of K.M. being beaten and ill-treated (Source: Infoteka24 Telegram channel).

When the war started, K.M. and his family left Artsakh to stay with relatives in Armenia. However, K.M. found himself unable to cope with the situation and wanted desperately to return. Family members recall him saying: “I can no longer stay here; I am going back to stand for my house.” Family members could not convince him to stay, and he left for Artsakh on 25 October 2020. On 1 November 2020, family members lost all contact with him. Later, a video³⁵⁰ surfaced on the Internet which depicts K.M. subjected to physical violence and humiliating treatment, his face covered in blood, a gun being loaded and pointed at him, and he is being threatened with death.³⁵¹ K.M. is seen kneeling on the ground with his hands tied behind his back.

Azerbaijani servicemen ask him questions in Russian, and receiving no response from K.M., one of the servicemen kicks him in the stomach, curses him and orders that he immediately give an answer. After more questions, the serviceman hits K.M. several times on his head, saying that Azeris and Turks will go after Armenians, make them kneel down, and slaughter them (see Figure 8.31).

350 Инфотека24 (@infoteka24), “Азербайджанские варвары взяли в плен армянина в гражданском,” December 4, 2020, Telegram video, <https://mega.nz/file/6s00zJgR#8rB4KqdtbZK1PBGbb1MbremUaEwvOW-tAFySqKOqh43s>.

351 “Էլ Չեմ Կարա Մամ, Ես Չեմ Եմ Գնում. Մանրամասներ Գերեվարված Քաղաքացու Մասին,” Երևան Նյուզ, December 4, 2020, <http://yn.am/?index&p=114219&l=am>; “(18+) Civilian from Sznek, Artsakh Tortured While Interrogated by Azerbaijani Soldiers,” AzeriWarCrimes.org, December 14, 2020, <https://azeriwarcrimes.org/2020/12/14/18-civilian-from-sznek-artsakh-tortured-while-interrogated-by-azerbaijani-soldiers/>; “Written Submission by the Office of the Human Rights Defender* of Armenia” (UN Human Rights Council, March 1, 2021), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/052/73/PDF/G2105273.pdf?OpenElement>.

Cutting the Ear of an Armenian Civilian

On 14 November 2020, footage appeared on Telegram channels depicting an Armenian civilian with grey hair with hands tied on the floor.³⁵² He is surrounded by a group of Azerbaijani servicemen, one of whom is cutting the captive's left ear (see Figure 8.32) The uniform on the servicemen is consistent with the uniform of the Azerbaijani border service (see Figure 8.33).



Figure 8.32. An Azerbaijani serviceman is cutting the left ear of a captured civilian (Source: Karabah_news Telegram channel).



Figure 8.33. Azerbaijani servicemen in two types of uniform of the State Border Service surround an Armenian civilian captive with tied hands after cutting his left ear (left); the uniform of the SBS (right) (Source: Karabah_news Telegram channel).



352 @karabah_news, Telegram video, <https://mega.nz/file/PwkTRBjR#2MudScoEB3adkkXevL3dOsufHTxyl-VfEVgRJ6B5qoG0>.

J.T., Shushi

Further evidence of the torture and degrading treatment of detained Armenian civilians has surfaced through videos. Those videos show Armenian civilians being mistreated and forced by Azerbaijani servicemen to utter certain phrases. In one of the videos, Azerbaijani servicemen humiliate an Armenian elderly man and subject him to inhumane treatment with cynicism³⁵³ (see Figure 8.34). It was revealed that the elderly man was 80-year-old resident of Shushi - J.T. who had not managed to leave the city and was taken captive by Azerbaijani armed forces.³⁵⁴



Figure 8.34. An elderly Armenian person, J.T., humiliated by Azerbaijani servicemen (Source: Infoteka24 Telegram channel).

353 Инфотека24 (@infoteka24), "80-летнего Джоника Тевосяна, взятого в плен в городе Шуши, намерены окончательно добить в Азербайджане," November 24, 2020, Telegram video, <https://mega.nz/file/u80CHRgQ#eReHLah0Gf84CCpgoylvWeUGuB4PHnKYEj7EAGErIA>; Arman Tatoyan (@atatoyan), "In This Video #Azerbaijani Soldiers Humiliate an Elderly Man," Twitter, November 18, 2020, <https://twitter.com/atatoyan/status/1329141994359316482>.

354 Human Rights Defender of Artsakh, Facebook, November 19, 2020, <https://www.facebook.com/100000847389707/videos/3730458263659050/>.

Captured Civilian Men

In yet another video,³⁵⁵ two Armenians in civilian clothing can be seen sitting on the ground with their hands tied behind their backs and forced, in Russian, to say “*Karabakh is Azerbaijan.*” In the meantime, an Azerbaijani serviceman kicks one of the men in the video with his foot in his head, four times (see Figure 8.35). The same video depicts a third man lying on the ground, his head covered with a jacket, being forced to say “*Karabakh is Azerbaijan.*”



Figure 8.35. Screenshot from a video of an Armenian civilian being hit by Azerbaijani servicemen (Source: Sisumasis Telegram channel).

Two Armenians Compelled to Dance

In other footage,³⁵⁶ two Armenian civilians can be seen being forced to dance while someone off camera, speaking in Azerbaijani and singing a melody, orders them (see Figure 8.36). One of the Armenians has obvious difficulties standing up and dancing.

³⁵⁵ @sisumasis, “В Сети появились дикие кадры с пленными армянами,” December 18, 2020, Telegram video, https://mega.nz/file/K08ykbRb#N_LUff9c4kblufcPfKmwAzEK56CQHCH90iJXnEgkJ2c.

³⁵⁶ @kolorit_21, Telegram video, <https://mega.nz/file/mPLYXZCK#jAHkz60HZfCb3GSGp12wczQA69Psb2D-vQFRHz5pzaQ>.



Figure 8.36. Two Armenian civilians being ordered to dance (Source: Kolorit 18+ Telegram)

Outrage upon Personal Dignity

In this context it should also be noted that in addition to amounting to torture and/or ill-treatment, the above acts contain elements of other international crimes as well. Specifically, the videos of atrocities committed against ethnic Armenians were widely disseminated on social media platforms: such dissemination of these videos also amounts to the crime of outrage upon personal dignity of the person.³⁵⁷ Outrage upon personal dignity refers to acts or omissions causing serious humiliation or degradation to the victim.³⁵⁸ Such acts include those that humiliate, degrade or otherwise violate the dignity of a person to such a degree “as to be generally recognized as an outrage upon personal dignity.”

Outrages upon personal dignity can also be perpetrated against unconscious persons, mentally handicapped persons or on dead bodies.³⁵⁹ It is notable that the nature of the crime exists also in relation to the deceased person, because the victims “need not personally be aware of the existence of the humiliation or degradation or other violation,”³⁶⁰ according to the ICC Rome Statute.

The Fact-Finding group found the witnesses they interviewed to be credible, and often observed scars and other physical and mental indications of the injuries reported by witnesses. Also, at some point in their ordeal, these civilians and pris-

³⁵⁷ “Prosecuting War Crimes of Outrage upon Personal Dignity Based on Evidence from Open Sources – Legal Framework and Recent Developments in the Member States of the European Union” (European Union Agency for Criminal Justice Cooperation, February 1, 2018), <https://www.eurojust.europa.eu/document/prosecuting-war-crimes-outrage-upon-personal-dignity-based-evidence-open-sources-legal>.

³⁵⁸ Prosecutor v. Zlatko Aleksovski (Trial Judgement), No. IT-95-14/1-T (International Criminal Tribunal for the former Yugoslavia June 25, 1999).

³⁵⁹ “Prosecuting War Crimes of Outrage upon Personal Dignity Based on Evidence from Open Sources – Legal Framework and Recent Developments in the Member States of the European Union.”

³⁶⁰ UN General Assembly, “Rome Statute of the International Criminal Court,” 92-9227-227-6 § (1998), art. 8(2) (b)(xxi), para. 1, <https://www.refworld.org/docid/3ae6b3a84.html>.

oners of war were held captive together and their testimonies corroborate each other's captivity. Besides this, those repatriated were repatriated by the ICRC. Additionally, in some cases, video evidence objectively confirms the capture and torture or abuse of the victims. According to the lawyers representing the victims before the ECHR, the family members recognized the captives in the footage.

Moreover, the evidence above demonstrates that Azerbaijan violated its obligations under IHL and IHRL by subjecting Armenian civilians and prisoners of war to capture and ill treatment and/or torture. IHL prohibits unwarranted detention of civilians as well as torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment.³⁶¹ An act amounts to inhuman treatment in cases of active maltreatment, but also in cases of very poor conditions of detention, as well as in cases of solitary confinement.³⁶² Lack of adequate food, water or medical treatment for detained persons has also been found to amount to inhuman treatment.³⁶³

Torture and other forms of ill-treatment documented by the present Fact-Finding Group prove that Azerbaijan has violated international human rights obligations, including those under the ICCPR and the UN CAT.

Thus, the evidence shows that during the course of the armed conflict and following the Tripartite Statement which marks the current ceasefire, Azerbaijan engaged in violence with respect to the treatment of civilians and POWs, who are protected persons; this is a violation of a number of IHL and IHRL obligations. The violations include unwarranted capture and detention of civilians, many elderly, detention in subhuman conditions, acts of outrage upon the person, acts of ill treatment, and acts of torture against persons detained in the context of the armed conflict, including civilians.

Spreading Terror amongst the Civilian Population

During and after the most recent armed conflict, Azerbaijan has engaged in acts designed to spread terror among the civilian population. IHL prohibits acts or threats of violence, the primary purpose of which is to spread terror amongst the

³⁶¹ "Customary IHL - Rule 90. Torture and Cruel, Inhuman or Degrading Treatment" (International Committee of the Red Cross), accessed April 24, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule90.

³⁶² "CCPR General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)" (UN Human Rights Committee (HRC), March 10, 1992), <https://www.refworld.org/docid/453883fb0.html>.

³⁶³ "Essono Mika Miha v. Equatorial Guinea, Communication No. 414/1990, U.N. Doc. CCPR/C/51/D/414/1990 (1994)." (UN Human Rights Committee, August 10, 1994), para. 6.4, <http://hrlibrary.umn.edu/undocs/html/vws414.htm>.

civilian population.³⁶⁴ Such acts constitute a violation of fundamental norms of IHL and fall within the realm of ‘grave breaches,’ which are to be prosecuted as war crimes.³⁶⁵

The manner in which Azerbaijan conducted its attacks, taken together with the summary executions of civilians, the taking of civilian hostages, and the dissemination of videos depicting violence and atrocities against ethnic Armenians, points to the intent to spread terror amongst civilians. Such intent is also manifested in the recording and dissemination of videos depicting ill treatment of ethnic Armenian civilians, torture of ethnic Armenian servicemen, as well as continuing acts of aggression even after the establishment of the current ceasefire, which includes the throwing of stones at Armenian cars,³⁶⁶ and the capturing of ethnic Armenians.³⁶⁷

Thus, the severity of the violence, along with the sheer number of cases, coupled with the fact that Azerbaijani servicemen video recorded the atrocities and disseminated those videos on the internet (on platforms widely accessible to the public in general, including children), attests to the fact that their aim is to spread terror among the Armenian public in general. Moreover, the targeting and indiscriminate shelling of civilian populations where there were no military objectives, and the timeline of the targeting of certain villages, in that it coincides with the advance of Azerbaijani force, also suggest that the intent behind Azerbaijan’s actions was to spread terror amongst the civilian population so as to force them to leave their homes.

Thus the extent and nature of the violations of the right to life, specifically, the indiscriminate and widespread shelling of cities and villages, the indiscriminate and widespread or targeted attacks resulting in the killing of civilians, the taking of civilian hostages, the detention, wilful killings, torture and other cruel, inhuman or degrading treatment, along with the dissemination of videos depicting this horrendous treatment of the civilians, including beheadings, all point to a purpose of spreading terror amongst the civilian population. This constitutes another breach of IHL, including Article 3 Common to the Geneva Conventions.³⁶⁸

364 “Customary IHL - Rule 12. Definition of Indiscriminate Attacks” (International Committee of the Red Cross), accessed April 22, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule12.

365 UN General Assembly, Rome Statute of the International Criminal Court, art. 8(2)(a).

366 “A Proper Investigation Should Be Carried Out into the Incident on the Karmir Shuka-Stepanakert Road,” The Human Rights Defender of Artsakh, March 26, 2021, <https://artsakhombuds.am/en/news/502>.

367 Սուսան Բաղդյան, “Լիբանանահայ Մարալ Նաջարյանը և Վիզեն Էուլջեքյանը Նոյեմբերի 10-ից անհետացել են,” «Ազատ Եվրոպա/Ազատություն» ռադիոկայան, 11:53:38Z, sec. Ղարաբաղյան խնդիր, <https://www.azatutyun.am/a/30978583.html>.

368 “Customary IHL - Rule 2. Violence Aimed at Spreading Terror among the Civilian Population” (International Committee of the Red Cross), accessed April 24, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule2.

Disrespect and Mutilation of the Dead

Under IHL, each party to the conflict must take all possible measures to prevent the dead from being despoiled. Mutilation of dead bodies is prohibited. As indicated above, the term “outrages upon personal dignity” refers to acts or omission causing serious humiliation or degradation to the victim.³⁶⁹ This includes the deceased person, because the victim “need not personally be aware of the existence of the humiliation or degradation or other violation”.

The Fact-Finding Group analyzed a number of videos posted on Telegram channels and other social media where Azerbaijani military personnel mutilate and disrespect the bodies of the dead Armenian servicemen. Such acts included, but were not limited to, cutting ears³⁷⁰ and hands of dead Armenians,³⁷¹ stabbing a knife into their face and body,³⁷² dragging the bodies tied to a vehicle³⁷³ or on a chain,³⁷⁴ hitting them with a shovel,³⁷⁵ taking off their underwear to show the genitals, kicking burned bodies.³⁷⁶ In some footage the perpetrators proudly pose in front of the camera after mutilating the bodies, stating in Azerbaijani, “Karabakh is ours and will be ours,”³⁷⁷ or show off, talking to the camera.

On 15 October 2020, two photos appeared on Telegram channels depicting Azerbaijani servicemen posing while cutting the throat of an Armenian serviceman (see Figure 8.37) and holding a severed head in his hand (see Figure 8.38). These photos have not appeared before in any other context. The uniform of the perpetrators matches a uniform of Azerbaijani Special operations forces (see Figure 8.39).

³⁶⁹ Prosecutor v. Zlatko Aleksovski (Trial Judgement), paragraph 56.

³⁷⁰ @bagramyan26, “18+. “Доблестные” солдаты ВС Азербайджана продолжают совершать военные преступления и глумятся над телами армянских военнослужащих,” November 4, 2020, Telegram video, <https://t.me/bagramyan26/22668>; @kolorit_18l, December 23, 2020, Telegram video, https://t.me/kolorit_18l/20; @karabah_news, Telegram video, <https://mega.nz/folder/m4sA1LYI#TRtCbNRhZApG-Oh-DszqnQ>.

³⁷¹ @qarabaqinfoo, “Palvovnik Вахəliyev qisasın alındı,” December 6, 2020, Telegram video, <https://mega.nz/file/yhMxHYLa#kLlBfBbSKbnlwU-DEjwvigreYVuwHlUL7dKccCKQnv9A>.

³⁷² @kolorit_18l, December 23, 2020, Telegram video, <https://mega.nz/file/ro1BzARR#9NDWrO7IHxmk-Ph04RYpjlf2O0wg8oUmXr7SKWF02Kc>.

³⁷³ @kolorit_18l, December 23, 2020, https://t.me/kolorit_18l/152, @kolorit_21, Telegram video, <https://mega.nz/folder/D4NB0ACC#D9i4vq6Z7ZPCQFZuY5XddA>.

³⁷⁴ Инфотека24 (@infoteka24), “Азербайджанцы продолжают гордиться своими военными преступлениями (18+),” December 30, 2020, Telegram video, https://mega.nz/file/ukkQFKLK#meTGm2Z-vZ0hU2e8TGgCP2dPmnGg6C8tzYWk9_d0BoOE

³⁷⁵ @kolorit_21, Telegram video, <https://mega.nz/file/a5d12lQT#fNHRu2l-mx3cwYsmgadUfyHZkd-jqVQqT6oWhtjPD0p0>.

³⁷⁶ @kolorit_21, Telegram video, <https://mega.nz/file/m59wxSia#vXvJ686jNKerdpGAYqPs0dl8hbiRp5HFV-J9lfh52504>

³⁷⁷ @bagramyan26, “18+. “Доблестные” солдаты ВС Азербайджана продолжают совершать военные преступления и глумятся над телами армянских военнослужащих,” November 4, 2020, Telegram video, <https://mega.nz/file/jpM30AoA#TsvRAp8Ov4IYZyyLdp7UHrs1Kt9rF47dkJSAvLW4r9A>.

It is identical to the uniform of servicemen in other videos related to the 44-day war as demonstrated in previous sections. Additionally, the weapons, equipment, and control measures (such as the red band around the arm) all appear consistent with the outfit of Azerbaijani military during the 44-day war. Additionally, the AK pattern rifle (likely an AK-74(M)) in the background of the picture appears to have a Rakurs sight. This is also consistent with Azerbaijani equipment. The results of the photo forensics analysis demonstrate that there was no meaningful manipulation with the photo. According to a shadow analysis on the photo, the lighting/shadows appear to be consistent.



Figure 8.37. An Azerbaijani serviceman is cutting the throat of an Armenian serviceman (Source: Antituran Telegram channel).



Figure 8.38. An Azerbaijani serviceman is posing with the head of a beheaded man (Source: Antituran Telegram channel).



Figure 8.40. Azerbaijani servicemen cut ears of dead Armenian soldiers (Source: Kolorit_18, Kolorit 18+ Telegram channels).



Figure 8.41. Uniform patterns worn by the perpetrators of ear cutting (Source: Karabah_news Telegram channel).



Figure 8.42. Samples of uniform worn by the State Border Service of Azerbaijan (Source: official webpage of the State Border Service of Azerbaijan).

In some videos, the perpetrators show off (see Figure 8.43). The background voice of the perpetrator can be heard, for example, commenting that he was cutting off the ear of an Armenian soldier: *“I also cut his ears... Were you thinking of making us shahids!? Fuck you... Dirty... Die...”*³⁷⁸ or, *“Cut it, cut that ear! Where is the knife ... Bring it ... Cut it! Cut it! Cut that shit!”* *“This is the ear of the dishonorable... This is halal for us!”* The other servicemen cheer the acts of the perpetrator and even name him: *“Aliyev Rashad, thank you very much, brother! Fuck them ... Look at our Rashad, the ear cutter, and look at this bastard!”*³⁷⁹

In another video, a background voice in Azerbaijani can be heard encouraging the perpetrator: *“Cut it, may Allah bless your hands! God willing, this is for the blood of our shahids. We took their revenge ... I want to cut his head, too! ... They killed our boys, so we need to take their revenge ... Allah willing ... Allah protects us.”*³⁸⁰

In some of the videos, names can be heard: Rashid, Mamadli, etc.

Disrespect to the bodies took place in the form of dragging them along the road³⁸¹ or on a chain.³⁸² This is also a way of dehumanization of Armenians treating them like dogs. In one of the videos, Azerbaijani servicemen deliberately disrespect the

378 @kolorit_18l, December 23, 2020, Telegram video, <https://mega.nz/file/ro1BzARR#9NDWrO7IHxmk-Ph04RYpjlf2O0wg8oUmXr7SKWF02Kc>; Translation by the Fact-Finding Group.

379 @kolorit_18, Telegram video, <https://mega.nz/file/WsMH1BqS#TmTLAkDGq7gykHeJsDk6z0M7VklGnsvQtOODiWG384>, Translation by the Fact-Finding Group.

380 @kolorit_18, Telegram video, https://mega.nz/file/S0UnGlqQ#PfoD4Kc890BmIHBpCqrQqAXw5kc-DtT_8SOW6Dtd_tjo.

381 @kolorit_18l, December 23, 2020, Telegram video, https://mega.nz/file/D1tTQD5Q#hn2if9he38LRZU-1iRk-diLKU337lqwL8hN6J_wTrGQA,

382 Инфотека24 (@infoteka24), “ Азербайджанцы продолжают гордиться своими военными преступлениями (18+),” December 30, 2020, Telegram video, https://mega.nz/file/ukkQFKLK#meTGm2Z-vZ0hU2e8TGgCP2dPmnGg6C8tzYwK9_d0BoOE.

bodies of dead Armenian servicemen in complicity, saying in Azerbaijani, “*Drive and drag these pimps!*” and call them “*dishonorable.*” The word “*dishonorable*” can be heard on numerous videos (see Figure 8.44)



Figure 8.43. Azerbaijani servicemen who can be easily identified show the camera ears cut off of dead Armenian servicemen (Source: Baghramyan 26 Telegram channel).



Figure 8.44. Azerbaijani servicemen drag the dead bodies of Armenian servicemen on two different videos (Source: Kolorit_18 Telegram channels).

Figure 8.45. Azerbaijani servicemen drag the dead body of an Armenian serviceman on a chain (Source: Infoteka 24 Telegram channel).

A video appeared on Telegram channels on 6 December 2020, showing an Azerbaijani serviceman with a gun walking around a white Zhiguli with Armenian license plates.³⁸³ He says in Azerbaijani that he first cut off the hand of a dead Armenian serviceman. An Armenian serviceman lying on the driver's seat with his right hand cut off can be seen (see Figure 8.46).



Figure 8.46. On the left, an Azerbaijani serviceman bragging on camera that he cut off the hand of a dead Armenian serviceman. On the right, a killed Armenian serviceman with his hand cut can (Source: Ararat Telegram channel).

In one of the videos³⁸⁴ distributed on Telegram, a serviceman in an Azerbaijani military uniform can be seen repeatedly kicking a burned body of a man in a vehicle with an Armenian license plate numbers (see Figure 8.47). A background voice can be heard speaking in Azerbaijani.



Figure 8.47. A serviceman in an Azerbaijani military uniform kicking the burned body of a man in a vehicle with Armenian license plate numbers (Source: Kolorit18+ Telegram channel).

383 @qarabaqinfoo, "Palvovnik Baxşəliyev qisasın alındı," December 6, 2020, Telegram video, <https://mega.nz/file/yhMxHYLa#kLIbFbSKbnlwU-DEjwvigreYVuwHlUL7dKccCkQnv9A>.

384 @kolorit_21, Telegram video, <https://mega.nz/file/m59wxSia#vXvJ686jNKerdpGAYQpS0dl8hbiRp5HFV-J9lfh52504>.

Another video³⁸⁵ depicts how an Azerbaijani serviceman kicks the body of an Armenian serviceman into a gorge (see Figure 8.48).



Figure 8.48. A man in Azerbaijani military uniform kicks the dead body of an Armenian serviceman into a gorge. (Source: Kolorit 18+ Telegram channel).

In one of the videos, Azerbaijani servicemen unload a truck with the bodies of Armenian servicemen. One of the Azerbaijanis hits the head of one of the bodies (see Figure 8.49).



Figure 8.49. An Azerbaijani man hits a dead Armenian serviceman in the face with a shovel (Source: Kolorit_18 Telegram channel).

³⁸⁵ @kolorit_21, Telegram video, <https://mega.nz/file/75M10KaC#fr2fzaENjT9idBfxkYDJotXph-KG4QL33n-v3eVLPoDM>,

According to the lawyer representing the victims before the ECtHR, some of the Armenian servicemen whose bodies were disrespected by Azerbaijani servicemen were identified by their family members.³⁸⁶

Mutilation and disrespect to the dead, including non-Muslim enemies, is also strictly prohibited under Islamic law. In Islam, whether dead or alive, the human body must be given dignity and respect. Islamic law also contains rules on the burial of both Muslim and non-Muslim enemies. Specifically, there is a duty to bury the dead bodies of the adverse party. If for any reason, the non-Muslim adverse party does not bury its dead, then it becomes the obligation of the Muslims to do so. If Muslims do not bury the dead bodies of their enemy, the bodies will decompose or be eaten by beasts or birds. Such an outcome would be tantamount to mutilation, which is prohibited under Islamic law.³⁸⁷ Islam proscribes the mutilation of bodies in war, or disfigurement by amputating the nose, cutting off the ear or lips, or slicing the belly open, even if the enemy practices such acts.³⁸⁸

Nevertheless, such acts were practiced by Azerbaijani servicemen with references to Allah and claiming such conduct is God-willing. Historically, in times of war, cutting a nose has been a means to dishonor the victim.³⁸⁹ The deliberate stepping on victim's heads is an allusion to a prevalent Muslim custom that considers the bottom of shoes as highly offensive. Dragging the bodies through town on the back of a truck is a reversal of funeral rituals in which the body is bathed, shrouded, prayed over, carried through town in a funeral procession and buried in the ground.³⁹⁰

Because in Islam mutilation of the human body is strictly prohibited, whereas slitting the ears of cattle is encouraged, the practice of Azerbaijani servicemen of cutting the ears of dead Armenians could be a sign of dehumanizing Armenians. According to another interpretation in the comments put forth by Azerbaijani users under videos where Azerbaijani servicemen cut the ears of Armenian dead servicemen, this could also refer to the similar practice of Turkish servicemen who allegedly cut off the ear of one of the Armenian commanders who stood up against

386 Interview with the lawyer, 14 May 2021.

387 For more, see Ahmed Al-Dawoody, "Respect for the Dead under Islamic Law: Considerations for Humanitarian Forensics," *Humanitarian Law & Policy Blog* (blog), November 1, 2018, <https://blogs.icrc.org/law-and-policy/2018/11/01/respect-for-the-dead-under-islamic-law-considerations-for-humanitarian-forensics/>.

388 Sheikh Wahbeh al-Zuhili, "Islam and International Law," *International Review of the Red Cross* 87, no. 858 (2005): 269–83.

389 Jürgen Wasim Frembgen, "Honour, Shame, and Bodily Mutilation. Cutting off the Nose among Tribal Societies in Pakistan," *Journal of the Royal Asiatic Society* 16, no. 3 (November 2006): 243–60, <https://doi.org/10.1017/S1356186306006444>.

390 Dawn Perlmutter, "Mujahideen Desecration: Beheadings, Mutilation & Muslim Iconoclasm," *Anthropoetics: The Journal of Generative Anthropology* 12, no. 2 (2007), <http://anthropoetics.ucla.edu/ap1202/muja07/>.

the Turkish army at the end of 19th and beginning of 20th centuries. This story is widely disseminated in Azerbaijani sources.

Hence, despite the invocation of Allah, the above-described behavior of Azerbaijani servicemen is not only in violation of IHL rules but also Islamic law.

Enforced Disappearance: Failure to Notify of Capture and Ensure Communication

During this mission, many cases were discovered where Azerbaijan did not acknowledge the taking of individual captives, nor did Azerbaijan facilitate communication between captives and their family. This was also reported by HRW and by POWs who gave interviews to the media after their return. Some POWs had the opportunity to contact their families only after being visited by the ICRC, weeks after capture, whereas the others had neither a chance to contact their families nor were they visited by the ICRC during the entire period of their detention. Such actions violate international norms and as long as the detention of POWs under these conditions continues, the risk of enforced disappearance grows.

According to the lawyer representing the POWs, until February 2021, Azerbaijan did not confirm to international bodies the captivity of above-mentioned E.Kh. and another four captives who fell into the hands of Azerbaijani servicemen on 21 November 2020, despite several videos distributed on social media with the appearance of these servicemen, even where the latter introduce themselves.

According to the lawyers representing the interests of Eric Mkhitarian, mentioned above, and his family before the ECtHR, despite the fact that a video with him being in the hands of Azerbaijani military personnel appeared on Telegram, and the ECtHR granted interim measures in his regard on 30 November 2020, Azerbaijani authorities have never confirmed his capture and whereabouts. In April 2021, his death was confirmed via four DNA tests, when his body was returned by Azerbaijan.

One of the repatriated POWs interviewed by the Fact-Finding Group reported that he had not had the opportunity to contact his family or be visited by the ICRC or any other neutral authority for the entire duration of custody in Azerbaijan – 65 days. Up to the date of his repatriation in December 2020, his family did not know anything about his whereabouts, apart from the video circulated in a Telegram channel where he can be seen in the hands of Azerbaijani servicemen. While in prison, he and his cellmates were taken out of their cell and transferred to another one. Later they learned from other POWs that on that day, the ICRC delegates visit-

ed the prison. Other repatriated former prisoners interviewed by the Fact-Finding Group members also confirmed that they did not have an opportunity to contact their families for prolonged periods, up to 50 days, nor were their families notified by Azerbaijan.

As of July 29, 2021, Azerbaijan continues to detain 45 Armenians whose captivity it confirmed. The Armenian Government and lawyers representing the interests of persons detained in the context of the armed conflict filed requests for interim measures to the ECtHR in relation to 280 persons, including civilians. In the overwhelming majority of cases, the ECtHR has granted such requests. In approximately 90 percent of those cases, the office of the State agent before the ECtHR on behalf of the Armenian Government said, they had provided photo and/or video evidence confirming that Azerbaijani forces had taken these persons into custody. Despite that, the Azerbaijani authorities have failed to confirm the whereabouts of some of these persons despite solid evidence, including footage taken by Azerbaijani servicemen, of the latter being in their custody.

The overwhelming majority of confirmed detainees were captured after the Tripartite Statement on cessation of hostilities entered into force. Armenian authorities, the Ombudsperson, as well as some international organizations insist that all persons detained in the context of the conflict have status under the Geneva Conventions and must be returned. Azerbaijani authorities refer to the Tripartite Statement and interpret it narrowly, arguing that all those detained after the signature of the statement, as of 10 November 2020, are not covered by it. Regardless of the interpretation of the statement, Azerbaijani authorities are bound to and shall apply the provisions of the Geneva Conventions to which Azerbaijan is a party, relating to the repatriation of persons detained in the context of an armed conflict after cessation of hostilities and other guarantees.

The existing evidence suggests that many civilians were kept in incommunicado detention after their capture by members of the Azerbaijani army. Relatives of some civilians learnt about the fact of their capture and detention only from the videos published on the Internet, which demonstrates that Azerbaijan failed to comply with the obligation to transfer information about the whereabouts of civilians under its control, and to allow communication with relatives.

Such instances include a lack of information for a protracted period about the fate of Sasha's son, Arsen.³⁹¹ Also, the capture of K.M. (see above), became known to relatives only following publication of videos depicting them. In the interviews

³⁹¹ Interviewees from Hadrut city had, at the time of the interviews, reported that there was no information about Arsen (see, e.g., interview with S.S.).

with the Fact-Finding Group, interviewees reported at the time about missing fellow villagers; for instance, H.S. of Berdashen village, reported about seven people missing from the village. In the case of A.A. (see above), his whereabouts were unknown to his family members for at least ten days after his capture, until after the ICRC delegates visited him and he was given an opportunity to contact his wife.

States Parties to the GC III have an obligation to ensure transmission of the information on detained POWs and civilians to their country and/or family (GC III, Art. 70) and notification to the power of origin through the Central Tracing Agency (GC III, Arts 69, 94, 104, 107, 120 and 122) and to ensure correspondence (GC III, Arts 71, 76 and Annex IV C. [CIHL, Rule 125]). Thus, each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate.

As prisoners of war are only detained to stop them from taking part in hostilities, they have to be released and repatriated when they are unable to participate, i.e., during the conflict for health reasons, and of course as soon as active hostilities have ended. More specifically, GC III contains rules on repatriation during hostilities (GC III, Art. 109-117), medical cases (GC III, Annexes I and II), and based on the agreements between the parties and at the end of active hostilities (GC III, Arts 118-119 [CIHL, Rule 128 A.]).

In addition, the extensive requirements concerning registration, visits, and transmission of information with respect to persons deprived of their liberty are aimed, *inter alia*, at preventing enforced disappearances. The cumulative effect of these rules is that the phenomenon of “enforced disappearance” is prohibited by IHL. Additionally, under human rights law, enforced disappearance is prohibited under any circumstances. Enforced disappearance is a violation not only of the rights of the direct victim, but also of his or her relatives. That is why international law recognizes that, just like disappeared persons, families are full victims, too. Sudden separation, a lack of news, uncertainty and fear of reprisal makes the mourning of a loss impossible and causes indelible suffering.

For all of these reasons, it is obvious that the failure of Azerbaijan to acknowledge the detention of captives and to delay or evade communications between captives and their families is a violation of both IHL and human rights norms.

Violations of the Right to Health

During the military activities launched by Azerbaijan, 150 civilians suffered different levels of physical injuries,³⁹² which resulted predominantly from the targeting of civilians, bombardment of civilian objectives, and indiscriminate targeting conducted by Azerbaijan. The injuries were sustained in various regions throughout the entire territory of Artsakh, including the cities of Stepanakert, Martakert, Martuni, Shushi, Hadrut, Askeran, and Karvachar; the villages of Taghaser, Avetaranots, Karmir Shuka, Maghavuz, Vardashat, Spitakashen, Nerkin Horatagh, Shosh, Hochtants, Knaravan, Aknaghbyur, Berdashen, and Patara. Some civilians were also injured on roads while leaving the territory of Artsakh. Additionally, there is evidence of injured civilians experiencing difficulties in getting access to ambulances and medical services due to constant targeting of roads and cars. Some were forced to reach hospitals by their own means or provided their own medical assistance.

As evidenced below, civilians have not only suffered physical injuries as a result of indiscriminate targeting, or the specific targeting of civilian houses and residential areas, cars, and other civilian objects,³⁹³ but have also suffered mental health problems which will in most cases be long-lasting, especially in the case of children. The war's impact on the mental health of some of the victims has been so severe that they developed severe mental health issues and that require special treatment.

In addition, given that the war was perpetrated in the time of a global pandemic, COVID-19, the protracted bombardment of civilian populations imposed an extra burden on the already overwhelmed medical system of Artsakh, thus complicating provision of healthcare services. People living in the targeted areas of Artsakh had to stay in crowded bomb shelters where it was impossible to observe COVID safety rules. Some people contracted the virus at those shelters, while others contracted the virus after their displacement to areas where the spread of the virus was even higher than in Artsakh.

Violations documented in this section constitute violations of the right to health, as defined by the United Nation's Committee on Economic, Social and Cultural Rights (CESCR). Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life with dignity, which includes

³⁹² Response to the inquiry of the members of the Fact-Finding Group from the Prosecutor General's Office of Artsakh, 10 May 2021 (hereafter referred to as Letter of the Prosecutor General's Office of Artsakh).

³⁹³ The cases regarding impairment of the right to health of persons taken hostage by Azerbaijan are presented in the section discussing the right to liberty and security of a person.

physical health as well as mental health and social well-being.³⁹⁴ Moreover, the concept of right to health broadens with time, and the Committee stated that, “A wider definition of health also takes into account such socially-related concerns as violence and armed conflict.”³⁹⁵ Furthermore, under CESCR Article 12, states have an obligation to prevent, treat and control epidemics, and based on this, early on in the pandemic, the UN Secretary General called for a global ceasefire.³⁹⁶ Thus, Azerbaijan must be held accountable for the egregious violations of this right.

Physical Injuries

A.G., 36 years old and a resident of the city of Mataghis, in the Martakert region, was pregnant on 27 September 2020, when Azerbaijan initiated military activities, and experienced the following while fleeing the village:

When we had left Mataghis, UAVs were constantly hitting the roads. I remember, something hit the car and we turned over. The explosion was on the road, in front of the car. I lost consciousness. Then I woke up in the mayor’s car. I asked about my children’s whereabouts, and the mayor told me that the car was hit, that the car turned over, that I had lost consciousness. That the children were taken to a safe place by a car that was headed to Yerevan. I had received an injury myself to my hand/arm, but could not feel it, I was under the impression it had broken. I was taken to a bunker where I was given first aid medical assistance. When the doctors realized that I was into the 35th week of pregnancy, they did caesarian surgery in the bunker where I was taken. There were only injured soldiers in the bunker, I was the only woman there. There was bombardment all around, I remember how four doctors took me to the hospital in Stepanakert. I was taken to the basement of the hospital. I could hear sounds of bombardment all around. On September 29, 2020, I was taken to Yerevan in an emergency vehicle. As I have already mentioned my arm was injured while fleeing, and I underwent six surgeries; now there is a 30% chance of it functioning.³⁹⁷

For A.G., these physical injuries also brought about mental health issues: she has difficulties sleeping; any time there is thunder, she is under the impression that those are bombardments.

After the initiation of military activities, many civilians started leaving their towns and villages to safer areas. J.I., 37 years old and a resident of Martakert city (Mar-

394 “General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)” (UN Committee on Economic, Social and Cultural Rights (CESCR), August 11, 2000), paras. 1, 4, <https://www.refworld.org/docid/4538838d0.html>.

395 “General Comment No. 14,” para. 10.

396 “COVID-19: UN Chief Calls for Global Ceasefire to Focus on ‘the True Fight of Our Lives,’” UN News, March 23, 2020, <https://news.un.org/en/story/2020/03/1059972>.

397 Interview with A.G., a resident of Mataghis, 24 December 2020.

takert region), left Martakert city with her family in a private car. She claims that the roads were dangerous, and that it was only a matter of chance whether one could stay alive, given that the car could be targeted at any moment.³⁹⁸ On the way out of Martakert city on 27 September 2020, J.I. witnessed how a car was targeted and fell into a gorge: a 13-year old child inside the car, Robert, was injured and remained in a coma for 5 days.³⁹⁹ Robert's family members were injured as well.

A.A., 38 years old and a resident of Mghoz village, was yet another person who was injured on roads during her displacement. On September 27th, when the war started, A.A. decided to leave their village for what she and her family considered to be a safer place. They got into a civilian car, a Pajero. There were five of them in the car. When they were on their way, at about 9:00 -10:00 pm, four km away from the village of Mghoz (on the way from Mghoz to Drmbon), Armine heard the sound of a UAV. She recounted:

I was looking in the direction of the forest [to the side], and that is why my left cheek was entirely injured by glass; had I been looking forward, I would have been injured in my eyes as well. The UAV had hit [i.e., targeted] the road, after which the fragments of the explosion broke into the car. Others inside the car got injured as well. My child received a shrapnel injury on their head, my sister-in-law got fragments in her hands.⁴⁰⁰

A.A. affirms that there were no military objects in the vicinity of the targeted area, no military cars were passing nearby, the UAV simply targeted the road. She says that many cars were coming behind them, and the UAV might have spotted the line of cars. She also mentioned that the bombardment was intensive, and that it continued even after they had been hit.

On 30 September 2020, Azerbaijan targeted a bridge near Martuni city. Armen (name changed) was injured as a result of the explosion. He told the Fact-Finding Group:

On September 30th, I was driving to fill up my car and the car was hit. I got injured near the bridge while I was inside my car. There are three fragments in my head. One in my back, it was operated on and removed; two were removed from my leg. One of my legs is dysfunctional, I cannot extend it. The fragments in my head were not removed, because there were only traumatologists in the hospital, while I would need a neurosurgeon. The surgeries were performed at Medline medical center.⁴⁰¹

398 Interview with J.I., a resident of Martakert city, 2 December 2020.

399 Also see: "13-Ամյա Ռոբերտը Դեռ Վերակենդանացման Բաժանմունքում Է," Առավոտ, October 14, 2020, <https://www.aravot.am/2020/10/14/1143175/>; Իմ ռադիո / Im radio, "Երեխաների կյանքի ու կրթության իրավունքը խախտվում է," Facebook, October 15, 2020, <https://www.facebook.com/FM103.8/posts/pfbid0EtgA8aoxMZzZm88gQDarFkz6oILTMs82gcqPVZRrpSHGyQt9vUMY2mwWsTVRQwzrl>.

400 Interview with A.A., a resident of Mghoz village, 18 December 2020.

401 Interview with Armen (name changed), a resident of Martuni city, 18 December 2020.

Open-source intelligence (OSINT) experts have identified, with moderate confidence, the weapons used to target the road as cargo-carrying munition dispensing high-explosive fragmentation submunitions. The experts have also noted the detonation of the submunitions and a significant quantity of debris which was likely to have caused damage to nearby houses, vehicles and the road's surface.

Many civilians were injured as a result of direct shelling of residential areas, including cities and villages. On 23 October 2020, the village of Avetaranots was shelled and, as a result, civilians received various injuries. A.H. was in his house when the village was targeted around 10 pm.⁴⁰² According to A.H., his injuries were caused by a cluster munition.⁴⁰³ The entire house was surrounded with fragments and traces of the shelling: three rockets fell in the yard, and one fell on the roof. He was transferred to Stepanakert hospital, then to Yerevan. He was injured on his left hand, and it was later amputated. He says that his brother-in-law was injured as well. M.H., another villager from Avetaranots, was injured by the explosions as well. One of the cluster bomblets exploded in the room adjacent to him. After the first explosion, they were trying to reach a safer place when the fragments hit M.H. and injured his leg.⁴⁰⁴

The house of S.B., 64 years old and a resident of Martuni city, was targeted on the first day of the war, on September 27, 2020. Two residents were killed as a result of the shelling (Ellada and Vika, see the section on targeting of civilians), and five others were injured. In an interview with the members of the present mission, S.B. said that a rocket with a length of 2.5 m hit their house. In the vicinity, M096 cluster munitions were spotted. His daughter, A.M., 30 years old, received fragment injuries in a couple of places on her body.

She [the daughter] has not yet undergone surgeries on her head; all the fragments have been removed from her body, except for one. That one has penetrated her forehead, between the two hemispheres of the brain. It is small, not causing trouble now. A doctor who arrived told us that if the fragment is removed now, one of the hemispheres will weaken, and she may be paralyzed. The doctor has given six years, after which, he said, he would remove the fragment.⁴⁰⁵

In an interview with members of the mission, S.B.'s neighbor, A.G., said that she had sustained fragment injuries. Some of the fragments have been removed, but

402 Interview with A.H., a resident of Avetaranots, 17 December 2020.

403 According to the letter from the Prosecutor General's Office of Artsakh, the village was subjected to artillery fire.

404 Artsakh TV News Օր, "Լրատվական, Իրավիճակի ն ՈւՏի թող Տրամադրությունների Ավետարանցում," October 24, 2020, YouTube video, <https://www.youtube.com/watch?app=desktop&v=PKKvqkQVsTo>.

405 Interview with S.B., a resident of Martuni city, 17 December 2020.

some remained. Her son, Artsvik, was injured as well: he had a severe injury on his head and underwent brain surgery, and his leg was broken as a result of a fragment injury.⁴⁰⁶

A.M., S.B.'s daughter, during an interview stated that she does not feel part of her head, and that she was also injured in her intestines and her legs. Her child received two fragment wounds. S.B.'s health has been impaired as well; he claims not to be able to hear well with one ear after the explosion.⁴⁰⁷

Meanwhile, in Stepanakert, Laura (name changed), was in her house on October 4, 2020, when it was targeted by Azerbaijani armed forces. It was around 12:00-1:00 pm; there was an explosion from the direction of the market. Laura said of the explosion:

Then about five minutes later, the second explosion was already upon our building. We saw the glass of the windows shattering all around. My husband was injured, there was blood all around us. Our daughter's legs were injured by fragments and glass, and we tried to treat the injuries after going to the basement.⁴⁰⁸

She says that there were no military objectives near them; there was a religious center nearby, which was targeted as well.

Also in Stepanakert, the house of V.S., 59 years old, was hit by a rocket on October 16, 2020, at around 4:30 am in the morning. Only V.S.'s mother was at home, asleep. His mother did not suffer physical injuries due to the explosion, but she suffered a stroke afterwards, and mental health issues were noticed.⁴⁰⁹

Mental Health Issues

The only thing I know is that the population of Artsakh that survived the war have completely lost their health. People have lost their relatives, their means of livelihood. Our souls are not quiet anymore. I have been receiving treatment for more than a month now but cannot see any effects. My teeth are falling out. Our population is in a terrible state of mind: we need assistance by a psychologist, a doctor. The sense of terror is still present

- A resident of Martakert.⁴¹⁰

406 Interview with A.G., a resident of Martuni city, 21 February 2021.

407 Interview with A.M., a resident of Martuni city, 25 February 2021.

408 Interview with Laura (name changed), a resident of Stepanakert, 18 December 2020.

409 Interview with V.S., a resident of Stepanakert, 17 December 2020.

410 Interview with G.G., a resident of Martakert city, 22 March 2021.

Many people suffer from sleep disturbances due to the war. Among them, A.G., a resident of Berdzor city, told the members of the Fact-Finding Group that she has had sleep disturbances both while she was in Berdzor during the war, as well as after moving to Armenia.⁴¹¹ N.Q., a resident of Taghavard village, also mentioned that she has sleep disturbances; sometimes she wakes up from a dream about Artsakh.⁴¹² She also has frequent muscle pains which are due to nerve strain.

N.B., 60 years old, stated that she has become nervous after the war. She has a problem with her kidneys, which become swollen when she is anxious, and as a result she is often unable to eat. A doctor prescribed medication, including medication for controlling blood pressure. She mentioned that the children are very frightened as well, they have undergone serious psychological stress. Every time they hear the sound of a plane, they try to hide somewhere, and only afterwards do they realize that it must be safe where they are, in Armenia. Due to the deterioration of her health after the war, N.B. underwent heart surgery on December 23.⁴¹³

G.Z., 40 years old and a resident of Mets Tagher village (Hadrut region), also spoke of the stress that her children have gone through. The children constantly speak about war, and her youngest son has become perpetually anxious.⁴¹⁴

V.M., a resident of Hadrut city, has a disability and her health condition deteriorated greatly after she saw a video on the internet showing Azerbaijani soldiers entering her house and mocking the pictures of her family members.⁴¹⁵

R.V., 64 years old and a resident of Karintak village (Shushi region), also complains about stress, and doctors have confirmed that it is due to the war. She has had difficulty sleeping for a month after the war.⁴¹⁶

Due to constant thoughts about the war, H.B., a resident of Azokh village (Hadrut region), often has high blood pressure and difficulty sleeping.⁴¹⁷ Many other witnesses have also experienced sleep disturbances.⁴¹⁸

L.A., 25 years old and a resident of Shushi, stated that while asleep, her 2-year-old child often starts crying, "it exploded, it exploded!" L.A. thinks that it must be connected with the memory of the explosion near their building.⁴¹⁹

411 Interview with A.G., a resident of Berdzor city, 21 January 2021.

412 Interview with N.Q., 28 December 2020.

413 Interview with N.B., 27 November 2020.

414 Interview with G.Z., a resident of Mets Tagher village, 2 February 2021.

415 Interview with V.M., a resident of Hadrut, 16 January 2021.

416 Interview with R.V., a resident of Karintak village, 29 January 2021.

417 Interview with H.B., a resident of Azokh village, 5 February 2021.

418 One of the interviewees stated that he was taking medication due to sleep deprivation.

419 See interview with L.A., a resident of Shushi, 25 November 2020.

L.G., a resident of Martakert, noted that her 11-year-old child was frightened by the bombings; afterwards they permanently trembled and now they have serious health problems, including: weakness in the legs, lack of balance resulting in falling to the ground, trembling, and high blood sugar, all resulting from psychological issues caused by the war, according to the physicians treating them.⁴²⁰ Another witness, V.M., a resident of Hovtashen, said that his 7-year-old child is ‘wetting the bed’ when an aircraft flies over, while the child’s mother does not speak at all.⁴²¹

Nearly all respondents complained that after the war they suffer from insomnia, and that their children are frightened by loud noises, including the sounds of flying aircrafts. The following issues were also emphasized: fear of the darkness, lack of appetite and/or nausea, in some cases memory gaps, loss of consciousness, as well as depression, reticence and isolation, no desire to communicate resulting in unwillingness of children to attend school and continue their education.

Mental health issues were also highlighted by the Armenian Ombudsman in his 2020 Annual Report, providing that during monitoring visits he noticed that people displaced from Artsakh, including children, were psychologically depressed.⁴²²

S.G., 37 years old, was captured, tortured, and later repatriated from Azerbaijan back to Armenia on 14 December 2020. He was taken to the hospital, treated, and diagnosed with nerve-related issues. As of the date of the interview, he had been taking medication. His spine still hurt, which is the consequence of the beatings to which he was subjected. He has difficulty walking. His wife said that his state of mental health is questionable. He has lost many friends to the war, and when he has seen their photos, it has an emotional effect on him. Even now, his condition worsens if he does not take his medication; he becomes nervous and despondent. Despite the fact that he wants to work, he cannot, because he is physically unable, and takes medication four times a day.⁴²³

N.A.’s husband’s health condition deteriorated during the war due to stress, and as a result he suffered a stroke. Speaking of the health of the other family members, N.A. mentioned that she and her son suffer from distressing mental health conditions.⁴²⁴

420 Interview with L.G., a resident of Martakert, 24 December 2020.

421 Interview with V.M., a resident of Hovtashen, 8 December 2020.

422 2020 Թվականի Ընթացքում Հայաստանի Հանրապետության Մարդու Իրավունքների Պաշտպանի Գործունեության, Մարդու Իրավունքների և Ազատությունների Պաշտպանության Կիճակի Մասին,” Տարեկան հաղորդում (Երևան: Հայաստանի Հանրապետության մարդու իրավունքների պաշտպանի գրասենյակ, 2020), <https://ombuds.am/images/files/883f55af65e3c33553139031c7ac0ce6.pdf>.

423 Interview with S.G., 1 March 2021.

424 Interview with N.A., a resident of Hadrut, 18 December 2020.

COVID-19: Health-related Issues Due to Having to Stay in Crowded Shelters During a Global Pandemic

R.A. reported that COVID-19 safety protocols could not be observed in bomb shelters.⁴²⁵ L.I. stated that they had to stay in a shelter in Shushi with around sixty people, and that later they were informed that one person there with heavy breathing had COVID-19.⁴²⁶ Also, some people have contracted COVID-19 after being displaced to areas where the spread of the virus was higher than in Artsakh.

Speaking of the consequences of frequent displacement to shelters due to constant bombardment of civilian populations, E.A. stated that her legs had gotten swollen and that she has pain in her legs.⁴²⁷

Difficulties in Getting Access to HealthCare

The attacks carried out by Azerbaijan deprived countless civilians of access to proper health care. There have been harrowing accounts of injured civilians having difficulties getting to hospitals and receiving first aid medical treatment due to the intensity of the military action launched by Azerbaijan, including the intermittent bombardment and dangers on the roads. Access to healthcare was further complicated due to the inaccessibility of ambulances, as a result of which civilians used their own means of transportation for medical emergencies, and at times needed to treat their wounds on their own without seeking the help of medical professionals.

N.D., a resident of Azokh village in the Hadrut region, stated that on October 15th, when his brother-in-law got injured, they were not able to call an ambulance because the roads were not accessible due to the advance of Azerbaijani armed forces. Instead, they had to take the injured with them through the forests to the village of Karmir Shuka-Taghavard, approximately 7 km. Only from that point they were able to take a car to Stepanakert, where his brother-in-law underwent surgery, and was then taken to Yerevan, Armenia.⁴²⁸

Another insidious violation in this respect was the direct targeting of ambulances and medical personnel. On 11 October 2020, an ambulance, which was at the time

⁴²⁵ Interview with R.A., 26 February 2021.

⁴²⁶ Interview with L.I., 1 December 2020.

⁴²⁷ Interview with E.A., 24 December 2020.

⁴²⁸ Interview with N.D., a resident of Azokh village, 2 December 2020.

transferring injured individuals, was targeted.⁴²⁹ Also, on 28 September 2020, Azerbaijani soldiers attacked a military ambulance on the road in Karvachar district; they killed a military doctor, and injured the driver.⁴³⁰

Moreover, some witnesses mentioned that at times, due to the scale of bombardments, ambulances did not manage to assist all the injured individuals; as a result, civilians were deprived of the opportunity and their right to receive medical assistance. Numerous instances of targeting of medical personnel and medical institutions were recorded during the 44-Day War: fifteen military doctors, one volunteer doctor, around sixty medics died during the 44-Day War.⁴³¹

Specifically, the public hospital in Martakert was targeted three times in September 2020.⁴³² Examination of the impact site has helped determine, with low-to-moderate confidence, that the type of weapons used against the hospital in Martakert city was a LAR-160, fired with EXTRA rockets. OSINT experts have noted “extensive fragmentation and overpressure damage” both in the main building and in the area surrounding the hospital, with a high likelihood of it having been caused by fragmentation and blast overpressure. In addition to the blast and fragmentation damage, the explosion also initiated a fire in the hospital near the area housing several emergency vehicles.

On October 28, 2020, the Maternity Hospital in Stepanakert came under fire as well. OSINT experts have identified the weapons used to target the hospital as 300 mm 9M5-series surface-to-surface rockets fired from a 9K58 Smerch MBRL. The damage documented was consistent with the effects of a large, high-explosive warhead. The targeting of such objects amounts to a breach of Azerbaijan’s obligations to respect everyone’s right to health.

All these instances demonstrate that Azerbaijan did not refrain from targeting medical personnel and medical objectives, and this fact imposed additional burdens on individuals seeking access to health care services and medical assistance.

429 “Ադրբեջանը թիրախավորել է վիրավոր տեղափոխող շտապօգնության մեքենան,” Արմենպրես, October 11, 2020, <https://armenpress.am/arm/news/1031300.html>; “Ադրբեջանի ռազմական ագրեսիան, զարգացումների ժամանակագրություն 11.10.2020,” Հայաստանի Հանրապետության արտաքին գործերի նախարարություն, October 11, 2020, https://www.mfa.am/hy/awaa_chr/2020/10/11/w_nk_2020/10565.

430 Hugh Williamson, “Unlawful Attacks on Medical Facilities and Personnel in Nagorno-Karabakh: New Research on Three Incidents from 2020 Conflict” (Human Rights Watch, February 26, 2021), <https://www.hrw.org/news/2021/02/26/unlawful-attacks-medical-facilities-and-personnel-nagorno-karabakh>.

431 “Արցախյան պատերազմում Ադրբեջանը թիրախավորում էր բժշկական անձնակազմը. ՀՀ ԶՈՒ ռազմաբժշկական վարչության պետ,” Արմենպրես, March 28, 2021, <https://armenpress.am/arm/news/1047378.html>>.

432 Williamson, “Unlawful Attacks on Medical Facilities and Personnel in Nagorno-Karabakh.”

In conclusion, the Fact-Finding Group found the witnesses interviewed highly credible, and also documented physical evidence, such as scars, which were apparent in many cases. In cases where testimony was taken from different individuals in the same family, or residents of the same place, the testimonies corroborated each other. Furthermore, official accounts, namely information provided by the Prosecutor General's Office, on the injured in the course of the armed conflict, further confirm details of the evidence presented. Finally, some of the witnesses' stories are further corroborated based on information disseminated through the media. This makes the evidence gathered in this report credible and corroborated.

It is of particular importance that the right to health is interconnected with the exercise of other fundamental rights, and that violations of the right to health often endanger the very lives of victims, as well as their future quality of life. Additionally, the UN Committee notes that the right to health extends to "the underlying determinants of health," and as per the Committee "[a] wider definition of health also takes into account such socially-related concerns as violence and armed conflict."⁴³³ Moreover, Article 12 of the International Covenant on Economic, Social and Cultural Rights specifically obligates states to take steps necessary for the "[t]he prevention, treatment and control of epidemic, endemic, occupational and other diseases."⁴³⁴

Thus, the physical, emotional and mental injuries to health experienced by the victims as documented above, all of whom are innocent civilians, reflect not just a general disregard by Azerbaijan towards its CESCRC commitments, but rather a brazen contempt for the well-being of ethnic-Armenian civilians residing in Artsakh. It must be considered that without accountability, there will not be any deterrence to similar actions in the future.

⁴³³ "General Comment No. 14," paras. 11, 10, respectively.

⁴³⁴ "International Covenant on Economic, Social and Cultural Rights" (UN General Assembly, December 16, 1966), art. 12, <https://www.refworld.org/docid/3ae6b36c0.html>.

Violations of the Right to Respect for Private and Family Life

In the aftermath of the war, one of my children is not interacting with others and talks to family members only ... I do not sleep at night, I jump out of the bed when I hear a faint sound, even the sound of an opening door far away; often I go to bed with my clothes on thinking that if something happens, I will be ready, and will get the children dressed quickly and can help them...

- A resident of Stepanakert⁴³⁵

Breaching the right of individuals in respect to private and family life was another widespread violation noted during this fact-finding mission. The overwhelming majority of respondents indicated that during and after the war they and/or their family members, especially children, experienced stress, anxiety, irritability, mental anxiety and depression. Some respondents also emphasized that mental anxiety and depression led to physical health problems, including fever, and acute fluctuations of arterial blood pressure, forcing victims in many instances to seek medical assistance and emergency medical services. Victims indicate that physicians have diagnosed those physical conditions as a consequence of psychological stress.

Education

144 respondents⁴³⁶ mentioned violations of the right to education as a consequence of the inability of educational institutions to work in war time, Azerbaijani control over some areas after the war, and the impossibility of returning to their place of residences in Artsakh. Parents have also indicated that school attendance was sometimes hindered because they had to change temporary shelters,⁴³⁷ school was far away, they had difficulties with taking care of other children, and in some cases they had no clothes as they did not have an opportunity to take with them the bare necessities when fleeing their homes. For instance, Susanna,⁴³⁸ a resident of Berdzor, noted that her six children (ages one and a half to fourteen) were in a

⁴³⁵ Interview with a resident of Stepanakert, 24 December 2020.

⁴³⁶ The respondents were particularly anxious that it would be impossible to continue education in Artsakh State University, 'Yeznik Mozyan' Vocational School, 'Grigor Narekatsi' University College in Stepanakert.

⁴³⁷ Narine, a Shushi resident, said that initially, they had moved to Kapan, then Goris, Voghjaberd, and Araks village (Interview carried out on 02 December 2020).

⁴³⁸ Interview with a resident of Berdzor, 02 December 2020.

stressful condition and scared, and that her four school-aged children had not attended school for a month (at the time of the interview). Specifically, her ten-year old child did not want to attend school because she was afraid of unmanned aerial vehicles (UAVs).

Grave Sites

Another type of violation of the right to respect for private and family life is the fact that the war made impossible any visits to graves and cemeteries of relatives, and moreover, such sites (cemeteries and memorial headstones) are being demolished, vandalized and/or desecrated. The sites are impossible to visit because Azerbaijan occupied many communities, while other communities are now close to the frontline and no longer safe. For instance, Gohar from Hadrut, who found refuge in Armenia, said: “I was sick with thoughts; now I have adjusted to this situation. Nothing matters for me except that I cannot visit the grave of my child, and that is the most important...”⁴³⁹

There are videos that corroborate the stories of victims. Videos uploaded to the internet during and after the war evidence the destruction and/or desecration of Armenian gravesites by servicemen of the Azerbaijani armed forces⁴⁴⁰ (in total Azerbaijan took control over 108 cemeteries and sacred sites).⁴⁴¹

⁴³⁹ Interview with a resident of Hadrut, 26 February 2021.

⁴⁴⁰ For details see Karabakh Records_English (@karabakhrecords_english), “Azerbaijani Soldiers Destroying Armenian Graves,” Telegram video, https://mega.nz/file/Y7xCnTxR#2HrWl6NY_TkH-VCwtWlY1pQ2fdYbk-Jq3A7BJQtsQ8-U; Karabakh Records_English (@karabakhrecords_english), “Another Case of Vandalism and #Armenophobia,” Telegram video, <https://mega.nz/file/RuhCzZpa#ABgvpgi4eiDnFAIvTLPaasWRVpKB5fdXiqcCVZgT708>; Karabakh Records_English (@karabakhrecords_english), “Another Armenian Tombstone, Another Case of #AzerbaijaniVandalism,” Telegram video, [https://mega.nz/file/h34EiBgD#KDovUyXYhRe-1myAwF5m7gGV2-X8XljdKEl7gqNvsz4](https://mega.nz/file/h34EiBgD#KDovUyXYhRe-1myAwF5m7gGV2-X8XljdKEl7gqNvsz4;); Karabakh Records_English (@karabakhrecords_english), Telegram video, <https://mega.nz/file/Yy4h0aqY#N12A1oi1NZsUcmiQseh11xpnAh3dW67UDSxWjA5ZRf0>; Caucasus Heritage Watch (@CaucasusHW), “ALERT: An Armenian Cemetery in the Village of Mets Tagher/ Büyük Tağlar Was Recently Destroyed.,” Twitter, May 4, 2021, <https://perma.cc/Z2LG-Y6CL>; “USCIRF Releases Country Update on Azerbaijan,” The US Commission on International Religious Freedom, March 18, 2021, <https://www.uscirf.gov/news-room/releases-statements/uscirf-releases-country-update-azerbaijan>; “Deliberate Destruction and Desecration of Armenian Cemeteries and Gravesites by Azerbaijan’s Armed Forces,” AzeriWarCrimes.org, January 11, 2021, <https://azeriwarcrimes.org/2021/01/11/deliberate-destruction-and-desecration-of-armenian-cemeteries-and-gravesites-by-azerbaijans-armed-forces/>; Инфотека 24 (@infoteka24), telegram video, <https://mega.nz/file/w7QknJDb#1Is-fGTAYzkeG1ShknqnWZsgUtLGPqZOHI1YjRFE1w>.

⁴⁴¹ “Armenian Cultural Heritage in Artsakh (Nagorno-Karabakh): Cases of Vandalism by Azerbaijan and the Risk of Demolition,” Ad Hoc Report (Stepanakert: The Human Rights Defender of the Republic of Artsakh, January 26, 2021), <https://artsakhombuds.am/hy/document/792>.

