

**SUBMISSION UNDER THE CALL FOR THEMATIC REPORT OF THE SPECIAL
RAPPORTEUR ON TORTURE**

“The duty to investigate crimes of torture in national law and practice”

AZERBAIJAN

Challenges, impediments and obstacles to effective national investigations and prosecutions of acts of torture:

1. Lack of political will to effectively investigate practices of torture and ill-treatment in Azerbaijan remains a serious impediment. Moreover, in certain cases, torture remains a wide spread practice for such purposes as, among others, obtaining information and punishing a person based on discrimination on the ground of ethnic origin. The situation is worse in relation to Armenians detained in the context of armed conflict, both during active phase and cease-fires. In a number of cases, acts of torture and ill-treatment are documented by perpetrators themselves. However, no perpetrator of torture towards Armenian detainees has been brought to justice to-date.
2. Lack of political will is a result of decades-long state-level policy of dehumanization and ethnic hatred towards Armenians promoted by Azerbaijani leadership. It is part of the education system.
3. On 30 August 2022, the United Nations Committee on Elimination of All Forms of Racial Discrimination (hereinafter – CERD) in its Concluding Observations on Azerbaijan raised its deep concern about the “incitement to racial hatred and the propagation of racist stereotypes against persons of Armenian national or ethnic origin, including on the Internet and social media, as well as by public figures and government officials, and the lack of detailed information on investigations, prosecutions, convictions and sanctions for such act”. CERD also expressed deep concerns with “Allegations of severe and grave human rights violations committed during the 2020 hostilities and beyond by Azerbaijani military forces against prisoners of war and other protected persons of Armenian ethnic or national origin – including extrajudicial killings, torture and other ill-treatment and arbitrary detention” as well as “The lack of an independent and comprehensive mechanism to investigate such reports of violations and to provide victims with redress and support”.¹
4. Practices of torture and lack of effective investigation is more evident in cases constituting war crimes both against prisoners of war (hereinafter – POW) and civilians detained.
5. Though Azerbaijan reports on institution of criminal cases into some of the allegations, to-date no one has been brought to justice for acts of torture and execution despite the fact that the faces of perpetrators are clearly visible on videos taken by their colleagues. In response to an explicit question of the members of the CERD in August 2022, Azerbaijan reported that “*The Procurator General’s Office had also opened 11 criminal investigations into members of the Azerbaijani military for gross violations of international human rights law and international humanitarian law under articles 115.2, 115.4 and 245 of the*

¹ CERD, Concluding Observations on the combined tenth and twelfth periodic reports on Azerbaijan, CERD/C/AZE/CO/10-12, 30 August 2022, paras. 4-5, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fAZE%2fCO%2f10-%2012&Lang=en

Criminal Code, which proscribed, inter alia, the torture and ill-treatment of prisoners of war. As a result, four Azerbaijani servicemen had been charged with desecrating the tombs or corpses of Armenian soldiers and had been referred to the courts. Proceedings had also been opened following the posting on social media of videos that showed individuals in Azerbaijani military uniforms torturing and mistreating prisoners of war.”² However, reportedly one of the charged perpetrators was awarded by President Aliyev in September 2022.³

6. Armenian POWs reported being subjected to torture upon capture, during the transfer as well as in premises of the Azerbaijani Military Police, the Ministry of National Security and in Kurdakhani Prison in Azerbaijan. The interviewed repatriated POWs stated that they were severely beaten just because “being Armenian”.⁴ The 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. Armenian servicemen were subjected to abuse also during the transfer to Baku. Some of them reported that their skin was burned by cigarettes; some were subjected to electric shock. Some reported Azerbaijani servicemen also threatened to kill him, pointing a gun at his head and firing, but the gun was not loaded. They also reported that they were subject to beatings particularly at the premises of the military police. Some of the POWs interviewed by the PRWB reported being subjected to ill-treatment by medical personnel.
7. Investigations of acts of torture, especially towards Armenians remain ineffective. They are not independent, not impartial, nor prompt or adequate. Even if launched (at least reported to be launched), they take years but bear no results. Even in cases where video of torture exists and perpetrators are identifiable, no one is charged with torture or a similar crime. Rights of victims are not ensured and there is not effective remedy for human rights protection available for Armenians in Azerbaijan. Moreover, existing mechanism for monitoring of torture, including the Azerbaijani ombudsperson’s office continuously demonstrate biased attitude and cannot be regarded as an effective safeguard in case of detained Armenians.

