



Azerbaijan Terrorizes Armenian Refugees at the Hakari Checkpoint

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1.0 Introduction

Until September 2020, the Republic of Nagorno-Karabakh had three branches of government with an established Parliament and functioned as a democracy with a free economy. The total population consisted of 150,000 predominantly ethnic Armenians. Today, for the first time in history, there are less than a dozen Armenians left in Nagorno-Karabakh. Nagorno-Karabakh has ceased to exist as an independent and democratic republic. In September of 2023, the Armenians of Nagorno-Karabakh were forced to leave their homes and indigenous lands due to Azerbaijan's repeated aggressive wars, the bombing, and shelling of civilians and civilian structures, the indiscriminate arrest of civilians and political leaders, the nine-month-long blockade that resulted in starvation and death, and the final blow of having to renounce their identity and accept Azerbaijani citizenship.

For nine long months, the Armenians in Nagorno-Karabakh had been blockaded. This meant travel, goods, medicine, and food were not allowed across the border with Armenia. The Lachin Corridor was the only connection Nagorno-Karabakh had to the outside world through the Republic of Armenia. After the unprovoked military offensive on the people of Nagorno-Karabakh in September of 2023, Azerbaijan opened the Lachin Corridor to allow all the Armenians to flee and thus achieved their goal of ethnically cleansing this land from Armenians.

To cross the Lachin Corridor, the Armenians had to travel through the Hakari Checkpoint, which Azerbaijan installed during the blockade. This report recounts the experiences of Armenians as they were crossing the checkpoint. Azerbaijani soldiers used pejorative and degrading language to humiliate, scare, and intimidate the Armenian refugees enforcing their hatred and discrimination of Armenians.

1.1 The Center for Truth and Justice

The Center for Truth and Justice (CFTJ) is a registered 501(c)(3) nonprofit organization based in Los Angeles, California. CFTJ has been documenting human rights violations and war crimes perpetrated by Azerbaijan targeting Armenians in Nagorno-Karabakh and Armenia since the 2020 war in Nagorno-Karabakh. CFTJ set up a fact-finding infrastructure in the region and has been collecting first-hand testimonies from the victims. The evidence-gathering methodology CFTJ uses can be found here: [Methodology](https://www.cftjustice.org/investigations-methodology/)¹. CFTJ preserves evidence and makes it available for educational purposes, advocacy, and potential legal actions. CFTJ's team comprises attorneys and law students in the U.S., Canada, Armenia, and Nagorno-Karabakh, as well as human rights advocates and other professionals all around the world. The work done by CFTJ is 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 Nagorno-Karabakh on evidence-based interview techniques, comporting with international legal standards and rules of evidence. The mission of CFTJ is to serve as a living memorial to those who perished or suffered from human rights abuses and war crimes. A permanent home for victim testimonies, CFTJ strives to foster education, empathy, justice, and change.

¹ <https://www.cftjustice.org/investigations-methodology/>

1.2 Since the 2020 war, CFTJ has recorded more than 500 testimonies of victims and witnesses of war crimes committed by Azerbaijan. The CFTJ summarized the testimonies of the witnesses, which specifically refer to the torture, inhuman treatment, hate speech, and discrimination committed by the Azerbaijanis against the ethnic Armenians at the Azerbaijani checkpoint on the Hakari Bridge in the Lachin Corridor on September 19, 2023.

Due to the highly sensitive nature of their accounts and to protect their identities, CFTJ does not release the names of witnesses but identifies them by key card numbers.

This report is based on the eyewitness testimonies interviewed by CFTJ, identified here as **23LC-0009, 23LC-0030, 23LC-0039, 23LC-0057, 23LC-0062, 23LC-0065, 23LC-0066, 23LC-0071, 23LC-0072, 23LC-0074.**

2.0 Background

2.1 The 44-Day War

On September 27, 2020, Azerbaijan, with strong support from Turkey, launched an unprovoked and large-scale military invasion of Nagorno-Karabakh. Over 44 consecutive days, Azerbaijan relentlessly bombed Nagorno-Karabakh, the home to 150,000 Armenians. Civilian infrastructure, including churches, schools, hospitals, and even a maternity hospital, became deliberate targets of Azerbaijan's relentless aggression. This resulted in the tragic loss of 5,000 Armenian lives. The majority of these casualties did not occur as a consequence of direct combat; they were primarily attributed to Azerbaijan's extensive employment of artillery strikes and drone attacks. While Armenians — armed with outdated and outmatched military weapons and systems — endeavored to defend themselves against the unexpected assault, Azerbaijan enjoyed the support from military superpowers, Israel and Turkey, the latter being a member of NATO. Azerbaijan seized control of significant portions of Nagorno-Karabakh both during and after the ceasefire. On November 9, 2020, Armenia, Azerbaijan, and Russia signed a ceasefire statement known as the “Trilateral Statement”. Under the terms of the ceasefire agreement, peacekeeping forces from the Russian Federation were to remain deployed in the conflict zone until 2025, with the possibility of an extension after that. Since the 2020 war, Azerbaijan has continued to commit grave violations of international law, including torture, arbitrary detention, and extrajudicial killings. A confirmed six Armenian prisoners of war are currently detained in Azerbaijan from the 2020 war. These prisoners of war have been, and continue to be, subjected to torture since their capture.

2.2 The Blockade

On December 12, 2022, individuals of Azerbaijani origin, consisting of both civilians and soldiers dressed in civilian attire, masqueraded as “eco-activists” and established tent encampments, effectively closing off the Lachin Corridor. This corridor served as the sole route connecting Nagorno-Karabakh to Armenia. This initial stage marked the beginning of a blockade that persisted for the following nine months, severely restricting the freedom of movement of goods and all remaining 120,000 Armenians living in Nagorno-Karabakh. In April 2023, Azerbaijani servicemen replaced the “eco-activists” and established an illegal checkpoint at the corridor. Not only did Azerbaijan prevent the transport of people during the blockade, but they also repeatedly blocked the International Committee of the Red Cross, delivery of food and medication. Additionally, Azerbaijan heavily rationed water, electricity and internet access. The International Court of Justice (“ICJ”) in provisional measures called and reaffirmed that Azerbaijan must “ensure unimpeded movement of persons, vehicles, and cargo along the Lachin Corridor” in the ongoing case between Armenia v. Azerbaijan on the Application of the International Convention on the Elimination of All Forms of Racial Discrimination.²

The blockade that had led to the starvation of the indigenous Armenians of Nagorno-Karabakh caused legal experts to opine that Azerbaijan’s blockade of the Lachin Corridor constitutes genocidal intent. According to the inaugural International Criminal Court Chief Prosecutor Luis Ocampo, “The blockade of the Lachin Corridor by the Azerbaijani security forces impeding access to any food,

² <https://www.icj-cij.org/node/202958>

medical supplies, and other essentials should be considered a Genocide under Article II, (c) of the Genocide Convention: ‘Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.’”³

2.3 Over 120,000 Forcibly Displaced

The final stage of Azerbaijan's ethnic cleansing policy unfolded with large-scale military aggression on September 19, 2023. Day-long attacks on the civilian population included brutal killings of civilians, continuing threats of children’s lives, and kidnappings. The bombardments forced mass deportations of over 120,000 Nagorno-Karabakh-Armenians who fled to the Republic of Armenia. As they journeyed from their ancestral homes, the entire population, other than a handful of the elderly and sick, left behind Nagorno-Karabakh’s trail of tears.

³
<https://www.cftjustice.org/former-international-criminal-court-prosecutor-luis-moreno-ocampo-issued-report-stating-the-blockade-of-Nagorno-Karabakh-is-genocide/>

3.0 Armenians are Confronted with Hate Speech and Degrading Treatment by Azerbaijani Officials as they Cross the Hakari Checkpoint to Armenia

3.1 Witness 23LC-0009⁴

Witness 23LC-NK0009, born in 1985, is the daughter of Vagif Khachatryan, who was abducted by Azerbaijani officers on the Hakari bridge on July 29, 2023 when the Witness and her father were crossing to Armenia to seek urgent medical care for Vagif, age 68.