This is also documented by the Human Rights Defender of Armenia,⁴⁴² Artsakh's Minister of Foreign Affairs,⁴⁴³ Artsakh's Human Rights Defender⁴⁴⁴ as well as some mayors.⁴⁴⁵ It is also important to emphasize that the Parliamentary Assembly of the Council of Europe condemned the destruction or damage of cemeteries during and after the conflict.⁴⁴⁶



Figure 10.1. Mets Tagher Cemetery before and after the war (Source: Azatutyun Radiokayan).

442 “On Azerbaijani Military Attacks against Davit Bek and Agarak Villages for Syunik Province of Armenia,” Ad Hoc Report (Yerevan: The Human Rights Defender of the Republic of Armenia, 2020), <https://ombuds.am/images/files/86cfd80eb354d0f2a600831371bb32c3.pdf>.

443 Խաչատրյան Մարինե, “Ադրբեջանը ոչնչացնում է հայկական գերեզմանատներն ու տապաններն օգտագործում որպես շինանյութ: ԼՂ արտգործնախարար,” «Ազատություն» ռադիոկայան, May 11, 2021, sec. Ղարաբաղյան խնդիր, <https://www.azatutyun.am/a/31249493.html>.

444 “Ադրբեջանը ծարունակում է Վանդալիզմի Իր Քաղաքականությունը՝ Ոչնչացնելով Օկուպացված Տարածքներում Հայկական Գերեզմանները. ԱՅ ՄԻՊ,” Persona News, May 11, 2021, <https://bit.ly/3Nf1uTR>.

445 Խաչատրյան, “Ադրբեջանը ոչնչացնում է հայկական գերեզմանատներն ու տապաններն օգտագործում որպես շինանյութ: ԼՂ արտգործնախարար.”

446 “Resolution 2391 (2021): Humanitarian Consequences of the Conflict between Armenia and Azerbaijan / Nagorno-Karabakh Conflict” (Council of Europe Parliamentary Assembly, 2021), <https://pace.coe.int/en/files/29483/html>.



Figure 10.2. Sghnakh Cemetery before and after the war, 03 July 2021 (Source: Factor Information Center. Photo: Caucasus Heritage Watch).



Figure 10.3. Shushi Cemetery before and after the war. 18 May 2021 (Source: Panarmenian.net, Photo: Caucasus Heritage Watch).



Figure 10.4. Desecration of a grave by an Azerbaijani soldier in Artsakh, 11 January 2021 (Source: azeriwarcrimes.org).

Family Separation

During interviews, often the male members of displaced families were in Artsakh for different reasons, and the families were separated creating additional stress and anxiety. Also, some parents, due to security reasons, had transferred their children to Armenia but remained themselves in Artsakh. One family could not find a single shelter for them all and the family members had to separate, cutting their family ties. Nune from Shushi said:

My eldest daughter is renting a place in Yerevan, my second daughter stays at her mother-in-law's house in Stepanakert, we stayed together in the past, but now this is impossible. I am here with my youngest daughter.⁴⁴⁷

⁴⁴⁷ Interview with Nune, a resident of Shushi, 22 February 2021 (When the interviewers of the Fact-Finding Group visited them, Nune and her daughter were in Zvartnots district of Ejmiatsin).



Figure 10.5. Pictured here is Greta, a resident of Shushi, living with her five minors and mother-in-law in a room with about only 20 square meters of space, 24 December 2020. (Source: Fact-Finding Group).

Living Conditions

When families, nevertheless, tried to stay together, they often had challenging conditions, i.e., had to sleep on the floor, did not have necessary amenities, and sometimes had to share space with other families because there was no place to stay overnight. Sisters Nela⁴⁴⁸ and Arevik⁴⁴⁹ from Taghavard village suffered for a long time from acute respiratory infections because until November 19th they lived in their uncle's one-bedroom apartment with fourteen adults and six minors. They had to sleep on the floor without warm blankets to cover themselves. Svetlana, a Martuni resident, reported that for some time four families (eighteen people) had to live together in a studio.

448 Interview with a resident of Taghavard, 18 December 2020.

449 Interview with a resident of Taghavard, 18 December 2020.

Employment

During the interviews, 206 respondents said that due to the war and displacement, they had lost jobs, income or faced the risk of losing their job. This is mainly because their former communities, where they had their private farms and were engaged in land cultivation and livestock activities or had their employment, are now controlled and occupied by Azerbaijan.

Personal Security & Self-Sustainability

The respondents rule out any possibility of residing in their communities now under Azerbaijan's control, taking into account the Armenophobic policies implemented, starting at the highest levels of government, ethnic cleansing, real threats of being killed, kidnapped, enslaved or tortured upon return, as already evidenced by a number of specific cases.⁴⁵⁰ The respondents mainly emphasized the issue of personal security, the risk of sexual harassment, the impossibility of running a private farm (land cultivation, livestock activities) under the current circumstances, as well as the uncertainties created by possibility of renewed war. Residents of Myurishen and Taghavard villages pointed out that their communities are "surrounded from three sides."

For instance, Lilya from Taghavard noted:

... the home is there, but I cannot take my child to that home – the Turks are sitting in my garden. My house is surrounded by Turks from three sides. I cannot go back. If they expel Turks, I will return. How can I live there; there is no water, I cannot even grow greens in my yard to eat. Water sources, both drinking and irrigation are in Turkish hands. They immediately cut off the water supply, we have no access to our water...⁴⁵¹

Svetlana from Shushi, in response to the question about lack of desire to return to Artsakh because of security reasons, said that

...the truth is that Turks and Armenians have to live this way, but how we can live like this? If I cannot visit a sick person in the night or evening time and then return, when I am afraid, I have all kinds of fears ... you enter the building without any clue if a Turk may jump out of the basement and kill you...⁴⁵²

Berdzor residents noted that though the city was not taken by Azerbaijan, it is not safe, and even the mayor himself encouraged them not to return due to security concerns. Viktoria from Berdzor told us that, "... there was girl in Ishkhanadzor

⁴⁵⁰ See details in the respective sections of the Fact-Finding Report.

⁴⁵¹ Interview with Lilya, a resident of Taghavard, 05 February 2021.

⁴⁵² Interview with Svetlana, a resident of Shushi, 03 December 2020.

who was caught, they drew their flag and wrote in their language ‘we spoiled your virginity.’ They kidnapped a girl a few months ago near Shushi, killed her. Now a 21-year-old girl has again disappeared...”⁴⁵³

When asked whether they have the intention to return to places of their previous residence if they are under control of Armenian side, or to settle down in another place within Artsakh, the majority of respondents indicated that they had serious concerns about security for their children because many communities controlled by the Armenian forces were very close to the line of contact formed in the aftermath of the war. The Azerbaijani forces located on that line have favorable positions to control those communities, such that some communities may be difficult to escape from if needed (for instance, the Azerbaijani armed forces now surround Taghavard from three sides).

It is important to note that the Parliamentary Assembly of the Council of Europe, in the Resolution on “Humanitarian consequences of the conflict between Armenia and Azerbaijan/Nagorno-Karabakh conflict,” shared the feeling of abandonment by the international community of those from the Nagorno-Karabakh region who either remained or returned, as well as noted their concerns over security due to border incidents, the vicinity of Azerbaijani troops, and the regular sound of shots being fired.⁴⁵⁴

To a great extent, the stories of witnesses were corroborated by other human rights reports. The Human Rights Defender of Armenia, for example, included the family separation issue in his 2020 annual report, which among other things states that:

[F]amilies, who left behind their homes due to military actions instigated by Azerbaijan and found refuge in Armenia, had to find shelter in different places, i.e., family members were separated from each other and found accommodation in various communities and dorms. For instance, in some cases elderly members of the family found shelter in care institutions where all their needs were covered, while the younger members had to stay in dormitories and faced several problems.⁴⁵⁵

The annual report provided evidence that many people displaced from Artsakh, along with their homes, also lost employment and income opportunities.⁴⁵⁶

⁴⁵³ Interview with Viktoria, a resident of Berdzor, 22 February 2021.

⁴⁵⁴ “Resolution 2391 (2021): Humanitarian Consequences of the Conflict between Armenia and Azerbaijan / Nagorno-Karabakh Conflict.”

⁴⁵⁵ “2020 Թվականի Ընթացքում Հայաստանի Հանրապետության Մարդու Իրավունքների Պաշտպանի Գործունեության, Մարդու Իրավունքների և Ազատությունների Պաշտպանության Վիճակի Մասին,” Տարեկան հաղորդում (Երևան: Հայաստանի Հանրապետության մարդու իրավունքների պաշտպանի գրասենյակ, 2021), <https://ombuds.am/images/files/883f55af65e3c33553139031c7ac0ce6.pdf>.

⁴⁵⁶ “2020 Թվականի Ընթացքում Հայաստանի Հանրապետության Մարդու Իրավունքների Պաշտպանի Գործունեության, Մարդու Իրավունքների և Ազատությունների Պաշտպանության Վիճակի Մասին.”

At the same time, the situation became particularly acute in the context of COVID-19, since during the war civilians often had no way to observe safety rules to prevent the spread of the epidemic (often up to twenty people lived in one room of approximately 30-40 square meters). A clear indication of this is the mortality rate, which totaled 951 deaths in the seven months before the war, and during the 44 days of the war reached 658 deaths. The Human Rights Defender of Armenia addressed this issue in his report titled “On Azerbaijan’s Crimes against Humanity in the Context of the Human-Made disaster COVID-19.”⁴⁵⁷

Additionally, the Artsakh Human Rights Defender’s ad hoc report of November 9, 2020, stated that about 40,000 children from Artsakh were displaced,⁴⁵⁸ while the Republic of Armenia’s Ministry of Education, Science, Culture and Sports published information that 24,000 children from Artsakh were not enrolled in schools, being deprived of their right to education.⁴⁵⁹ The annual report noted that in response to a joint letter from the ombudsmen of Artsakh and Armenia, the Armenian Ministry of Education, Science, Culture and Sports reported that as of November 27, 2020, about 11,500 school-age children from Artsakh were enrolled in school, while on December 7, 2020, their number was 10,849 because some displaced children returned to Artsakh.⁴⁶⁰ Referring to the information provided by the Ministry of Education, Science, Culture and Sports of the Republic of Artsakh, the Office of the President of the Republic of Artsakh stated that 41 schools and 15 kindergartens were damaged as a result of the war unleashed by Azerbaijan against the Republic of Artsakh. It was also reported that 121 schools and 20 kindergartens came under the control of Azerbaijan.⁴⁶¹ Information on the attacks on schools during the war was also documented by the Human Rights Watch.⁴⁶²

The Human Rights Defender of Armenia also stated in his 2020 annual report that during his monitoring visits, he noticed that people displaced from Artsakh, in-

457 “On Azerbaijan’s Crimes against Humanity in the Context of Human-Made Disaster during COVID-19 (The War against Artsakh and Armenia, September-November 2020)” (Yerevan: The Human Rights Defender of the Republic of Armenia, 2021), <https://ombuds.am/images/files/e632fe2219cb340fc05194d684d7206f.pdf>.

458 “Ad-Hoc Report on the Children Rights Affected by the Azerbaijani Attacks against the Republic of Artsakh (Nagorno-Karabakh)” (Stepanakert: The Human Rights Defender of the Republic of Artsakh, November 9, 2020), <https://bit.ly/3izvITi>.

459 “Արցախում 24 հազար երեխա զրկված է կրթության իրավունքից,” ՀՀ ԿԳՄՍՆ, October 13, 2020, <https://escs.am/am/news/7292>.

460 “2020 Թվականի Ընթացքում Հայաստանի Հանրապետության Մարդու Իրավունքների Պաշտպանի Գործունեության, Մարդու Իրավունքների և Ազատությունների Պաշտպանության Վիճակի Մասին.”

461 For detailed information about schools and kindergartens damaged as a result of the war unleashed by Azerbaijan against the Republic of Artsakh, as well as about schools and kindergartens remaining in the territories outside of the Republic of Artsakh’s control (by settlement) see the following list: <https://bit.ly/3vCt733> (Information provided by the Office of the President of the Republic of Artsakh).

462 Bill Van Esveld and Tanya Lokshina, “Lessons of War: Attacks on Schools During the Nagorno-Karabakh War” (Human Rights Watch, September 8, 2021), <https://www.hrw.org/news/2021/09/08/lessons-war>.

cluding children, were psychologically depressed.⁴⁶³ He particularly underscored that many children displaced from Artsakh had psychological problems when attending school in Armenia, and their parents were concerned about the security of children because the schools were located far away, which raised the issue of taking the kids to and bringing them back home after school. There were also some problems with school uniforms, and it was noted that due to large scale military actions incited by Azerbaijan the evacuation from Artsakh was organized abruptly, and it was not reasonably possible to take school uniforms and belongings, so the parents had some reservations about sending children to school and children had their own reservations.⁴⁶⁴ In the scope of its functions, the Prosecutor's Office found that a number of cases of suicide and suicide attempts were directly related with the physiological problems caused as a result of the war of 2020 against the Republic of Armenia and Republic of Artsakh.⁴⁶⁵

The desecration of gravesites is yet another issue that makes it impossible for Armenians to live under Azerbaijani rule. People have witnessed numerous instances of damaging gravestones, using gravestones and tombstones as construction materials, building roads on the site of cemeteries, destroying and desecrating graves. There are also documented cases from after the ceasefire where civilians were taken prisoner while visiting their relatives' gravesites.⁴⁶⁶ Moreover, in the context of the destruction of Armenian cemeteries, people always feel anxiety and insecurity about the graves of their relatives, especially given the mass destruction of Armenian cemeteries already condemned by the international community (for example, the destruction of old Armenian cemeteries in Jugha in the Nakhichevan region by Azerbaijan).⁴⁶⁷ For this reason, there are cases when people preferred to exhume bodies of their relatives in order to be able to visit their graves and prevent their destruction and desecration.

These actions of the Azerbaijani armed forces qualify as clear violations of the right to respect for private and family life. As per international human rights law, this

463 According to the Ministry of Emergency Situations of the Republic of Armenia, psychological assistance was provided to a number of citizens of the Republic of Artsakh evacuated from Artsakh to safe areas, including children who had negative emotions, such as fear, apathy, depression, as well as sleep disorders.

464 "2020 Թվականի Ընթացքում Հայաստանի Հանրապետության Մարդու իրավունքների Պաշտպանի Գործունեության, Մարդու իրավունքների և Ազատությունների Պաշտպանության Վիճակի Մասին."

465 "The Prosecutor General Has Raised the Need to Expand the Psychological and Psychiatric First Aid of the Relatives of the Participants of War, Killed or Missing Servicemen," The Prosecutor General's Office of the Republic of Armenia, July 2, 2021, <http://www.prosecutor.am/en/mn/8209/>.

466 Արզումանյան Արփիլես, "Արևիկ Թամրազյանի որդին պատերազմում զոհվել է, ամուսինը՝ գերեզմանում, իսկ տունն էլ անցել է ադրբեջանցիներին. «Դեռ ոչ մի բան չեմ կարողանում պատկերացնել»," MediaLab Newsroom-Laboratory, December 12, 2020, sec. Հասարակություն, <https://medialab.am/117499/>.

467 "Old Jugha: Chronicling the Destruction," Ministry of Foreign Affairs of the Republic of Armenia, accessed March 23, 2022, <https://www.mfa.am/en/jugha>.

right is enshrined in, inter alia, article 17 of the International Covenant on Civil and Political Rights and the Universal Declaration on Human Rights. As regards international humanitarian law, according to Rule 105 of Customary International Humanitarian Law, “Family life must be respected as far as possible.” This rule is established as a norm of customary international law applicable in both international and non-international armed conflicts.⁴⁶⁸ According to the interpretation of this rule, the established practice shows that respect for family life requires, to the degree possible, the maintenance of family unity, contact between family members, and the provision of information on the whereabouts of family members.⁴⁶⁹ Article 27 of the 1949 Geneva Convention IV provides: “Protected persons are entitled, in all circumstances, to respect for their ... family rights.”⁴⁷⁰

As per regional law, the right to private and family life is guaranteed under Article 8 of the European Convention on Human Rights. In several cases, the European Court of Human Rights has considered the essence of the right to respect for private and family life⁴⁷¹ and expressed its disposition that the impossibility to return to the previous place of residence, i.e., “home,” for the person displaced in the context of a conflict, including the impossibility to restore social connections and visit the gravesites of relatives, constitutes a violation of the right for private and family life.⁴⁷² In particular, in the judgment of *Sargsyan v. Azerbaijan* the European Court of Human Rights deemed the considerations which led to the finding of a continuing violation of Article 1 of Protocol No. 1 applicable in respect to the applicant’s complaint under Article 8 of the Convention. The impossibility for the applicant to have access to his home and to his relatives’ graves in Gulistan, and the government not taking any measures to address his rights or to provide him at least with compensation for the loss of their enjoyment, placed and continues to place a disproportionate burden on him. Therefore, the Court concluded that there had been a continuing breach of the applicant’s rights under Article 8 of the Convention.⁴⁷³

468 “Customary IHL - Rule 105. Respect for Family Life” (International Committee of the Red Cross), accessed March 26, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule105.

469 “Rule 105. Respect for Family Life.”

470 “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)” (International Committee of the Red Cross, August 12, 1949), <https://ihl-databases.icrc.org/ihl/INTRO/380>.

471 *Pretty v. the United Kingdom*, No. 2346/02 (European Court of Human Rights April 29, 2002); *Jones v. the United Kingdom*, No. 42639/04 (European Court of Human Rights September 13, 2005); *Elli Poluhas Dödsbo v. Sweden*, No. 61564/00 (European Court of Human Rights July 3, 2006); *Hadri Vionnet v. Switzerland*, No. 55525/00 (European Court of Human Rights May 14, 2008).

472 *Sargsyan v. Azerbaijan* [GC], No. 40167/06 (European Court of Human Rights June 16, 2015); *Cyprus v. Turkey*, No. 25781/94 (European Court of Human Rights May 2001).

473 *Sargsyan v. Azerbaijan* [GC].

Thus, the facts described by witnesses show that the actions by Azerbaijan constitute war crimes and violate both international and regional human rights law. In particular, as a result of Azerbaijani government-supported Armenophobia and its genocidal and fascist policies, which deprive a peaceful civilian population of the right to return to its places of residence, deny them access to their relatives' gravesites, allow the destruction and desecration of such graves, as well as deprive individuals of opportunities for education, employment or self-employment and income, and cause family separation, force individuals to leave their homes and find refuge in different places, and cause physical and mental health issues based on a war of aggression, all these facts amount to a violation by Azerbaijan of the right to respect for private and family life of these individuals.

Violations of the Right to Property

We had a two-story, fully furnished and renovated private house, each floor was 100 square meters. We also had a 2,200 square meter homestead and two vehicles ... I left all my books behind...we had a huge library with some unique books signed by the authors; I had given part of the collection to my daughter living in Shushi. It causes me pain and suffering the most. I was painting and left there about 175 paintings. We are the 5th generation of descendants of residents of Hadrut.

- Spouses from Hadrut⁴⁷⁴

Documented Violations

One of the most widespread violations identified by the Fact-Finding Group was the violation of the individual right to property resulting from the impossibility of individuals to return to their homes nor to retrieve their movable property left in 122 communities⁴⁷⁵ taken over by Azerbaijan, as well as in the result of the destruction or damage of property (as a consequence of bombings) in the territories under the control of the Artsakh Republic. Displaced persons cannot return to the above-mentioned communities due to the Armenophobic policies implemented at all levels in Azerbaijan, starting at the highest level, as well as the threat of ethnic cleansing or being killed, kidnapped, tortured or taken hostage, as is already evidenced by a number of specific cases, as found and reported in other sections of this report. Thousands of residents from communities currently controlled by Azerbaijan as a result of war (population of the communities currently controlled by Azerbaijan amounted to 38,154 persons before the war)⁴⁷⁶ have been deprived of their homes, lost their privately-owned plots of land, other immovable property, as well as movable property that they were unable to take with them as they fled their homes.

⁴⁷⁴ Interview with residents of Hadrut, 21 December 2020.

⁴⁷⁵ For the list of communities that are now under Azerbaijani control as a result of the war unleashed by Azerbaijan on September 27, 2020, including information about the number of people who were living in these communities, as well as information about the number of people left homeless as a result of explosions in territories under the control of the Republic of Artsakh, see <https://bit.ly/3vxt5tg> (Information provided by the Office of the President of the Republic of Artsakh, with the reference to the Ministry of Territorial Administration and Infrastructure of the Republic of Artsakh).

⁴⁷⁶ Ibid.

Moreover, in the territories remaining under the control of the Artsakh Republic, as a result of the bombings during the hostilities, many families and individuals were left homeless. According to the data provided by the competent state bodies of the Artsakh Republic, 1,176 persons from the areas remaining under the control of the Artsakh Republic were left homeless, particularly in Stepanakert, a number of communities in Askeran, Martuni and Martakert regions as a result of destruction or damage resulting from shelling.

According to the data provided by the competent state bodies of the Artsakh Republic, as of May 30, 2021, 10,700 buildings were damaged by shelling in the territories remaining under the control of the Artsakh Republic, of which 5,064 buildings were in Stepanakert, and 1,758 buildings were in the Askeran region, 3,150 buildings were in the Martuni region, and 969 buildings were in Martakert region. The affected objects, amongst others, included 295 multi-apartment residential buildings (2,239 apartments), 8,443 private residential houses, 31 non-governmental institutions and office buildings, and 98 civil infrastructure facilities. The number of fundamentally destroyed objects was 110.



Figure 11.1 Residential house in Martuni after the strike, 11 December 2020 (Source: Fact-Finding Group).



Figure 11.2. Residential house in Martuni after the strike, 11 December 2020 (Source: Fact-Finding Group).

Ivan, a resident of Aknaghbyur village in the Hadrut district, reported that he owned a ten-bedroom large private house, with twenty hectares of arable land “covered in wheat and barley,” as well as three hectares of fenced plots with apple and pear trees. In Aknaghbyur, he also left behind “a tractor with plow, I paid 1.1 million [dram] last year to buy it.” He also stated that his income came from the sales of fruits and wheat, as well as from the fifteen cattle, 32 swine, 27 sheep and 200 hens he owned.⁴⁷⁷

Lena, a resident of Khandzadzor village in the Hadrut district, reported that they owned a two-story, three-bedroom private house, a “huge garden,” where they had planted about 300 apple trees – the main source of their income. “We had at least 3 tons of apples harvested,” she told the Fact-Finding Group. They also owned 1.5 hectares of land, had income from walnut trees which covered their daughter’s tuition, as well as “one cow, ten calves, pigs, hens, geese, 160 sheep and lambs.”⁴⁷⁸

⁴⁷⁷ Interview with a resident of Aknaghbyur, 02 February 2021

⁴⁷⁸ Interview with a resident of Khandzadzor, 24 December 2020.



Figure 11.3. Residential house in Karmir Shuka village after the strike, 11 December 2020 (Source: Fact-Finding Group).

Karine (name changed), a resident of Banadzor village in the Hadrut district, noted that Azeris took control of their village on October 6, 2020, and as a result, they lost a two-story three-bedroom private house, half a hectare homestead, fruit trees and twenty hectares of land covered in wheat and barley that they were selling to generate income. They also had ten cattle, 40-50 pigs, more than ten sheep, and 100 chickens.⁴⁷⁹

Shoghik from Berdzor city in the Kashatagh district, who left behind a private house and a vehicle, stated that the family is ready to return to Berdzor if the “former conditions” are restored and security is guaranteed. Once she wanted to return to her city, but the Russian peacekeepers did not let her, stating that, “we cannot give you or your children any guarantees.”⁴⁸⁰

Karine from Ishkhanadzor, a village that surrendered to Azerbaijan after the ceasefire, told us that she contacted the mayor after the ceasefire so she could come

479 Interview with a resident of Banadzor, 12 February 2021.

480 Interview with a resident of Berdzor, 29 January 2021.

and collect her belongings, but he urged her not to come due to security reasons. She lost her private house, about 2,000 square meters of homestead, a vehicle and other movable property.⁴⁸¹

Zhenik, a resident of Kolatak village in the Martakert district, said that though their village is controlled by the Armenians, and she eagerly wants to return, her and her kids' security is not guaranteed because the Azeri armed forces are deployed very close to the newly drawn borders, and there will be no means to escape from the village, if necessary.⁴⁸²

Armine (name changed) lived in Hadrut for 35 years. She told the Fact-Finding Group that, "Azeri soldiers uploaded videos showing how they walked in my home, viewed our photos, took photos of my grandchild. Because of my ethnic identity they entered my home and left the house ruined. They got into an Armenian home and broke everything."⁴⁸³

According to Susanna's testimony, her house in Hadrut city was burnt by Azeris. Susanna recalls: "we did not see videos but talked to many people, asked questions, and learnt that [Azeris] entered from the forest side and burnt all houses in that area."⁴⁸⁴

It is noteworthy that even some residents of Stepanakert indicated security concerns as a reason for not returning. For instance, Lusine said, "Basically there is a widespread fear, we want to return because we have a place to live [there] but don't feel fully protected..."⁴⁸⁵

Of the respondents interviewed by the Fact-Finding Group, 216 stated that they cannot return to their homes and have lost their property because their communities are controlled by Azerbaijan. As to immovable property, these respondents indicated that they lost:

- 216 private homes (including 23 in Askeran, 108 in Hadrut, 14 in Martakert, 18 in Martuni, 24 in Shushi, 17 in Kashatagh and 20 in Shahumyan districts);
- 35 flats (including 1 in Askeran, 4 in Hadrut, 2 in Martakert, 27 in Shushi and 1 in Kashatagh districts);
- 177 plots of land (including 30 in Askeran, 91 in Hadrut, 8 in Martakert, 15 in Martuni, 18 in Shushi, 12 in Kashatagh and 3 in Shahumyan districts).

481 Interview with a resident of Ishkhanadzor, 28 December 2020.

482 Interview with a resident of Kolatak, 02 December 2020.

483 Interview with a resident of Hadrut, 16 January 2021.

484 Interview with a resident of Hadrut, 14 December 2020.

485 Interview with a resident of Stepanakert, 02 December 2020.

Additionally, these respondents also listed several pieces of valuable movable property they lost, including 72 vehicles, about 2,030 cattle, pigs, and horses, and 41 pieces of agricultural machinery.

Apart from this, an additional 23 respondents stated that due to security reasons they cannot return to their communities, because after the war they are situated too near the frontline, so they have effectively lost their property in these villages. The impossibility of return was most often quoted by the residents of Kashatagh (17 people), since their communities (Berdzor and Aghavno) are located in the so-called 2.5 km wide 'Lachin corridor,' only partially controlled by Russian Peacekeepers. These people in particular stated that they cannot access nor dispose of their properties and effectively lost eighteen private houses, one apartment, and five plots of land which they owned.

Respondents also listed many other immovable and movable properties as lost, e.g., a barbershop, an animal farm, a mill, warehouses, garages, hundreds of beehives, fish farms, barns, shops, etc.⁴⁸⁶

Many videos uploaded to the internet provide evidence that the Armenian population cannot return to places occupied by Azerbaijan since there are real and imminent threats to life and security as well as numerous cases of the properties they left behind being destroyed. Videos feature demolition of and setting fire to private houses and movable property, including vehicles, as well as other damage thereof.⁴⁸⁷

486 For details on the losses of livestock, agricultural equipment, perennial plantations, and land losses in regions fallen under Azerbaijani control, damaged/destroyed property in the territories under the control of Artsakh see <https://bit.ly/3K61mDS> (Information provided by the Office of the President of the Republic of Artsakh, with the reference to the competent state agencies).

487 @fronthadrut, Telegram video, [https://mega.nz/file/gyZ2DDYJ#hw5uQT86n9wGeegzYSxTH5lbcelGOKpOZw6a5c3b3rQ](https://mega.nz/file/gyZ2DDYJ#hw5uQT86n9wGeegzYSxTH5lbcelGOKpOZw6a5c3b3rQ;);

@fronthadrut, Telegram video, <https://mega.nz/file/hyZmXBhL#ISRxDIM1pnz-ilk5BBufnSYrBFHUI2jP-miSeCgPRrc>; @frontshushi, "Террористы оставили свой след на стенах армянских домов и магазинов," 18 February 2021, <https://perma.cc/DW6V-NDUT>; @fronthadrut, Telegram videos, <https://mega.nz/folder/szRyn-RhR#zrUsUcs72JhGFJltkYSXVg>; @fronthadrut, Telegram video, <https://mega.nz/file/Fi5CBbKR#pbXlodjktP-FaP5OCKNAXhP5iICYIQMOMHLvhchisZ4>;

@fronthadrut, Telegram video, <https://mega.nz/file/k3lhRCKb#ZAgGcbxQg1eYsRiQXQw5-MzoaV2ALdIOOap-fuSZrSm4>; @fronthadrut, Telegram video, <https://mega.nz/file/lqJBgAhJ#1omCH3BjU0Lqcv08BvXCSYN-GN5bf8tP3TBtTD2cs2E>;

@fronthadrut, Telegram video, https://mega.nz/file/57JGhJqZ#jFmeYwDEkZHnLg14x7Q_MzLVze8BXyUz-K1O3hZy4KKY;

@fronthadrut, Telegram video, https://mega.nz/file/N2ByDZjD#PT_LVg4i-z5TWimyKs4zF3nQmi17f7woeUP-93Cgouis; @fronthadrut, "Опустевший Гадрут...", December 26, 2020, Telegram video, <https://perma.cc/44AB-LQ8H>; @fronthadrut, Telegram video, <https://mega.nz/file/huYinTDS#TwsQbDKV2JT7X8-8MnRcCGliAx-CM1-hnqujSbkLr9TI>; Кавказский Узел, "Карабах: Победные Граффити в Разрушенном Гадруте," December 2020, YouTube video, <https://www.youtube.com/watch?v=QkC2Oi9CrNk>; Video from Valeri Isabekyan's Facebook page: <https://mega.nz/folder/OrQDmKCQ#w0yKCcRtsC8OQqWmM1OsoA>; Video from Irina Agabekyan's Facebook page: <https://mega.nz/folder/OrQDmKCQ#w0yKCcRtsC8OQqWmM1OsoA>; @mediaport2020, Telegram video, <https://mega.nz/file/c74UURBS#nDG5OLahUXxzdeupAqgpebFHgk8m5V8KZgmI2euPA>

It is important to note that the Parliamentary Assembly of the Council of Europe (PACE), in the Resolution on Humanitarian consequences of the conflict between Armenia and Azerbaijan/Nagorno-Karabakh conflict (Resolution 2391 (2021)), shared the feeling of abandonment by the international community of those from the Nagorno-Karabakh region who either remained or returned, and noted their concerns over security due to border incidents, the vicinity of Azerbaijani troops, and the regular sound of shots being fired. The Assembly also stressed the difficulties they face in terms of livelihoods and the need to rebuild and repair war damage, be provided with new housing, as well as the protection of their basic human rights. The Assembly also noted the problems facing displaced persons in Armenia, namely long-term shelter, ongoing cash assistance, education for children and the provision of livelihoods, in particular for women.⁴⁸⁸

International Humanitarian Law and Violations of the Right to Property in Artsakh

The right of displaced persons “to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist,” is considered as a rule of customary international law,⁴⁸⁹ and which applies to any kind of territory. As to occupied territories, Article 49 of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949, prescribes the following:

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.⁴⁹⁰

According to Article 50 of the 1949 Geneva Convention I, Article 51 of the 1949 Geneva Convention II and Article 147 of the 1949 Geneva Convention IV, “extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly,” are grave breaches. Article 53 of the 1949 Geneva Convention IV stipulates:

⁴⁸⁸ “Resolution 2391 (2021): Humanitarian Consequences of the Conflict between Armenia and Azerbaijan / Nagorno-Karabakh Conflict.”

⁴⁸⁹ “Customary IHL - Rule 132. Return of Displaced Persons” (International Committee of the Red Cross), accessed March 26, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_ru_rule132; Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law: Volume 1: Rules*, vol. 1 (Cambridge: Cambridge University Press, 2005), <https://doi.org/10.1017/CBO9780511804700>.

⁴⁹⁰ “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)” (International Committee of the Red Cross, August 12, 1949), art. 49, <https://ihl-databases.icrc.org/ihl/INTRO/380>.

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.⁴⁹¹

According to the Charter of the International Criminal Court, extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly, are war crimes.

International Standards on Property Rights

In the most general terms, the right to property is recognized in the Universal Declaration of Human Rights, as well as the regional human rights treaties. More specifically, the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (the Pinheiro Principles), *inter alia*, provide for the right of all refugees and displaced persons to housing and property restitution.⁴⁹² In particular, all refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal. According to Principle 13, everyone who has been arbitrarily or unlawfully deprived of housing, land and/or property has the right to submit a claim for restitution and/or compensation to an independent and impartial body, to have a determination made on their claim and to receive notice of such determination.

As to regional frameworks, according to the Parliamentary Assembly of the Council of Europe Resolution 1708 (2010) on solving property issues of refugees and displaced persons, the restitution of property – that is the restoration of rights and physical possessions in favor of displaced former residents – or compensation, are forms of redress necessary for restoring the rights of the individual and the rule of law.⁴⁹³

Moreover, the right to property is enshrined in Article 1 of Protocol 1 to the European Convention on Human Rights. The European Court of Human Rights has examined a number of cases concerning the property and housing rights of persons

491 “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention),” art. 53.

492 Commission on Human Rights, Sub-Commission on the Promotion and Protection of Human Rights, “Working Paper on the Implementation in Domestic Law of the Right to an Effective Remedy by Françoise Hampson” (United Nations Economic and Social Council, June 27, 2005).

493 “Resolution 1708 (2010) - Solving Property Issues of Refugees and Internally Displaced Persons” (Council of Europe Parliamentary Assembly, 2010), <http://assembly.coe.int/nw/xml/XRef/Xref-XMI2HTML-en.asp?file-id=17814&lang=en>.

who have been displaced as a result of an international or internal armed conflict, including in the context of the occupation of Northern Cyprus, the actions of the security forces in Turkey and Russia, the Nagorno-Karabakh (Artsakh) conflict, and other conflict situations.

Most specifically, the case of *Sargsyan v. Azerbaijan* concerns the loss of the applicant's property as a result of the Nagorno-Karabakh conflict, where the Court found continuing violations of the applicant's rights under Article 1 of Protocol No. 1 (the peaceful enjoyment of property), Article 8 (the right to respect for private and family life and home) and Article 13 (the right to an effective remedy). In particular, the Court ruled that the impossibility for the applicant to have access to his property in Gulistan, and the Government not taking any alternative measures to restore his property rights or to provide him with compensation for his loss of their enjoyment, placed and continues to place an excessive burden on him. Consequently, there has been a continuing breach of the applicant's rights under Article 1 of Protocol No. 1.

Thus, the facts described herein show that according to the International Humanitarian Law, the actions by Azerbaijan constitute war crimes. In particular, their state-supported Armenophobic, genocidal policies led to a situation that makes impossible the return of displaced people to their places of residence. As a result, ethnic Armenians having property in the areas controlled by Azerbaijan or controlled by Armenian forces but located in the immediate vicinity of the Azeri military presence, effectively do not have, and cannot have, a possibility to use or dispose of that property as their life and health will be under a real threat should they return.

Environmental Crimes: The Use of Incendiary Weapons

Another issue of concern discovered during this fact-finding mission was the highly questionable use of incendiary weapons, which caused families to flee their homes and villages. Several witnesses testified to this fact, and it was reported by other human rights fact-finding results. It is estimated that more than 1,800 hectares of forest have been destroyed.⁴⁹⁴ The use of such weapons without clear military necessity is a violation of international humanitarian law and constitutes a war crime.

Viktorina, (name changed), a resident of Berdzor in Qashatagh (Kashatagh) district, reported: “Fire was falling from the sky, and for more than three days the forest was burning. It was like stars falling from the sky.”⁴⁹⁵ She believes the weapons were phosphorus-based and stated that they were used on the forests of the road leading to Ishkhanadzor.

Astghik, (name changed), a resident of Dadivank village in the Shahumyan district, said that incendiary weapons were used in the forests about 10-12 km from their village.⁴⁹⁶ In the early days of November, before having to flee the village, Astghik experienced the consequences of these weapons. She testified that the whole village was covered with smoke from the nearby burning forests, and because of that smoke villagers had difficulty breathing and had to wear masks, but the masks did not protect them and made breathing even more difficult.

Vladimir from Qarin Tak, a village in the Shushi region, said that he saw incendiary weapons “like fireworks” falling from the sky and burning the Sghnakh forests.⁴⁹⁷ He assumed it was a phosphorous weapon. It was visible from Qarin Tak village and afterwards, fire broke out and smoke rose from the forest.

Janna (name changed), a resident of Stepanakert, reported that her father-in-law was injured by the use of phosphorus-based incendiary weapons near their house in Shushi, which is close to the forest (this is based on information from her husband).⁴⁹⁸

494 “Government Policies Contributing to Growing Incidence of Using Syrians as Mercenary Fighters” (Syrians for Truth and Justice, November 2, 2020), 21, <http://stj-sy.org/wp-content/uploads/2020/11/Government-Policies-Contributing-to-Growing-Incidence-of-Using-Syrians-as-Mercenary-Fighters.pdf>.

495 Interview with a resident of Berdzor, 22 February 2021.

496 Interview with a resident of Dadivanq, 19 January 2021.

497 Interview with a resident of Qarin Tak, 10 December 2020.

498 Interview with a resident of Stepanakert, 24 December 2020.

During this mission, eleven interviewees stated that they personally witnessed the use of incendiary weapons or experienced their effects. An additional twelve interviewees said that they heard about the use of such weapons from their friends and relatives. Seven additional interviewees were aware of cases in which the use of incendiary weapons inflicted burns on peaceful civilians. The interviewees reported the use of incendiary weapons in the areas of Shushi, Askeran, Martuni, Martakert, Hadrut, Shahumyan, and Qashatagh (Kashatagh) districts of the Republic of Artsakh, in other words, in all the districts of the Artsakh Republic.

Many of the interviewees mentioned that the forests where the weapons had been used had great importance for them, in particular as a source of clean air and access to nature. The forests also served as livestock pasture, a place from which to harvest berries and other plants, as well as a source of firewood for heating and cooking.

The interviewees are credible witnesses for several reasons. They provided identical descriptions of the use of weapons, principally as fire or sparks falling from the sky. They reported that the consequences of the use of incendiary weapons were forest fires, which according to one interviewee, Astghik from Dadivank village of the Shahumyan district, still continued burning as of 15 November 2020. Additionally, the description of the use of the incendiary weapons and their consequences given by the interviewees coincides with the objective evidence documented in videos,⁴⁹⁹ information provided in the joint report published by the Human Rights Defenders of the Artsakh Republic and the Republic of Armenia and in their statements,⁵⁰⁰ and with the statements by state agencies of the Republic of Artsakh and the Republic of Armenia.⁵⁰¹ The Office of the President of the Republic of Art-

499 Peyotto Technologies, “Ադրբեջանն օգտագործում է սպիտակ ֆոսֆոր պարունակող գնք. փաստահավաք աշխատանքներով հաստատվել է Արման Թաթոյան. ՏԵՍԱՆՅՈՒԹ,” ֆակտոր տեղեկատվական կենտրոն, October 30, 2020, <https://factor.am/302905.html>; ԱՅ պաշտպանության բանակ NKR Defense Army, “Ադրբեջանական Կողմը Կիրառել է Ֆոսֆորային Զինատեսակներ,” October 31, 2020, Youtube video, <https://mega.nz/file/hmZWOZxL#vEkVxIf-U-YfA8hAtGmNHGOPNexDtdwNi-WleWa5d-iY>; Ani Avetisyan and Hovhannes Nazaretyan, “Confirmed by Evidence: Azerbaijan Did Use White Phosphorus in Artsakh,” Fact Investigation Platform, November 13, 2020, <https://fip.am/en/13682>; Karabakh Records_English (@karabakhrecords_english), “The Artsakh Defense Army Presented Indisputable Facts...,” October 30, 2020, <https://mega.nz/file/wu4AGS4Q#wYEavzUTG-mMSHzvY07JJyuXgZ8207daRXgwHBLEFBE>.

500 “Ad Hoc Public Report on the Use of Incendiary Ammunition of Mass Destruction (Incendiary Weapon) against Civilian Objects of Artsakh (Nagorno-Karabakh) by the Azerbaijani Armed Forces” (The Human Rights Defender of the Republic of Artsakh, November 7, 20AD), <https://artsakhombuds.am/en/document/761>; Arman Tatoyan, “Ադրբեջանն Օգտագործում է, Ըստ Այս Պահի Տվյալների, Ֆոսֆոր Պարունակող Զենք. Որ Ունի Քիմիական Զենքի Տարրեր.,” Facebook, October 30, 2020, <https://perma.cc/H6ZD-LVWH>; Artak Beglaryan (@Artak_Beglaryan), “Based on Preliminary Data, #Azerbaijan Used Banned White Phosphorus Munitions over #Artsakh/#Karabakh Causing Fires to Forests next to Civilian Communities.,” Twitter, October 31, 2020, <https://perma.cc/6DT8-D2X8>; @karabakh_news, December 5, 2020, Telegram post, <https://perma.cc/JJW3-D9UW?type=image>.

501 Զինուժ Media, “Ադրբեջանը արգելված ֆոսֆորային զինատեսակներ է կիրառում Արցախի դեմ,” October 31, 2020, Youtube video, <https://www.youtube.com/watch?v=qk4WBNmiygo>; “Ադրբեջանն

sakh also provided information about some cases of the use of incendiary weapons containing white phosphorus-based on information provided by the Ministry of Defense of the Republic of Artsakh.⁵⁰²

Moreover, these descriptions match formal and documented descriptions of incendiary weapons (especially those containing white phosphorus) and their use in other armed conflicts. According to the Weapons Law Encyclopedia, the burning of white phosphorus releases intense heat, produces a bright light and dense white smoke. This white smoke is produced by the reaction of phosphorus pentoxide with moisture in the air.⁵⁰³ The use of incendiary weapons was referred to in the same way by the authoritative Human Rights Watch (HRW), which described the use of an incendiary weapon containing white phosphorus as the ‘rain of fire’ in their 2009 review on Israel’s use of white phosphorus in Gaza.⁵⁰⁴ Photo and video evidence of the use of incendiary weapons in other military conflicts give the same picture as that described by witnesses in Artsakh.⁵⁰⁵ The interviewees also provided the same information on when incendiary weapons were used, these statements also coincide with the above mentioned objective evidence.

արգելված ֆոսֆորային զինատեսակներ է կիրառում Արցախի դեմ,” Հայաստանի Հանրապետության պաշտպանության նախարարություն, October 31, 2020, <https://perma.cc/P9XL-7J6X>; Zohrab Mnatsakanyan (@ZMnatsakanyan), “This time #Azerbaijan used phosphorus munitions in #Artsakh over forests close to residential areas with many civilians.,” Twitter, October 31, 2020, <https://perma.cc/A8E2-DJX2>; Artak Beglaryan (@Artak_Beglaryan), “Look How #Azerbaijan Armed Forces Burnt Aknaghbyur Village in #Artsakh/#Karabakh.,” Twitter, October 29, 2020, <https://perma.cc/CW6A-AUR8>.

502 Thus, according to the information provided:

- Azerbaijan used incendiary weapons in the northern part of the village of Khachgetik in the Qashatagh (Kashatagh) region of the Republic of Artsakh, which resulted in the burning of about 25 hectares of agricultural fields.
- Weapons containing elements of chemical weapons (white phosphorus), which are prohibited by international conventions, incendiary weapons were used by Azerbaijan near the town of Martuni and the village of Norshen in the Martuni region of the Republic of Artsakh. The area of the damaged surface is unknown.
- Azerbaijan used incendiary weapons resulting in the burning of an area of about 7 hectares in the vicinity of the city of Martakert in the Martakert region of the Republic of Artsakh, on Mount Agdara, near the village of Nor Karmiravan in the western part of Talysh village, in the mountain forest area near Varnkatagh, Maghavuz, Aknabert, Zaglik, and Haterk villages and in the direction of Zardakhach village.
- Weapons banned by international conventions and containing elements of chemical weapons (white phosphorus) were used near the village of Tonashen in the Martakert region of the Republic of Artsakh, resulting in fires in forested areas of about 4,000-5,000 hectares.

503 “White Phosphorus Munitions,” in Weapons Law Encyclopedia, accessed March 26, 2022, <http://www.weaponslaw.org/weapons/white-phosphorus-munitions>.

504 “Rain of Fire: Israel’s Unlawful Use of White Phosphorus in Gaza,” Human Rights Watch, March 25, 2009, <https://www.hrw.org/video-photos/photo-essay/2009/03/25/rain-fire-israels-unlawful-use-white-phosphorus-gaza>.

505 TRT World, “How White Phosphorus Works,” June 23, 2017, YouTube video, <https://mega.nz/folder/ci-YAFLCC#MNKEd6Hy5gktdLjjP6Y9Q>; Human Rights Watch, “Incendiary Weapons: Human Cost Demands Stronger Law,” November 9, 2020, YouTube video, <https://www.youtube.com/watch?v=90DmiMX9Lvg>; Robert Hackwill, “Iraqi Government Accused of Firing White Phosphorus Shells into Mosul,” Euronews, June 5, 2017, sec. news_nocomment, <https://www.euronews.com/2017/06/05/iraqi-government-accused-of-firing-white-phosphorus-shells-into-mosul>.

Furthermore, the OSINT specialist assessed with high confidence that some of the munitions documented in the attacks in Artsakh were incendiary munitions. Based on the visual signatures of the munitions functioning, OSINT specialist assessed with moderate-to-high confidence that some of these munitions delivered thermite, magnesium alloy or functionally similar incendiary payload (see, for example, Figures 1 & 2 compared with Figure 3), whilst other munitions delivered a white phosphorous payload (see, for example, Figure 4 compared with Figures 5 & 6).

Incendiary munitions often distribute a significant number of flammable ‘fire-brands.’ The 9M22S rocket (fitted with the 9N510 warhead), for example, carries 180 incendiary elements that are designed to be scattered over a wide area.



Figure 12.1. Incendiary elements fall onto a forested area, 2020 (Source: Yerevan Today).



Figure 12.2. Incendiary elements fall onto a forested area, 2020 (Source: Yerevan Today).



Figure 12.3. Incendiary munitions in use in Ukraine, 2014 (Source: Vice News).



Figure 12.4. Damage done to a forested area by a white phosphorous incendiary munition at Site NGK-001-P001, October 2020 (Source: NKR Defense Army).



Figure 12.5. White phosphorous munitions in use in Syria, 2017 (Source: TRT World).



Figure 12.6. A 9M22S rocket documented in eastern Ukraine, 2014 (Source: Mark Hiznay/ Human Rights Watch).

Taking into consideration the identical information provided by the interviewees regarding the incident descriptions, their timing, and the consequences of the use of incendiary weapons, as well as the evidence corroborating this information, the statements of the respondents regarding the use of such weapons dispel no doubt as to their credibility. In fact, at the end of 2021, the U.S. Congress amended the National Defense Authorization Act (NDAA) for 2022 so as to require, amongst other things, that Azerbaijan’s use of white phosphorous and other prohibited weapons against civilians during the 2020 war be investigated.⁵⁰⁶

This verified use of incendiary weapons constitutes a war crime. As this is an internationalized conflict, the Geneva Conventions apply, and grave breaches of these conventions constitute a war crime. According to the International Committee of the Red Cross’ (ICRC’s) analysis of customary international humanitarian law, such grave breaches include, “...extensive destruction or appropriation of property, not

⁵⁰⁶ Center for Truth and Justice, “The United States House of Representatives on September 22, 2021 passed an amendment to the National Defense Authorization Act (NDAA) for 2022, withholding US military aid to the government of Azerbaijan and calling for the immediate and unconditional return of all Armenian POWs and captured civilians from Azerbaijan.,” Facebook, September 22, 2021, <https://www.facebook.com/CFTJustice/posts/pfbid02f7L5e1zjhXkjCqmPAF8RHmbEsmvkwMRRXij8vx9Tck9wG5f4QvNffcDUSwD2crul>; Center for Truth and Justice.

justified by military necessity and carried out unlawfully and wantonly.”⁵⁰⁷ More specifically, the ICRC analysis identifies war crimes as including, “launching an attack in the knowledge that such attack will cause widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct military advantage anticipated,”⁵⁰⁸ as is also stated in the Statute of the International Criminal Court.⁵⁰⁹ As the ICRC points out, these rules recognize the importance of preserving the natural environment for the sustainability of the civilian population.⁵¹⁰ Moreover, these rules give meaning to the underlying policies of limiting military operations to that of necessity, of distinction between civilians and combatants, and of prohibiting indiscriminate attacks.

Thus, considering that the villagers in the affected areas live a subsistence level life intimately connected with the forests that surround their villages, the facts show that Azerbaijan’s actions amount to war crimes as per the rules and policies of customary international humanitarian law. Additionally, as the short-term consequences were the forced displacement of families from villages, and the long-term consequences undermine the sustainability of these subsistence communities, these war crimes also speak to the issue of ethnic cleansing, as well as genocide, over the long term.

507 “Customary IHL - Rule 156. Definition of War Crimes” (International Committee of the Red Cross), sec. i, accessed March 26, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_cha_chapter44_rule156.

508 “Customary IHL - Rule 156. Definition of War Crimes,” sec. ii.

509 UN General Assembly, Rome Statute of the International Criminal Court.

510 “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention),” art. 147; “Additional Protocol (I) to the Geneva Conventions, 1977” (International Committee of the Red Cross, December 7, 1978), art. 48, 51, 52, 54, <https://ihl-databases.icrc.org/ihl/INTRO/470>; “Rio Declaration on Environment and Development 1992” (United Nations, 1992), <https://www.jus.uio.no/lm/environmental-development.rio.declaration.1992/portrait.a4.pdf>; “Advisory Opinion Concerning the Legality of the Threat or Use of Nuclear Weapons (Request for Advisory Opinion by the General Assembly of the United Nations)” (International Court of Justice (ICJ), July 8, 1996), <https://www.refworld.org/cases,ICJ,3ae6b67f14.html>; “Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD)” (United Nations Office of Disarmament Affairs, October 5, 1978), <https://www.un.org/disarmament/enmod/>.

Crimes Against Cultural Property

“...damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world.”⁵¹¹

During the recent war, the Azerbaijani Armed Forces carried out a series of attacks on historical and cultural sites in the Republic of Artsakh (Nagorno-Karabakh). The Armenian historical and cultural heritage in Artsakh, including churches, monasteries, archeological sites, cross-stones (khachkars), and other various monuments and shrines were destroyed, damaged, or vandalized after those sites came under the Azerbaijani control. It should be noted that attacks on these sites constitute not only crimes against cultural property, but they also target the religious freedom of the Armenian people.

As the evidence below reveals, the Azerbaijani policy towards Artsakh’s historical and cultural monuments is two-fold:

- Physical destruction, damaging and vandalizing Artsakh’s historical and cultural monuments;
- Denial of the Armenian origin of Artsakh’s historical and cultural monuments and proclaiming them to be of ‘Caucasian Albanian’ origin.

Both of these approaches amount to violations under international humanitarian law (IHL) and human rights norms.

Below we discuss recent destruction and damage to historic, cultural and religious monuments; Azerbaijan’s past practice of destroying historic, cultural and religious monuments; Azerbaijan’s practice of falsely claiming Armenian historic, cultural and religious monuments to be of Caucasian-Albanian origin; and the applicable legal norms to these offenses. The legal conclusions are that Azerbaijan has and continues to be in the process of committing war crimes.

⁵¹¹ “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict” (UNESCO, 1954), <https://en.unesco.org/protecting-heritage/convention-and-protocols/1954-convention>.

Recent Physical Destruction, Damage and Vandalism to Artsakh’s Historical and Cultural Monuments

Based on data collected by the Fact-Finding Group, twenty-nine churches, monuments, and museums have been physically demolished, damaged, or vandalized as of August 2021.

Churches, Monasteries, Religious Sites

“There is our enemy’s mosque near Avan Plaza hotel in Shushi, Artsakh. We have restored that mosque for 27 years, and yet they destroy and demolish our monuments.”

- Arsen (Name Changed), a resident of Shushi⁵¹²

St. Christ the Savior (Ghazanchetsots) Cathedral, 1888

On 8 October 2020, Shushi’s St. Christ the Savior (Ghazanchetsots) Cathedral was twice targeted and hit by Azerbaijani missiles (Figure 13.3, 13.4, and 13.5).⁵¹³ The Cathedral is located in the city center of Shushi, on Ghazanchetsots street, well outside the zone of military operations. There is no evidence to justify the Azerbaijani claims that Artsakh authorities had changed the intended use of the Cathedral and used it as a shield to protect military installations or servicepersons. Moreover, at the time it was struck the Cathedral’s basement was being used as a shelter for civilian residents of Shushi. Attacks damaged the Cathedral’s roof, just south of the main dome, opening a one-meter-wide hole and partially destroying the dome. These attacks on the Cathedral were deliberate, which is proven by the number of attacks, i.e., two strikes several hours apart, the first being carried out around 1:00 pm and the second at 4:30 pm. In both cases, the same part of the roof was targeted.⁵¹⁴

Shushi’s St. Christ the Savior (Ghazanchetsots) Cathedral has special significance for the cultural and religious life of all Armenians, and the Armenian nation has an exceptionally deep emotional attachment to this church. This is illustrated by the fact that on 16 October 2008, the wedding ceremony for 500 couples was arranged

⁵¹² Interview with a resident of Shushi, 18 December 2020.

⁵¹³ “Cultural Vandalism: The St. All Savior Ghazanchetsots Church of Shushi Is Bombarded,” The Ministry of Education, Science, Culture and Sports of the Republic of Armenia, October 8, 2020, <https://escs.am/en/news/7277>.

⁵¹⁴ See the photos of the St. Christ the Savior (Ghazanchetsots) Cathedral for the dates of 20 October 2019, 03 April 2020, and 14 September 2020 using the following link: <https://public.flourish.studio/visualisation/7200957/>.

at this church (Figure 13.2). St. Christ the Savior is the center of the Artsakh Diocese, and it is included in the list of immovable historical and cultural monuments of Shushi, being one of the symbols of Artsakh. The church is a massive architectural monument with walls veneered by local ashlar milk-white limestone. It has 34.7 meters length, 23 meters width, and 35 meters height. The church has rich decor on the doors, window arches and elsewhere. An architectural engraving above the church's southern door states that it was built in 1868-1887. Numerous Armenian inscriptions are found on the walls. During the first Artsakh War, Azerbaijan used the church as a military warehouse. The dome and its adjacent part were damaged during that war but were restored in 1998.

The attacks on the Cathedral were documented by the Human Rights Watch.⁵¹⁵ The report stated specifically that debris from the blast were observed on the church grounds. In photos circulated in media, remnants from a weapon can be seen that are consistent with a munition capable of being accurately directed at a specific target, including components that support the movement of other pieces, such as fins or wings, consistent with a device that has a terminal guidance system. Human Rights Watch established that the church was targeted by a high precision weapon. Hugh Williamson, Europe and Central Asia director at Human Rights Watch, also concluded that, "the two strikes on the church, the second one while journalists and other civilians had gathered at the site, appear to be deliberate."⁵¹⁶

These attacks were no accident. Roman, from Shushi, said that after the first attack on the church he noticed a hole in the roof, and the second strike was so accurate that "it came exactly through the same hole."⁵¹⁷ Though Azerbaijan's president Ilham Aliyev denied that it was a deliberate attack, stating that the cathedral, "was not among military targets," nevertheless there were two strikes, hours apart.⁵¹⁸ Human Rights Watch stated that, "even if the attack was incidental it does not justify the attack." Artsakh's Human Rights Defender published an *ad hoc* report on missile strikes against the church with a map of its location showing that it is surrounded only by civil infrastructure.⁵¹⁹ Thus, there are no facts to allege that military installations were located at an impermissible distance from the church. Under these circumstances, a double strike against the church is an intentional act.

515 "Azerbaijan: Attack on Church Possible War Crime," Human Rights Watch, December 16, 2020, <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime>.

516 "Azerbaijan: Attack on Church Possible War Crime."

517 Interview with Roman, a resident of Shushi, 18 December 2020.

518 "Nagorno-Karabakh: President Ilham Aliyev Speaks to the BBC," BBC News, November 9, 2020, <https://www.bbc.com/news/av/world-europe-54865589>.

519 "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 Human Rights Defender of the Republic of Artsakh, October 20, 2020), <https://artsakhombuds.am/en/document/740>.

Another sign of intolerant policy against Armenian cultural property, and specifically against the St. Christ the Savior Cathedral, is the vandalizing of the walls of the Cathedral after November 9th when the Azeri armed forces took control of Shushi. Photos of the vandalized church were published on the internet between November 10th and 14th (Figure 13.8).⁵²⁰

Additionally, on 5 May 2021, photos published on the internet showed that Azerbaijan launched works changing the architectural appearance of the church.⁵²¹ The church is covered with Armenian inscriptions and the purpose of changing its appearance is to erase all historical evidence of its Armenian origin (Figure 13.9).



Figure 13.1. Shushi's St. Christ the Savior Cathedral (Ghazanchetsots) before the strike, 2013 (Source: Wikipedia).

520 Siranush Ghazaryan, "Armenian Ghazanchetsots Church in Shushi Vandalized," Public Radio of Armenia, November 14, 2020, <https://en.armradio.am/2020/11/14/armenian-ghazanchetsots-church-in-shushi-vandalized/>.

521 "Statement of the Ministry of Foreign Affairs of Armenia regarding the construction works at the Holy Ghazanchetsots Cathedral being carried out by Azerbaijan" (Ministry of Foreign Affairs of the Republic of Armenia, May 4, 2021), https://www.mfa.am/en/interviews-articles-and-comments/2021/05/04/mfa_statement__ghazanchetsots/10927.



Figure 13.2. A wedding of 500 couples at Shushi's St. Christ the Savior (Ghazanchetsots) Cathedral, 16 October 2008 (Source: lammedia.am).



Figure 13.3. Shushi's St. Christ the Savior (Ghazanchetsots) Cathedral after the strike, 08 October 2020 (Source: Artsakh Human Rights Defender).



Figure 13.4. Shushi's St. Christ the Savior (Ghazanchetsots) Cathedral after the strike, 08 October 2020 (Source: Factor.am).



Figure 13.5. Shushi's St. Christ the Savior (Ghazanchetsots) Cathedral after the strike, 08 October 2020 (Source: Artsakh Human Rights Defender).



Figure 13.6. Shushi's St. Christ the Savior (Ghazanchetsots) Cathedral after the strike, 14 September 2020 (Source: Google Earth).



Figure 13.7. Shushi's St. Christ the Savior (Ghazanchetsots) Cathedral after the strike, 15 February 2021 (Source: Google Earth).



Figure 13.8. Shushi's St. Christ the Savior (Ghazanchetsots) Cathedral vandalized, November 2020 (Source: Moher Sea of Holly Etchmiadzin Information Center).



Figure 13.9. The Azerbaijani side carrying out structural works to change the architectural appearance of the Ghazanchetsots Cathedral, 03 May 2021 (Source: Public Radio Armenia).

St. John the Baptist (Kanach Zham) Church, Shushi, 1818

“Kanach Zham,” or St. John the Baptist church, was built in 1818 on the site of the wooden Kharabaghtsots church. It has a unique architectural layout making it unique amongst Artsakh churches.

After Azerbaijan had established control over the city of Shushi, a video⁵²² and photos showed that the dome and bell tower of St. John the Baptist (Kanach Zham) Church had been blown up (Figures 13.10 and 13.11).⁵²³ According to the expert opinion provided by open-source intelligence (OSINT), the probable period in which these damages were inflicted on the church is 1 November 2020, to 15 November 2020.⁵²⁴

The Azerbaijani authorities spare no effort to present the church as Russian Orthodox. In particular, on 10 July 2021, the Press Secretary for the Baku and Azerbaijan Dioceses of the Russian Orthodox Church, Archpriest Konstantin Pominov, and Head of the Albanian-Udi Christian religious community, Robert Mobili, along with Bishop of the Catholic Church of Azerbaijan, Vladimir Fekete, visited churches in Shushi and conducted a church service in the Kanach Zham church.

Azerbaijan’s CBC TV channel covered the church ceremony conducted in Shushi’s Kanach Zham and again referred to the church as “Russian Orthodox.” Specifically, the channel mentioned that when visiting Shushi, heads of Azerbaijan’s religious communities also visited all the churches that Azerbaijan is to restore after the “Armenian occupation.” The channel coverage wrongly reported that Armenians falsified the facts of the origin of various churches of the “Christian community of Azerbaijan,” (including Kanach Zham) and Armenianized them, and that the Azerbaijani side is ready to restore “the truth” of historic facts.⁵²⁵

522 Fact Investigation Platform, “Շուշիի Կանաչ ժամ Եկեղեցին և Շրջակայքը,” November 21, 2020, YouTube video, <https://www.youtube.com/watch?v=fEMPX0gNhKY>.

523 Hovhannes Nazaretyan, “The Kanach Zham Church in Shushi Has Been Partially Destroyed,” Fact Investigation Platform, November 19, 2020, <https://fip.am/en/13788>; “ՖՈՏՈ. Ադրբեջանցիները պայթեցրել են Շուշիի Կանաչ ժամը,” Armlife.am, November 20, 2020, sec. Արցախ, <https://www.armlife.am/news/129320.html>.

