

**Initiating an Investigation:
White Paper on Azerbaijan’s Torture and Mistreatment
of Armenian Prisoners of War (POWs)
During and After the 2020 Nagorno-Karabakh War**

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Executive Summary

Thirty-eight (38) Armenian prisoners of war that have been identified by name from the Khtsaber group of 62 captured, and hundreds more remain illegally imprisoned in Azerbaijan since the 2020 Nagorno-Karabakh war. The war was launched by Azerbaijan and Turkey against the people of Nagorno-Karabakh, a historically Armenian territory with its own democratically elected government. Though the people of Nagorno-Karabakh have consistently sought to achieve autonomy from Azerbaijan – to realize their legal right of self-determination – they have been subjected to pogroms and ethnic cleansing by Azerbaijan following political gerrymandering by the former Soviet Union. On September 27, 2020, Azerbaijan, with the military backing of Turkey, initiated a large-scale military offensive against Nagorno-Karabakh, targeting civilians and civilian infrastructure. The preemptive military offensive included the deployment of terrorist mercenaries. The war involved shocking human rights violations, including live beheadings, videotaped and proudly shared by Azerbaijanis. Armenian civilians were terrorized, hundreds of prisoners of war were detained and abused, and dozens murdered. At least 5,000 Armenian lives were lost, and more than one hundred thousand Armenians were displaced from their homes.

After a cease-fire agreement was signed on November 9, 2020, Azerbaijan continued to illegally detain hundreds of Armenian prisoners of war (“POWs”). Some POWs have since been repatriated to Armenia; some remain in Azerbaijan; some were executed by Azerbaijan; and many remain missing. For the POWs who were able to return home, direct testimony presented in this *White Paper* demonstrates that Armenian captives were consistently subjected to torture and humiliation, and many of them were tried in sham judicial proceedings in contravention of international law and the laws of war. At the time of the release of this *White Paper*, 38 confirmed POWs, and many more that Azerbaijan refuses to confirm by name, continue to be illegally held and abused in detention centers within Azerbaijan. Meanwhile, some of their criminal trials are ongoing, wherein they are being arbitrarily charged and convicted despite their protected status as POWs who, under international law, cannot be prosecuted by the detaining country.

The information in this *White Paper* is based on testimonies from returned POWs, given directly to the legal professionals at the Center for Truth and Justice (“CFTJ”). CFTJ is a registered 501(c)(3) nonprofit organization headquartered in Los Angeles, California. CFTJ’s American lawyers and law students continue to collect evidence from war survivors in Armenia via in-depth recorded interviews pursuant to rules of Evidence. As the evidence presented herein establishes, the interviewees were consistently subjected to beatings, humiliation, solitary confinement, improper hygiene, lack of medical care, psychological torture and being prohibited from speaking to their families for months on end while detained in Azerbaijan.

This *White Paper*, based on first-hand interviews with returned POWs and their families, demonstrates Azerbaijan’s flagrant violations of international law and the atrocious treatment to which these POWs have been subjected. We urge the U.S. Congress and other concerned governments to investigate these crimes and use all necessary means to hold Azerbaijan accountable for its actions.

The Center for Truth and Justice

The Center for Truth and Justice (“CFTJ”) is an NGO that has been documenting crimes against Armenians since the 2020 war in Nagorno-Karabakh, by collecting first-hand testimonies from war survivors. CFTJ preserves evidence and makes it available for educational purposes and potential legal actions.

CFTJ is comprised of attorneys and law students in the US, Armenia, and Nagorno-Karabakh, as well as human rights advocates and other professionals, dedicated to amplifying the voices of victims of human rights violations, including discrimination, ethnic cleansing, displacement, war crimes, mass atrocities and genocide.

CFTJ educates and trains teams in Armenia and Artsakh on evidence-based interview techniques, compliant with international legal standards and rules of Evidence.

The mission of CFTJ is to be a living memorial to crimes against humanity. By being a permanent home for testimonials, CFTJ serves to make first-hand accounts available for study, education, and legal action, in order to foster education, empathy, justice and change.

Sources

The information in this *White Paper* about Azerbaijan’s treatment of Armenian POWs has been obtained by CFTJ through firsthand testimonial interviews. The source of the information is therefore the victims themselves. The information presented herein has not been obtained from any secondary sources nor cross checked with other reports. CFTJ encourages the US government to initiate a full fact-finding investigation into Azerbaijan’s treatment of Armenian POWs, and would make available translated recordings of the testimonies in support of that aim.