Witness 23LC-NK0009 stated that during the blockade of Nagorno-Karabakh, she and her father had to travel to Yerevan, Armenia because her father needed a heart operation. The blockade had left all Armenians in Nagorno-Karabakh without medicine and medical care. Surgeries had all been canceled due to the shortage of medical supplies and electricity. The Witness and her father were allowed to leave Nagorno-Karabakh with the assistance of the International Committee of the Red Cross (“ICRC”) due to her father’s severe health issues.

When the two arrived at the Hakari Checkpoint the officials checking their passports prolonged their inspection of her father’s documents. They took her father to a separate room for a medical inspection/interrogation. With the assistance of the ICRC, the Witness was able to convince the officers to allow her to accompany her sick father.

In the “medical examination room” Azerbaijani doctors extensively questioned both the Witness and her father. When they finally were allowed to exit the examination room Azerbaijani officers came up to them and insisted that the Witness’ father go with them for a 15-minute interview, all along promising that he would shortly return. The Witness and her father objected and tried to convince them not to take her father. At that point, the officers threatened to use force against the Witness and her father.

They grabbed the 68-year-old man and took him towards a “Niva” (Russian-made vehicle). Her father and an ICRC employee both entered the car and then they were gone. After 20-25 minutes, a different car arrived from under the bridge with the ICRC employee, but her father was not with them. The ICRC worker reported to her that the Azerbaijani officials had put her father in a different car and driven away.

The Witness, scared and confused, had no other choice but to cross the border to the Armenia side where she waited 5-6 long hours hoping to get some news about her father. But waiting was pointless. Later that day, the ICRC contacted her and informed her that her father was in Shushi, a city that was taken over by Azerbaijan in October 2020, during the 44-day war. The ICRC offered the Witness return to Stepanakert, the capital of Nagorno-Karabakh, where she hoped she would be able to find out the whereabouts of her father and his status. The Witness chose to return to Stepanakert, which was under the horrible conditions of the Azerbaijani blockade, without food, electricity, medicine, and no right to travel. Later that evening, at 23:45, on July 29, she received a call from someone identifying themselves as an ICRC officer in Baku, stating that her father was in a hospital in Baku, Azerbaijan, and was in stable condition. The Witness, wary of this information, neither trusted nor believed it to be true.

⁴ CFTJ took Witness 23LC-NK0009’s testimony on August 2, 2023.

On July 29, 2022, The Witness' father, Vagif was taken without any explanation or reasons provided by the Azerbaijani authorities at the Hakari Checkpoint. The Witness provided her testimony to CFTJ on August 2, 2023, and she still did not have any information about her father's condition and the reasons for the kidnapping.

The Witness was escorting her father to Armenia to get him urgent medical care for his heart condition. Her father needed a heart aorta transplant which could not be done in Nagorno-Karabakh. The witness was concerned not only for her father's security but for his failing health. Since the recording of this testimony, Vagif Khachatryan⁵ has been tried in a Baku court on charges of genocide and deportation or forced transfer of a population that dates back to violence that took place in December of 1991 in the town of Meshali when 25 Azerbaijanis were killed, 14 injured, and 358 displaced. Vagif, a 68-year-old Armenian with severe heart problems, has maintained throughout the trial that he worked as a driver in the nearby village of Badara where he had lived when those atrocities took place. He has maintained his innocence throughout the sham proceedings. Vagif Khachatryan has been sentenced to 15 years in prison in Azerbaijan.

3.2 Witness 23LC-0030⁶

Witness 23LC-NK0071, is a photojournalist and a native of Nagorno-Karabakh. She spoke about her terrifying experience during the forced deportations in 2022, when she, together with thousands of Armenians caravanned for days to escape the horrors they were confronted with in Nagorno-Karabakh when Azerbaijan blockaded them for months on end, and then bombed and shelled the civilians and their homes. She recounts the number of wars she and her family have survived and endured while living in Nagorno-Karabakh.

Witness 23LC-NK0071 vividly describes the hardships she and her kin had to endure during the long months of the blockade that Azerbaijan imposed on the entire Armenian population in Nagorno-Karabakh. She recounts the arduous journey as a photojournalist, traversing long distances while grappling with hunger. But everyone around her was suffering with dwindling supplies of food and bread. Life became extremely challenging when gas and electricity were also cut off.

On social media, the Witness had been labeled a "propagandist" due to her profession. She felt unsafe. On August 28, 2023, still in the middle of the blockade, she decided to move to Armenia where she could continue her education, and live safely. At the Hakari bridge checkpoint, she witnessed the kidnapping of Alen Sargsyan, another Armenian student born in 2001, who was seeking to go to Armenia to continue his education. The Witness describes the violence, obscene language, and hatred used towards Alen Sargsyan, that she was traveling with.

The recounts that others who were traveling with her were allowed to pass, but Alen was detained longer. She observed that other than the handful of travelers, the checkpoint had many Azerbaijani officials, all armed, in a hostile stance, as well as Russian peacekeepers. An Azerbaijani officer, in a green uniform, instructed Alen to stay for further questions. Alen complied. The officer inspected Alen's passport and interrogated him. He then told Alen to move to a different location. Alen realized the location they wanted to take him to was far from the Russian peacekeepers' sight. He refused to go. When Alen refused to follow their orders they surrounded Alen and resorted to violence, physically attacking him and beating him. She could hear Alen yelling out and begging for

⁵ <https://oc-media.org/azerbaijani-court-sentences-armenian-man-to-15-years-for-war-crimes/>

⁶ CFTJ took Witness 23LC-NK0030's testimony on August 31, 2023.

help, but she couldn't move or do anything. She felt helpless under the hostile stares of the Azerbaijani authorities. As she was surrounded by armed Azerbaijanis she was unable to intervene. They grabbed her passport and asked her twice about her place of registration. She responded "Aknaghbyur," a town that is under Azerbaijan's control. Though they allowed her to pass the checkpoint at the time of this interview she had no idea about the whereabouts and the condition that Alen was in. He had been interrogated, beaten, and kidnapped for the sole reason that he was a young Armenian man who was trying to get to Armenia to continue his education.

On September 7, 2023, Alen, with two other young men, Armenian students, who were also detained, interrogated, and kidnapped at the Hakari checkpoint was released. They had been arbitrarily detained, interrogated, beaten, and falsely accused. Alen had spent 10 days in custody in Baku on allegations of disrespecting the Azerbaijani flag in 2021⁷.

3.3 Witness 23LC-0039⁸

Witness 23LC-0039, born in 1974 in Nagorno-Karabakh, endured a nine-month blockade before fleeing her home. In the final months, she recounts the scarcity of even basic sustenance like bread, and the death of a relative which doctors claimed was due to starvation. She recalls the onset of Azerbaijani attacks on September 19, 2023, noting that the capital was heavily bombarded. Throughout the blockade, electricity was rationed, available only at certain times each day.

On September 19, amid Azerbaijan's military attacks, the Witness, employed by Karabakh Telecommunications, fielded calls from frantic parents searching for their children. Power outages made it challenging to access shelters and find the missing children. Although the bombings ceased on September 20, she learned from a friend that their neighborhood was under fire and that Azerbaijani forces were trying to raise their flag in the city center. Needing to pass through the city center to reach her children, she encountered panicked residents fleeing their homes. Her younger daughter had previously expressed a resolve to commit suicide rather than face Azerbaijani troops in the city, even preparing to jump from a roof if necessary. This fear stemmed from stories of the Azerbaijani troops' atrocities that were committed during the 1990s war, that had been discussed among her school peers.