524 See the comparison of the photos for the dates of 09 September 2020, 17 October 2020, and 15 February 2021 to witness its destruction using the following links: <https://public.flourish.studio/visualisation/7201748>, <https://public.flourish.studio/visualisation/7201748/>.

525 CBC TV Azerbaijan, “Визит в Город Шуша Руководителей Религиозных Конфессий Азербайджана,” July 10, 2021, YouTube video, <https://www.youtube.com/watch?v=WZsEw9PhqY8>.



Figure 13.10. St. John the Baptist (Kanach Zham) church before and after destruction, 2020 (Source: Fact Investigation Platform).



Figure 13.11. St John the Baptist (Kanach Zham) church before and after destruction, 2020 (Source: Fact Investigation Platform).



Figure 13.12. Satellite imagery of Kanach Zham, 17 October 2020 (Source: Google Earth).



Figure 13.13. Satellite imagery of Kanach Zham, 15 February 2021 (Source: Google Earth).

Holy Mother of God church, Jabrayil (Jrakan or Mekhakavan), 2017

The Holy Mother of God church in Jabrayil (Jrakan or Mekhakavan) has been destroyed after the Azeri forces took control of the city. Figure 13 shows bare land in the location where once stood the church. On 25 March 2021, BBC News published a video about the “disappearance” of the church.⁵²⁶ Note that in an earlier video an Azeri soldier had climbed on the dome of the Holy Mother of God church and standing atop of the cross was screaming “Allahu Akbar.”⁵²⁷ This video shows that the chapel was initially intact when Azeris took it over, and then it was destroyed. The complete destruction of the church is confirmed by satellite photos taken on 21 June 2020, and 31 August 2021 (Figures 13,16 and 13,17).⁵²⁸ The Armenian National Commission for UNESCO also reported that the church disappeared after Azeris

⁵²⁶ “Nagorno-Karabakh: The Mystery of the Missing Church,” BBC News, March 25, 2021, <https://www.bbc.com/news/av/world-europe-56517835>.

⁵²⁷ “Azerbaijani Soldier Screams ‘Allahu Akbar’ from Top of Church in Armenia,” OpIndia, November 15, 2020, <https://www.opindia.com/2020/11/azerbaijani-soldier-screams-allahu-akbar-from-top-of-church-in-armenia/>.

⁵²⁸ Lori Khatchadourian (@lkhatcha), “Images of Hundreds of Cultural Heritage Sites at Risk in Nagorno-Karabakh Are Coming down from the Satellites,” Twitter, April 17, 2021, <https://twitter.com/lkhatcha/status/1383484718792904715>; For more evidence, see the comparison of the following photos: <https://public.flourish.studio/visualisation/7532042/>; <https://public.flourish.studio/visualisation/7532154/>.

established control over the city.⁵²⁹ The Ministry of Foreign Affairs of Azerbaijan justified its destruction as an “unlawful construction.”⁵³⁰

The construction of the Holy Mother of God church began in 2012 and the church was consecrated in 2017. Due to scarcity of other Christian monuments in Jabrayil, the church had an exceptional importance for the local population. Rev. Fr. Gevorg Abyan, chaplain of Jabrayil (Jrakan or Mekhakavan) military unit, noted that the church had great significance since it was on the hilltop and seemed to watch over the entire area.⁵³¹



Figure 13.14. The Holy Mother of God church in Jabrayil, 2017 (Source: News.am).

529 Armenian National Commission for UNESCO (@ArmUnesco), “Strongly Condemn yet Another Act of Cultural #crime by #Azerbaijan.,” Twitter, March 25, 2021, <https://twitter.com/ArmUnesco/status/1374978285554253825>.

530 “Azerbaijani MFA Comments on Unfounded Claims by Armenia on Committing ‘Cultural Crimes’ in the Liberated Territories of Azerbaijan,” APA Azeri Press Agency, March 26, 2021, <https://apa.az/en/foreign-policy/Azerbaijani-MFA-comments-on-unfounded-claims-by-Armenia-on-committing-cultural-crimes-in-the-liberated-territories-of-Azerbaijan-345407>.

531 “Ամեն մի քարը ամենայն սրտացավությամբ դրել ենք. հողին հավասարեցված՝ Զաքրայիլի եկեղեցին կառուցվել էր զինվորների օգնությամբ,” News.am, March 25, 2021, <https://news.am/arm/news/635675.html>.



*Figure 13.15. The place where the Holy Mother of God Church of Jabrayil once stood, 2021
(Source: BBC News).*



*Figure 13.16. The satellite image of the Holy Mother of God Church of Jabrayil, 21 June 2020
(Source: Google Earth).*



*Figure 13.17. The satellite image of the site of the Holy Mother of God Church of Jabrayil, 31 August 2021
(Source: Google Earth).*

St. Yeghishe church, Martakert district, Mataghis, XIX century

During the war, the roof of St. Yeghishe Church, built in 1892-1898, was severely damaged, which was confirmed by satellite photos obtained during the fact-finding mission. According to the OSINT experts, the probable date of the damage is between 27 September 2020 and 8 October 2020.

Moreover, the Azerbaijani and Turkish militaries further desecrated and vandalized St. Yeghishe church in Mataghis.⁵³² These actions were videotaped and posted on the internet by Azerbaijani soldiers, who specifically say: “We are going to the church. I have prayed (namaz) here twice.” Another serviceman throws up a sacred image and kicks it.⁵³³ The Turkish flag is clearly visible on the soldiers’ uniforms. This incident is reported by the Human Rights Defender of the Republic of Armenia.⁵³⁴



⁵³² “The Azerbaijani Military Servicemen Are Vandalizing the Armenian Church of St. Yeghishe in the Mataghis Region of Artsakh.,” The Human Rights Defender of Armenia, March 29, 2021, https://ombuds.am/en_us/site/VideoGalleryView/520.

⁵³³ Zara M., “Азербайджанцы Оскверняют Армянскую Церковь,” March 27, 2021, YouTube video, <https://www.youtube.com/watch?v=nr7nZJwwGo8>.

⁵³⁴ “The Azerbaijani Military Servicemen Are Vandalizing the Armenian Church of St. Yeghishe in the Mataghis Region of Artsakh.”



Figure 13.18. Azerbaijani and Turkish servicemen desecrating and vandalizing St. Yeghishe Church, 2021 (Source: The Human Rights Defender of Armenia).

Kataro Monastery (Katarovank), Hadrut District, village Khandzadzor, XVII century

Kataro monastery is an Armenian spiritual monument – a chapel – built in the XVII century and located 2,400 meters above sea level atop Dizapayt mountain (2,478 meters). The monastery is the highest located monument in Artsakh.

An online video shows Azerbaijani soldiers in Kataro monastery denying its Armenian origin and calling it Albanian (Aghvan). One of them says: “It is the interior of an Albanian monastery-church. It has 3-4 thousand meters height. Shameless Armenians were using this place as if it belongs to them.”⁵³⁵ Another video depicts an overthrown khachkar (cross-stone) near Kataro church.⁵³⁶

Churhush Church of Taghavard, Martuni region, XVII century

Taghavard’s Churhush church was most likely built in the 17th century. It was a

⁵³⁵ Artsakh Monuments, “#occupiedbyazerbaijan” Facebook, March 30, 2021, https://www.facebook.com/permalink.php?story_fbid=pfbid022ri7gEHLzkSmgn4F7JgJo44g3etxcBEK4YyadyEhKCG9vpqjUUpxp3tNS-granSHA&id=209098472619570.

⁵³⁶ Marine Aslanyan, “Azerbaijanis Desecrated the Kataro Temple on the Top of Disapayt,” Instagram, January 16, 2021, <https://www.instagram.com/p/CKGuW93n6WM/>.

famous place of pilgrimage for the population of Taghavard and neighboring villages. The Fact-Finding Group received evidence on the destruction of this church from an interview with Varditer, a 52-year-old resident of Artsakh.⁵³⁷ On 27 September 2020, Varditer was evacuated from Jivan village in the Martuni region to Taghavard village, where she spent one week. She states that Taghavard was intensively bombarded, and the church was damaged. Varditer's son told her that at around 1 a.m. on November 10th, the church was bombed and damaged. Varditer is not aware of the degree of damage. Monument Watch also recorded that the church was damaged.⁵³⁸

St Gregory the Illuminator chapel of Mataghis village, Martakert region

A video disseminated in December 2020 shows that St. Gregory the Illuminator chapel – located in Mataghis village in Martakert region – had also been defiled and damaged.⁵³⁹

St. Yeghishe Church of Nerkin Tchartar village, XVII century

To the south of Tchartar village, atop a mountain, sits Yeghishe (or Ghsha) monastery. It is a special, late medieval style basilica with two interior columns and a vaulted roof. According to a lapidary inscription, since the XII century it has been a prominent destination of pilgrimages. After being damaged, it was reconstructed in the XVII century; “I, Ustay Kabriel, built this church with my hands,” states one inscription, implying that the church was rebuilt. The reconstruction occurred in 1655. It had a small bell tower, which is currently half-destroyed. The tomb of the Armenian Saint Yeghishe (Eghishē) is under the altar of the church.

Robert, a resident of Nerkin Tchartar village, mentioned that the Saint Yeghishe (Eghishē) church of Nerkin Tchartar village had also been targeted.⁵⁴⁰ Robert said that though the projectiles had not hit the church itself, the adversary aimed specifically at the church because of the whole territory of the village, only the surroundings of the church had been targeted (two to three projectiles hit the ground near the church). Robert noted that the church is old and of such special importance that there are many local legends about it.

537 Interview with Varditer, a resident of the Martuni region, 5 February 2021.

538 “Թաղավարդի Չուրիուշ եկեղեցի,” Monument Watch, May 16, 2021, https://monumentwatch.org/hy/monitoring_watch/թաղավարդի-չուրիուշ-եկեղեցի-2/.

539 @thearmosphere, “Azerbaijanis Desecrated an Armenian Chapel Which Commemorated the Victims of the April 2016 War,” Instagram, December 28, 2020, <https://www.instagram.com/p/CJVnAyFnHEg/>.

540 Interview with Robert, a resident of Nerkin Charter, 2 February 2021.

Kavakavank Monastery of Hadrut region, 1742

Kavakavank is situated on top of a high conical hill. The church is a three-nave basilica with a plan size of 12.8x9.8 meters. It was reconstructed in 1742 by stonemason Grigor the Master from Dizak, with the support of believers from Armenian villages Gyumush, Chiman and Hogher, situated at the foot of a high hill.⁵⁴¹

According to OSINT experts there are multiple signatures on the ground that are likely artillery impact craters within the immediate vicinity (200m) of the monastery, as identified in satellite imagery captured between 19 September 2020 and 30 October 2020.⁵⁴²

Amaras Monastery of Martuni district, IV century

According to the historian Faustus Byzand (Faustus of Byzantium) the first church of the Amaras monastic complex was founded by Gregory the Illuminator, founder of the Armenian Apostolic Church. Its construction was finished by his grandson bishop Grigoris who was killed in 338 and buried in Amaras. At the beginning of the 5th century, Mesrop Mashtots, the creator of Armenian alphabet, opened the first Armenian school in Amaras which was an impetus and means for spreading Armenian language. Since then, Amaras has become one of the largest religious and cultural centers of Armenia.⁵⁴³

After the end of hostilities, the Fact-Finding Group visited the residential areas that remained under the control of the Artsakh Republic, in particular the Martuni district where the Amaras Monastery is located. During a field survey of the Monastery and the surrounding area, the Fact-Finding Group found a missile fragment and recorded damage to the outside of the Monastery walls.⁵⁴⁴ The explosion of the rocket damaged the eastern wall of Amaras monastery. Considering that there are no military objects in the vicinity of Amaras Monastery, the Fact-Finding Group considers it reasonable to claim that the mentioned attack was also aimed at causing damage to the monastery.

541 "Kavakavank Monastery," Monument Watch, accessed March 30, 2022, <https://monumentwatch.org/en/monument/kaqavavank-monastery/>.

542 For satellite imagery of the church in the years 2019, 2020, and 2021, please see: <https://public.flourish.studio/visualisation/7496120/>, <https://public.flourish.studio/visualisation/7496147/>; <https://public.flourish.studio/visualisation/7496182/>.

543 "Amaras Monastery," Armenian Travel Bureau, accessed March 30, 2022, <http://www.atb.am/en/armenia/sights/christ/monasamaras/>.

544 This damage is consistent with a fragmentation warhead of the approximate size and type fitted to the 9M53F and 9M522 rockets, as well as other 122 mm HE-FRAG rockets. The presence of rocket components nearby leads ARES to assessed with moderate confidence that the visible damage was caused by the warhead of a 9M5-series 122mm surface-to-surface rocket.



Figure 13.18. Amaras Monastery, December 2020 (Source: Fact-Finding Group)

Church of the Holy Mother of God, Taghavard village, Martuni region, XVII century

In July 2021, the Artsakh Cultural Heritage Monitoring Team (Monument Watch) disseminated information about large-scale construction in the village of Taghavard (Martuni region) and on possible damage to the Holy Mother of God Church in Taghavard. In response, the Fact-Finding Group decided to obtain satellite images and expert opinions to confirm the information.

According to OSINT experts, at some point post-conflict building rooftop damage can be observed in satellite imagery. The earliest example of this can be seen in satellite imagery from 15 February 2021. There also appears to be significant demolition occurring in multiple locations, including the western edge of the village, as well as some security activity related to the demolition. Demolition (likely with heavy machinery) in the village, which appears to be part of a larger construction project, can be observed to have begun between 2 July 2021, and 12 July 2021. Demolition activity appears to be ongoing, as further demolition work can be observed in the satellite imagery as recently as 25 October 2021.⁵⁴⁵

⁵⁴⁵ Satellite imagery showcasing the demolition of the church in Taghavard: https://mega.nz/file/tipyhb-jZ#M9xczH6cpgRFaOgByvs_H-WLp_F_2o9ypXx5mg0kF54,



Figure 13.19. Satellite images of the Holy Mother of God Church in Taghavard, 21 June 2020, 15 February 2021, 23 August 2021 (Source: Google Earth).

A memorial khachkar⁵⁴⁶ (cross-stone) erected in 1997 in Arakel village of Hadrut district and a khachkar⁵⁴⁷ in Ukhtadzor village of the Hadrut district were also desecrated and damaged.

546 Anna Naghdalyan (@naghdalyan), "Another Video Published in Social Media Demonstrating Intentional Destruction of #Armenia'n Monuments by #Azerbaijan'i Armed Forces," Twitter, January 12, 2021, <https://twitter.com/naghdalyan/status/1348922661318103040>.

547 Karabakh Records (@KarabakhRecords), "A Video Posted by an Azerbaijani User Showcases Another Case of #AzerbaijaniVandalism - a Khachkar Was Destroyed in Ukhtadzor, Hadrut Region.," Twitter, April 16, 2021, <https://twitter.com/KarabakhRecords/status/1383012793738223617>.

Historic Sites and Museums

Tigranakert Archeological Site, Martakert District

The city of Tigranakert was built during the reign of the Armenian King, Tigran II the Great (95-55 BC). The Archeology and Ethnography Institute of the Armenian National Academy of Science surveyed Tigranakert in 2005 and started onsite archeological excavations in 2006. It is the only settlement bearing King Tigran's name for which the exact location is known and where archeological excavations can be carried out.

As a result of the excavations since 2006, the citadel, the walls, the central part and the early medieval basilica of the city were found and examined (Figure 13.20). An Armenian inscription found on 15 July 2008, is one of the most important findings of excavations. The results of about 15 years of archeological research testify to a large settlement created with advanced Hellenistic fortification and urban construction equipment. The settlement was founded in the 1st century BC and existed until the end of the 13th century. On 5 November 2020, the Azerbaijani Armed Forces shelled the Tigranakert archeological site, destroying two archeological houses and damaging two others.⁵⁴⁸



Figure 13.20. Tigranakert archeological site, the citadel, the walls, the central part, and the early medieval basilica of the city (Source: The Ministry of Education, Science, Culture and Sports of the Republic of Armenia).

⁵⁴⁸ ՀՀ ԿԳՄՍՆ, “Մշակութային ցեղասպանություն. հրետակոծվել է Տիգրանակերտի հնագիտական ճամբարը,” ՀՀ ԿԳՄՍՆ, November 7, 2020, <https://escs.am/am/news/7410>.

Shushi Geological Museum

The Museum of Geology was founded in 2014. At its core, it is the personal collection of Grigori Gabrielyants, a Doctor of Geological Sciences, Professor, Minister of Geology of the USSR (1989-1991) and Advisor to the President of Artsakh. The museum houses 480 items of ore and organic fossil remains. The collection included ores from 47 countries of the world and 20 regions of Russia. Some are 1.2 billion years old. There are also samples from Artsakh, the oldest of which is 146 million years old. Grigori Gabrielyants together with the Artsakh Ministry of Culture requested the return of the museum specimens from Azerbaijan through Russian peacekeepers, but so far nothing has been achieved.⁵⁴⁹

On 18 August 2021, a video was disseminated on the internet clearly showing Azerbaijani servicemen damaging museum exhibits in the Shushi Geological Museum, which is under the control of Azerbaijan.⁵⁵⁰ It can be seen in the video that the museum's roof is damaged, and stone and wood fragments were scattered on the museum exhibits and items of value on the museum grounds.

The Shushi History Museum

Founded in 1992, the Shushi History Museum displays everything related to Shushi since ancient times. Samples found during the excavations in Shushi were displayed here, and the everyday life of Shushi was presented. In one of the halls of the museum, the interior of the house of the rich benefactor Tadevos Tamiryants was placed. Various carpets, silver jewelry, newspapers and literature printed in Shushi were also presented. The entire collection of the Shushi History Museum remained in the museum, where 5,000 exhibits were found.⁵⁵¹

The Museum was damaged by the Azerbaijani armed forces. According to the experts, damage to the museum complex was visible after 17 October 2020. Between 1 November and 2 December 2020, it is highly likely that there was damage to the museum along with several other buildings in the vicinity. The damage is consistent with the usage of multiple air-dropped munitions. There do not appear to be any military objects in the immediate vicinity of the monument in the satellite imagery available.⁵⁵²

549 Sara Petrosyan, "Shushi's Museums: Most Collections Now in Azerbaijani Hands," Hetq, January 26, 2021, <https://hetq.am/en/article/126646>.

550 @arathau, "Примитивные кочевники в Шуши разрушают выставочный павильон полезных ископаемых," August 19, 2021, Telegram video, <https://t.me/arathau/9676>.

551 "Armenian Cultural Heritage in Artsakh (Nagorno-Karabakh): Cases of Vandalism by Azerbaijan and the Risk of Demolition," 21.

552 See the comparison of satellite photos taken on August 20, 2019, April 3, 2020, September 14, 2020, October 9, 2020, October 17, 2020, August 16, 2021, using the following link: <https://public.flourish.studio/visualisation/7518218/>.



Figure 13.21. A satellite image of Shushi's History Museum, 16 August 2021 (Source: Google Earth)



Figure 13.22. A satellite image of Shushi's History Museum, 20 August 2019 (Source: Google Earth)

The Shushi Museum of Fine Arts

From satellite photos published by Caucasus Heritage Watch on 13 August 2021, it became clear that between 10 April 2021 and 5 June 2021, all the works had disappeared from the Sculpture Park near the Shushi Museum of Fine Arts; the area had been completely cleared, including 51 sculptures which disappeared from the area. Their fate is still unknown.⁵⁵³

⁵⁵³ Caucasus Heritage Watch (@CaucasusHW), "Satellite Imagery Shows That between April 10 and June 5, the 51 Sculptures in the Park of the Shushi Museum of Fine Arts Were Removed and the Area Completely Cleared.," Twitter, August 13, 2021, <https://twitter.com/CaucasusHW/status/1426236001794543623>.

The museum was built on the foundation of the former Shushi's Lodge, preserving its architectural features. The museum's collection consists of donations. One of the features of the museum is the rich list of donors and the comprehensive geography of the presented works, from countries such as the Republic of Armenia, the Republic of Artsakh, Georgia, Russia, USA, France, Ethiopia, Indonesia, Madagascar, etc. The works of famous artists kept in the museum are especially valuable (M. Saryan, N. Garzu, E. Shahin, Jansem, H. Hakobyan, D. Burlyuk, A. Shchenko, A. Safokhin, D. Plavinsky, etc.).⁵⁵⁴ There were 627 exhibits in the Shushi Museum of Fine Arts.⁵⁵⁵



Figure 13.23. Satellite images of the Shushi Museum of Fine Arts, 10 April 2021 and 5 June 2021 (Source: Caucasus Heritage Watch).

Hadrut's Museum of Homeland Studies named after Artur Mkrtchyan

A video disseminated on the internet in February 2021 shows how Azerbaijani forces destroyed Hadrut's Museum of Homeland Studies named after Artur Mkrtchyan.⁵⁵⁶ The museum was founded on February 28, 1984. The museum included

⁵⁵⁴ “Շուշիում չորս թանգարան է գործում. կերպարվեստի պետական թանգարանը 630 ցուցանմուշ ունի,” Պատմամշակութային արգելոց-թանգարանների և պատմական միջավայրի պահպանության ծառայության, February 27, 2018, <https://hushardzan.am/archives/19255>.

⁵⁵⁵ “Armenian Cultural Heritage in Artsakh (Nagorno-Karabakh): Cases of Vandalism by Azerbaijan and the Risk of Demolition.”

⁵⁵⁶ Մարտիրոսյան Հասմիկ, “Պղծվել է Հադրութի թանգարանը Արցախի հուշարձանները խոչընդոտ Բաքվի տնտեսական ծրագրերի համար,” Հայաստանի Հանրային Ռադիո, February 22, 2021, <https://bit.ly/3JNhx9n>.

6 halls containing information on the Hadrut region, its flora and fauna, prehistoric society, and life in the area in different ages.

Monuments and other historical and cultural property

There are several memorials to victims of World War II in different districts of the Artsakh Republic. Such memorials are erected in Shushi, Karintak village in the Shushi district, Drakhtik⁵⁵⁷ village of the Hadrut district, and Avetaranots village of Askeran district.⁵⁵⁸ These monuments were demolished after coming under the Azerbaijani control. It is noteworthy that both Armenia and the Soviet Socialist Republic of Azerbaijan participated in WWII with hundreds of thousands of soldiers being sent to the frontline in 1941-1945, so we can conclude that those memorials are cultural symbols of common victory, yet Azerbaijan implemented the same culturecidal policy against them.



Figure 13.24. Shushi's memorial dedicated to victims of World War II and the Armenian Genocide (Source: Onet.am)

Shushi Memorial

The Shushi Memorial is a monument in Shushi dedicated to the memory of the victims of World War II and the Armenian Genocide was destroyed by Azerbaijani armed forces. According to OSINT experts, it is likely that the monument was purposefully destroyed. It appears highly likely that the monument has now been removed and replaced by a flagpole at an undetermined time. There is clear evidence of the detonation of air-dropped munitions on buildings within 500m of the monument. It is plausible that there was a detonation next to the monument (within 15m) and that by 19 December 2020, the monument had fallen.⁵⁵⁹ It should be noted that there do not appear to be any military objectives in the immediate vicinity of the monument.

557 For satellite images of the memorial in Drakhtik on October 30, 2020 and February 15, 2021, see: <https://public.flourish.studio/visualisation/7154054/>.

558 See <https://www.facebook.com/100007446721946/videos/pcb.419178009228940/2873503672907829> >accessed.

559 See the comparison of satellite images dated April 3, 2020, September 14, 2020, October 25, 2020, December 19, 2020, February 15, 2021, August 16, 2021, September 11, 2021, using the following link: <https://public.flourish.studio/visualisation/7309932/>.

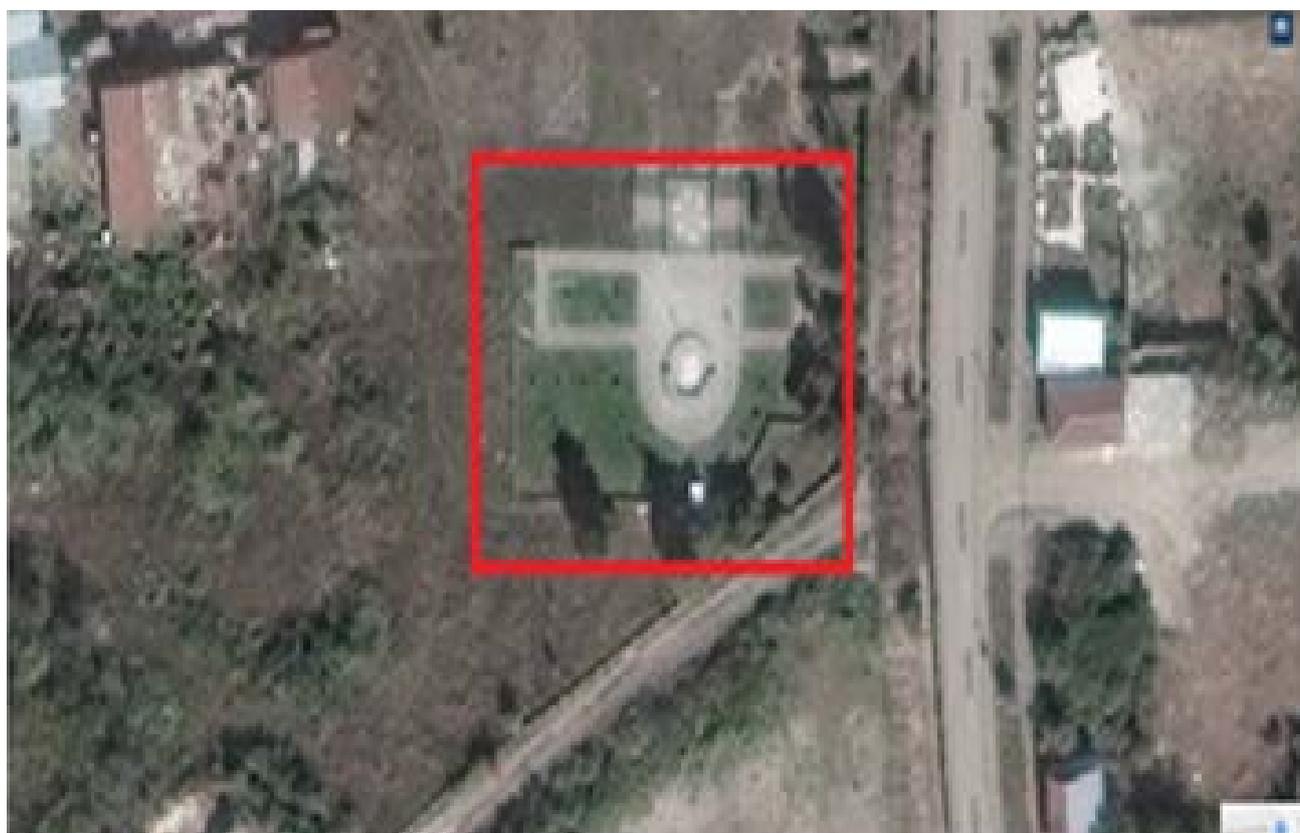


Figure 13.25. Satellite images of Shushi's memorial dedicated to victims of World War II and the Armenian Genocide on 14 September 2020 and 11 September 2021 (Source: Google Earth)

Memorial in Karintak village of Shushi district

Vladimir, a resident of Karintak village, reported that the Memorial monument dedicated to the freedom fighters of WWII (The Great Patriotic War) was broken into pieces and thrown into the canyon.⁵⁶⁰ The canyon is known as Arvi Dzor (Springs Canyon) and is 100 meters away from the local school. The information about the destruction of the monument was confirmed on by videos and photos spread on the internet.⁵⁶¹ In addition, the information about the destruction of the monument was confirmed on the basis of satellite photos.⁵⁶²

According to the experts, it is highly likely that between 1 November 2020, and 2 December 2020, multiple buildings in the immediate vicinity of the monument (within 500m) were destroyed. The damage signatures are consistent with the detonation of multiple air-dropped munitions.



Figure 13.26. Memorial in Karintak village dedicated to the freedom fighters of the World War II (Great Patriotic War), 2015 (Source: Wikipedia).

⁵⁶⁰ Interview with Vladimir, a resident of Karintak, 10 December 2020.

⁵⁶¹ "Azeri Forces Destroy Monuments Dedicated to Heroes of WW2 and First Artsakh War in Village of Karintak," AzeriWarCrimes.org, June 14, 2021, <https://azeriwarcrimes.org/2021/06/14/azeri-forces-destroy-monuments-dedicated-to-heroes-of-ww2-and-first-artsakh-war-in-village-of-karin-tak/>.

⁵⁶² The following satellite images of the memorial from August 2019, September 2020, October 2020, December 2020, February 2021, August 2021, and September 2021 demonstrate how it was demolished after the area was captured by Azerbaijani forces: <https://public.flourish.studio/visualisation/7530297/>.

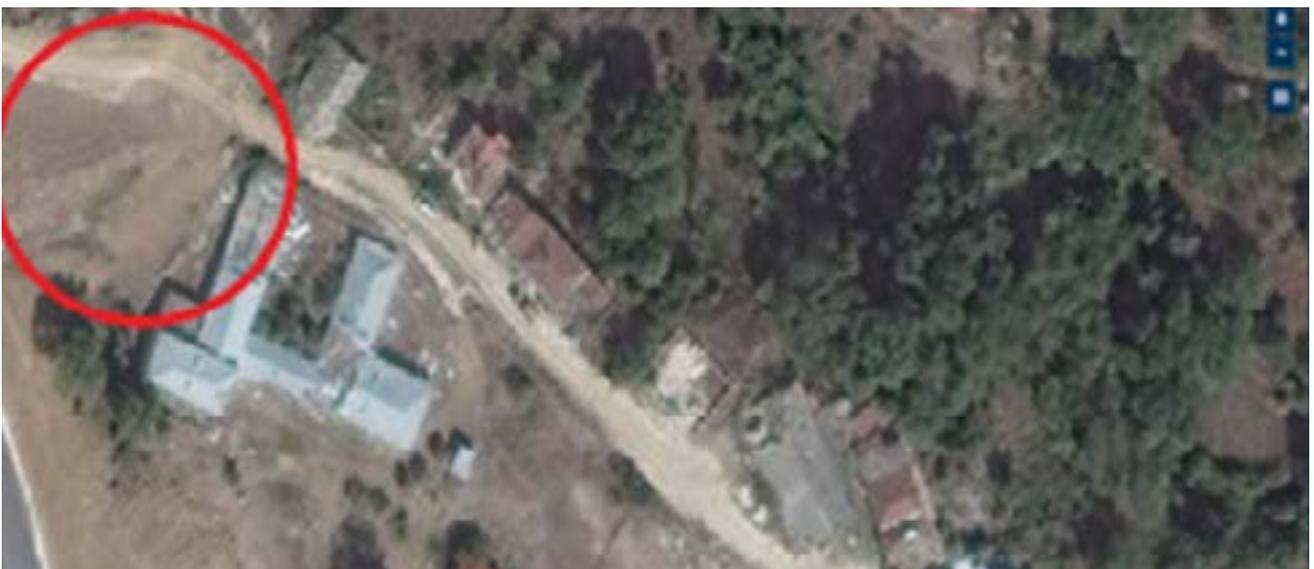


Figure 13.27. Satellite images of Karintak's memorial dedicated to victims of the World War II on 14 September 2020, 15 February 2021, and 11 September 2021 (Source: Securewatch).



Figure 13.28. Satellite images of Drakhtik's memorial dedicated to victims of the World War II on 21 June 2020, 30 October 2020, and 15 February 2021 (Source: Securewatch).

Additionally, Azerbaijan has actively destroyed monuments of individual Armenians who contributed to the victory of the Soviet Union over fascism, as stated by the Ministry of Foreign Affairs of Artsakh,⁵⁶³ and documented by videos and photos. In Shushi, the statue to Ivan Tevosyan, an ethnic Armenian and the USSR Minister of the Non-ferrous Metal Industry, USSR deputy prime minister, and Soviet ambassador to Japan (Figure 13.29) was dismantled. Largely owing to Ivan Tevosyan the USSR was able to evacuate its industrial plants from the Western regions to the Urals without any major losses. The statute of Nelson Stepanyan, an ethnic Armenian and a famous military pilot twice awarded the title of Hero of the Soviet Union, was also destroyed.⁵⁶⁴

Also in Shushi, the statue of Vazgen Sargsyan, an Armenian political and military leader, and Armenia's prime minister from 1995-1996, was first vandalized and then cut into pieces (Figure 13.30).⁵⁶⁵

Additionally, photos from October 2020 show that Azeri militants demolished the "Reborn Talish" monument, erected in 2017 in Talish village of the Martakert district (Figure 30). Azerbaijani forces occupied Talish in October 2020. In a video published by the Ministry of Defense of Azerbaijan in the same month, the monument was yet untouched.⁵⁶⁶ Thus, though it is unclear when exactly the monument was destroyed, it has clearly happened after Azerbaijan took control over the village.

Furthermore, a video from March 2021 depicts a vandalized memorial in Aknaghbyur village in the Askeran district.⁵⁶⁷ A memorial in Vorotan village in the Kashaugh district was also desecrated and damaged.⁵⁶⁸

Information was also received on the demolition of the Tadevos Tamiryan Reservoir, which was built between 1893-1901. According to OSINT experts, it is highly likely that the reservoir was demolished sometime in 2021, although there is in-

563 "Artsakh Foreign Minister David Babayan's Comment to News.Am Agency on the Demolition of Monuments to Heroes of the Great Patriotic War in Settlements Occupied by Azerbaijan," Ministry of Foreign Affairs of the Republic of Artsakh, March 12, 2021, <http://www.nkr.am/en/news/2021-03-12/minister-interview>.

564 @KotenokVoenkorBot, "В Шуши азербайджанскими варварами уничтожен памятник уроженцу города дважды Герою Советского Союза Нельсону Георгиевичу Степаняну," March 11, 2021, Telegram video, https://t.me/voenkorKotenok/26251?fbclid=IwAR3-i4hgeZtrl6dzuCnZyX_ELx28RnNmr-4cOvN-zEOCb3mL-SPuQncyOxIA.

565 "Աղբբեցանցիսերը Պղծել են Վազգեն Սարգսյանի Արձանը," Lurer.Com, November 18, 2020, <https://lurer.com/?p=395099&l=am>.

566 "Azerbaijan's Defense Ministry Releases Footages of Liberated from Occupation Talish Village," Azerbaijan State News Agency, October 5, 2020, <https://video.azertag.az/en/video/103481>.

567 Karabakh Records (@KarabakhRecords), "Aknaghbyur village, Askeran, Artsakh — Before and After Azerbaijani Occupation.," Twitter, March 18, 2021, <https://twitter.com/KarabakhRecords/status/1372503310960357384>.

568 MedMedia TV, "Культурная Автономия От Алиева и Его Бармалеев" November 9, 2020, YouTube video, <https://www.youtube.com/watch?v=WclD4Pin0rE>.

sufficient information to determine the precise date. Additional construction sites can be seen in the immediate vicinity of the reservoir.⁵⁶⁹ The reservoir is included in the list of historical and cultural monuments of Shushi region.⁵⁷⁰

From the point of view of the preservation of Artsakh's cultural heritage, the large-scale road construction works being carried out by Azerbaijan are also alarming. The Azerbaijani side is carrying out huge land works, specifically to change the surrounding landscape and relief, based on the road projects to be built. In particular, a large number of trees are cut down, large-scale leveling and widening works are carried out, explosions are carried out, all buildings and structures obstructing the road are demolished or are in danger of being demolished. It should be noted here that all the monuments around or near Azeri road construction are in danger, including: Tukhankal mansion, not far from the village of Moshkhmhat; the sanctuary of Heghine's sister; the Holy Savior church of Madatashen village; Astvatsatsin church and cemetery; as well as the bridge of Avetaranots village.⁵⁷¹



Figure 13.29. Destruction of Ivan Tevosyan's statue, March 2021 (Source: Screenshot from a video posted on Twitter by Yeghia Tashjian)

569 For satellite images of the Tadevos Tamiryan Reservoir for the period 2019-2021, see: <https://public.flourish.studio/visualisation/7359596/>.

570 “Լեռնային Ղարաբաղի Հանրապետության Պաշտոնական Տեղեկագիր” (Ministry of Justice of Artsakh, March 17, 2017), 28, <https://minjustnkr.am/nkr/documents/06-320ՕօՕլՕ.pdf>.

571 ““The Roads of Azerbaijan” and Threats to the Armenian Cultural Heritage,” Monument Watch, October 13, 2021, <https://monumentwatch.org/en/alerts/the-roads-of-azerbaijan-and-threats-to-the-armenian-cultural-heritage/>.



Figure 13.30. Memorial to Vazgen Sargsyan, 2020 (Source: Fact Investigation Platform)



Figure 13.31. "Reborn Talish" Monument in Talish village, 2016-2017 and 2020 (Source: Aravot Daily).

Historical and Cultural Monuments Demolished by Azerbaijan in the Past

It should be noted that the deliberate destruction of Armenian cultural property is not a new phenomenon. In the 1990s, the Azerbaijan state implemented a policy of exterminating Armenian cultural monuments which currently continues in Azerbaijan and Nakhijevan. From 1998-2006, Azerbaijan destroyed about 3,000 engraved khachkars and tombstones with inscriptions⁵⁷² dated from the V to the XVII centuries in the world famous Jugha cemetery.⁵⁷³ Between 1997 and 2006, a total of eighty-nine medieval Armenian churches, 5,840 ornamented Armenian khachkars, and 22,000 historical Armenian tombstones were destroyed in Nakhijevan.⁵⁷⁴



Figure 13.32. *The medieval Armenian cemetery of Julfa (Jugha) in 1980s (Source: Samvel Karapetyan's "Azerbaijan out of Civilization" Book).*

572 MFA Armenia, "The New Tears of Araxes" 2011, YouTube video, https://www.youtube.com/watch?v=zj__XvnQGPO.

573 The city of Jugha was located on the left bank of Araxes River on the site of current Jugha village in Julfa district of Azerbaijan.

574 Dale Berning Sawa, "Monumental Loss: Azerbaijan and 'the Worst Cultural Genocide of the 21st Century,'" *The Guardian*, March 1, 2019, sec. Art and design, <https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars>.



Figure 13.33. *The fallen cross-stones of the cemetery being crumbled into rubble and loaded into trucks to be deposited on the Arax river-facing side of the railway (Source: Samvel Karapetyan’s “Azerbaijani out of Civilization”*

On January 19, 2006, the European Parliament condemned the destruction of Jugha khachkars and in the resolution adopted called on Azerbaijani authorities to stop the erasure of khachkars.⁵⁷⁵ The European Parliament sought to send a delegation to the site but until now the request remains rejected by Azerbaijan.⁵⁷⁶ The outcome is the complete erasure of Jugha khachkars and inscribed tombstones. It is obvious that condemning statements are not effective in cases when there is a clear determination and plan to commit physical and cultural genocide. Monas-

⁵⁷⁵ “European Parliament Resolution on Cultural Heritage in Azerbaijan” (European Parliament, February 16, 2006), https://www.europarl.europa.eu/doceo/document/TA-6-2006-0069_EN.html.

⁵⁷⁶ Dale Berning Sawa, “Monumental Loss: Azerbaijan and ‘the Worst Cultural Genocide of the 21st Century,’” *The Guardian*, March 1, 2019, sec. Art and design, <https://www.theguardian.com/artanddesign/2019/mar/01/monumental-loss-azerbaijan-cultural-genocide-khachkars>.

teries and churches in Nakhijevan's Aprakunis, Shorot, Krna and Tsgghna were demolished.⁵⁷⁷ Often, Armenian churches and monasteries disappear as they are being turned into mosques. In Agulis,⁵⁷⁸ a mosque was built on the site of a destroyed church. In other cases, Azerbaijan has amended the appearance of historical, cultural and religious monuments under its control by scratching off the Armenian inscriptions and using the buildings for alternative purposes. In this way, Azerbaijan is trying to deny that those monuments have Armenian origin. For example, St. Hovhannes (John) church in Ganja, Azerbaijan, has been turned into a chamber hall after scratching off all Armenian inscriptions from the walls. After forced displacements in 1992, Gyulistan village was burnt, and St. Astvatsatsin (Mother of God) church (XVII century) was blown up; St. Amenaprkich (Savior) church in Kamo village was demolished.⁵⁷⁹

Denying the Armenian Origin and Advocating the “Albanian” Origin of Historical and Cultural Monuments in Artsakh

Azerbaijan, in its propaganda, widely promotes the idea that Caucasian Albania is the ancestral land of Azeris, despite simultaneously claiming Turkish identity and a Central Asian origin. Azerbaijan promotes this contradictory claim in order to deny the Armenian origin of Christian monuments in Artsakh, ascribing them instead to Albanians, in an attempt to claim Armenian monuments as their own. Azerbaijan persists in this claim despite the fact that Artsakh was never part of Caucasian Albania, but only shared a border with that area.⁵⁸⁰ In particular, on November 25, 2020, Ilham Aliyev, president of Azerbaijan wrote on Twitter: “Despite the attempts by Armenian ‘historians’ to Armenianize the Albanian churches we did not let it happen. Historical monuments attributed to Caucasian Albania represent our historical and cultural accomplishments.”⁵⁸¹ Aliyev also wrote that “all monasteries located on our territory are our historical heritage protected by the state.”⁵⁸²

577 ՄանսայանԱլեքսանդր and ՂևոնդյանԱլեն, Լեռնային Ղարաբաղ. Ինչպես է Դա Եղել (Երևան: ՀՀ Նախագահի աշխատակազմի հանրային կապերի և տեղեկատվության կենտրոն, 2011).

578 The Agulis cemetery containing more than 400 tombstones with inscriptions of ethnographic importance was destroyed in October of 1987.

579 Adibekyan and Elibegova, Armenophobia in Azerbaijan.

580 Walker, “The Armenian Presence in Mountainous Karabakh.”

581 Loosineh Voskanyan, “The Lost Monuments of Artsakh: Ongoing Vandalism,” Fact Investigation Platform, October 9, 2021, <https://fip.am/en/17184>.

582 “Ilham Aliyev: All the Temples on Our Territory Are Our Historical Heritage,” Report News Agency, November 24, 2020, <https://report.ge/en/world/ilham-aliyev-all-the-temples-on-our-territory-are-our-historical-heritage/>.

Currently Azeri authorities are trying to ‘Albanize’ Dadivank (Dadi Monastery), one of the Armenian sacred spiritual places in Artsakh. Dadivank is a medieval Armenian Apostolic monastic complex. It was founded by Dadi, a disciple of the Apostle Thaddeus who spread Christianity in Armenia. It is also known as Khutavank, as it was built on a khut (hillock, outcrop). Note that ‘khut’ is still an Armenian word. Dadi Monastery is first mentioned in the Armenian manuscripts in the IX century. As part of “Albanizing” the site, on December 5, 2020, representatives of the Albanian-Udi Christian community living in Azerbaijan visited Dadivank (or according to Azeri sources ‘Khudavang’ monastery) in Karvatchar (Kelbajar) district of Artsakh. The community’s deputy chairman Rafik Danakari was appointed as the monastery’s preacher. Robert Mobili, chairman of Albanian-Udi Christian community of Azerbaijan, stated: “Kelbajar is not just a place for us, but also home to many Albanian churches. Today we are in the Khudavang monastery as the heirs of the Albanian church, performing divine services here. The sanctuary in Kelbajar belonged to the Albanians who participated in the ethnogenesis of the Azerbaijani people.”⁵⁸³

Anar Karimov, the Deputy Minister of Culture of Azerbaijan, published on his Twitter photos of Dadivank, renaming the Armenian monastic complex and stating that, “Khudavang monastery is one of the best testimonies of ancient Caucasian Albania civilization. Built in 9-13th century by wife of Albanian prince Vakhtang in Kalbajar region of Azerbaijan, this complex is composed of Church of Arzu Khatun, Church of Hasan, basilica and 2 chapels.”⁵⁸⁴ The same policy of denying the Armenian origin and “Albanizing” cultural heritage is implemented against other churches and monasteries, also being a cultural crime as it is an obvious act of denying cultural diversity and desecrating the cultures of others.

In his address to people, Ilham Aliyev, president of Azerbaijan, spoke about the Armenian cultural heritage and churches in Artsakh, distorting and falsifying historical facts and again presenting them as part of Albanian culture. “Historical monuments in Kelbajar are our immense wealth. Both mosques and churches are our historical treasure. The entire world should know that churches in Kelbajar belong to an ancient country – Caucasian Albania,” declared Aliyev and added that the Armenians have Armenianized and appropriated the Albanian churches.⁵⁸⁵

583 “Albanian-Udi Christian Community Returns to Khudavang Monastery in Kalbajar [VIDEO],” AzerNews. Az, December 5, 2020, sec. Nation, <https://www.azernews.az/nation/173555.html>.

584 Anar Karimov (@Anar_Karim), “#Khudavang Monastery Is One of the Best Testimonies of Ancient Caucasian Albania Civilization,” Twitter, November 11, 2020, https://twitter.com/Anar_Karim/status/1326437397270310912.

585 Էմմա Չոբանյան, “Ալիևը շարունակում է կեղծել պատմությունն ու Արցախի հայկական եկեղեցիները ներկայացնել որպես ալբանական,” Ֆակտոր տեղեկատվական կենտրոն, November 25, 2020, <https://factor.am/314135.html>.

In another publication he said that:

They [Armenians] changed the names of our cities and villages, and even changed the origin of Christian religious monuments. They changed the origins of the religious heritage of the ancient Udi, who worshiped Christianity. They turned the churches of ancient Caucasian Albania into Armenian churches. Thus, they have committed many criminal acts.⁵⁸⁶

Besides the fact that Artsakh, as historic Armenia's most eastern region, bordered but was never included in Caucasian Albania, Armenian inscriptions are present on the walls of almost all Armenian monasteries and churches, thus speaking to their origin and negating Azerbaijani propaganda. Therefore, Azerbaijan is using the method of 'scratching' and 'cleaning the walls of Armenian traces.' In other cases, tombstones and memorial monuments with Armenian scripts are turned upside down and photographed to present them as Albanian. The President of Azerbaijan was present when the armed forces were ordered to 'polish' medieval Armenian inscriptions. It is an undeniable fact that the campaign of damaging cultural property is guided by the Azeri authorities.⁵⁸⁷

Thus, Azerbaijan, on the one hand, annihilates the Armenian cultural heritage, and, on the other hand, argues that this heritage is not Armenian and ascribes it to Caucasian Albania.

Legal Norms and Protective Processes Frustrated by Azerbaijan

Deliberate destruction of cultural heritage is a war crime. Any act of intolerance against the historic and cultural monuments of civilization of any nation, such as deliberately damaging or destroying cultural or religious heritage, must be met with legal liability, otherwise atrocities against humanity's cultural heritage is guaranteed to continue.

Cultural and religious monuments are protected under customary international law, as well as the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, enacted in 1954. Both Armenia and Azerbaijan have ratified the Convention and its Protocols.

Article 1 of Hague Convention defines cultural property as a "movable or immovable property of great importance to the cultural heritage of every people, such as monuments of architecture, art or history, whether religious or secular; archae-

586 "Armenia Has Committed Many Criminal Acts - President Aliyev," Azvision.Az, January 13, 2021, <https://en.azvision.az/news/138049/-armenia-has-committed-many-criminal-acts-president-aliyev.html>.

587 Simon Maghakyan (@simonforco), "As I Predicted in November, Azerbaijan Is Moving Now to Polish out Medieval Armenian Inscriptions on Captured Churches," Twitter, March 17, 2021, <https://twitter.com/simonforco/status/1371951305267277832>.

ological sites; groups of buildings which, as a whole, are of historical or artistic interest; works of art; manuscripts, books and other objects of artistic, historical or archaeological interest; as well as scientific collections and important collections of books or archives or of reproductions of the property defined above.”⁵⁸⁸ It is clear from this definition that all destroyed monuments referred to above are cultural monuments.

Additionally, Article 4 of the Hague Convention stipulates that:

1. The High Contracting Parties undertake to respect cultural property situated within their own territory as well as within the territory of other High Contracting Parties by refraining from any use of the property and its immediate surroundings or of the appliances in use for its protection for purposes which are likely to expose it to destruction or damage in the event of armed conflict; and by refraining from any act of hostility directed against such property.
2. The obligations mentioned in paragraph 1 of the present Article may be waived only in cases where military necessity imperatively requires such a waiver.
3. The High Contracting Parties further undertake to prohibit, prevent and, if necessary, put a stop to any form of theft, pillage or misappropriation of, *and any acts of vandalism directed against, cultural property.* ... [emphasis added]⁵⁸⁹

Article 7 of Protocol 2 of the Hague Convention states that:

- [W]ithout prejudice to other precautions required by international humanitarian law in the conduct of military operations, each Party to the conflict shall:
- a. do everything feasible to verify that the objectives to be attacked are not cultural property protected under Article 4 of the Convention;
 - b. take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event to minimizing, incidental damage to cultural property protected under Article 4 of the Convention;
 - c. refrain from deciding to launch any attack which may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated; and
 - d. cancel or suspend an attack if it becomes apparent:
 - i. that the objective is cultural property protected under Article 4 of the Convention;
 - ii. that the attack may be expected to cause incidental damage to cultural property protected under Article 4 of the Convention which would be excessive in relation to the concrete and direct military advantage anticipated.⁵⁹⁰

It is obvious that Azerbaijan did not respect the above principles, because in at

588 “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.”

589 “1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict,” art. 4.

590 “Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict” (UNESCO, March 26, 1999), art. 7, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?action=openDocument&documentId=F0628265ED4F2118412567BB003E0B0C>.

least one case it carried out a targeted attack on a nonmilitary facility (the Cathedral in Shushi), while in another case it destroyed and vandalized cultural monuments after establishing control over such property.

Article 9 of Protocol 2 of the Hague Convention states that:

1. Without prejudice to the provisions of Articles 4 and 5 of the Convention, a Party in occupation of the whole or part of the territory of another Party shall prohibit and prevent in relation to the occupied territory: [...]
 - c. any alteration to, or change of use of, cultural property which is intended to conceal or destroy cultural, historical or scientific evidence.⁵⁹¹

Thus, based on the above the actions of Azerbaijan, specifically erasing inscriptions on Armenian cultural monuments or altering the historical and cultural appearance of such monuments, they have committed prohibited deeds. By doing so, Azerbaijan is trying to destroy historical evidence that monuments have an Armenian origin and erase any Armenian traces in Artsakh.

According to Article 15 of Protocol 2 of the Hague Convention, making cultural property under enhanced protection of the Convention and Protocol 2 the object of attack and extensive destruction, or appropriation of cultural property protected under the Convention and Protocol 2 are 'serious violations.' According to the Statute of the International Criminal Court, Article 8, paragraph 2(b)(ix), "Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments ... provided they are not military objectives," are among 'other serious violations.' Although neither Armenia nor Azerbaijan have ratified the Rome Statute, the fact that such acts are deemed serious violations speaks to the underlying values of the international norms that may apply via custom.

As to process, under Article 23 of the Hague Convention of 1954, the High Contracting Parties may call upon UNESCO for technical assistance in organizing the protection of their cultural property, or in connection with any other problem arising out of the application of the present Convention or the Regulations for its execution. Also, according to Article 33, paragraph 1 of Protocol 2 of the Hague Convention, "a Party may call upon UNESCO for technical assistance in organizing the protection of its cultural property, such as preparatory action to safeguard cultural property, preventive and organizational measures for emergency situations and compilation of national inventories of cultural property, or in connection with any other problem arising out of the application of this Protocol."⁵⁹²

⁵⁹¹ "Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict," art. 9.

⁵⁹² "Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict."

On 11 December 2020, UNESCO invoked its mandate under Hague Convention of 1954 and the Director General of UNESCO proposed to carry out an independent technical mission to assess the condition of the most significant cultural assets in Artsakh.⁵⁹³ Nevertheless, for many months now the process was artificially delayed by Azerbaijan.⁵⁹⁴ Moreover, in response, Azerbaijan has accused UNESCO of politicizing the protection of cultural heritage.⁵⁹⁵

At its 16th General Assembly in October of 2008, the International Council of Monuments and Sites (ICOMOS) adopted a resolution through which the international community expressed its concerns about acts of vandalism against Armenian monuments in Jugh and regretfully stated that “this heritage that once enjoyed its worthy place among the treasures of the world’s heritage can no longer be transmitted today to future generations.”⁵⁹⁶

On 27 September 2021, the Council of Europe’s Parliamentary Assembly (PACE) adopted Resolution 2391 on the humanitarian consequences of the Nagorno-Karabakh conflict, in which the PACE stated that:

The long running conflict has had a catastrophic impact on the cultural heritage and property of the region, for which both Armenia and Azerbaijan have a responsibility. In light of this, the Assembly:

18.1 condemns the damage and destruction for which Armenia is responsible in the former conflict areas returned to Azerbaijan, and in particular the almost total destruction and looting of Aghdam, Fuzuli and other areas over the last 30 years, as well as the transfer of cultural heritage;

18.2 condemns the destruction over the last 30 years of Armenian cultural heritage in Azerbaijan for which Azerbaijan is responsible, notably in Nakhchivan Autonomous Republic, and condemns the damage deliberately caused to cultural heritage during the 6-week war, and what appears to be the deliberate shelling of the Gazanchi Church/Holy Saviour, Ghazanchetsots Cathedral in Shusha/Shushi as well as the destruction or damage of other churches and cemeteries during and after the conflict;

18.3 remains concerned, in the light of past destruction, about the future of the many Armenian churches, monasteries, including the monastery in Khutavank/Dadivank,

593 “Nagorno-Karabakh: Reaffirming the Obligation to Protect Cultural Goods, UNESCO Proposes Sending a Mission to the Field to All Parties,” UNESCO, November 20, 2020, <https://en.unesco.org/news/nagorno-karabakh-reaffirming-obligation-protect-cultural-goods-unesco-proposes-sending-mission>.

594 Mehdiyev, “Azerbaijan Responds to UNESCO’s Claims of Karabakh Mission Delay,” Caspian News, December 24, 2020, <https://caspiannews.com/news-detail/azerbaijan-responds-to-unescos-claims-of-karabakh-mission-delay-2020-12-24-0/>.

595 “No:479/20, Commentary of the Press Service Department of the Ministry of Foreign Affairs of the Republic of Azerbaijan to the UNESCO press release on sending of a mission to Azerbaijan,” Republic of Azerbaijan Ministry of Foreign Affairs, December 22, 2020, 20, <https://mfa.gov.az/en/news/xin.gov.az>.

596 “16th General Assembly of ICOMOS: Resolution of the General Assembly” (International Council of Monuments and Sites, October 4, 2008), 3, https://www.icomos.org/quebec2008/resolutions/pdf/GA16_Resolutions_final_EN.pdf.

cross-stones and other forms of cultural heritage which have returned under Azerbaijani control;

18.4 expresses concern about a developing narrative in Azerbaijan promoting a “Caucasian Albanian” heritage to replace what is seen as an “Armenian” cultural heritage;

18.5 recommends that Armenia and Azerbaijan allow UNESCO unlimited access to all cultural heritage sites in both countries to assess the damage and assess the steps necessary to safeguard what remains;

18.6 invites UNESCO to look into the developing narrative promoting a “Caucasian Albanian” heritage, to ensure it is not manipulated by either side.⁵⁹⁷

To summarize, presently, at least 1,456 Armenian historical and cultural monuments are currently under Azerbaijani control, including 161 Armenian churches, the archeological site of Tigranakert, Azokh paleolithic cave, the Nor Karmiravan tombs, Mirik, Keren and various archeological monuments such as palaces, bridges and historical quarters. In addition, 8 state museums and galleries with 19,311 exhibits and the privately-operated Carpet Museum of Shushi and Shushi Museum of Armenian Coins are under Azeri control.⁵⁹⁸ The full list of cultural sites currently under Azeri control and facing the risk of destruction and vandalism similar to those committed against monuments listed above is found in a report published on 26 January 2021, by the Human Rights Defender of Artsakh.⁵⁹⁹

It should be noted that this report summarizes many facts available from Azeri media publications. Presumably, many acts remain hidden and unrevealed as they are not publicized. Nevertheless, even these facts testify that the remaining unique monuments of historical and cultural heritage are at risk and each hour of inaction adds them to the list of monuments that the global community can no longer enjoy. Hence, effective steps must be undertaken to ensure the entry of UNESCO’s technical mission to Artsakh (Nagorno Karabakh) in order to transmit to future generations at least a part of what is remaining from the heritage. Otherwise, the international community must go beyond just words of regret and apply clear legal liability mechanisms for all cases of destruction of cultural heritage, including cultural cleansing, vandalism, erasure and many other crimes against the cultural heritage of humankind, as well as carry out monitoring and effective control for protection and preservation of cultural heritage.

597 “Resolution 2391 (2021): Humanitarian Consequences of the Conflict between Armenia and Azerbaijan / Nagorno-Karabakh Conflict.”

598 “Armenian Cultural Heritage in Artsakh (Nagorno-Karabakh): Cases of Vandalism by Azerbaijan and the Risk of Demolition.”

599 “Armenian Cultural Heritage in Artsakh (Nagorno-Karabakh): Cases of Vandalism by Azerbaijan and the Risk of Demolition,” 33.

Syrian Mercenaries in Azerbaijan and Artsakh Via Turkey

“We don’t have mercenaries. This is our official statement. Since the outbreak [of the conflict], not a single country presented a single [piece of] evidence.”

- President Ilham Aliyev of Azerbaijan⁶⁰⁰

“I returned from Azerbaijan to Syria during the first week of December 2020. I was paid the equivalent of USD 4,000 in Turkish liras for two months of fighting in Nagorno Karabakh.”

- Abu Mohammed (name changed), a Syrian mercenary from Aleppo who fought on behalf of Azerbaijan during the 2020 conflict in Artsakh, speaking to an Aleppo-NGO researcher in Syria.

This section of the report examines the use of foreign fighters from Syria, transferred to Azerbaijan by Turkey, for combat against the Armenians of Artsakh in the 44-Day War of 2020. The evidence presented here is based on Internet research as well as field research conducted in Syria, Turkey and Armenia by our partner organization, Aleppo-NGO. According to the applicable convention on mercenaries, to which Azerbaijan is a State Party, a mercenary is a person recruited for combat, motivated by private gain, not a national or resident connected with the conflict, and not a member of the armed forces of a party to the conflict, nor of another State sending regular troops.⁶⁰¹ Apart from this convention, the recruitment and use of mercenaries is generally prohibited and similarly defined under international humanitarian law (IHL), which is applicable to this conflict (see the Legal Frameworks section of this report). The evidence discovered and presented below proves that Syrians were recruited and transferred by Turkey to Azerbaijan for combat against the Armenians of Artsakh and that such recruits engaged in combat for private gain, thus constituting a violation of IHL regarding deployment of mercenaries. Additionally, the evidence presented speaks not only to a pattern

600 “Ilham Aliyev Was Interviewed by France 24 TV Channel,” Official web-site of President of Azerbaijan Republic, October 14, 2020, <https://president.az/en/articles/view/43037/print>.

601 “International Convention against the Recruitment, Use, Financing and Training of Mercenaries” (UN General Assembly, December 4, 1989), art. 1 (2), <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-against-recruitment-use-financing-and>.

of violations but also to systemic failures that facilitate continued violation, and which the international community must address.

As to the Internet-based research which was conducted for this section through May 2021, social media specialists and researchers monitored and archived photo and video evidence circulated on social media sites, such as Facebook, Twitter, YouTube, Instagram as well as videos and photos shared on Telegram channels by Azeri, Syrian, Turkish, Kurdish and other channels. The archived media content was reviewed by native Arabic, Turkish, Kurdish and English-speaking analysts, as well as forensic analysts from Mnemonics who analyzed the metadata and geolocation of the gathered evidence. An international law expert also carried out the legal review of the applicable legal frameworks pertaining to mercenarism in international law (see the Legal Frameworks section of this report).

In addition to this, field research was conducted between December 2020 and June 2021; this included testimony gathered through five interviews with Syrian mercenaries who returned to Syria following the conclusion of the 2020 conflict, four interviews with family members or friends of Syrian mercenaries killed during the conflict, three informants operating in areas controlled by the Syrian National Army (SNA) in Syria, and three Syrian-Armenian victims displaced by the Turkish military and SNA operations in the Ras al-Ayn region during the so-called Operation Peace Spring in North-Eastern Syria in October 2019. Twelve of these interviews were conducted in person in Syria, Turkey and Armenia by native Arabic and Armenian-speaking researchers, while three interviews were conducted by phone with individuals living in otherwise unreachable regions of Syria. Interviewees had the option to remain anonymous in the report due to security concerns. The report contains identifying information only to the extent agreed to by the interviewee, as well as separately assessed by experts so as to not put the interviewee at risk.