Nagorno-Karabakh Conflict: History and the 2020 War

October 1917 – Desire for Autonomy; Violations of Human Rights

Though Nagorno-Karabakh has been historically Armenian territory, dating back to the first century BCE, the conflict between the Armenian enclave and the newly created Azerbaijani State began during the Armenian Genocide. In 1917, the collapse of Tsarist rule and the withdrawal of Ottoman Turkey from the Transcaucasus allowed the emergence of the briefly independent states of Armenia and Azerbaijan. In July of 1918, the First Armenian Assembly of Nagorno Karabakh declared the region self-governing. However, violent clashes between Azerbaijanis and Armenians took place for the next few years. One example of the most flagrant violation was Azerbaijan's 1920 massacre of Armenians in Shushi, the former capital of Nagorno-Karabakh. Before tensions could escalate further, Azerbaijan, Armenia and Karabakh joined the Soviet Union.

Divide and Conquer: Soviet Azerbaijan's Ethnic Cleansing of Karabakh Armenians

Under Soviet rule, Azerbaijan recognized Nagorno-Karabakh as a part of Armenia in 1920, with Armenia following suit in June of 1921. A month later, during a meeting with the Kavburo Central Committee of the Russian Communist Party, a majority vote culminated in the decision to include Nagorno-Karabakh in the Armenian Soviet Socialist Republic (SSR). However, since the question of Nagorno-Karabakh caused a serious disagreement by Azerbaijan, the Kavburo Central Committee found it necessary to delegate the final decision to the Central Committee of the Russian Communist Party. The next day, the Central Committee voted that Nagorno Karabakh was part of the Azerbaijani SSR. However, the region was specifically given broad autonomy from the Azerbaijani republic. From this point on, Armenians of Nagorno-Karabakh continuously petitioned Moscow for independence.

Perestroika – Desire for Autonomy; Pogroms

One such petition was a resolution adopted by the Nagorno-Karabakh Autonomous Region on February 20, 1988, requesting the transfer of Nagorno-Karabakh from Soviet Azerbaijan to Armenia. Naturally, the Supreme Soviet of Azerbaijan denied the petition, despite the fact that the majority of people in Nagorno-Karabakh were Armenian, not Azerbaijani. Following this brazen attempt by Armenians to formally separate from Soviet Azerbaijan, Armenians living in many parts of the rest of Azerbaijan became the target of anti-Armenian pogroms. In one particularly vicious campaign against Armenians, in a city called Sumgait, attacks against Armenians consisted of public rape, including that of children, and murder, burnings, humiliations, and ultimately the flight of the entire Armenian population.

Though there were attempts to limit Azerbaijan's political control over Nagorno-Karabakh, political pressure by Soviet Azerbaijan and its allies culminated in establishing the "Republic Organizational Committee" (orgkom), under the direction of Azerbaijani Communist Party leader Viktor Polianichko. Polianichko began to artificially increase the size of the Azerbaijani community, altering the territory's demographic makeup and placing more than half of Nagorno-Karabakh's territory under military occupation. On September 2, 1990, in response, but also in compliance with international and domestic Soviet law, Nagorno-Karabakh initiated the process of declaring independence from Azerbaijan.

First Nagorno-Karabakh War; the United States Joins Mediation Process

On November 23, 1991, after declaring its own independence from the Soviet Union, the parliament of Soviet Azerbaijan annulled Nagorno-Karabakh's autonomy. This was a monumental turning point. Nagorno-Karabakh had never been part of an independent Azerbaijan. It had only forcibly been part of Soviet Azerbaijan, as part of the Russian governing policy of divide and conquer.

In response to the annulment of autonomy, Nagorno-Karabakh held a referendum on independence. International observers and media representatives were present. The vote was heralded as transparent and fair. The people of Nagorno-Karabakh voted overwhelmingly in support of sovereignty, with 82.2 percent of registered voters participating, and 99.89 percent of those casting ballots supporting independence from Azerbaijan. As Nagorno-Karabakh had long been autonomous from governing from Azerbaijan, Nagorno-Karabakh had strong self-governing institutions in the making. Immediately after the vote on independence, the region formalized its government institutions, established the Karabakh Army of Defense, and began holding elections.