After locating her daughters, the Witness and her family quickly fled to evade the advancing Azerbaijani troops. On that day, she received news of an agreement between the Nagorno-Karabakh government and Azerbaijan, permitting residents to leave their homes in Nagorno-Karabakh. Echoing her daughter's sentiments, her friends also disclosed plans to commit suicide through medication overdose if Azerbaijani forces entered the city, fearing personal encounters with them. The witness harbored deep concerns about the possibility of the troops perpetrating horrific acts, reminiscent of their conduct in past interactions between Azeris and Armenians.

⁷ <https://asbarez.com/artsakh-students-kidnapped-by-azerbaijan-released-into-armenian-custody/>

⁸ CFTJ took Witness 23LC-NK0039's testimony on October 12, 2023.

When the witness was about 12-13 years old, she recalls that groups of Azerbaijani schoolchildren would often attack Armenian children, pelting them with stones and making obscene gestures. Despite attempts by Armenian children to engage in play with the Azerbaijani kids, these interactions frequently ended with the Armenian children being assaulted. On one occasion, when she was around 12, the witness and a friend intervened to help an Armenian girl who was being attacked by two Azerbaijani schoolchildren. To avoid being singled out for attack, she made sure to always move in groups. She observed that although some Azerbaijani children were open to playing with Armenian children, they were often discouraged from doing so by their peers and family members, who labeled the Armenians as enemies.

As the bombing intensified in September of 2023, everyone feared an imminent Azerbaijani military incursion. The witness heard about incidents of abductions in her friend's village, and reports of Azerbaijani troops committing atrocities in Martakert village. During this time, the local population braced for the feared scenario of Azerbaijani forces invading the city to commit acts of violence. The witness's husband, for instance, kept a firearm close at hand for self-defense, reflecting the pervasive anxiety about a potential incursion.

Displaced individuals seeking refuge shared harrowing stories with the witness, recounting their journey through forests from Martakert to Stepanakert, the capital of Nagorno-Karabakh, with nothing but the clothes they were wearing. They reported that their fellow villagers were trapped and expressed their extreme hunger upon arrival. However, the witness could only offer them very little food. She observed that all the arriving families lacked any form of supplies or belongings, with some even arriving barefoot, underscoring the desperate conditions of their flight from their homes.

Two or three days before Azerbaijan's September 19, 2023 military offensive, approximately on September 16, 2023, the witness received many panicked calls while at work from Telecom customers who stated that they received an SMS stating that "Karabakh is Azerbaijan." They relayed the data to their supervisor to confirm the sources of the SMS numbers. The supervisor confirmed it was sent from Azerbaijan. The SMSs were received from a four-digit number, identifying the source of the messages. The citizens were panicked that Azerbaijan had control of their cellular network as well. The concerned calls from customers increased in frequency every day up until the Azerbaijani offensive on September 19, 2023.

As the conflict escalated on September 20, 2023, the witness was working from a basement when an alarming SMS was circulated among her children, other family members, and those with her, announcing, "We will soon arrive," from the "Grey Wolves⁹," a Turkish ultra-nationalist, paramilitary group. This message triggered widespread panic.

During the Azerbaijani offensive that began on September 19, 2023, the Witness underwent the horrors of the bombing of Stepanakert, watching the extensive damage as the entire suburb of the city was targeted and destroyed.

⁹ The Grey Wolves is a Turkish far right paramilitary organization and political movement affiliated with the Nationalist Movement Party (MHP). It is described as ultra-nationalist, neo-fascist, Islamo-nationalist, secular and racist. It is a youth organization characterized as MHP's paramilitary or militant wing.

In September 2023, the decision to escape from Nagorno-Karabakh, which would normally involve a 2-hour car drive, was an arduous three-day ordeal. The minimal amounts of food that they had spoiled quickly, leaving them to endure hunger and thirst as they waited in endless hours of traffic jams since everyone from Nagorno-Karabakh was on the same single road, trying to flee the horrors of war. With rows of cars, an endless trail ahead, and another one behind, driving or moving forward was almost impossible. People would get out of their cars and stand around with the ignition turned off to save what little fuel they had managed to get in Nagorno-Karabakh to make the trip to Armenia. Everyone around them felt the same fear: return was impossible, but what lay ahead was unknown and frightening. Would they be able to cross the border to Armenia safely was the question everyone had on their minds.

During the long hours on the road, mostly stopped, unable to drive, the Witness' child and mother-in-law fell ill. The stress and anxiety was overwhelming. At a critical moment, they were able to flag down a nearby ambulance, which was the only reason they were able to save the Witness' mother's life.

As they approached the Hakari Bridge, under Azerbaijani control, the Witness was apprehensive about the treatment they might receive from the border guards. She was prepared to comply with any demands to avoid harsh treatment. Tensions rose as they neared the checkpoint, with the driver visibly anxious. The Witness was allowed to cross the border, but her husband, who was driving, was detained. Her husband understood Azerbaijani and he heard the Azerbaijani officials talk about them in disparaging ways, calling them names and being cynical about the Armenians.

The Witness was allowed to pass but her husband, who was driving the car, was detained. Her husband understands Azerbaijani and he heard the guards disparagingly about him. When her husband heard one of the guards express a whimsical desire to detain him he responded in Azerbaijani and asked why. The guard replied:

“Just because my heart wants me to imprison you.”

Once they realized that the Witness' husband knew Azerbaijani, after harassing and detaining him for no apparent reason, they let them both cross the border.

The Witness described their escape as *“Hell's Road.”* Everyone on that road was worried about the amount of fuel they had to drive their cars across the border, as well as food and water. Everyone had left their homes and belongings behind without planning a road trip that lasted days on end. Everyone waiting in the cars, with the engines, turned off, or walking around their vehicles suffered severe anxiety and many fell ill. There were even some deaths and births during the three days on *“Hell's Road,”* as the Armenian refugees tried to escape into the Republic of Armenia.

The Witness describes how the border guards:

“They watched us with arrogance, exuding an aura of superiority over us because we are Armenians fleeing from our homes. They had a heightened sense of entitlement. One of the guards insisted that we drive our car through a narrow passage even though it was obvious we could not clear the way. Because the guard insisted we had no choice but to comply. After all, they had weapons and we had nothing. Because of this, our car was damaged on one side because the road was too narrow for us to fit through. The border guards had carte blanche to treat us as they wished perception that the guards believed they had carte blanche to treat any way they wanted without any recourse or respect for us as humans or a people.”

The Witness points out that her children and others around her were so horrified and scared of Azerbaijanis because of the atrocities they had committed in Nagorno-Karabakh, including killings, slaughter, demeaning, and degrading them, they preferred to commit suicide rather than stand by and wait for their towns to be infiltrated by them.

3.4 Witness 23LC-0057¹⁰

Witness 23LC-0057, born in Nagorno-Karabakh in 2000, moved with her family to Stepanakert in 2010. Accepted into medical school, she started working as a lab technician at the Bureau of Forensic Medicine during the nine-month blockade. With the onset of attacks on September 19, 2023, she witnessed a relentless influx of casualties at their clinic, leading to an overwhelming situation where bodies had to be placed on the ground due to the sheer volume of the deceased. Upon reviewing autopsy reports, she discovered that many had suffered torture before death, evidenced by mutilations, particularly to the face. The victims were predominantly civilians, including children, highlighting Azerbaijan’s brutality and violence toward the Armenian civilians and children.

When Azerbaijan initiated a military offensive targeting civilians in Nagorno-Karabakh, the witness was at her workplace. Returning home, she was met by her husband, who insisted they leave immediately as Azerbaijani forces had penetrated the city. Quickly gathering some clothes, they departed in their neighbor’s old, barely functional car. The situation was exacerbated by a blockade that had made gasoline extremely scarce, complicating their escape.

Witness 23LC-NK0057 states:

“All I could think about were the times when Azerbaijani soldiers entered Armenian homes during the previous wars and killed defenseless children and families. I realized that we could not wait another minute because we were going to become their next victims. We had to leave. We couldn’t stay on these lands, on our lands, not even for another minute. We had to leave. We left...”