Background

Following clashes between the Azerbaijani Armed Forces and Armenian Armed Forces in the Tavush province of the Republic of Armenia between July 12 and July 16, 2020, the Prime Minister of Armenia, Nikol Pashinyan, called upon his counterpart in Azerbaijan to accept that there is no military solution to the conflict.⁶⁰²

A few days after the cessation of hostilities in Tavush, several Middle East and Syria based activists, analysts and media outlets started reporting about the recruit-

⁶⁰² “Pashinyan: ‘Tavush Clashes Proved There Is No Military Solution for Karabakh Conflict,’” Mediamax News Agency, August 21, 2020, <https://mediamax.am/en/news/armypolice/39040/>.

ment of Syrian mercenaries by the Republic of Turkey with the aim of sending them to Azerbaijan to fight against the Armenians of Artsakh. In an Arabic op-ed titled, “Borders of Armenia and Azerbaijan: The New Epicenter of Turkish Chaos Through the Use of Syrian Mercenaries?,” Mr. Muhammad Shihab El-Idrisi, the Executive Director of the Institute for Innovative Studies in Beirut wrote on 19 July 2020:

Turkey is not content with only incitement. The head of its defense industries recently announced that Turkish drones and artillery are at the disposal of the Azerbaijani army. At the same time, news is spread from the Syrian territories occupied by Turkey that it has started to open offices in Afrin, Jindires, and Rajo to recruit Syrian mercenaries in exchange for salaries ranging between USD 2,000 and USD 2,500. This is a direct continuation of Turkey’s strategy in Libya: the use of Israeli technology and terrorist mercenaries.⁶⁰³

On 27 September 2020, at the height of the global COVID-19 pandemic, Azerbaijan, backed by Turkey, broke the ceasefire and initiated a large-scale war against Artsakh in a bid to reassert authority over the region, despite the unwavering will of the people of Artsakh to exercise their right to self-determination for over 30 years.

As soon as the very next day, major independent media outlets began to report that Turkey had been recruiting and transferring Syrian fighters to fight on behalf of Azerbaijan in Artsakh.⁶⁰⁴ These reports were subsequently confirmed by state and UN officials, social media posts, and interviews with the fighters or their family members.⁶⁰⁵ Despite mounting evidence about the recruitment of Syrian

603 “بن قیاد: ”؟ نیپروس قوتزرمب قیقرتالایضوفلل قدیج قروب .. ناجیب رذأو اینیمرأ دودح، ”سیردالدا July 19, 2020, <https://daqaeq.net/armenia-azerbaijan/>.

604 Bethan McKernan, “Syrian Rebel Fighters Prepare to Deploy to Azerbaijan in Sign of Turkey’s Ambition,” *The Guardian*, September 28, 2020, sec. World news, <https://www.theguardian.com/world/2020/sep/28/syrian-rebel-fighters-prepare-to-deploy-to-azerbaijan-in-sign-of-turkeys-ambition>; “Turkey Deploying Syrian Fighters to Help Ally Azerbaijan, Two Fighters Say,” *Reuters*, September 28, 2020, sec. AMERS, <https://www.reuters.com/article/us-armenia-azerbaijan-turkey-syria-idUSKBN26J25A>; “Наемник из Сирии в Карабахе: ‘Я не знал, что придется воевать,’” *BBC News Русская служба*, September 30, 2020, <https://www.bbcussian.com/russian/features-54348623>.

605 “France Accuses Turkey of Sending Syrian Jihadists to Nagorno-Karabakh,” *Reuters*, October 1, 2020, sec. AMERS, <https://www.reuters.com/article/us-armenia-azerbaijan-putin-macron-idUSKBN26L3SB>; Bethan McKernan, “Syrian Recruit Describes Role of Foreign Fighters in Nagorno-Karabakh,” *The Guardian*, October 2, 2020, sec. World news, <https://www.theguardian.com/world/2020/oct/02/syrian-recruit-describes-role-of-foreign-fighters-in-nagorno-karabakh>; Bel Trew and Rajaai Bourhan, “‘We Don’t Even Know Where Azerbaijan Is’: The Syrian Mercenaries Dying in a Distant War,” *The Independent*, October 9, 2020, sec. News, <https://www.independent.co.uk/news/world/middle-east/armenia-azerbaijan-syria-war-fighting-mercenary-russia-b912446.html>; “Deaths of Syrian Mercenaries Show How Turkey, Russia Could Get Sucked into Nagorno-Karabakh Conflict,” *Washington Post*, accessed March 11, 2022, https://www.washingtonpost.com/world/middle_east/azerbaijan-armenia-turkey-nagorno-karabakh/2020/10/13/2cdca1e6-08bf-11eb-8719-0df159d14794_story.html; Alexander Mckeever, “SNA Mercenaries in Azerbaijan: The Visual Evidence,” *Akmckeever*, October 26, 2020, <https://akmckeever.com/2020/10/26/sna-mercenaries-in-azerbaijan-the-visual-evidence/>; “Mercenaries in and around the Nagorno-Karabakh Conflict Zone Must Be Withdrawn – UN Experts” (Office of the United Nations

mercenaries by several factions of the Turkish-backed Syrian National Army (SNA), namely Sultan Murad and the Hamza Division of the 2nd Legion of SNA, and the deployment of more than 2,000 Syrian mercenaries to fight against the Armenians of Artsakh, the governments of Turkey and Azerbaijan continue to refute the allegations about the direct involvement of Syrian mercenaries during the 2020 conflict.⁶⁰⁶

Recruitment

Evidence shows that the recruitment of mercenaries was planned early on and was methodic. One of the initial reports about the recruitment of Syrian mercenaries by Turkey for the purpose of deployment in Azerbaijan came from a Twitter account named “Middle East Wars,”⁶⁰⁷ which posted about the topic on July 18, 2020, only two days after the military clashes in the Tavush province of Armenia. Also, between July 18 and September 26, 2020, the months leading up to Azerbaijan’s war against the Armenian population of Artsakh, at least 40 Arabic-language reports were featured in local and regional media outlets reporting on the recruitment of Syrian mercenaries by Turkey and their imminent deployment to Azerbaijan. These reports were reinforced by many local information centers and activists based in northern and northwest Syria who were writing on the matter via social media sites such as Facebook and Twitter.

In addition to reports via social media, more formal media outlets also picked up this story. As early as 24 July 2020, media outlets started reporting about the opening of new recruitment centers by the Syrian National Army in regions occupied during operations Olive Branch and Euphrates Shield.⁶⁰⁸ On 25 August 2020, the Rumaf News Agency published a report on testimonies provided by Syrian mercenaries who had fought in Libya. Two statements included in the report were provided by mercenaries, one by Ghassan Bakri, a mercenary in the Sultan Murad Division and a resident of Syria’s Afrin region, and the other by Omar Yaghi, a

High Commissioner for Human Rights, November 11, 2020), https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26494&LangID=E&fbclid=IwAR0_JnkNB7eo-EgeedExyVrI0wruHYff4BwhgLJDE-QPSFAFDS9Ax3DBQxvo; “The Syrian Mercenaries Used as ‘cannon Fodder’ in Nagorno-Karabakh,” BBC News, December 10, 2020, sec. Stories, <https://www.bbc.com/news/stories-55238803>.

606 “Turkey Denies Sending Syrian Fighters to Help Ally Azerbaijan,” Reuters, September 29, 2020, sec. World News, <https://www.reuters.com/article/uk-armenia-azerbaijan-turkey-idUKKBN26K391>.

607 It is an anonymous account, which purports to belong to a former officer of the Iraqi Army. The entire account, run in Arabic, is dedicated to the analysis of military strategy and operations in the Middle East. See: @abduljabbar1612, “...ينيمرالا يناجيبردالا عارصلال,” Twitter, July 18, 2020, <https://twitter.com/abduljabbar1612/status/1284552968755458049>.

608 “رابعالناجيبردأ يف لاتقلل نيلسم زهجت ايفرت... ايبيل دعب,” July 24, 2020, sec. ايروس, <https://al-akhbar.com/Syria/291892>.

mercenary in the Hamza Division. These statements echoed the growing rumors about their imminent deployment to Azerbaijan.

Ghassan Bakri, a mercenary who fights on behalf of the Sultan Murad Division, stated:

The rumors about the Syrian National Army were increasing after Syrians were deployed to Libya. A few months ago, we heard that Turkey wants to send Syrians to Yemen, but these rumors were later denied. Then we started hearing that we might be sent to Azerbaijan...

Omar Yaghi, a mercenary who fights on behalf of the Hamza Division, stated:

I heard that we are going to Azerbaijan... I also heard that they will add USD 2,000 or USD 3,000 to the salary we are getting now to go to that country... I don't care where it is, the important thing is the money. We have been hearing about this [going to Azerbaijan] a lot, and if it's serious, I and many others intend to go there...

Early and methodic, planned recruitment was also confirmed by witnesses interviewed for this report. According to twelve interviews carried out independently with mercenaries, informants, and friends or relatives of mercenaries killed during the 2020 conflict in Artsakh, in the months leading up to combat, SNA recruitment offices and remote agents were operating in the towns of Afrin and Atarib in the Aleppo governorate, in the town of Uqayribat in the Hama governorate, and in multiple locations across the Idlib governorate, including the Atma camp for internally displaced persons where almost one million Syrians live in harsh socio-economic conditions. The primary factions of the SNA in charge of recruiting Syrian mercenaries for deployment in Azerbaijan were the Sultan Murad Division,⁶⁰⁹ the Hamza Division⁶¹⁰ and the Sultan Suleiman Shah Brigade. Furthermore, at least two cases documented and analyzed confirmed the involvement of Faylaq al-Sham in the process of recruiting fighters, especially in the governorate of Idlib.

609 Fehim Isa, also known as Isa al-Turkmani, has led the SNA's Sultan Murad Division since at least 2015. Like Balud, he has enjoyed Turkish patronage and is an ethnic Turkman. According to reports, he and his division have also engaged in Artsakh with support from Turkey. Issa and his division have also been accused of multiple war crimes, such as the torturing of Kurdish soldiers and indiscriminate shelling of civilians.

610 Sayf Balud, also known as Sayf Abu Bakr, has been the leader of SNA's Hamza Division since 2016. He and approximately 500 of his men were reportedly flown to Azerbaijan to join fighting in Artsakh. Balud is a Syrian Turkman, an ethnic characteristic that often enhances Turkish trust in "sensitive" operations (such as recent proxy conflicts). Balud and his division have been responsible for multiple war crimes, including kidnapping Kurdish women and brutal repression in Afrin. He is one of Turkey's most trusted and supported mercenary leaders.

More specifically, on September 23, 2020, the Hawar news agency leaked the names and pictures of 42 Syrian mercenaries who were recruited in Afrin and deployed to Azerbaijan to fight against the Armenians of Artsakh. The leaked list, republished at the end of this section, included the names of Syrian mercenaries, the names of their mothers and their year of birth.⁶¹¹



Figure 14.1. Photo of the entrance of a school in Afrin, which was used as a recruitment center by the Turkish-backed Syrian National Army to recruit Syrian mercenaries, prior to sending them to Azerbaijan to fight against the Armenians of Artsakh, 2020 (Source: Human Rights Organization of Afrin-Syria.)

Syrian human rights organizations have also reported on mercenary recruitment. According to the Human Rights Organization of Afrin, a group based in Afrin, Syria, the Syrian National Army used at least two schools in Afrin as recruitment centers for mercenaries. The first one was the Amir Ghabari Secondary Public School, while the second one was the Afrin Flowers Private School. These two recruitment centers were located next to each other, ten minutes walking distance from one another. On 27 September 2020, the group released photos of the two recruitment centers.⁶¹²

611 "مهنم 40 عامسأ فنشككي صاخ رصم...ناج يبرداً ولإ اهتقزترم لسرت ايكرت" Hawar News, September 23, 2020, <http://hawarnews.com/ar/haber/trkya-trsl-mrtzqtha-ila-athrbyjanmsdr-khas-ykshf-asmaa-40-mnhm-h39468.html>.

612 Human Rights Organisation -Afrin -Syria, "Turkey Opens Two Recruit Centres in Afrin to Assemble Syrian Mercenaries Bound for Azerbaijan.," Facebook, September 27, 2020, https://www.facebook.com/permalink.php?story_fbid=pfbid025P3Jkvdq2RZZkskQbzE6H6DyBz31GZU589WTZXL9SJ11GD9fL7q3NESuno9x-PQVRI&id=114977619885802.



Figure 14.2. The location of the two schools in Afrin, which were reportedly used as recruitment centers for mercenaries (Source: Human Rights Organization of Afrin-Syria).

Another human rights organization, Syrians for Truth and Justice (STJ), a Syrian watchdog group based in Paris, reported that a former commander in the SNA confirmed that starting in July 2020 the recruitment of Syrian mercenaries who were set to be deployed in Azerbaijan began, following the same procedures used by Turkey during the recruitment of the Syrian mercenaries who fought in Libya. The primary difference was the exclusion of individuals under the age of eighteen and over the age of 45 for the military operations in Azerbaijan.⁶¹³ According to STJ, Syrians who wanted to fight in Azerbaijan in exchange for compensation were able to register directly at one of the offices of the Sultan Murad Division or Faylaq al-Majd in the regions of Syria occupied during Operation Olive Branch, or through intermediaries who had strong ties with Turkish intelligence. In Idlib, the Faylaq al-Sham facilitated the recruitment and registration process of civilians and fighters who registered to fight in Artsakh.

Four interviews for this report, independently carried out in Syria and southern Turkey confirmed that Syrian mercenaries were recruited by Faylaq al-Sham, the Hamza Division, the Sultan Suleiman Shah Brigade and the Sultan Murad Division of the Syrian National Army. Qasem (name changed), an informant working for the Faylaq al-Sham, who receives 500 Turkish liras (approximately USD 58) in monthly salary from the militant group in Syria, provided the following statement about a mercenary killed during the 2020 conflict in Artsakh:

⁶¹³ “Government Policies Contributing to Growing Incidence of Using Syrians as Mercenary Fighters” (Syrians for Truth and Justice, November 2, 2020), <http://stj-sy.org/wp-content/uploads/2020/11/Government-Policies-Contributing-to-Growing-Incidence-of-Using-Syrians-as-Mercenary-Fighters.pdf>.

Mohammed (name changed) was married and had four children. He was a farmer struggling to get by as an IDP [Internally Displaced Person] living in the Atma refugee camp in Idlib when he was recruited by an intermediary nicknamed Abu-Saif, who reported directly to Abu-Amsha. He was promised USD 3,000 in monthly compensation to fight with the Sultan Suleiman Shah Brigade in Nagorno Karabakh, and an additional USD 50,000 in post-mortem compensation if he was killed during combat operations.⁶¹⁴

During combat, Mohammed reached out to his family five times to assure them of his well-being. He also contacted Qasem to inform him that he suspected that his phone was being monitored by Azerbaijani or Turkish intelligence. Following a ten-day silence, Mohammed's family was informed that he was killed in combat in Nagorno Karabakh and that his body would be transported back to Syria.

Despite similarities, the primary difference between the Turkish recruitment processes of mercenaries in the context of the conflicts in Libya and Artsakh pertained to the official contracts signed by mercenaries prior to deployment to Libya. In a report about Syrian mercenaries in Libya published in January 2020, the Guardian reported:

Another 1,350 men crossed into Turkey on 5 January. Some have since been deployed to Libya with others still undergoing training at camps in southern Turkey. More men from the Islamist Sham Legion are also considering travelling to Libya... The fighters have signed six-month contracts directly with the UN-backed Government of National Accord (GNA), rather than with the Turkish military, SNA sources said, for USD 2,000 a month...⁶¹⁵

On the other hand, all informants, mercenaries, or family members of Syrian mercenaries killed in combat in Artsakh and interviewed by Aleppo-NGO for this report confirmed that the agreements between recruiters and mercenaries were verbal, unlike the written contracts signed between recruiters and mercenaries involved in the Libyan Conflict. Furthermore, all testimonies and reports published by other media outlets and watchdogs about the recruitment of Syrian mercenaries in the context of the 2020 Nagorno Karabakh conflict confirm the absence of written agreements as indicated by the testimonies of individuals interviewed by Aleppo-NGO for this report.

⁶¹⁴ Abu Amsha, real name Muhammad al-Jassim, is the leader of the Sultan Suleiman Shah Brigade, nicknamed the al-Amshat militia, which gained prominence in 2018 as one of the most brutal factions occupying Afrin with Turkish support. In Afrin, al-Amshat supposedly confiscated property, kidnapped individuals for ransom, looted, raped, and murdered. Amsha has been directly implicated in these war crimes, making 12 million dollars in a year from ransoms. He was also accused of rape and murder. Turkish protection has reportedly allowed him to avoid punishment for these acts. He is also a Syrian Turkman, like Isa and Balud.

⁶¹⁵ Bethan McKernan and Hussein Akoush, "Exclusive: 2,000 Syrian Fighters Deployed to Libya to Support Government," The Guardian, January 15, 2020, sec. World news, <https://www.theguardian.com/world/2020/jan/15/exclusive-2000-syrian-troops-deployed-to-libya-to-support-regime>.

Thus, despite dismissing with the technicalities of written contracts, recruitment of Syrians for combat in Artsakh was organized with designated recruitment centers and agents, and private gain in the form of wages and post-mortem payments to family were offered in exchange for combat services.

Deployment, Logistics, and Presence in Artsakh

Following their registration and recruitment between August and mid-September 2020, the mercenaries were gathered near the Hawar Kilis military crossing, at the border between Turkey and Syria; these areas were occupied by the Turkish-backed SNA during Operation Euphrates Shield. The mercenaries were then placed in buses and pick-up trucks and transferred to Gaziantep inside Turkey.

According to Ahmed, a mercenary in Atarib interviewed for this report, members of his brigade set off from Afrin to Azaz with cars belonging to the Hamza Division in late September 2020. From there, they were transported to Hawar Kilis village (approximately 16km away from Azaz) where they were placed in ‘Bolman buses’⁶¹⁶ and shipped off to Gaziantep in Turkey via the Hawar Kilis crossing.⁶¹⁷ Every mercenary interviewed for this report confirmed this same information.

“From Gaziantep [in Turkey], we were transported to Ankara by an airplane,” said Jalal. Louay, another mercenary interviewed by Aleppo-NGO, also stated that the airplane carrying them from Gaziantep to Ankara was of a Russian Yoshin model, although online open sources claim that Turkey has suspended the use of Yoshin military carriers for the last ten years. Jalal added that, “during our flight from Gaziantep to Ankara, they took away our cellphones.”

According to Ali, another mercenary interviewed in Atarib for this report, the Syrian mercenaries who arrived in Baku from Ankara were stripped of their cell phones during their domestic flight in Turkey or upon arrival to Ankara. “They returned our cellphones [along with an I.D.] after arriving to Azerbaijan,” said Ali.

Furthermore, Ali claimed that the civilians amongst the mercenaries, including him, went through basic military training in Azerbaijan to prepare for the war: “In Azerbaijan, some of us were provided basic training by Azeri and Syrian commanders, which included physical training as well as learning how to use a weapon.” As to training, a video circulated via the [Ehtemalat News Telegram channel](#) confirmed

⁶¹⁶ The brand name used as the generic name for large buses, which accommodate 40-60 passengers, which have been operating in the Syrian Arab Republic since before the 2011 Syrian revolution.

⁶¹⁷ An in-person interview by Aleppo-NGO with Ahmed (name changed) on 23 March 2021. Ahmed was a Syrian mercenary who fought in the 2020 NK Conflict and returned to Syria in December 2020, following the signing of the tri-lateral ceasefire declaration between Armenia, Azerbaijan and Russia on 9 November 2020.

that training was provided to Syrian mercenaries inside Azerbaijan. The video shows Syrian mercenaries wearing Azeri military uniforms during military exercises, while the individual recording the video speaks in Arabic in the background.⁶¹⁸ Moreover, Obaid, the brother of a Syrian mercenary killed in Artsakh, told Aleppo-NGO: “My brother joined the Al Amshat [Sultan Suleiman Shah] and received a ten-day training on how to use a Russian sniper before heading off to Azerbaijan.”⁶¹⁹ Two mercenaries who returned from combat in Artsakh confirmed that Syrian and Azerbaijani commanders were providing military training to fighters who had limited or no military experience, while experienced fighters received more advanced forms of training on the use of specific types of weapons. Ahmed told Aleppo-NGO: “Syrian and Azerbaijani officers provided training to the new recruits, but since I was a fighter for the Hazm Movement in the past, I did not require a lot of training. One of the Syrian officers training the recruits was named Bakira.”



Figure 14.3. Images of Hossam Deeb, a Sultan Murad commander (Source: Lindsey Snell's Twitter feed).

618 @ahtemalat, September 29, 2020, Telegram video, <https://t.me/ahtemlat/6903>.

619 An in-person interview by the Fact-Finding Group with Obaid (name changed) on 29 March 2021. Obaid is the brother of a Syrian mercenary who fought in the 2020 NK Conflict and was killed during combat. Obaid's brother's family were promised USD 60,000 in post-mortem compensation but had only received USD 10,000 at time of interview.

As for uniforms and equipment, all the Syrian mercenaries interviewed confirmed that they received green military uniforms, similar to the ones worn by Azerbaijani soldiers. Jalal, one of the mercenaries interviewed, stated: “We were provided with personal supplies, military uniform, weapons, underwear, communication devices and everything else that was required for combat by Turkish and Azeri officers.”

According to a tweet by Lindsey Snell, a journalist covering the issue of Syrian mercenaries used by Turkey in Libya and Artsakh: “Hossam Deeb, a Sultan Murad commander in Afrin and a former member of the Jabhat al-Nusra (Al-Qaeda), was one of the Syrian mercenary commanders sent to Azerbaijan to fight during the 2020 NK Conflict.” On Twitter, Ms. Snell shared three photos, retrieved through private contacts, which clearly demonstrated Deeb’s former membership in the al-Nusra Front and the presence of Mr. Deeb in Azerbaijan, with soldiers wearing an Azerbaijani military camouflage uniform pictured behind him.⁶²⁰

In a two-minute video circulated on social media and Telegram channels, also posted on the [Day of Justice YouTube Channel on 3 October 2020](#), a Syrian mercenary wearing the Azerbaijani military uniform is trying to evade Armenian artillery and Kalashnikov attacks while speaking in Arabic (in a Syrian dialect).⁶²¹ At minute 1:36 of the video, the mercenary starts saying: “Allahu Akbar... the Armenian dogs massacred the boys [fellow Syrian mercenaries].”



Figure 14.4. Screenshot from the video posted on the Day of Justice YouTube channel (originally taken from Rojava Activists Network) showing a Syrian mercenary wearing Azerbaijani military uniform and swearing at Armenians during combat activities in Artsakh.

620 Lindsey Snell (@LindseySnell), “This Is Hossam Deeb, a Sultan Murad Commander in Afrin,” Twitter, January 29, 2021, <https://twitter.com/LindseySnell/status/1355093294481625091>.

621 Day of Justice, “Nagorno Karabakh: Syrian Mercenary Dressed in Camouflage Worn by the Azerbaijani Army. Armenia,” October 3, 2020, YouTube video, <https://www.youtube.com/watch?v=blAr68T3-Ag>.

Another two-minute video circulated on social media and Telegram channels on 10 October 10, 2020, and posted on the Info Warrior YouTube Channel on 11 October 2020, shows a few dozen Syrian mercenaries engaged in combat activities in Artsakh. The video showcases at least two pick-up trucks, several armored vehicles and mercenaries wearing Azerbaijani military (camouflage) uniforms.⁶²²



Figure 14.5. Images of Turkish made Cobras: on the left, is a screenshot from the combat footage recorded and released by Syrian mercenaries and the screenshot on the right is from an Azerbaijani military parade in Nakhichevan in 2017.

During the two-minute video, the Syrian mercenaries are speaking Arabic in a Syrian dialect as they constantly open fire in a specific direction. At different points in the video, the mercenaries are heard saying: “Allahu Akbar [God is great] ... Be careful, they’ll hit the pick-up... Bismillah [in the name of God] ... Look in front of you and be careful... Give us more ammunition... there is no one on the hill... make sure they are not from our group.”⁶²³

A closer review of the footage and an analysis of the content confirms that the Syrian mercenaries were fighting within the territories of Artsakh as the vehicles seen in the video include at least one Otokar Cobra armored vehicle (produced by the [Turkish Otokar Company](#) with the support of the [AM General American company](#)), used by the Azerbaijani military and at least two utility or altering armored vehicles also used by the Azerbaijani military.⁶²⁴

⁶²² Info Warrior, “Syrian Mercenaries in the Azerbaijani Army against Armenian Army” October 11, 2020, YouTube video, https://www.youtube.com/watch?v=j6VRWiHOL_E.

⁶²³ Ibid.

⁶²⁴ Global Press Office 8, “Analysis: Syrian Jihadists Fighting in Europe, Armenia, Artsakh” October 12, 2020, YouTube video, <https://www.youtube.com/watch?v=quASdNMxO3Y>.



Figure 14.6. The screengrab on the left is from the combat footage recorded and released by Syrian mercenaries in Azerbaijan while the screengrab on the right is from an Azerbaijani military parade in Baku.

Additional evidence of the presence of Syrian mercenaries deployed to Azerbaijan includes their deaths in combat. On 29 September 2020, the third day of the 44-Day War, several Syrian activists and social media pages reported the killing of Muhammad Shaalan Abdul Razzaq, who had played a leading role in recruiting fighters in Atareb for the Hamza Division.⁶²⁵ A few days later, several Syrian activists and social media pages reported the names of ten Syrian mercenaries killed in Artsakh, including confirmations of the killing of Muhammad Shaalan Abdul Razzaq.

This evidence was confirmed by witnesses interviewed for this report. During an interview with B. Razzaq (pseudonym), a relative of Muhammad Shaalan Abdul Razzaq, the witness said:

During the [Syrian] revolution, Muhammad Shaalan worked as a security guard at Al-Atarib Hospital. Two years before he became a fighter, he worked in the local council of Atarib as director of the relief office and then director of the shelter center. He also worked in the security battalion for the Thuwar Al-Sham affiliated to Captain Ali Shakerdi. When Hayat Tahrir al-Sham (HTS) took control of Atarib, he fled to Afrin and stayed for a while with the Thuwar Al-Sham, then joined the Hamza Division. Muhammad Shaalan had eight children, five sons and three daughters.⁶²⁶

⁶²⁵ Hussein Akoush (@HousseinAk), "Muhammad Shaalan, from My Town Al Atarib Was Killed in Azarbaijan.," *Twitter*, September 29, 2020, <https://twitter.com/HousseinAk/status/1310978787014840324>.

⁶²⁶ In-person interview with B. Razzaq (name changed) on 27 March 2021, in Atareb. B. Razzaq is a direct relative of Muhammad Shaalan Abdul Razzaq, who helped the Hamza Division recruit at least 65 mercenaries, primarily consisting of residents of Atareb, and was deployed in Azerbaijan in mid-September 2020 before he was killed in combat on 28 or 29 September 2020.

Thus, this relative confirmed that Muhammad Shaalan was deployed to Azerbaijan in mid-September 2020 and was killed in combat in late September 2020, likely on September 28 or 29. The relative continued by stating, “we held a memorial service for Muhammad in Atarib on 30 September 2020. When his body was delivered from Azerbaijan on 4 October 2020, we held a formal funeral service for Muhammad at 3:00 am the same day.”⁶²⁷

The deaths of Syrian mercenaries deployed to Azerbaijan is also confirmed by video evidence of the return of corpses and burial ceremonies. In early October 2020, several videos circulated online demonstrating the transfer and burial ceremony of the corpses of several Syrians killed during combat against the Armenians in Artsakh. One video posted by the Day of Justice YouTube Channel on 4 October 2020, shows the corpse of a Syrian mercenary wrapped in cloth and covered with plastic wrapping. The coffin in which the corpse was being transferred to the burial site showed a metallic interior. Traditional Syrian coffins do not usually have a metallic interior, and corpses are almost never wrapped in plastic, which suggests that the corpse seen in the video was being transferred from a distant location (such as Azerbaijan) to the burial site inside Syria. Furthermore, analysis of the conversations heard in this seventeen-second video confirmed that the people present at the burial site were Syrians.⁶²⁸

A second, seven-minute video posted by the Jesr Press YouTube Channel on 5 October 2020, shows the burial process of at least two Syrian mercenaries and the corpses of at least four mercenaries. The burial ceremony is clearly being carried out at night and the language used by the dozens of individuals at the burial site is the Syrian dialect of the Arabic language. In this seven-minute video, the dead are labeled as Shahid (Martyr) which suggests that they were killed in combat and in the background audio we hear the following: “There are four martyrs here... we are going to bury them in twos... May god bless your soul... Azerbaijan... I am his cousin.” Additionally, in the video, several individuals involved in the burial process are wearing military uniforms, including at least five individuals who are wearing the traditional Syrian camouflage military uniform and one individual wearing the Turkish/Azerbaijani camouflage military uniform containing a crest of the Turkish flag on the side of the left arm. Similar to the first video, the interior of the coffins seen in the video are made of metallic material and the corpses are wrapped in plastic.⁶²⁹

627 Ibid.

628 Day of Justice, “Turkish Backed Syrian Mercenaries Sent to Syria after Being Killed in Azerbaijan against Armenia,” October 4, 2020, YouTube video, <https://www.youtube.com/watch?v=oiQYRCfbcpg>.

629 Jesr Press, “ناجی بردا نم نی یروس ىلتنق نی ماثج لوصو,” October 5, 2020, YouTube video, <https://www.youtube.com/watch?v=Doc2sfjVErE>.

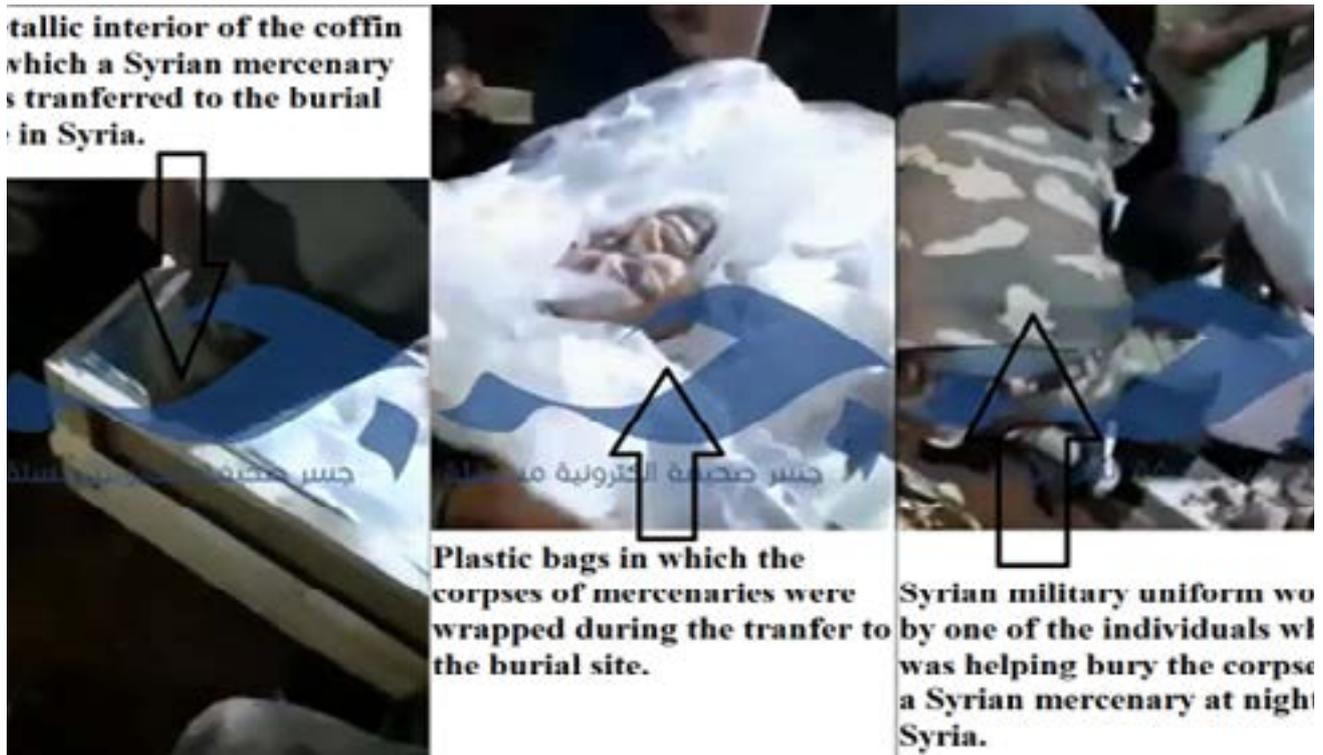


Figure 14.7. Screenshots from a seven-minute video published by Jesr Press on 5 October 2020.

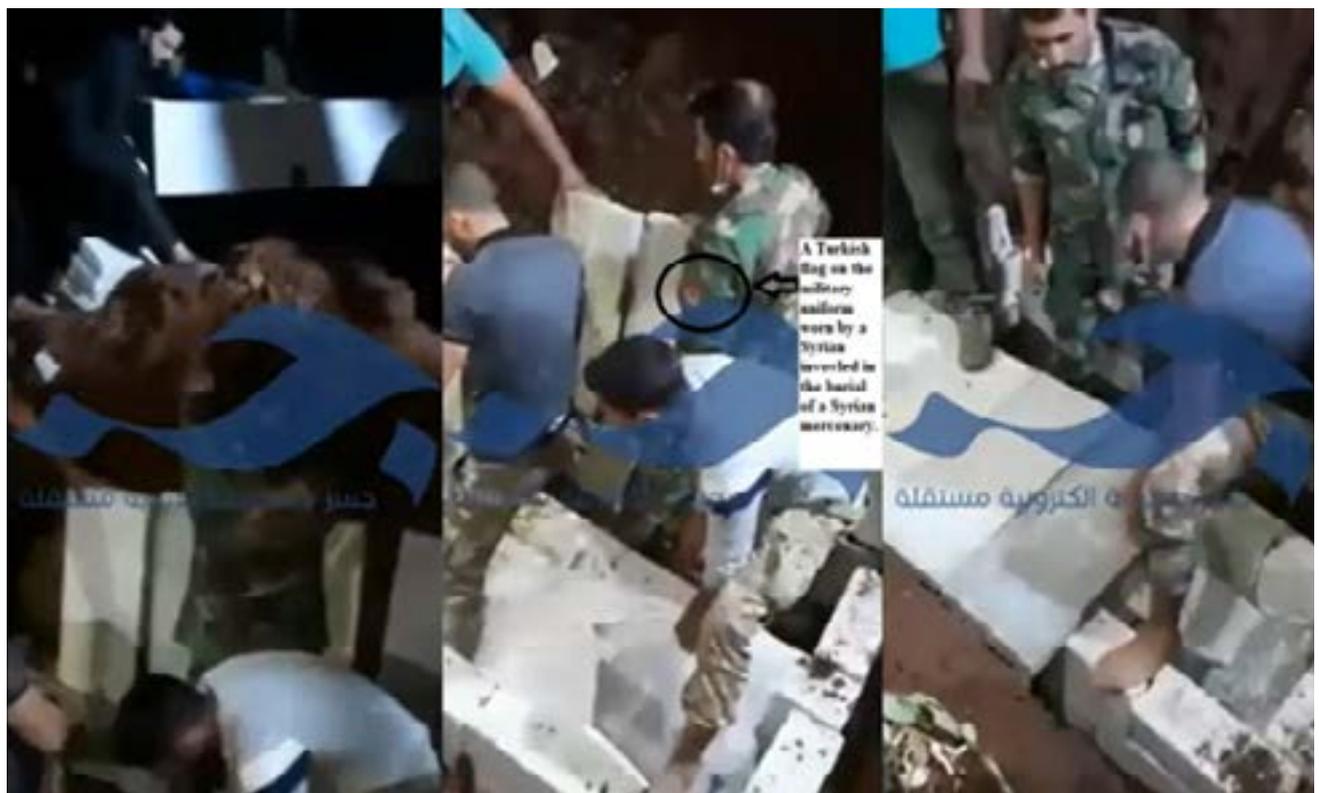


Figure 14.8. Screenshots from the video published by Jesr Press on October 5, 2020. The image on the left shows the arrival of a second coffin as the first corpse is being buried, the middle one shows the crest of the Turkish flag on a Turkish/Azerbaijani camouflage military uniform, which is visibly different from the military uniforms worn by the other individuals involved in the burial process.

The release date of these videos, the time of the burial process (at night), and the details seen in the videos of the transfer and burial process of the corpses of Syrian mercenaries, confirm the details depicted in the testimony provided by the relative of Muhammad Shaalan to Aleppo-NGO. Thus, taken cumulatively, the testimonial and video evidence of recruitment, transfer and training, combat with Azerbaijani military uniforms and equipment while speaking Arabic, and the transfer of corpses of fallen combatants, proves that Syrians were recruited, transferred, and deployed for combat in Azerbaijan against the Armenians of Artsakh.

Incentives, Expectations and Compensation

Evidence from witnesses interviewed shows that mercenaries were motivated by financial gain, and expectations as to combat conditions were explained. Despite some suggestions that Syrian mercenaries were misinformed or tricked into traveling to Azerbaijan to fight against the Armenians of Artsakh,⁶³⁰ none of the twelve testimonies of informants, mercenaries and family members and friends of killed mercenaries gathered for this report suggest that the fighters were misinformed about the military tasks awaiting them upon deployment to Azerbaijan. In fact, three Syrian mercenaries interviewed in Afrin and Atareb asserted that they were not approached by recruiters to go and fight in Artsakh, but that they offered to go and fight in exchange for financial compensation due to the difficult economic situation in Syria.

For example, consider the case and statement of Ahmed (pseudonym), a Syrian mercenary who fought in Artsakh for a monthly salary of more than USD 1,000, and who was a teacher before the Syrian revolution. During the Syrian revolution, Ahmed was arrested and imprisoned for ten months by the Syrian authorities for participating in protests. Ahmed was released from prison during a prisoner exchange between the Syrian government and the Hazzm Movement. Soon after his release from prison, he joined the Hazzm Movement and became a member of the local council in Atareb, and the director of the educational office in the local council. Following the dissolution of the Hazzm Movement in 2015, Ahmed joined the the Nur al-Din al-Zanki movement and remained in Atareb until Hayat Tahrir al-Sham took over.⁶³¹ During an in-person interview with an Aleppo-NGO researcher in Syria (Atarib), Ahmed stated:

630 BBC News "نيدلبلا نيب رانلا طخ مدع ايدروس التاقم روات يبرع يس يب يب :ناجيبردأو اينيمراً ،" يبرع October 1, 2020, YouTube video, <https://www.youtube.com/watch?v=wrHrrxte6a8>.

631 In-person interview with Ahmed (name changed) on March 23, 2021. Ahmed was a Syrian mercenary who fought in the 2020 NK Conflict and returned to Syria in December 2020, following the signing of the tri-lateral ceasefire declaration between Armenia, Azerbaijan, and Russia on November 9, 2020.

I am married and have one child. I hated my life in Syria because there are no economic opportunities left for me, especially as an Arabic language teacher. I joined the Hamza Division brigade led by Mohammad Shaalan Abdul-Razzaq along with friends and relatives in Atarib because I needed the money.⁶³²

Another Syrian mercenary who fought in Artsakh, Louay (pseudonym), was a high-school student when the Syrian revolution started in March 2011. When his father, a policeman in Atarib, passed away, Louay left school and joined the “Free Police Force” in Atarib, under the command of the Free Syrian Army, and then joined the Hazzm Movement as a fighter. When Hayat Tahrir al-Sham took over Atarib and the Hazzm movement was dissolved, Louay left Atarib for Tal Abyad and resumed work as a policeman. During an in-person interview with Aleppo-NGO researchers in Syria (Atarib), Louay stated:

My love and respect for Muhammad Shaalan Abdul-Razzaq, and the poverty in Syria forced me to join the Hamza Division and to go and fight in Nagorno Karabakh. Muhammad Shaalan assured me that the salary was good and because I trusted him, I didn’t ask exactly how much I was going to get paid. When I went to the Hamza Division office in Afrin to sign up, there were five others from Atarib who were signing up as well.⁶³³

Moreover, Jalal (pseudonym), a Syrian mercenary recruited by the Sultan Murad Division to fight in Artsakh, has been a long-time fighter within the ranks of the Sultan Murad Division of the Syrian National Army. He was recruited to go and fight in Artsakh along with 100 other fighters of the Sultan Murad Division.⁶³⁴ During an in-person interview with an Aleppo-NGO researcher in Syria (Afrin), Jalal stated:

I volunteered to go and fight in Azerbaijan because the financial compensation is much higher than what we receive inside Syria. I was offered 12,000 Turkish lira (approximately USD 1,600) to fight in Azerbaijan and another USD 60,000 was promised to my family if I was killed during combat operations.⁶³⁵

From twelve interviews carried out for this report with mercenaries, informants, and family and friends of mercenaries killed in Artsakh, only Jalal, who is of Turkmen origin, noted that, “going to Azerbaijan was a priority for the Syrian Turkmen

⁶³² In-person interview with Ahmed (name changed) on March 23, 2021. Ahmed was a Syrian mercenary who fought in the 2020 NK Conflict and returned to Syria in December 2020, following the signing of the tri-lateral ceasefire declaration between Armenia, Azerbaijan, and Russia on November 9, 2020.

⁶³³ In-person interview with Louay (name changed) in March 2021. Louay was a Syrian mercenary who fought in the 2020 NK Conflict and returned to Syria in December 2020, following the signing of the tri-lateral ceasefire declaration between Armenia, Azerbaijan, and Russia on 9 November 2020.

⁶³⁴ In-person interview with Jalal (name changed) in March 2021. Jalal was a Syrian mercenary who fought in the 2020 NK Conflict because of financial motivation as well as allegiance to Turkey due to his ethnicity as a Turkman in Syria.

⁶³⁵ Ibid.

fighters because Azerbaijan is part of the same nation, and they speak a similar language.” Every other Syrian mercenary or family member of a killed Syrian mercenary cited financial compensation as the primary motivation behind their participation in the 2020 conflict.

This reality is supported by other sources as well. According to the testimony of a mercenary interviewed by STJ, “[The Sultan Murad Division] offered them a monthly salary ranging between USD 1,500 and USD 2,000, determined according to the fighters’ specialty, in addition to compensation of USD 40,000 in the event of death, USD 30,000 in the event of an amputation of a limb and disability, and USD 15,000 in the event of serious injury without amputation.”⁶³⁶

Based on the twelve testimonies obtained for this report, as well as an analysis of at least 30 other testimonies by mercenaries, recruiters, informants, and family members of dead mercenaries reported in international media outlets or documented by Syrian and international watchdog groups, the overwhelming evidence is that recruited Syrian mercenaries were being offered at least USD 1,000 and up to USD 4,000 in monthly salaries, approximately USD 3,500 – USD 15,000 in injury compensation, and between USD 40,000 and USD 75,000 in post-mortem compensation if they were killed while fighting against Armenians during the 2020 conflict. The families of mercenaries killed in combat as well as mercenaries who returned to Syria were compensated in Turkish Liras, despite some of them being promised that they would be compensated in US dollars. Every case documented by Aleppo-NGO involved mercenaries who were paid after their return to Syria, dead or alive, and not prior to deployment. Thus, payment was for combat service.

As to what was explained and expected in combat, consider the following statements. During his in-person interview in Atarib, Louay spoke about the pre-combat expectations of mercenaries and the actual conditions on the battlefield by stating:

Prior to deployment, we were promised that the Azerbaijani air force would carry out the initial aerial attacks against Armenian targets to pave the way for ground infiltrations. At first, we were worried because we were not familiar with the terrain/area and because Muhammad Shaalan, our leader, was killed by an Armenian artillery shell at the beginning of the conflict. Nevertheless, with the support of the Turkish UAVs, we managed to succeed.⁶³⁷

636 “Mercenarism in Syria: Predatory Recruitment and the Enrichment of Criminal Militias” (Washington, D.C: The Syria Justice and Accountability Centre, May 2021), 19, <https://syriaaccountability.org/wp-content/uploads/ENG-Mercenaries.pdf>.

637 In-person interview with Louay (pseudonym) in March 2021. Louay was a Syrian mercenary who fought in the 2020 NK Conflict and returned to Syria in December 2020, following the signing of the tri-lateral cease-fire declaration between Armenia, Azerbaijan, and Russia on 9 November 2020.

Ahmed, another mercenary interviewed by Aleppo-NGO, who was a fighter among the ranks of the Hazm Movement prior to its dissolution in 2015 and was a fighter of the Hamza Division in Artsakh, stated:

The number one instruction we received by Syrian and Azerbaijani commanders was to avoid getting captured at all costs. We were promised that the air force would support us and that we would easily infiltrate into Armenian areas. However, in some of the battles, the distance between our lines and the Armenian ones were very close and the fighting was very intense. The Armenian artillery and rockets caused a lot of injuries and deaths in our ranks at the beginning of the conflict, but eventually we infiltrated into territories occupied by the Armenians with the support of the air force. By the end, I was in Azerbaijan for 70 days but only fought for around 40 days and returned to Syria on December 2, 2020. As I was promised, I received approximately USD 4,000 in compensation upon my return to Syria.⁶³⁸

Ali, another mercenary interviewed by Aleppo-NGO in Atarib, described his experience in Artsakh by stating:

Prior to deployment to Azerbaijan, I had military experience with Faylaq al-Sham. After I was recruited by Muhammad Shaalan to join the Hamza Division to go and fight in Azerbaijan, I was promised USD 1,500 and instructed to strike Armenian armored vehicles and tanks with a rocket-propelled grenade (RPG) supplied to me by Azerbaijan. The fighting was intense at our locations, two were killed but there were no other casualties or major injuries. Following our victory, I returned to Syria in early December 2020 and received the equivalent of USD 3,500 in a few installments.⁶³⁹

During an in-person interview for this report in Afrin, Jalal spoke about the pre-combat expectations of mercenaries and the actual conditions on the battlefield by stating:

Upon deployment we were informed that we should present ourselves as Turkish fighters, not Syrians. I was a member of the Sultan Murad Brigade, and our group consisted of 100 fighters lead by Fahim Eisa. Militarily, Fahim was not very experienced but since I had prior military experience, I didn't care too much. The fighting on the ground was intense and many in our battalion were killed and injured, including me. I was treated at a hospital in Baku prior to my return to Syria. I was compensated an injury fee as well as the salary for 40 days of fighting by the Turkish accountants stationed at Hawar Kilis.⁶⁴⁰

638 In-person interview with Ahmed (name changed) on 23 March 2021. Ahmed was a Syrian mercenary who fought in the 2020 NK Conflict and returned to Syria in December 2020, following the signing of the tri-lateral ceasefire declaration between Armenia, Azerbaijan, and Russia on 9 November 2020.

639 In-person interview with Ali (name changed) in March 2021. Ali was a Syrian mercenary who fought in the 2020 NK Conflict and returned to Syria following the signing of the tri-lateral ceasefire declaration between Armenia, Azerbaijan, and Russia on 9 November 2020.

640 In-person interview with Jalal (name changed) in March 2021. Jalal was a Syrian mercenary who fought in the 2020 NK Conflict because of financial motivation as well as allegiance to Turkey due to his ethnicity as a Turkman in Syria.

Nevertheless, there are also reports of wage theft and incomplete compensation. As late as July 2021, the Syrian Observatory for Human Rights, based in the United Kingdom, reported that, “the majority of Syrian mercenaries still have been asking their leaders to pay their monthly salaries which have been cut after their return from fighting in Libya and the Nagorno Karabakh region.”⁶⁴¹ Although all the mercenaries interviewed for this report confirmed that they were fully compensated in accordance to the terms of the verbal agreements they had with their recruiters, several family members of killed mercenaries complained about the theft of post-mortem compensation. During an in-person interview for this report in Syria (Idlib), Khaled, the brother of one of the mercenaries killed complained about the theft of post-mortem compensation, stating:

I accompanied my brother during negotiations with Abu Khaled Aasharina from the Sultan Suleiman Shah Brigade (al-Amshat). I was designated to receive a post-mortem compensation of USD 60,000 if my brother was killed in combat in Nagorno Karabakh to support his family of nine while his wife was set to receive a monthly compensation of USD 400. Following his death in NK, we only received USD 10,000 in post-mortem compensation and USD 400 in monthly compensation.

On the other hand, B. Razzaq, the relative of Muhammad Shaalan Abdul Razzaq who had helped recruit at least 65 fighters for the Hamza Division and who later was killed during the first few days of the 2020 conflict, confirmed that Muhammad Shaalan’s family received the full post-mortem compensation of USD 60,000, stating: “Muhammad Shaalan’s mother received USD 20,000 and his wife received USD 40,000, but they were paid in Turkish Lira, so they lost some money during the currency exchange.”⁶⁴²

According to a statement made by Omar Mahmoud al-Bom of Macro Media Center (a group that monitors events in northern Syria), “approximately 200 people left Idlib [for Azerbaijan] at one time and the bodies of fifty mercenaries returned through the Hawar Kilis crossing in the northern countryside of Aleppo and were handed over to their families [by October 12, 2020].”⁶⁴³

641 “Syrian Mercenaries Complain | Practices of Turkish Factions Leaders and Proxies in Libya and Azerbaijan Varied from Looting Salaries to Trading Drugs • The Syrian Observatory for Human Rights,” *The Syrian Observatory for Human Rights*, July 28, 2021, <https://www.syriaohr.com/en/220167/>.

642 In-person interview with B. Razzaq (pseudonym) on 27 March 2021, in Atareb. B. Razzaq is a direct relative of Muhammad Shaalan Abdul Razzaq, who helped the Hamza Division recruit at least 65 mercenaries, primarily consisted of residents of Atareb, and was deployed to Azerbaijan in mid-September 2020 before he was killed in combat on 28 or 29 September 2020.

643 Fatima Ashour, “Destitution, Deception Thrust Syrians into the Azerbaijani-Armenian War in Nagorno-Karabakh Region,” *Syria Direct*, October 12, 2020, <https://syriadirect.org/destitution-deception-thrust-syrians-into-the-azerbaijani-armenian-war-in-nagorno-karabakh-region/>; Malachy Browne et al., “A Civilian Camp in Syria Was Bombed. Here’s How We Traced the Culprit.,” *The New York Times*, December 1, 2019, sec. Reader Center, <https://www.nytimes.com/2019/12/01/reader-center/syria-russia-bombing-video-investigation.html>.

With regard to another compensation case, during a phone interview an informant based in Idlib in March 2021, explained that he was trying to help a family receive full payment for the promised post-mortem compensation of a Syrian mercenary: “Mohammed’s body was returned to his family at Atma camp. I attended his funeral and know that the corpses of ten other mercenaries were also delivered to families at Atma camp in Idlib.”⁶⁴⁴ Although Mohammed’s wife was promised to receive a USD 50,000 compensation if he was killed in combat in Artsakh, at the time of writing, she had only received USD 1,400 from the residual amount of his salary and another 60,000 Turkish Liras (approximately USD 6,900) in post-mortem compensation. At the time of the interview, the informant was trying to mediate between Mohammed’s wife and Abu-Amsha to help her receive the remaining USD 40,000 plus in post-mortem compensation.

Thus, the evidence clearly shows that Syrian irregular fighters were mercenaries recruited, transferred, and deployed with the expectation of combat in exchange for private gain, principally wages and assurances of post-mortem or other payments, and that such payments were generally honored and paid for the combat services rendered and/or combat related deaths.



Figure 14.9. *The Atme camp for internally displaced Syrians is located near the Turkish border in the northwestern province of Idlib. Almost one million internally displaced persons live in this camp, 2020 (Source: AFP).*

⁶⁴⁴ Phone interview with A. Ali (name changed) on 21 March 2021. A. Ali is based in Idlib and often works as a contractor for armed groups based in Idlib.

Libya: Turkey's Prior Use of Mercenaries and Its Denial

Turkey's recruitment and transfer of Syrian mercenaries to Azerbaijan for deployment in combat against the Armenians of Artsakh, as evidenced above, is a credible and well-supported fact despite denial by Turkey and Azerbaijan. This conclusion is bolstered by Turkey's prior use of Syrian mercenaries in Libya and its continuing denial.

In the context of Libya, on 27 November 2019, Turkey signed two Memorandums of Understandings (MoU) with the Government of National Accord of Libya, one on military cooperation and another on maritime boundaries of countries in the Eastern Mediterranean.⁶⁴⁵ In December 2019, reports from Syria started circulating about Turkey's recruitment and deployment of Syrian mercenaries to Libya to fight alongside the Turkish backed Government of National Accord in Tripoli. On 17 January 2020, Turkey's foreign affairs minister, Mevlut Cavusoglu, denied allegations that the Turkish government was providing citizenship or offering compensation to Syrian mercenaries in exchange for fighting in Libya, stating, "these allegations are completely false."⁶⁴⁶ However, evidence shows these denials are false. In fact, in February 2020, President Erdogan finally admitted that Pro-Turkish Syrian mercenaries were deployed to fight in Libya by stating: "Turkey is there with a training force. There are also people from the Syrian National Army."⁶⁴⁷

Furthermore, in the first quarterly report on "North, East and West Africa Counterterrorism Operations" (January-March 2020), released by the US Department of Defense, Mr. Sean W. O'Donnell, the Lead Inspector General, reported to the United States Congress that Turkey had sent 3,500 and Syrian fighters to Libya during the first three months of 2020 and an additional 300 fighters in April 2020.⁶⁴⁸ Moreover, in February 2020, in an interview with the Associated Press, Mr. Rami Abdurrahman, the director of the Britain-based Syrian Observatory for Human Rights which has reliable sources on the ground in Syria, estimated that

645 Waleed Abdullah, "Libya's GNA Activates Security Deal with Turkey," *Anadolu Agency*, December 19, 2019, <https://www.aa.com.tr/en/africa/libyas-gna-activates-security-deal-with-turkey/1678715>.

646 "Cavusoglu Denies Granting Turkish Citizenship to Syrians in Exchange for Fighting in Libya," *Middle East Monitor*, January 17, 2020, <https://www.middleeastmonitor.com/20200117-cavusoglu-denies-granting-turkish-citizenship-to-syrians-in-exchange-for-fighting-in-libya/>.

647 Haftar Khalifa, "Turkey's Erdogan Confirms Sending Syrian Fighters to Libya," *Al Jazeera*, February 21, 2020, <https://www.aljazeera.com/news/2020/2/21/turkeys-erdogan-confirms-sending-syrian-fighters-to-libya>.

648 "Lead Inspector General for East Africa and North and West Africa Counterterrorism Operations | Quarterly Report to the United States Congress | January 1, 2020 - March 31, 2020" (United States Department of Defense Office of Inspector General, July 16, 2020), https://www.stateoig.gov/system/files/q2fy2020_leadig_ea_nw_africa_cto.pdf.

Turkey had deployed more than 4,700 Syrian mercenaries to Libya during the first quarter of 2020, including 130 former fighters of the Islamic State or Al-Qaeda.⁶⁴⁹ Since then, the Syrian Observatory for Human Rights has reported that more than 18,000 Syrian mercenaries were deployed by Turkey to Libya before the cessation of hostilities in Libya and the signing of a ceasefire agreement in October 2020.⁶⁵⁰

As for denials related to Artsakh, on October 10, 2020, at the height of the 44-Day War, a leader of the Syrian National Army, Ziad Haj Aabiid, told Al-Hurrah that:

Turkey has not organized the transfer of Syrian fighters to Azerbaijan to fight against Armenia because the situation [in Nagorno Karabakh] was different from Libya... It is possible that there are private Turkish military contractors which are transferring Syrians to Azerbaijan to fight but that has nothing to do with the official position of the Syrian National Army.⁶⁵¹

Instead of a denial, this statement rather acts as an admission to an exchange of combat for private gain. Furthermore, it is obvious that transport through Turkey could not have been achieved without permission from the State. Thus, the denial only exposes how systemic the process for the use of mercenaries is.

Evidence of a systemic process only adds to the insurmountable evidence that links Turkey to the use of Syrian mercenaries in both of these conflicts, including the use of Turkish and Azeri military uniforms, Turkish weaponry and armored vehicles, Turkish airbases and airports, and Turkish currency as means for compensation.

Combat Proxies, War Crimes & Ethnic Cleansing in Northwestern Syria: Turkey's Bad Practice Exported to the Caucasus

As explained in the Context and Racism sections of this report, Turkey under Erdogan pursues Pan-Turkism, and uses Pan-Islamist rhetoric to mobilize Islamist agents against non-Turks in Anatolia -- and now in the Caucasus. As discussed

649 Sam Magdy, "Turkey Deploys Extremists to Libya, Local Militias Say," *AP News*, February 5, 2020, sec. Civil wars, <https://apnews.com/article/civil-wars-united-nations-islamic-state-group-syria-turkey-91feba2d-2b530e471721b2dc285e69bf>.

650 "After Transferring over 18,000 Syrian 'Mercenaries' to Libya to Serve Turkey's Regional Interests | Turkish Authorities Arrest Libyan, as He Tries to Enter Turkish Territory Illegally · The Syrian Observatory for Human Rights," *The Syrian Observatory for Human Rights*, February 17, 2021, <https://www.syriaahr.com/en/205372/>; "Libya Rivals Sign Ceasefire Deal in Geneva," *BBC News*, October 23, 2020, sec. Africa, <https://www.bbc.com/news/world-africa-54660039>.

651 @alhurraneews, "ترحال_دهاش# ناجي ببردأو اي نيمرا نيب برحلل ني يروسلا ايكرت لاسرا قيقح - يروس يكحل," *Twitter*, October 10, 2020, <https://twitter.com/alhurraneews/status/1314702180394430471>.

below, Turkey's military activities in Northern Syria, its support and influence in the creation of the Syrian National Army (SNA), and the resulting ethnic cleansing of Kurds, Armenians, and others, from Northwestern Syria, while deploying religious extremists as allies in this task, is a method to evade State responsibility while advancing Pan-Turkism. Recruiting and sending mercenaries (many from the SNA ranks) to Azerbaijan to fight against the Armenians of Artsakh is an expansion of this bad practice.

As background, since 2016 Turkey has carried out several military operations in Northern Syria: Operation Euphrates Shield (August 2016 – March 2017), Operation Olive Branch (January 2018 – March 2018), Operation Peace Spring (9 October – 17 October 2019), and Operation Spring Shield (27 February – 6 March 2020). This last operation established the so-called “buffer zone” and the *de facto* Turkish occupation of Northwestern Syria.

It was at the conclusion of Operation Euphrates Shield in 2017, and in an attempt to whitewash the war crimes and crimes against humanity perpetrated by various factions of the Free Syrian Army (including the kidnapping and torture of Armenians in Syria⁶⁵² and the indiscriminate shelling of Armenian neighborhoods in Aleppo)⁶⁵³ that Erdogan facilitated the creation of the Syrian National Army (SNA). In December 2017, most of the radical factions of the Free Syrian Army, as well as other extremist groups, were rebranded and incorporated under the umbrella name of the Syrian National Army, now comprised of at least 30 militant factions and approximately 22,000 fighters, trained and equipped by the Turkish government.

During its military operations, and with clear Turkish backing, the SNA has blatantly engaged in war crimes against civilians, including indiscriminate shelling of civilians and civilian targets, looting,⁶⁵⁴ property expropriation, forced displacement and demographic modification,⁶⁵⁵ summary executions,⁶⁵⁶ rape, kidnapping and torture, and the use of illegal weapons such as white phosphorous against

652 Sarkis Balkhian, “45 Days in Hell: Syrian Armenians Kidnapped and Tortured by FSA,” *The Armenian Weekly*, June 17, 2014, <https://armenianweekly.com/2014/06/17/hell/>.

653 Sarkis Balkhian, “When Even ‘Terrorists’ Acknowledge Their Crimes,” *The Armenian Weekly*, March 21, 2014, <https://armenianweekly.com/2014/03/21/when-even-terrorists-acknowledge-their-crimes/>.

654 “Syria: Turkey Must Stop Serious Violations by Allied Groups and Its Own Forces in Afrin,” *Amnesty International*, August 2, 2018, <https://www.amnesty.org/en/latest/news/2018/08/syria-turkey-must-stop-serious-violations-by-allied-groups-and-its-own-forces-in-afrin/>.

655 “Prior Turkish Operations Forebode New Offenses in Northeast Syria,” *Syria Justice and Accountability Centre*, October 24, 2019, <http://syriaaccountability.org/updates/2019/10/24/prior-turkish-operations-forebode-new-offenses-in-northeast-syria/>.

656 “Turkey May Be ‘responsible’ for Executions of Kurds in Syria: UN,” *France 24*, October 15, 2019, <https://www.france24.com/en/20191015-turkey-may-be-responsible-for-executions-of-kurds-in-syria-un>.

civilians.⁶⁵⁷ More specifically, during Operation Olive Branch in the Afrin district of the Aleppo governorate, in 2018, the SNA was responsible for killing more than 350 civilians, including 55 children and 36 women,⁶⁵⁸ displacing more than 150,000 people⁶⁵⁹ and seizing and looting their properties.⁶⁶⁰ Among those killed and displaced by the Turkish-backed SNA were Kurds, Arabs, as well as Armenians.⁶⁶¹ Also, SNA received direct Turkish military support, and according to a September 2018 report submitted to the UN Human Rights Council by the Independent International Commission of Inquiry on the Syrian Arab Republic:

The Turkish air force launched attacks on 22 February, at approximately 8:30 p.m., against a convoy of buses, minibuses and cars carrying hundreds of demonstrators through Jabal al-Alham, near Basuta village...Witnesses detailed how the convoy had sought to bring food and medical supplies to Afrin; upon reviewing a substantial body of evidence, the Commission notes that the convoy comprised of activists, nurses and a doctor, as well as demonstrators, including women and children.⁶⁶²

This pattern of Turkish military and SNA war crimes repeated in October 2019, following Trump's decision to withdraw the U.S. Armed Forces from northern Syria,⁶⁶³ when Erdogan launched an offensive, under the moniker Operation Peace Spring, towards the northeast of Syria. This nine-day operation was carried out by the Turkish military and the SNA, which included the Hamza and Sultan Murad Divisions along with extremist groups such as Ahrar al-Sham, Faylaq al-Sham, Ahrar al-Sharqya (which includes former fighters of the Syrian branch of al-Qaeda known as al-Nusra Front) and other factions of the armed opposition involved in the Syrian Conflict.