In response, Azerbaijan invaded Nagorno-Karabakh. A full-scale war lasted for years, until Azerbaijan and Armenia signed a ceasefire agreement in 1994. Throughout this period, the Conference on Security and Cooperation in Europe (CSCE; later OSCE) was tasked with direct mediation of the Nagorno-Karabakh conflict. The negotiations, in which the United States was a direct participant, aimed to establish a peaceful resolution to the conflict. However, what was established after 1994 was not peace, but more of a frozen war. As a result of the war and the pogroms, all Armenians were forced to flee Azerbaijan. In Nagorno-Karabakh, the population remained Armenian, and institutions and government continued to be run by Armenians. Azerbaijan, dissatisfied with the outcome of the 1990s war, has continued to violate the ceasefire agreement since 1994. In 2016, Azerbaijan initiated a military attack against Nagorno-Karabakh for four days. Thereafter, tensions continued to rise, until all-out war began in September of 2020.

The 2020 Nagorno-Karabakh War; United States Pushes for a Peaceful Resolution

On September 27, 2020, Azerbaijan launched a full scale invasion of Nagorno Karabakh. Azerbaijan bombed the region that 150,000 Armenians civilians called home for 44 days straight, during the middle of a global pandemic. The conflict lasted six weeks, resulting in the loss of at least 5,000 Armenians. So many deaths in such a short time were not the result of hand to hand combat; this war was marked by Azerbaijan's artillery strikes and drone attacks. Azerbaijan continuously targeted civilian structures, including churches, schools, and hospitals, including the bombing of a maternity hospital. While Armenia sought to defend itself from the surprise attack with outdated and outmatched military weapons and systems, Azerbaijan enjoyed the support of military superpowers Israel and Turkey, also a NATO member. Unsurprisingly, Azerbaijan captured much of Nagorno-Karabakh during the David-vs-Goliath battle. Throughout the war, the United States called for a peaceful resolution to the fighting. It brokered a short-lived humanitarian cease-fire that took effect in late October 2020, which Azerbaijan violated almost immediately.

The End of Hostilities and the Capture of the POWs; Azerbaijani Human Rights Violations

On November 9, 2020, the Prime Minister of the Republic of Armenia and the Presidents of the Republic of Azerbaijan and the Russian Federation signed a ceasefire agreement (the “Trilateral Statement”), ending active hostilities. On December 11, 2020, Azerbaijani armed forces, in violation of the first provision of the Trilateral Statement stipulating that “parties shall remain at their current positions,” launched an attack on the Armenian-held villages Hin Tagher and Khtsaber, from the Hadrut region of Nagorno-Karabakh. At the time, Armenian servicemen were legally positioned in the Armenian-controlled territories, pursuant to the Trilateral Statement and the most updated maps provided by the Russian peacekeeping mission. In the attack, a group of 62 Armenian servicemen ended up in territory controlled by Azerbaijani servicemen. No single shot was fired. Outnumbered and out-gunned, the 62 Armenian men surrendered. The Azerbaijani servicemen promised to hand them over to the Russian peacekeepers if the Armenian servicemen dropped their weapons; so they did. However, it was a trap. Instead of delivering the Armenians to Russian peacekeepers, the Azerbaijanis led the group ever deeper into Azerbaijan, where they arrested all 62 of them for trespassing. The Azerbaijani military viciously beat the Armenian servicemen, eventually taking them to detention centers in Baku, for additional mistreatment. Since December 13, 2020, video footage has been circulated on Azerbaijani media platforms, showing the inhumane and degrading treatment towards the members of this POW group. Simultaneously, Azerbaijani authorities represented the captured Armenian POWs as “saboteurs” and “terrorists having illegally crossed Azerbaijan’s state border” before international bodies.

On January 28, 2021, as a result of negotiations wherein Armenia agreed to release minefield maps of Nagorno-Karabakh for POWs, five out of the 62 individuals were repatriated to Armenia. Since then, Azerbaijan has continued to use illegally captured Armenian captives as bargaining chips to gain more spoils of their military win. On February 9, 2021 and May 4, 2021, Azerbaijan released another four of the 62 POWs, leaving 53 remaining.