The witness left her home with her husband and two children, three and five years old respectively. They could not take any belongings with them besides a few articles of clothing, as they had to rush to get out safely.

The witness recounted that what was typically a journey of a few hours stretched into an onerous four-day ordeal. The roads were congested with vehicles of Armenians who were fleeing their

¹⁰ CFTJ took Witness 23LC-NK0057’s testimony on November 11, 2023.

homes, causing traffic to come to a standstill. This delay significantly extended their travel time, taking them days to reach the border checkpoint at Hakari.

At the checkpoint, armed Azerbaijani officials in military attire verified each person's identity, confirming names and inspecting identification documents. They checked the number of passengers in the vehicle and demanded the trunk be opened for inspection, all while mocking the travelers. The officials emphasized their country's victory in the conflict, boasting about their triumph as they allowed the car to pass, laughing and teasing the refugees.

Azerbaijani journalists were present at the checkpoint, adding to the tense atmosphere. Although they did not directly question the witness and her family, the mere possibility of being interviewed was intimidating. Everyone in line sought to avoid interaction with the journalists, fearing that any engagement might be perceived as a coerced endorsement of the situation. The Witness said she was terrified at the Hakari checkpoint as she felt intimidated and relieved when the journalists did not pick on her or her family members.

“Crossing the Hakari checkpoint was horrifying. The military people who were stationed there were intimidating, taunting us trying to provoke all the travelers. They were trying to get someone to say something so they could arrest us.”

When the witness crossed the border, her family was met by Armenians on the other side who offered food to her children who had been starving under the blockade. The witness realized how desperate their lives had been under Azerbaijan's blockade.

“Only after crossing the border and escaping Azerbaijan's cruel taunting and suffocating oppression, I felt relief. Since the 44-Day War of 2020, it was the first time that I felt this relief.”

3.5 Witness 23LC-0062¹¹

The witness is from Nagorno-Karabakh, specifically the village of Gishi in the Martuni region, an area historically inhabited by Armenians including her ancestors. She shared accounts of the Karabakh-Azerbaijan conflict from 1991-1994, a tumultuous period that forced her ancestors to flee their village of Gishi. Additionally, she recounted the distressing events of the four-day Azerbaijani offensive in April 2016, during which an Armenian child, on their way to school in the city of Martuni, was killed by shrapnel from rockets.

The witness recounted their experiences during the 44-Day War of 2020, a period marked by danger, loss, and death. With Azerbaijanis bombing peaceful settlements, the witness and their family were compelled to temporarily seek refuge in Armenia for safety. Even during their journey to Armenia, near Shushi, they encountered bombings targeting the roads they traveled on. Tragically, the witness lost their neighbor and uncle as casualties of the conflict.

Starting on December 12, 2022, Nagorno-Karabakh endured a challenging blockade, leading to severe shortages of essential goods and supplies. Initially and fraudulently framed as an environmental measure, the blockade soon escalated with the installation of Azerbaijani checkpoints. Throughout the nine-month siege of Nagorno-Karabakh, the witness's family relied on agriculture

¹¹ CFTJ took Witness 23LC-NK0062's testimony on November 25, 2023.

for sustenance, providing some relief amid the scarcity. However, staple foods like bread became scarce, with each person receiving only half a loaf per day. Furthermore, several months into the blockade, Azerbaijan severed the gas pipeline from Armenia to Nagorno-Karabakh, leaving them without gas.

On September 20, 2023, an Armenian serviceman entered the basement where the witness was sheltering and delivered grim news: Azerbaijani forces had breached the city gates. Amid the recent Azerbaijani attacks, Harav village had fallen, and the advancing troops threatened Ningi, the sole route from Martuni to the capital city of Stepanakert, prompting the witness's family to remain in Martuni.

The following day, September 21, 2023, the witness and her aunt's family were evacuated to Ivanyan airport, where Russian peacekeeping troops were stationed. Despite the evacuation efforts, one acquaintance chose to remain in Nagorno-Karabakh who was later killed by Azerbaijani forces. His body was later sent to Armenia as a gruesome testament to the violence. The Witness also recounts how a 30-year-old Armenian witnessed Azerbaijanis desecrating graves. He too was killed by Azerbaijanis, in his case, he was beheaded.

“On September 25, we finally crossed the Hakari checkpoint. I was with my aunt’s family. The Azerbaijani soldiers laughed at us and took pictures of our misery with their cell phones. We were all petrified because we knew they were taunting us and if anyone said or did anything there could be violence. They could kidnap any one of us.”

3.6 Witness 23LC-0065¹²

The witness's family has roots throughout various villages in Nagorno-Karabakh. The witness's grandfather's side of the family was from Maragha village of Nagorno-Karabakh, while his grandmother's side was from Vank village. The witness's parents resided in Stepanakert, the capital of Nagorno-Karabakh.

“Over the many years, Azerbaijani constantly violated peace with attacks and regular tensions on the border. The escalation started in April of 2016. That military attack lasted 4 days. They targeted civilians and their homes, as well as military installations. In one situation they bombed a school in the village of Talish and a 12-year-old child on her way to school, died. They also entered the home of an elderly couple in Talish and slaughtered both of them and then they circulated that video and posted it online.”

The Witness recounts the dire consequences of the nine-month blockade on Nagorno-Karabakh, which halted the supply of essential goods. In the final months, food, medicine, and fuel became scarce, impeding the delivery of agricultural products to the city. Residents endured days-long queues to purchase bread, initially using coupons until supplies were entirely depleted. Azerbaijan's disruption of the gas pipeline left Nagorno-Karabakh without gas for months, forcing residents to rely on limited electricity for only a few hours a day.

On September 19, 2023, as the witness was heading to work, the resumption of Azerbaijani attacks became evident through familiar sounds, signaling the onset of war. Taking refuge in the basement

¹² CFTJ took Witness 23LC-NK0065's testimony on December 2, 2023.

with their children for approximately two days, they eventually faced the necessity of leaving Nagorno-Karabakh. Prioritizing essential items, documents, and cherished books, they departed for Yerevan on September 25, 2023, embarking on a grueling journey that spanned about 38 hours.

“At the checkpoint, we encountered Azerbaijani soldiers that came up to us and our car with rifles. They were rude and aggressive. We saw how they treated the Armenians in the car ahead of us. Callously and rudely they made them take all their bags in their car and searched every single item. We saw how harshly they treated them. We had disturbing reports and messages from others of how badly they were treating the refugees. In one case a woman was forced to hand over the jewelry that she was wearing. When she tried to keep her wedding ring they threatened her with a knife and ultimately confiscated her ring. They stole it from her under fear of force. These are just some of the horrors we experienced during our forced deportations.”

3.7 Witness 23LC-0066¹³

The Witness’s paternal ancestors are from the Sghnak village of the Askeran region of Nagorno-Karabakh, and the maternal side is from the Hin Shen village of the Shushi region. The witness’s grandmother is from the Khachmach village of the Askeran region, the village where she had the greatest connection with. The witness’s whole family is buried in Sghnak.

The Witness vividly recalls the Azerbaijani attacks of April 2016, a memory etched in her mind when she was just 11 years old. Bedridden with smallpox, she was at home when her aunt’s children rushed in, announcing the outbreak of war. Struck by fear, the Witness’s mother, haunted by memories of the 1990s conflict, immediately reached out to her husband, a policeman.

The Witness’ father also delivered devastating news that her uncle and cousin had been killed. Her cousin had left behind two young children, ages eight and ten. At the funeral, his coffin was only partially kept open to mitigate the trauma to the family and the mourners because he had been injured in the head. Overcome with grief, she sought solace in prayer, fervently hoping others would be spared from the same fate. The Witness states that the death of her cousin stands as a poignant reminder of the human cost of Nagorno-Karabakh’s struggle for freedom.