657 Lara Seligman, "Turkish Proxies Appear to Be Using White Phosphorus in Syria," *Foreign Policy*, October 17, 2019, <https://foreignpolicy.com/2019/10/17/turkish-proxies-chemical-weapons-syria-kurds/>.

658 "On the Eve of Nowruz Festivals...Afrin Witnesses Arrests against Its Residents by the Factions of 'Olive Branch' on Charge of Celebrating and Setting Fire in the Festival's Anniversary · The Syrian Observatory for Human Rights," *The Syrian Observatory for Human Rights*, March 21, 2019, <https://www.syriahr.com/en/121535/>.

659 "UNHCR - Syria Factsheet (January - November 2018)" (United Nations High Commissioner for Refugees, December 31, 2018), <https://reliefweb.int/report/syrian-arab-republic/unhcr-syria-factsheet-january-november-2018>.

660 Hannes Baumann, ed., *Reclaiming Home: The Struggle for Socially Just Housing, Land and Property Rights in Syria, Iraq and Libya* (Friedrich-Ebert-Stiftung, 2019), <http://library.fes.de/pdf-files/bueros/tunesien/15664.pdf>.

661 "Turkish Shelling Destroys 3,000-Year-Old Temple in Afrin; Armenian Possibly Killed as Offensive Continues," *The Armenian Weekly*, January 29, 2018, <https://armenianweekly.com/2018/01/29/turkish-shelling-continues-in-afrin/>.

662 "Report of the Independent International Commission of Inquiry on the Syrian Arab Republic" (Office of the United Nations High Commissioner for Human Rights, August 9, 2018), 6, <https://www.ohchr.org/en/documents/country-reports/ahrc3965-report-independent-international-commission-inquiry-syrian-arab>.

663 Eric Schmitt, Maggie Haberman, and Edward Wong, "President Endorses Turkish Military Operation in Syria, Shifting U.S. Policy," *The New York Times*, October 7, 2019, sec. U.S., <https://www.nytimes.com/2019/10/07/us/politics/trump-turkey-syria.html>.

According to an Amnesty International (AI) investigation, the Turkish military forces and the Syrian National Army “displayed a shameful disregard for civilian life, carrying out serious violations and war crimes, including summary killings and unlawful attacks that killed and injured civilians” during Operation Peace Spring.⁶⁶⁴ Amnesty International’s investigation also revealed “indiscriminate attacks in residential areas, including attacks on a home, a bakery and a school, [as well as] summary killing in cold blood of a prominent Syrian-Kurdish female politician, Hevrin Khalaf.”⁶⁶⁵ By the end of the operation, on October 17, 2019, almost 300,000 people had been displaced from their homes.⁶⁶⁶

Amongst those displaced in this operation were at least eight Armenian families living near the Mrekees village around Ras al-Ayn. In May 2021, in-person interviews were conducted with three members of three separate Armenian families displaced as a result of Operation Peace Spring, who are now living in Armenia.

I.H., an Armenian displaced from the village of Mrekees in the Hasakah governorate, said: “I was born in Ras al-Ayn in Syria in 1979. My grandfather had moved to Syria from Turkey as a result of the Armenian Genocide. Life in Syria was great prior to the conflict. Our village consisted of twelve or thirteen families, eight Armenian and four Kurdish. In fact, the four Kurdish families were of Armenian origin as well.”⁶⁶⁷

As to the military operations, one of the witnesses reported the following:

Our neighbor rushed to our home at around 9:00 pm at night to inform us that a Turkish military plane had struck a home and other civilian targets in a nearby village, approximately 10-15 km away from our village. At first, we contemplated staying with the hopes that the Kurdish forces can push the ‘Dawaesh’⁶⁶⁸ back, but at around 1:00 am at night we started hearing the sounds of Turkish aircrafts flying over our heads. We knew that it was the Turkish Air Force because neither the Kurdish forces nor the Dawaesh had an air force. Thirty minutes later we heard the sound of an air-strike from the plane in a nearby location, so we quickly gathered our belongings and escaped towards Hasakah city to save the lives of our children.⁶⁶⁹

664 “Syria: Damning Evidence of War Crimes by Turkish Forces and Allies in Syria” (Amnesty International, October 18, 2019), <https://www.amnesty.org/en/latest/news/2019/10/syria-damning-evidence-of-war-crimes-and-other-violations-by-turkish-forces-and-their-allies/>.

665 ABC News In-depth, “Who Killed ‘the Jasmine of Syria’? | Foreign Correspondent,” March 10, 2020, YouTube video, <https://www.youtube.com/watch?v=ITNE9L3jCDA>.

666 See:

667 An interview with I.H. was initially conducted on 18 December 2019, upon her arrival to Yerevan-Armenia. A follow-up interview was conducted on 5 May 2021, for the purposed of this report.

668 “Dawaesh” in Arabic is the plural of “Daesh”, which is the term used to describe ISIS fighters. In Syria, many civilians who witness attacks refer to all factions of the Syrian military opposition as either “Free Army”, i.e., Free Syrian Army, “ISIS”, or Al-Nusra.

669 Interview with an Armenian resident of the Hasakah Governorate, Syria.



Figure 14.10. I.H.'s home in Mrekees, which was looted by SNA fighters after entering the village, 2020 (Source: private). The exterior walls of the house were vandalized with graffiti.

According to the testimonies of all three witnesses, and photos they received via WhatsApp from their Arab friends and residents of nearby villages who remained in the area after SNA's takeover of Ras al-Ayn, the SNA fighters started looting the homes of Armenians and Kurds as soon as they entered into their villages. This shows how Turkish military support, in combination with religious extremists legitimized as the SNA, along with a history of war crimes against civilians, effectively ethnically cleansed non-Turks and moderate Arab Muslims from the region. A review of such events as these in Syria makes it clear that the failure of local, regional and international authorities to prosecute perpetrators of human rights violations and war crimes in Syria has created a sense of impunity, which in turn has emboldened the Turkish-backed SNA and its factions (armed groups like Faylaq al-Sham, Faylaq al-Majd, Hamza Division, Sultan Suleiman Shah Brigade and Sultan Murad Division). The result is mercenarism in Libya and against the Armenians of Artsakh.

For example, Sayf Balud (also known as Sayf Abu Bakr), the commander of the Hamza Division, was purportedly a former member of the Islamic State (IS). Ahmed and Louay, two mercenaries recruited by the Hamza Division and interviewed by Aleppo-NGO for this report, confirmed the presence of Sayf Balud in Azerbaijan and his direct involvement in combat against the Armenians of Artsakh. In a report published by the Jamestown Foundation, Nicholas Heras, a former Senior Analyst at the Jamestown Foundation and Fellow at the Center for a New American Security (CNAS), working in the Middle East Security Program, states:

Sometime in late 2013, when Islamic State (IS) began to emerge as a powerful actor in the region of al-Bab, Sayf Abu Bakr and members of his family mobilized a group of fighters that then joined IS. He subsequently became an important aide to the IS chief responsible for al-Bab and the surrounding region. Sayf Abu Bakr's responsibilities reportedly included serving as the liaison between IS and other armed opposition organizations in the region of al-Bab, and facilitating arms transfers to IS. Although it is unclear if Sayf Abu Bakr joined IS out of a sense of personal support for the organization's ideology and goals, or for financial reasons, during his time working with IS the group consolidated its power and control over al-Bab and incorporated the region into its Caliphate. Sayf Abu Bakr's responsibilities for IS during that period significantly contributed to the consolidation of IS's influence and authority in the region of al-Bab. He reportedly continued in this role until sometime in the middle of 2014, at which point he and members of his family are believed to have defected from IS and fled for a time to Turkey. It is also rumored that at some point in his work with IS, between 2013-2014, he became an asset for Turkish intelligence through the Syrian armed opposition.⁶⁷⁰

Additionally, Obaid — a witness interviewed for this report — admitted that his brother, a Syrian mercenary who fought against the Armenians of Artsakh, was formerly of the IS. He stated: "My brother joined the Islamic State (ISIS) in 2014 when Daesh took over the town of Uqayribat but left the group a year later when he moved to Kelly Camp in Idlib."⁶⁷¹ Obaid's brother, recruited by the Turkish-backed al-Amshat (Sultan Suleiman Shah) division, was trained for 10-days on how to use a Russian sniper rifle before fighting against the Armenians of Artsakh.

Furthermore, an interview conducted for this report with an informant based in Idlib revealed that several former members of the al-Nusra Front and other extremist groups were recruited by the leaders of Sultan Murad, the Hamza Division and Faylak al-Sham to go and fight in Artsakh. They were offered higher salaries compared to Syrians recruited from refugee camps due to their prior military experience.

Thus, Turkey's bad practice of utilizing both proxy fighters and mercenaries, providing both financial and military combat support, while ignoring prohibitions against war crimes, and allowing for a culture of impunity, has served Turkey's interests. The threat of war crimes clears out populations, resulting in Turkey's "buffer zone," which is ethnically cleansed of non-Turks and moderate Arabs, leaving only pro-Turkish radicals. And in all of this, Turkey evades State responsibility. With the recruitment, transfer, and deployment of mercenaries such as these, this bad practice was transported to the Caucasus.

670 "Militant Leadership Monitor: Personalities Behind the Insurgency" (Jamestown Foundation, November 2018), 12, https://jamestown.org/wp-content/uploads/2018/12/November-2018_MLM.pdf.

671 In-person interview with Obaid (name changed) on 29 March 2021. Obaid is the brother of a Syrian mercenary who fought in the 2020 NK Conflict and was killed during combat. Obaid's brother's family were promised USD 60,000 in post-mortem compensation but had only received USD 10,000 at time of the interview.

The evidence shows that in a coordinated effort, Turkey and Azerbaijan recruited, transferred, trained, and deployed Syrian fighters — some financially desperate and some from the ranks of the disreputable SNA and its factions — to fight against the Armenians of Artsakh in exchange for private gain, including wages and promises of post-mortem and other compensation. While written contracts may not have been the norm, those deployed, or their designated survivors, received compensation in exchange for their combat. The legal definitions for mercenaries are met. Moreover, this practice mirrored Turkey's past practices with mercenaries in Libya, as it pertains to transportation, training, providing combat uniforms and equipment, and supporting combat operations. All of this is also confirmed by photo and video evidence. Moreover, impunity for war crimes and a reputation for war crimes appears to enhance other objectives, specifically cleansing areas of local civilian populations. This was also achieved in Artsakh. Thus, a complex system of proxy fighters and mercenaries proves state responsibility despite the utilization of intermediaries.

Leaked List of Some Syrian Mercenaries Sent to Azerbaijan to Fight in the 2020 Conflict in Artsakh (English Translation)

#	Name of Mercenary	Mother's Name	Year of Birth
1	Shaalán Mari Khalil	Shawq	1976
2	Abdullah Subhi Hamadeh	Amina	1984
3	Muhammad Abdul Rahman Kabi	Rose	1983
4	Mustafa Khaled al-Deek	Angham	1999
5	Faisal Muhammad al-Ahmad	Sourya	1988
6	Khaled Waheed Al-Jumaa	Amoun	1997
7	Hasan Muhammad Sagheer	Sakina	1980
8	Yazin Walid Othman	Fatima	1997
9	Ali Muhammad Dawalibi	Fatima	1998
10	Mustafa Muhammad al-Quddur	Manar	1999
11	Ahmed Shehadi Shreidi	Shamsa	1988
12	Sami Muhammad Ghandour	Izdihar	1998
13	Hussein Abdul Khaleq Hassoun	Fatima	1998
14	Muhammad Ibrahim Jum'a	Hala Aref	1994

15	Khaled Walid al-Rahmoun	Subhiya	1992
16	Samer Abdel Aziz Shobak	Amal	1994
17	Yamen Walid Abdin	Amna	1996
18	Najm Nimer al-Khalil	Sukra	1980
19	Adel Abdul Rahman al-Omar	Mahdia	1994
20	Abdullah Zahr Al-Din Agini	Jamila	1994
21	Abdulaziz Muhammad Kabi	Dibah	1980
22	Ahmed Abdel-Nasser Maher	Mona	1999
23	Ali Abdul-Khaliq Hassoun	Fatima	1997
24	Ahmed Faisal al-Ibrahim	Bahija	1999
25	Muhammad Ahmad Bzamani	Ayyouch	1992
26	Abdullah Hassan Shobak	Hamida	1985
27	Khaled Mustafa Abras	Maryam	1984
28	Ahmad Imad Bazara	Hana'a	1997
29	Hassan Kamel al-Aqdi	Aisha	1998
30	Abdullah Abdel Aziz Shobak	Amal	1997
31	Ezz El Din Khader Shaker	Maryam	1997
32	Hammoud Ibrahim Hammoud	Jamila	1998
33	Yasser Abdul Latif Abdul Qadir	Amina	1994
34	Obaidah Abd al-Rahman Nasir	Fatima	1999
35	Nader Musa Faris	Nabih	1988
36	Ibrahim Mustafa Hamadeh	Ibtisam	1998
37	Barakat Muhammad Muhsin Ham- mash	Shukria	1998
38	Basil Omar Mustafa	Fatima	1997
39	Youssef Ibrahim Jamal	Mouine	1991
40	Jihad Al-Ahmad Al-Hamwi	Nadia	-
41	Musab Hassan al-Hassan	Ghazala	1992
42	Azou Mahmoud al-Yusef	Ammouna	1998

Illegal Means and Methods

Targeted Attacks by UAVs

“We were turning the lights off at night, we covered windows with black plastic bags to make the inside light invisible; the UAV was flying over all night long, we were saying, ‘they will strike soon, and we cannot escape.’”

- Andranik Harutyunyan from Havsatagh village⁶⁷²

- *“The unmanned aerial vehicles were constantly over the city, taking pictures and striking, taking pictures and striking. They were not content with a single impact but were falling like hail. The house was rumbling from these attacks. I will not be able to get out of this shock.”*

- Armine (name changed) from Hadrut⁶⁷³

Military aggression against the Republic of Artsakh was well preplanned by the Republic of Azerbaijan, with the direct support of the military leadership of the Republic of Turkey. The reliable testimonies of witnesses verified by the Fact-Finding Group, statements and reports of human rights organizations and journalistic investigations on the chronology of strikes, targets and directions of attacks, weapons, and methods used throughout the conflict prove this.

On 27 September 2020, early Sunday morning, attacks were concomitantly carried out in several directions against Hadrut, Martuni and Martakert districts as well as the capital of Stepanakert, using artillery and combat UAVs. Initially, the air defense system and residential areas near the line of contact between Artsakh and Azerbaijan’s armed forces were attacked. The first strikes of the Azerbaijani Armed Forces in the direction of residential areas of Artsakh took place around 6:50-7:30 a.m., when children, women, elderly people and other civilians were still sleeping, without any advance effective preventive measures. This gives strong reason to believe that this was done in order to intimidate the civilian population, cause panic, and force them to leave their homes.

According to open sources, before the war Azerbaijan sufficiently supplied its arsenal with Turkish and Israeli drones. Drones are unmanned, remotely directed weapons platforms. The term is most commonly used to refer to unmanned

⁶⁷² Interview with Andranik, a resident of Havsatagh, 1 December 2020.

⁶⁷³ Interview with Armine, a reside of Hadrut, 16 January 2021.

aerial vehicles (UAVs), although terrestrial and maritime drones also exist. Aerial drones consist of unmanned aircrafts (i.e., they can be deployed without a pilot or passenger aboard), which operate either under remote control by a human operator, or autonomously. Drones are used to perform different functions including reconnaissance, surveillance and also to conduct attacks.⁶⁷⁴ Azerbaijan also reportedly modified its Soviet-era An-2 Colt biplanes with remote-control systems, flying them to the front lines to draw out Armenian air defenses.⁶⁷⁵ During the summer of 2020, on the eve of the conflict, Azerbaijan purchased Bayraktar TB2 UAVs from Turkey; some estimate approximately two dozen.⁶⁷⁶

The Fact-Finding Group has collected many convincing testimonies from residents of different districts of Artsakh about the use of UAVs to search, capture, track and destroy civilian objects, infrastructure, and residential areas, as well as spread fear among the civilian population.

For example, the Fact-Finding Group interviewed Arina Sargsyan, a resident of Shushi, who had seen many UAVs over the city and heard the very first sounds of war. Arina remembers that air defense units had been under attack since September 27th, around 7:15 am. “There are several so-called radars, they were struck, and we woke up from that sound and saw many UAVs,” stated Sargsyan. They depict the UAV sound as a “dzzz, like bee buzzing.”⁶⁷⁷ Arina mentioned that on October 27th a missile struck a store 100 meters from their house, and the impact also damaged the windows of their house. On October 29th, when Arina went home to pack her belongings, she found the entrance door ripped off, the ceiling destroyed and the gates damaged. She quickly grabbed her things and left. At the end of October, another strike near the house completely destroyed the windows of the home. Arina did not see the impact as she was in the shelter, but she saw the devastated house when she went to retrieve documents.

The Fact-Finding Group also interviewed a resident of Hadrut, Armine Mayilyan, who reported that UAVs were permanently deployed during the war. “Initially, they struck military objectives: military staff, units, communication stations, etc.; then they also indiscriminately shelled civilian infrastructure and residential buildings

674 “Drones | How Does Law Protect in War? - Online Casebook,” International Committee of the Red Cross, accessed April 7, 2022, <https://casebook.icrc.org/glossary/drones-0>.

675 Shaan Shaikh and Wes Rumbaugh, “The Air and Missile War in Nagorno-Karabakh: Lessons for the Future of Strike and Defense” (Center for Strategic and International Studies, December 8, 2020), <https://www.csis.org/analysis/air-and-missile-war-nagorno-karabakh-lessons-future-strike-and-defense>.

676 Dan Sabbagh, “UK Wants New Drones in Wake of Azerbaijan Military Success,” *The Guardian*, December 29, 2020, sec. World news, <https://www.theguardian.com/world/2020/dec/29/uk-defence-secretary-hails-azerbaijans-use-of-drones-in-conflict>.

677 Interview with Arina Sargsyan, a resident of Shushi, 15 December 2020.

in different directions.”⁶⁷⁸ Armine said: “this was the first time when the UAVs were deployed in Hadrut’s airspace; in 2016, for instance, it never happened.”

Additionally, Hermine Hovhannisyanyan from Karintak village remembers:

the first couple of days we did not go down to the basement thinking nothing will happen; then we saw those UAVs, which I would say had squawking sounds you could hear even inside our house. There was a moment when they were flying very low, and we thought they were just about to hit.⁶⁷⁹

In Martakert, the mayor Misha Gyurjyan saw UVAs, some flying very close, or heard their sound: “The sound was coming, you are hearing the motor, then you saw that it already struck somewhere. We were hiding, running and hiding, whenever we heard the sound.”⁶⁸⁰

The Fact-Finding Group also interviewed residents from Shahumyan region; out of thirty-four interviewed, seventeen spoke about UAVs and three about airplanes.

Andranik Harutyunyan testified that there was almost no fighting in Shahumyan district; houses were not damaged as the population peacefully abandoned their homes. “Mainly the drones were in the air, seven or eight a day were passing over my head. They were making us afraid with drones, every minute you think that it will hit you,” he said.⁶⁸¹

Considering that it was not possible to discover from the testimony which drones were used by Azerbaijan in Artsakh, the Fact-Finding Group appealed to the Prosecutor’s Office of the Republic of Artsakh with a request to provide information on the UAVs used.

According to information provided by the Republic of Artsakh’s Prosecutor’s office, the following UAVs were deployed: Azerbaijan-made “ZARBA-1K” combat UAVs and “YARASA” surveillance UAVs, Israeli-made “Orbiter-2” and “Orbiter-3” surveillance UAVs, “SEARCHER-2” surveillance UAVs, “SKYSTRIKER” combat UAVs, “HERON-1” surveillance UAVs and “HAROP” combat UAVs, as well as Turkish-made “BAYRAKTAR TB2” surveillance and combat UAVs, and “ANKA-S” surveillance and combat UAVs. The “BAYRAKTAR TB2” type tactical UAVs are equipped with Canadian-made WESCAM CMX 15D video cameras. According to the Prosecutor’s office, the civilian objects and infrastructure were mainly damaged by combat and

⁶⁷⁸ Interview with Armine Mayilyan, a resident of Hadrut, 2 December 2020.

⁶⁷⁹ Interview with Hermine Hovhannisyanyan, a resident of Karintak village, 25 November 2020.

⁶⁸⁰ Interview with Misha, a resident of Martakert, 18 December 2020.

⁶⁸¹ Interview with Andranik, a resident of Shahumyan, 1 December 2020.

surveillance UAVs, kamikaze UAVs, remote controlled missiles, SMERCH multiple launch rocket systems, “LORA” theater quasi-ballistic missile systems, and Belarus-made “Polonez” MLRS.

It is noteworthy that during the initial stage of the war, residential areas far from the frontline were targeted and struck by long-range missiles and UAVs only, while at a later stage small cannons were also deployed.

Most importantly, the active use of UAVs from the first hours of the attack on the Republic of Artsakh was confirmed by the Azerbaijani authorities. On September 27th, the Azerbaijan Ministry of Defense informed that twelve air defense units were neutralized. On October 5th, the president Ilham Aliyev announced that Azerbaijan had Turkish unmanned combat aerial vehicles.⁶⁸² Aliyev also stated that Azerbaijan had a sufficient quantity of UAVs to achieve its goals without revealing the actual number of drones.⁶⁸³ Analysts say that Azerbaijan used UAVs to find targets, and used combat UAVs, or kamikaze drones, to destroy them.⁶⁸⁴

Local Armenian experts have also documented the use of Turkish aircraft and UAVs by Azerbaijan. Gevorg Simonyan, the Technical Director of Armaeronavigation, says that Turkish “Bayraktar” surveillance drones were spotted near the Republic of Armenia border on September 27th. According to a Defense Army representative, “Bayraktar” drones hovering in Artsakh airspace can transfer target coordinates to the air force command center, and from there attack aircrafts. The experts identified the concerted activity of a “Bayraktar” drone and two aircrafts, as well as spotted aircraft with Turkish markings in Azeri air space during this time.⁶⁸⁵

In April of 2021, the Minister of Foreign Affairs of Canada, Marc Garneau, announced the cancellation of export permits for military goods and technology to Turkey, as credible evidence was found that Canadian technology exported to Turkey was being used by Azerbaijan in the military conflict in Artsakh.⁶⁸⁶ Canada suspended twenty-five export permits for military goods and technology to Turkey last Oc-

682 Ragip Soylu (@ragipsoylu), “NEW — Azerbaijan acknowledges for the first time that it uses Turkish drones to hit Armenia,” Twitter, October 5, 2020, <https://twitter.com/ragipsoylu/status/1313100758523555842>.

683 А. Мамедов, “Азербайджан Дронами Уничтожил Военной Техники Армении На \$1 Млрд в Боях в Карабахе - Алиев,” Interfax-Azerbaijan, October 15, 2020, <http://interfax.az/view/816439/ru>.

684 Robyn Dixon, “Azerbaijan’s Drones Owned the Battlefield in Nagorno-Karabakh — and Showed Future of Warfare,” Washington Post, November 11, 2020, https://www.washingtonpost.com/world/europe/nagorno-karabakh-drones-azerbaijan-aremenia/2020/11/11/441bcbd2-193d-11eb-8bda-814ca56e138b_story.html.

685 NEWSAM, “Թուրքական Բայրակքարները Հայաստանի Սահմանին Մոտ Ամեն Օր Հետախուզական Թռիչքների Են Դուրս Գալիս” October 28, 2020, YouTube video, <https://www.youtube.com/watch?v=XhLxu-F5uXc8>.

686 “Statement from Minister Garneau to Announce the Cancellation of Export Permits to Turkey,” Government of Canada, April 12, 2021, <https://www.canada.ca/en/global-affairs/news/2021/04/statement-from-minister-garneauto-announce-the-cancellation-of-export-permits-to-turkey.html>.

tober and four more in November, following reports that Canadian-made optical and target acquisition systems were being used by Azerbaijan in its military offensive against Armenian forces.⁶⁸⁷

According to data released by Reuters, Turkey's military exports to its ally Azerbaijan rose six-fold in 2020, with sales of drones and other military equipment rising to \$77 million in September alone, before fighting broke out over Artsakh.⁶⁸⁸

Regarding the legal regulation of drones, International Humanitarian Law (IHL) in general does not prohibit their use, if the attacker respects the general rules for selection of means and methods of warfare. Peter Maurer, the International Committee of the Red Cross (ICRC) president stated that though drones are not specifically mentioned in weapon treaties or other IHL legal instruments, parties to a conflict, when using drones, must always distinguish between combatants and civilians and between military objectives and civilian objects. They must take all feasible precautions and suspend or cancel an attack, if the expected incidental loss of civilian life, injury to civilians or damage to civilian objects would be excessive in relation to the concrete and direct military advantage anticipated. Peter Maurer also noted that the ICRC is closely monitoring potential psychological impact of drones on human beings.⁶⁸⁹

While drone strikes can be very accurate and should only target a specific military object, the Fact-Finding Group collected cases in which drones used by Azerbaijan hit populated areas where civilians and civilian objects were located, thus violating the principles of proportionality and distinction of IHL. In addition to the cases reported above, the following additional cases connecting UAVs to civilian deaths and injuries were discovered.

Attacks on Civilian Residences

Lesmonia Stepanyan, age 70, was killed in the yard of her house in Hadrut as the result of an attack on her home by a kamikaze drone. Armine Mayilyan from Hadrut told the Fact-Finding Group that she heard the first explosions on September 27th around 7:10 am: "Terrified by the explosions, we ran out in home-wear and went to the forest, where we stayed for several hours before it calmed down. Then we

687 Levon Sevunts, "Canada Cancels Permits for High-Tech Arms Exports to Turkey | CBC News," CBC News, April 13, 2021, <https://www.cbc.ca/news/politics/arms-sales-turkey-canada-1.5984453>.

688 Ece Toksabay, "Turkish Arms Sales to Azerbaijan Surged before Nagorno-Karabakh Fighting," Reuters, October 14, 2020, sec. Middle East & Africa, <https://www.reuters.com/article/armenia-azerbaijan-turkey-arms-int-idUSKBN26Z230>.

689 Peter Maurer, The use of armed drones must comply with laws - ICRC, International Committee of the Red Cross, May 10, 2013, <https://www.icrc.org/en/doc/resources/documents/interview/2013/05-10-drone-weapons-ihl.htm>.

returned home, took some important stuff, passports and other documents, and returned to the forest. We stayed in the forest for three to four days,” she said.⁶⁹⁰ More specifically, Armine recalls: “on September 27th, when we went to the forest for the second time, a few minutes later a UAV dropped a bomb in the yard of our neighbor’s house, killing the neighbor’s wife.” From the forest, Armine called to the neighbor’s son who told them that a bomb fell on their neighborhood, in their yard, and killed his mother. The Fact-Finding Group later received information from the Republic of Artsakh’s General Prosecutor’s Office which proved the use of kamikaze drones against civilians.

The Fact-Finding Group has also documented UAV use in the civilian populated area of Aknaghbyur village in the Hadrut district. On September 27th, Julietta Gasparyan was in Aknaghbyur village with her mother. She reported that the village was shelled from the very first day of the war, and bombs mainly fell on its upper and lower parts. In addition, the shelling was regular with the use of various weapons. She also identified incidents of airstrikes and UAVs permanently flying in the skies. Julietta Gasparyan said that no military objects were located in the village, and also stated that in her view, these attacks had the primary purpose of emptying the village of residents.

Another witness from Aknaghbyur village is Ivan Hovsepyan. On September 27th, Ivan, his wife and their four children were in Aknaghbyur. Around 8:00 am, he noticed UAVs and saw explosions in different locations. He reported that they left the village after Aknaghbyur was shelled on October 11 and 12th:

After a couple of days, they started striking animals, fields; the aircraft was carrying and dropping bombs, one of the biggest bombs...it was falling into a pit, destroying, wrecking ... demolishing, pulling off doors. In our house, only the windows and frames were broken ... different bombs were used ... probably a howitzer projectile fell in our yard.⁶⁹¹

In Ivan’s opinion, the goal was to terrorize the civilian population so that they will leave the village, because no military object was located there.

Attacks on Civilian Vehicles

The Fact-Finding Group also established that on September 27th, a civilian car was attacked by a UAV on the Martakert-Drmbon, road injuring five civilians, including two minors. The Fact-Finding Group was able to interview three eyewitnesses and one victim.

690 Interview with Armine, a resident of Hadrut, 2 December 2020.

691 Interview with Ivan, a resident of Hadrut, 2 February 2021.

One witness was Julieta Ishkhanyan, who relayed her story:

It was 27 September 2020, 7:00 am, and obviously we all were sleeping; it was Sunday. We jumped out of bed, and saw that the situation is dire; we were calling each other to understand what happened. I woke the children; it was clear that one after the other they all will come at our house. The first two projectiles fell close by, on the house of my niece (the daughter of my brother-in-law), Ani Petrosyan. We moved out on the 27th. They shelled the city from the beginning, there was no room to wait. It was a miracle that people escaped by that road because any second it [a projectile] could fall on your car. We were thirteen people, the families of my two brothers, my mother-in-law and father-in-law.⁶⁹²

Julieta Ishkhanyan also reported that the car in front of them as they fled was hit by an UAV. She says:

... one of the children in the car was seriously wounded, they hardly got the child out of the car. Another vehicle took them to the hospital. It was at the Drmbon intersection; we saw how the child was transferred to another car. When the UAV was flying above us, we felt like it would hit our car at any second.⁶⁹³

Sona Grigoryan also witnessed this incident when she stopped on the Martakert-Drmbon road. She remembers:

We reached Drmbon; we thought it would be like during the April War [of 2016]. We would stay in Drmbon until it was over, then we would return to Martakert. We stayed at the Drmbon intersection for about two hours, but the fire intensified. They brought wounded, a bleeding 50-year-old woman. It all happened before our eyes; it was terrifying. It was not like in April, it looked like an intentional genocide of unprotected people; none of us ever imagined that it would last this long and such weapons will be used. We never thought that no one would stand by our people.⁶⁹⁴

The testimony of the witnesses was confirmed by the Prosecutor's Office, which provided information that two minors, Robert and Narek Gevorgyan, were wounded in Maghavuz village when travelling by car with other family members from Martakert.

Armine Abrahamyan, who was injured by the attack, testified that on September 27th, after learning that the war broke out, she decided to move to Vaghuhas village thinking that it would be safer there. Armine was in the car with her child, her brother-in-law, his wife, and their child. Between 9:00 and 10:00 a.m., while on the road from Maghavuz to Drmbon (about 4 km from Drmbon), Armine heard the sound of a UAV. She told the Fact-Finding Group:

⁶⁹² Interview with Julieta, a resident of Martakert, 2 December 2020.

⁶⁹³ Ibid.

⁶⁹⁴ Interview with Sona, a resident of Martakert, 5 December 2020.

I was looking at the forest, hence, my left cheek was covered in glass shards. If I would have looked straight ahead, probably they would have also damaged my eyes. The UAV hit the ground, then fragments penetrated the car from the left side. We all were injured.⁶⁹⁵

Armine was sitting immediately at the door. “There were other cars behind us but only we had crossed the pass, and they did not; it struck us right at that moment,” she said.

Armine says that no military objects were located at that section of the road, no military cars were passing through that section. According to Armine, the drone was used to find and block the road, because a convoy of other vehicles was following them. Armine provided the Fact-Finding Group with medical records of all the people injured on that day, showing that all civilians sustained shrapnel injuries.

Gevorg Derdzyan, Press Secretary for the Surb Astvatsamayr (Holy Mother of God) medical center, informed the Fact-Finding Group about the incident; he stated that Robert and his family were forced to flee the city of Martakert, which was being shelled by Azerbaijan, but the car was hit by a UAV on the road. All members of the family had severe injuries; Robert had the heaviest traumas. The boy was in coma for five days.



Figure 15.1. Car, in which Armine travelled, after being hit, 27 September 2020 (Source: Armine Abrahamyan).

Based on the facts gathered, the Fact-Finding Group concluded that in the cases investigated, the Azerbaijani Armed Forces carried out direct attacks on civilians, residential buildings and other civilian objects, which were protected during the war. The Azerbaijani Armed Forces violated the prohibition contained in customary international law that the civilian population and civilian objects should not be the target of attacks.

⁶⁹⁵ Interview with Armine, a resident of Martakert, 18 December 2020.

Collateral Damage & Risks to Civilians

The Fact-Finding Group investigated collateral damage done to Aygestan, a village in the Askeran region, when a drone exploded a store of military ammunitions 1-2 km from the village on October 5, 2020. Due to the attack and explosions, large quantities of munitions landed in the yards of residential buildings and adjacent areas threatening the lives of civilians. The Fact-Finding Group obtained testimony from one resident of Aygestan village that the strike against the store of military ammunitions resulted in complete or partial demolition of civilian objects as well as damages to a school building. The Fact-Finding Group also examined a video disseminated by Azerbaijan, showing how the attack on the store of military ammunitions was carried out by a combat drone, five strikes in total.⁶⁹⁶

The HALO Trust, an international organization, reported that air-dropped weapons created risks that they dealt with in postwar Artsakh. Munitions dropped by drones also pose an explosive hazard. The organization confirmed that on October 5th, a strike was carried out against the store of military ammunitions near Aygestan, which is 13 km from Stepanakert. Thousands of pieces of ordinance were scattered across a radius of over 2.5 kilometers.⁶⁹⁷ In June, the organization posted that the village was devastated. HALO has cleared more than 19,000 explosives and ammunition pieces from around Aygestan.⁶⁹⁸

Marina Sargsyan, a schoolteacher from Aygestan, told Nyree Abrahamian, a freelance writer:

We heard UAVs flying, then rockets exploded. We knew that it was the storehouse. We went down to the basement. The explosions lasted for two hours and fifteen minutes. It was a deafening noise. The basement doors and windows were pulled off. We thought we were finished. The Aygestan school was damaged by the explosions of the ammunition storehouse, which was only a couple of kilometers away. Windows and walls were greatly damaged.⁶⁹⁹

According to the information provided by the Office of the Artsakh Republic President, three people were left homeless in Aygestan village.

⁶⁹⁶ marin bodrug, "The Karabakh War. Azerbaijani Army Destroys New Ammunition Depot near Stepanakert / Hankəndi," November 3, 2020, YouTube video, <https://www.youtube.com/watch?v=UK0UCMm7ink>.

⁶⁹⁷ "Karabakh Update from HALO," The HALO Trust, accessed April 7, 2022, <https://www.halotrust.org/latest/halo-updates/stories/karabakh-update/>; AP Archive, "Experts Inspect Unexploded Munitions," 28 November 2020, YouTube video, <https://www.youtube.com/watch?v=b8VEQoDuk44>.

⁶⁹⁸ HALO NagornoKarabakh (@HALO_NK), "Tragedy struck Aygestan village when a strike hit a military ammunition store. It blew up and thousands of explosive items were scattered everywhere.," Twitter, June 25, 2021, https://twitter.com/HALO_NK/status/1408433413393195011.

⁶⁹⁹ Nyree Abrahamian, "Danger Afoot: In Artsakh, the Threat of Unexploded Munitions Lingers Long after the War," Armenian General Benevolent Union, April 14, 2021, <https://agbu.org/news-item/danger-afoot/>.

The distance between the village and the military installation is shown in the Figure 1, where the military installation is marked in red, and the village is marked in green.

For the legal qualification of attacks by the Azerbaijani Armed Forces, it is necessary to apply the principles of IHL to these incidents, which are the cornerstones of both treaty and customary IHL; specifically, that:

- “The Parties to the conflict shall at all times distinguish between the civilian population and combatants and between civilian objects and military objectives and accordingly shall direct their operations only against military objectives,”⁷⁰⁰
- “civilian objects shall not be the object of attack or of reprisals,”⁷⁰¹
- “the civilian population as such, as well as individual civilians, shall not be the object of attack,”⁷⁰²
- “an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited,”⁷⁰³
- “all feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects.”⁷⁰⁴

The Fact-Finding Group found that no warning was given by the Azerbaijani Armed Forces before the attacks in all investigated cases.

700 “Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)” (International Committee of the Red Cross, December 7, 1978), art. 48, <https://ihl-databases.icrc.org/ihl/INTRO/470>.

701 “Protocol Additional to the Geneva Conventions of 12 August 1949,” art. 52.

702 “Protocol Additional to the Geneva Conventions of 12 August 1949,” art. 51 (2).

703 “Protocol Additional to the Geneva Conventions of 12 August 1949,” art. 51 (5)(b).

704 “Customary IHL - Rule 15. Principle of Precautions in Attack” (International Committee of the Red Cross), accessed April 7, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_ru_rule15.

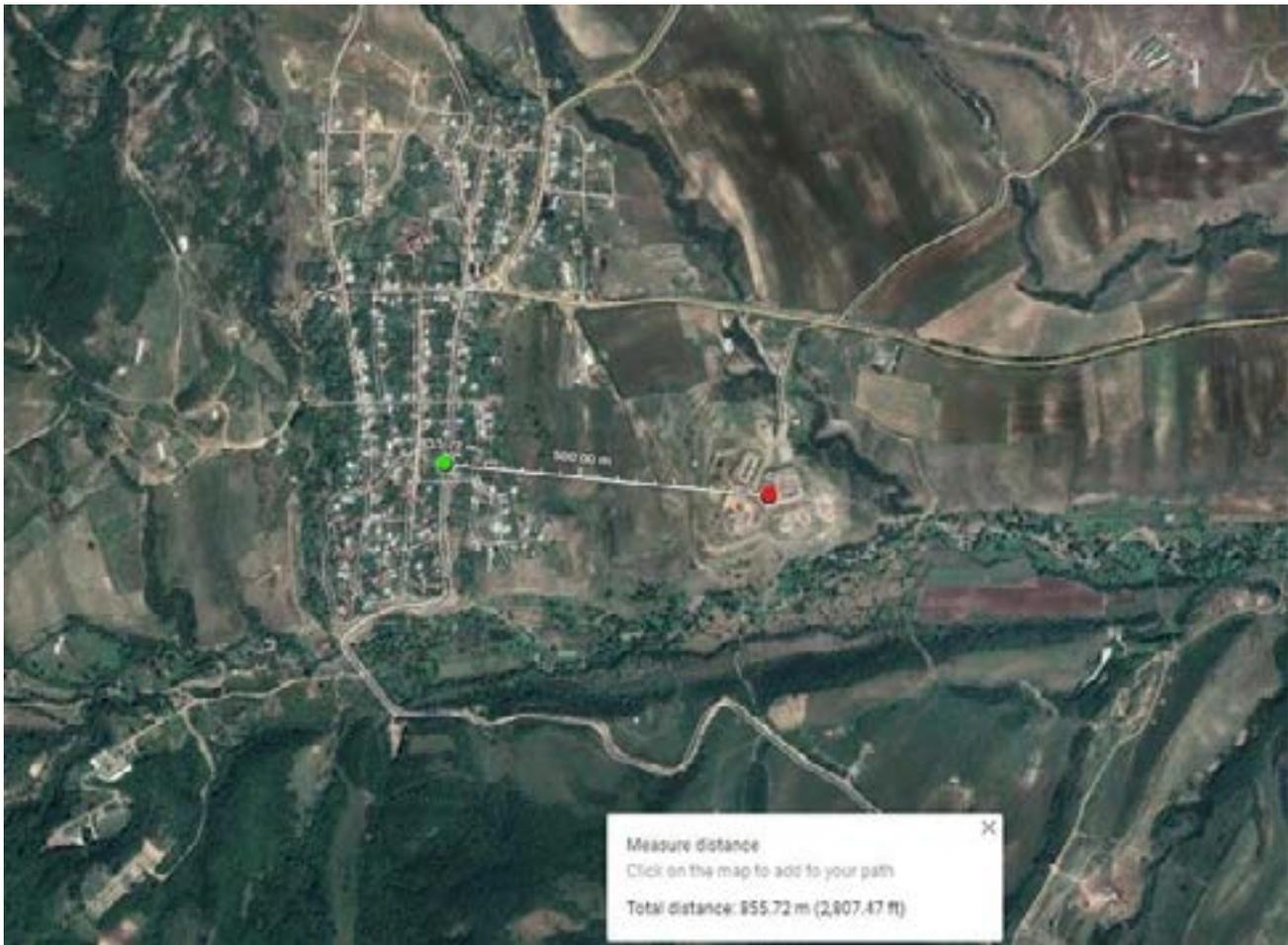


Figure 15.2. Map showing the location of the military installation (red) in reference to village (green) (Source: Google Maps).

Furthermore, both in the village of Aknakhbyur and in Hadrut, UAVs inflicted a fatal blow on a civilian, as well as damaged civilian objects that were of no military importance at the time of the attack; not to mention that the destruction and damage of civilian objects did not give Azerbaijan a clear and concrete military advantage. The Fact-Finding Group found no information to prove otherwise. The Group concluded that, on the basis of the facts that it was able to establish, there was no reason that could reasonably induce the Azerbaijani Armed Forces to assume that the civilian killed was in fact directly involved in hostilities, and thus lost immunity from the direct attacks.⁷⁰⁵ Nor that the targets were military in accordance with article 52 (2) of the Protocol Additional to the Geneva Conventions of 12 August 1949, which is a codification of the customary rule.⁷⁰⁶ Moreover, taking into account the technical potential of UAVs in terms of targeting accuracy, the Fact-Finding Group, when examining the aforementioned incidents in cases of Hadrut and Aknakhbyr, concludes that the Azerbaijani Armed Forces committed a war crime in

⁷⁰⁵ "Protocol Additional to the Geneva Conventions of 12 August 1949," art. 51 (3).

⁷⁰⁶ "Customary IHL - Rule 8. Definition of Military Objectives" (International Committee of the Red Cross), accessed April 7, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_ru_rule8.

the context of internationally directing attacks on civilians and civilian objects⁷⁰⁷ that did not pose any threat to the armed forces of Azerbaijan and were under the general protection of IHL.

In the case of Aygestan, the Fact-Finding Group concludes that while the ammunitions warehouse is a legitimate military target, Azerbaijan had to assess the consequences, which could negatively impact civilians, take all advance warning measures and postpone or cancel the attack, as the expected effects imply excessive losses and injuries to civilians and damages to civilian objects compared to the specific and immediate military advantage intended to achieve. The Fact-Finding Group cannot evaluate the military advantage achieved by Azerbaijan and what ammunitions were in the warehouse on October 5th, however the negative effects of attacking the warehouse were predictable for the attacker, and no advance warning measures were undertaken in this case.

Taking into account the lasting and serious damages to Aygestan village caused by the attack, the Fact-Finding Group believes that Azerbaijan carried out an intentional attack breaching the proportionality rule of the international humanitarian law.

Artillery And Missile Strikes on Populated Areas

“It was a Sunday; the enemy targeted the officers’ building [and] buses so we are not able to get out. The fire and sounds were coming from the Azerbaijani side -- we realized that it is a war, the enemy attacked.”

- Anna Galstyan, Mataghis village⁷⁰⁸

Military Family Residences

The officers’ buildings where the families of the servicemen live were damaged by the Azerbaijani Armed Forces from the first day of the attack on Artsakh, as a result of which the civilians who were there at that time - women, children and the elderly - were endangered. The Fact-Finding Group collected thirteen⁷⁰⁹ testimonies from Mataghis, Martakert, Djrajan, Martuni, and Shahumyan residents who were all civilians living in officers’ buildings.

⁷⁰⁷ UN General Assembly, “Rome Statute of the International Criminal Court,” 92-9227-227-6 § (1998), art. 6 (b) (i), (ii), <https://www.refworld.org/docid/3ae6b3a84.html>.

⁷⁰⁸ Interview with Anna, 24 December 2020.

⁷⁰⁹ 4 testimonies from Mataghis residents, 2 testimonies from Martakert residents, 4 testimonies from Jrajan residents, 2 from Martuni residents, 1 Shahumyan resident.

For example, the first attacks in Mataghis village, of Martakert district, hit the officers' residential building where the families of military service persons were living, located a distance of 1-1.5 km from the military unit. Mataghis is near the contact line between Artsakh and Azerbaijan; it was also attacked during the 2016 war. The village has about 225 families and 710 residents. Women and children also lived in the officer's buildings.

Heghine Yengibaryan reported that "around 7:10, 7:15 am on that day [Sept. 27]" they hid in the shelter. Her husband Misak Yengibaryan remembers:

I was standing there when they hit with two SMERCH rockets, one fell near the building and the other one on the roof of the officers' building. The artillery was shelling every 5-7 minutes, and I told everyone that we have to escape from the village between the attacks.⁷¹⁰

Heghine continued her story:

We travelled on the main road from Mataghis, which was open at that time. At 7:30 am we had already left. They hit after we left and people were not able to leave by that road. They attacked with artillery and UAVs. The drones were over the road; they hit a vehicle 4 cars behind us. On the road from Mataghis to Drmbon they had destroyed a car, but we do not know who they were, we do not know. I only knew their driver, he was from Talish. There was a woman in the car all covered by shrapnel, with a ripped open abdomen, blown up hand. Afterwards we got into the car and moved in different directions. I do not know whether later an ambulance came or not. We moved towards the road to Vardenis, but police officers said that the road had been attacked and we could take it. It was around 8. They sent us via Kelbajar. We came to Kelbajar, asking for directions. A police officer told us to stay away from the central highway and escape through the mountains, they were already shelling the road to Kelbajar as well. We arrived through the mountains. There were no more shootings there. This way we arrived to Vardenis.⁷¹¹

Anna Galstyan, another resident of the officers' residential building says that the apartment's kitchen sustained the first impact on the morning of September 27th when she, her husband, and two small children were at home. When the bombing stopped, Anna left the building with the children, having in mind to flee to Armenia. Anna says that the UAVs continuously bombed the roads and their car was damaged. "I remember something hit the car and it rolled. The impact was on the road on the front right of the car. I lost consciousness. When I woke up, I could not feel my arm, like it was ripped off."⁷¹² Anna was 35-weeks pregnant; she delivered

710 Interview with Heghine, a resident of Martakert, 27 January 2021.

711 Ibid.

712 Interview with Anna, a resident of Martakert, 24 December 2020.

after the incident in Stepanakert, in the shelter of the Maternal and Child's hospital. Anna noted that the fire and sounds were from the Azeri side; hence they realized that a war had broken out and the enemy was on the attack.

Venera Abelyan was another eyewitness to the attacks on the officers' residential building. Venera said that it was impossible to get out of the building's basement because both the building and surroundings were under fire; cars near the building were also damaged. Venera reported that "they were not feeling safe in the shelter, they bent down to pass by the small windows so as not to be suddenly hit by fragments." Venera claims that the officers' residential buildings were hit first; the target was precisely the residences "The first blow hit the building. We went down to the basement. We saw that the cars that were close to the entrances were completely damaged. We couldn't get out of the basement."⁷¹³

The AR General Prosecutor's Office provided information confirming that Anna Galstyan sustained injuries when she was inside the car, which rolled to its side breaking her hand, and that the child's life was saved by a Caesarean. Anna Galstyan's case was also included in the AR Human Rights Defender's report. Another report by the AR Human Rights Defender states that Mataghis village was attacked by the Azeri armed forces.

The Fact-Finding Group investigated several cases of attacks in Martuni and Yeghegnut villages as well. On September 27th, Melsik Gevorgyan from Martuni saw his neighbor's house collapse as he was leaving the local bomb shelter. Melsik said:

I suddenly noticed it [the bomb], then the boom and the neighbor's house disappeared. This is a two-story residential building designed for officers. The neighboring building is located in front of our apartment building. I live at 37 Khachaturyan Street, in one of the densely populated areas of the city center, 200 meters from the Martuni municipality building. We have a glass roof, which was cracked and collapsed. At that moment, I felt the impact of a blast wave, which threw me against the wall. On my side, the wave was not as strong as on the other. When it threw me against the wall, I thought this was the end. But I got on my feet and saw that my feet were in place, everything was where it should be. I was very scared and the only thought I had was that it is good that I had evacuated the children.⁷¹⁴

As Melsik says, their building is known as an officer's building because officers and their families were accommodated there, however, he also has mentioned that during the years many officers have privatized and sold their apartments. According to Melsik, the targeting had no military advantage, as civilians lived in

713 Interview with Venera, a resident of Martakert, 11 December 2020.

714 Interview with Melsik, a resident of Martakert, 11 December 2020.

the district. Melsik is now in constant need of medical care, as after this incident his right hand was injured.

Additionally, Mikhail Mirzoyan from Yeghegnut village, Shahumyan District, reported that on September 27, at 5:40am, Azerbaijan struck the military units, then at 6am, the village. “There were servicepersons’ residential buildings, they demolished those. It all happened in thirty minutes, they fired one after the other targeting the buildings,” he stated. There are officers’ buildings in Chapli, where military servicepersons and their families live. Mikhail explained that “we are at a distance of 85 km from Kirovabad. By air it is about 15 km. The projectiles came from behind Omar mount, from the Azeri border.”⁷¹⁵

All the testimonies confirm that amongst the first attacks were the targeting of the officer’s residential buildings, causing serious damage both to the building and nearby cars, as well as hampering the evacuation of civilians to a safer place. The testimonies state that the attacks started at around 6:00 -7:00 am.

In order to determine whether Azerbaijan complied with customary law obligations when striking buildings where the officers’ families lived, it is necessary to identify the civilian population, a civilian object under IHL and establish what efforts were made to distinguish between civilians and combatants as well as between civilian objects and military objectives, and what measures were taken to avoid injury, loss or damage to civilians and civilian objects.

Customary IHL establishes that: “In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.”⁷¹⁶ To achieve this, customary IHL imposes an obligation to take precautions to avoid or minimize civilian death and damage to civilian property that may arise from attacks on military objectives.⁷¹⁷

The civilian population comprises all persons who are civilians; the presence within the civilian population of individuals who do not come within the definition of civilians does not deprive the population of its civilian character.⁷¹⁸ In wartime conditions it is inevitable that individuals belonging to the category of combatants become intermingled with the civilian population. For example, soldiers on leave visiting their families. However, provided that these are not regular units with fairly large numbers, this does not in any way change the civilian character of a pop-

⁷¹⁵ Interview with Mikhail, a resident of Shahumyan, 5 December 2020.

⁷¹⁶ “Customary IHL - Rule 15. Principle of Precautions in Attack.”

⁷¹⁷ Juan Carlos Abella v. Argentina, Case 11.137, Report No 55/97, No. 38 (Inter-American Commission on Human Rights November 18, 1997).

⁷¹⁸ Prosecutor v. Dario Kordic, Mario Cerkez (Appeal Judgement), IT-95-14/2-A (International Criminal Tribunal for the former Yugoslavia (ICTY) December 17, 2004).

ulation. Article 52(1) of the 1977 Additional Protocol I defines civilian objects as, “all objects which are not military objectives.”⁷¹⁹ Also, Article 52(2) of the 1977 Additional Protocol I provides: “In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”⁷²⁰ Thus, while members of the armed forces are a legitimate target when they are combatants,⁷²¹ namely persons who have the right to take a direct part in hostilities, their mere presence in a home or family does not make the building itself or the civilian population a legitimate target of attack.

After studying the testimonies, the Fact-Finding Group believes that the attacks against the officers’ buildings and adjacent area created serious threats to the life and health of civilians and were indiscriminate in nature. The Fact-Finding Group was unable to determine the number of servicemen in the buildings at the time of the attack, but through testimony it was established that many officers and high-ranking officials of the Artsakh Defense Army were serving in military units. The Fact-Finding Group can assume, based on witness statements, that rocket fire was used in all cases. Also, the Group found that the Azerbaijani Armed Forces did not make any effort to avoid damage to the civilian population; effective preventive measures were not implemented, resulting in civilian damage and civilian casualties. The Fact-Finding Group concludes that the residential buildings, where officers’ families lived, did not fulfill criteria necessary for a military objective. Humanitarian law demands that the conflicting sides shall at all times make distinction between the civilians and combatants. The attacks can target only the combatants or military objects. The indiscriminate shelling is a serious violation of the humanitarian law.

Medical Units

The Fact-Finding Group documented the damage done to both Martakert’s civilian and military hospitals, Stepanakert’s Republican Medical Center, Maternity Hospital, and Maternal and Child Health Center. No warning was given by Azerbaijani Armed Forces for attacks on these facilities. Armenian authorities reported to the Fact-Finding Group that at least 40 medical institutions, hospitals, polyclinics, and ambulance stations were damaged as result of the war.

719 “Customary IHL - Practice Relating to Rule 9. Definition of Civilian Objects” (International Committee of the Red Cross), accessed April 9, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v2_rul_rule9.

720 “Customary IHL - Rule 8. Definition of Military Objectives.”

721 “Customary IHL - Rule 3. Definition of Combatants” (International Committee of the Red Cross), accessed April 9, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule3.

Martakert

The Fact-Finding Group received testimony from lawyer Arayik Papikyan, who visited various destroyed sites after the hostilities. The lawyer interviewed Tigran Arzumanyan, a surgeon at Martakert's R. Bazyan Regional Medical Association. Tigran reported that the Martakert hospital was targeted and regularly shelled from the first days of the war. Mainly the rockets of multiple launch rocket systems were used. The hospital buildings, outpatient clinic, auxiliary facilities, yard and infrastructure were seriously damaged. Even though a few days after the war broke out the patients and hospital equipment were transferred to another location because safe operation was impossible, the hospital was continuously shelled. There are no military objects or installations in the hospital's neighborhood. The hospital is surrounded by residential buildings and houses, as well retail shops and service facilities. Those areas were also shelled on multiple occasions and some residential buildings collapsed. The evidence of the damage and the remnants of exploded rockets were apparent on the day of the site visit.

The damage to Martakert's hospital was also documented by Human Rights Watch (HRW) during its visit on 24 November 2020. HRW reported significant blast and fragmentation damage to the hospital and the adjacent outpatient clinic. Numerous munition fragments were seen at impact sites in the hospital yard, in particular fragments of grads and cluster munitions carried by LAR-160 rockets.⁷²²

Grad missiles and cluster munitions, by their very nature, cannot be targeted with sufficient accuracy to distinguish between military targets and civilian targets. Their use in populated areas is strictly prohibited by the rules of warfare, according to which the belligerents must always take care of the civilian population, so as not to cause unnecessary suffering and damage.

The Fact-Finding Group also investigated attacks on the military hospital near Martakert. The Group reviewed photographs and digital footage of the events that took place on the day of attack.⁷²³ According to open sources, the military hospital was damaged at 4:30 p.m, on 14 October 2020. The hospital was active at the time of the strike and was in the process of treating patients when attacked. There were victims as a result of the strike.

Dr. Gorg Tadjosyan told a reporter from Radio Liberty what happened that day: "Yesterday we were here, as always, there was an operation - at that time there

⁷²² Hugh Williamson, "Unlawful Attacks on Medical Facilities and Personnel in Nagorno-Karabakh: New Research on Three Incidents from 2020 Conflict" (Human Rights Watch, February 26, 2021), <https://www.hrw.org/news/2021/02/26/unlawful-attacks-medical-facilities-and-personnel-nagorno-karabakh>.

⁷²³ Shushan Stepanyan (@ShStepanyan), "How Inhuman One Must Be Mrs Mehriban, to Strike Military Hospital and Then Officially State about Elimination of Oil and Lubricants Store.," Twitter, October 17, 2020, <https://twitter.com/ShStepanyan/status/1317511212767285251>.

were three operations - our doctors were performing an operation. At that moment they were constantly bringing the wounded in ambulances. All of a sudden, they started firing, it was three planes, they started shooting rockets, then they dropped bombs, and then they dropped 'ball bombs,' so the assistants who went outside were eliminated."⁷²⁴

The Fact-Finding Group sent a request to an OSINT specialist to identify the weapon with which the attack was carried out. The OSINT specialist assessed with high confidence that at least three munitions struck at Martakert's military hospital and the surrounding area, damaging the structure. The OSINT specialist assessed it as plausible that at least one of these munitions was an LAR-160 160 mm surface-to-surface rocket.

An assessment of the munition's construction, the thickness of the body walls, and a comparison of the remnant's size with the foot in the photo shown in Figure 15.3, leads to a conclusion with low-to-moderate confidence that the component was part of a 160mm LAR-160 surface-to-surface rocket.



Figure 15.3. The single documented component found at Martakert Military Hospital after the strike, 14 October 2020 (Source: Human Rights Watch).

⁷²⁴ Սուսան Բաղայան, «Մարտակերտի բժշկի խոսքով՝ հոսպիտալը հատուկ է թիրախավորվել,» Ազատություն ռադիոկայան, October 15, 2020, sec. Ղարաբաղյան խնդիր, <https://www.azatutyun.am/a/30895175.html>.

The LAR-160 is an unguided rocket with a maximum range of 45 km that carries a 45 kg warhead. Warhead variants include high explosive fragmentation (HE-FRAG), cargo-carrying, and enhanced accuracy versions.⁷²⁵ An OSINT specialist assessed that there is currently insufficient evidence to establish the warhead type of the munition used in the strike on the hospital.

The LAR-160 rocket is currently deployed only by Azerbaijan within the context of the conflict.⁷²⁶ The guided version of the LAR-160, the AccuLAR, utilizes GPS guidance. The LAR-160 is utilized by the 'Lynx' MBRL system which can carry 26 LAR-160 rockets. Azerbaijan ordered 6 Lynx systems from Israel in 2005 and received the weapons in 2006.

Video evidence shows three explosions around the main building of the hospital.⁷²⁷ Figure 15.4 shows an estimation of where the munitions may have landed within the hospital grounds. The explosions caused by the munitions initiated a fire in the hospital near the area housing several vehicles. The remains of the vehicles can be seen in Figures 15.5 and 15.7.



Figure 15.4. Approximate areas that were impacted during the strike, 14 October 2020
(Source: Google Maps).

⁷²⁵ Ove Dullum, "The Rocket Artillery Reference Book" (Norwegian Defence Research Establishment, June 30, 2010), <https://www.ffi.no/en/publications-archive/the-rocket-artillery-reference-book>.

⁷²⁶ "The Military Balance 2020" (The International Institute for Strategic Studies (IISS), February 14, 2020), <https://www.routledge.com/The-Military-Balance-2020/IISS/p/book/9780367466398>.

⁷²⁷ Stepanyan (@ShStepanyan), "How Inhuman One Must Be Mrs Mehriban, to Strike Military Hospital and Then Officially State about Elimination of Oil and Lubricants Store."



Figure 15.5. Damage to the area of the hospital where the vehicles are held, 14 October 2020. This area was hit directly with a munition as shown in the video evidence (Source: Human Rights Watch).



Figure 15.6. Fragmentation damage to the main building of the Martakert's Military Hospital, 14 October 2020. (Source: «Azatutyun» TV).



Figure 15.7. Damaged vehicle storage area at Martakert Military Hospital. Note area circled where a munition impacted, 14 October 2020 (Source: «Azatutyun» TV).

Extensive fragmentation and overpressure damage can be observed both in the main building and in the area surrounding the hospital. Figure 5 shows fragmentation damage on the exterior of the main building and destroyed windows highly likely to have been caused by fragmentation and blast overpressure.

Stepanakert

Back in Stepanakert, the Republican Medical Center and the Maternity House were also targeted in October, and the Maternal and Child Health Center in November.

Arayik G. Poghosyan remembers: “We were standing near the hospital in Stepanakert; an aircraft and bombs with parachutes dropped on the hospital, we hardly escaped.”⁷²⁸ Henrikh Adamyan, who had shrapnel injuries, was transferred to Stepanakert hospital from Avetaranots village on October 27-28th. He remembers: “The hospital was struck from the air, when I was there, however nobody was killed as they sheltered in the basement. The Maternity House was also attacked during those days.”⁷²⁹ The interviewee claims that no single military serviceperson was in the hospital or in the maternity house.

⁷²⁸ Interview with Arayik, a resident of Hadrut, 18 January 2021.

⁷²⁹ Interview with Henrikh, a resident of Askeran, 17 December 2020.

Rozeta also mentioned that toward the end of October, the hospital and the maternity house were shelled. She does not precisely know what weapons were used: “Someone said it was a 500 kg bomb with a parachute, others said it was a SMERCH. We did not see it, we only heard the whizz, the indescribable whizz that makes me afraid when I remember the sound.” They did not see any munition fragments when they came out from the shelter because the area was completely covered by smoke with zero visibility.⁷³⁰

In order to confirm the authenticity of the data gathered through these testimonies, videos made by international and local media, reports from the Artsakh Human Rights Defender, and a report published by Human Rights Watch were examined. Local and international news sources reported that the maternity hospital in Stepanakert had been damaged in an artillery strike. Several sources blamed the attack on Azerbaijan. Azerbaijan denied the attack. Human Rights Watch located the remnant of a SMERCH artillery rocket on the first-floor ledge of the ward and concluded that the use of an unguided artillery rocket in a populated area is inherently indiscriminate.⁷³¹

The Fact-Finding Group examined four videos⁷³² and photo materials,⁷³³ which clearly confirm the targeting of the hospital and the maternity house. On October 28, the Artsakh Human Rights Defender informed: “On October 28, the Azerbaijani Armed Forces struck more than fifteen times on different parts of the capital Stepanakert and Shushi town, deliberately targeting the maternal and child health center and some residential and public objects.”⁷³⁴ Human Rights Watch report notes that an “Azerbaijani SMERCH artillery rocket struck and damaged the new maternity ward of the Republican Hospital in Stepanakert on October 28.”⁷³⁵ The

⁷³⁰ Interview with Roseta, a resident of Stepanakert, 16 December 2020.