Beginning on June 1, 2021, Azerbaijan’s Prosecutor General’s Office announced in three separate statements that it had initiated criminal prosecutions against the remaining 53 Armenian captives. According to the statements, the pre-trial investigations had concluded and indictments were issued for consideration by Baku courts. In July 2021, the trial of the first group of fourteen POWs was concluded and judgment was delivered. Twelve of the fourteen POWs were sentenced to six months of imprisonment, while the other two were sentenced to four years of imprisonment. On July 3, 2021, another group of fifteen POWs was repatriated to Armenia. Among the repatriated POWs were the aforesaid twelve POWs convicted to six months imprisonment, allegedly having been credited for time served. The other three individuals that Azerbaijan sent back to Armenia had not yet been convicted. They were repatriated despite the fact that their trials were ongoing. Since July 3, 2021, 38 of the original Khtsaber group of 62 still remain in Azerbaijan. It is important to note that these 38 POWs are the only Armenians that Azerbaijan admits to holding captive currently, but there are many more Armenian detainees in Azerbaijan that the government refuses to confirm. The returned POWs that CFTJ has interviewed testified about the presence of other Armenians in jails and detention centers, who were taken before the December 2020 capture of the group of 62. There are hundreds of Armenian servicemen still missing since the war.

The 38 confirmed and many other unconfirmed Armenian captives detained in Azerbaijan have been subjected to torture since their capture, many for nearly one year. They receive little to no medical treatment and are abused and humiliated on a regular basis. Many are also then forced to stand trial in a hostile foreign country, where they have no due process, no right to a fair trial or a neutral trier of fact, no adequate representation, no contact with their families or home country representatives, and entirely arbitrary potential sentences. These trials are ongoing and sentences have been issued for up to 20 years. The returned POWs that CFTJ interviewed, who were convicted in Azerbaijan but then sent to Armenia, described the arbitrary and political nature of the court proceedings and sentences. Armenian servicemen who were captured in the exact same location, with the exact same weapons on them, who never attempted to fight and immediately surrendered, were charged with varying offenses carrying widely ranging sentences. They testified that the charges and sentences were nonsensical, and entirely unrelated to what occurred at the time of capture or any other factors. That Azerbaijan sent back convicted Armenians is additional evidence that the trials and convictions are entirely for show, and lack any legitimacy.

It is important to note that while Azerbaijan continues to illegally hold and try Armenian POWs, Armenia holds no Azerbaijani POWs. Immediately after the war, pursuant to the Trilateral Agreement, Armenia released all Azerbaijani captives. Azerbaijani soldiers are also currently attempting to encroach on and capture border-area lands that belong to Armenia proper. In general, although Azerbaijan was victorious in the war, Azerbaijan continues to violate the Trilateral Agreement, while Armenia maintains strict compliance.

Azerbaijan's abysmal treatment of Armenian captives demonstrates why Armenians cannot live under Azerbaijani rule. Armenians are hated by Azerbaijanis, despite Azerbaijan claiming that Armenians are citizens of Azerbaijan. Armenians understandably fear for their lives when under Azerbaijani control. The majority of the servicemen confirmed to be held by Azerbaijan are very young, very inexperienced soldiers. They are in their late teens and very early twenties, and their parents are in their late 30s/early 40s. The parents of these kidnapped kids are living a nightmare. They do not know if they will ever see their children again. They suffer every minute knowing what kind of treatment their children are enduring in Azerbaijan.

Azerbaijan's mistreatment of Armenian captives violates the Tri-lateral Agreement, the Third Geneva Convention, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, the International Covenant on Civil and Political Rights, and the spirit of all of these foundational global treaties. The torture of Armenian POWs is reprehensible on its own, but is even more significant when committed by a NATO partner country and ally, Turkey. Turkey proudly participated in the war by providing weapons, boots on the ground, and financial support. Turkey sent mercenaries to fight for the Azerbaijani army. Just before the drafting of this *White Paper*, Turkey awarded fighter pilots with medals, who helped Azerbaijan win the war. The United States, an ally of Turkey's, should use its position to pressure Turkey to cease supporting Azerbaijan in this conflict. As the United States has expended efforts to ensure peace in the region, it should also demand that Azerbaijan immediately release all remaining Armenian POWs, and comply with its international legal obligations going forward.