During the nine-month blockade in 2023, essential supplies such as fuel and gas were scarce, resulting in widespread deprivation.

“My brother, who’s only 16-year-old brother, would stand in endless queues for bread into the middle of the night. He would return with meager rations made from barley and wheat bran. We were a family of five and my brother was adamant about providing us with necessities. My brother would come home in the early hours of the morning to sleep for one hour and then he would go back. He did everything he could and sacrificed to keep our family from starving.”

On September 19, 2023, the Witness’s day at university took a disturbing turn when news of an enemy attack on Harav village, located close to Stepanakert, reached them around 11:00 a.m. Concerned for the safety of a fellow student from Harav, the witness made a frantic call to her mother, only to be told terrifying sounds and chaos could be heard from the village. Abandoning

¹³ CFTJ took Witness 23LC-NK0066’s testimony on December 3, 2023.

classes, the witness and her friend attempted to make their way home, but bombings forced them to seek refuge in a nearby hotel basement. Stranded on the road due to fuel shortages, they encountered further danger near the cemetery when a bomb struck, causing the witness to faint in fear. Carried home by her brother, they sought shelter in various basements, eventually finding temporary refuge with a family friend. Fearing any escalation of danger, they decided to head to Ivanyan airport the next day, where Russian Peacekeepers were stationed, taking only warm clothing in anticipation of traveling through a forest.

They departed Stepanakert on September 27 with a family friend headed for the Republic of Armenia. At the Hakari checkpoint, Azerbaijanis with weapons terrorized them yelling at them:

“Listen, Karabakh is Azerbaijan, Nikol is Azerbaijan”.

The Witness was allowed to cross the border into Armenia on September 28, terrorized, petrified, hungry, and exhausted from the harrowing trip across the border where they were confronted by menacing Azerbaijanis whose only purpose was to petrify the refugees.

3.8 Witness 23LC-0071¹⁴

The witness was born in Stepanakert, the capital of Nagorno-Karabakh, in 1994, and lived there until his forced displacement as a result of the Azerbaijani aggression on September 19, 2023.

The witness recalls the details of the war of September 27, 2020. All of Stepanakert was being bombed from different directions, there were no military facilities nearby. Civilian structures were also targeted during the war, which injured and killed civilians, including children.

The witness vividly recalls the dire situation during the nine-month blockade, where even simple items like notebooks became scarce and stores ran out of basic supplies. With the gas pipeline closed, electricity was limited to a few hours each day, compounding the hardships faced by residents. The witness remembers a poignant moment during class when another student expressed a longing for something as basic as a lemon, highlighting the desperation felt amidst the deprivation.

Then, on September 19, 2023, the familiar sounds of bombardment signaled the outbreak of war once again. Fleeing to the basement for safety, the witness observed the swift advance of Azerbaijani forces into the capital, forcing the mass displacement of the people of Nagorno-Karabakh. The witness's family embarked on a perilous journey on September 25, 2023, along a route that typically takes only two hours to complete, but due to stringent checkpoint inspections by Azerbaijani forces, the trip lasted 48 hours. Along the way, they encountered a distressing scene near the city of Shushi, where Azerbaijani soldiers trampled on an Armenian military uniform, asserting their control and shouting menacingly at passing vehicles. Feeling frightened and defenseless, the witness and their family huddled together in their car as they grappled with the uncertainty and threat of the unfolding conflict.

Witness 23LC-NK0071 recounts his experience near the Hakari bridge where Azerbaijani forces were stationed at various points, conducting inspections and allowing vehicles to pass after checking them. Some Azerbaijani personnel offered water, while others hurled curses. Clad in black attire, the

¹⁴ CFTJ took Witness 23LC-NK0071's testimony on December 11, 2023.

Azerbaijani border officers were observed speaking Russian and urging travelers to take water due to prolonged shortages.

The witness arrived at Hakari at 11:12 a.m. with his friends, one of whom had a Nagorno-Karabakh flag displayed on their Lexus car. Armed Azerbaijani authorities wearing black clothing stopped the car and forced its occupant to remove the Nagorno-Karabakh flag sticker from his car. Despite hesitation, the witness's friend's husband complied with the demands, fearing the consequences of resistance. The witness also recalls the scene of an Azerbaijani officer trampling military clothing bearing the Nagorno-Karabakh flag while stationed on the side of the road.

“They have hatred and disdain for us. They destroy anything that symbolizes Nagorno-Karabakh because it is Armenian... and we are Armenian.”

3.9 Witness 23LC-0072¹⁵

The witness was born in 1982 in the village of Sos which is located in the Martuni region of Nagorno-Karabakh. The witness remained in Sos even after the 2020 war, until the Azerbaijani aggression forced his displacement in 2023.

While describing the period preceding the Azerbaijani attacks in September 2023, the witness emphasized the severity of the nine-month blockade. The witness observed a nine-year-old child from another village faint due to the lack of food. When the blockade began on December 12, 2022, the witness noted a severe shortage of fuel in his village, rendering their car unusable for 5 to 6 months. The witness remarked that the situation in the city was significantly worse than in the villages, where the shops and pharmacies were completely devoid of supplies.

Amid the attacks in September 2023, the witness's family, along with five other families, sought safety in the basement of a church in Chartar village due to the ongoing bombardment. Departing from the village on September 25, 2023, the witness organized the transfer of seven families, a total of 45 individuals, from Nagorno-Karabakh to the Republic of Armenia. The Kamaz truck used for transportation measured between four to five meters in length and three meters in width. To sustain them during the journey, the witness's wife prepared 23 loaves of bread and cooked 10 chickens.

The Witness stated that out of the 45 passengers he was transporting, 30 were children. He had secured fuel from an acquaintance. They left around noon.

They were stopped near Harav village in the Askeran region, where Azerbaijani forces had closed the road. After some negotiation, the Witness was eventually permitted to pass through the military post and proceed towards Stepanakert.

It took them nearly 2 days to reach the Hakari bridge, a trip that typically takes a maximum of two hours from Sos. During this extended journey, the witness saw two cars—an Opel and an old Soviet car—that had exploded and were in flames, although the reasons for these incidents were unknown to him. He said:

“When we got to the Hakari checkpoint they ordered all the males to get out of the bed of the truck. There was a 39 year old man with us who was very sick. He could neither speak nor

¹⁵ CFTJ took Witness 23LC-NK0072's testimony on December 10, 2023

hear. When they ordered all the men out I tried to explain to the Azerbaijani guards the situation with the sick man, but they showed no concern. Shockingly, one of the Azeri border guards, identified as a senior lieutenant, callously grabbed this disabled man and forcefully hurled him under the truck. I couldn't do anything. I didn't know what to do. I had to stand there and watch this disturbing scene. After that, they interrogated me for 40 minutes. Two generals spoke to me in Russian. But sometimes they would speak in Azerbaijani to see if I could understand them. They kept speaking to me in Azerbaijani in a menacing way, but they insisted on continuing in their language. I was convinced they were going to arrest me. They decided to let us go because a woman intervened on our behalf and speaking in Azerbaijani begged them to release us."

The Witness stated that their inquiries primarily revolved around his military service and whether he possessed any knowledge about the armed forces. Fearful of potential repercussions similar to those endured by Vagif Khachatryan (see first testimony above), the witness consistently denied any affiliation with the military.¹⁶ The Witness recalled:

"They hurled threats at me and my brother and verbally abused us. They were particularly abusive with my brother with profanities and threats. My wife was terrified. She was white, pale with tears. "

3.10 Witness 23LC-0074¹⁷

The witness was born on June 14, 1984, in the village of Karmir Shuka, found in the Martuni region of Nagorno-Karabakh. He graduated from the Nagorno-Karabakh State University in 2009 and from 2006 to September 19, 2023, he worked as a history teacher at the Karmir Shuka Secondary School.