⁷³¹ “Azerbaijan: Unlawful Strikes in Nagorno-Karabakh,” Human Rights Watch, December 11, 2020, <https://www.hrw.org/news/2020/12/11/azerbaijan-unlawful-strikes-nagorno-karabakh>.

⁷³² Karabakh Records (@KarabakhRecords), ““The Aftermath of Azerbaijan’s attack on the Maternity & Childcare Center of the Central Republican Hospital of Stepanakert.”,” Twitter, October 28, 2020, <https://twitter.com/KarabakhRecords/status/1321484180014960648>; Artak Beglaryan (@Artak_Beglaryan), ““#Breaking! My video message & introduction on the #Azerbaijan| today’s deliberate strike on the Republican medical center of #Stepanakert, including Maternity & child hospital.”,” Twitter, October 28, 2020, https://twitter.com/Artak_Beglaryan/status/1321439215616430080; Associated Press, “Nagorno-Karabakh Hospital Hit by Shelling,” October 29, 2020, YouTube video, <https://www.youtube.com/watch?v=o8XivRzn1L8>.

⁷³³ Karabakh Records (@KarabakhRecordbot), “ВС Азербайджана бросили авиабомбу (добавлено: возможно ракета) на Республиканскую больницу в Степанакерте, прямо на здание роддома,” October 28, 2020, Telegram video, <https://t.me/KarabakhRecords/1276>; “Azerbaijani Armed Forces Target Stepanakert Maternity Hospital,” Massis Post, October 28, 2020, <https://massispost.com/2020/10/azerbaijani-armed-forces-target-stepanakert-maternity-hospital/>.

⁷³⁴ “Azerbaijan Struck Maternity Hospital in Stepanakert and Residential and Public Areas,” The Human Rights Defender of Artsakh, October 28, 2020, <https://artsakhombuds.am/en/news/474>.

⁷³⁵ “Azerbaijan: Unlawful Strikes in Nagorno-Karabakh,” Human Rights Watch, December 11, 2020, <https://www.hrw.org/news/2020/12/11/azerbaijan-unlawful-strikes-nagorno-karabakh>.

State Emergency Service of Artsakh informed that a SMERCH rocket was fired in the direction of the Maternal and Child Health Center in Stepanakert.⁷³⁶

The Fact-Finding Group sent a request to an OSINT specialist to identify the weapon with which the attack was carried out. The OSINT specialist assessed with high confidence that a 300 mm surface-to-surface rocket fired from a 9K58 SMERCH multiple-barrel rocket launcher (MBRL) struck the area in and around the Maternity Hospital in Stepanakert, causing significant fragmentation damage and some structural damage. Large-caliber MBRL systems, including the 9K58-series, are found in the inventories of Azerbaijani Armed Forces (30 9K58 systems).⁷³⁷ Imagery readily available from local and international media shows the nose section of a large rocket outside a hospital in Stepanakert. The munition remnants documented can be seen in Figures 15.8 and 15.9. According to local and international media, the incident occurred on October 28, 2020.



Figure 15.8. The nose section of a 300 mm 9M5-series surface-to-surface rocket, photographed in the area around the Maternity Hospital in Stepanakert after the strike, 28 October 2020 (Source: Infoteka24).

⁷³⁶ “Ստեփանակերտի մոր և մանկան առողջության պահպանման կենտրոնի ուղղությամբ հրթիռ է արձակվել, հայտնում է ԱԻ ծառայությունը.” Ազատություն ռադիոկայան, November 3, 2020, sec. Լուրեր, <https://www.azatutyun.am/a/30928460.html>.

⁷³⁷ “The Military Balance 2020.”



Figure 15.9. The nose section of a 300 mm 9M5-series surface-to-surface rocket photographed in the area of the Maternity Hospital, 28 October 2020 (Source: AP Photo, 2020).

The 9K58 is produced by NPO Splav, a Russian arms manufacturer based in Tula, which is part of the state-owned Rostec Corporation.⁷³⁸ Commonly fitted to the MAZ-543 truck chassis, the 9K58 system can launch a full salvo of 12 300 mm rockets in 38 seconds. The system has a maximum range of 70 km. The SMERCH is equipped with a fire control system (FCS) that includes navigation, survey, computational, and launch tube status-monitoring sub-systems. Additionally, the 9K58 can also be equipped with the Uspekh-R automated weapon laying and fire-control system (AWLFCS), featuring a self-orientating gyro system, computer, navigation system (based on GLONASS or NAVSTAR), a weapon-laying console, and data transmission module.⁷³⁹

Although there is insufficient information to assess which version of the 9M5-series rocket was used, the blast damage at the location as seen in Figures 9 is consistent

⁷³⁸ "300-Mm 'Smerch' Multiple Rocket Launcher System," Splav, July 8, 2006, <https://web.archive.org/web/20060708221749/http://www.splav.org/en/arms/smerch/index.asp>. Formerly, these weapons were manufactured by the Soviet Union.

⁷³⁹ Russia's Arms and Technologies. The XXI Century Encyclopedia. Vol. 2 - Rocket and Artillery Armament of Ground Forces, vol. 2 (Oruzhie i tekhnologii, 2001), <https://ruslania.com/en/books/5847-russia-s-arms-and-technologies-the-xxi-century-encyclopedia-vol-2-rocket-and-artillery-armament-of-ground-forces/>.

with the effects of a unitary high explosive warhead.⁷⁴⁰ The documented damage is not suggestive of a cargo-carrying (submunition dispensing) warhead. From the evidence, there does not appear to be additional damage beyond the immediate vicinity of the hospital and neighboring buildings.⁷⁴¹ The damage documented is consistent with the effects of a large, high-explosive warhead.⁷⁴² The many damaged windows and inwardly collapsed exterior walls suggest that a sizeable blast created significant overpressure outside of the building. The OSINT specialist assesses it to be likely that the blast occurred in the area circled in Figure 15.10. A blast in this area would account for most of the damage observed in the imagery.

Figure 15.12 shows a north-facing entrance to the building. Here it is possible to observe the extensive damage, including key indicators of the direction of the blast. The visibly deformed supporting wall in Figure 15.11. has been pushed toward the interior of the building, indicating the direction of the blast. Additionally, the displacement of material and rubble inside the building as seen in Figure 15.14 and Figures 15.12–15.15 further supports this assessment.



Figure 15.10. Satellite view showing the approximate area of the blast which caused damage to the Maternity Hospital, 28 October 2020 (Source: Google Earth).

740 Keneth Cross et al., “Explosive Weapons in Populated Areas: Technical Considerations Relevant to Their Use and Effects,” Report (Armament Research Services, May 2016), <https://www.icrc.org/en/document/explosive-weapons-populated-areas-use-effects>.

741 Additional angles seen in an AP video show no damage beyond the local area, see Associated Press, 2020.

742 Cross et al., “Explosive Weapons in Populated Areas,” 14–15; “Explosive Weapon Effects: Final Report” (The Geneva International Centre for Humanitarian Demining, February 2017), https://www.gichd.org/fileadmin/GICHD-resources/rec-documents/Explosive_weapon_effects_web.pdf.



Figure 15.11. Damage to the Stepanakert Maternity Hospital, 28 October 2020 (Source: Massis Post).



Figure 15.12. Damage to the Stepanakert Maternity Hospital, 28 October 2020 (source: Massis Post, 2020).



Figure 15.13. Damage to the Stepanakert Maternity Hospital, 28 October 2020 (Source: Tigran Mkrtychyan's Twitter account (@TMkrtychyan)).



Figure 15.14. Damage to the Stepanakert Maternity Hospital, 28 October 2020 (Source: Panarmenian.net).

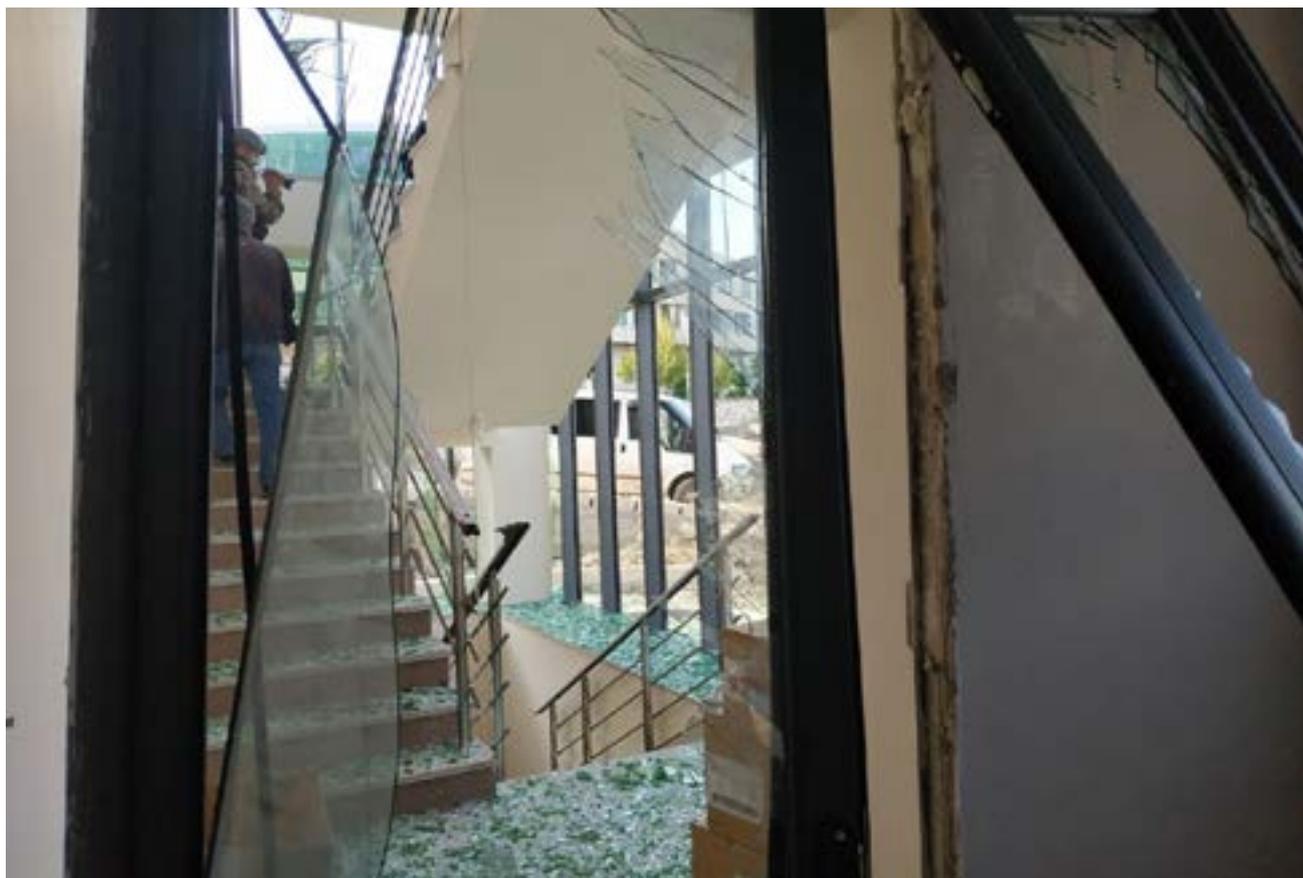


Figure 15.15. Damage to the Stepanakert Maternity Hospital, 28 October 2020 (Source: Infoteka24).

Hadrut

The Fact-Finding Group also received reports about the Hadrut Hospital. On the morning of September 27, 2020, Gohar Hovsepyan was in the Hadrut Hospital when around 7:00 am she heard explosions. She remained in the hospital until October 13 and insists that in this period Azerbaijan regularly and sporadically shelled the city. She said that due to security reasons all surgeries were performed in the hospital's basement. Due to increased intensity of attacks, from October 5 to 7 the hospital from was transferred to a school's bomb shelter in Azokh village. The Fact-Finding Group also talked to Valentina Harutyunyan, who confirmed that in the early days of October the hospital moved from Hadrut to the school shelter in Azokh. Valentina recalls that, "on October 2nd, the school principal asked us to vacate the shelter because the Hadrut Hospital would be transferred to the school shelter."

Hospitals and other medical institutions, like the medical staff themselves, shall not be the object of attack. Article 19 of the 1949 Geneva Convention I provides that: "Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected

by the Parties to the conflict.”⁷⁴³ Article 18 of the 1949 Geneva Convention IV provides that, “Civilian hospitals, organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.”⁷⁴⁴ Under the Statute of the International Criminal Court, intentionally directing attacks against “hospitals and places where the sick and the wounded are collected, provided they are not military objectives,” constitutes a war crime.⁷⁴⁵

As an exception, and according to case law, “a hospital becomes a legitimate target when used for hostile or harmful acts unrelated to its humanitarian function, but the opposing party must give warning before it attacks.” Additionally, an attack must be aimed at the military objects in or around the facility, so only weaponry reasonably necessary for that purpose can be used.⁷⁴⁶

The evidence collected by the Fact-Finding Group showed that the hospitals served the needs of the wounded and sick among the civilians and military personnel during the whole armed conflict, and the Group did not have any information that the military and civilian hospitals discussed above were used for any military purposes. The attacks endangered the lives of staff and of the hospital’s patients. No warning was given for the attacks.

Even if in the targeted areas there was some kind of military objective, which the Fact-Finding Group did not discover, the Supreme Command of Azerbaijan, using 9K58-series SMERCH, Grads and cluster munitions carried by LAR-160 rockets in the area of medical facilities should have taken into account the collateral damage to the civilian population and taken precautions in case of strikes. Based on the data, the Fact-Finding Group concludes that the Azerbaijani Armed Forces have inflicted targeted and indiscriminate attacks on medical facilities in Artsakh.

State Emergency Service

The Fact-Finding Group discovered evidence that Azerbaijan attacked civilian emergency services, which is a violation of International Humanitarian Law (IHL). The Rescue Service of Artsakh is a civil defense organization that operates in Artsakh. Its duties include civilian defense, search and rescue, and other emergency service duties. The Fact-Finding Group examined videos showing the targeting

⁷⁴³ “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)” (International Committee of the Red Cross, August 12, 1949), art. 19, <https://ihl-databases.icrc.org/ihl/INTRO/380>.

⁷⁴⁴ “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention),” art. 18.

⁷⁴⁵ UN General Assembly, Rome Statute of the International Criminal Court.

⁷⁴⁶ Prosecutor v. Stanislav Galić (Judgement), No. IT-98-29-A (International Criminal Tribunal for the former Yugoslavia November 30, 2006).

of the building of the State Emergency Service of Artsakh, published by Azgonline TV,⁷⁴⁷ and reporter Mikhail Aksel,⁷⁴⁸ in addition to satellite images.⁷⁴⁹ The videos show that the attack impacted the area of the State Emergency Service, damaging the building and cars parked nearby. The Armenian Unified Information Center informed that “ten people have been wounded in an Azerbaijani artillery strike on the Artsakh Rescue Service HQ. Thankfully, the wounds are all light. The NKR Rescue Service building has been partially destroyed, with broken windows, collapsed walls and damaged cars strewn throughout the parking lot.”⁷⁵⁰

The Fact-Finding Group sent a request to an OSINT specialist to identify the strikes. The OSINT specialist assesses with high confidence that one or more explosive munitions caused damage to buildings of the State Emergency Service of Artsakh. Available evidence shows that the area surrounding the main building, including the headquarters building of the Ministry of Emergency Situations in Stepanakert, suffered significant blast damage, including the destruction of windows and the displacement of exterior fixtures on buildings. This destruction is consistent with blast damage caused by a high-explosive munition. An OSINT specialist assesses with high confidence that one or more explosive munitions caused damage to buildings. Further evidence shows significant shrapnel damage to surrounding vehicles close to the area. The OSINT specialist assesses it is plausible that one or more munitions fitted with high-explosive fragmentation or other fragmenting warheads were used during the attack. Imagery also shows at least one casualty, who appears to have been wounded in their right arm. It is likely that this was caused by primary (munition) or secondary (environmental) fragmentation. Other effects of fragmentation possibly caused by the blast(s) can be seen in Figures 15.17–15.18, and demonstrate the range of damage at the site, including to the main building and its surrounding areas. The currently available evidence is insufficient to positively identify the type or types of munition(s) involved in the strike. It appears that superficial damage was caused to the front of the main building, while structural damage was caused to a separate gatehouse as shown in Figure 15.16. The OSINT specialist assesses it is plausible that a rocket or missile was employed during the attack.

747 Armen Manvelyan, “Ստեփանակերտի ԱԻՆ-ի Շենքը Ռմբակոծությունից Զետո,” October 3, 2020, YouTube video, <https://www.youtube.com/watch?v=lw9ChBosJco>.

748 @mihailaksel1993, “Эксклюзив | ВС Азербайджана обстреляла Степанакерт,” October 2, 2020, Telegram video, <https://t.me/mihailaksel/251>.

749 See the following link for satellite images of the State Emergency Services building for the dates of 14 September 2020 and 17 October 2020 <https://public.flourish.studio/visualisation/6762399/>.

750 Armenian unified infocenter/Հայկական միասնական տեղեկատվական կենտրոն, “Ադրբեջանի զինված ուժերի կողմից Ստեփանակերտը հրթիռակոծելու հետևանքով Արցախի փրկարար ծառայությունում 10 վիրավոր կա,” Facebook, October 2, 2020, <https://www.facebook.com/282013979301203/photos/a.286192515550016/798934974275765/>.



Figure 15.16. Internal structural damage likely caused by blast overpressure on the exterior gatehouse outside the main building of the Rescue Service of Artsakh, 2020 (source: Ruptly).



Figure 15.17. Vehicles damaged by shrapnel and blast overpressure at outside the main building of the Rescue Service of Artsakh (Source: Ruptly, 2020).



Figure 15.18. A crater where a munition has impacted the ground, approximately 38 meters from the main building, 2020 (Source: Ruptly).

Civilian Electrical Infrastructure

The Azerbaijani Armed Forces repeatedly attacked the main management and control center of “Artsakhenergo,” as well as a substation, with indiscriminate weapons. Strikes left the city without electricity for a long time, and several civilian objects and residences were damaged as well.

Artik Petrosyan lives at 2b Admiral Isakov Street, 20 meters from the Stepanakert electrical substation and 100-130 meters from public school No. 10. Artik told the Fact-Finding Group he had to stay home during the first days of the war due to his wife’s health problems. He further stated that on October 4th, a “rocket” landed near their house and broke the windows; after that they moved to a bomb shelter. He mentioned that no military objectives were found near their house; the munition fell in the courtyard of the school and the strikes were targeting the power station.

Human Rights Watch also established that on the night of October 3rd, Azerbaijan attacked the area of the main control building of “Artsakhenergo,” and the electrical substation with a LAR-160 series cluster munition rocket. Human Rights Watch observed the remnants of the rocket about 100 meters from the main control building, as well as scores of the distinctive impacts of the M095 submunitions, the remnants of the pink-colored stabilization ribbons, and submunition fragments mostly along the street adjacent to the building and substation.⁷⁵¹

The Ministry of Foreign Affairs of Armenia published in the daily press release that the control center of “Artsakhenergo” was damaged on October 3rd at 10:45 pm, and the city was left without its power supply.⁷⁵²

On October 4th, Azerbaijan again targeted the administrative building of “Artsakhenergo” and the substation. Human Rights Watch confirms that “on October 4, around midday, Azerbaijani forces struck both the main control building and the substation, damaging both.”

The first attack struck the main building, disabling the control center, causing service interruptions, and killing two civilian employees, including the head of control and distribution operations. Another attack, which was part of a series of over a half dozen strikes on the area shortly thereafter, around 1 p.m., damaged the substation.

751 “Azerbaijan: Unlawful Strikes in Nagorno-Karabakh.”

752 “Military aggression of Azerbaijan— Chronicle of developments 03.10.2020,” Ministry of Foreign Affairs of the Republic of Armenia, October 3, 2020, https://www.mfa.am/en/awaa_chr/2020/10/03/w_nk_2020/10556.

While in Artsakh, the Fact-Finding Group visited the street near the administrative building of “Artsakhenergo” and took pictures of the damage (those photos are available).⁷⁵³ The Fact-Finding Group also examined photos of the damages at the substation, adjacent residential buildings and cars taken on October 4th by Alexander Kots, journalist of Komsomolskaya Pravda.⁷⁵⁴ They also examined video materials about the incident prepared by Patrick Lancaster,⁷⁵⁵ independent journalist, on October 8th, and by Roubina Margossian,⁷⁵⁶ EVN Report journalist, on October 12th. Videos show the damages sustained by the infrastructure, as well as residential buildings, cars, shops and other civilian facilities in the adjacent area. The strikes carried out against Stepanakert on October 4th were live videoed by Artsakh TV,⁷⁵⁷ Armenian Unified Infocenter,⁷⁵⁸ and Bars Media.⁷⁵⁹ Video footage shows that the strikes hit densely populated areas without distinction.

Furthermore, the report published by the Artsakh Human Rights Defender’s office on October 18th states that in addition to targeting the substation in Stepanakert, Azerbaijan damaged substations in other cities and villages, as well as a large number of electrical networks. In total, more than ten substations were either destroyed or critically damaged. Azerbaijan also deliberately struck several hydropower plants in the territory of Artsakh to destroy power generation capacities.⁷⁶⁰

Based on the facts gathered by the Fact-Finding Group, it concludes that Azerbaijan struck with an indiscriminate weapon (LAR-160 series cluster munition rocket), thereby damaging civilian objects without distinction. The impacts caused significant damage to the electrical station, rendering it unusable. To be confident that the attack was illegal, the question of whether the power plant served any military purpose should be considered, given the legal definition of military objectives.

753 Photos of the administrative building of Artsakhenergo after a strike on 4 October 2020: <https://mega.nz/folder/m0VBGRAS#to0dpqNlbPgZFd3r3EP-qw>.

754 Александр Коц, “Степанакерт обесточен в результате массированного удара,” Комсомольская правда, October 4, 2020, sec. В мире, <https://www.kp.ru/daily/217190.5/4298202/>.

755 Patrick Lancaster, “Results of Shelling in The Armenia Azerbaijan War,” October 8, 2020, YouTube video, <https://www.youtube.com/watch?v=pSH6UyUcpHs>.

756 EVN Report, “Stepanakert: October 12,” October 13, YouTube video, <https://www.youtube.com/watch?v=YYYkxGD2lgw>.

757 Artsakh Public TV, “Ստեփանակերտի Ռմբակոծության Եզակի Կադրեր Ստեփանակերտ Օբстреливают Из Запрещенного Оружия,” October 4, 2020, YouTube video, <https://www.youtube.com/watch?v=tM5KnYm-cl-A>.

758 Armenian Unified Infocenter (@ArmenianUnified), “Stepanakert, 04.10.2020 #StopAzerbaijaniAggression,” Twitter, October 4, 2020, <https://twitter.com/ArmenianUnified/status/1312744283288547328>.

759 Bars Media, “Ստեփանակերտի Խաղաղ Բնակչության Հրետակոծությունը/ Azerbaijani Forces Bombing Civilians in Stepanakert,” October 5, 2020, YouTube video, <https://www.youtube.com/watch?v=VlBjJqAliZE>.

760 The Updated Edition of the Second Interim Report on the Azerbaijani Atrocities against the Artsakh Population in September-October 2020,” Interim Report (Stepanakert: The Human Rights Defender of the Republic of Artsakh, October 18, 2020), <https://artsakhombuds.am/en/document/735>.



Figure 15.19. The badly damaged Administrative Building of “Artsakhenergo” in Stepanakert after an attack, 4 October 2020, showing structural collapse typical to buildings damaged by one or more large blasts (source: Fact-Finding Group).

The definition of military objectives is set out in Article 52 of Additional Protocol I, accepted as part of customary law. As it is stated:

Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.⁷⁶¹

Thus, the definition includes two elements: “effective participation in hostilities” and “a certain military advantage,” and both elements of this definition must be met before the object can be properly recognized as a legitimate military target.

According to the list of categories of military objectives drawn up by the International Committee of the Red Cross (ICRC) in 1956, installations providing energy mainly for national defense, e.g., coal, other fuels, or atomic energy, and plants producing gas or electricity mainly for military consumption are considered to be of generally recognized military importance. Also, IHL recognizes the category of civilian objects, which may nevertheless be targets in armed conflict insofar as

⁷⁶¹ “Protocol Additional to the Geneva Conventions of 12 August 1949,” art. 52.

they have a “dual purpose.” A substation could be considered a dual-use object. It could be operated both to meet the needs of civilians as well as military purposes; for instance, supplying power to military industry. However, if the effects on the civilian use of the object imply excessive damages to civilians in relation to the specific and immediate military advantage, an attack on such a dual-use object may nevertheless be unlawful under the proportionality rule. In such situations, the time and place of the attack should be taken into consideration, together with, on the one hand, the military advantage anticipated, and on the other hand, the loss of human life which must be expected among the civilian population and the damage which would be caused to civilian objects.⁷⁶²

There is no evidence, nor even any Azerbaijani claim, that the targeted energy infrastructure, at the time of the attack, made an effective contribution to the military actions of the Artsakh Defense Army. Collected facts show that damaging the substation created problems with power and gas supply both during and after the war for the civilian population, as the service was restored to 95-97 percent only at the end of November, though with regular interruptions. The Stepanakert substation supplies power to populations in other districts as well. On 8 December 2020, Tigran Gabrielyan, First Deputy Director General of “Artsakhenergo,” informed Artsakh TV News that two communities were still experiencing problems with power supply, and it was necessary to build new power lines. In the Martuni district, electricity is supplied with restrictions. The Office of the Artsakh Republic President provided information that 11,470,426,000 AMD was needed for the priority programs of the Artsakh energy system (i.e., repair of the damaged infrastructure). In addition, even if the power infrastructure were conventionally considered a military object, Azerbaijan violated the fundamental requirement of IHL via their chosen method and means of warfare by using an indiscriminate weapon, namely the LAR-160 series cluster munition rocket in populated areas.

Based on the information available to the Fact-Finding Group, it concludes that the attack on the power infrastructure, specifically targets in Stepanakert, amounts to an indiscriminate attack which constitutes serious violation of customary International Humanitarian Law, which requires attacks to be strictly limited to military purposes. Such attacks are considered war crimes as they are intentionally launched with the knowledge that such an attack will cause incidental loss of life, or injury to civilians, or damage to civilian objects, according to article 8 (2)(b)(iv) of ICC Statute.

⁷⁶² Claude Pilloud et al., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva; Norwell, MA, USA: International Committee of the Red Cross: Martinus Nijhoff Publishers; Distributors for the United States and Canada, Kluwer Academic Publishers, 1987).

Roads and Bridges

Azerbaijan carried out a series of attacks on key civilian infrastructure in the Republic of Artsakh, such as the main bridge in Berdzor and key roads connecting villages and towns. As of October 1, 2020, the main roads and bridges connecting villages and towns, the power plants near them, and residential buildings were under constant threat.

Berdzor and Aghavno

According to collected evidence and media materials, Azerbaijan damaged the Berdzor bridge on October 2nd and the Aghavno checkpoint bridge on October 17th. The Fact-Finding Group interviewed eyewitnesses, reviewed photos and videos published in the media, and examined satellite imagery to assess the legality of the Azerbaijani attacks.

Berdzor is the administrative center of the Kashatagh district. The city is of strategic importance as it serves as a ‘corridor’ connecting Armenia with Artsakh. The bridge over the Khakari River on the Berdzor-Goris highway is the central one in the corridor. This road was used both for the people of Artsakh fleeing to Armenia for temporary shelter, as well as for the delivery of humanitarian aid from Armenia to the population in Artsakh. Any significant damage to roads and related infrastructure in this region would result in serious disruptions to population centers, both within the corridor and to those supported by it. Additionally, the bridge of the Aghavno community of the Kashatagh region is located on the border of Artsakh and Armenia, next to which is the Aghavno checkpoint. It is 6.7 kilometers from the Aghavno check point to the Berdzor bridge.

According to eyewitness accounts, during the targeting of the bridges and roads in the vicinity, no military targets were present.

- Mareta Lalabekyan lived in Nerkin Sus village, but when they heard sounds of shelling, she and children moved to their brother-in-law’s house in Verin Sus. “The house was shaking as if it were moving, but my brother-in-law’s house was one-story and relatively safer,” she told the Fact-Finding Group.⁷⁶³ The Nerkin Sus community is bordering, inter alia, the Aghavno and Berdzor communities. The Fact-Finding Group collected six testimonies from Nerkin Sus, two of which confirm that the bridge was targeted on several occasions. A review of maps and testimonies leads to the conclusion that whenever they speak about the bridge, the residents of Nerkin Sus are referring to the Berdzor bridge. On October 3rd, yet again on the way to her brother-in-law’s

⁷⁶³ Interview with Mareta, a resident of Qashatagh region, 20 December 2020.

house, Mareta saw how the bridge was hit. She said: “A few minutes after we passed the bridge it was blown up, the explosion brought up a powerful wave of smoke and dust like a volcano, we barely escaped from death. They were permanently bombing the roads; we saw UAVs taking photos and then striking.” Mareta’s little boy did not want to hear about crossing the Lachin corridor; he immediately warned his parents that would be dangerous there.

- Shoghik Kocharyan, resident of Berdzor, in the vicinity of the Berdzor bridge, emphasized that, “there were no military objects in the city, and it was shelled mainly for the bridge, to close exit and entry.⁷⁶⁴”
- Satenik Grigoryan was in Berdzor until October 22nd and saw many UAVs during this time, heard sounds of bombings, and though she never was an eyewitness of bombings per se, she saw the consequences of the bombings of the two bridges (Aghavno and Berdzor). She expressed an opinion that residential areas were bombed to exterminate the peaceful population.
- Karine Matinyan stated that Aghavno was shelled in October, specifically targeting the hydropower plant and the bridge located there. They saw the consequences of the strikes while traveling on the road to Armenia on October 22nd.

Damages to the road network were also recorded in a report by the AR Human Rights Defender’s office, which, inter alia, states:

The Azerbaijani Armed Forces have systematically and deliberately targeted the road network throughout the entire country, including interstate ones. In addition to striking different parts of the roads and highways, Azerbaijan targeted some key bridges in order to paralyze the transportation internally and with the Republic of Armenia.⁷⁶⁵

The Fact-Finding Group examined videos related to the targeting of the Berdzor⁷⁶⁶ and Aghavno check point bridges,⁷⁶⁷ as well as satellite images of the Berdzor bridge.⁷⁶⁸ Regarding the damage to the Aghavno bridge, which is visible in the figure 15.20, no photos or materials of the weapons used were found, therefore it is not possible to draw a conclusion about the means of warfare.

764 Interview with Shoghik, a resident of Qashatagh region, 29 January 2021.

765 “The Updated Edition of the Second Interim Report on the Azerbaijani Atrocities against the Artsakh Population in September-October 2020,” 22.

766 aլրևս, “Կադրերում Երևում է, թե ինչպես է Արևի Ընկնում ԶԶ և Արցախը Կապող Կամուրջը Հակարի Գետի Վրա,” October 2, 2020, YouTube video, https://www.youtube.com/watch?v=LJV5sAx1_AE.

767 Patrick Lancaster, “Azerbaijan Attacks Another Bridge. This Time on the Armenia Border,” October 17, 2020, YouTube video, https://www.youtube.com/watch?v=4w_a-RHg_5Q.

768 Satellite images of the Berdzor bridge for the dates of 20 August 2019 and 24 November 2020: <https://public.flourish.studio/visualisation/6750514/>.

However, as regards to the Berdzor bridge, the means of attack is identifiable. After the hostilities, the Fact-Finding Group visited Berdzor in December and documented the damage to the bridge, which is visible in Figure 15.21. After collecting evidence as well as photo and video materials, the Fact-Finding Group turned to an OSINT specialist for an expert opinion in determining the weapon used in the case of the Berdzor bridge. The OSINT specialist assesses with moderate-to-high confidence that an Israeli IMI LORA ballistic missile, fired by Azeri forces, struck the bridge over the Hakari River on the Berdzor-Goris highway. The ballistic missile allegedly struck the bridge over the Hakari River on 2 October 2020. The OSINT specialist assessed with moderate confidence that the attack occurred as claimed on October 2, 2020, and that it deliberately targeted a bridge running over the Hakari river on the Berdzor-Goris highway.

The munition failed to destroy the bridge, which remained intact and standing following the strike. The OSINT specialist concluded that evidence gathered by several actors, including local and international media, show significant damage to the targeted bridge following the attack. Yet, despite the damage, the bridge was not destroyed. The bridge is made of reinforced concrete construction, evident from visible reinforcement bars inside the surface of the roadway in some of the post-strike images. This material is blast-resistant and would require a substantial explosive force to suffer such significant damage. Given that the warheads available for the LORA include both 400 kg and 600 kg models, the visible damage does not confirm with any certainty which warhead was used in this case. Figure 15.23 shows a screen capture of the moment just before the munition impacted. Figure 15.22 shows the location of the bridge, circled in red.



Figure 15. 20. Damage to the Aghavno checkpoint bridge, 17 October 2020 (Source: Patric Lancaster's Youtube Channel).



Figure 15. 21. Damage to the Berdzor bridge, 2 October 2020 (Source: Fact-Finding Group).

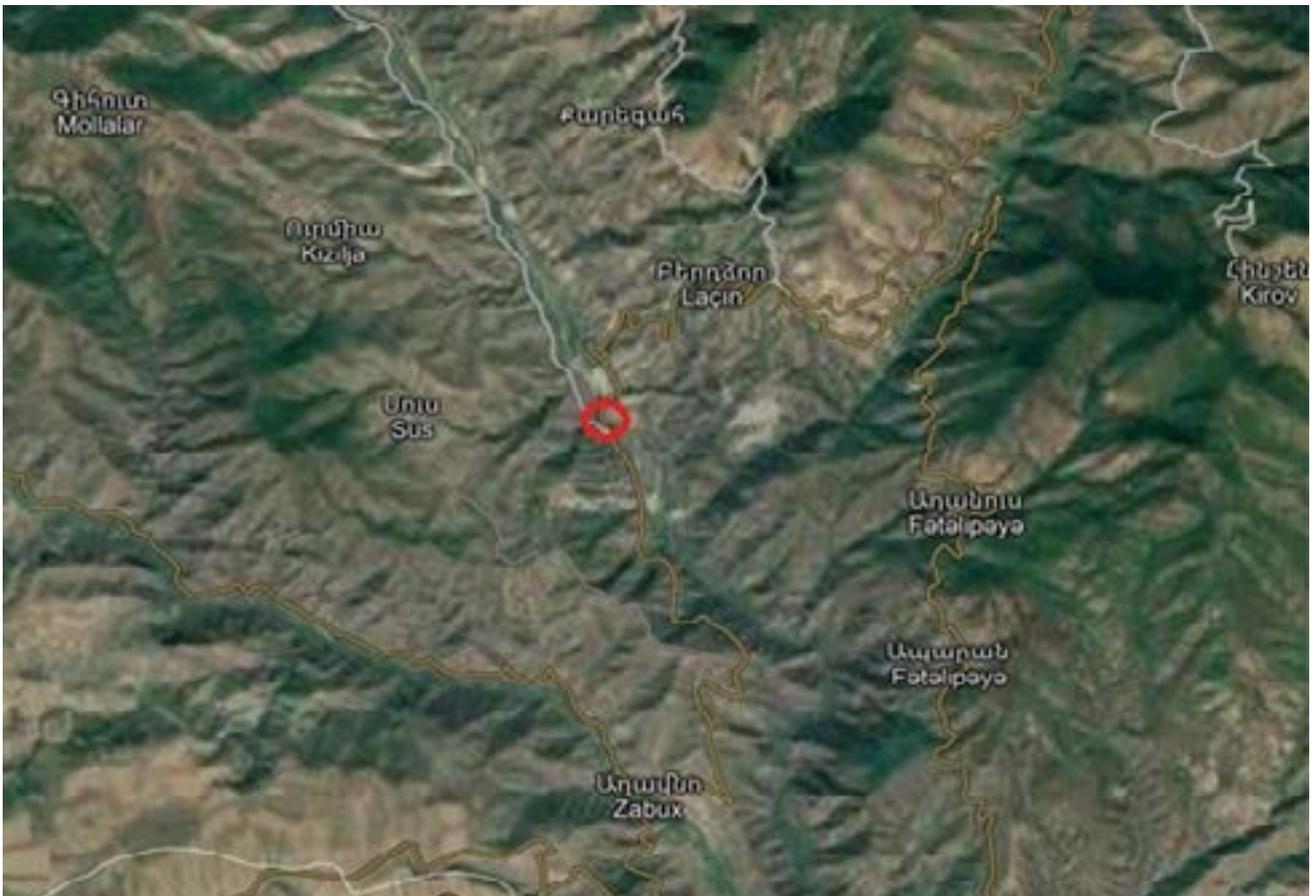


Figure 15. 22. Map showing the location of the Berdzor bridge (red) in reference to key municipal centers (Source: Google).



Figure 15.23. The munition less than one second before impacting the Berdzor bridge, 2 October 2020 (Source: *a1plus*).

The LORA ballistic missile is produced by the Israeli company Israel Aerospace Industries (IAI). It has a maximum range of 430 km and has a stated precision of 10 m (CEP).⁷⁶⁹ The LORA system utilizes two forms of guidance: a Global Positioning System (GPS) and an Inertial Navigation System (INS). By employing two guidance systems, the LORA can be integrated with existing navigation and battlefield management systems, or act independently via non-integrated methods. The LORA missile follows a quasi-ballistic trajectory allowing it to maneuver during flight while also reducing the reaction time for the target. The LORA can be equipped with two types of warheads: a 400 kg fragmentation warhead or a 600 kg penetration variant, depending on the intended target.⁷⁷⁰ Azerbaijan purchased two LORA ballistic missile systems in 2018 and is believed to be the only belligerent in the conflict to operate the system.⁷⁷¹

⁷⁶⁹ Circular error probable (CEP) is a term used in ballistics to define the precision of a munition. It describes the radius of a circle centered on the target, within which 50% of munitions should impact. This increases to 99% of munitions within an area 4 times the radius of the circle. For example, a CEP of 100 m would indicate that 50% of munitions would fall within a 10 m radius from the desired point of impact. A CEP of 10 m makes the LORA system ideal for attacking precision targets such as bridges. See: Ove Dullum et al., "Indirect Fire: A Technical Analysis of the Employment, Accuracy, and Effects of Indirect-Fire Artillery Weapons" (Armament Research Services, January 2017), <https://www.icrc.org/en/document/indirect-fire-technical-analysis-employment-accuracy-and-effects-indirect-fire-artillery>.

⁷⁷⁰ "Precision Strike Missile: The LORA Long Range Artillery System," Israel Aerospace Industries, accessed April 11, 2022, <https://www.iai.co.il/p/lora>.

⁷⁷¹ "The Military Balance 2020."

The LORA system is a high-precision weapon and was likely selected to be used against the target for this reason. Evidence suggests that notable command and control efforts were likely required in order to execute the strike. This indicates that C3⁷⁷² and ISTAR assets, beyond the vehicle which launched the munition, were likely involved in the strike on the bridge, suggesting that the strike was premeditated. Any target whose location is known within the range of the missile can be attacked and destroyed within less than 10 minutes from the launch decision.⁷⁷³ Thus, taking into account the accuracy of the weapon, the Fact-Finding Group concludes that the bridge was deliberately targeted by the Azerbaijani Armed Forces.

The next question that remains to be clarified is whether the bridge is considered as a military object and what rules of IHL apply when attacking these types of objects. Any objects, including bridges and main roads, except those under special protection, may become military objects if by their nature, location, purpose or use, they make an effective contribution to military action and if their total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.⁷⁷⁴ A bridge or other communication lines are considered as dual use objects, so they may have both military and civil importance. In 1956, the ICRC drafted a list of objects which could be viewed as military objectives, including lines and means of communication (i.e., railway lines, roads, bridges, tunnels, and canals) which are of fundamental military importance. However, persons, constructions, installations, or transports which are protected under the Geneva Conventions I, II, III, of August 12, 1949, are excepted from the list.⁷⁷⁵ When a certain object is used for both military and civilian purposes it may be held that even a secondary military use turns it into a military objective. However, if the effects on the civilian use of the object imply excessive damages to civilians compared to specific and immediate military advantage intended to achieve, an attack on such a dual-use objects may nevertheless be unlawful under the proportionality rule.⁷⁷⁶

⁷⁷² Communication, Command and Control.

⁷⁷³ "Precision Strike Missile: The LORA Long Range Artillery System," Israel Aerospace Industries, accessed April 11, 2022, <https://www.iaa.co.il/p/lora>.

⁷⁷⁴ "Protocol Additional to the Geneva Conventions of 12 August 1949," art. 52(2); "Second Protocol to the Hague Convention of 1954 for the Protection of Cultural Property in the Event of Armed Conflict" (UNESCO, March 26, 1999), art. 1(f), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?action=openDocument&documentId=F0628265ED4F2118412567BB003E0B0C>.

⁷⁷⁵ The list is mentioned in the ICRC Commentary on the Additional Protocols, paragraph 2002, note 3: Pilioud et al., Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949.

⁷⁷⁶ Marco Sassòli, "Legitimate Targets of Attacks Under International Humanitarian Law," Background Paper (Cambridge, Massachusetts: Harvard Program on Humanitarian Policy and Conflict Research, 2004), 7, <https://hhi.harvard.edu/publications/legitimate-targets-attacks-under-international-humanitarian-law>.

For example, the International Criminal Tribunal for the former Yugoslavia (ICTY) Trial Chamber applied the proportionality rule in the Prlić et al. case when assessing the attack on the Old Bridge in Mostar. Despite the fact that the bridge was a military target, its destruction was disproportionate as it made impossible to get food and medical supplies to the population, resulting in a serious deterioration of the humanitarian situation for the population living there, and had a very significant psychological impact on the population in Mostar.⁷⁷⁷

According to collected testimonies, the Berdzor bridge was used for civilian purposes because the delivery humanitarian aid (food, medical supplies, medicine, ambulances, etc.) and the evacuation of Artsakh population was exclusively via that road. It is clearly seen on a video that the attack was carried out in the first part of the day, and that civilian cars are passing at the time of attack.⁷⁷⁸ Hence, there was an inevitable risk of a large number of injuries and losses to civilians.

Thus, the facts collected by the Fact-Finding Group attest that Azerbaijan carried out deliberate attacks on bridges at times when they were used for civilian purposes. Considering the key importance bridges have for the civilian population, the time and means of attacks, as well as nonuse of means of warning at the time of attack, the Fact-Finding Group believes that Azerbaijan attempted to destroy the Berdzor bridge with the goal of having a psychological impact on the local population and blocking any possible aid to Artsakh.

Martakert, Drmbon, and Getavan

The Fact-Finding Group received reports that the road between Martakert, Drmbon and Getavan bridge were also damaged.

Witness Julieta Ishkhanyan provided the Fact-Finding Group with the photo shown in the Figure 15.24. that she took of the road between Martakert and Drmbon, which shows the rocket from a multiple launch rocket system that fell on the road. The Fact-Finding Group sent a request to an OSINT specialist to identify the weapon. The OSINT specialist assesses with high confidence that the propulsion section of a Soviet or Russian 9M5-series 300 mm surface-to-surface rocket fired by a 9K58-series SMERCH multiple-barrel rocket launcher (MBRL) struck the road surface between Martakert and Drmbon. As indicated by EXIF data, the OSINT specialist assessed with intermediate confidence that the picture was taken at the road between Martakert and Drmbon on 12 November 2020, near the town of Mar-

⁷⁷⁷ The Prosecutor v. Prlić et al., IT-04-74-T, Trial Chamber, Judgement and Opinion (International Criminal Tribunal for the former Yugoslavia May 29, 2013).

⁷⁷⁸ Ձեռքով, “Կադրերում երևում է, թե ինչպես է արկն ընկնում հի և արցախը կապող կամուրջը հակարի գետի վրա.”

takert. The OSINT specialist assesses it to be likely that the munition was fired by a 9K58-series SMERCH (Смерч; 'tornado') MBRL. Large-caliber MBRL systems, including the 9K58-series, are found in the inventories of Azerbaijani Armed Forces (309K58 systems).⁷⁷⁹ The OSINT specialist assesses with moderate confidence that the munition had a separable warhead or that the warhead failed to detonate.

Another instance of rocket impact on the Martakert-Drmbon road was recorded by the Tert.am channel on 30 September 2020 (shown in Figures 15.25 and 15.26).⁷⁸⁰ The Fact-Finding Group sent a request to an OSINT specialist to identify the weapon. The OSINT specialist assessed with high confidence that the propulsion section of a Russian 9M-series 300 mm surface-to-surface rocket struck the roadway surface at the crossroads between Drmbon and Martakert. A YouTube video showing the remnants of the munition was uploaded on 30 September 2020, suggesting that the incident occurred around this date.

Satellite imagery of the area surrounding the coordinates for the crossroads between Drmbon and Martakert does not reveal any notable military structures. The OSINT specialist assessed with high confidence that the munition remnant shown in the video is the propulsion section of a Soviet or Russian 9M5-series 300 mm surface-to-surface rocket. The OSINT specialist assesses it to be likely that the munition was fired by a 9K58-series SMERCH (Смерч; 'tornado') MBRL. The OSINT specialist assesses with moderate confidence that the munition had a separable warhead or that the warhead failed to detonate.

Gohar Grigoryan from Martakert remembers that they saw the Getavan bridge blow up on the way out of Martakert. The interviewee mentioned that the Getavan bridge is 45 km away from Martakert and it is the only road that connects to the Vardenis-Karvachar-Martakert road. The bridge was destroyed, but small cars were able to pass.

Julieta Ishkhanyan from Martakert reported that the bridge in Getavan village was damaged by a UAV strike. Julieta found out about the damage to the bridge from the police before they got to Karvachar. "Fortunately, the bridge was only partially damaged, and the cars were able to pass. If it were completely destroyed, no one would have escaped from there. There were an awful lot of cars."⁷⁸¹

The bridge over Karkar river from Karintak to Sghnakh was also damaged. Vladimir remembers that "the bridge was damaged to a degree that it was impassible by a

⁷⁷⁹ "The Military Balance 2020."

⁷⁸⁰ Tert.am, "Մարտակերտ-Դրմբոն ճանապարհին հակառակորդի սմերչի արկ է ընկած," September 30, 2020, YouTube video, <https://www.youtube.com/watch?v=8a1l53mdKzA>.

⁷⁸¹ Interview with Julieta, a resident of Martakert, 2 December 2020.

car.”⁷⁸² On 3 November 2020, Hetq TV published a video report about the targeting of the village and damaged houses.⁷⁸³



Figure 15.24. The tail section of a 9M5-series 300 mm surface-to-surface rocket buried in roadway surface, 2020 (Source: Julieta Ishkhanyan).

782 Interview with Vladimir, a resident of Shushi, 10 December 2020.

783 HetqTV, “Թշնամին Թիրախավորել է Քարին Տակ Գյուղը,” November 3, 2020, YouTube video, <https://www.youtube.com/watch?v=wleEQFuLmhg>.



Figure 15.25. The propulsion section of a rocket, 30 September 2020 (source: Tert.am).



Figure 15.26. The hole created when the propulsion section of a rocket impacted the roadway, 30 September 2020 (Source: Tert.am).



Figure 15.27. An explanation of the geolocation of the rocket at the crossroads between Drmbon and Martakert (Source: Google Earth).

The Fact-Finding Group received reports that Arthur Arustamyan, a civilian resident of Martakert, was injured on September 30th, between 2:00 and 3:00 pm, near the bridge in Martakert. The incident happened a short distance from the central bus station, before the bridge:

I was in my white 'Zhiguli' [civilian car, license plate 47157]. Until now I have three fragments in my head, one in my back; they operated and removed it, with other fragments from my leg, another fragment in the legs was through-and-through. One leg is not functional yet, the foot is hanging, I want to pull it up but cannot. Fragments have not been removed from my head because there were only traumatologists in the hospital where I was, while this surgery should be performed by a neurosurgeon.⁷⁸⁴

Arthur Arustamyan provided the Fact-Finding Group with a video recording of a screen playing a DVR for CCTV system on which it can be seen what happened to him.⁷⁸⁵ The Fact-Finding Group sent a request to an OSINT specialist to identify the weapon. The OSINT specialist assessed with moderate confidence that HE-FRAG submunitions from an air-to-surface or surface-to-surface cargo munition detonated near a vehicle in Martakert, wounding the driver (see Figure 15.28). Additionally, a larger secondary explosion occurred several hundred meters from the position of the vehicle which was plausibly caused by an air-delivered munition (see Figure 15.29). At least four explosions occurred in the vicinity of Martakert while a white civilian vehicle was passing. The OSINT specialist assess with moderate confidence that the explosions caused injury to the driver of the vehicle. A second larger explosion occurred further down the road behind the civilian vehicle.

Additionally, a witness to the attack was apparently also injured on September 30th at 2:00-3:00 pm local time at the same place. The OSINT specialist assesses with moderate confidence that one of the munitions employed was a cargo-carrying munition, dispensing high-explosive fragmentation (HE-FRAG) submunitions. The OSINT specialist assesses it as unlikely that these munitions were any type of anti-tank sensor-fused weapon because the explosions occurred at ground level. In this case, ground-level explosions indicate that the munitions were designed to explode on impact. The OSINT specialist assesses it is likely that the explosions were caused by high explosive fragmentation (HE-FRAG) or high explosive dual-purpose (HEDP)⁷⁸⁶ submunitions rather than high explosive anti-tank (HEAT) submunitions. This is supported by the visible fragmentation trails at detonation

784 Interview with Arthur, a resident of Martakert, 18 December 2020.

785 The recording can be accessed here: <https://mega.nz/folder/WxllUKQl#Qjx0eCPCbHLId1pliYfRPg>.

786 Also called 'high explosive anti-tank fragmentation'(HEAT-FRAG).

and the reports of fragmentation wounds to the victim. The OSINT specialist assesses with moderate confidence that surface-to-surface cargo rockets were more likely to have been employed than air-delivered cluster munitions. The large explosion documented after the detonation of the submunitions displaced a significant quantity of debris which the OSINT specialist assesses is likely to have caused damage to nearby houses, vehicles, and the road's surface.



Figure 15.28. Explosion occurring close to a civilian vehicle in Martakert, 30 September 2020 (Source: Arthur Arustamyan).



Figure 15.29. A secondary explosion occurring close to a civilian vehicle in Martakert, 30 September 2020 (Source: Arthur Arustamyan).

The primary purpose of IHL is to restrict the means and methods of warfare that parties to a conflict may employ to ensure the protection and humane treatment of persons who are not, or no longer, taking a direct part in the hostilities. The cornerstone of IHL is the principle of distinction: the parties to the conflict must at all times distinguish between civilians and combatants and distinguish between civilian objects and military objectives. Attacks may only be directed against military objectives. Attacks must not be directed against civilian objects. As a consequence of the principle of distinction, the conflicting sides must avoid, or in all cases minimize incidental loss of, civilian life, injury to civilians and damage to civilian objects, which enjoy protection in case of direct attacks. This is the principle of precautions. In the conduct of military operations, “constant care must be taken to spare the civilian population, civilians and civilian objects.”⁷⁸⁷ All feasible precautions must be taken to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects. This rule applies all parties in a conflict. The third fundamental principle of IHL is proportionality. Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited.

Thus, based on the findings and analysis of each case, the Fact-Finding Group concludes that Azerbaijan carried out intentional and systematic attacks on the bridges and roads in Artsakh and subjected the civilian population of Artsakh to indiscriminate attacks.

Martuni’s Municipality Building

Martuni’s municipality building was targeted on 1 October 2020; several Armenian and foreign journalists were wounded, a car parked near the building burnt, and other cars damaged by fragments (see for details section on targeting journalists). The Fact-Finding Group examined two videos by journalists, who were on the scene, clearly showing remnants of the weapon used and the damage.⁷⁸⁸ Additionally, the Fact-Finding Group also reviewed the October 1st attacks against the city in general, examining video footage from Factor TV reporters’ video.⁷⁸⁹ The video features damaged civilian objects, targeting of a deceased police officer’s car, and remnants of munition, which look like MLRS rockets. A Martuni resident told the Factor TV reporter that a Grad rocket was used to burn down a nearby house and

⁷⁸⁷ “Customary IHL - Rule 15. Principle of Precautions in Attack.”

⁷⁸⁸ 24TV, “Բացառիկ Կադրեր Մարտունուց. 24News-ի Լրագրողը Վիրավորվում է Ադրբեջանական Կրակից,” October 1, 2020, YouTube video, <https://www.youtube.com/watch?v=701kJLyXImA>.

⁷⁸⁹ Factor tv, “Բացառիկ Կադրերի. 18+. Ինչ Իրավիճակ է Հրետակոծված Մարտունիում” October 1, 2020, YouTube video, https://www.youtube.com/watch?v=t6-nfIDxB_M.

kill a police officer. Information from the Artsakh General Prosecutor's office states that out of eighteen civilians wounded and six civilians killed in the city of Martuni, in total eight and three cases respectively happened on October 1st.

To more accurately determine the weapons that damaged the city hall and inflicted death and injuries on civilians, the Fact-Finding Group turned to an OSINT specialist for an expert opinion. According to the OSINT specialist, the videos and photographs show several damaged ammunition components and extensive shrapnel damage, which were caused by at least two 122 mm 9M5 surface-to-surface missiles. The available imagery shows the remnants of a munition which the OSINT specialist assess with high confidence to be a 122 mm 9M-series surface-to-surface rocket. The OSINT specialist assesses it to be likely that the munition was fired by a BM-21 'Grad' Multiple Barrel Rocket Launcher (MBRL) or a variant thereof. The BM-21 MBRL and its derivatives are present in the inventories of Azerbaijan.

Key components for the identification of this munition as a 9M-series rocket are the distinctive wrap-around stabilizing fins and the tension springs present on the tail of the rocket (cf. Figures 15.30-15.32). Additional components were also documented. These components also support the identification of the munition as 9M-series rockets and include tail and body sections, as well as distinctive venturi and other rocket motor components (Figures 15.30, 15.33, and others). Some sections of the munition appear to have been partially buried upon impact (see Figure 34). This frequently occurs when an expended propulsion section of a rocket falls to earth.



Figure 15.30. A damaged rocket section on the premises of Martuni's municipality in which shows part of the main rocket body and its tail section with stabilizer fin spring housings, 1 October 2020 (Source: Federal News Agency).



Figure 15.31. A damaged rocket component documented on the premises of Martuni's municipality building, showing the tail section with its stabilizer fin spring housings, 1 October 2020 (source: Sputnik Armenia).



Figure 15.32. Tail section of a 122 mm rocket showing the fin release and tension system and venturi, 2012 (Source: Administration of the Sol-Iletsk urban district).



Figure 15.33. A section of a rocket on the premises of Martuni's municipality building. Note the distinctive venturi section of the rocket motor, 1 October 2020 (Source: Sputnik Armenia).



Figure 15.34. A buried section of a munition on the premises of Martuni's municipality building, 1 October 2020 (source: Sputnik Armenia).

The OSINT specialist assesses with high confidence that multiple munitions were used during the incident on the premises of the Martuni municipality building. It is likely that at least one of the munitions documented was fitted with a separable ('detachable') warhead. There are two common versions of the 9M5-series 122 mm rocket that have detachable HE-FRAG warheads — the 9M53F and the improved 9M522.⁷⁹⁰ The only differentiating features of the 9M522 are its increased range (nearly twice that of the 9M53F) and its improved warhead. Previous use of 122 mm rockets with detachable warheads has been documented during this war by OSINT specialists.



Figure 15.35. A damaged vehicle at Martuni's municipality, 1 October 2020 (Source: Federal News Agency).

⁷⁹⁰ "Explosive Weapon Effects: Final Report."

Fragmentation appears to be the primary cause of damage visible throughout the provided evidence. The substantial fragmentation can most likely be attributed to the use of warheads designed to increase the amount of fragmentation damage in target areas. Figures 15.35–15.38 show some of the fragmentation damage documented. The documented damage suggests the use of at least some HE-FRAG warheads but could also be caused by other munition types. Blast overpressure effects can also be seen in some footage showing broken windows (see Figure 15.38) and direct impact effects on destroyed vehicles.



Figure 15.36. Fragmentation damage to buildings at Martuni's municipality, 1 October 2020 (source: Federal News Agency).



Figure 15.37. A damaged vehicle at Martuni's municipality building, 1 October 2020 (Source: 24TV).

The OSINT specialist assesses with high confidence that at least two 122 mm 9M5-series surface-to-surface rockets struck in Martuni. Although the OSINT specialist assesses it to be likely that at least two high-explosive fragmentation (HE-FRAG) warheads were used in this attack, it is possible that other munitions were also employed, including submunitions.

High-explosive fragmentation (HE-FRAG) warheads are designed to produce more lethal fragments than a standard blast warhead.⁷⁹¹ HE-FRAG warheads are primarily designed to cause target damage through the creation of high velocity fragments as opposed to blast energy.⁷⁹²

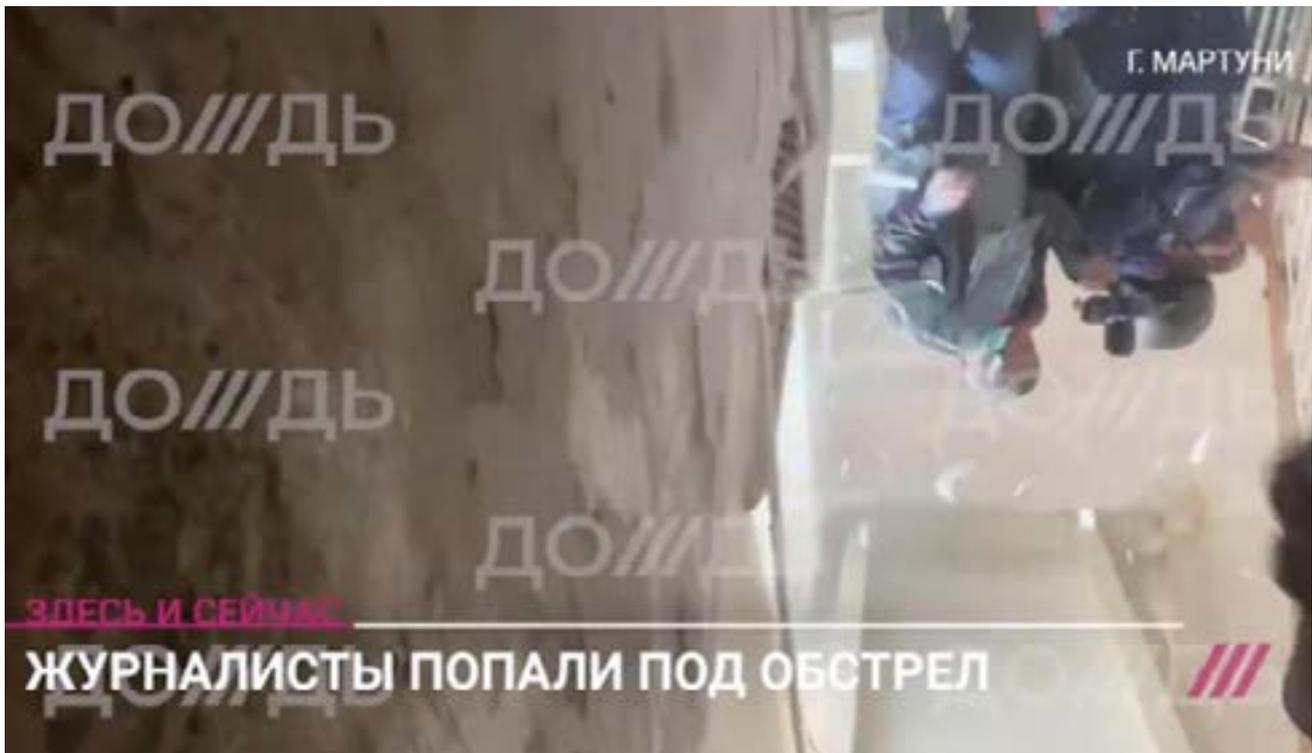


Figure 15.38. A screen capture showing flying glass as blast overpressure destroys windows in Martuni's municipality building, covering bystanders in broken glass, 1 October 2020 (source: Dozhd TV).

The use of explosive weapons in populated areas, as a rule, leads to multiple complex and severe injuries from explosive and fragmentation effects. The higher the concentration of civilians or civilian objects in a location, the more people and civilian infrastructure are likely to be within the blast and fragmentation radius of an explosion.⁷⁹³

⁷⁹¹ Cross et al., "Explosive Weapons in Populated Areas," 21.

⁷⁹² Dullum et al., "Indirect Fire: A Technical Analysis of the Employment, Accuracy, and Effects of Indirect-Fire Artillery Weapons," 83.

⁷⁹³ John Borrie and Maya Brehm, "Enhancing Civilian Protection from Use of Explosive Weapons in Populated Areas: Building a Policy and Research Agenda," *International Review of the Red Cross* 93, no. 883 (September 2011): 4–6, <https://doi.org/10.1017/S1816383112000124>.