Azerbaijan's Treatment of Armenian POWs Violated International Humanitarian Law

Azerbaijan's treatment of Armenian POWs during the 2020 Nagorno-Karabakh war violated international humanitarian law, and continuous violations are ongoing. Specifically, Azerbaijan's abuse of Armenian POWs defies its obligations under the Third Geneva Convention. This Convention, which was drafted in the aftermath of World War II, sought to prevent the suffering that POWs endured at the hands of the Nazi and Japanese military forces from reoccurring in future international armed conflicts. The Convention's 143 articles provide the ground rules for State behavior with respect to POWs. Foundationally, the Convention prohibits acts of violence and intimidation, torture and degrading and inhumane treatment of POWs by the capturing State. Pursuant to Article 13 of the Third Geneva Convention:

No prisoner of war may be subject to physical mutilation . . . [and POWs must] at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity. Measures of reprisal against prisoners of war are prohibited.¹

Azerbaijan is a State party to the Third Geneva Convention and is therefore obligated to abide by its provisions. Azerbaijan has failed to abide by the Convention in its treatment of Armenian POWs. Documentary evidence is presented herein to demonstrate Azerbaijan's serious derogations of its duties. Armenian POWs suffer considerably while in Azerbaijani captivity, subjected to beatings, torture, electric shocks, and humiliating and degrading treatment by their Azerbaijani captors.

Azerbaijan Inhumanely Treated Armenian POWs

Recorded testimonial evidence from former POWs has established that Armenian captives are continuously subjected to beatings by Azerbaijani soldiers while in captivity. Azerbaijani soldiers struck POWs with their fists, boots, batons, chains, guns and also utilized the surrounding environment, including bashing Armenian POWs' heads into walls. Interviewees testified that cigarette lighters were used to burn their fingers while they remained handcuffed. At least one POW testified that Azerbaijani soldiers extracted his teeth without anesthesia or apparent medical or dental justification. Many POWs suffer permanent pain and injury from these beatings, including headaches and sinus conditions from broken noses, as well as severe post-traumatic stress disorder.

Azerbaijani soldiers also engaged in insulting and humiliating Armenian POWs in violation of the Third Geneva Convention. Testimonial evidence shows that Armenians were forced to repeat "Karabakh is Azerbaijan" or face more beatings. Azerbaijani soldiers forced Armenian POWs to crawl around on their hands and knees, dragged the POWs around on the floor and treated them like dogs, by beckoning them with "*kootcha kootcha*" calls typically used to call a dog. Armenians were forced to

¹ Geneva Convention (III) Relative to the Treatment of Prisoners of War of 12 August 1949 art 13, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

memorize degrading poems and songs in Azerbaijani. The captors beat their knees to force them to kneel when greeting the interrogators, and threw their food on the ground and forced them to eat it from there.

Sadly, multiple returned POWs who testified about their experience in Azerbaijani captivity indicated that they were only sharing the information that they could bear to say out loud. Multiple times, interviewees stated that they were omitting the worst details of the abuse. CFTJ, out of respect for the interviewees who are traumatized and only recently freed, did not push for the “worst” to be explained, and were left to speculate.

Azerbaijan Tortured Armenian POWs

In addition to the physical beatings, insults and humiliation, Armenian POWs suffered torture at the hands of their Azerbaijani captors. Article 17 of the Third Geneva Convention prohibits Detaining Powers from inflicting “physical or mental torture . . . [or] any other form of coercion” on POWs to secure “information of any kind.”² Testimonial evidence speaks of how their Azerbaijani captors subjected them to electrocution and burned their hands with lighters during interrogation sessions. POWs were also beaten during interrogations. One POW tells how an Azerbaijani soldier pulled out a gun and taser during the interrogation in an apparent attempt to coerce a confession or additional information from the POW. Immediately before interrogations, Armenian POWs also testified that Azerbaijani soldiers bashed POWs’ heads against walls. Almost every returnee was forced to sign false confessions. In a recorded testimony, a POW talks about how he was beaten to the point of unconsciousness when he questioned the information in the documents, which were written in Azerbaijani, that his Azerbaijani captors were requiring him to sign.