The Witness vividly recalled the events of the Nagorno-Karabakh war in the 1990s, particularly the Azerbaijani bombings that shook his village. He recounted witnessing the explosion of the first bombardment on the village as well as the subsequent devastation caused by 8 to 9 shells near his house. When he was 8 years old his school was also targeted, and he was only 30-40 meters away when his school got hit.

After the 2020 War, the Witness described the aftermath of the conflict when he returned to his village. The community was in a state of ruin. His house was partially damaged because of the bombardment and even the kindergarten near his house had been bombed. The Witness stated that Azerbaijani YouTube channels had showcased footage of a school near his residence being struck by a military drone.

After arriving in the Republic of Armenia for the first time after the 2020 War concluded, the witness described the overwhelming sense of relief he felt, claiming that he had "escaped from hell and entered the light". Despite the trauma and loss experienced during the conflict, he acknowledged the relief of surviving such harrowing circumstances. The witness lamented the loss of 4 to 5 classmates and the pain of losing students he had taught, expressing a reluctance to dwell on those memories. Despite these challenges, his family eventually returned to their village following the war.

¹⁶ CFTJ took Witness 23LC-NK0009 speaks about Vagif Khachatryan and the circumstances of his abduction.

¹⁷ CFTJ took Witness 23LC-NK0074's testimony on December 12, 2023.

During the nine-month blockade in 2023, the witness recounts a severe disruption in daily life, particularly regarding access to essential resources. He mentions that school hours were reduced due to the blockade, as the lack of food and sugar made it difficult to sustain regular activities. The witness believes that the road closure was part of a strategic agenda by the Azerbaijanis. In the latter months of the blockade, there was a critical shortage of food, especially flour, with communities experiencing difficulties in procuring supplies. In Stepanakert, where the witness resided, obtaining necessities like bread was a challenge, with one loaf barely feeding four people. Sweets were entirely unavailable, and people relied on whatever they could find in their vegetable gardens.

Fuel scarcity was also a significant issue, exacerbating transportation challenges and limiting mobility. Gas supply was sporadic, as it was initially being turned on and off, before being completely cut off, which the witness interprets as a tactic for psychological pressure. Similarly, electricity was rationed, with power available for only an hour at a time, forcing people to adapt to the difficult circumstances. As the blockade persisted, water scarcity emerged as a pressing concern, with many experiencing intermittent or limited access to water. The witness notes that they had to rely on artesian wells, which could only provide water once a day. Despite these challenges, the witness emphasizes that school classes continued for the most part, ensuring that the children's educational needs were met, albeit under strained conditions.

The witness recounts the evacuation, noting that 12 individuals, including 6 children, his 2 sisters, his wife, his mother, and his conscript brother, all used the Opel Zafira vehicle. He highlights that due to the urgency of the situation, they were unable to retrieve many belongings from their home. They stayed in Kolkhozashen until September 25, seeking refuge in the school along with other displaced individuals from the Karmir Shuka, Sos, and Machkalashen communities.

On September 27, they departed from Stepanakert around 14:00-14:30. The witness and his wife rode in the neighbor's car, while the rest of the group traveled in their vehicle, and his brother rode in a friend's car.

The journey lasted 27 to 28 hours, significantly longer than the usual duration of 50 minutes to 1 hour under normal conditions. The witness describes the road conditions as very poor, with heavy traffic due to other Armenians fleeing their homes.

"I'll never forget the morning of September 29, 2020. We were nearing the Hakari bridge. All the cars were at a standstill. They would allow the passage of one car at a time. Some of us got out of the car for a break. My mother got out to retrieve something from the back of the car. She took a few steps and complained that she was not well. She said her head was spinning. She was dizzy. Moments later she collapsed and she was gone. She passed away. My mother had not had any health issues. She simply perished because of the stress, the fear, and the terror of approaching the Hakari checkpoint. We had all heard of the horrors that took place at that checkpoint including violence and abductions. We had no choice. We had to put my mother's dead body in our car and go to the checkpoint. There, they inspected my mother's body to confirm that she was dead, and then they let us all pass."

Subsequently, the Witness' mother was laid to rest in the Republic of Armenia.

4.0 Legal Framework

4.1 In 1997, the Council of Europe issued a recommendation on hate speech which defines it as “all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance”.

The 2019 UN Strategy and Plan of Action on Hate Speech defines hate speech as communication that “attacks or uses pejorative or discriminatory language concerning a person or a group based on who they are, in other words, based on their religion, ethnicity, nationality, race, color, descent, gender, or another identity factor”.

Furthermore, in 2014, the UN produced a Framework for Analysis for Atrocity Crimes which outlined that atrocity crimes are ‘not spontaneous or isolated events; they are processes, with histories, precursors and triggering factors’. The framework emphasizes the prevention of atrocity crimes by identifying several risk factors. These include “enabling circumstances”, which involve “inflammatory rhetoric, propaganda campaigns or hate speech”, as well as “triggering factors”, comprising partly of “acts of incitement or hate propaganda targeting particular groups or individuals”.

Article 7 of the Universal Declaration of Human Rights states, “All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination”, and the Genocide Convention (1948) stipulates that the following acts shall be punishable: “Direct and Public Incitement to Commit Genocide”, (Article 3c) .

Likewise, Article 20(2) of the International Covenant on Civil and Political Rights declares, “Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

Recognizing that hate speech, racism, racial discrimination, xenophobia, intolerance, gender discrimination and acts of extremism can contribute to conflict, the Security Council unanimously adopted Resolution 2826 (2023) that, among other things, urged Member States to publicly condemn violence, hate speech, and extremism and encouraged them to prevent the spread of intolerant ideology and incitement to hatred.

4.2 Regardless of those binding treaties, torture violates binding norms of international law and is universally repugnant. Similarly, international humanitarian law does not provide an exception for the justification of torture through the Geneva Convention. Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments are prohibited by both international humanitarian law (IHL), and international human rights law (IHRL) and their implementation is a violation of international norms.

The Charter of the International Military Tribunal at Nuremberg included “ill-treatment” of civilians and prisoners of war as a war crime. The prohibition of torture and cruel, inhuman or degrading treatment or punishments is to be found in general human rights treaties, as well as in specific treaties that seek to prevent and punish these practices. This prohibition is non-derogable under these instruments.

Article 1 of “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, states “the term ‘torture’ means 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, or 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.”¹⁸

Continuing in Article 2, the convention states, “Each State Party shall take effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory under its jurisdiction. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability, or any other public emergency, may be invoked as a justification for torture.” Preserving this ideology, Article 16 states “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.”¹⁹

Article 2 of The Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment states “Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.” The prohibition of torture is an absolute right. This means it cannot be limited or qualified under any circumstance.

According to Article 7 of the International Covenant on Civil and Political Rights, No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation²⁰.

Article 3 of the Fourth Geneva Convention provides for the protection of civilians during armed conflict. The Convention states that "persons not taking any active part in hostilities shall be treated humanely, regardless of race, color, religion or belief, sex, place of birth or social status"²¹.

¹⁸ See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly resolution 39/46, 10 December 1984, article 1, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

¹⁹ See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly resolution 39/46, 10 December 1984, article 2 and 16, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>

²⁰ See International Covenant on Civil and Political Rights, General Assembly resolution 2200A (XXI), 16 December 1966, article 7, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

²¹ See Fourth Geneva Convention for the Protection of the Civilian Population in Time of War, 12 August 1949, article 3, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.33_GC-IV-EN.pdf

Similarly, torture and ill-treatment are also prohibited by specific provisions of the four Geneva Conventions²². The prohibition of torture and outrages upon personal dignity, in particular humiliating and degrading treatment, is recognized as a fundamental guarantee for civilians and persons hors de combat by Additional Protocols I and II²³.