CASES OF TORTURE

8. In the most recent act of aggression against Armenia by Azerbaijan on 13-14 September 2022, at least 17 Armenian servicemembers were captured by Azerbaijan. On 4 October 2022, they were repatriated. The Ombudsperson of Armenia provided information that almost all POWs told about torture under the Azerbaijani control. “Based on the interviews,

² Committee on the Elimination of Racial Discrimination, 107th session, Summary record of the 2904th meeting, CERD/C/SR.2904, para. 40, available at

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fSR.2904&Lang=en

³ Azeri Times, Four Azerbaijani servicemen arrested, 14 December 2020, available at:

<https://azeritimes.com/2020/12/14/four-azerbaijani-servicemen-arrested/>, Fact Investigation Platform, Aliyev awarded the mutilator of the killed Armenian Soldier’s Body in August, 19 September 2022, available at: <https://fip.am/en/20460>

⁴OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, Ibid., p.108

we revealed facts of torture, ill-treatment, degrading treatment, etc”. “The POWs were even mistreated by Azeri medics”.⁵

9. On 15 September 2022, photos and videos filmed by the Azerbaijani servicemen and circulated in Azerbaijani social media showed that also female service members of the Armenian armed forces were subjected to torture and ill-treatment. Azerbaijani servicemen stripped the bodies of servicewomen, sexually abused, desecrated, dismembered and mutilated their bodies. Azerbaijani armed forces wrote “YASMA”, the name of Azerbaijani Special Forces, on the body of one of the killed and desecrated servicewomen. Another woman body was seen in the video.⁶ The fact that all three servicewomen were deliberately stripped naked and filmed zoomed in to show their female body parts and voices heard in the background verbally assaulting them as women demonstrates the aim of desecration and gender-based violence against them. Perpetrators feared no punishment as they left their “signature”.
10. On some of the videos taken by Azerbaijani servicemen, it is clearly seen that wounded POWs are not treated. On the contrary, Armenian servicemen with bleeding wounds have their hands tied behind their backs laying on the ground and breathing with difficulty, at gun point and forced to repeat on camera greetings in Azerbaijani and repeat other words aimed at their humiliation.⁷ At least three more servicemen who were taken captive alive but wounded were later returned dead by Azerbaijan.
11. One of the videos posted on Azerbaijani social media revealed torture of wounded Armenian prisoners of war by Azerbaijani servicemen. At least three servicemen in Armenian uniform can be seen, at least two of them clearly alive but seriously wounded. Azerbaijani servicemen drag wounded prisoners of war who yell in pain. This is accompanied with verbal insults. Sounds of beatings can be heard.⁸ The Human Rights Defender of Armenia confirmed that the Armenian prisoners of war were identified. Their torture and subsequent killing took place during the attack of Azerbaijani armed forces against Armenia.⁹
12. At least 33 Armenian prisoners of war and civilians detained in the context of armed conflict remain in Azerbaijani custody to date. In light of the well documented practice of torture and ill-treatment by Azerbaijan, there is a serious risk that they have been, are and will be victims of torture while in detention in Azerbaijan.
13. This is not a new practice but a continuation of a widely spread practice used during the 2020 hostilities against Nagorno-Karabakh by Azerbaijan and before as documented by the European Court of Human Rights (hereinafter – ECHR).

⁵ Armenpress.am, Virtually every former Armenian POW testifies on torture and humiliation in Azeri custody, even by medics, 07 October 2022, available at: <https://armenpress.am/eng/news/1094356/>

⁶ Video on Telegram channel Khacherubka_Gorbagor, 15 September 2022 [https://t.me/KHACHERUBKA_GORBAGOR/807?fbclid=IwAR17KdFqpQ3jVgP9xCzwqOWNjmYKiYRXZbAZH3IMPt4NPYVy00J-LpMI20o](https://t.me/KHACHERUBKA_GORBAGOR/807?fbclid=IwAR17KdFqpQ3jVgP9xCzwqOWNjmYKiYRXZbAZH3IMPt4NPYVy00J-LpMI20o;); See video at 00:16, https://t.me/GORBAGOR_TV/6

⁷ Video on Telegram channel Khacherubka_Gorbagor, 13 September 2022, https://t.me/GORBAGOR_TV/738

⁸ Video on Telegram channel Khacherubka_Gorbagor, 11 October 2022 https://t.me/KHACHERUBKA_GORBAGOR/1476?fbclid=IwAR0zpQvZbN32RnWbi4Q1moS62WokxoOneMKidvnpj7XCRvI_zr4kCeeoes