Azerbaijan’s Judicial Proceedings of Armenian POWs Violate International Law

Azerbaijan’s judicial proceedings against Armenian POWs are a blatant violation of international law. Under customary international humanitarian law, POWs cannot be prosecuted for participating in hostilities. They may, however, be prosecuted for war crimes, but the arrest of the group of 62 in December 2020 demonstrates the type of “crimes” Armenians were committing, simply by being in a certain place at a certain time. In that instance, they immediately surrendered their arms. By charging them with “terrorism, acquisition and keeping of weapons and explosive substances, creation of illegal armed groups, and trespassing the state border,”³ Azerbaijan has falsified and manufactured war crimes which never occurred. Azerbaijan is clearly prosecuting Armenian POWs for their general participation in the war, not for any actual crimes.

The trials are illegitimate to begin with, as POWs cannot be prosecuted for serving as soldiers in a war. But the way the trials are conducted are also violations of the Third Geneva Convention, which provides that the:

² Geneva Convention (III) Relative to the Treatment of Prisoners of War of 12 August 1949 art 17, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

³ *In POW trial, Baku says “Armenian terrorists turned out to be border violators”*, CIVILNET (3 Jul. 2021, 5:07 AM), <https://www.civilnet.am/news/625059/in-pow-trial-baku-says-armenian-terrorists-turned-out-to-be-border-violators/?lang=en>.

prisoner of war shall be entitled . . . to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

In the sham trials conducted by Azerbaijan, Armenian POWs do not have counsel of choice. They do not have competent interpreters. At least one former POW testified that he attempted to speak in court in his defense, but that his statement, which was in Armenian, was never interpreted into Azerbaijani or presented to the court.

Azerbaijan's judicial proceedings also violate international law in that the alleged charges against Armenian POWs are illegal under international law. Article 99 of the Third Geneva Convention prohibits trying POWs for "acts not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed."⁴ Numerous Armenian POWs have been tried as saboteurs, despite being in Armenian military uniforms when captured and actively serving in the Armenian Armed Forces. Azerbaijan has also charged some POWs with illegally crossing the border into Azerbaijan. These are baseless charges, given the fact that these Armenian POWs were captured in Nagorno-Karabakh during the 2020 war, not in Azerbaijan, and they were in their military uniforms. The allegations and charges brought against the POWs have not been substantiated by facts, but rather by self-serving fabricated evidence and forced confessions.

Azerbaijan Denied Freedom of Religion to Armenian POWs

Azerbaijan denied Armenian POWs their freedom to practice their religion in violation of international law. Article 34 of the Third Geneva Convention states

Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities. Adequate premises shall be provided where religious services may be held.⁵

Demonstrating a complete lack of regard for the POWs' freedom of religion, several POWs testified that Azerbaijani soldiers forced them to perform Islamic prayers at gunpoint, despite the POWs being Christian. Azerbaijani soldiers also confiscated their cross necklaces, and failed to provide a safe place for worship.

⁴ Geneva Convention (III) Relative to the Treatment of Prisoners of War of 12 August 1949 art 99, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

⁵ Geneva Convention (III) Relative to the Treatment of Prisoners of War of 12 August 1949 art 34, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135.

Azerbaijan Deprived Armenian POWs of Their Clothing and Personal Effects

Azerbaijan violated its obligations under international law by depriving Armenian POWs of their clothing and failing to provide adequate winter clothing to them. As an initial matter, Baku deprived POWs of their military uniforms and other personal property in violation of international humanitarian law. Article 18 of the Third Geneva Convention provides that

[a]ll effects and articles of personal use, except arms, horses, military equipment and documents, shall remain in the possession of prisoners of war Effects and articles used for their clothing . . . shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.⁶

Armenian POWs testified that upon arrival at the prison in Baku, Azerbaijani soldiers removed and retained their military uniforms. This is a violation of international law, as POWs have the right to retain effects and articles used for clothing, even if such clothing is part of their regulation military equipment. Repatriated POWs have testified that Azerbaijani soldiers also confiscated personal items.

Azerbaijan violated international humanitarian law by failing to provide Armenian POWs with sufficient clothing adequate for the climate where the POWs were detained. Article 27 of the Third Geneva Convention requires Detaining Powers to supply “[c]lothing, underwear and footwear . . . to prisoners of war in sufficient quantities.”⁷ Azerbaijan failed to do so. International law also requires the Detaining Power to “make allowance for the climate of the region where the prisoners are detained.”⁸ Many of the POWs were left in their underwear in their cells in the middle of winter. While some were provided blankets, such blankets were not sufficient for the cold conditions the POWs were forced to endure. POWs have also testified that no replacement clothing was provided. When it came time for the examinations and photography of the POWs’ conditions, Azerbaijan dressed the POWs and then removed their clothing again immediately after taking their pictures to make it look as though Azerbaijan was compliant with the Convention.