“Torture or inhuman treatment” and “intentional infliction of severe suffering or serious bodily injury or damage to health” are serious violations of the Geneva Conventions and war crimes under the Statute of the International Criminal Court²⁴.

The case law of the International Criminal Tribunal for the Former Yugoslavia in the case of *Furundžija* and *Kunarac* also shows that the prohibition of torture is customary in both international and non-international armed conflicts.²⁵

In addition, rule 90 of customary international humanitarian law states “torture, cruel or inhuman treatment and infringement of human dignity, in particular humiliating and degrading treatment, are prohibited.”²⁶

The term “inhuman treatment” is defined in the Elements of Crimes for the International Criminal Court as the infliction of “severe physical or mental pain or suffering”.²⁷ The element that distinguishes inhuman treatment from torture is the absence of the requirement that the treatment be inflicted for a specific purpose. The International Criminal Tribunal for the former Yugoslavia has used a wider definition determining that inhuman treatment is that which “causes serious mental or physical suffering or injury or constitutes a serious attack on human dignity.”²⁸

The notion of “outrages upon personal dignity” is defined in the Elements of Crimes for the International Criminal Court as acts 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”. The Elements of Crimes further specifies that degrading treatment can apply to dead persons and that the victim need not be personally aware of the humiliation²⁹. The last point was made to cover the deliberate humiliation of unconscious or mentally handicapped persons. The Elements of Crimes adds that the cultural background of the person needs to be taken into account, thereby covering treatment that is humiliating to someone of a particular nationality or religion, for example.

²² See First Geneva Convention, article 12, part 2 (“torture”); Second Geneva Convention, article 12, part 2 (“torture”); Third Geneva Convention, article 17, part 4 (“physical or moral torture”), article 87, part 3 (“torture or cruelty”), article 89 (“inhuman, cruel or dangerous to health” disciplinary sanctions); Fourth Geneva Convention, article 32 (“torture” and “other severe violence”)

²³ See Additional Protocol I, Article 75(2) (adopted by consensus); Additional Protocol II, Article 4(2) (adopted by consensus).

²⁴ See First Geneva Convention, article 50; Second Geneva Convention, article 51; Third Geneva Convention, article 130; Fourth Geneva Convention, Article 147; ICC Statute, Article 8(2)(a)(ii) and (iii) and (c)(i)

²⁵ See ICTY, *Furundžija case*, Judgement and *Kunarac case*, Judgement

²⁶ See Customary International Humanitarian Law, Rule 90, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule90>

²⁷ See Elements of Crimes for the ICC, Definition of inhuman treatment as a war crime (ICC Statute, Article 8(2)(a)(ii)).

²⁸ See ICTY, *Delalić case*, Judgment (cited in Vol. II, Ch. 32, § 1328) and *Kordić and Čerkez case*, Judgment (*ibid.*, § 1330).

²⁹ See Elements of Crimes for the ICC, Definition of outrages upon personal dignity, in particular humiliating and degrading treatment, as a war crime (ICC Statute, Article 8(2)(b)(xxi) and (c)(ii)).

The notion of “degrading treatment” has been defined by the European Commission of Human Rights as treatment or punishment that “grossly humiliates the victim before others or drives the detainee to act against his/her will or conscience”³⁰.

4.3 According to the “International Convention on the Elimination of All Forms of Racial Discrimination” the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life³¹. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons, or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend, or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national, and local policies, and to amend, rescind, or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit, and eradicate all practices of this nature in territories under their jurisdiction. States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture, and information, to combat prejudices that lead to racial discrimination and to promote understanding, tolerance, and friendship among nations and racial or ethnic groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

According to Customary Rule 88 Adverse distinction in the application of international humanitarian law based on race, color, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or any other similar criteria is prohibited.³² The prohibition of adverse distinction in the treatment of civilians and persons hors de combat is stated in common

³⁰ See European Commission of Human Rights, Greek case (cited in Vol. II, Ch. 32, § 1339).

³¹ See International Convention on the Elimination of All Forms of Racial Discrimination, UN General Assembly resolution 2106 (XX). 1965, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>.

³² See Customary International Humanitarian Law, Rule 88, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule88>.

Article 3 of the Geneva Conventions, as well as in the Third and Fourth Geneva Conventions³³. It is recognized as a fundamental guarantee by Additional Protocols I and II³⁴.

The human rights law equivalent of the prohibition of adverse distinction is the principle of non-discrimination. The prohibition of discrimination in the application of human rights law is included in the Charter of the United Nations and the major human rights treaties³⁵. Concerning the derogability of the right to non-discrimination, the UN Human Rights Committee stated in its General Comment on Article 4 of the International Covenant on Civil and Political Rights that: Even though article 26 or the other Covenant provisions related to non-discrimination ... have not been listed among the non-derogable provisions in article 4, paragraph 2, there are elements or dimensions of the right to non-discrimination that cannot be derogated from in any circumstances. In particular, the provision of Article 4, paragraph 1, must be complied with if any distinctions between persons are made when resorting to measures that derogate from the Covenant³⁶.

Article 4(1) of the Covenant provides that measures that derogate from it may not involve “discrimination solely on the ground of race, color, sex, language, religion or social origin”³⁷. While discrimination on grounds of political or other opinion, national origin, property, birth, or other status is prohibited under Article 2(1) of the Covenant, these grounds are not listed in Article 4(1) dealing with derogations³⁸. It is significant, however, that the Additional Protocols prohibit discrimination on grounds of political or other opinion, national origin, wealth, birth, or other status and thus recognize that the prohibition of discrimination on such grounds cannot be dispensed with, even during armed conflict³⁹. This is also the approach of the African Charter on Human and Peoples’ Rights and the

³³ See Geneva Conventions, common Article 3 (cited in Vol. II, Ch. 32, § 356); Third Geneva Convention, Article 16; Fourth Geneva Convention, Article 13.

³⁴ See Additional Protocol I, Article 75(1) (adopted by consensus) (cited in Vol. II, Ch. 32, § 368); Additional Protocol II, Article 4(1) (adopted by consensus) (ibid., § 370); see also Additional Protocol I, preamble (ibid., § 366), Article 9(1) (adopted by consensus) (ibid., § 367), Article 69(1) (adopted by consensus) (ibid., § 462) and Article 70(1) (adopted by consensus) (ibid., § 463); Additional Protocol II, Article 2(1) (adopted by consensus) (ibid., § 369) and Article 18(2) (adopted by consensus) (ibid., § 464).

³⁵ See UN Charter, Article 1(3) (cited in Vol. II, Ch. 32, § 355); International Covenant on Civil and Political Rights, Article 2(1) (ibid., § 359); International Covenant on Economic, Social and Cultural Rights, Articles 2(2) and 3 (ibid., §§ 362–363); European Convention on Human Rights, Article 14 (ibid., § 357); American Convention on Human Rights, Article 1(1) (ibid., § 364); African Charter on Human and Peoples’ Rights, Article 2 (ibid., § 372); Convention on the Elimination of Racial Discrimination, Article 2 (ibid., § 358); Convention on the Elimination of Discrimination against Women, Article 2 (ibid., § 371); Convention on the Rights of the Child, Article 2(1) (ibid., § 373).

³⁶ See UN Human Rights Committee, General Comment No. 29 (Article 4 of the International Covenant on Civil and Political Rights) (ibid., § 450).

³⁷ See International Covenant on Civil and Political Rights, Article 4(1) (ibid., § 360); see also American Convention on Human Rights, Article 27(1), which contains a similar provision (ibid., § 365)

³⁸ See International Covenant on Civil and Political Rights, Article 2(1) (ibid., § 359) and Article 4(1) (ibid., § 360).

³⁹ See Additional Protocol I, preamble (ibid., § 366), Article 9(1) (adopted by consensus) (ibid., § 367) and Article 75(1) (adopted by consensus) (ibid., § 368); Additional Protocol II, Article 2(1) (adopted by consensus) (ibid., § 369) and Article 4(1) (adopted by consensus) (ibid., § 370).