⁹ Human Rights Defender of Armenia, Statement of the Defender on the new video of the execution of Armenian PoWs by the Azerbaijani armed forces, 12 October 2022, available at: <https://www.facebook.com/photo/?fbid=429270456058559&set=a.195303052788635>

14. On 22 November 2020, a video of brutal decapitation of Genadi Petrosyan, a 69-year-old civilian resident of Nagorno-Karabakh was disseminated on Azerbaijani telegram channels. The video depicts Genadi Petrosyan being beheaded by servicemen in Azerbaijani uniform, the severed head is then placed on a dead animal (a pig). “See the pigs next to each other!”, “You dishonorable, all these for the blood of our martyrs” and “This is how we get revenge – by cutting off heads,” a voice says off camera in Azerbaijani.¹⁰
15. *“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.”*¹¹
16. *“I was kept alone (in Ministry of National Security). 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 made 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 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”* – stated one of the POWs interviewed by PRWB.¹²
17. On 25 October 2020, a video was posted on Telegram Channel showing a group of captured persons in the Armenian military uniform face down on the ground with their hands tied behind their backs and blindfolded. 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. While poking one of the lying and tied Armenian soldiers, and kicking him, one of the Azerbaijani soldiers suggests in Azerbaijani to cut off his fingers. Azerbaijani

¹⁰ Amnesty International, Armenia/Azerbaijan: Decapitation and war crimes in gruesome videos must be urgently investigated (10 December 2020), available at: <https://www.amnesty.org/en/latest/news/2020/12/armenia-azerbaijan-decapitation-and-warcrimes-in-gruesome-videos-must-be-urgently-investigated>; ¹⁰ OSF, HCAV, LDPF and PRWB, Human rights violations during the 44-day war in Artsakh, fact-finding report, 2022, available at: https://www.osf.am/wp-content/uploads/2022/06/Fact-Finding-Report_FINAL_web.pdf?fbclid=IwAR3ICU-VDDByUv6JmrIY4pjWidt2EcvkQVOcPJOZ8NqDWcrhEw3JLhwB9m8

¹¹ Ibid., p. 107, Interview with Gnel (name changed), 1 July 2021.

¹²Ibid., pp. 109-110.

soldiers kick him several times, step on his head and leg, and prod him. Few seconds later, a background voice speaking Azerbaijani tells to cut off his fingers.¹³

18. Videos showing subjecting the Armenian POWs and civilians to torture and to inhuman and degrading treatment by the Azerbaijani servicemen were widely posted and circulated in social media by Azerbaijani users themselves. Given that the access to the internet was restricted in Azerbaijan during the active phase of hostilities, the fact that Azerbaijani servicemen at the frontline not only recorded the execution of Armenians who fell into their custody but also were able to transmit and/or post it online *en mass*, suggests that there was an approval of such practice by the high-rank Azerbaijani officials. This practice also aimed to create fear among the remaining Armenian population of Nagorno-Karabakh as to their fate if they fall into the hands of Azerbaijani, hence pushing them to leave with no possibility of return to their homes.
19. The above-mentioned instances of torture and ill-treatment were a result of impunity and lack of international condemnation for preceding incidents of torture and killing of Armenians by Azerbaijani officials. In some of them the European Court of Human Rights (hereinafter – ECHR) has already delivered judgments, whereas in some others the judgments are pending.
20. In *Makuchyan and Minasyan v. Azerbaijan* case related to murder through beheading of an Armenian Army Lieutenant Gurgen Margaryan, by an Azerbaijani Army Lieutenant Safarov in Budapest, Hungary in 2004 who was later extradited to Azerbaijan and given hero's welcome and promotion upon his return, the ECHR addressed the issue of impunity and encouragement for ethnically motivated killing of Armenians. The ECHR found “particularly disturbing” that the ethnically driven acts of the Azerbaijani officer receive official glorification by the State of Azerbaijan, its high-ranking officials, and eventually concluded that the measures taken by the Azerbaijani authorities in respect of the Azerbaijani army officer were racially motivated¹⁴.
21. Cases of torture and extrajudicial execution of Armenian civilians in Azerbaijani custody were also confirmed by the ECHR. In 2010, Manvel Saribekyan, a 20-year old Armenian civilian, had lost his way in the bordering Tavush region of Armenia in a fog and was detained by Azerbaijani military police. He was killed in the Azerbaijani custody and his death was declared by the Azerbaijani authorities as a suicide. In 2020, the ECHR ruled that Azerbaijan was responsible for the murder of Manvel Saribekyan, “given the injuries which Mr. Saribekyan sustained prior to his death, as described in the Armenian forensic report, supported by photographic evidence, and the information made available to the Court regarding the configuration of his cell..., the account according to which he hung himself cannot be accepted.”¹⁵ No one in Azerbaijan was brought to justice for the murder of Saribekyan.