Armenian POWs Were Not Permitted to Communicate with Family or Loved Ones

In addition to the beatings, torture, deprivation of clothing and confiscation of personal effects, Azerbaijani soldiers denied Armenian POWs the ability to communicate with their families, in violation of international law. The Third Geneva Convention gives POWs the right to send and receive letters and, immediately following the capture, to send a capture card to their families. Azerbaijan denied the POWs this right, to the severe detriment of the POWs and their families. For many months, many of the families did not know if their child was missing, dead, or captured. This type of psychological torture of the captives is specifically prohibited by the Geneva Convention, which recognizes the importance of communicating with loved ones for the well being of POWs. This is cruel mistreatment that, on top of the violence and degradation to which the POWs have been subjected, is shocking to the conscience.

⁶ *Id.* at art. 18.

⁷ *Id.* at art. 27.

⁸ *Id.*

The Armenian POWs still in Azerbaijani captivity continue to be abused, mistreated, and isolated from their families. This inhumane treatment is having a profound psychological impact on the captives, their families back in Armenia, and Armenian society as a whole. Not only did Armenians lose much of their indigenous land and more than 5,000 precious human lives, but they continue to suffer under the weight of knowing what the remaining POWs are enduring on behalf of the nation.

Conclusion

Azerbaijan's treatment of Armenian POWs violated and continues to flagrantly violate international humanitarian law, specifically, the Third Geneva Convention.

Azerbaijan's Treatment of Armenian POWs Violated International Human Rights Law

Azerbaijan's inhumane treatment of Armenians also violates other international legal instruments to which the country is a State Party, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Convention Against Torture") and the International Covenant for Civil and Political Rights ("ICCPR").

Azerbaijan's Violations of the Convention Against Torture

Azerbaijan's treatment of Armenian POWs during and immediately following the 2020 Nagorno-Karabakh war violated and continues to violate the Convention Against Torture. The Convention provides that "[e]ach State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction."⁹ Furthermore, the Convention requires State Parties to

keep under systematic review interrogation rules, instructions, methods and practices, as well arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture."¹⁰

The Convention defines torture as

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.¹¹

⁹ Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment art 2, Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85.

¹⁰ *Id.* at art. 24.

¹¹ United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment art 1, Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85.

Azerbaijan's obligation to prevent torture is *non-derogable*.¹² Azerbaijan cannot suspend its obligations to prevent torture under the Convention Against Torture under any circumstances, including under the guise of the war it initiated in 2020.

Documentary evidence obtained from repatriated Armenian POWs confirmed Azerbaijan's failure to prevent torture, in defiance of the Convention Against Torture. As discussed above, POWs testified that Azerbaijani soldiers subjected Armenian POWs to electroshock/electrocution, burned the hands of POWs' with lighters, bashed POWs' heads against walls and, at least in one case, extracted several of a POW's teeth without anesthesia or a medical or dental justification. All of these actions by Azerbaijan meet the threshold of torture under the Convention and constituted cruel, inhuman and degrading treatment. The Convention states that:

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.¹³

The above-mentioned offenses constitute cruel, inhuman and degrading treatment or punishment and were committed by persons acting in an official capacity. In addition to those offenses, POWs have testified that Azerbaijani soldiers, for example, made them crawl around on their hands and knees for long periods of time, dragged them around on the floor and treated them like dogs, forced them to memorize degrading poems and songs in Azerbaijani, confiscated their military uniforms and left them in their underwear during the winter, and forced them to repeat "Karabakh is Azerbaijan" and beat their knees to force them to kneel when greeting the interrogators. This treatment is degrading and inhuman and constitutes a violation of Azerbaijan's obligations under the Convention Against Torture.