Convention on the Rights of the Child, which prohibit discrimination on grounds of political or other opinion, national origin, property, birth or other status and do not allow for any derogation⁴⁰.

4.4 In its report, the UN Committee on Racial Discrimination also referred to acts of discrimination against ethnic Armenians by Azerbaijan.

While noting the efforts of the State party to ensure accountability for the violations, including the investigation of some incidents, the Committee is deeply concerned about:

(c) 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 acts.

At the same time, the Committee recommends that the State party:

*(d) Adopt measures to monitor and combat hate speech, incitement, and promotion of racial hatred and discrimination, including on the Internet and social media as well as by its officials and public institutions, targeted at persons of Armenian national or ethnic origin, and ensure that such incidents are effectively, thoroughly and impartially investigated and, where appropriate, prosecuted and punished with penalties commensurate to the offenses.*⁴¹

4.5 On December 7, 2021, the UN International Court of Justice satisfied the request of the Republic of Armenia and applied provisional measures against Azerbaijan⁴², in particular

To prevent incitement and promotion of racial discrimination and hatred directed against ethnic Armenians by nationality, including by officials and state institutions.

*On February 22, 2023, the Court issued its decision granting Armenia's main request for provisional measures and ordering Azerbaijan to take all measures to guarantee the uninterrupted movement of citizens, vehicles, and cargo in both directions through the Lachin Corridor until the final decision in the case of Armenia v. Azerbaijan.*⁴³

On July 6, 2023, the Court, reaffirmed its Order of 22 February 2023, in which it obliged Azerbaijan to take all measures at its disposal to ensure unimpeded movement of persons, vehicles, and cargo

⁴⁰ See African Charter on Human and Peoples' Rights, Article 2 (ibid., § 372); Convention on the Rights of the Child, Article 2(1) (ibid., § 373).

⁴¹ See Committee on the Elimination of Racial Discrimination, Concluding observations on the combined tenth to twelfth reports of Azerbaijan, U.N. Doc. CERD/C/AZE/CO/10-12 (2022), <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsgoRhGEAt5PtvE5DMv2FiPdFI7LozJLQR%2BWMuoet%2FTL9aobSW1sFniSFK%2FmKI9yC7H%2F1GqRl7Vlk8eel%2FHKLZzTe1rL0wUUipqeTsq5MK42fckdmt3G7XdXTvvnUya%2BYiw%3D%3D>.

⁴² See ICJ, APPLICATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ARMENIA v. AZERBAIJAN), REQUEST FOR THE INDICATION OF PROVISIONAL MEASURES, ORDER OF 7 DECEMBER 2021, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20211207-ORD-01-00-EN.pdf>.

⁴³ See ICJ, APPLICATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ARMENIA v. AZERBAIJAN), 22 FEBRUARY 2023 ORDER, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20230222-ORD-01-00-EN.pdf>.

along the Lachin Corridor in both directions, has found that as of now there is no necessity to modify the Order of 22 February 2023.⁴⁴

With this order, the Court has reaffirmed the necessity of implementing its decision made on 22 February 2023. On 17 November 2023, the International Court of Justice rendered its order on the 5th request for provisional measures filed by the Republic of Armenia in the case brought against the Republic of Azerbaijan under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), by granting Armenia's requests⁴⁵.

Armenia filed this request for provisional measures immediately following Azerbaijan's attack on Nagorno-Karabakh on 19 September 2023.

Notwithstanding several undertakings made by Azerbaijan during the hearings of October 12th, the Court found them to be insufficient to entirely remove the risk of irreparable harm to the rights of ethnic Armenians. Order in the framework of the current situation, and must be complied with by Azerbaijan.

Accordingly, pending the final decision on the merits in the case Armenia v. Azerbaijan, the Court adopted the following provisional measures, ordering Azerbaijan to

- 1) (i) "ensure that persons who have left Nagorno-Karabakh after 19 September 2023 and who wish to return to Nagorno-Karabakh can do so in a safe, unimpeded and expeditious manner; (ii) ensure that persons who remained in Nagorno-Karabakh after 19 September 2023 and who wish to depart can do so in a safe, unimpeded and expeditious manner; and (iii) ensure that persons who remained in Nagorno-Karabakh after 19 September 2023 or returned to Nagorno-Karabakh and who wish to stay are free from the use of force or intimidation that may cause them to flee;" and
- 2) "protect and preserve registration, identity and private property documents and records that concern the persons identified under subparagraph (1) and have due regard to such documents and records in its administrative and legislative practices".

As stated earlier, during the hearings of Armenia's 5th request, Azerbaijan made unilateral undertakings, inter alia, to facilitate access to the ICRC and inspections by the UN, to protect and not damage or destroy cultural monuments, which the Court reinstated and emphasized their legally binding force.

The Court further ordered Azerbaijan to "submit a report to the Court on the steps taken to give effect to the provisional measures indicated and to the undertakings made by the Agent of Azerbaijan within eight weeks". Armenia will then have an opportunity to submit comments on Azerbaijan's report.

At the same time, in its Order, the Court reaffirmed the provisional measures indicated by its Orders of 7 December 2021 and 22 February 2023.

⁴⁴ See ICJ, APPLICATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ARMENIA v. AZERBAIJAN), 6 JULY 2023 ORDER, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20230706-ord-01-00-en.pdf>.

⁴⁵ See ICJ, APPLICATION OF THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ARMENIA v. AZERBAIJAN), 17 NOVEMBER 2023 ORDER, <https://www.icj-cij.org/sites/default/files/case-related/180/180-20231117-ord-01-00-en.pdf>.

The Court's order is momentous as in no other case in the Court's history has a State faced as many orders on provisional measures in a single proceeding, which is evidence of the failure by Azerbaijan to abide by its international obligations.

Like the preceding orders, the Court's most recent order creates legally binding obligations under international law with which Azerbaijan must immediately comply in good faith.

5.0 Conclusion

Azerbaijan's illegal closure of the Lachin Corridor, the installation of a checkpoint, the nine-month blockade of Nagorno-Karabakh, widespread hunger, and restrictions on the movement of goods, medicine, and essential services, are followed by the aggressive war initiated by Azerbaijan against the peaceful indigenous Armenian population of Nagorno-Karabakh. These tortious actions resulted in the forced displacement of indigenous ethnic Armenians from Nagorno-Karabakh.

The witness testimonies are a sampling of the discrimination, hatred, terror, humiliation, violence, and degradation that the Armenians of Nagorno-Karabakh have had to suffer and endure by Azerbaijan's state authorities. This report focuses on the transit of the Armenians as they were escaping into Armenia choosing to live rather than be subjugated to false imprisonment, kidnappings, killings, beheadings, and mass starvation initiated and carried out by Azerbaijan for the sole purpose of running all the Armenians out of Nagorno-Karabakh. For the single goal of ethnic cleansing, which they have successfully achieved.

Despite the international treaties and conventions that Azerbaijan is a member of, and despite the provisional orders of the ICJ, Azerbaijan has not been held accountable for its actions in targeting the Armenians of Nagorno-Karabakh. Their conduct at the Hakari checkpoint shows how the state of Azerbaijan, as well as officials spread hate speech, preach discrimination, and show inhuman and humiliating treatment towards ethnic Armenians.

The Armenians, who left behind their homes, lands, personal belongings, schools, museums, churches, and cemeteries were subjected to hatred, dehumanizing speech, violence, mockery, and humiliation by Azerbaijani military and armed personnel.

Today, Nagorno-Karabakh, the indigenous lands of ethnic Armenians who have lived there for thousands of years, stands empty of any Armenians. This successful ethnic cleansing, which has left the land devoid of its indigenous people, is the outcome of unpunished hate speech, ethnic discrimination, and aggressive wars all aimed at eliminating the Armenians.