Human Rights Watch has documented that regardless of whether these weapons are guided, their size can create blast and fragmentation effects that severely affect civilians and civilian structures, even when such are not directly targeted.⁷⁹⁴

From the materials collected by the Fact-Finding Group, there is no testimonial or other evidence that the municipality of Martuni was used at that time for any military purpose. Since no other damage was caused in the area, the Fact-Finding Group concludes that there was an intended strike aimed at the municipality of Martuni. It follows from this that there was an attack on civilian objects, as such, and not on a military object. As a result, one civilian was killed, and four journalists were wounded. These attacks violate the principle of distinction under customary international law. According to this principle, the parties to the conflict must at all times distinguish between civilians and combatants (fighters) and between civilian objects and military objectives.⁷⁹⁵ This violation of the principle of distinction amounts to a war crime.

When the intended military target does not exist, and the specified type of weapon is used in populated areas, the risk of harm to civilians is extremely high. This choice of means of warfare is regarded as a deliberate attack on the civilian population and on civilian objects and, accordingly, is a war crime.

Schools and Kindergartens

Sasha Arustamyan tells that, while in Shushi, he saw how two missiles fell in the school courtyard and damaged the school building. Sasha believes that it was a UAV strike. He also said that a building above the school and opposite to Gaghaz-ancetsots church was damaged.

The Fact-Finding Group applied to the Chief of Staff of the Artsakh President for information on the damaged schools and kindergartens. In an official response it is reported that a total of 41 schools and fifteen kindergartens were damaged as a result of the war unleashed by Azerbaijan, and that 121 schools and 20 kindergartens came under the control of Azerbaijan. During the war, some schools were used as hospitals and shelters. According to the collected testimonies, the hospital of Hadrut moved to the school shelter in Azokh village on October 2, 2020, due to increased intensity of attacks.

794 “Explosive Weapons Devastating for Civilians,” Human Rights Watch, February 6, 2020, <https://www.hrw.org/news/2020/02/06/explosive-weapons-devastating-civilians>.

795 “Customary IHL - Rule 1. The Principle of Distinction between Civilians and Combatants” (International Committee of the Red Cross), accessed April 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1; “Customary IHL - Rule 7. The Principle of Distinction between Civilian Objects and Military Objectives” (International Committee of the Red Cross), 7, accessed April 14, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule7.

Additionally, after the hostilities the Fact-Finding Group visited residential areas attacked by Azerbaijan. In the city of Martuni, they documented damage to the cultural center, a school and residential buildings and the remnants of a weapon found nearby.⁷⁹⁶ Journalist reports confirm the targeting of a kindergarten and a school in Martuni. Patrick Lancaster filmed the damages to a Martuni kindergarten.⁷⁹⁷



Figure 15.39. Martuni Mesrop Mashtots secondary school No. 2, 2020 (source: Fact-Finding Group).

Human Rights Watch also documented the damage to School No. 2. According to the information of Armenian authorities School No. 2 was shelled repeatedly between October 1st and October 15th. Human Rights Watch noted that, “the worst damage was likely caused by a devastating salvo of Grad artillery rockets on October 19, which also severely damaged the music and arts school in the town’s ‘House of Culture,’ directly across the square from School No. 2. A group of visiting researchers with the International Partnership for Human Rights (IPHR) narrowly escaped the attack.” Mihran Jivanyan, then director of School No. 2, mentioned that the school was hit again on November 8, 2020, just two days before the cease-fire.”⁷⁹⁸

⁷⁹⁶ Images of the cultural center are available here: <https://mega.nz/folder/L1URkQaa#InL30kMBFVbeWfz-6bVrAXA>.

⁷⁹⁷ Patrick Lancaster, “Armenia Azerbaijan War Vlog 2 Artsakh Civilians Killed & Schools Under Fire (Extended MUST WATCH), November 3, 2020, YouTube video, <https://www.youtube.com/watch?v=KeASopjBFUM>.

⁷⁹⁸ Bill Van Esveld and Tanya Lokshina, “Lessons of War: Attacks on Schools During the Nagorno-Karabakh War” (Human Rights Watch, September 8, 2021), <https://www.hrw.org/news/2021/09/08/lessons-war>.

On September 27, Silva Sargsyan was at home in Avetaranots with her family members, when they heard loud sounds. They learnt later that the first strikes targeted air defense units located at the upper part of neighboring Shosh village. She said that the next day, September 28th, the power and gas supply were cut off. Due to this they left the village on September 30th, however her father-in-law remained until only hours before Azerbaijani forces entered the village on October 25, 2020. She mentioned that the village was constantly shelled from October 10th. The village school and kindergarten, where the village civilian population was sheltered, were also targeted. She believes that targeting the village, including the school and the kindergarten, aimed to harm civilians and later open the road to seize Shushi. She also reported viewing videos on Internet where the Azerbaijani soldiers looted houses.

Hamest Arzanyan, also from Avetaranots, claimed that there were no military objects in the village, and, in her view, Azerbaijan clearly shelled the civilian population. In addition to strikes targeting civilians, as Hamest noted, the village school and kindergarten were also damaged by weapons used against the village in the last days of October. She also informed that Azeri armed forces decimated the village after capturing it: “there are rumors that they drove away and broke all the cars, threw out furniture and clothing from houses and cut it into pieces.”⁷⁹⁹

On October 28, 2020, the State Emergency Service of Artsakh informed that the Azerbaijani air force carried out a missile attack on the city of Shushi. There was much destruction done to the city, including one completely demolished building and the partially damaged Kh. Abovyan school.⁸⁰⁰

Also, in Aygestan, the local school was damaged by the explosion of the ammunition warehouse, which was a couple of kilometers away. Windows and walls were greatly damaged.⁸⁰¹

799 Interview with Hamest, a resident of Askeran, December 2020.

800 “Շուշիում ամբողջությամբ ավերվել է բնակելի առանձնատուն, մասնակի վնասվել է Աբովյանի անվան դպրոցը. ԱՅ ԱԻՊԾ,” Արցախ լրատվական, October 28, 2020, <https://artsakh.news/am/news/193147>.

801 Abrahamian, “Danger Afoot: In Artsakh, the Threat of Unexploded Munitions Lingers Long after the War.”

According to a Human Rights Watch report, Azeri forces struck four times in the area near School Number 10 in Stepanakert, which is across the street from the main electrical substation. The attacks seriously damaged dozens of classrooms, the building's exterior, and the school's electrical and water supply.⁸⁰² At least two schools were damaged in the area, in addition to local medical facilities and other critical infrastructure. This area was attacked during a period spanning from 27 September to 12 October 2020. The remnants of several different munitions have been documented in the area surrounding School No. 10 and the nearby electrical substation, including rockets ranging in size from 122 mm to 300 mm, air-delivered munitions, and artillery projectiles. Figure 15.41 shows remnants from a 122 mm rocket in the grounds of the school. Human Rights Watch concluded that Azerbaijan used munitions with wide-area effects, including fundamentally inaccurate artillery rockets, and that the strikes may be indiscriminate and therefore unlawful.⁸⁰³ An OSINT specialist assesses that it is plausible that the attacks were targeting a local electrical substation which is located within 250 meters of the school. Figure 15.41 shows the impacts of munitions close to the School No.10 and the surrounding area. The strikes occurred in early October 2020.



Figure 15. 40. Kh. Abobyan school in Shushi after the attack, 28 October 2020 (Source: Karabakh Records Telegram channel).

802 "Azerbaijan: Unlawful Strikes in Nagorno-Karabakh."

803 Van Esveld and Lokshina, "Lessons of War."



Figure 15.41. The impact locations of strikes believed to be targeting the Stepanakert electrical substation, including those at area near the school (located in the bottom right of the image), 2020 (Source: Human Rights Watch).



Figure 15.42. The remnants of a 122 mm rocket in the ground at School No.10 in Stepanakert, 2020 (Source: Human Right Watch).

Previous reporting from this conflict (including other OSINT specialist outputs) has highlighted the widespread presence of artillery rockets with separable ('detachable') warheads. This type of munition can often be identified by the presence of a relatively intact propulsion section located near to the strike. Frequently, the propulsion sections from these munitions can become partially buried, leaving remnants protruding from the ground.

Except for the rocket motor shown in Figure 15.42, available evidence does not clearly show remnants of the munitions used in the strike the area near the school. An OSINT specialist assesses with high confidence that the munition remnants documented in Figure 15.42 originate from a 122 mm rocket. Figure 15.43 shows smoke plumes from the detonation of warheads in the city of Stepanakert near the school. This suggests that several large, individual explosions occurred, indicating the use of unitary warheads. This is opposed to the large number of small explosions documented in Figure 15.44, which an OSINT specialist assesses with moderate confidence to be cluster munitions of an unknown type.



Figure 15.43. Multiple smoke plumes from unitary warhead detonations, 4 October 2020 (Source: Bars Media).



Figure 15.44. Multiple smoke plumes from cluster warhead detonations, 4 October 2020 (Source: Bars Media).



Figure 15.45. Damage from a munition which exploded near School No. 10, 2020 (Source: Fact-Finding Group).

The damage documented at school No. 10 was extensive, consisting of both superficial and structural damage. Figures 15.45–15.46 show damages to the school and the surrounding area. The images suggest that School No.10 suffered substantial damage from blast overpressure caused by at least two large explosions. These explosions have blown in most of the windows and caused damage to the internal walls of the building. The blasts appear to originate from individual large craters, again indicating that they were caused by the detonations of unitary warheads. The damage shown in Figures 15.45–15.47 is closely consistent with the type of damage one would expect to see from such blasts. Considering both the damage done to the school and the localized cratering caused by the munitions, the OSINT specialist assesses with high confidence that School No. 10 in Stepanakert was struck by at least two large, unitary high explosive warheads.



Figure 15.46. Damage from a munition which exploded near School No. 10, 2020 (Source: Fact-Finding Group).



Figure 15.47. Damage from a munition which exploded near School No. 10, 2020 (Source: Fact-Finding Group).

Based on the acquired satellite images, the Fact-Finding Group also identified damage to the sports hall of the Drakhtik school of Hadrut⁸⁰⁴ (dated after October 30th) and the school in Karintak village in the Shushi District⁸⁰⁵ (dated after October 25th). State practice considers schools as *prima facie* civilian objects, provided, in the final analysis, they have not become a military objective.

The 2000 Optional Protocol on the Involvement of Children in Armed Conflict condemns “the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places generally having a significant presence of children, such as schools and hospitals.”⁸⁰⁶

Azerbaijan ratified the Optional Protocol in 2002 and has an obligation not to target schools or use weapons that could harm residential areas as a result of the indiscriminate nature of engaging a targeted site. The Fact-Finding Groups concluded that schools were subject to indiscriminate attacks, which constitute a grave violation of the rules of war.

Civilian Residences

The first explosions shattered the windows of Susanna Safaryan’s home. She reported, “We were late to run out of our home and fell on the floor. This time Hadrut was the target, they were shelling the city, not the division or regiment but residential houses.”⁸⁰⁷

804 For satellite images of the sports hall for the dates of 21 June 2020 and 30 October 2020, see <https://public.flourish.studio/visualisation/7154045/>.

805 For satellite images of the Karintak school in 2019, 2020, and 2021, see <https://public.flourish.studio/visualisation/7530297/>.

806 “Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict” (United Nations Human Rights Committee, May 25, 2000), <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-involvement-children>.

807 Interview with Susanna, a resident of Hadrut, 21 December 2020.

Shahen Balayan from Martuni recounted:

There is no home anymore, everything has been destroyed; no windows, I somehow covered them with cellophane wrap but it is cold. My family, daughters, grandchildren will not return anymore. How shall I live? How shall a child live here? How shall a child come to live here? Nobody wants to come here. Nobody. My daughter says that her mom died here, how shall she live there? Where shall I bring the children, half of the house has been burnt down, I am sitting in a corner and watching. I cannot sleep all night long. How can I sleep, the Turks are coming from three sides, what can you do near Turks?⁸⁰⁸

The Fact-Finding Group received information about the destruction of a large number of residential buildings and private property during the war. In some cases, damage or destruction of residential buildings could be related to their location near the line of contact between the Defense Army of the Artsakh Republic and the Armed Forces of the Republic of Azerbaijan, but the Fact-Finding Group documented many cases in which residential buildings, which were not near any military objects, and the destruction of which did not represent any military advantage, were destroyed or damaged. The Fact-Finding Group found that the Azerbaijani Armed Forces did not observe the precautionary principle in any of the attacks. Attacks that are not directed against military objectives and attacks that cause disproportionate civilian casualties or property damage to civilians constitute war crimes.

The Office of the President of the Artsakh Republic provided the Fact-Finding Group with information on the facilities damaged as a result of the Artsakh war. The number of people left homeless as a result of explosions in the residential areas that remain under the control of the Republic of Artsakh is 1,176 people. A total of 295 apartment buildings (2,239 apartments), 8,443 private residential buildings, 72 administrative buildings, and 98 civil infrastructure facilities were damaged (of which there were 13 hotels, 49 shops, seven gas stations, one parking station, 25 public catering facilities, three bridges). 96 facilities of social significance for the life of the population (of which there were 15 pre-school educational institutions, 41 general education institutions or schools, 40 medical institutions or hospitals, polyclinics, and ambulance stations). The number of basements destroyed was 110. The initial amount of damage to the 8,380 buildings under study is 12.5 billion drams.

Many eyewitness reports of Azerbaijan's attacks indicated that the attacks on villages did not pursue specific military objectives. Eyewitnesses told the Fact-Finding Group that in many cases, posts or military or air defense units were located far

⁸⁰⁸ Interview with Shahen, a resident of Martuni, 17 December 2020.

outside the villages that were attacked. The time of the first strike of the Azerbaijani Armed Forces on the weekend, early in the morning around 6:50-7:30, when children, women, elderly people, and other civilians were still sleeping, gives reason to believe that this was done on purpose to intimidate the civilian population, create panic and force them to flee their homes.

Hadrut Region

On 27 September 2020, around 8:10-8:20 am, Spartak Avagyan, a resident of Taghaser, was in his yard preparing to go to work in Hadrut. He states:

I was standing in the yard when two rockets fired in the air, one immediately after the other, loud. I stopped to watch and two seconds apart a rocket landed near me, then fragments injured my hands, feet, and abdomen. There were no military objects nearby. I do not know what type of rocket; it was like a pipe. I fell on my side, and barely got into the car and drove down to the hospital.⁸⁰⁹

Spartak lives alone; he learnt later that the house was damaged, the roof was demolished, and windows were broken. “My neighbor went to my yard to feed animals. When I called him and asked to feed my animals and he told me that the roof was torn apart.”⁸¹⁰

Spartak reported that, “Taghaser is 3 km north of Hadrut, there are no military objects in the village, nothing, it is a regular village. The village was attacked again; an elderly man, Edik Melkonyan, was brought to hospital with a broken hand. Also, a child from the upper village.”⁸¹¹ According to the testimony, the house is around 3 km away from the military unit.

Spartak’s words are substantiated by information provided by the Artsakh General Prosecutor’s Office that Spartak and Edik sustained shrapnel injuries resulting from the morning shelling. A video by a Factor TV reporter from September 29th further proves the targeting of Taghaser village. A multiple rocket launcher system’s rocket that fell on the village, as well as UAV fragments, are seen in video. The Fact-Finding Group twice interviewed Spartak Avagyan and did not find any inconsistencies in information provided, hence, there are no grounds to doubt the validity of testimony. In addition, the Factor TV news program substantiated the fact that the village was targeted by a multiple rocket launcher system.

809 Interview with Spartak, a resident of Hadrut, 18 December 2020.

810 Ibid.

811 Ibid.



Figure 15.48. Taghaser village after the artillery rocket, 2020 (Source: Factor TV).

Aida Hayrapetyan’s house was damaged on September 27th in Hadrut, around 10:00 am. Aida was in the building’s basement with neighbors (around 30 people, among them ten or twelve children). She recalls: “We heard a loud explosion and got the impression that the building crumbled.” Aida’s husband went out of the basement and saw that a missile had hit one side of the house, damaged the wall and completely destroyed the roof. Aida explained that her and her neighbor’s houses are attached, and the missile fell on the neighbor’s house completely destroying it.

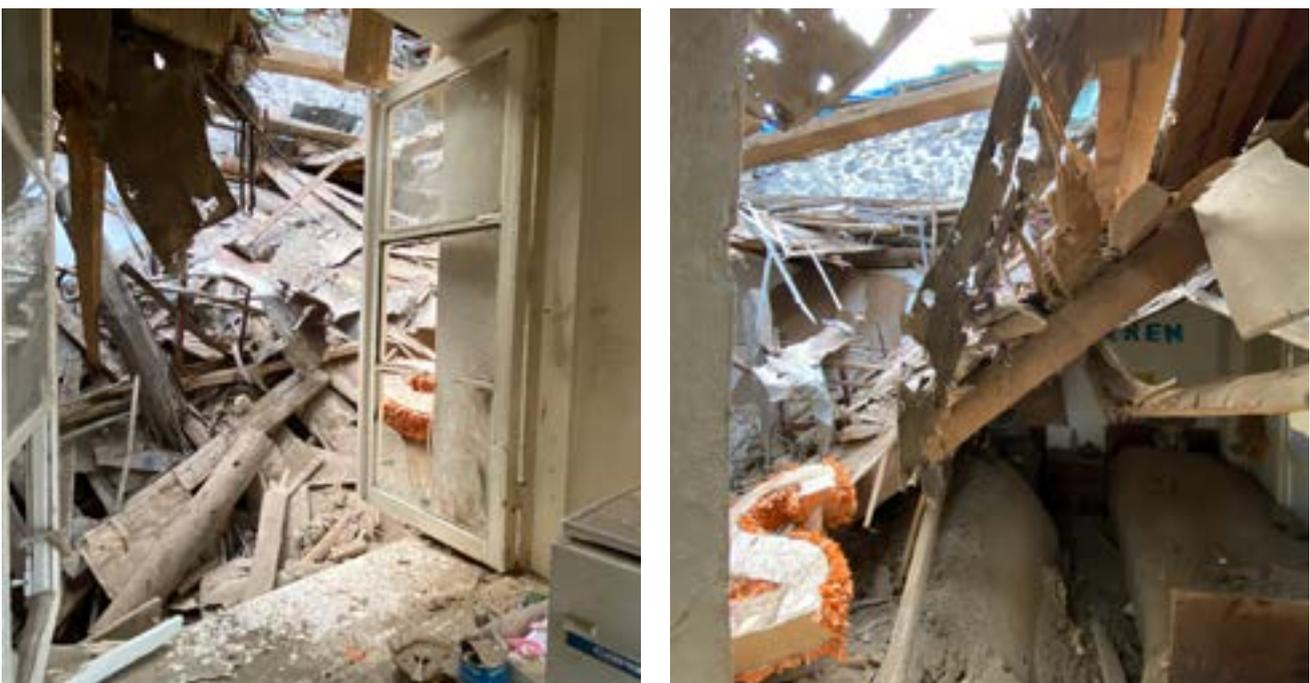


Figure 15.49. House of Aida’s neighbor. 27 September 2020 (Source: Fact Investigation Platform).

In order to verify eyewitness statements, the Fact-Finding Group studied four sets of video footage by journalists, which confirm damage caused to Hadrut's cultural center, residential and adjacent buildings during the first days of the war.⁸¹² Vahan Savadyan, the mayor of Hadrut, in his interview to an Artsakh TV News reporter on October 6th said that aviation and heavy artillery were used against the city damaging civilian homes, water pipes and the power supply network. Also, Aida Hayrapetyan's testimony is confirmed by footage from a reporter from CivilNet, featuring the destroyed house of Aida's neighbor.⁸¹³

Incident reports are consistent and credible, and the Fact-Finding Group found no evidence that the houses of Aida and Spartak were military targets or that there were military targets nearby; they are clearly classified as civilian objects. These objects did not pose any threat to the Azerbaijani Armed Forces. According to the source used, the attacks were carried out by GRAD rockets and artillery shelling.

Stepanakert

Stepanakert, Artsakh's capital, was also repeatedly a target during the conflict. These strikes began on 27 September 2020 and continued throughout the conflict. During the extensive bombardment, a large number of weapons were used, including rocket artillery, aircraft ammunition and artillery pieces. The Fact-Finding Group collected testimonies from 52 residents of Stepanakert and interviewed 24 residents. After reviewing them, it was established that the residents of Stepanakert heard the sounds of fire and blasts on September 27th, between 6:50 and 7:30 am, and only after which the air-raid warning sounded in Stepanakert.

on the morning of September 27th, Elmira Babayan and her son were in the Stepanakert marketplace, where she as a sole proprietor was selling fruits and vegetables. She heard the sounds of shelling around 6:30-7:00 am. On the same day her son's mother-in-law's hand was injured by shrapnel near the building of the International Committee of Red Cross (ICRC), farther up the street. Elmira Babayan stayed in Stepanakert until October 7th. She said that during that time, the street where the ICRC mission office is located (50 Sasuntsi David Street, Stepanakert) was damaged twice.

812 CIVILNET, "Hadrut, Karabakh: The Town at the Heart of the War," October 1, 2020, YouTube video, <https://www.youtube.com/watch?v=cWRP01dnMKs>; CGTN, "Video Shows Aftermath of Shelling in Hadrut, Nagorno-Karabakh Region," October 8, 2020, YouTube video, <https://www.youtube.com/watch?v=3jeUe-nMwy4>.

813 CIVILNET, "Hadrut, Karabakh: The Town at the Heart of the War."



Figure 15.50. Impact crater in a residential neighborhood in Stepanakert, on Sasuntsi David Street, from an attack by Azerbaijan aircraft on 4 October 2020. (Source: Human Rights Watch).

Armenuhi Kocharyan and Narine Khachatryan reported to the Fact-Finding Group that they had seen a destroyed residential house near the ICRC office building. Based on collected testimonies, the area near the ICRC office was again damaged on October 4-6. The photos and video published by the Artsakh Information Center⁸¹⁴ and Edgar Elbakyan⁸¹⁵ also prove that a residential house and a car near the ICRC office were severely damaged.

In a report published on December 11th, Human Rights Watch stated that on October 4, 2020, a large explosive weapon from an Azerbaijani attack, at about 1 pm, struck the middle of Sasuntsi Davit Street in a residential neighborhood about 120 meters from the International Committee of the Red Cross office, and over 400 meters from Artsakh Energo's main control building. The strike was one in a series that damaged Stepanakert's electrical substation along with area residences and businesses. Since many of the strikes that occurred in less than a minute and were near multiple civilian residences, and not a military target, it suggests that the attack may have constituted bombardment, violating the laws of war. Human Rights Watch qualified the attack as indiscriminate.⁸¹⁶

814 @texekatvakanshtab, "Кадры от 27-го сентября...", September 29, 2020, Telegram video, /1237 <https://t.me/texekatvakanshtab/1237>.

815 @elbakyan_edgar, "ЭКСКЛЮЗИВ! Азербайджан пытался обстрелять здание миссии Красного Креста в жилом квартале Степанакерта в первый день военной агрессии," September 29, 2020, Telegram video, https://t.me/elbakyan_edgar/228.

816 "Azerbaijan: Unlawful Strikes in Nagorno-Karabakh."

The most detailed investigation of the damage to Sasuntsi David Street was carried out as part of an investigation into the attacks on the Stepanakert power plant.

In Stepanakert, on Alek Manukyan Street, Lyudmila Petrosyan's residence was damaged on September 27th. She described that:

[A] powerful blast came from the marketplace side, then black smoke rose, which was gradually becoming denser, more and more; we were looking at that smoke to see where it happened and at that moment another blast, about ... not even 5 minutes later. The second strike was on our building; we suddenly saw windows shattering inside the room, so I rushed out immediately. My husband's nose was injured, cut, our daughter's legs were injured by glass shards, so we took to the basement and removed them.⁸¹⁷

The second strike on Alek Manoukian Street came on October 4, killing Arkady Lalayan. Nver Lalayan, Arkady Lalayan's son, learned about his father's death via a phone call, as he was in military service. Arkadiy Lalayan was on his apartment's balcony when the rocket exploded. Nver said that no military objects were nearby and the headquarters were far away, about 1 km.



Figure 15.51. Alek Manoukian Street 7 after shelling, 2020 (Source: Fact-Finding Group).

817 Interview with Lyudmila, a resident of Stepanakert, 18 December 2020.

These testimonies were confirmed by the prosecutor's office of the Republic of Artsakh: On October 4, 2020, Alek Manukyan Street in Stepanakert came under artillery fire by the Azerbaijani Armed Forces. At the time of the attack, Arkady Lalayan, who lived in building seven on the street, was on the balcony of his apartment, facing the direction from which a rocket exploded.

The Fact-Finding Group visited Alek Manukyan Street in December and documented the damage to buildings located on the street. Lyudmila's apartment is located in the house that can be seen in the photo in Figure 15.51.

The Stepanakert marketplace and houses on the adjacent street were shelled on the morning of October 31st, in spite of the fact that on October 30th, the day before, the OSCE Minsk Group co-chairs mediated and participated in a meeting between the Foreign Affairs Ministers of Armenia and Azerbaijan in Geneva, where it was specifically stated that the deliberate targeting of peaceful populations and civilian infrastructure in Artsakh is unacceptable. Based on preliminary data, the "Grad" multiple launch rocket system was used on the Stepanakert marketplace. Local and foreign reports recorded the consequences of shelling.⁸¹⁸



Figure 15.52. Fragment of munition found in the marketplace, 31 October 2020 (Source: NKR InfoCenter Telegram Channel, photo by Davit Ghahramanyan).

818 @texekatvakanshtab, "Новые кадры результатов ракетного обстрела Центрального рынка Степанакерта и жилого дома: Фотограф - Давид Каграманян," October 31, 2020, Telegram video, <https://t.me/KarabakhRecords/1473>; Инфотека24 (@infoteka24), "Работали из РСЗО «Град» Репортаж @wargonzo с центрального рынка Степанакерта, обстрелянного рано утром ВС Азербайджана," October 31, 2020, Telegram video, <https://t.me/infoteka24/10404>; Инфотека24 (@infoteka24), "Премьер-министр Армении Никол Пашинян написал в Твиттере...," October 31, 2020, Telegram video, <https://t.me/infoteka24/10419>.

Just 100 meters from the Stepanakert marketplace, Roseta Dadayan's house at sixteen Vazgen Ovyan street was damaged. Roseta said that upon hearing the air-raid warnings she rushed to her daughter's house, where it was safer because it had a basement. The two houses were close to each other.

Roseta recalls that their house was also damaged during the previous war, and barely having time to complete it, it was damaged again, "this time even worse." She said that several houses near the market were damaged on this day in October, around 3:00 – 4:00 pm. On that day, immediately after the alarm signal, they ran to the basement, but before the door was closed there was an explosion. "We were left lying on the ground, we were lost in the smoke. I went out and saw the plume slowly coming down" she recounted.⁸¹⁹ They came out of the basement about fifteen minutes after the explosion, at that time there were already journalists on the spot.

To the question of why their place of residence was bombed, the respondent answered that most likely the reason is that it is a central place, on the road that goes to the maternity hospital and to the general hospital.

The State Emergency Service of Artsakh Ministry of Interior reported that part of the marketplace was destroyed, and the civilian population had incurred serious material damage. A residential house and all its personal property were also destroyed. Nearby apartments were partially damaged. There were several explosions according to the Service.⁸²⁰ After the hostilities, in December, the Fact-Finding Group visited the streets adjacent to the marketplace and noted that despite the fact that the townspeople had already begun to repair and rebuild, nearby houses, roads, grocery stores and other buildings were still badly damaged.



Figure 15.53. Roseta's house (inside and outside) destroyed in an attack, 31 October 2020 (Source: Fact-Finding Group).

819 Interview with Roseta, a resident of Stepanakert, 16 December 2020.

820 "Առավոտյան հրթիռակոծվել է Ստեփանակերտը. թիրախավորել են շուկան, բնակելի տներ, լուսանկարներ," Sputnik Արմենիա, October 31, 2020, sec. Լուրեր, <https://armeniasputnik.am/20201031/stepanakert-hrtirakocutyun-arcax-paterazm-25133744.html>.



Figure 15.54. Roseta's neighbor's house after attack, 31 October 2021 (Source: Fact-Finding Group).

On October 16th, Vladimir Sargsyan's house at 19 Pushkin street was struck by a rocket and destroyed. On the day of the strike only Vladimir's 82-year-old mother was at home, who was bedridden and didn't want to go to the bomb shelter. By this time, Vladimir's other family members had already fled to Armenia, but Vladimir and his mother stayed in Artsakh. Vladimir received a call from a neighbor about the air strike on the house and upon arriving home saw that the house was completely destroyed, except for the part of the house where his mother was. Vladimir's mother was taken to the hospital but had not suffered serious injuries.

Vladimir said that except for the section where his mother was, the house was totally demolished: "Only one wall is standing, half the flooring, and it did not hit at a distance but fell right on the house." Vladimir says that no military objectives were in the vicinity.⁸²¹ A video made by the Hetq journalist features Vladimir Sargsyan's completely destroyed house.⁸²²

821 For photos of Vladimir's house, see <https://mega.nz/folder/C1kxnLpQ#hNzzRo2mMnSqPqV9H5wryA>.

822 Անի Սարգսյան, Հակոբ Պողոսյան, "Ադրբեջանը կասետային ռումբերով հրթիռակոծել է Ստեփանակերտը. 3 հոգի վիրավորվել է (տեսանյութ)," *Հետք*, October 17, 2020, <https://hetq.am/hy/article/123211>.



Figure 15.55. Vladimir Sargsyan's house after shelling, 16 October 2020 (Source: Fact-Finding Group).

In addition to houses, the Fact-Finding Group also reviewed, as far as possible, information available in Armenian and foreign sources regarding strikes on residential buildings and on residential areas in Stepanakert.

On September 27th, a rocket from an Azeri Grad multiple launch rocket system (MLRS) targeted a residential area in Stepanakert damaging an apartment building. The building is located at Kamo street, 2nd alley, with three other apartment buildings nearby. Videos published by Semen Pegov,⁸²³ a military reporter, and the Artsakh Information Center,⁸²⁴ confirm the targeting of residential areas by MLRS.

In another case an independent Swiss photographer and a French radio reporter found, on October 6th, two unexploded SMERCH munitions 50-70 meters from their hotel.⁸²⁵

On October 4th, Kotsnews reporters filmed how SMERCH rockets fell in the central part of Stepanakert (see Figure 15.58).⁸²⁶ On October 5th, Kotsnews recorded the tail section of an unexploded SMERCH rocket on a street in Stepanakert,⁸²⁷ pictured in Figure 15.57.

823 WarGonzo (@wargonzo), "Карабахские дети рассказывают об обстрелах ВС Азербайджана РСЗО «Град» работал по жилым кварталам в центре Степанакерта," September 28, 2020, Telegram video, <https://t.me/wargonzo/3485>.

824 Ազատություն, "Ջրետակոծության Ջետանքով Ստեփանակերտի Վասսված Բնակելի Տները Արցախի Տեղեկատվական Շտաբի Տեսանյութը" September 27, 2020, YouTube video, <https://www.youtube.com/watch?v=4coZ5IDL09o>.

825 "Журналисты нашли в Степанакерте два неразорвавшихся снаряда 'Смерч,'" РИА Новости, October 6, 2020, <https://ria.ru/20201006/stepanakert-1578412361.html>.

826 @sashakots, "Ракета «Смерча» влетает в газон. И не срабатывает. Грунт очень мягкий, ушла полностью в землю," October 4, 2020, Telegram video, <https://t.me/sashakots/17141>.

827 @sashakots, "Степанакерт, свежие примеры применения РСЗО Смерч по городк," October 5, 2020, Telegram video, <https://t.me/sashakots/17168>; @sashakots, "Пригород Степанакерта и сам город снова утром были под огнем РСЗО Смерч. Город снова обесточен," October 5, 2020, Telegram video, <https://t.me/sashakots/17166>.

On October 5, the reporters of German Bild newspaper and the WarGonzo channel filmed an unexploded SMERCH rocket on the street, near residential buildings, cars and a kindergarten,⁸²⁸ pictured in Figure 15.56. Maps were examined and the residents of Stepanakert were interviewed to establish the exact location where the rocket fell: 7 William Saroyan Street.



Figure 15.57. Another tail section of a 300 mm 9M5-series rocket buried in the tarmac walkway surface at the Stepanakert street, 5 October 2020 (Source: Kotsnews Telegram channel).

The Fact-Finding Group, in order to pinpoint the weapons used, collected photos and videos from October 4 and 5th, and requested an expert opinion from an OSINT specialist. The OSINT specialist assessed with high confidence that the propulsion sections of a 300 mm 9M5-series surface-to-surface rockets, as seen in Figures 15.56 and 15.57, struck a road surface on the streets of Stepanakert. The OSINT specialist assesses it to be likely that the munition was fired by a 9K58-series SMERCH (Смерч; ‘tornado’) MBRL.

⁸²⁸ Karabakh Records (@KarabakhRecordbot), ““Это упало вчера вечером, очень близко к детскому саду”, написал в Твиттер репортер немецкого издания Bild Paul Ronzheimer,” October 6, 2020, Telegram video, <https://t.me/KarabakhRecords/332>; WarGonzo (@wargonzo), “ЭКСКЛЮЗИВ. И снова хвостовики азербайджанских РСЗО Торчат по всей столице Арцаха,” October 5, 2020, Telegram video, <https://t.me/wargonzo/3628>.

The OSINT specialist assessed with high confidence that the rocket propulsion section of at least one munition was not fitted to the warhead section when it struck the walkway. Figure 15.58 shows the propulsion section of a SMERCH rocket as it falls to earth. The rocket does not have its streamlined warhead attached. This suggests that at least one rocket is highly likely to have been fitted with a separable warhead or had a cargo payload.



“Rocket Artillery Catalog” (Elbit Systems-Land, n.d.), <https://elbitsystems.com/media/elbit-systems-land-rocket-artillery-catalog.pdf>.

Additionally, a component of an Israeli Elbit Systems EXTRA 306 mm surface-to-surface rocket were photographed in a civilian area of the city of Stepanakert after falling to earth. An image of the munition remnants can be seen in Figure 15.59. The outline and silhouette of the munition documented closely aligns to that of the Israeli Elbit Systems Extended Range Artillery (EXTRA) 306 mm surface-to-surface rocket. There are several key physical identifiers which suggest that the munition remnants documented in Stepanakert are from an Elbit Systems EXTRA rocket. The notable black finish of the main body of the munition is consistent with the finish on EXTRA rockets seen in promotional materials and the media.⁸²⁹

⁸²⁹ “Rocket Artillery Catalog” (Elbit Systems-Land, n.d.), <https://elbitsystems.com/media/elbit-systems-land-rocket-artillery-catalog.pdf>.

Importantly, Azerbaijan is the only belligerent in the conflict which maintains an inventory of EXTRA missiles.⁸³⁰ These munitions are carried by the Elbit Systems LYNX launching system, which can also carry other rockets including 122 mm, 160 mm and 306 mm types.⁸³¹ Azerbaijan is believed to have at least six LYNX systems, each capable of carrying eight EXTRA missiles.⁸³² Data from the Stockholm International Peace Research Institute (SIPRI) indicates that Azerbaijan received six LYNX systems in 2006, and that it purchased an additional 50 EXTRA missiles in 2006, which were delivered in 2008 and 2009.⁸³³ Given that only Azerbaijan is known to operate this weapon at the time of the incident, the OSINT specialist assessed with moderate-to-high confidence that the munition was fired from an Azeri LYNX system.



Figure 15.59. *The body of an EXTRA rocket photographed in Stepanakert, 2020 (Source: TASS / AP / Dmitri Lovetsky).*

830 "The Military Balance 2020."

831 "E-LynXTM Mobile Tactical SDR Solutions," Elbit Systems, accessed April 14, 2022, <https://elbitsystems.com/products/communication-systems/software-defined-radios/>.

832 "SIPRI Arms Transfers Database," Stockholm International Peace Research Institute, accessed April 14, 2022, <https://www.sipri.org/databases/armstransfers>.

833 Ibid, see Annex 2.

IMI Systems⁸³⁴ markets the EXTRA missile as a high-accuracy system with a CEP of less than 10 meters and a range between 30–150 km.⁸³⁵ It is guided by GPS or INS, requires additional C2 assets, and can be maneuvered in flight using an onboard gas generator and canards mounted on the nose of the munition.⁸³⁶ The munition features several payload options, including unitary 120 kg penetration and fragmentation warheads and a cargo-carrying variant capable of dispersing up to 400 AT/AP sub-munitions. Since most of the munition body remains intact, the OSINT specialist assesses with moderate confidence that the warhead of the munition separated from the propulsion section before striking the target. Given the limited number of missiles available in Azeri inventories, the OSINT specialist assesses it to be plausible that this munition was used to strike a target of perceived high importance. Human Rights Watch has claimed that this system was used to strike the Martakert Military Hospital on October 14, 2020.⁸³⁷

During the mission, the Fact-Finding Group received many photographs from independent journalists and residents of Artsakh showing remnants of ammunition and missiles near houses and in streets of Shushi and Stepanakert. Some of them were sent to an OSINT specialist to obtain an expert opinion. Imagery shows the propulsion section of a 300 mm rocket embedded in a garden. The resultant damage and munition remnants can be seen in Figures 15.60 and 15.61.

In response, the OSINT specialist assessed with high confidence that the propulsion section of a 300 mm 9M5-series surface-to-surface rocket struck a civilian garden in Shushi. The OSINT specialist assessed it to be likely that the munition was fired by a 9K58-series SMERCH (Смерч; ‘tornado’) MBRL.

The OSINT specialist assessed with moderate confidence that the rocket propulsion section was not fitted to the warhead section when it struck the garden in Shushi. This suggests that the rocket likely had a separable warhead or had a cargo payload.

834 The original manufacturer of the EXTRA rocket, IMI Systems, was acquired by Elbit Systems in 2018. For these CDAs, munitions once manufactured by IMI Systems are rereferred to are referred to as Elbit Systems munitions. For more, see “Elbit Systems Reports Fourth Quarter and Full Year 2018 Results,” Elbit Systems, accessed April 14, 2022, <https://elbitsystems.com/pr-new/elbit-systems-reports-fourth-quarter-and-full-year-2018-results/>.

835 For an in-depth discussion of CEP, accuracy, and precision, consult Cross et al., “Explosive Weapons in Populated Areas,” 28–37. Note that whilst the terms ‘precision’ and ‘accuracy’ are well defined, the descriptors ‘precise’ and ‘accurate’ are not widely agreed upon.

836 “Extended Range Artillery (EXTRA),” GlobalSecurity.org, accessed April 14, 2022, <https://www.globalsecurity.org/military/world/israel/extra.htm>.

837 Williamson, “Unlawful Attacks on Medical Facilities and Personnel in Nagorno-Karabakh.” Note that there are notable inconsistencies in the report including the misidentification of the LYNX system and unclear verification of the use of EXTRA missiles.



Figure 15.60. The tail section of a 300 mm 9M5-series surface-to-surface rocket buried in a garden in Shushi, 2020 (Source: Fact Investigation Platform).



Figure 15.61. The tail section of a 300 mm 9M5-series surface-to-surface rocket buried in a garden in Shushi, 2020 (Source: Fact Investigation Platform).

Cargo rockets in the 9M5 series include the 9M55K1 (sensor-fused anti-tank submunitions; ‘Motiv- 3M’), 9M55K4 (anti-tank landmines), 9M55K5 (HEDP/HEAT-FRAG), 9M55K6 (sensor-fused anti-tank submunitions; ‘9N268’), and 9M55K7 (sensor-fused anti-tank submunitions). Additionally, there exist the 9M55F and 9M528 versions of the rocket, which have separable high explosive fragmentation warheads that detach from the propulsion section during the terminal phase of flight.⁸³⁸

Given the presence of the buried propulsion section which remained intact, the OSINT specialist assessed with moderate confidence that the munition had a separable warhead, or that the warhead failed to detonate. It appears very limited damage has occurred. This is consistent with the propulsion section of the munition detaching from the warhead and landing before the latter struck its target. The location of the missile in relation to civilian objects can be seen in the Figures 15.62-15.64.

⁸³⁸ “300-Mm ‘Smerch’ Multiple Rocket Launcher System.”

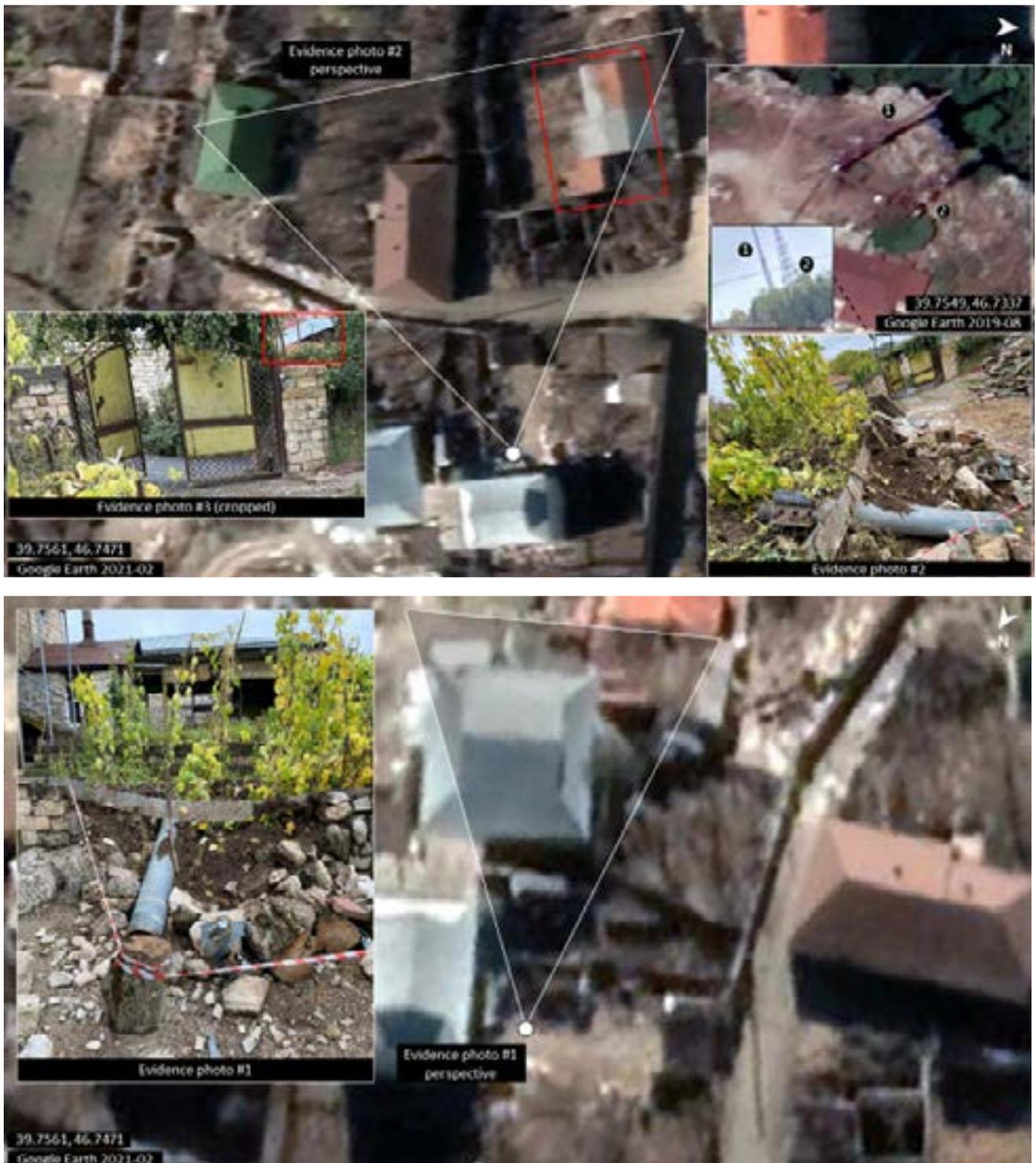


Figure 15.62. Determining the geolocation of the rocket, 2020 (Source: Google Earth).

In Martakert, On October 17th, (the day of the second ceasefire of the war which was not observed) a rocket fell on the backyard barn near Sona Galstyan's house killing all the animals. Anania Harutyunyan, Sona's youngest brother-in-law, was at home at the time of incident. Anania Harutyunyan was sleeping when around 6:00 am the rocket hit the barn. The barn was five meters away from their home. Anania claims that there were no military objects within the radius of two km, as it is a residential block.⁸³⁹

Near Shushi, in Karintak village, in early November, several homes were destroyed and public buildings severely damaged. Karintak village is five kilometers south-east of Shushi, on the left bank of the Karintak river. Karintak was intensively targeted. Vladimir Arustamyan recounts:

I am the head of the village clinic, working also as a family doctor. I stayed in the village to provide care, if necessary. On November first, we heard three powerful explosions; we went out and saw dense smoke going up. When the smoke cleared, we saw three houses had exploded, been completely destroyed by a UAV strike. It happened on November 1-2. The houses were 20-30 meters from the school, in the area called "Mets Art." No military objectives were in the area to justify targeting. The three houses were completely destroyed, as if no houses were ever in this area. The school also was damaged, including the walls, roof and windows. When I was there, six houses were blasted, and part of the school building and the house near the municipality were completely damaged.⁸⁴⁰

The interviewee said that the strikes were by a UAV and multiple launch rocket system.

Vladimir Arustamyan's house is in the Shenamej district, 200 meters from a school, in the direction towards Shushi. His house was also damaged by shelling on November 1-2. He saw large fragments in the house's yard as well as ten meters from the yard. Similar fragments have also been seen ten meters from the school's fence. According to the interviewee, the fragments were from a SMERCH rocket.

In Shushi itself, starting from the beginning of the war, civilian residences fell under attack. On September 27th, between 1:30 and 2:30 am, Nune Shahramanyan from Shushi heard sounds, looked from the balcony, and recalled the situation of the April war.⁸⁴¹ Nune reported that the sounds were coming from Azeri positions. Then, around 7:30 am, she saw how Stepanakert was shelled. At 8:00 am the alarm sounded in Shushi. They saw UAVs in the air. Nune Shahramanyan's flat is located across from St. Ghazanchetsots church at 27 Ghazanchetsots

⁸³⁹ Videos and Photos of the destructions can be found here: https://mega.nz/folder/H1EkGZgJ#kB472d-vzp_WCWndH79DScw.

⁸⁴⁰ Interview with Vladimir, a resident of Shushi, 10 December 2020.

⁸⁴¹ Interview with Nune, a resident of Shushi, 22 February 2021.

street, and her building was targeted twice. Nune says that the first strike did not damage the flat. However, she recalled that the building was again struck on the morning of October 29th, when they were sleeping in the basement. Nune Shahramanyan insists that no military objects were located near the building, “the enemy simply shelled the residential buildings.” Late in October, a reporter of the Analytical Network News Agency, Anna-News, shot video footage of the damage to the apartment building.⁸⁴²



Figure 15.63. Building on Ghazanchetsots street after shelling, 29 October 2020 (Source: MFA Armenia).



Figure 15.64. Crater near the building entrance created by shelling, 29 October 2020 (Source: MFA Armenia).

842 @anna_news, “Первые кадры с места бомбежки в городе Шуши,” October 29, 2020, Telegram video, https://t.me/anna_news/9177.



Figure 15.65. Ghazanchetsots street after shelling, 28 October 2020 (Source: Karabakh Records Telegram channel).

The town of Shushi is the center of the Shushi district and has a strategic importance due to its geographical position. In Shushi, deliberate targeted attacks were carried out against Ghazanchetsots street, where a key historical and cultural object, residential houses, a school, a hospital and civilian infrastructure are located. Shushi residents told the Fact-Finding Group that they continuously heard the UAV sounds, and the first strike was against the air defense systems, after which only civilian objects were targeted. Azerbaijan also used indiscriminate weapons in residential areas. Azeri attacks on Shushi injured twelve civilians and killed one person. The Fact-Finding Group established six cases of indiscriminate attacks on Shushi.

Sonya Mikaelyan from Shushi reported a munition between the 1st Varanda Street and neighboring buildings in the so-called Bazar district, near the Persian mosque; the building opposite was completely shelled. Based on Sona's testimony, using the map and two journalist reports,⁸⁴³ the Fact-Finding Group established that the street was struck by a SMERCH rocket.

Shosh village, near Shushi, was shelled on October 16th at 10:20 pm. Yuri Melkonyan was injured by a fragment. He remembers well when exactly he was wounded, because two days later he came home and found the clock on the floor showing twenty minutes to ten. Yuri reported:

They struck, my son was wounded at home, his head, ears and eyes. I was also wounded, my ears until now cannot hear, but seeing my son bleeding made me think that he is more important, I am an adult. A SMERCH rocket fell in the yard, ten meters from our house.⁸⁴⁴

His 1999 car parked in the garage was also damaged. Yuri says: "Azeris wanted us to leave so they come and live here."⁸⁴⁵

The Fact-Finding Group examined two video news reports,⁸⁴⁶ which feature Yuri's damaged house. Erik Abrahamyan, mayor of the Shosh community, told an Artsakh TV news reporter that two blocks in Shosh village were struck on October 16th. All the houses, cars, and garages in the 100 meters radius of the impact site were damaged, some civilians were injured.

843 WarGonzo, "ЭКСКЛЮЗИВ Обстрел Иранской Мечети в Шуши," November 1, 2020, YouTube video, https://www.youtube.com/watch?v=haVUcmcy_qg.

844 Interview with Yuri, a resident of Askeran region, 18 December 2020.

845 Ibid.

846 ArmeniaTV News, "Արցախի Շոշ Գյուղը Պարբերաբար Ենթարկվել է Ադրբեջանական Զրթհռակոծությունների," October 17, 2020, YouTube video, <https://www.youtube.com/watch?v=AYK-BUYsQic>.

Elmira Torosyan reported that up until being wounded she continuously heard sounds of shelling, but she does not know what weapons were used. Around 4:00 am in the morning, she heard an explosion and said: “definitely they hit our house, the sound was very close and fragments or whatever were constantly falling on the roof.”⁸⁴⁷ When running down to the first floor, a blast broke the door and the wave hit Elmira’s face. Elmira was scared and does not precisely remember what happened. In addition, three cars, including a GAZ-52 truck, Mitsubishi Pajero IO and VAZ-2105, parked near the house were also damaged.

There were three strikes, including two in the same spot and one nearby. The interviewee believes that cluster munitions and cannons were deployed, as field engineers told them so during the subsequent de-mining.

In an interview to a CivilNet reporter, Elmira’s husband described how the house was demolished. He, his wife, and son were at home. He said that on the same day a rocket blast was heard in the lower district, then until 3:00 or 4:00 am they stayed on the first floor, which served as a shelter. They went to the second floor thinking that it was safe, but then heard the same blasting sound again; windows shattered and fell on them, and his wife was wounded at that time. The Fact-Finding Group examined the video by a CivilNet reporter featuring damages to the cars and house.⁸⁴⁸

The Artsakh Information Center published a statement that Elmira Torosyan was wounded on October 14th, when Azerbaijan shelled peaceful settlements. The Prosecutor’s office provided information that four civilians were injured during the war in Shosh village, including three civilians on October 16th. During the war, 80% of houses in Shosh village were damaged. Artsakh TV News reported that as of February 2021, 93 houses in the village require rehabilitation and three houses must be built again.

Nearby, in Karmir Shuka village, on September 27th, Karot Manasyan was at home with his mother, wife and three children (ages sixteen, thirteen and seven). Around 7:30 am, while doing his routine work and getting ready to leave for work at an oil processing plant, he heard the sound of an aircraft and missile explosions. Karot Manasyan claims that the missile hit 200 meters from his house, damaging it and nearby residential houses. He remembered that the house was not seriously damaged, only the “windows were shattered by the missile and the walls separated

847 Interview with Elmire, a resident of Askeran region, 18 December 2020.

848 CIVILNET, “Արցախի Շոշ Գյուղը՝ Ադրբեջանական Յրթիռակոծությանից Զետո,” October 12, 2020, YouTube video, <https://www.youtube.com/watch?v=9UZGC5xc3z8>.

a bit.”⁸⁴⁹ However, the houses closer to the missile impact point were completely “destroyed.” Karot Manasyan said that no military object was nearby, the missile fell and “created a fairly large crater in the field.” Karot Minasyan also informed the Fact-Finding Group that from September 28th until October 5th (the period that he remained in the village), Karmir Shuka was intensively shelled, several houses were burnt, many civilians were injured, and one person was killed.

The Fact-Finding Group visited the Karmir Shuka and documented the damages to the houses.⁸⁵⁰



Figure 15.66. House in Karmir Shuka damaged in 2020 attack by Azerbaijani forces (Source: Fact-Finding Group).

Another village, Nerkin Tcharar was “entirely shelled” according to resident Robert Manasyan. He learned that the strikes killed people but could not give any more specifics. The church was also shelled. Robert Manasyan noted that the strikes were intended to intimidate civilians and annihilate them. While in Tcharar, he saw many UAVs, an F-16 fighter, as well as MLRS SMERCH rockets. One of those rockets struck near (50 meters from) his half-finished house, “cracking my half-completed building.” He also heard shelling sounds when was sending off his wife and children to Armenia, recounting that, “They were shelling Karmir Shuka,

⁸⁴⁹ Interview with Karot, a resident of Martuni, 5 December 2020.

⁸⁵⁰ For photos of the damages to the houses in Karmir Shuka, see <https://mega.nz/folder/SwVXEQiS#h2m-wn6NsDHJwNqOZcBYGDg>.

mainly with large-caliber artillery.”⁸⁵¹ Later, when his wife became sick and he had to leave for Armenia to take care of the children, he remembers, “There was great tension on the roads at that time, they were shelling again.”⁸⁵²

In Martuni, on September 27th, Shahen Balayan’s house was struck, injuring him and members of his family, killing his wife, Ellada Balayan, as well as the neighbor’s eight-year-old child. Shahen provided the Fact-Finding Group details of the incident:

I was at home then; I heard the first explosion and walked out. I leaned my arm on the wall and looked outside, then the fragments hit. The closest explosion was three meters away, not more. One fragment made a hole in the wall, one side of the house burnt down. There were eight projectiles. The first one just penetrated the soil in the garden, punched a hole there, and then all the damage was done by the second one.⁸⁵³

Angela Melkumyan, Ellada’s daughter, was also wounded. She says that at the time of impact she was outside the house, in the yard, waiting for a car to take her to another place. Based on what she reported, it was an UAV.

In terms of military objects in the vicinity, Shahen only knew that some artillery was located 600 meters (no more than 300 meters by air) from house facing towards Aghdam. “There were four-five cannons, they fired at them but struck us.” A few days after the incident, de-miners informed Shahen that there are still munitions in his garden. “On the first day only, at least four exploded in this garden. The ones with the ribbons, they found 20 or 30 in the garden and yard. They took away some, but still there are few remaining.”⁸⁵⁴

The Fact-Finding Group interviewed another witness, Manush Gevorgyan from Martuni, who stated that:

Before the incident, around 7:10 am, we heard loud voices and walked out to the yard to see what they were and saw the skies full of UAVs; we continuously heard bangs. The bangs were coming from a distance, but the unmanned aerial vehicles were not firing.⁸⁵⁵

Manush remembers a round ball coming, falling and then everything covered by darkness. “One fell near us,” she said. She lost consciousness after the impact and does not remember how she ended up in the hospital. Manush also told the

851 Interview with Robert, a resident of Martuni, 2 February 2021.

852 Ibid.

853 Interview with Shahen, a resident of Martuni, 17 December 2020.

854 Ibid.

855 Interview with Manush, a resident of Martuni, 21 February 2021.

Fact-Finding Group that artillery was located below the house, on the road. According to her, on the day they were wounded the houses were attacked four or five times. Manush assured that she saw only UAVs, heard the buzzing noise, but did not see anything else.

The Fact-Finding Group examined video footage of Shahen Balayan's house, made by the reporter War Gonzo, showing a burned-down structure near the house and multiple holes from a fragment of a used projectile.⁸⁵⁶ The Fact-Finding Group found no confirmed information that the artillery canons in the vicinity were used on September 27th when the Martuni residential buildings were hit. The cannons were installed back in 2016 during the four-day war. According to testimony, the cannons were not damaged. Thus, questions arise about the correctness of the choice of means of warfare, the determination of damage among the civilian population in relation to a specific and direct military advantage, as well as other questions of the military necessity of an attack.

The Fact-Finding Group members, during the field visit to Artsakh after the war, examined the area and established that the above-mentioned artillery was located on the opposite side of the house, 600 meters away, towards the mountains, not the village. Shahen Balayan's house is the last in that block, about 200 meters away from a wheat warehouse. The Fact-Finding Group members took photos of submunitions from M95 cluster munitions. Information provided by the AR General Prosecutor's office states that the evidence collected through a criminal investigation shows the use of artillery during the attack by Azerbaijan.

The Fact-Finding Group also examined photos⁸⁵⁷ and video⁸⁵⁸ footage taken on 27 September 2020, showing damage to other civilian structures and remnants of ammunition in the city of Martuni.

The Fact-Finding Group sent an OSINT specialist this case file for an expert opinion. According to the OSINT specialist conclusion, the approximate size, construction, coloration, and distinctive markings visible on the munition remnants lead them to assess with moderate confidence that they are part of the munition body ('casing') of an Israeli Elbit Systems LAR-160 surface-to-surface rocket. The physical characteristics of the remnants documented in Martuni closely match other

856 WarGonzo (@wargonzo), "ЭКСКЛЮЗИВ. Карабах в огне: израильский-беспилотник камикадзе, иностранные РСЗО, обстрелы из Д-30 и разрушения...", September 28, 2020, Telegram video, <https://t.me/wargonzo/3492>.

857 "Azerbaijan's War against Artsakh: Photo Gallery," Ministry of Foreign Affairs of the Republic of Armenia, accessed April 14, 2022, https://www.mfa.am/en/awaa_p?page=5.

858 Armenian Unified Infocenter (@armenianunified), "Another illustration of targeting civilian population since the very start of the military operations Martuni, Artsakh Republic (Nagorno-Karabakh)," Tweet, September 29, 2020, <https://twitter.com/armenianunified/status/1310911995101827073>.



Figure 15.67. An individual holding a section of the munition which landed near a house in Martuni, 27 September 2020 (Source: MFA Armenia).

remnants that have previously been positively identified as LAR-160 rockets. The partial rocket body shown in Figure 71 shares key physical characteristics and with the LAR-160 rocket.

The LAR-160 rocket is currently deployed only by Azerbaijan within the context of the conflict.⁸⁵⁹ The LAR-160 is carried and fired by the ‘Lynx’ MBRL system which can carry 26 of these rockets. Azerbaijan ordered 6 Lynx systems from Israel in 2005 and received the weapons in 2006. The LAR-160 is an unguided rocket with a maximum range of 45 km that carries a 45kg warhead. The available payloads include a high-explosive fragmentation (HE-FRAG), cargo, and enhanced accuracy variants.⁸⁶⁰ With the exception of the AccuLAR model, the LAR-160 is a relatively imprecise munition. The inherent technical characteristics of this munition may increase the likelihood of civilian casualties if used in urban or otherwise densely populated areas.

The damage visible appears to have been caused by a combination of fragmentation and blast over pressure, consistent with the use of HE-FRAG warheads. The OSINT specialist assessed it as likely that at least one munition employed during

⁸⁵⁹ “The Military Balance 2020.”

⁸⁶⁰ Dullum et al., “Indirect Fire: A Technical Analysis of the Employment, Accuracy, and Effects of Indirect-Fire Artillery Weapons.”

the attack on this populated area was fitted with a HE-FRAG warhead. Given the extensive blast damage caused by the strike, the OSINT specialist assesses it to be unlikely that submunitions were used.

There are several categories of explosive weapons that tend to hit a large area. One of the categories includes the weapon system being designed to deliver multiple munitions over a wide area, such as multiple rocket-launcher systems.⁸⁶¹



Figure 15.68. Documented damage to the interior of the building next to which was found part of the munition body ('casing') of an Israeli Elbit Systems LAR-160 surface-to-surface rocket, 27 September 2020 (Source: MFA Armenia).

Human Rights Watch discussed the lawfulness of the use of multiple launch rocket system (MRLS)⁸⁶² in a 2014 fact -finding report on violations of the IHL in Eastern Ukraine. Human Rights Watch called all conflicting sides to stop the use of Grad MRLS in populated areas or neighborhoods, taking into account the indiscriminate nature of munition and the possibility of casualties and injuries among the civilians. In regard to the Artsakh conflict, and as to indiscriminate attacks and the use of explosive weapons, Human Rights Watch noted that weapons such as

⁸⁶¹ Cross et al., "Explosive Weapons in Populated Areas," 11.

⁸⁶² The combat-proven multiple launch rocket system (MLRS) M270 is a highly mobile rocket artillery system manufactured by Lockheed Martin Missiles and Fire Control.

mortars, artillery, and rockets, such as Grad rockets, when firing unguided munitions, are fundamentally inaccurate systems. In some cases, armed forces can compensate by observing impacts and making adjustments, but the initial impacts and the relatively large area over which these weapons could strike, regardless of adjustments, make them unsuitable for use in populated areas. Moreover, a UN Fact-Finding Mission on the Gaza conflict underlined that, “there is no justification in international law for the launching of rockets and mortars that cannot be directed at specific military targets into areas where civilian populations are located.”⁸⁶³ In the report entitled, *Libya’s Relentless Militia War: Civilians Harmed in the Battle for Tripoli, April-August 2019*, Amnesty International established a violation of the principle of distinction when Grad rockets were used in areas close to civilians.

For example, the SMERCH multiple launch rocket system (MLRS) is also designed to destroy group targets. In terms of accuracy, the system is close to artillery pieces. The affected area is 672 thousand square meters.