Azerbaijan's Violations of the ICCPR

In addition to Azerbaijan's violations of the Convention Against Torture, Azerbaijan's treatment of Armenian POWs contravened the ICCPR. Article 7 of the ICCPR provides:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.¹⁴

The electrocution during interrogation, deprivation of sufficiently warm clothing, burning of hands with lighters, and other aforementioned acts constitute cruel, inhuman and degrading treatment or punishment and clear violations of the ICCPR, for which Azerbaijan should be held to account.

¹² *See Id.* at art. 2.2.

¹³ *Id.* at art. 16.

¹⁴ International Covenant for Civil and Political Rights art. 7, Dec. 16, 1966, S. Treaty Doc. 95-20, 999 U.N.T.S. 171.

Additionally, Article 14 of the ICCPR requires State Parties to afford everyone a “fair and public hearing”¹⁵ and, among other guarantees, the right to defense through a counsel of the person’s choosing, to call witnesses and have them examined, the right to the free assistance of an interpreter, and the right not to be compelled to confess guilt or testify against himself.¹⁶

Repatriated Armenian POWs were subjected to unfair hearings and sham trials. Some hearings lasted only a couple of minutes, after which the court found in favor of the Azerbaijani prosecution despite that no factual evidence in support of its claims was presented. POWs were not allowed to choose their counsel, in some cases, were compelled under physical duress to sign confessions written in Azerbaijani without understanding what they signed. These POW testimonies demonstrate Azerbaijan’s lack of commitment to the ICCPR and its obligations thereunder.

¹⁵ *Id.* at art. 14 para. 1.

¹⁶ *Id.* at art. 14 para 3.

Conclusion

Azerbaijan's Must be Held Accountable for Torture and Mistreatment of Armenian POWs

Based on firsthand testimony obtained from returned Armenian captives from Azerbaijan, the Azerbaijani government and military is treating Armenian POWs in a manner that violates the country's obligations under the Third Geneva Convention, the Convention Against Torture, the ICCPR, and the basic notions of human decency.

We urge Congress and all concerned governments to hold Azerbaijan accountable for the above-described human rights violations and inhuman treatment of Armenian POWs. Since at least the 1970s, Congress has viewed human rights as an integral part of U.S. foreign policy. Recently, in the 116th Congress, the House Committee on Foreign Affairs held separate hearings on the human rights situations in Cuba, Nicaragua and Venezuela. The Senate Foreign Relations Committee has also been involved in human rights issues, holding an emergency hearing on Hong Kong's human rights situation in September 2019. These hearings form an important part of passing human-rights-based legislation. One recent example is the Uyghur Human Rights Policy Act of 2020, signed into law by President Trump on June 17, 2020. This act was passed in the face of Chinese human rights abuses against the Muslim Uyghur population, primarily residing in the Xinjiang Uyghur Autonomous Region, and requires the U.S. Department of State to report on Chinese human rights abuses against this population and directs the Executive Branch to submit a report identifying to Congress Chinese officials responsible for torture, cruel, inhuman and degrading treatment and other human rights violations of the Uyghur people. These designated individuals would then be subject to sanctions, including visa revocations, asset blocking, and ineligibility for entry into the United States. The recent fall of Afghanistan into the hands of the Taliban requires the U.S. to be clear that there are consequences for human rights abuses.

The United States, and particularly the Biden Administration, has committed itself to protecting the human rights of Armenians in Nagorno-Karabakh. As Secretary of State Blinken recently said, “[o]ur Administration will be committed to prioritizing human rights and ensuring such a tragedy [as the Armenian Genocide] is not repeated.” Furthermore, Secretary Blinken affirmed that the Biden Administration will “reinvigorate U.S. engagement to find a permanent settlement to the Nagorno-Karabakh conflict that protects the security of Nagorno-Karabakh.” He has also indicated that the Administration will review U.S. support to Azerbaijan. We urge a reassessment of U.S. support to a country that continues to hold and abuse POWs. In a July 14, 2021 phone call with Armenian Prime Minister Nikol Pashinyan, Secretary Blinken reaffirmed his support for the quick return of the remaining Armenian POWs. Given the human rights violations reported by repatriated POWs, a key part of a peaceful solution for Nagorno-Karabakh must be accountability for Azerbaijan's acts.

The United States must show Azerbaijan that Azerbaijan cannot ignore the United States' commitment to human rights, and the prevention and punishment of such violations. We ask Congress and concerned governments to take swift action before more abuses occur and more lives are lost.



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