¹³ Human Rights Watch, *Azerbaijan: Armenian prisoners of war badly mistreated* (02 December 2020), available at: [https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated#:~:text=\(Berlin\)%20E2%80%93%20Azerbaijani%20forces%20have,Human%20Rights%20Watch%20said%20today](https://www.hrw.org/news/2020/12/02/azerbaijan-armenian-prisoners-war-badly-mistreated#:~:text=(Berlin)%20E2%80%93%20Azerbaijani%20forces%20have,Human%20Rights%20Watch%20said%20today)

¹⁴ ECHR, *Makuchyan and Minasyan v. Azerbaijan*, app. no. 17247/13, judgment of 26 May 2020, paras. 212, 216-218, available at <https://hudoc.echr.coe.int/eng?i=001-202524>

¹⁵ ECHR, *Saribekyan and Balyan v. Azerbaijan*, App. No. 35746/11, judgment 30.01.2020, <https://hudoc.echr.coe.int/eng?i=001-200439>

22. Mamikon Khojoyan, a 77-year-old Armenian civilian, was detained by Azerbaijani authorities when he got lost during harvesting activities in the bordering region of Armenia in 2014. He was repatriated to Armenia after staying 35 days in Azerbaijani custody. Forensic medical examination revealed multiple injuries to his head, ears, ribs, arms, numerous fractures of two sides of the ribs accompanied by chest deformation. A chemical forensic examination was undertaken, which revealed existence of petroleum and psychotropic medications in Khojoyan's blood and urine. He died shortly after his repatriation. The ECHR found that Mr. Khojoyan was subjected to treatment which amounted to torture, and the injuries included multiple injuries to his head, ribs, arms and other parts of his body – had posed a serious and imminent risk to his life in violation of his right to be free from torture and right to life. Moreover, the ECHR had taken into account that “Mr. Khojoyan was an Armenian citizen who was detained on the ground that he was a member of an armed group. In this connection, the Court cannot overlook the general context of hostility and tension between Azerbaijan and Armenia and the proper investigation should have been carried out including as to whether ethnic hatred had played a role in the treatment of Mr. Khojoyan which had put his life at risk.”¹⁶
23. On 2 April 2016, Azerbaijani forces executed through beheading and dismembered a number of Armenian servicemen.¹⁷ Perpetrators admitted of the acts on public¹⁸, however, they were not brought to justice. Moreover, some of them were officially rewarded by the President of Azerbaijan.¹⁹

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¹⁶ ECHR, Khojoyan and Vardazaryan v. Azerbaijan, App. no. 62161/14, judgment 04.11.2021, <https://hudoc.echr.coe.int/eng?i=001-212964>

¹⁷ ECHR, K.S. and N.A. v. Azerbaijan and 21 other applications (communicated on 25 November 2011, <http://hudoc.echr.coe.int/eng?i=001-169755>).

¹⁸ Yenicag.az, Interview with Sarkhan Mammadov, Chief of Unit of Special Forces of Azerbaijan, <https://yenicag.az/ermeni-zabiti-tapancasini-cixarib-dostuma-tusladi-aprel-doyuslerinin-qehremanlari-sohbet-silsilesinden/>

¹⁹ Asbarez.com, Aliyev Awards Officer who decapitated Artsakh Soldier, 02 May 2016, available at: <https://asbarez.com/aliyevawards-officer-who-decapitated-artsakh-soldier/>

About Organizations: The Organizations aim at promotion and protection of human rights of Armenians of Nagorno-Karabakh (Artsakh) and conducted fact-finding mission documenting violations of human rights and international humanitarian law committed during the 2020 war in Nagorno-Karabakh, as well as documenting anti-Armenian state policy of Azerbaijan and developing comprehensive reports on Human Rights Violations during the 44-Day War in Artsakh²⁰ and Anti-Armenian Xenophobia and Racism in Azerbaijan²¹.

²⁰ Human Rights Violations during 44-Day in Artsakh, Fact-finding Report, available at: https://www.osf.am/wp-content/uploads/2022/06/Fact-Finding-Report_FINAL_web.pdf?fbclid=IwAR0X4nNexbX7U4YYT92uPC12Zy4Y-CkTd2UIWLXR5AIf8LAHbWbdkNgYkE

²¹ Anti-Armenian Xenophobia and Racism in Azerbaijan, 2021, available at: <https://transparency.am/assets/documents/1646637425-52831-785.pdf>