In most cases investigated here, the use of unguided rockets was detected, in one incident the use of an accurate long-range artillery missile was established in a populated area.

For an attack to be considered legitimate, it must firstly be directed at a military target. The attack on the military objective may nevertheless become illegal if excessive collateral damage affecting civilians or civilian objects is to be expected. Furthermore, even when attacking a lawful target, precautionary measures to spare civilians must be taken.⁸⁶⁴

The prohibition against attacking civilians stems from a fundamental principle of IHL, the principle of distinction, which obliges parties to distinguish at all times between the civilian population and combatants, between civilian objects and military objectives and accordingly to direct military operations only against military objectives.⁸⁶⁵ Prohibitions on attacks against civilians and civilian objects are rules of customary international law and are reflected in Articles 51 and 52 of Additional Protocol I.⁸⁶⁶

The two most recognized criteria to determine whether a weapon is indiscriminate are: “Whether the weapon is capable of being targeted at a military objective and whether the effects of the weapon can be limited as required by international

863 “Report of the United Nations Fact-Finding Mission on the Gaza Conflict” (UN Human Rights Committee (HRC), September 25, 2009), para. 1687, <https://www.refworld.org/docid/4ac1dd252.html>.

864 Sassòli, “Legitimate Targets of Attacks Under International Humanitarian Law,” 1.

865 Prosecutor v. Dario Kordic, Mario Cerkez (Appeal Judgement), IT-95-14/2-A paragraph 54.

866 “Protocol Additional to the Geneva Conventions of 12 August 1949.”

humanitarian law.” These criteria are both laid out in Additional Protocol I: Article 51(4)(b) which prohibits weapons that cannot be directed at a specific military objective and Article 51(4)(c) which prohibits weapons, the effects of which cannot be limited as required by the Protocol.⁸⁶⁷

Given that, except for one case, no military objectives were placed in populated areas in the investigated cases, these incidents raise the serious question of the ratio of civilian casualties, civilian injuries, damage to civilian objects, or a combination of both, in contrast to any specific and direct expected military advantage. Azerbaijan’s use of multiple launch rocket systems in residential areas makes the population the direct target of an attack, violating the principle of distinction under customary international law, as enshrined in Article 52 of the Additional Protocol I.

Given the military technical potential of Azerbaijan, regarding the use of high-precision weapons such as drones (presented in more detail above), the question arises about the motives for the systematic and large-scale selection of the least accurate weapons, for example, MLRS missiles, in various densely populated areas of Artsakh.

The Fact-Finding Group found that rockets and artillery shells could not lawfully be used in populated areas due to their widespread action and high risk of harm to civilians, even if targeting a military objective. The Fact-Finding Group found that such attacks constituted indiscriminate attacks against the civilian population. The mission believes that there are serious grounds to believe that one of the main goals of rocket and mortar attacks is terrorizing the civilian population.

Thus, the reported incidents and testimonies, assessed by the Fact-Finding Group as credible, strongly suggest that Azerbaijan made no distinction between military targets and civilians and civilian objects throughout the conflict in all areas under investigation.

The Fact-Finding Group concludes that Azerbaijan has deliberately, frequently, and systematically attacked the civilian population. Azerbaijan has systematically carried out indiscriminate attacks, either because they were not directed against a specific military target, or because they used a method or means of warfare that could not be directed at a specific military target.

In the absence of an intended specific military target, and when missiles are fired and targeted at civilian areas, they constitute a deliberate attack on the civilian population. These acts constitute war crimes and may constitute crimes against humanity.

⁸⁶⁷ “Customary IHL - Rule 71. Weapons That Are by Nature Indiscriminate” (International Committee of the Red Cross), accessed April 14, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_ru_rule71.

Cluster Munitions: Per Se Indiscriminate Projectiles

“I was in our yard. My brother-in-law and I were injured when they dropped a cluster bomb. There were elderly people in the village. They rushed to us, put bandages to stop the bleeding, then someone took my brother-in-law and me out of the village, to Stepanakert hospital.”

- Henrik Adamyan, from Askeran⁸⁶⁸

The wide area impact of cluster munition and the large number of unguided submunitions released make it impossible to distinguish between military objectives and civilian contingents in a populated area.⁸⁶⁹ Accordingly, the use of cluster munitions in populated areas constitutes a war crime due to their indiscriminate nature.⁸⁷⁰

Cluster munitions are weapons consisting of a container that opens in the air and scatters explosive submunitions or “bomblets” over a wide area. Depending on the model, the number of submunitions can vary from several to more than 600. Cluster munitions can be delivered by aircraft, artillery and missiles. Most submunitions are intended to explode on impact. The vast majority are free-falling, meaning that they are not individually guided towards a target.⁸⁷¹ Cluster submunitions look like small cylindrical explosive submunitions with bright red or white ribbons at one end.

Cluster bombs are classified as indiscriminate munitions because submunitions cannot be accurately targeted once they are realized from a cluster munition container, and they can land far from their intended target.⁸⁷² Attacks using methods or means of carrying out military actions that cannot directly target specific mil-

⁸⁶⁸ Interview with Henrik, a resident of Askeran, 17 December 2020.

⁸⁶⁹ These regulations place restrictions on how weapons can be used and outline measures to be taken to limit their impact on civilians and civilian objects. The most significant rules include a) the rule of distinction, b) the rule against indiscriminate attacks, c) the rule of proportionality, and d) the rule of possible precautions. See “Observations on the Legal Issues Related to the Use of Cluster Munitions” (International Committee of the Red Cross, June 25, 2007), <https://digitallibrary.un.org/record/604266>.

⁸⁷⁰ Pursuant to Article 8(2)(b)(xx) of the 1998 ICC Statute, the following constitutes a war crime in international armed conflicts: Employing weapons, projectiles and material and methods of warfare ... which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute.

⁸⁷¹ “Cluster Munitions: What Are They and What Is the Problem?,” International Committee of the Red Cross, August 1, 2010, <https://www.icrc.org/en/doc/resources/documents/legal-fact-sheet/cluster-munitions-fact-sheet-230710.htm>.

⁸⁷² <https://www.icrc.org/en/doc/assets/files/other/cluster-munition-treaty-factsheet.pdf>

itary objects are considered indiscriminate attacks. Customary international humanitarian law prohibits indiscriminate attacks during any armed conflicts.⁸⁷³ In addition, attacks without distinction may also be qualified as direct attacks on civilians, based on the indiscriminate character of the weapons used.⁸⁷⁴

After the war, the Halo Trust nongovernmental organization, operating in Artsakh since 2000 (cleaning land mines and unexploded munition remaining after the war in 1990s), found and cleared 1,548 cluster munitions.⁸⁷⁵ The survey team of Halo Trust found several pink ribbons, the telltale sign of M85 cluster munitions, inter alia, on the roof of a five-story building in a densely populated area in the center of Stepanakert. The roof was completely damaged by shelling.⁸⁷⁶

Reports of the Artsakh Ombudsman⁸⁷⁷ and Human Rights Watch⁸⁷⁸ confirm the use of LAR-160 and SMERCH cluster warhead missiles in the capital Stepanakert, the cities of Sushu and Hadrut, and the village of Shosh, near Stepanakert.

The Fact-Finding Group received many reports stating that in the cities of Stepanakert, Shushi, Marutni, Hadrut, and in the villages of Vardashat, Norashen, Kochoghut, Karmir Shuka Avetaranoc, Shosh and other populated areas, Azerbaijani troops used cluster munitions during the armed conflict. There were identified Israeli-made LAR-160 rockets containing M095 submunitions, as well as 9M55K SMERCH rockets containing 9N235 submunitions.

Stepanakert

Sergey Dadayan runs an optical shop in Stepanakert; the windows in the shop and his house were damaged. The road pavement between 16 Vazgen Sargsyan and 18 Vazgen Sargsyan, from intersection to intersection, was perforated by the impact of these explosives. The Fact-Finding Group members walked around the house and near the shop; Sergey showed all the impacted sites with traces of fragments. He said that there was also an unexploded cluster munition in front of the optical

⁸⁷³ Prosecutor v. Stanislav Galić (Judgement) paragraph 5.

⁸⁷⁴ Prosecutor v. Milan Martić (Judgment), No. IT-95-11-T (International Criminal Tribunal for the former Yugoslavia June 12, 2007).

⁸⁷⁵ “Building Resilience in a Year of Crisis: 2020 Nagorno Karabakh Impact Report” (The Halo Trust, 2020), <https://www.halotrust.org/media/7842/nk-2020-impact-report.pdf>.

⁸⁷⁶ “A Cluster Bomb in the Attic: Aro’s Story,” The HALO Trust, accessed April 14, 2022, <https://www.halotrust.org/latest/halo-updates/stories/aros-story/>.<https://www.halotrust.org/latest/halo-updates/stories/aros-story/?fbclid=IwAR3cYDI1UIPHElufMFcequljxboKqLe1in-xKz0c2p0Y-hu0amhGuiE6UCE>

⁸⁷⁷ “The Updated Edition of the Second Interim Report on the Azerbaijani Atrocities against the Artsakh Population in September-October 2020.”

⁸⁷⁸ “Technical Briefing Note: Cluster Munition Use in the Karabakh Conflict,” Human Rights Watch, July 15, 2021, <https://www.hrw.org/news/2021/07/15/technical-briefing-note-cluster-munition-use-karabakh-conflict>.

shop, but it was already collected. To the question whether the attacks had an intention to deliberately harm a peaceful population, he answered that shelling of cities and villages is to create panic and a climate of fear.

During an on-site investigation in Stepanakert, Human Rights Watch documented numerous incidents in which Azerbaijan used cluster munitions to strike Stepanakert from September 27th through October 28th.⁸⁷⁹

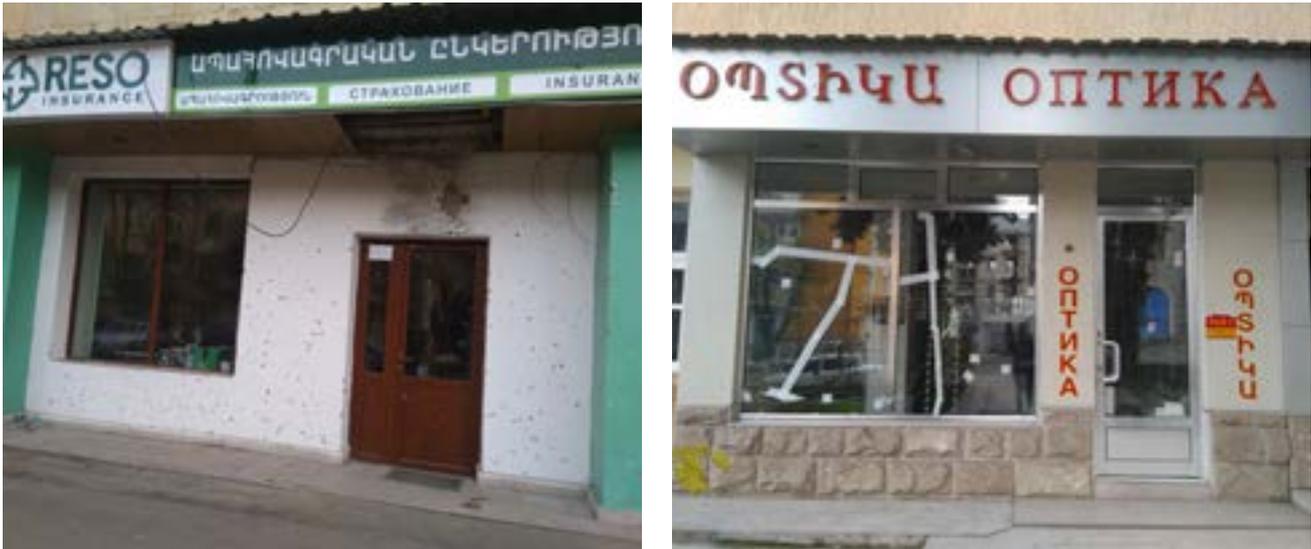


Figure 15.69. Buildings on V. Sargsyan Street, 2020 (Source: Fact-Finding Group).

Amnesty International identified Israeli M095 DPICM (Dual-Purpose Improved Cluster Munition) bomblets in a residential area in Stepanakert. Azerbaijan possesses around 30 LAR-160 medium-range (28 miles) rocket artillery systems, and 50 EXTRA 306-millimeter rocket systems, designed to deliver longer range (93 miles) precision strikes. Both munitions are built by Israeli Military Industries and are mounted on IMI Lynx trucks.⁸⁸⁰

Bars Media video footage from October 4th shows several cluster bombs near each other on a street in Stepanakert as well as burning cars, which were likely close to the bombs.⁸⁸¹ Also, employees of the Artsakh Ministry of Emergencies found cluster munition 200 to 300 meters from the Stepanakert cemetery.⁸⁸²

⁸⁷⁹ "Azerbaijan: Unlawful Strikes in Nagorno-Karabakh."

⁸⁸⁰ Sebastien Roblin, "Rockets, Cluster Munitions and Missiles Rain Down On Armenian And Azerbaijani Civilians," *Forbes*, October 7, 2020, sec. Aerospace & Defense, <https://www.forbes.com/sites/sebastien-roblin/2020/10/07/rockets-cluster-munitions-and-missiles-rain-down-on-armenian-and-azerbaijani-civilians/>.

⁸⁸¹ Bars Media, "Кассетные бомбы над мирным Степанакертом/ Shelling Stepanakert with Cluster Bomb Missiles 04.10.2020," October 4, 2020, YouTube video, <https://www.youtube.com/watch?v=cZ2vsJnv86E>.

⁸⁸² WarGonzo (@wargonzo), "В 200-300 метрах от кладбища Степанакерта работники МЧС Арцаха обнаружили кассетные боеприпасы," October 20, 2020, Telegram post, <https://t.me/KarabakhRecords/955>.



Figure 15.70. Unexploded cluster bombs collected by members of Karabakh field engineers' group on the outskirts of Stepanakert, 2020 (Source: Agence France-Presse).

Hadrut Region

When in Hadrut, journalists from the Fact Investigation Platform established that during a rocket attack on October 2nd, Hadrut resident Felix Shahinyan found a submunition of an unexploded cluster rocket in an armchair placed in the yard of his house. Munitions were also found in the yard of the house. Fortunately, there were no casualties among his family members, as there was no one in the house. Components of cluster bombs were also found in the yard of Felix Shahinyan's neighbor, 61-year-old Julieta Mrdanyan. She collected fragments from about ten submunitions from the yard of her house.⁸⁸³

On October 6th, the media disseminated information that Vahan Savadyan, mayor of Hadrut, had his house shelled⁸⁸⁴ and his family found temporary refuge in a shelter.⁸⁸⁵ Human Rights Watch identified the remnant of an Israeli-made LAR-160

883 Ani Grigoryan, "Azerbaijan Uses Rockets Prohibited by an International Convention against the Civilian Population of Artsakh," Fact Investigation Platform, October 4, 2020, <https://fip.am/en/13123>.

884 Инфотека24 (@infoteka24), "Кадры из Гадрута/Арцах," October 2, 2020, Telegram video, <https://t.me/infoteka24/7511>; @karabakh_news, "Гадрут (город в Арцахе)," October 2, 2020, Telegram video, https://t.me/karabakh_news/423; Инфотека24 (@infoteka24), "Эксклюзивные фото корреспондента Инфотека24 из Гадрута: последствия авиаударов ВС Азербайджана," October 1, 2020, Telegram post, <https://t.me/infoteka24/7419>.

885 Grigoryan, "Azerbaijan Uses Rockets Prohibited by an International Convention against the Civilian Population of Artsakh."

series cluster munition rocket that struck Vahan's house in the town of Hadrut.⁸⁸⁶ In addition to Israeli-made LAR-160 rocket with cluster submunitions, Human Rights Watch found in Hadrut M095 dual-purpose dud (unexploded) submunitions. Each rocket carries 104 submunitions and each submunition is equipped with a self-destruct mechanism.⁸⁸⁷

The LAR-160 consists of a multiple rocket launcher mounted on a mobile platform with one or two factory-sealed, expendable launch pod containers (LPC) with 160 mm caliber rockets. The LAR-160 Rocket is a modern free flight, fin-stabilized, solid propellant, surface-to-surface 160 mm artillery rocket packed in a launch pod. The LAR-160 has a range of 45 km.⁸⁸⁸

A multiple launch rocket system with cluster munitions was also used in the Vardashat village of Hadrut district which was shelled from the first days of the war, damaging houses in the village and injuring some residents. For instance, the house of one resident Harut (name changed), located 50 m from the Vardashat village cemetery and 5 km away from the military unit, was completely destroyed on September 27th. After hearing an explosion around 6:30 or 7:00 am on September 27th, Harut's family immediately moved to Nerkin Khndzoresk, but they returned to the village the same evening. Neighbors told Harut that the first shell to hit the village fell on his house. "Fortunately, I quickly evacuated my family from the village; otherwise, it is unclear what would have happened to us," he said.⁸⁸⁹

Harut does not precisely know what kind of missile fell on his house, however, when the Fact-Finding Group members showed pictures of different ammunitions⁸⁹⁰ he pointed to the first picture where a cluster munition (Israeli-made M095 submunitions) was displayed and added that he saw a missile with the red ribbon near the house. He also identified from a sample photo the body of a LAR-160 series Israeli-made rocket).

Arthur Arshakyan's hand and foot were wounded at home in Vardashat village on September 27th. In his testimony, Arthur Arshakyan said that there were several explosions when he was wounded. When shown photos of ammunition, he recognized the cluster bomb: "This injured me, it is SMERCH, SMERCH cluster munition. When it hit me, it broke the roof into pieces; it fell on the roof and then on me,

886 "Azerbaijan: Cluster Munitions Used in Nagorno-Karabakh," Human Rights Watch, October 23, 2020, <https://www.hrw.org/news/2020/10/23/azerbaijan-cluster-munitions-used-nagorno-karabakh>.

887 Ibid.

888 <https://tanknutdave.com/the-israeli-lar-160-mllrs-system/>

889 Interview with Harut, a resident of Hadrut, 21 December 2020.

890 Those images can be accessed here: <https://mega.nz/file/fhFwiQ6S#CwjprCnKpgM6c73wm6JqB-Lr-j8LBkuMNeBKEhfFrnyY>.

not everything fell on me otherwise I would not be here now, just one such pellet reached me.”⁸⁹¹

Arthur Arshakyan was employed by the Border Guard Troops of the National Security Service of Armenia and so he knew how cluster munitions worked. Arthur was not on duty at that time and was at home with family members. Information provided by Artsakh General Prosecutor’s Office confirmed that Arthur Arshakyan sustained shrapnel injury in the backyard of his house.

According to witnesses, there were no military installations in the village. As a possible military target, Arthur mentioned an air defense unit located in Sarishen village. Sarishen is five to six km away from Vardashat, while distance by air is one km. The Fact-Finding Group members collected testimony from five other residents of Vardashat, who confirmed information about the attacks on the village, damaged houses and injured villagers all starting on September 27th. Considering the demeanor of the witnesses interviewed, and that the testimonies corroborate the same information, the testimony is deemed highly credible.

The Fact-Finding Group also received a report of the use of cluster weapons in the villages of Norashen and Berdashen. Victor Chatmazyan from Norashen told the Fact-Finding Group that Azerbaijan shelled the civilian population and cars. The Fact-Finding Group had two interviews with Victor (on 1 December 2020 and 22 February 2021). During the last interview, Victor said that his car was hit by a cluster munition near Norashen village. As Victor’s wife explained, “the one with the red ribbons, he did not know not to touch it, but brought it back to show what he found near the car.”⁸⁹² Victor Chatmazyan claimed that there were fifteen to twenty cars in the same place, and they all were completely damaged; he emphasized that they all were civilian cars (there was a bakery on the site, where Victor Chatmazyan was working), and no military object was located nearby.

Taking into account that the Fact-Finding Group did not find any information about military objects located in the villages and the city, and the attacks were carried out by indiscriminate weapons, which damage large areas without distinction, the Fact-Finding Group can affirm that the armed forces of Azerbaijan used cluster bombs to attack the civilian population in general, rather than against specific military targets. These attacks violated the principle of distinction under customary international humanitarian law codified in articles 48, 51, 52 of the Additional Protocol (I) and amount to war crimes.⁸⁹³

891 Interview with Arthur, a resident of Hadrut, 27 January 2021.

892 Interview with Viktor, a resident of Hadrut, 1 December 2020.

893 UN General Assembly, Rome Statute of the International Criminal Court, art. 8 (2) (b) (i), 8 (2) (b) (ii).

Askeran Region

Henrik Adamyan, a resident of the Avetaranots village of the Askeran district, remembers: “when the war started the village was not struck.”⁸⁹⁴ The first rocket fell on the village on October 22nd or 23rd, it was a MLRS SMERCH rocket. Despite the fact that any kind of evacuation was yet to be done (people did not want to leave the village), no casualties or injuries happened at that time. On October 25th, Azerbaijan came close to Avetaranots village and used mortars and SMERCH rockets to heavily shell the village from the morning of October 26th; the majority of losses and injuries occurred on that day. They first struck the cemetery on the road from the village to the gorge; about 40 to 50 mortars struck the cemetery near which there were also residential houses. Afterwards, they used cluster munitions. Henrik’s leg and arm were wounded by fragments from the 5th cluster munition when he was near his house.

Henrik told the Fact-Finding Group that the mortar strikes mainly came from the area between Hadrut and Fizuli. When residents tried to evacuate the wounded, an aircraft bombed the village injuring three people and demolishing the entire village. At that time, only men were in the village. All wounded people were peaceful civilians:

I was in our yard. My brother-in-law and I were injured when they dropped a cluster bomb. There were elderly people in the village. They rushed to us, put bandages to stop bleeding, then someone took my brother-in-law and me out of the village, to Stepanakert. I was kept in Stepanakert hospital, and they sent the other boy to Yerevan.⁸⁹⁵

When asked why they shelled civilians, Henrik replied that the goal was to create panic and cause maximum damage, it was a massacre.

Andrey Hambardzumyan reported that the active shelling of the Avetaranots village began on October 23rd. He says that four missiles came their direction: three fell in the yard and one on the roof. The house was seriously damaged, their cattle were injured and killed. He lost 35 cows, two horses and fifteen pigs. On October 16th, Andrey was approaching his house when a bomb fell. The house is 200 meters from the school and 200-250 meters from the cemetery. He was wounded by a cluster munition, then transferred to Stepanakert and, afterwards, to Yerevan. His left hand was amputated. He says that on the same day, his brother-in-law was also wounded. When asked why they targeted civilians, Andrey replied that the goal was to seize these territories. In his interview to an Artsakh TV news reporter, Andrey Hambardzumyan told again that a total of four missiles struck, and in his

⁸⁹⁴ Interview with Henrik, a resident of Askeran, 17 December 2020.

⁸⁹⁵ Ibid.

view, they attacked with cluster munitions.⁸⁹⁶

On October 26th, the Artsakh Human Rights Defender stated that MLRS SMERCH rockets were used against Avetaranots village, killing one civilian, Gevorg Hambardzumyan, and injuring two other civilians, Andrey Hambardzumyan and Henrik Adamyan.⁸⁹⁷ The AR General Prosecutors office confirmed that Andrey Hambardzumyan and Henrik Adamyan were wounded during the shelling of Avetaranots village in Askeran district on 26 October 2020. Two more people were wounded on the same day.

The Fact-Finding Group examined two journalist reports.⁸⁹⁸ The attacks resulted in explosions in several directions; a large number of animals were killed. Sevak Baghdasaryan, mayor of Avetaranots community, in his interview to an Artsakh TV news reporter, said that besides the two houses hit directly in the village, other houses were also damaged. Video reports and testimonies by interviewees show that the attack was indiscriminate; holes ripped through walls, windows and other surfaces of residential houses by fragments, and the statement by the AR General Prosecutor's office that rockets caused injuries to civilians, give grounds to believe that a warhead with cluster munition was used. The fact-finding team, based on intake forms, examined also the experience of seven additional residents from the village, and one of them clearly indicates that family members saw munitions with red ribbons, which fell in the direction of their house and completely damaged the roof.

According to the analysis, the Fact-Finding Group concludes that cluster bombs were used in Avetaranots village.

Martuni Region

The Fact-Finding Group interviewed a resident of the Berdashen village, Svetlana Harutyunyan, who stayed in the village for twelve days after the war began. The interviewee's statements are confirmed by two other testimonies received through intake forms and journalist video reports. The Fact-Finding Group examined journalist videos⁸⁹⁹ about the consequences of an attack on Berdashen village enacted on October 2nd and 10th. On the video from October 2nd, the villagers report

896 ARTSAKH TV NEWS OR, "Լրատվական, իրավիճակին Ու Տիրող Տրամադրությունների Ավետարանացում," October 24, 2020, YouTube video, <https://www.youtube.com/watch?app=desktop&v=PK-kVqkQVsTo>.

897 "Չակառակորդի «Ամերչ»-ի հարվածների հետևանքով Ավետարանաց գյուղում զոհվել է 1 և վիրավորվել 2 քաղաքացիական անձ," Յետք, October 26, 2020, <https://hetq.am/hy/article/123587>.

898 Ազատություն, "Դիվերսիոն խումբ է Փորձել Գյուղ Մտնել, Բայց Մարտական Ոգին Բարձր է, Դուխով Ենք. Ավետարանցի Բնակիչներ," October 25, 2020, YouTube video, <https://www.youtube.com/watch?v=fr-T7eFzrPFE>.

899 Федеральное агентство новостей, "Мартуни — Город, Которому Больно," October 2, 2020, V Kontakte video, https://vk.com/video-73013298_456257460.

that an air strike four days ago, around 11:30 am, completely destroyed a house, which burnt down. Videos from October 10th feature damaged and completely destroyed homes, cars, as well as cluster munitions and remnants of a rocket from the multiple launch rocket system found by residents.

In a video made by an Artsakh TV reporter,⁹⁰⁰ Stella, a resident of the village, says that on October 9th she was injured by a fragment; the explosion happened five meters from her. Stella's injury was confirmed by the AR General Prosecutor's office. The damage to windows and the remnants of weapons found suggest that on October 9th a SMERCH rocket with cluster submunitions was used.

Examination of collected testimonies and journalist reports led the Fact-Finding Group to a conclusion that during the war, cluster munitions were used in Berdashen village on October 9th.

Additionally, the Fact-Finding Group members, during the field visit to Artsakh after the war, examined the area of Shahan Balayan's house in Martuni (reported above) and found cluster munitions in his yard.



Figure 15.71. Damaged wall of Shahan Balayan's house after the attack that killed his wife and a submunition found in the yard of Shahan Balayan's house, 2020 (Source: Fact Finding Group).

900 Artsakh Public TV, "Բերդաշենը ԵՎս Ռմբակոծվել է Արգելված Կլաստերային Ռումբերով," October 10, 2020, YouTube video, <https://www.youtube.com/watch?v=m9PBzgCViAY>.

International humanitarian law prohibits the use of cluster munitions in areas close to civilian objects or residential areas due to their effect over long ranges and the inability to distinguish between combatants and civilians. The potential of cluster bombs to cause incidental civilian casualties is predictably higher than for many other types of ordnance because of the wide areas affected by each strike.⁹⁰¹ Also Human Rights Watch believes there should be a presumption that dropping cluster bombs in a populated area is an indiscriminate attack.⁹⁰²

The Convention on Cluster Munitions (CCM) prohibits under any circumstances the use, development, production, acquisition, stockpiling and transfer of cluster munitions, as well as the assistance or encouragement of anyone to engage in prohibited activities, and obliges them to ensure the clearance of unexploded submunitions and to take relief measures for victims. Even though Azerbaijan is not one of the 110 State Parties to this convention, the use of any cluster munitions during armed conflict is still governed by IHL rules and principles on the conduct of hostilities. Pursuant to the IHL principles of distinction and proportionality, cluster munitions are per se illegal in civilian populated areas.

Azerbaijan, in all documented cases, ignored the requirement of IHL to take all possible precautions when engaged in an attack. Baku is responsible for the use of cluster bombs in populated areas that resulted in injuries to civilians and damage to houses and to other civilian property. Evidence collected by the Fact-Finding Group and reports published by international organizations confirm the use of cluster munitions in densely populated villages, cities, and their environs. The use of cluster munitions in such locations violates the IHL principle of distinction and constitutes a war crime.

901 “Cluster Bombs and Landmines in Kosovo: Explosive Remnants of War - ICRC” (International Committee of the Red Cross, June 2001), <https://www.icrc.org/en/doc/resources/documents/report/explosive-remnants-of-war-brochure-311201.htm>.

902 “Fatally Flawed: Cluster Bombs and Their Use by the United States in Afghanistan” (Human Rights Watch, December 18, 2002), <https://www.refworld.org/docid/3f4f594b7.html>.

Targeting of Journalists

*“Your life was like a lottery ticket: now you are, now you are not.
If you were there – you were targeted.”*

- Arthur Devrikyan, cameraman, *Factor TV*⁹⁰³

The fact-finding mission identified cases when journalists covering the armed conflict were targeted. Attacks were carried out while journalists were known to be present in civilian areas, resulting in various injuries to reporters. Journalists were also directly and specifically targeted. Such attacks hindered the professional activities of journalists, and in general, negatively impacted the media coverage of the war as several journalists were forced to leave the Republic of Artsakh (Nagorno-Karabagh) due to security reasons. It should be noted that Azerbaijan has a record of violating the rights of journalists, and suppressing freedom of expression, and that during the war, Azerbaijan utilized weapons, especially drones, with specialized and exact reconnaissance and targeting systems, for both reconnaissance and offensive attack.⁹⁰⁴

Considering its record of violations, the efficacy of the Azerbaijani arsenal, and the International Humanitarian Law (IHL) policies of distinction, necessity and proportionality, and precautions, sufficient evidence shows the targeting of journalists. Therefore, the burden of proof regarding whether the targeting and injuries to journalists were merely accidents or intentional must shift to the state party that took the action and therefore has any exculpatory information to justify its conduct. As the analysis below shows, the targeting of journalists was either intentional, with the purpose of frustrating reporting on Azerbaijan’s conduct, or at best reckless. Either way, the targeting and injuries to journalists, and the deaths of civilians accompanying journalists, amount to a violation of IHL and human rights norms.

A number of incidents raising the issue of the targeting of journalists occurred, but below are the primary incidents investigated as part of this fact-finding.

⁹⁰³ Interview with Arthur Devrikyan, 12 April 2021.

⁹⁰⁴ Shaan Shaikh and Wes Rumbaugh, “The Air and Missile War in Nagorno-Karabakh: Lessons for the Future of Strike and Defense” (Center for Strategic and International Studies, December 8, 2020), <https://www.csis.org/analysis/air-and-missile-war-nagorno-karabakh-lessons-future-strike-and-defense>.

1 October 2020, City of Martuni, Artsakh

On October 1st, after 11:00 am, Ms. Hermine Virabyan, an independent journalist, headed to the city of Martuni from the Artsakh Information Center in Stepanakert to document earlier damage to civilian residential areas. Three press cars, maintaining adequate distance from each other, with three journalist teams reached Martuni City Hall, where they interviewed and took pictures of civilians from the shelter. After arriving at the City Hall, Hermine put on a bullet-proof vest and a helmet with a “TV” sign on it. From the City Hall, they went to explore residential neighborhoods. An A4-sized “PRESS” sign was attached to the windshield of the car with Allan Cavalli and Rafael Charles Yagobzade, two journalists from French *Le Monde* newspaper, and Hermine onboard was also visible.



Figure 16.1. Photo of Hermine Virabyan an hour before the strike, 1 October 2020 (Source: Mediamax).

Hermine recounted the events of that day to the fact-finding mission:

We reached an abandoned, empty street at a maximum of five minutes distance from the City Hall. There were residential buildings, only residential buildings where people live during normal times; it was not a frontline, not a battlefield, no servicemen were there, only a deafening silence. We started filming, entering yards and videotaping damaged houses. Rafael was taking pictures, Allan was making some notes, and I had a video camera on me. We left the yard and were about to get into

our car parked in front of the house when we heard a noise, the sound of a blast, and it all happened so fast, like in a second; probably it took about half a minute. When we heard the sound and realized that the blast was coming our way, it was already falling on us and we, without saying a word, unable to hear, and holding to each other, start running chaotically. I heard only explosions and felt some objects falling around me. I remember screaming “shelter, shelter,” but all doors were closed; I never thought about laying on the ground and not moving.

At some point I heard roaring, inhuman cries from behind: “Help, help!” I realized that it was Allan’s voice. I was shocked and had memory loss. I only remember seeing Allan and Rafael on the ground with black ashy smoke behind them. When I looked back, Allan was all red and yelling wildly; I felt like he is dying ... I remember taking my bullet-proof vest off, rolling up my trousers and checking whether my legs were still there, because I thought that I might not feel anything after the shock.⁹⁰⁵



Figure 16.2. Wounded journalist of *Le Monde* in hospital, 2 October 2020 (Source: Aravot Daily).

Hermine helped to get Rafael to the Martuni Hospital, while other journalists, who were nearby and heard Hermine’s calls, helped Allan.

Hermine saw Rafael’s leg “coming out” with the leg bones exposed. Rafael had surgery in Martuni, while Allan was transferred to Stepanakert, since no sufficient medical treatment could have been provided in Martuni. Hermine said there were two options: either driving Allan 40 minutes under fire and trying to save his life or leaving him in Martuni to die. When the wounded journalists ar-

⁹⁰⁵ Interview with Hermine Virabyan, 26 April 2021.

rived to Martuni hospital it was empty, but in the coming hours wounded people would be endlessly brought to the hospital. Martuni resident Grisha Narinyan, who was accompanying Hermine and her French colleagues, did not survive; 40-50 minutes after they reached the hospital, the deputy mayor told Hermine that Grisha had passed away.

Hermine is convinced that her colleagues and she were tracked by the Azerbaijani Armed Forces and that the presence of journalists near the City Hall was not unexpected because the Azerbaijani forces surveilled the entire territory of Artsakh, and knew all the developments using, *inter alia*, live broadcasts by journalists.

On October 1, 2020, another group of journalists from the 24News news agency – Sevak Vardumyan, reporter, and Arthur Harutyunyan, cameraman – were inside the Martuni City Hall during the strike. Arthur Harutyunyan started his journey to Martuni around 11:00 am in his car from the Artsakh Information Center in Stepanakert with Sevak Vardumyan, a reporter from the same news agency. The car had a “PRESS” sign, and the crew wore bullet proof vests with “PRESS” inscriptions. They arrived at Martuni City Hall, and saw representatives from other media outlets, including the journalists from *Le Monde* and Hermine. Around 13:00 Sevak was working inside the City Hall, while Arthur was outside the building, near the French journalists standing near Monte Melkonian’s statue some five to six meters away.



Figure 16.3. Arthur Harutyunyan, cameraman of 24News (Source: photo provided by Arthur).

When the French journalists left the municipality building, Arthur returned to the City Hall, where a few minutes later he heard and felt the strike. Artur described how they were running through the municipality building, opening doors, trying to find the way to the shelter:

Sevak led the race, I ran after him, and there was someone behind us; we opened all the doors, one after the other, to find the bomb shelter. When Sevak got to the last door, a blow came from that side; doors and windows burst open and the wave threw us to the ground. Sevak checked the last door and it also was locked; then it struck again. Sevak fell flat on his face. We crawled into one of the rooms, hid between the walls; Sevak got into the next room. There were three or four strikes – all coming within 30 seconds.⁹⁰⁶

Arthur saw the broken windows of the City Hall building, smoke coming from a building next to the municipality, a car hit by a mortar shell and burning near the municipality, and the remnants of another shell near his car, which stuck in the road pavement after damaging the car.⁹⁰⁷ He says that as far as he observed, there were no military installations in the vicinity.

As Hermine testified, at the time of the strike, other journalist groups were in Martuni as well; for instance, Dmitri Elovski, the deputy Editor-in-Chief of Russian *Dozhd (Rain)* TV, also found himself under Azeri shelling in Martuni, but was not injured as he found refuge in a bomb shelter.⁹⁰⁸ In Martuni, the Azerbaijani Armed Forces also targeted a car with journalists from the *Agence France-Presse*, an international news agency. The journalists were not injured but the car was damaged.⁹⁰⁹

The eyewitness testimonies are credible for various reasons. First, different groups of journalists were in the same approximate location, having Martuni City Hall as the starting point of their activities. The shelling occurred when Hermine Virabyan and the *Le Monde* journalists were at 15 Nelson Stepanyan Street, in a residential area located 500 to 600 meters from Martuni City Hall, while Arthur Harutyunyan and Sevak Vardumyan from the *24News* news agency were inside Martuni City Hall. Moreover, the journalists refer to the same chronology of events. Addition-

906 Interview with Arthur Harutyunyan, 5 April 2021.

907 Ազատություն ռադիոկայան, “Թիրախավորվել է Մարտունու քաղաքապետարանը և հարակից տարածքը 24 news-ի լրագրող,” Facebook, October 1, 2020, <https://www.facebook.com/azatutyun/vid-eos/1742145575939423/>.

908 “Замглавреда Телеканала ‘Дождь’ Дмитрий Еловский Попал Под Обстрел в Нагорном Карабахе,” TACC, October 1, 2020, https://tass.ru/mezhdunarodnaya-panorama/9601327?fbclid=IwAR1o59E8m9_IdWCu-UR7DuYtOkOSn8XOAFEqm7xkYFvHZL6BI3nwiz4GPA98.

909 Armenian Unified Infocenter (@ArmenianUnified), ““#breaking: The Azerbaijani Armed Forces Also Targeted a Car Carrying Reporters from Agence @afpfr Currently Covering the Situation on the Ground in #Artsakh,” Twitter, October 1, 2020, <https://twitter.com/ArmenianUnified/status/1311631007452405760>.



Figure 16.4. The car transporting AFP journalists, 1 October 2020 (Source: Hetq).

ally, there are forensic assessment reports about the injuries sustained by the *Le Monde* journalists. There is also objective evidence – videos and photographs⁹¹⁰ – verifying information provided by the journalists. The evidence of the targeting of journalists has also been documented in a report prepared by the Human Rights

⁹¹⁰ “French *Le Monde* Journalists Critically Injured by Azerbaijan’s Attack in Martuni Region of Artsakh / Karabagh,” AzeriWarCrimes.org, October 2, 2020, <https://azeriwarcrimes.org/2020/10/02/two-french-journalists-critically-injured-and-one-armenian-civilian-killed-by-azerbaijans-attack-on-press-car/>; “Bus Carrying Russia, Armenian Journalists Hit by Artillery Fire | Cyprus Mail,” Cyprus Mail, October 2, 2020, sec. Europe, <https://cyprus-mail.com/2020/10/02/bus-carrying-russia-armenian-journalists-hit-by-artillery-fire/>.

Defenders of Armenia and the Republic of Artsakh.⁹¹¹ Additionally, Journalists Without Borders has referred to this incident in its statement from 2 October 2020,⁹¹² and it has also been reported by the Committee to Protect Journalists (CPJ)⁹¹³ and the International Press Institute.⁹¹⁴

In summary of all the events of that day, it is clear that on 1 October 2020, civilian areas of Martuni came under attack while being visited by national and international journalists. Allan Cavalli and Rafael Charles Yagobzade, two journalists from French *Le Monde* newspaper, and Hermine Virabyan, an independent journalist, were shelled near 15 Nelson Stepanyan Street between 13:15 and 13:30 by the Azerbaijani Armed Forces (as evidenced by the type of weapons) when they were documenting the damages caused by the Azerbaijani forces to the Nelson Stepanyan residential area. The journalists were near a car with a “PRESS” sign when they came under attack. Information provided by the Republic of Artsakh, based on the forensic report, stated that Allan Cavalli sustained life-threatening injuries, and Rafael Charles Yagobzade had minor injuries with short-term health deterioration. Grisha Narinyan, a 28-year-old resident of Martuni, who accompanied the journalists, died at the scene. At the same time another group of media professionals, including Arthur Harutyunyan, a cameraman from the 24News news agency, Sevak Vardumyan, a reporter from the same news agency, and Aram Grigoryan, a cameraman from *Armenia TV*, also experienced the attack while inside Martuni City Hall. The forensic assessment report stated that Sevak Vardumyan and Aram Grigoryan had minor injuries.

2 October 2020, City of Martakert, Artsakh

The next incident of targeting of journalists happened on 2 October 2020. Arthur Devrikyan, a cameraman from *Factor TV*, says that on 2 October 2020, a Mercedes Sprinter van taking journalists, including him, from Martakert back to Nerqin Horatagh came under attack. There were ten to twelve Armenian and international journalists in the van. Arthur heard shots on the journey from Martakert to

911 “Ad Hoc Public Report on the Azerbaijani Attacks on Journalists Covering Hostilities in Artsakh (Nagorno-Karabakh)” (Yerevan-Stepanakert: The Human Rights Defender of the Republic of Artsakh, The Human Rights Defender of the Republic of Armenia, December 18, 2020), <https://www.ombuds.am/images/files/2f-da5dc2a427732e0b8baa748b66cf37.pdf>.

912 “Call for Probe into Origin of Shelling That Injured Reporters in Nagorno-Karabakh,” Reporters Without Borders, October 2, 2020, <https://rsf.org/en/news/call-probe-origin-shelling-injured-reporters-nagorno-karabakh>.

913 “At Least 4 Journalists Injured Covering Nagorno-Karabakh Conflict,” Committee to Protect Journalists, October 1, 2020, <https://cpj.org/2020/10/at-least-4-journalists-injured-covering-nagorno-karabakh-conflict/>.

914 “Resumption of Fighting in Nagorno-Karabakh Risks Further Attacks on Journalists,” International Press Institute, October 12, 2020, sec. Europe, <https://ipi.media/resumption-of-fighting-in-nagorno-karabakh-risks-further-attacks-on-journalists/>.

Nerqin Horathagh, then saw the van's windows shattering after the shots. When smoke filled the van, they jumped out after parking near the wall of an unfinished building. Arthur says that it all happened within 20 seconds, but he did not see what weapons were used. But they did make video recordings of the shrapnel marks on the van (Figure 5).⁹¹⁵ Arthur says that the broken glass rained on the head of Timofey Ermakov, Russian *First Channel* reporter, who was sitting next to the window.

Robert Ananyan, *Factor TV* journalist, who was in the van with other journalists, states that it was not a single shot but rather lasting fire. There was no traffic, the road was empty and in bad condition. There were "PRESS" signs attached to the windshield and side windows of the van transporting the journalists, who wore bullet proof vests again with the same sign. The whole incident was videotaped.⁹¹⁶ The journalists did not notice any military installation or military equipment in Martakert.

Robert says that the attack was launched to obstruct objective media coverage of situation on the ground where civilian infrastructures had been damaged and residents killed. In other words, the task of the Azerbaijani Armed Forces was not only to target military installations, but to also terrorize the peaceful population. He emphasized:

By creating this harsh, life-threatening environment for journalists as well, Azerbaijan had a very specific goal of not allowing Armenian and international media to document its war crimes. So, the goal was to cast out the journalists from Artsakh and let the war crimes, the targeting of the civilian population and suffering of people to go unnoticed. They partially achieved that goal because some journalists left.⁹¹⁷

The testimonies of these eyewitnesses are trustworthy because they all were in the same targeted van, provided the same account, and, in addition to oral testimony, they video-recorded the entire incident and presented photos of the damaged van (broken glass and shrapnel marks). Video evidence shows that the journalists wore special clothing and that the car had PRESS signs on it. This case is also documented in the reports prepared by the Human Rights Defenders of Armenia and the Republic of Artsakh, respectively, and is referenced in the statement by the Journalists Without Borders from October 2, 2020.⁹¹⁸

915 Factor tv, "ՅՐԱՏԱՊ. Կրակահերթ Լրագրողների Մեքենայի Վրա Մարտակերտում," October 2, 2020, YouTube video, https://www.youtube.com/watch?v=3sAef__znJM.

916 Ibid.

917 Interview with Robert Ananyan.

918 "Call for Probe into Origin of Shelling That Injured Reporters in Nagorno-Karabakh."



Figure 16.5. Factor TV journalist Robert Ananyan (left) and cameraman Arthur Devrikyan (right) (Source: photo provided by Arthur Devrikyan).



Figure 16.6. Screenshot from the video showing the attack on a car transporting journalists, 2 October 2020 (Source: Fact0r tv).

8 October 2020, Holy Savior (Ghazanchetsots) Cathedral in Shushi

Another incident of targeting of journalists occurred on 8 October 2020, during an attack on the Holy Savior (Ghazanchetsots) Cathedral in Shushi.⁹¹⁹ Foreign journalists Yuri Kotenok, Levon Arzanov, and Hrant Baladyan, a member of the accompanying group, were injured on 8 October 2020, in Shushi during a targeted attack on Holy Savior (Ghazanchetsots) Cathedral by the Azerbaijani Armed Forces. The journalists were there to cover the results of a missile attack on the same cathedral which occurred during the first half of the day.⁹²⁰ Yuri Kotenok and Levon Arzanov received severe injuries, Hrant Badalyan had moderately severe injuries with lasting health deterioration. This incident with targeting journalists was also documented by Human Rights Watch⁹²¹ and the Committee to Protect Journalists.⁹²²



Figure 16.7. Yuri Kotenok being carried out of the Holy Savior Cathedral in Shushi, 8 October 2020 (Source: Azeri War Crimes).

919 See the chapter on cultural crimes for additional information about the attack carried out on Shushi's Holy Savior Cathedral.

920 Azeri War Crimes, "Moment of Evacuation of the Russian Journalist Yuri Kotenok after Second Strike on Shushi Church," November 19, 2020, YouTube video, <https://www.youtube.com/watch?v=FtfPGWvOGrM>.

921 "Azerbaijan: Attack on Church Possible War Crime," *Human Rights Watch*, December 16, 2020, <https://www.hrw.org/news/2020/12/16/azerbaijan-attack-church-possible-war-crime>.

922 "Shelling Injures 2 Russian Journalists in Nagorno-Karabakh; Armenian Government Revokes Journalist's Accreditation," *Committee to Protect Journalists*, October 8, 2020, <https://cpj.org/2020/10/shelling-injures-2-russian-journalists-in-nagorno-karabakh-armenian-government-revokes-journalists-accreditation/>.

Analysis

This chapter illustrates how the Azerbaijani government showed total disregard towards the rights of journalists during the 2020 war in Artsakh. Such an attitude is reminiscent of Baku's repressive policies towards media, as well as its intolerance towards interpretations of the Nagorno-Karabakh conflict that deviate from the official Azerbaijani position.

Azerbaijani authorities have been particularly aggressive against journalists whose work was anyhow related to Artsakh. For example, Aleksander Lapshin, a blogger without a commercial-sized audience, visited Artsakh and was then pursued by Azerbaijani authorities who requested his extradition from Belarus. Once extradited, a Baku court sentenced Lapshin to three years in prison for having entered Artsakh. Lapshin was later pardoned, possibly because of his Israeli citizenship, showing that politics prevails above the law. Lapshin applied to the ECHR, accusing Baku of attempting his murder and cruelly torturing him in prison. The ECHR found that, in this case, there was both a procedural and a substantive violation of Article 2 of the UN Convention prohibiting torture.⁹²³ With regard to the latest war against Artsakh, it must be noted that upon initiating the war, at around 10:00 a.m. local time on 27 September 2020, the Azerbaijani Ministry of Transportation, Communication, and High Technologies issued a statement saying it had limited internet access "in order to prevent large-scale Armenian provocations."⁹²⁴ Such restrictions are not new in Azerbaijan.

During the war, Azerbaijan also obstructed the work of international media. For instance, journalists of Russian *LifeNews* portal were deported from Azerbaijan when Azerbaijani authorities accused them of "distorting the facts."⁹²⁵ Also, Catherine Norris-Trent, a reporter for the French France24 news agency stated that Azerbaijani authorities monitored the movement of journalists, accompanied them, and meddled in communication between journalists and ordinary citizens.⁹²⁶ Additionally, a criminal case was opened against Semen Pegov, a Russian blogger

923 Lapshin v. Azerbaijan, No. 13527/18 (European Court of Human Rights December 4, 2018); "European Rights Court Finds Baku Authorities Guilty of Trying to Kill Blogger," *Radio Free Europe/Radio Liberty*, May 21, 2021, sec. Azerbaijan, <https://www.rferl.org/a/azerbaijan-guilty-killing-blogger-lapshin-european-rights-court/31266991.html>.

924 "Ermənistanın törətdiyi genişmiqyaslı təxribatın qarşısını almaq üçün ölkə üzrə internetin verilməsi məhdudlaşdırıldı," Ministry of Digital Development and Transport of the Republic of Azerbaijan, September 27, 2020, <https://mincom.gov.az/az/view/news/990/ermenistanin-torettdiyi-genishmiqyasli-texribatin-qarshisini-almaq-uchun-olke-uzre-internetin-verilmesi-mehdudlashdirildi>.

925 "Ad Hoc Public Report on the Azerbaijani Attacks on Journalists Covering Hostilities in Artsakh (Nagorno-Karabakh)."

926 "Reporter of France24 Says Azerbaijani Authorities Violate Freedom of Press," *Armenpress*, October 12, 2020, <https://armenpress.am/eng/news/1031404/>.

from WarGonzo for visiting Artsakh.⁹²⁷ Moreover, the Azerbaijani authorities publicly stated that they cannot ensure the safety of journalists covering the hostilities in Nagorno-Karabakh, adding that journalists should request permission from the Azerbaijani authorities before entering Nagorno-Karabakh. Considering the background and context, this statement is a threat more than a warning. Most importantly, the Ministry of Foreign Affairs of Artsakh stated that it has information about special groups that have been formed by Azerbaijan to monitor the movement and activities of foreign journalists in Artsakh, so as to deliver targeted attacks.⁹²⁸

It is in this context that one must consider how Azerbaijan conducted its military operations, taking into account the legal principles regulating armed conflict, specifically the principles of distinction, necessity and proportionality, and precaution. As per distinction, state actors must distinguish between civilian persons and objects on the one hand, and lawful military targets on the other. As per necessity and proportionality, attacks are prohibited where they are expected to cause incidental loss of life, injury to civilians, damage to civilian objects or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. Thus, the principle of proportionality aims to reduce as much as possible the “collateral damage” caused by military operations. The criterion that makes it possible to determine to what degree such damage can be justified under international humanitarian law is that there must be a reasonable correlation between legitimate destruction and undesirable collateral effects. Moreover, and in line with the above, precaution dictates that state actors must take all feasible precautionary measures to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians and damage to civilian objects. One manifestation of precaution would be the obligation to give warning, as it appears under Protocol I.

Based on these principles, and as a matter of common sense, journalists and the news media in general benefit from the general protection against the effects of hostilities that IHL grants to civilians and civilian objects. This conclusion is supported by the fact that Article 50 of the 1st Additional Protocol to the Geneva Convention of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts treats journalists on dangerous professional missions in armed conflict areas as civilians.⁹²⁹

927 “Azerbaijan Opens Criminal Case against Russian Blogger Semyon Pegov,” *TASS*, October 12, 2020, <https://tass.com/emergencies/1211417?fbclid=IwAR1pA4h6v8U8FVR0dFCY7h24j8jWa1xZGlzUVZnvrXiEriOPC-OGk0yQFeIU>.

928 “Ad Hoc Public Report on the Azerbaijani Attacks on Journalists Covering Hostilities in Artsakh (Nagorno-Karabakh).”

929 “Additional Protocol (I) to the Geneva Conventions, 1977” (International Committee of the Red Cross, December 7, 1978), <https://ihl-databases.icrc.org/ihl/INTRO/470>.

Within this framework, it must be considered that Azerbaijan enjoyed advanced reconnaissance and targeting capabilities. Many reports have been published about Azerbaijan's extensive use of Turkish drones (UAVs). Azerbaijani President Ilham Aliyev also confirmed the widespread use of UAVs during the war, stating, "[t]hanks to advanced Turkish drones owned by the Azerbaijan military, our casualties on the front shrunk," and "[t]hese drones show Turkey's strength. It also empowers us."⁹³⁰ Moreover, Azerbaijan's Defense Ministry churned out a daily feed on Twitter and Telegram with drone videos purporting to show missile attacks and directed drone strikes. These videos showed that the area to be hit was fully visible and the Azerbaijani forces could see what object or person they hit. It should also be taken into consideration that it is possible that in some cases attacks were made by weapons other than UAVs, but still based on the reconnaissance data obtained by UAVs. Add to this the reported evidence that Azerbaijan was monitoring electronic communications and monitored journalists by following their broadcasts. Thus, it is logical, and more probable than not, that Azerbaijani forces knew of the locations of civilian journalists in the locations which were attacked prior to these attacks.

Additionally, the attacks during which journalists were subjected to danger and injury had no military objective, and thus such attacks violated all IHL principles. As reported above, the attacks were carried out against residential areas and targeted a press van, as well as the Holy Savior (Ghazanchetsots) Cathedral in Shushi, while journalists were reporting about a prior attack on the cathedral. As reported above, all witnesses stated that there were no military objects or targets in these areas. Also, as reported by witnesses above, the attack on Martuni happened when various teams of journalists, all identifiable as journalists by "PRESS" signs and having traveled there to document the prior attack on civilian areas, were present at the City Hall building and in adjacent areas. In this very real sense, the journalists were targeted, and targeted in violation of IHL and human rights norms.

Moreover, the consequences of these attacks against journalists, and the advantages won by Azerbaijan as per these consequences, constitute circumstantial evidence that these attacks and the targeting of journalists was intentional. As for consequences, as evidenced in this report, eight journalists were injured, including two French journalists (one with life-threatening injuries), and three Russian journalists. Hermine Virabyan reported that she experienced memory loss and that after the incident she could no longer work on war-related topics, while Arthur

⁹³⁰ Robert Lee (@RALee85), "During an Interview from a Few Days Ago, Azerbaijani President Ilham Aliyev: 'Thanks to Advanced Turkish Drones Owned by the Azerbaijan Military, Our Casualties on the Front Shrunk,' 'These Drones Show Turkey's Strength. It Also Empowers Us,'" *Twitter*, October 8, 2020, <https://twitter.com/RALee85/status/1314146939374575617>.

Devrikyan stated that he became sensitive to and frightened of popping sounds. Most importantly, due to the security risks, journalists left Artsakh, and this fact obstructed news coverage of the war and restricted dissemination of information worldwide as to what the Artsakh population was experiencing. Thus, the targeting of journalists gave Azerbaijan a news media and public relations advantage.

Lastly, this targeting of journalists carrying out their professional activities is a clear violation of the IHL and human rights norms. During an armed conflict, journalists are deemed to be civilians and they benefit from the international customary law norms protecting civilians based on the principles of distinction, necessity and proportionality, and precaution.⁹³¹ The civilian population comprises all persons who are not members of the armed forces or engaged in combat.⁹³² According to customary law, the parties to the conflict must at all times distinguish between civilians and combatants, and attacks may only be directed only against combatants and not against civilians.⁹³³ Thus, indiscriminate attacks are prohibited.⁹³⁴ Furthermore, intentional targeting civilian persons is a war crime as it is a grave breach of Geneva Convention. In particular, “Grave breaches shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing ... causing injury to body or health.”⁹³⁵ Additionally, Article 8, paragraph 2(a)(iii) of the Rome Statute of the International Criminal Court stipulates that, “wilfully causing great suffering, or serious injury to body or health,” are among the grave breaches. Also, according to Article 8, paragraph 2(b)(i), “intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities,” are also grave breaches.⁹³⁶

931 Frédéric De Mulinen, *Handbook on the Law of War for Armed Forces* (Geneva: International Committee of the Red Cross, 1987), <http://hre.ohchr.org/hret/InstitutionDetail.aspx?INSKey=460&Lng=en>.

932 “Customary IHL - Rule 5. Definition of Civilians” (International Committee of the Red Cross), accessed April 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule5.

933 “Customary IHL - Rule 1. The Principle of Distinction between Civilians and Combatants” (International Committee of the Red Cross), accessed April 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1.

934 “Customary IHL - Rule 11. Indiscriminate Attacks” (International Committee of the Red Cross), accessed April 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule11.

935 “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)” (International Committee of the Red Cross, August 12, 1949), art. 147, <https://ihl-databases.icrc.org/ihl/INTRO/380>.

936 “Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention).”

As per human rights norms, and according to the International Covenant on Civil and Political Rights:

Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.⁹³⁷

Also, according to the European Convention on Human Rights Article 10 (1):

Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.⁹³⁸

Based on these standards and rules, specific resolutions have been adopted by both the UN and the Council of Europe to safeguard journalists. The UN Security Council adopted Resolution No. 1738, where it condemns deliberate attacks against journalists, media professionals and associated personal in armed conflicts and called on all parties to put an end to such practices.⁹³⁹ The UN Commission on Human Rights has also expressed its concerns about targeting journalists in armed conflicts.⁹⁴⁰ Additionally, the Council of Europe Committee of Ministers also addressed the protection of journalists in situations of conflict in its Recommendation No. R (96) 4, where it emphasizes the importance of the role of journalists and the media in informing the public about violations of national and international law, and the suffering of civilian populations in situations of armed conflict, because journalism can help to prevent further violations and suffering.⁹⁴¹

Thus, by targeting journalists, Azerbaijan violated not only the rights of journalist, but also violated the underlying values and norms of free expression and opinion, because the public's right to receive and disseminate information was obstructed

937 "International Covenant on Civil and Political Rights" (UN General Assembly, December 16, 1966), art. 19, <https://www.refworld.org/docid/3ae6b3aa0.html>.

938 "European Convention for the Protection of Human Rights and Fundamental Freedoms, as Amended by Protocols Nos. 11 and 14" (Council of Europe, November 4, 1950), art.10, <https://www.refworld.org/docid/3ae6b3b04.html>.

939 "Security Council Condemns Attacks Against Journalists in Conflict Situations, Unanimously Adopting Resolution 1738 (2006) | Meetings Coverage and Press Releases," *UN News*, December 23, 2006, <https://www.un.org/press/en/2006/sc8929.doc.htm>.

940 "Customary IHL - Practice Relating to Rule 34. Journalists" (International Committee of the Red Cross), accessed April 6, 2022, https://ihl-databases.icrc.org/customary-ihl/rus/docs/v2_rul_rule34.

941 "Recommendation No. R (96) 4 of the Committee of Ministers to Member States on the Protection of Journalists in Situations of Conflict and Tension" (Committee of Ministers of the Council of Europe, May 3, 1996), https://www.coe.int/en/web/freedom-expression/committee-of-ministers-adopted-texts/-/asset_publisher/aDXmrol0vvsU/content/recommendation-no-r-96-4-of-the-committee-of-ministers-to-member-states-on-the-protection-of-journalists-in-situations-of-conflict-and-tension?_101_INSTANCE_aDXmrol0vvsU_view-Mode=view%2F.

and severely curtailed. Combining the above facts and legal norms, it is clear that Azerbaijan targeted journalists intentionally and did so in breach of international humanitarian law and human rights norms.

On the whole, it is a basic legal maxim that motive or intent can be discerned from the circumstances, or circumstantial evidence, and that once such valid evidence is presented, especially in cases where the accused party is in possession of the documentary evidence, the burden to disprove fault shifts to the accused. Under this paradigm and based on the evidence, international and regional actors must call out Azerbaijan for the harms perpetrated.

Conclusion

This fact-finding report brings together multiple instances of crimes and human rights violations to demonstrate the systemic nature of the atrocities carried out by the Azerbaijani government during the 44-Day War in Artsakh and its aftermath. It heavily relies on witness testimonies and corroborates them with a wide range of open sources and intelligence analyses to illustrate the scale and severity of the harm caused to Armenians living in Artsakh and Armenia proper. A set of recommendations are presented in consideration of these findings that aim to restore the violated rights mentioned in the report.

The preparatory work of this fact-finding mission began right the war started. A number of civil society actors in Armenia came together to document the crimes and violations carried out against the people of Artsakh in late 2020. These concluding remarks are being written a year later, and it can be stated that no tangible progress has been made in solving the highly urgent issues caused by the military conflict. Instead, the Azerbaijani government, gloating over the outcomes of the war, presents it as a prime example that there is a “military solution,” and coercion is what delivers results. This conviction is at the foundation of Baku’s activities after the 44-Day War, as it uses force, terror, and intimidation to get one-sided concessions. As of now, Baku still refuses to release prisoners of war and other captured persons. It continuously threatens the security of people living in Artsakh and near-border communities of Armenia. These are deliberate tactics that serve the purpose of exploiting the post-war vulnerabilities of the other side with total disregard towards international humanitarian law.

It is striking that the highly Armenophobic rhetoric of the Azerbaijani government continues even after the war. While the Aliyev regime makes declarative statements about restoring peace, it reproduces its antagonistic attitude towards Armenians, calling them ‘the enemy’ and inciting racist tendencies. This situation makes it impossible for the people of Artsakh to exercise their right to dignified life under Azerbaijani rule. They are still seen as the enemy, and the Azerbaijani government takes steps towards erasing their presence, both physical and cultural, from Artsakh. Moreover, the post-war rhetoric of the Aliyev regime has been amplified to include territorial claims beyond Artsakh.

This situation is a direct result of impunity. Baku continues its policies of violating basic human rights because it experiences no significant international pressure. Most international organizations and governments have chosen to turn a blind eye to these problems and opted for making generic statements about supporting

peace. How is a peaceful settlement possible, if one of the sides does not change its outright hostile attitude and continues committing crimes and human rights violations? Treating this issue as merely a bilateral matter and not considering it in the context of international humanitarian law limits opportunities for restoring the violated rights and preventing future crimes.

